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Scottish Government  
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Mr James Baird  
Garvary Wind Farm Limited  
c/o Coriolis Energy Limited  
22-24 King Street  
Maidenhead  
Berkshire  
SL6 1EF

13 February 2025

Dear Mr Baird,

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

**Application**

1. I refer to the application made on 12 April 2021 (the “Application”) under section 36 of the Electricity Act 1989 (“the Electricity Act”) made by Garvary Wind Farm Limited (“the Company”), a company incorporated under the Companies Acts with company number 09749336 and having its registered office at 22-24 King Street, Maidenhead, Berkshire, SL6 1EF for the construction and operation of Garvary Wind Farm within The Highland Council Planning Authority area.

2. The Application (as amended) proposes 24 wind turbines with a maximum tip height of 180 metres (“m”), a battery energy storage facility and associated infrastructure (“the proposed Development”).

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

**Planning Permission**

4. In terms of section 57(2) of the Town and Country Planning (Scotland) Act 1997 (“the Planning Act”) the Scottish Ministers, may on granting consent under section 36 of the Electricity Act for the construction and operation of a generating station direct that planning permission be deemed to be granted in respect of that generating station and any ancillary development.

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

## **Background**

6. The proposed Development will be located wholly within the administrative boundary of The Highland Council approximately 4.5km south of Lairg and 5.5km north of Bonar Bridge. The site covers approximately 1,808 hectares although the proposed Development's infrastructure would occupy about 1% of this area. The site comprises upland moorland predominately used for sheep grazing with some recent planted woodland. Access to the site is proposed to be taken directly from the A836.

7. The proposed Development site is located outside any internationally designated nature conservation areas however is adjacent to the Strath Carnaig and Strath Fleet Moors Special Protection Area ("SPA") protected for its breeding hen harriers. The site is approximately 4km and 5km upstream of the River Oykel Special Area of Conservation ("SAC") and River Evelix SAC. The site also lies approximately 4.4km from the Lairg and Strath Brora Lochs SPA, 6.2km from the Caithness and Sutherland Peatlands SPA and 10.4km from the Dornoch Firth and Loch Fleet SPA.

8. There are no designated landscapes within the application site. The nearest wind turbine in the proposed Development is approximately 7.5km from the Dornoch Firth National Scenic Area ("NSA"). The proposed Development lies wholly within Landscape Character Type ("LCT") 135 Rounded Hills – Caithness and Sutherland.

9. The Application, as initially submitted, comprised 37 wind turbines with a blade tip height of 180m. To address concerns raised by The Highland Council and NatureScot the Application was amended in December 2022 to comprise 25 wind turbines. It was further amended in February 2024 to comprise 24 wind turbines.

## **Consultation**

10. Under paragraph 2(1) of Schedule 8 to the Electricity Act, and the Electricity (Applications for Consent Regulations 1990 ("the Consents Regulations") made under the Electricity Act, the relevant Planning Authority, The Highland Council in this case, is required to be notified in respect of a section 36 consent application.

11. In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the EIA Regulations"), on 12 April 2021 the Company submitted an Environmental Impact Assessment Report ("the EIA report") describing the proposed Development and providing an analysis of its environmental effects.

12. In accordance with requirements the Consents Regulations, Electricity Works (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 and the EIA Regulations, a notice of the proposed Development was published on the Company's website and advertised in the local and national press. The Application was made available in the public domain, and the opportunity given for those wishing to make representations to do so.

13. In addition, to comply with the EIA Regulations, the Scottish Ministers are required to consult the Planning Authority, as well NatureScot, Scottish Environment Protection Agency, and Historic Environment Scotland. A wide range of other relevant organisations were also notified and consulted when the Application consultation was initiated on 15 April 2021.

## **Additional Information**

14. Following consultation on the Application, the Company submitted Additional Information (“AI”) in November 2021 at the request of the Energy Consents Unit on operational noise to address comments made by The Highland Council.

15. An Additional Information Report (“AIR”) was further submitted in December 2022 amending the Application in response to comments made by The Highland Council and NatureScot. The AIR supplemented, and where specified superseded, the EIA report following the proposed amendments which comprised the:

- Removal of turbines 1 - 12, reducing the proposed number of turbines from 37 to 25;
- Re-location of turbine 17 (and associated access track spur); and
- Removal of access track spurs and hard standings (for turbines 1-12), two meteorological masts, one construction compound and one borrow pit.

16. In accordance with Regulation 20 of the EIA Regulations, the AI and AIR was made available for public inspection. Notices were published in the Edinburgh Gazette, the application website and in newspapers circulated in the respective local communities informing the public of the AI and AIR and, if they wished to do so, how representations to the Scottish Ministers could be made. The AI and AIR was also made available to those consultees consulted in the Application consultation, each of whom was subsequently consulted in the required statutory consultation initiated by the Scottish Ministers on 12 November 2021 for AI and on 20 January 2023 for AIR.

## **Public Inquiry**

17. In terms of paragraph 2(2) of Schedule 8 to the Electricity Act, if the relevant Planning Authority makes an objection to the Application and that objection is not withdrawn, the Scottish Ministers must cause a public inquiry to be held unless the Scottish Ministers propose to accede to the application subject to such modifications or conditions as will give effect to the objection.

18. As set out below, the Planning Authority objected to the Application and did not withdraw that objection. The Scottish Ministers did not consider it possible to accede to the application subject to such modifications or conditions to give effect to the objection of the Planning Authority and consequently caused a public inquiry to be held.

## **Public Inquiry and its Report**

19. A Pre-Examination Meeting was held on 31 October 2023 and written submissions were submitted and hearing sessions covering various topics took place between November 2023 and March 2024. The Reporter also carried out unaccompanied site visits on 25 and 28 March and 8 to 12 April 2024.

20. In November and December 2023, at the request of the Reporter conducting the public inquiry, supplementary information in the form of an updated cumulative landscape and visual impact assessment to take account of changes in the cumulative baseline since the AIR and an updated Habitat Management Plan was submitted by

the Company. As this information was formally requested for the purposes of the public inquiry, there was no statutory requirement for publication or consultation. However, notice was given to The Highland Council, opted in parties and those previously served copies of the EIA report.

21. The Public Inquiry Report (“PI Report”) was received by the Scottish Ministers on 28 May 2024. It covered the following:

- Recommendation;
  - Background;
  - Relevant issues for Ministers’ consideration;
    - Nullity and related expenses claim;
    - Proximity to adjacent Lairg II wind farm;
    - Landscape and visual (including cumulative) effects;
    - Renewable energy generation and other benefits of the proposal;
    - Other matters for Ministers’ consideration.
  - Conditions and description of development;
  - Conclusions.
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- Appendix 1 – Recommended conditions and description of development;
  - Appendix 2 – Core documents list and webcast;
  - Appendix 3 – The applicant’s summary of case;
  - Appendix 4 – The Highland Council’s summary of case.

22. The PI Report takes account of the precognitions, written statements, documents and closing submissions lodged by the parties, together with the discussion at the inquiry and hearing sessions. It also takes account of the environmental information included in the EIA report, the Company’s AI and AIR, consultation responses, representations made to Scottish Ministers and all other information supplied for the public inquiry and hearing sessions.

**23. The Reporter’s recommendation is that consent under section 36 of the Electricity Act 1989 and deemed planning permission under section 57 of the Town and Country Planning (Scotland) Act 1997 should be granted by the Scottish Ministers subject to conditions.**

### **Consultation Responses**

24. A summary of the consultation responses received by the Scottish Ministers is provided below. The full consultation responses are available to view on the Energy Consents Unit website [www.energyconsents.gov.scot](http://www.energyconsents.gov.scot).

### **Statutory Consultees**

25. **The Highland Council** objected to the Application considering it contrary to National Planning Framework 4 (“NPF4”) Policy 4 (Natural places) parts a) and c) parts i and ii and Policy 11 (Energy) part e) ii. The Highland Council also consider the proposed Development would be contrary to Policy 57 (Natural, built and cultural heritage) and 67 (Renewable energy developments) of the Highland-wide Local Development Plan (“LDP”).

26. The Highland Council consider that the type, location, and scale of the proposed Development will have an unacceptable impact on the natural environment due to the impact on a Special Landscape Quality (“SLQ”) of the Dornoch Firth NSA (Inhabited Surrounds Within a Wilder Backdrop of Hills and Moors) such that the objective of the designation and overall integrity would be compromised. The Highland Council also consider the proposed Development would have a significant detrimental visual impact when viewed by receptors at the Struie Viewpoint and travellers along the B9176.

27. The Highland Council conclude that significant effects have not been outweighed by social, environmental, or economic benefits of national importance.

28. **Historic Environment Scotland (“HES”)** does not object and is satisfied the proposed Development would not have a significant adverse impact on the integrity of the setting of four scheduled monuments and that it does not raise historic environment issues of national interest.

29. **NatureScot** do not object to the proposed Development concluding that the modified proposal under the AIR will not have an adverse effect on the integrity of the Dornoch Firth NSA or the objectives of the designation. NatureScot considers there will be significant effects on a SLQ of the NSA (Inhabited Surrounds Within a Wilder Backdrop of Hills and Moors) but that these effects will be limited in magnitude and extent.

30. NatureScot considers the proposed Development will not affect the integrity of the River Oykel SAC, River Evelix SAC, Strath Carnaig and Strath Fleet Moors SPA and Dornoch Firth and Loch Fleet SPA (for greylag geese only) based on mitigation comprising the implementation of a Pollution Prevention Plan and Breeding Bird Protection Plan as part of a Construction Environmental Management Plan secured subject to appropriate conditions.

31. **Scottish Environment Protection Agency (“SEPA”)** did not object to the proposed Development subject to the imposition of conditions that will:

- minimise negative impacts on peat and carbon loss;
- protect and (where possible) enhance wetland and peatland habitats and improve carbon sequestration;
- ensure the use of oversized bottomless arched culverts or traditional style bridges for watercourse crossings;
- ensure construction works are carried out in line with the measures prescribed in the submission; and
- ensure decommission works are carried out in a way that is sensitive to the environment.

#### Internal Scottish Government Advisors

32. **Marine Scotland (now known as Marine Directorate – Science, Evidence, Data and Digital)** advises an integrated water quality and biotic monitoring programme should be established by the applicant that follows its guidelines.

33. **Scottish Forestry** acknowledges the proposal to provide 17.5h of compensatory planting, Scottish Ministers have attached conditions to secure the delivery of this via a compensatory planting plan.

34. **Transport Scotland** does not object subject to conditions that ensure the proposed Development will:

- minimise interference and maintain the safety and free flow of traffic on the Trunk Road; and
- ensure that the transportation will not have any detrimental effect on the road and structures along the route.

#### External Advisors to Scottish Government

35. The Scottish Government's peat landslide hazard risk advisor (Ironsides Farrar) was engaged by the Scottish Ministers to assess the Peat Landslide Hazard Risk Assessment ("PLHRA") presented by the Company. It is considered the PLHRA is sufficiently robust, and no further action was required other than recommendations made for the Company's information only.

#### Non-statutory consultees

36. **Defence Infrastructure Organisation (MOD)** do not object to the proposed Development subject to conditions in relation to an aviation lighting scheme and to inform aviation charting and safety management.

37. **Joint Radio Company ("JRC")** do not object to the proposed Development however following discussions directly between the Company and JRC this is subject to a condition to secure mitigation of predicted interference of communications equipment.

38. **Lairg Community Council** support the proposed Development due to the generation of renewable energy, employment and community benefits and proposed habitat enhancement.

39. **Rogart Community Council** object due to cumulative transport impacts specifically from abnormal loads and landscape and visual impacts.

40. **Royal Society for the Protection of Birds ("RSPB")** do not object but raise concerns that the potential impacts on a number of bird species have been underestimated and recommend further mitigation and biodiversity enhancements be provided and a Habitat Management Plan secured by condition. RSPB advise the proposed Development would be unlikely to affect the integrity of the Strath Carnaig and Strath Fleet Moors SPA. RSPB advise the area is important for Hen Harrier and the proposed Development has the potential to impact on the distribution of the species in the area.

41. The following consultees did not object to the proposed Development:

- Aberdeen International Airport;
- Ardgay and District Community Council;

- British Horse Society;
- British Telecom;
- Crown Estate Scotland;
- Fisheries Management Scotland;
- Glasgow Airport;
- Glasgow Prestwick Airport;
- Highlands and Islands Airports Limited;
- Kyle of Sutherland District Salmon Fishery Board and Fisheries Trust;
- National Air Traffic Services Safeguarding;
- Scottish Water; and
- Scotways (The Scottish Rights of Way and Access Society).

42. The following consultees did not respond: Civil Aviation Authority, John Muir Trust, Mountaineering Scotland, Scottish Wild Land Group, Scottish Wildlife Trust, and Visit Scotland.

### **Representations**

43. Approximately 47 representations from third parties were received by the Energy Consents Unit in connection with these proposals, 39 letters of objection were received and 8 in support. The PI Report references the number of representations made for the proposed Development as 49, with 41 of these in objection, however two representations were since withdrawn.

44. The issues raised in the representations are listed at paragraphs 12 and 13 of the PI Report. In summary, supporters welcome that the proposed Development will make a significant contribution towards tackling climate change and providing renewable energy, the proposed community benefits and support for crofters using the Garvary grazings.

45. The representations objecting to the proposed Development cited the following reasons:

- Landscape and visual impacts including on the Dornoch Firth NSA and wild land;
- Cumulative impacts with other wind farm developments in the area;
- Impacts on tourism, recreation, property prices, lack of community (including employment) benefits and constraints payments;
- Impacts on health (including mental health);
- Impacts on peat, habitats, birds and protected species;
- Impacts on the water environment including private water supplies;
- Impacts of traffic (including to roads) during the construction process;
- Noise during construction and operation;
- Lack of information regarding the associated offsite infrastructure including grid connection;
- Concerns about the quality of public engagement; and
- Noncompliance with Policies 28, 57 and 67 of the Highland-wide Local Development Plan.

46. An objection was received from Energiekontor UK Ltd due to an encroachment of the separation distance between proposed wind turbine 19 and 28 with wind turbines 4 and 8 of the consented Lairg II wind farm. This is considered in paragraphs 21 to 25 of the PI Report. To address this issue the Company propose that wind turbine 19 be removed and that any micrositing of wind turbine 28 be restricted so it cannot be microsited into the minimum separation distance.

47. All public representations described above were made to the original 37 turbine proposal. A single representation was made by the Struie Action Group to the modified proposal claiming it to be a nullity. This is considered in paragraphs 16 to 20 of the PI Report. The Reporter concludes the modified proposal is not a nullity and the public inquiry proceeded on this basis. The Scottish Ministers agree with the Reporters overall conclusions on these issues and adopt them for the purpose of their own decision.

48. The Scottish Ministers have considered the matters raised in the consultation responses and in the representations made to them on the Application and are satisfied, having taken into account the EIA report, AI, AIR and the PI Report that the environmental impacts have been appropriately assessed and taken into account in the determination of the proposed Development.

49. Having considered the PI Report and the recommendations of the Reporter for conditions to be imposed, as set out at Appendix 1 of the PI Report, the Scottish Ministers are satisfied that the conditions imposed by them in Annex 2 of this decision letter are necessary and reasonable, having regard to the proposed Development's likely impacts, the mitigation required in respect of those impacts and which take account of the recommendations and advice from consultees as summarised above.

50. The remaining impacts are considered to be acceptable in light of the overall benefits of the proposed Development. This reasoning is set out in more detail under the heading "Assessment of Determining Issues" at paragraphs 63 – 93 of this decision letter.

## **The Scottish Ministers' Considerations**

### **Legislation and Environmental Matters**

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

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

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



53. SEPA's advice has been considered as required by section 36(5A) with due regard given to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003. SEPA have no objection to the Development subject to conditions. In its response to the Scottish Ministers, SEPA also direct the Company to the Regulations section of the SEPA website for advice on regulatory requirements and good practice advice.

54. The Scottish Ministers are satisfied that the EIA report, AI, and AIR have been produced in accordance with the EIA Regulations. Scottish Ministers have assessed the environmental impacts of the proposed Development and taken the environmental information, EIA report, AI, AIR, representations, consultation responses including those from the Planning Authority, NatureScot, SEPA, HES and the PI Report into consideration in reaching their decision.

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

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

57. The Scottish Ministers have had regard to the requirements regarding publicity and consultation laid down in the Consents Regulations, EIA Regulations and the Electricity Works (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 and are satisfied the general public as well as statutory and other consultees have been afforded the opportunity to consider and make representation on the proposed Development.

### **Conservation of Habitats and Species Regulations**

58. The Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations") require the Scottish Ministers to consider whether the proposed Development would be likely to have a significant effect on a European site or European offshore marine site (either alone or in combination with other plans or projects), as defined in the Habitats Regulations. Consideration is also given to whether the proposed Development is directly connected with or necessary to the management of the site. The proposed Development site is located:

- Adjacent to the Strath Carnaig and Strath Fleet Moors SPA protected for its breeding hen harriers;
- 4.4km from the Lairg and Strath Brora Lochs SPA protected for its population of black-throated diver;
- 6.2km from the Caithness and Sutherland Peatlands SPA comprising the largest and most intact area of blanket bog in Britain protected for its breeding population on a variety of birds; and
- 10.4km from the Dornoch Firth and Loch Fleet SPA protected for its wintering wildfowl and breeding ospreys.

59. The proposal also lies approximately 4km upstream of the River Oykel SAC protected for its freshwater pearl mussel and Atlantic salmon and 5km upstream of the River Evelix SAC protected for its freshwater pearl mussel.

60. The AIR indicates the proposed Development will have no effect on the habitats of, or result in disturbance to, black-throated divers in the Lairg and Strath Brora Lochs SPA boundary. Additionally, except for divers, the proposed Development lies outside connectivity distance for birds associated with Caithness and Sutherland Peatlands SPA. The AIR reported that flight activity of divers recorded during surveys were low and connected with locally breeding birds rather than those with the SPAs. NatureScot advise the proposed Development is unlikely to have a significant effect on the qualifying species of the SPAs. The Scottish Ministers therefore conclude an appropriate assessment is not required for these SPAs.

61. NatureScot advise that the proposed Development is likely to have a significant effect on the qualifying interests of the River Oykel and River Evelix SACs, Strath Carnaig and Strath Fleet Moors SPA and Dornoch Firth and Loch Fleet SPA. A Habitats Regulation Appraisal (“HRA”) has been carried out for each site. Each HRA has been produced using information already advertised in accordance with the EIA regulations and advice received from NatureScot. These are included in Annex 5.

62. Following appropriate assessment, the Scottish Ministers can conclude, taking account of the advice from NatureScot and in view of the conservation objectives of each site, that the proposed Development will not, either alone or in combination with other Developments, adversely affect the integrity of the sites subject to the production and adherence to a pollution prevention plan for the SACs and a Breeding Bird Protection Plan for the Strath Carnaig and Strath Fleet Moors SPA. The Scottish Ministers have imposed planning conditions, attached to this consent within Annex 2, to secure the above mitigation.

### **Main Determining Issues**

63. Having considered the Application, the EIA report, AI, AIR, responses from consultees and third parties, the PI Report, and Scottish Government policies, Scottish Ministers consider that the main determining issues are:

- Landscape and visual (including cumulative) effects;
- The renewable energy and other benefits of the proposed Development; and
- Accordance with national and local planning policy.

### **Assessment of the Determining Issues**

#### **Landscape and visual (including cumulative) effects**

64. The Landscape and Visual Impact Assessment (“LVIA”) is contained within Chapter 4 of the AIR. This assessment considers the effects of the proposed Development on landscape elements, landscape character, views and visual amenity, and cumulative effects of the amended layout and replaces the LVIA included in the EIA report. An updated cumulative LVIA was also submitted for the purposes of the public inquiry to cover changes to the cumulative baseline since the AIR. The Reporters consider the LVIA at paragraphs 25 to 146 of the PI Report.

65. The proposed Development is located within an area of the Rounded Hills LCT – south of Strath Fleet unit. The LVIA finds that there would be a lack of theoretical visibility for much of the host LCT so the effect on most of the receptor will be not significant. However, significant effects are assessed to occur on site and in its immediate vicinity, up to around 1.5km northwest and 5km east of the nearest turbine. Significant effects were also found to occur within 6km of the proposed Development on parts of the Farmed and Forested Slopes with Crofting – Lairg Unit LCT and the Rounded Hills LCT – other areas between Loch Shin and the Kyle of Sutherland and around Meall Dola. Effects on the Strath LCT – Kyle of Sutherland unit were assessed as not significant.

66. The AIR indicates the Dornoch Firth NSA is located approximately 7.5km to the south and southeast of the nearest turbine. The Planning Authority objected to the proposed Development due to the impact on one of the SLQs of the NSA such that it considered the objectives of the designation and overall integrity of the NSA would be compromised particularly when viewed from the Struie Viewpoint and for travellers on the B9176. NatureScot do not object concluding the modified proposal will not have an adverse effect on the integrity of the NSA or the objectives of the designation.

67. An assessment of the effects of the proposed Development has been undertaken on two of the seven SLQs of the NSA; “The contrast between the enclosed west and the expansive east” and “Inhabited surrounds within a wilder backdrop of hills and moors”. The assessment finds the proposed Development will have a not significant effect on the NSA SLQs and overall, a not significant effect on the integrity of the NSA.

68. The assessment found there would not be significant effects on the four closest Wild Land Areas (“WLA”) comprising Ben Klibreck - Armine Forest (WLA 35), Foinaven – Ben Hee (WLA 37), Reay – Cassley (WLA 34) and Rhiddoroch - Beinn Dearg - Ben Wyvis (WLA 29). Several Garden and Designed Landscapes and Special Landscape Areas are within the 45km study area but were discounted from the assessment due to no or negligible theoretical visibility.

69. In the LVIA the visual effects of the proposed Development were assessed concluding that during the operational phase, significant visual effects would be experienced from five of the 16 viewpoints (viewpoints 1, 4, 5, 6 and 7) located within approximately 6km of the proposed Development. Significant effects beyond this distance are identified at viewpoint 11 but only in the current baseline. No significant effects were found for the remaining viewpoints. Significant visual effects are also assessed for parts of Lairg, users of the A836 (including during construction on the A836 site access), Far North Railway, eastbound users of the A839 and A838 and core paths within 6km.

70. Significant cumulative visual effects were assessed to arise for viewpoint 5 only if Strath Oykel Wind Farm is in place, on southbound users of the A836 and viewpoint 6 in the current baseline only and on the B9176 and at viewpoint 12 only if Acheilidh Wind Farm is in place. At viewpoint 7, significant night-time visual effects were assessed for visible aviation lighting.

71. The Reporters conclusions regarding the landscape and visual (including cumulative) effects are set out at paragraph 146 of the PI Report. The Scottish Ministers note the Reporter considers the LVIA to have been carried out in an appropriate manner and that the Reporter reached the same conclusions for all landscape, visual and cumulative matters as the assessment. The Scottish Ministers agree with the Reporters findings in respect of the landscape and visual effects of the proposed Development and adopt them for the purpose of their own decision.

## **The renewable energy and other benefits of the proposed Development**

### Contribution to renewable energy policy objectives

72. The seriousness of climate change, its potential effects, and the need to cut carbon dioxide emissions, remain a priority of the Scottish Ministers. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 sets a target for Scotland to be carbon-neutral, meaning net-zero emissions by 2045 at the latest.

73. Scottish Energy Strategy 2017 sets a 2030 target for the equivalent of 50% of Scotland's heat, transport, and electricity consumption to be supplied from renewable sources (the Draft Energy and Just Transition Plan (2023) maintains this target).

74. The Onshore Wind Policy Statement ("OWPS"), published in December 2022, reaffirms the vital role for onshore wind in meeting Scotland's energy targets within the context of the Scottish Government's 2045 net zero emissions commitment. The statement sets out the Scottish Government's position for the ongoing need for additional onshore wind development and capacity in locations across Scotland where it can be accommodated in appropriate locations.

75. It is noted by the Scottish Ministers that the proposed Development would have an installed capacity of 144MW for the wind turbines (once wind turbine 19 is removed) and 20MW for the battery energy storage system.

76. The carbon payback figures for the proposed Development have been presented in Technical Appendix 2.3 included with the AIR, using the approved Scottish Government carbon calculator. Whilst noting its limitations, the online carbon calculator provides the best available means by which carbon calculations can be provided in a consistent and comparable format. This shows that the proposed Development, if built, in the worst-case scenarios would be expected to have a payback period of approximately 14 months and thereafter would be a net contributor to greenhouse gas emissions reduction targets for the duration of its operation.

77. The Scottish Ministers agree with the Reporter that the proposed Development would make a significant contribution to national renewable energy generation targets and, by doing so, to reducing greenhouse gas emissions and mitigating climate change which would bring social, environment and economic benefits of national importance. The Scottish Ministers are satisfied that the deployment of the amount of renewable energy from the proposed Development is entirely consistent with the Scottish Government's policy on the promotion of renewable energy and its target date for net-zero emissions of all greenhouse gases by 2045, and that significant weight should be placed on such contributions.

## Economic benefits

78. The Scottish Ministers note that Chapter 12 of the EIA report includes a socioeconomic assessment on the potential effects on socioeconomic indicators, tourism, and recreation. The Reporters consider this assessment at paragraphs 173 to 181 of the PI Report.

79. The EIA report identifies that the proposed Development would support jobs during construction and during operation providing a significant beneficial effect at a local level but not significant at a national level. It is noted the assessment was not updated to reflect the modified proposal under AIR. A Hearing Statement on Energy & Planning Policy (dated February 2024) submitted during the public inquiry states 358 temporary construction jobs (job years) are estimated to be created over the construction period.

80. The Reporter finds the proposed Development would likely bring net economic benefits to the locality, mostly during construction and operation, and that net local and community socio-economic benefits would emerge. The Highland Council also concluded the proposed Development has the potential to bring economic benefits to the area and to create new jobs. Scottish Ministers are therefore satisfied the proposed Development has the potential for positive net economic benefits for the local area.

81. Considering the PI Report and response from The Highland Council, the Scottish Ministers are also satisfied that there would not be significant adverse impacts on tourism as a consequence of the proposed Development.

## **National and local planning policy**

82. The Reporters set out in paragraphs 242 – 294 of the PI Report the legislative and policy context against which the proposed Development should be considered and those paragraphs of the PI Report (where relevant) sets out the Reporter's considerations and assessment of the proposed Development in the context of relevant national climate change and energy policy, national planning policy and other relevant local planning policy and guidance.

### National Planning Framework 4

83. NPF4 was adopted by Scottish Ministers on 13 February 2023. NPF4 sets out the spatial principles and by applying these, the national spatial strategy will support the planning and delivery of: sustainable places, liveable places, productive places.

84. The national spatial strategy acknowledges that meeting the climate ambition will require rapid transformation across all sectors of our economy and society. It states that this means ensuring the right development happens in the right place. NPF4 recognises that every decision on future development must contribute to making Scotland a more sustainable place.

85. Strategic renewable electricity generation and transmission infrastructure is a national development within NPF4 which supports renewable electricity generation, repowering, and expansion of the electricity grid. These are significant developments

of national importance that will help to deliver the spatial strategy. The proposed Development, comprising an onshore wind and renewable energy generator which will generate in excess of 50MW constitutes a national development.

86. The NPF4 energy policy principles encourage, promote, and facilitate all forms of renewable energy development onshore and offshore, including energy generation and storage. Development proposals for all forms of renewable technologies will be supported and where they maximise net economic impact. Wind farms will not be supported in National Parks and NSAs.

87. The energy policy, Policy 11, also sets out the matters that are to be addressed in the design and mitigation of a development which include impacts (including cumulative) on communities and individual dwellings; significant landscape and visual impacts; historic environment; biodiversity; trees and woodlands; public access; aviation and defence interests; telecommunications and broadcasting; road traffic; water environment; decommissioning of developments and site restoration. The policy requires that in considering these impacts, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets. The policies within NPF4 require to be considered and balanced when reaching a decision on applications for wind energy development.

88. Although the Application was submitted prior to the publication of OWPS in December 2022 and the adoption of NPF4, the parties addressed this new policy context in their submissions to the public inquiry. The Reporter's considerations of proposed Development and NPF4 (including a range of relevant policies) are set out in paragraph 246 to 285 of the PI Report.

89. The Scottish Ministers acknowledge that the proposed Development would result in some significant visual and landscape (including cumulative) impacts. The Reporter found that the visual effects would be localised within 6km to 9km of the proposed Development with some limited significant effects beyond this distance. The Reporter found that the proposed Development would generally lead to acceptable landscape and visual (including cumulative) impacts. The Scottish Ministers agree these effects are considered acceptable in the context of the benefits that the proposed Development will bring in terms of contributing to renewable energy and climate change targets and net economic benefit.

90. The Scottish Ministers in making their determination on the Application, have had to balance the above considerations, decide what weight is to be given to each and reach a view as to where the balance of benefit lies. It is noted that the Reporter concludes in paragraph 293 of the PI Report that the proposed Development would not conflict with NPF4 and is supported by it. The Scottish Ministers agree that, on balance, the proposed Development is acceptable and supported overall by NPF4 policies.

#### Local Development Plan

91. The Planning Authority assessed the proposed Development against the adopted Highland Wide LDP (2012) that it considers relevant to this Application, as well as relevant supplementary guidance. This is considered by the Reporter in

paragraphs 286 to 291 of the PI Report focusing on Policy 57 (Natural, Built and Cultural Heritage), Policy 61 (Landscape) and Policy 67 (Renewable Energy Developments) along with the Onshore Wind Energy Supplementary Guidance.

92. It is noted by the Scottish Ministers that, except for the impacts on the Dornoch Firth NSA, the Planning Authority considered the amended design under the AIR to be successful in bringing landscape and visual effects within acceptable limits. The Reporter found the proposed Development would not compromise the objectives and integrity of the Dornoch Firth NSA and found no significant effects on the SLQs of the NSA. Overall, no significant effects were found on the NSA by the Reporter.

93. The Scottish Ministers acknowledge the Reporters finding that the proposed Development would not have an adverse effect on the criteria in Policy 67 therefore is not in conflict with it nor would it fail the other relevant LDP policies. The Reporters concludes that the proposed Development is supported by the LDP.

### **The Scottish Ministers' Conclusions**

#### **Reasoned Conclusions on the Environment**

94. The Scottish Ministers are satisfied that the application, EIA report, AI and AIR has been produced in accordance with the EIA Regulations and the Consents Regulations and that the procedures regarding publicity and consultation laid down in those regulations have been followed.

95. The Scottish Ministers are satisfied that the Company has done what it reasonably can to mitigate any effect that the proposals would have on the natural beauty of the countryside or any such flora, fauna, features, sites, buildings, or objects. The Scottish Ministers are satisfied that the Company has avoided so far as possible, causing injury to fisheries or to stock of fish in any waters.

96. The Scottish Ministers have fully considered the Application, including the EIA report, AI, AIR, consultation responses, representations, the PI Report, and all other material information and are satisfied that the environmental impacts of the proposed Development have been sufficiently assessed.

97. The Scottish Ministers having taken into account the above, which includes the Reporter's recommended conditions, have imposed suitably worded conditions (attached in Annex 2) that are deemed necessary to give effect to environmental mitigation, including construction methods and to ensure impacts on the immediate and surrounding environment are minimised.

98. Taking into account the environmental information and assessments, and subject to conditions to secure mitigation measures, the Scottish Ministers consider the environmental effects are mostly overcome with the exception of some limited significant landscape and visual impacts which are considered acceptable.

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

## Acceptability of the proposed Development

100. As set out above, the seriousness of climate change, its potential effects, and the need to cut carbon dioxide emissions, remain a priority for the Scottish Ministers. Scotland's renewable energy and climate change targets, energy policies and planning policies are all material considerations when weighing up this proposed Development. NPF4, the Energy Strategy, and the OWPS make it clear that renewable energy deployment remains a priority of the Scottish Government. This is a matter which should be afforded significant weight in favour of the proposed Development.

101. The Scottish Ministers have considered the environmental effects, including the landscape and visual impacts of the proposed Development, and consider them to be acceptable subject to conditions being imposed. The Scottish Ministers are also satisfied that the proposed Development will not have any significant effects on any protected species, NSAs or National Parks.

102. The transition to a low carbon economy is an opportunity for Scotland to take advantage of our natural resources to grow low carbon industries and create jobs. The Scottish Ministers acknowledge that the proposed Development would result in some significant visual and landscape (including cumulative) impacts but consider that these are acceptable in the context of the benefits that the proposed Development will bring in terms contributing to renewable energy and climate change targets and net economic benefit.

103. The Scottish Ministers are satisfied that the proposed Development will provide a contribution to renewable energy targets and carbon savings. The Scottish Ministers are satisfied that the deployment of this amount of renewable energy is entirely consistent with the Scottish Government's policy on the promotion of renewable energy and its target date for net-zero emissions of all greenhouse gases by 2045.

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

## The Scottish Ministers' Determination

105. The Scottish Ministers have considered fully the Reporters' findings and reasoned conclusions and adopt them for the purposes of their own decision.

106. For the reasons set out in this letter, the Scottish Ministers agree with the Reporters' recommendation that section 36 consent should be granted for the construction and operation of the Garvary Wind Farm and that a direction for deeming planning permission should also be granted.

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



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

### **Section 36 consent and expiry of Planning Permission**

109. The consent hereby granted will last for a period of 30 years from the earlier of:

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

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

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

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

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

114. In accordance with the EIA Regulations, the Company must publicise notice of this determination and how a copy of this decision letter may be inspected on the application website, in the Edinburgh Gazette and a newspaper circulating in the locality in which the land to which the application relates is situated.

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

116. Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to

determine applications for consent. The rules relating to the judicial review process can be found on the website of the Scottish Courts:

<https://www.scotcourts.gov.uk/media/gnobz45e/chapter-58-judicial-review.pdf>.

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

Yours sincerely

*pp. Nicola Soave*

**On behalf of Alan Brogan  
A member of the staff of the Scottish Ministers**

- |         |   |
|---------|---|
| Annex 1 | Description of the Development  |
| Annex 2 | Part 1 – Conditions attached to Section 36 consent<br>Part 2 – Conditions attached to deemed planning permission  |
| Annex 3 | Site Location   |
| Annex 4 | Site Layout   |
| Annex 5 | Appropriate Assessment / Habitats Regulations Appraisals in respect of: <ul style="list-style-type: none"><li>• Dornoch Firth and Loch Fleet SPA</li><li>• River Evelix SAC</li><li>• River Oykel SAC</li><li>• Strath Carnaig and Strath Fleet Moors SPA</li></ul> |

### **Description of the Development**

The Development comprises an electricity generating station known as Garvary Wind Farm with a generating capacity greater than 50MW, located approximately 4.5km south of Lairg and 5.5km north of Bonar Bridge in Sutherland, within the administrative area of The Highland Council.

The principal components of the Development comprise:

- 24 three-bladed horizontal axis wind turbines with a maximum blade tip height of up to 180m;
- Internal transformers and related switchgear at each turbine;
- Associated turbine foundations, turbine hard-standings and crane pads;
- Two permanent free-standing meteorological masts;
- A total of approximately 22.1km new on-site tracks and approximately 1.5km of upgraded track with associated water crossings, passing places and turning heads;
- A site access route with any necessary road improvement works from public road network;
- Search areas of up to 5 borrow pits;
- Substation compound, including battery storage unit;
- Up to 4 temporary site construction compounds;
- A network of on-site buried electrical cables;
- A batching plant; and
- Associated ancillary works.

All as more particularly shown on Figure 2.1a dated February 2024 (Site Layout) at Annex 4.

**Part 1 – Conditions attached to Section 36 consent**

**1. Notification of Date of First Commissioning and Final Commissioning**

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

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

**2. Commencement of Development**

- (1) The Development shall be commenced no later than five years from the date of this consent, or such other period as the Scottish Ministers may direct in writing.
- (2) Written confirmation of the intended Date of Commencement of Development shall be provided to the Scottish Ministers and the Planning Authority as soon as is practicable after deciding on such a date and in any event no later than one calendar month prior to the Commencement of Development.

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

**3. Assignment**

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

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

#### **4. Serious Incident Reporting**

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

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

#### **5. Compensatory Planting Plan**

(1) No development shall commence until a Compensatory Planting Plan (“CPP”) to compensate for the removal of 8.5 hectares of existing woodland to provide 17.5 hectares of compensatory planting has been submitted to and approved in writing by the Scottish Ministers in consultation with the Planning Authority and Scottish Forestry.

(2) The CPP shall include:

- a) details of the location of the area to be planted;
- b) the nature, design and specification of the proposed woodland to be planted;
- c) the phasing and associated timescales for implementing the plan prior to operation of the Development;
- d) proposals for reporting to the Planning Authority on compliance with timescales for obtaining the necessary consents and thereafter implementation of the plan; and
- e) details demonstrating compliance with The UK Forestry Standard and the Scottish Government’s Policy on Control of Woodland Removal (as amended or replaced from time to time).

(3) The approved CPP shall be implemented in full as approved.

**Reason:** *To secure replanting to mitigate against effects of deforestation arising from the Development.*

## **Part 2 – Conditions attached to deemed planning permission**

### **6. Commencement of Development**

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

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

### **7. Design and Operation of Wind Turbines**

- (1) No turbines shall be erected on site until details of the proposed wind turbines have been submitted to and approved in writing by the Planning Authority. These details shall include:
  - a) the make, model, design, direction of rotation (all wind turbine blades shall rotate in the same direction), power rating, sound power level and dimensions of the turbines to be installed which shall have internal transformers, and
  - b) the external colour and finish of the wind turbines to be used (including towers, nacelles and blades) which shall be non-reflective, pale grey semi-matt.
- (2) No turbine shall display any name, logo, sign, lighting (with the exception of aviation lighting permitted under Condition 28) or other advertisement (other than health and safety signage) unless otherwise approved in advance in writing by the Planning Authority or as required by law.
- (3) Thereafter, the wind turbines shall be installed and operated in accordance with these approved details and, with reference to part (b) above, the wind turbines shall be maintained in the approved colour and monitored to ensure no significant rust, staining or dis-colouration occurs until such time as the wind farm is decommissioned.

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

### **8. Design of sub-station, Ancillary Buildings and other Ancillary Development**

- (1) No development shall commence, unless and until final details of the external appearance, dimensions, layout, and surface materials of the substation building and control room buildings, any above ground electrical equipment, associated compounds, construction compound boundary fencing, external lighting and parking areas have been submitted to, and approved in writing by, the Planning Authority.

- (2) Thereafter, the substation building and control room buildings, any above ground electrical equipment, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the details approved under paragraph (1) unless otherwise approved in advance in writing by the Planning Authority.
- (3) None of the anemometers, power performance masts, switching stations or transformer buildings/ enclosures, ancillary buildings or above ground fixed plant shall display any name, logo, sign or other advertisement (other than health and safety signage) unless otherwise approved in advance in writing by the Planning Authority or as required by law.

**Reason:** *To ensure that the environmental impacts of the sub-station and ancillary development forming part of the Development conform to the impacts assessed in the EIA report and in the interests of the visual amenity of the area.*

## **9. Design of energy storage facility**

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

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

## **10. Micro-siting**

- (1) All wind turbines, buildings, masts, borrow pits, areas of hardstanding and tracks shall be constructed in the location shown in the Figure 2.1a dated February 2024 (“the Site Layout”). The location of wind turbines, buildings, masts, borrow pits, areas of hardstanding and tracks may be adjusted by micro-siting within the Site. However, unless otherwise approved in advance in writing by the Planning Authority, micro-siting is subject to the following restrictions:
  - a) Turbine 28 of the Development shown on the Site Layout Plan shall not be erected closer than 447.3 metres from Turbine 8 within the proposed Lairg II Wind Farm development, either:
    - (i) as the said Turbine 8 is shown on the FEI Infrastructure Layout Revision I dated 17 August 2021 referred to in the Highland Council planning permissions references 21/00849/FUL and 22/01058/S42, or
    - (ii) the micro-sited location of the said Turbine 8 as specified in a written notice by the operators of Lairg II Wind Farm served on the operators of the Development provided it is so served prior to 31 October 2026 and that such micro-sited location of Turbine 8 is no more than 50 metres closer to

Turbine 28 of the Development. For the avoidance of doubt, this condition will apply irrespective of whether Lairg II Wind Farm is constructed under the said planning permissions references 21/00849/FUL and 22/01058/S42 or under other permissions or consents.

- b) No wind turbine, mast or related hardstanding or access track shall be moved more than 50 metres from the position shown in the Site Layout;
  - c) No wind turbine foundation shall be positioned higher than 3 metres Above Ordnance Datum (AOD) than the position for that turbine shown on the Site Layout;
  - d) No building, temporary construction compound or borrow pit shall be moved more than 50 metres from the position shown on the Site Layout;
  - e) No micro-siting shall take place with the result that infrastructure is located within areas of peat of greater depth than the original location;
  - f) No micro-siting shall take place into areas hosting Ground Water Dependent Terrestrial Ecosystems as identified in the EIA report;
  - g) With the exception of water-crossings, no element of the development should be located closer than 50 metres from any watercourse; and
  - h) All micro-siting permissible under this condition must be undertaken under the direction of the Environmental Clerk of Works (“ECoW”) appointed under Condition 12.
- (2) No later than one month after the date of Final Commissioning, an updated Site Layout Plan must be submitted to the Planning Authority showing the final position of all wind turbines, masts, areas of hardstanding, tracks and associated infrastructure forming part of the Development. The plan should also specify 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 control environmental impacts while taking account of local ground conditions and to provide that Turbine 28 as shown on AIR Figure 2.1a (dated February 2024) is constructed to maintain a distance of 447.3 metres from Turbine 8 as shown on Lairg II Wind Farm Layout Figure dated 17 August 2021 or as micro-sited up to 50 metres from that location.*

## **11. Implementation of mitigation measures**

- (1) No development shall commence until a Schedule of Mitigation has been submitted to and approved in writing by the Planning Authority. This Schedule shall encompass a list of all mitigation measures from the EIA report and AIR, any other commitments made by the applicant and all relevant mitigation secured by conditions attached to this permission with defined timescales for implementation of each mitigation measure.
- (2) Thereafter, the approved Schedule of Mitigation shall be implemented in full unless otherwise approved in writing by the Planning Authority.

**Reason:** *To ensure that the identified mitigation through the EIA report is carried out in accordance with the approved details.*



## 12. Environmental Clerk of Works

- (1) No development shall commence unless and until the terms of appointment of an independent Environmental Clerk of Works (“ECoW”) by the Company have been submitted to, and approved in writing by, the Planning Authority. The terms of appointment shall:
- a) impose a duty to monitor compliance with the environmental commitments provided in the EIA report as well as the following (“the ECoW works”):
    - (i) any micro-siting under Condition 10;
    - (ii) the Pre-Construction Surveys for protected species including birds under Condition 13;
    - (iii) the Breeding Bird Protection Plan under Condition 13;
    - (iv) the Construction Environmental Management Plan under Condition 13;
    - (v) the Habitat Management Plan approved under Condition 18;
    - (vi) the Deer Management Plan under Condition 18;
    - (vii) the Peat Management Plan under Condition 19; and
    - (viii) the Water Quality and Biotic Monitoring Plan under Condition 21.
  - b) require the ECoW to report to the nominated construction project manager, developer and Planning Authority any incidences of non-compliance with the ECoW works at the earliest practical opportunity;
  - c) require the ECoW to submit a monthly report to the construction project manager, developer and Planning Authority summarising works undertaken on site; and
  - d) require a statement that the ECoW shall be engaged by the Planning Authority but funded by the developer. The ECoW shall be appointed on the approved terms throughout the period from Commencement of Development to completion of construction works and post-construction site reinstatement works.
- (2) No later than 18 months prior to the Date of Final Generation or the expiry of this consent (whichever is the earlier), details of the terms of appointment of an ECoW by the Company throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted to the Planning Authority for written approval. The ECoW shall be appointed on the approved terms throughout 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 construction, decommissioning, restoration and aftercare phases.*

## 13. Construction and Environmental Management Plan

- (1) No development shall commence until a Construction and Environmental Management Plan (“CEMP”) containing site specific details of all on-site construction works, post-construction reinstatement, drainage, and mitigation, together with details of their timetabling, has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot.

(2) The CEMP shall include the following:

- a) site waste management plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;
- b) site specific details for management and operation of any concrete batching plant (including disposal of waste water and substances);
- c) sustainable drainage system (SuDS) design concept including run-off and sediment control measures; and flood risk management during both the construction and operational phases of the development;
- d) a dust management plan;
- e) a pollution prevention and control method statement including arrangements for on-site storage of fuel and other chemicals;
- f) details of foul drainage arrangements;
- g) details of temporary site illumination;
- h) details of any watercourse engineering works including any watercourse crossings which shall be oversized bottomless arched culverts or traditional style bridges so designed to accommodate a 1 in 200 year peak flow plus climate change and enable fish passage and providing that watercourse crossings shall be oversized bottomless arched culverts or traditional style bridges;
- i) details of the methods to be adopted to reduce the effects of noise occurring during the construction period in accordance with BS 5228:2009 "Code of Practice for noise and vibration control on construction and open sites – Part 1: Noise and Part 2: Vibration";
- j) details of post-construction restoration and reinstatement of the working areas not required during the operation of the development;
- k) spoil management plan;
- l) details of the mineral working areas and restoration proposals;
- m) details of the construction works, constructions methods, and surface treatment for all hard surfaces and tracks;
- n) method of construction of the crane pads;
- o) method of construction of the turbine foundations;
- p) method of working cable trenches;
- q) method of construction and erection of the wind turbines and meteorological masts;
- r) 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;
- s) water quality management plan;
- t) species protection plan(s) based on pre-construction surveys for protected species (including birds); and
- u) breeding bird protection plan.

(3) Unless otherwise approved in writing by the Planning Authority the CEMP shall be implemented as approved.

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

#### **14. Borrow Pit – Scheme of Works**

- (1) There shall be no Commencement of Development until a scheme for the working and restoration of each borrow pit forming part of the Development has been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA. The scheme shall include:
- a) a detailed working method statement based on site survey information and ground investigations;
  - b) details of the handling of any overburden (including peat, soil and rock);
  - c) drainage measures, including measures to prevent surrounding areas of peatland, water dependant sensitive habitats and ground water dependent terrestrial ecosystems from drying out;
  - d) a programme of implementation of the works described in the scheme; and
  - e) details of the reinstatement, restoration and aftercare of the borrow pits to be undertaken at the end of the construction period, including topographic surveys of pre-construction profiles and details of topographical surveys to be undertaken of the restored borrow pit profiles.
- (2) The approved scheme shall thereafter be implemented in full unless otherwise approved in writing by the Planning Authority.

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

#### **15. Borrow Pit – Blasting**

- (1) No blasting shall take place until such time as a blasting method statement has been submitted to and approved in writing by the Planning Authority. The method statement shall include details of measures required to minimise the impact of blasting on residential dwellings in the vicinity of the Site. The scheme shall include:
- a) details on ground vibration limits at agreed blast monitoring locations;
  - b) limitations on blasting to between the hours of 10.00 to 18.00 Monday to Friday inclusive and 10.00 to 13.00 on Saturdays, with no blasting taking place on a Sunday or on national public holidays, unless otherwise approved in advance in writing by the Planning Authority.
- (2) Thereafter the approved scheme shall be implemented.

**Reason:** *To ensure that blasting activity is carried out within defined timescales to control impact on amenity and in accordance with best current practice.*

## 16. Construction Hours and Timing

The hours of operation of the construction phase of the development hereby permitted shall be limited to 0700 hours to 1900 hours on Monday to Saturday and no work shall take place on Sundays or public holidays unless previously approved in writing by the Planning Authority. Out with these hours, development at the site shall be limited to turbine delivery and erection, commissioning, maintenance and pouring of concrete foundations (provided that the developer notifies the Planning Authority of any such works within 24 hours if prior notification is not possible). In addition, access for security reasons, emergency responses or to undertake any necessary environmental controls is permitted out with these hours.

**Reason:** *In the interests of local amenity.*

## 17. Construction Traffic Management

- (1) No development shall commence until a Construction Traffic Management Plan ("CTMP") has been submitted to, and approved in writing by, the Planning Authority in consultation with the relevant Trunk and Local Roads Authorities. The CTMP shall include information on:
  - a) materials, plant, equipment, components;
  - b) location and labour required during construction;
  - c) measures to ensure that affected public roads are kept free of mud and debris arising from the development, including lorry sheeting facilities (if required) and wheel washing arrangements;
  - d) routing, access and egress arrangements for abnormal loads, concrete wagons and heavy goods vehicles (including potential out of hours deliveries);
  - e) details and fully dimensioned drawings showing appropriate upgrading works at the junction of the site access and the public road including drainage measures, improved geometry and construction methods, measures to protect the public road, and the provision and maintenance of appropriate visibility splays;
  - f) a local signage scheme; the scheduling of pre and post construction surveys; and
  - g) a programme and methodology for any repairs as a consequence of any damage caused by construction traffic.
  
- (2) The CTMP shall include contact details for a community traffic liaison officer for the Company to act as a point of contact to provide proposals and information relating to the arrangements for the delivery of all road and construction traffic mitigation measures required for the Development to affected community councils, as well as addressing concerns raised by the community during construction. This should include, but not be limited to, traffic management arrangements to be in place during any roadworks associated with the development and for the operation of local roads during delivery of abnormal loads during the construction of the development.

- (3) Prior to commencement of deliveries of abnormal loads to site, the proposed route for any abnormal loads on the trunk road networks, details of escorts and any accommodation measures required including the removal of street furniture, junction widening, traffic management and the scheduling and timing of abnormal loads movements must be approved in writing by Transport Scotland and the Planning Authority.
- (4) During the delivery period of the wind turbine construction materials, any additional signing or temporary traffic control measures necessary due to the size or length of any loads being delivered or removed must be undertaken by a traffic management consultant whose appointment shall be approved by Transport Scotland and the Planning Authority before delivery commences.

**Reason:** *To ensure road safety and that transportation will not have any detrimental effect on the road and structures along the route and to minimise interference with the safety and free flow of the traffic on the local and trunk roads and to minimise adverse impacts on residents and local businesses in the area.*

## **18. Habitat Management Plan**

- (1) 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 NatureScot and SEPA. The HMP shall follow the principles set out in the Updated Outline HMP dated 15 December 2023; include a Deer Management Plan in accordance with the principles set out in the Draft Deer Management Plan submitted as EIAR Technical Appendix; take account of the Peat Management Plan to be approved under Condition 19; and shall detail measures to restore and enhance woodland and peatland habitats.
- (2) The HMP shall set out proposed habitat management of the site during the period of construction, operation and decommissioning, restoration and aftercare, that would meet the mitigation measures described in the AIR and shall provide for the maintenance, monitoring and reporting of habitat on site.
- (3) The HMP shall include provision for regular monitoring and review to be undertaken to consider whether amendments are needed to better meet the HMP objectives.
- (4) Unless and until otherwise agreed in advance in writing with the Planning Authority, the approved HMP (as amended from time to time) shall be implemented in full.

**Reason:** *In the interests of good land management and the protection of habitats and species.*

## **19. Peat Management Plan**

- (1) No development shall commence until a Peat Management Plan ("PMP") has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. Unless otherwise approved in advance in writing with the Planning Authority, the approved PMP shall be implemented in full.

(2) The PMP shall:

- a) follow the principles set out within the Outline PMP (Technical Appendix 7.2 of the AIR);
- b) ensure that all tracks on peat depths greater than one metre are floated where possible;
- c) demonstrate how micro-siting, floating tracks, location of borrow pits and other techniques will be used to minimise disturbance of peat; and
- d) provide a method statement for cable trenching, prioritising use of pre-disturbed land such as track shoulders, and setting out a method for ensuring excavation of cables in virgin ground only takes place once the electrical contractors have cables on site ready for installation.

**Reason:** *To minimise negative impacts on peat and carbon loss.*

## **20. Operational Carcass Recovery Scheme**

(1) No turbine shall be erected until an Operational Carcass Recovery Scheme ("OCRS") has been submitted to and approved in writing by the Planning Authority. The OCRS shall be implemented as approved.

(2) The OCRS shall include the following:

- a) land out to at least 200 metres from each turbine will be searched weekly for carcasses of livestock and deer species which may attract scavenging raptors.
- b) all carcasses identified will be removed from the Site.
- c) the submission of a review of the OCRS after the first three complete years of commercial operation of the wind farm. The review may include proposals for amendments and shall be submitted to and approved in writing by the Planning Authority. The amended OCRS shall be implemented as approved.

**Reason:** *To reduce the potential for collisions of scavenging raptor species.*

## **21. Integrated water quality and biotic monitoring programme**

(1) There shall be no Commencement of development until an integrated water quality and biotic monitoring programme has been submitted to and approved in writing by the Planning Authority and any such other advisors or organisations as may be required at the discretion of the Planning Authority.

(2) The integrated water quality and biotic monitoring programme shall be in accordance with MarineScotland Science generic monitoring programme guidelines. It shall provide for baseline data to be collected for the monitoring programme at least 12 months prior to construction commencing and no more than five years after completion of development as confirmed in writing by the ECoW and for appropriate mitigation measures to be implemented.

(3) The integrated water quality and biotic monitoring programme shall be implemented as approved.

**Reason:** *To ensure that potential impacts associated with the access track, construction compound and borrow pit within the River Shin catchment are monitored.*

## **22. Archaeology**

No development shall commence until a programme of work for the survey, evaluation, preservation and recording of any archaeological and historic features affected by the Development, including a timetable for investigation, 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.*

## **23. Local radio link infrastructure for the energy industry**

- (1) Wind turbines 27, 21 and 15 as shown on the revised site layout plan AIR Figure 2.1a dated February 2024 shall not be erected above ground level until a mitigation solution in respect of link JESHZS1 – JESHZO06 is approved and implemented by the link operator.
- (2) The Company shall provide written confirmation to the Planning Authority that either (1) the link JESHZS1 – JESHZO06 is no longer operational; or (2) an approved mitigation solution has been implemented by the link operator prior to the erection above ground level of wind turbines 27, 21 and 15.

**Reason:** *To maintain the identified radio link infrastructure across the Site.*

## **24. Telecommunication**

Within 12 months of First Commissioning, any claim by any individual person regarding television or telecommunications 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 of services be attributable to the Development, the developer shall remedy such impairment within 3 months.

**Reason:** *To mitigate the potential effect of telecommunications interference on the development.*

## **25. Outdoor Access Plan**

- (1) No development shall commence until an Outdoor Access Plan has been submitted to and approved in writing by the Planning Authority. The purpose of the plan shall be to maintain public access routes to site tracks and paths through the Site during construction, and to maintain outdoor access in the long-term. The Outdoor Access Plan shall include details showing:

- a) all existing access points, paths, core paths, tracks, rights of way and other routes whether on land or inland water), and any areas currently outwith or excluded from statutory access rights under Part One of the Land Reform (Scotland) Act 2003, within the application site;
- b) any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or effect on curtilage related to buildings or structures;
- c) all proposed paths tracks and other alternative routes for use by walkers, riders, cyclists, canoeists, all-abilities users, etc. and any other relevant outdoor access enhancement (including construction specifications, signage, information leaflets, proposals for on-going maintenance etc.; any diversion of paths, tracks or other routes (whether on land or inland water), temporary or permanent, proposed as part of the Development (including details of mitigation measures, diversion works, duration and signage);

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

**Reason:** *In order to safeguard public access both during and after the construction phases of the development.*

## **26. Private Water Supplies**

(1) No development shall commence until a Private Water Supplies (“PWS”) Method Statement has been submitted to and approved in writing by the Planning Authority. The PWS Method Statement shall:

- a) detail measures to secure the quality, quantity, and continuity of private water supplies at PWS 03 and 04 as identified in the Private Water Supplies Risk Assessment dated November 2022 (AIR Technical Appendix 7.4);
- b) include proposed contingency plans in the event of an incident resulting in an adverse effect on any PWS, directly attributable to the Development; and
- c) include water quality sampling methods and shall specify abstraction points.

(2) The approved method statement shall thereafter be implemented in full.

**Reason:** *To protect private water supplies.*

## **27. Aviation Charting and Safety Management**

(1) The Company must notify the Ministry of Defence, at least 14 days prior to the commencement of the works, in writing of the following information, and provide evidence to the Planning Authority that this has been done:

- a) the date of the commencement of the erection of wind turbine generators;
- b) the maximum height of any construction equipment to be used in the erection of the wind turbines;
- c) the date any wind turbine generators are brought into use; and
- d) the latitude and longitude and maximum heights of each wind turbine generator, and any anemometer mast(s).



- (2) The Ministry of Defence must be notified of any changes to the information supplied in accordance with these requirements and of the completion of the construction of the Development.

**Reason:** *To maintain aviation safety*

## **28. Aviation Lighting**

- (1) Aviation lighting shall be installed in accordance with the reduced aviation lighting scheme described in and approved by the Civil Aviation Authority in correspondence dated 21 December 2022 (“the Aviation Lighting Scheme”).
- (2) The Aviation Lighting Scheme shall be fully implemented throughout the lifetime of the Development unless any change to the Aviation Lighting Scheme has been submitted to and approved in writing by the Planning Authority following consultation with the Ministry of Defence and Civil Aviation Authority.

**Reason:** *In the interests of aviation safety.*

## **29. Redundant Turbines**

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

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

## **30. Site Decommissioning, Restoration and Aftercare**

- (1) The Development shall be decommissioned and cease to generate electricity by no later than the date falling thirty years from the date of Final Commissioning. The total period for decommissioning and restoration of the Site in accordance with this condition shall not exceed three years from the date of cessation of electricity generation by the Development without the prior written approval of the Planning Authority.
- (2) There shall be no Commencement of Development until an Interim Decommissioning, Restoration and aftercare Plan (“IDRP”) has been submitted to and approved in writing by the Planning Authority. The IDRP shall outline measures for the decommissioning of the turbines and the restoration and aftercare of the Site. It shall include, without limitation, proposals for the removal of the above ground elements of the Development and confirmation of the status of

subterranean elements of the development (retention, removal or other such proposal), the treatment of ground surfaces, the management and timing of the works and environmental management provisions.

- (3) No later than 12 months prior to final decommissioning of the Development a detailed Decommissioning Environmental Management Plan (“DEMP”), based upon the principles of the approved IDRPs, shall be submitted to the Planning Authority for its written approval in consultation with NatureScot and SEPA.
- (4) The DEMP shall provide updated and detailed proposals, in accordance with relevant guidance at that time, for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall include (but is not limited to):
  - a) a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases and, including details of measures to be taken to minimise waste associated with the Development and promote the recycling of materials and infrastructure components);
  - b) details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
  - c) a dust management plan;
  - d) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network, including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
  - e) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
  - f) details of measures for soil storage and management;
  - g) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
  - h) details of measures for sewage disposal and treatment;
  - i) temporary site illumination;
  - j) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
  - k) details of watercourse crossings; and
  - l) a species protection plan based on surveys for protected species (including birds) carried out no longer than eighteen months prior to submission of the plan.
- (5) The Development shall be decommissioned, the site restored, and aftercare undertaken in accordance with the approved DEMP, unless otherwise agreed in writing in advance with the Planning Authority.

**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.*

### **31. Financial Guarantee**

- (1) There shall be no Commencement of Development until a bond or other form of financial guarantee in terms which secures the cost of performance of all decommissioning, restoration and aftercare obligations referred to in Condition 30 has been submitted to and approved in writing by the Planning Authority.
- (2) The value of the financial guarantee shall be agreed between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations referred to in Condition 30.
- (3) The financial guarantee shall be maintained in favour of the Planning Authority until the completion of all decommissioning, restoration and aftercare obligations referred to in Condition 30.
- (4) The value of the financial guarantee shall be reviewed by agreement between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional not less than every five years, and at the time of the approval of the detailed DEMP approved under Condition 30. The value of the financial guarantee shall be increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations referred to in Condition 30 and best practice prevailing at the time of each review.

**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 event of default by the Company.*

### **32. Operational Noise**

- (1) The rating level of noise immissions from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speeds set out in or derived from Tables 1 and 2 attached to these conditions and:
  - a) Prior to the First Export Date, the wind farm operator shall submit to the Local 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 Local Authority.
  - b) Within 21 days from receipt of a written request of the Local 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 Local Authority to assess the level of noise immission from the wind farm at the complainant's property (or a suitable alternative location agreed in writing with the Local Authority) in accordance with the procedures described in the

attached Guidance Notes. The written request from the Local Authority shall set out at least the date, time and location that the complaint relates to. Within 14 days of receipt of the written request of the Local 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 Local Authority in the format set out in Guidance Note 1(e).

- c) Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not identified by name or location in the Tables attached to these conditions, the wind farm operator shall submit to the Local Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits 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 Local Authority shall include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise immission resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Local Authority for the complainant's dwelling.
- d) 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 Local Authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Where the proposed measurement location is close to the wind turbines, rather than at the complainants property (to improve the signal to noise ratio), then the operators submission shall include a method to calculate the noise level from the wind turbines at the complainants property based on the noise levels measured at the agreed location (the alternative method). Details of the alternative method together with any associated guidance notes deemed necessary, shall be submitted to and agreed in writing by the Local Authority prior to the commencement of any measurements. Measurements to assess compliance with the noise limits set out in the Tables attached to these conditions or approved by the Local Authority pursuant to paragraph (c) of this condition shall be undertaken at the measurement location approved in writing by the Local Authority.
- e) Prior to the submission of the independent consultant's assessment of the rating level of noise immission pursuant to paragraph (f) of this condition, the wind farm operator shall submit to the Local 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 immission.
  - 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 of the Local 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 immission shall be undertaken in accordance with the assessment protocol approved in writing by the Local Authority and the attached Guidance Notes.
- f) The wind farm operator shall provide to the Local Authority the independent consultant's assessment of the rating level of noise immission undertaken in accordance with the Guidance Notes within two months of the date of the written request of the Local Authority made under paragraph (b) of this condition unless the time limit is extended in writing by the Local Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. 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 Local Authority with the independent consultant's assessment of the rating level of noise immission.
- g) Where a further assessment of the rating level of noise immission 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 (f) above unless the time limit for the submission of the further assessment has been extended in writing by the Local Authority.
- h) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d) of the attached Guidance Notes. The 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) of the attached Guidance Notes to the Local 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 Classes 7, 8 and 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 which lawfully exists or had planning permission at the date of this permission.

**Reason:** *To protect nearby residents from undue noise and disturbance. To ensure that noise limits are not exceeded and to enable prompt investigation of complaints.*

**Table 1 - Between 07:00 and 23:00 - Noise level dB LA90, 10-minute**

<b>Wind Speed (ms-1) as standardised to 10 metres height</b>												
<b>Location (easting, northing grid coordinates)</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>
LA90 Decibel Levels												
The Coachhouse / Aulnagar Lodge Hotel (258406, 898981)	35	35	35	35	35	35	35	35	35	35	35	35
Haradwaith (258171, 898845)	35	35	35	35	35	35	35	35	35	35	35	35
The Gatehouse (258133, 899058)	35	35	35	35	35	35	35	35	35	35	35	35
Achinduich (258132,899872)	35	35	35	35	37	38	40	43	45	47	49	52
Achinduich House (258091, 900118)	45	45	45	45	45	45	45	45	45	47	49	52
Torroble (259593, 904138)	35	35	35	35	35	35	35	34	37	41	44	47
Reidhbreall (263579, 896423)	35	35	35	35	35	35	35	35	35	35	35	35
Craigton (262745, 896149)	35	35	35	35	35	35	35	35	35	35	35	35
Bobtail Cottage (257846, 897033)	35	35	35	35	35	35	35	35	35	35	35	35
Woodlands (257260, 902126)	35	35	35	35	35	35	37	39	41	43	44	46
Cracail (258631, 903766)	35	35	35	35	35	37	39	41	45	47	50	52
Gruids Mill (257672, 903246)	35	35	35	35	35	35	37	39	41	43	44	46
East Tomich (260945, 904951)	35	35	35	35	35	35	35	34	36	41	44	48
Achany (256869, 901620)	35	35	35	35	35	35	37	39	41	43	46	48

**Table 2 - Between 23:00 and 07:00 - Noise level dB LA90, 10-minute**

<b>Wind Speed (ms-1) as standardised to 10 metres height</b>												
<b>Location (easting, northing grid coordinates)</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>
LA90 Decibel Levels												
The Coachhouse / Aulnagar Lodge Hotel (258406, 898981)	35	35	35	35	35	35	35	35	35	35	35	35
Haradwaith (258171, 898845)	35	35	35	35	35	35	35	35	35	35	35	35
The Gatehouse (258133, 899058)	35	35	35	35	35	35	35	35	35	35	35	35
Achinduich (258132,899872)	38	38	38	38	38	38	38	38	40	43	46	49
Achinduich House (258091, 900118)	45	45	45	45	45	45	45	45	45	45	46	49
Torroble (259593, 904138)	38	38	38	38	38	38	38	38	38	38	39	41

Reidhbreal (263579, 896423)	35	35	35	35	35	35	35	35	35	35	35	35	35
Craigton (262745, 896149)	35	35	35	35	35	35	35	35	35	35	35	35	35
Bobtail Cottage (257846, 897033)	35	35	35	35	35	35	35	35	35	35	35	35	35
Woodlands (257260, 902126)	38	38	38	38	38	38	38	38	38	38	40	43	
Cracail (258631, 903766)	38	38	38	38	38	38	38	38	38	39	41	43	46
Gruids Mill (257672, 903246)	38	38	38	38	38	38	38	38	38	38	38	40	43
East Tomich (260945, 904951)	38	38	38	38	38	38	38	38	38	38	38	40	41
Achany (256869, 901620)	38	38	38	38	38	38	38	38	38	38	38	40	41

**Note to Tables 1 and 2:** The geographical coordinates 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 standardised wind speed at 10 metres height within the site refers to wind speed at 10 metres height derived from those measured at hub height, calculated in accordance with the method given in the Guidance Notes.

**Note 2 to Tables 1 and 2:** The noise limits detailed in this condition can be recalculated, if necessary to consider any differences in financial involvement or turbine operation, using the same methodology adopted in Chapter 9 of the AIR Report dated November 2022 and submitted with the application ECU00003251. Any update to the noise limits shall be submitted to and approved in writing by, the Planning Authority. The development shall operate in accordance with the limits contained in this Condition unless the Planning Authority gives it written consent to an updated set of noise limits.

## **Guidance Notes for Operational Noise Condition (Condition 32)**

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immission from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Note 3 with any necessary correction for residual background noise levels in accordance with Note 4. Reference to ETSU-R-97 refers to the publication entitled “The Assessment and Rating of Noise from Wind Farms” (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI).

### **Note 1**

(a) Values of the LA90,10-minute noise statistic should be measured at the complainant’s property (or an approved alternative representative location as detailed in Note 1(b)), using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated before and after each set of measurements, using a calibrator meeting BS EN 60945:2003 “Electroacoustics – sound calibrators” Class 1 with PTB Type Approval (or the equivalent UK adopted standard in force at the time of the measurements) and the results shall be recorded. Measurements shall be undertaken in such a manner to enable a tonal penalty to be calculated and applied in accordance with Guidance Note 3.

(b) The microphone shall be mounted at 1.2 - 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Local Authority, and placed outside the complainant’s dwelling. Measurements should be made in “free field” conditions. To achieve this, the microphone shall be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Local Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

(c) The LA90,10-minute measurements should be synchronised with measurements of the 10-minute arithmetic mean wind speed and wind direction data and with operational data logged in accordance with Guidance Note 1(d) and rain data logged in accordance with Note 1(f).

(d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second (m/s) and arithmetic mean wind direction in degrees from north in each successive 10-minutes period in a manner to be agreed in writing with the planning authority. Each 10 minute arithmetic average mean wind speed data as measured or calculated at turbine hub



height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Note 2(b), such correlation to be undertaken in the manner described in Note 2(c). All 10-minute periods shall commence on the hour and in 10-minute increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary.

(e) Data provided to the Local Authority in accordance with paragraphs (E) (F) (G) and (H) of the noise condition shall be provided in comma separated values in electronic format with the exception of data collected to assess tonal noise (if required) which shall be provided in a format to be agreed in writing with the Local Authority.

(f) A data logging rain gauge shall be installed in the course of the independent consultant undertaking an assessment of the level of noise immission. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

### **Note 2**

(a) The noise measurements should be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b).

(b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the Local Authority under paragraph (e) of the noise condition but excluding any periods of rainfall measured in accordance with Note 1(f).

(c) Values of the LA90,10-minute noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed for those data points considered valid in accordance with Note 2(b) shall be plotted on an XY chart with noise level on the Y-axis and wind speed on the X-axis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) shall be fitted to the data points to define the wind farm noise level at each integer speed.

### **Note 3**

(a) Where, in accordance with the approved assessment protocol under paragraph (e) of the noise condition, noise immission at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty shall be calculated and applied using the following rating procedure.

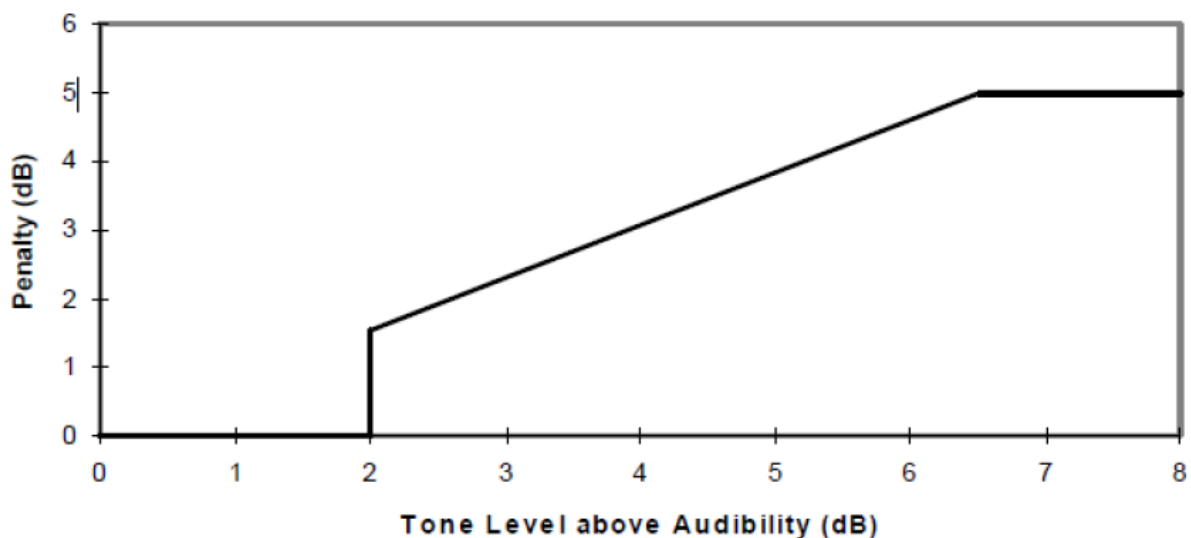
(b) For each 10-minute interval for which LA90,10-minute data have been determined as valid in accordance with Note 2, a tonal assessment shall be performed on noise immission during 2-minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure shall be reported.

(c) For each of the 2-minute samples the tone level above audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 -109 of ETSU-R-97.

(d) The tone level above audibility shall be plotted against wind speed for each of the 2-minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.

(e) A least squares “best fit” linear regression shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the “best fit” line fitted to values within  $\pm 0.5\text{m/s}$  of each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.



**Note 4**

(a) If a tonal penalty is to be applied in accordance with Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Note 2 and the penalty for tonal noise as derived in accordance with Note 3 at each integer wind speed within the range set out in the approved assessment protocol under paragraph (e) of the noise condition.

(b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Note 2.

(c) If the rating level at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Authority for a complainant’s dwelling in accordance with paragraph (c) of the noise condition then no further action is necessary. In the event that the rating level is

above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (c) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

(d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

i. Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range set out in the approved noise assessment protocol under paragraph (e) of this condition.

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

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

iii. The rating level shall be re-calculated by adding the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.

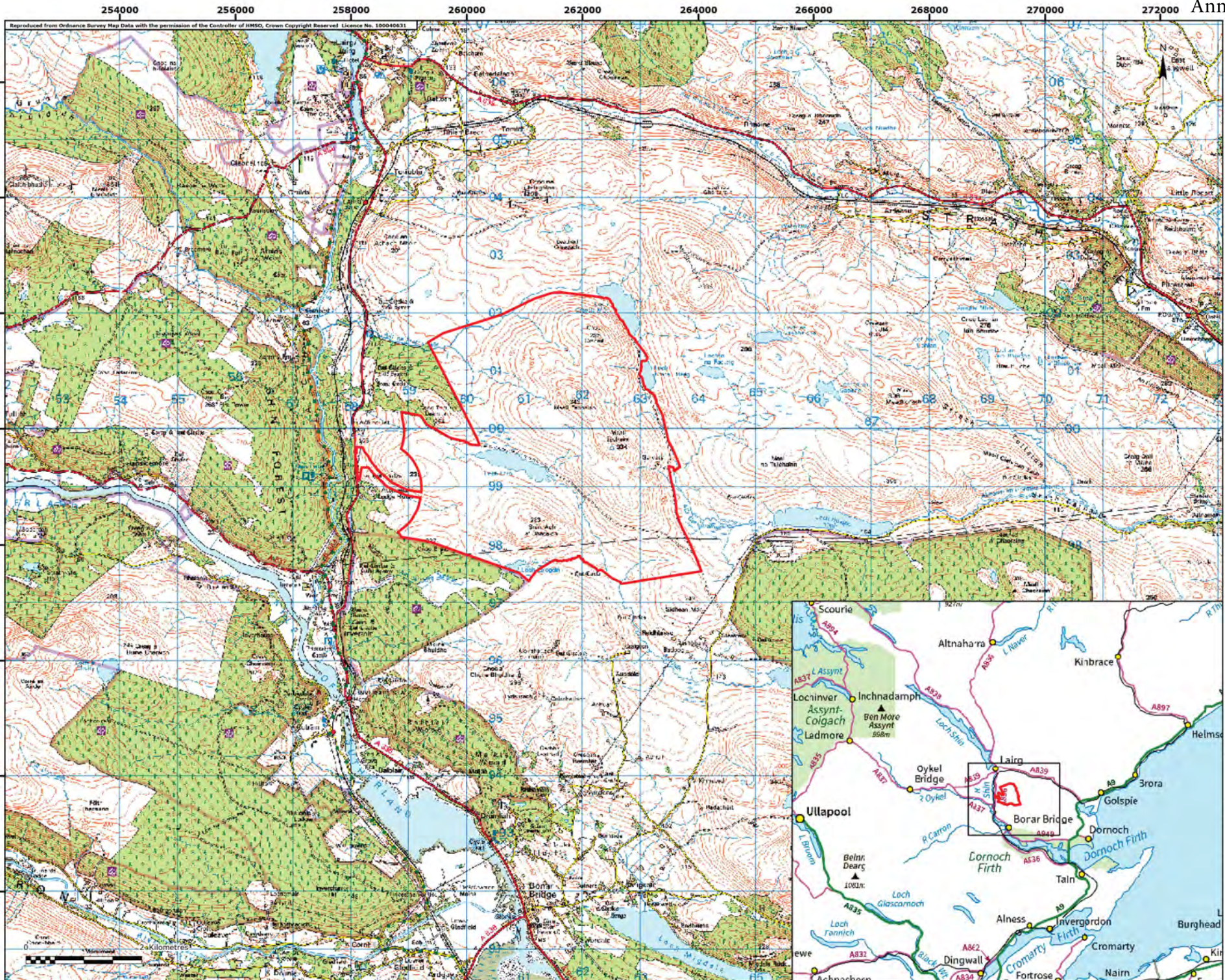
iv. If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note (iii) above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Authority for a complainant's dwelling in accordance with paragraph (c) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Local Authority for a complainant's dwelling in accordance with paragraph (c) of the noise condition then the development fails to comply with the conditions.

## Definitions

<b>Definitions</b>	
<b>Additional Information Report (“AIR”)</b>	Means information submitted by the Company in January 2023.
<b>The Application</b>	Means the application submitted by the Company on 12 April 2021.
<b>Consent</b>	Means the consent granted under section 36 of the Electricity Act 1989 to construct and operate the generating station, which forms part of the Development, and any reference to Consent shall not be taken to include the deemed planning permission unless otherwise stated.
<b>Commencement of Development</b>	Means the initiation of any development pursuant to the consent and/or the deemed planning permission by the carrying out of a material operation within the meaning of section 26 of the Town and Country Planning (Scotland) Act 1997
<b>The Company</b>	Means Garvary Wind Farm Limited (Company Number 09749336) or in substitution its permitted assignees who are in possession of a letter of authorisation from the Scottish Ministers in accordance with Consent Condition 3.
<b>Development</b>	Means the wind powered generating station and ancillary development located within the Site as described in Annex 1.
<b>First Commissioning</b>	Means the date on which electricity is first exported to the grid on a commercial basis from any of the wind turbines forming part of the Development
<b>Final Commissioning</b>	Means the earlier of (i) the date on which electricity is exported to the grid on a commercial basis from the last of the wind turbines forming part of the Development erected in accordance with this consent; or (ii) the date falling thirty-six months from the date of Commencement of Development.
<b>Date of Final Generation</b>	Means the date that the Development ceases to generate electricity to the grid network.
<b>HES</b>	Means Historic Environment Scotland.
<b>NatureScot</b>	Means Scottish Natural Heritage, acting under its operating name NatureScot.
<b>Planning Authority</b>	Means the Highland Council
<b>planning permission</b>	Means the deemed planning permission for the Development as described in Annex 1 granted by direction under section 57 of the 1997 Act
<b>Public Holiday</b>	Means: <ul style="list-style-type: none"> <li>• New Year's Day, if it is not a Sunday or, if it is a Sunday, 3rd January.</li> <li>• 2nd January, if it is not a Sunday or, if it is a Sunday, 3rd January.</li> <li>• Good Friday.</li> <li>• Easter Monday.</li> <li>• The first Monday in May.</li> <li>• The first Monday in August.</li> <li>• The third Monday in September.</li> </ul>

<b>Definitions</b>	
	<ul style="list-style-type: none"> <li>• 30th November, if it is not a Saturday or Sunday or, if it is a Saturday or Sunday, the first Monday following that day.</li> <li>• Christmas Day, if it is not a Sunday or, if it is a Sunday, 27th December.</li> <li>• Boxing Day, if it is not a Sunday or, if it is a Sunday, 27th December.</li> </ul>
<b>SEPA</b>	Means the Scottish Environment Protection Agency.
<b>Site</b>	Means the area of land delineated by the outer edge of the red line on the Site Layout, AIR Figure 2.1a dated February 2024 included in Annex 4.





Key  
Site Boundary

Scottish Government  
Recognised in Scotland  
gov.scot

Energy and Climate Change Directorate  
Energy Services Unit

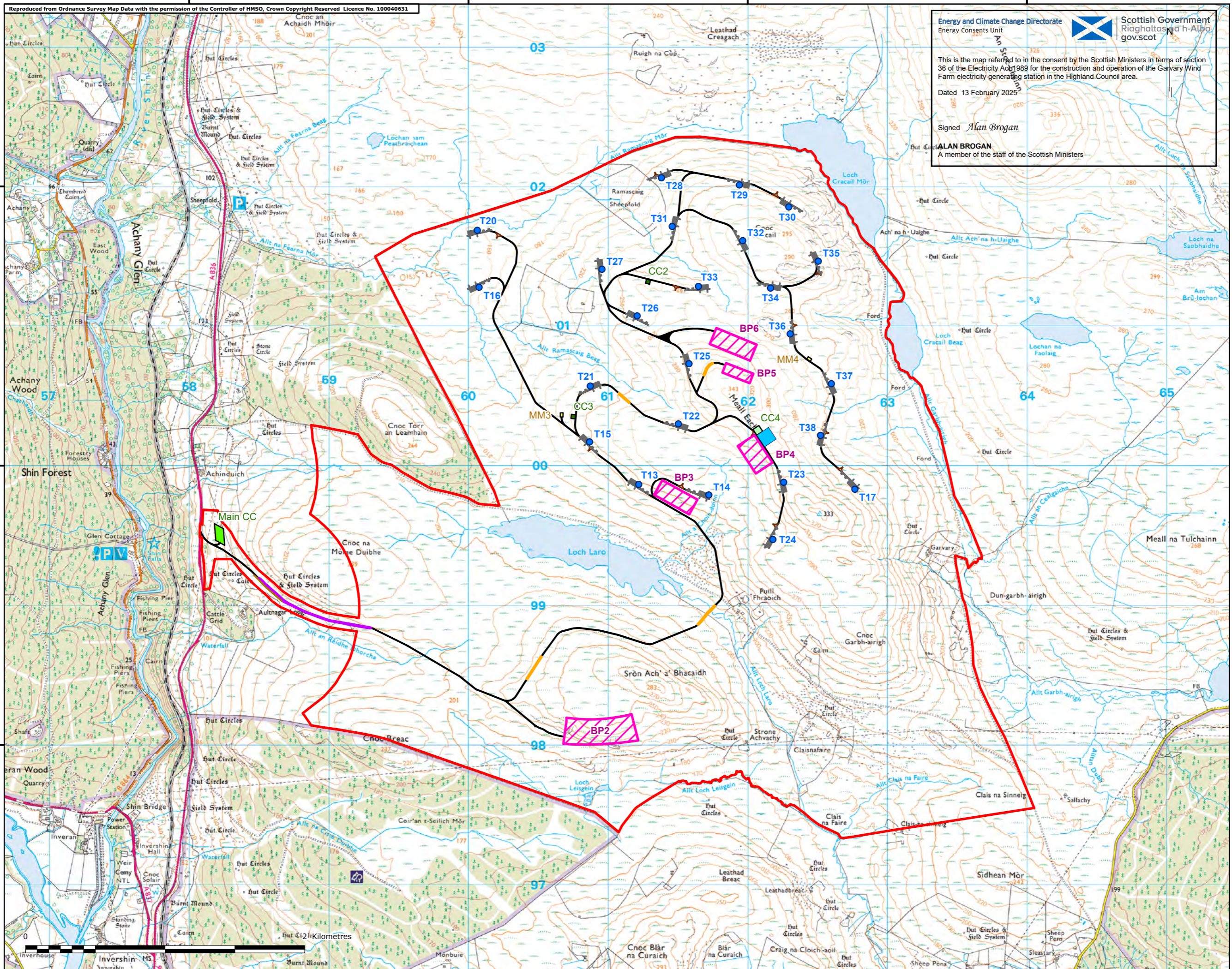
This map was prepared by the company by the Scottish Ministers in exercise of section 2(1) of the Electricity Act 1989 for the construction and operation of the Garvay Wind Farm electricity generating station in the Highland Council area.  
Dated 13 February 2025

Signed Alan Brynart  
ALAN BRYNART  
A Member of the staff of the Scottish Ministers

Title	Figure 1.1: Site Location
Project No.	1620014511
Site	Garvay Wind Farm AIR
Client	Garvay Wind Farm Limited
Date	November 2022
Scale	1:60,000 @ A3
Issue	1 Drawn by BE







Energy and Climate Change Directorate  
Energy Consents Unit

Scottish Government  
Riaghaltas na h-Alba  
gov.scot

This is the map referred to in the consent by the Scottish Ministers in terms of section 36 of the Electricity Act 1989 for the construction and operation of the Garvary Wind Farm electricity generating station in the Highland Council area.

Dated 13 February 2025

Signed *Alan Brogan*

**ALAN BROGAN**  
A member of the staff of the Scottish Ministers



- Key
- Site Boundary
  - Proposed Turbine\*
  - Proposed Hardstanding
  - Proposed Access Track
  - Proposed New Track (Floating where possible)
  - Upgraded Existing Track
  - Proposed Turning Head
  - Proposed Substation (Including Battery Storage Unit)
  - Proposed Main Construction Compound
  - Proposed Satellite Construction Compound
  - Proposed Electrical Contractors Compound
  - Proposed Met Mast
  - Proposed Borrow Pit Search Area
  - Staging Area

\*T19 has been removed

Title	Figure 2.1a: Site Layout
Project No.	1620014511
Site	Garvary Wind Farm AIR
Client	Garvary Wind Farm Limited
Date	February 2024
Scale	1:25,000 @ A3
Issue	1
Drawn by	AB





## Habitats Regulations Appraisal (HRA)

### Conservation of Habitats and Species Regulations 2017

Assessment of the implications of the proposed Garvary Wind Farm development for the **Dornoch Firth and Loch Fleet Special Protection Area (“SPA”)** in view of the conservation objectives of the SPA.

**January 2025**

The following assessment has been prepared by the Scottish Ministers as the Competent Authority for the above proposal.

	Description	
1	Brief description of the project	<p>On 12 April 2021, Garvary Wind Farm Limited (“the Company”) made an application under section 36 of the Electricity Act 1989 for consent for Garvary Wind Farm approximately 4.5km south of Lairg and 5.5km north of Bonar Bridge within the planning authority area of The Highland Council.</p> <p>The proposal comprises 24 wind turbines with a maximum tip height of 180 metres and associated foundations and crane hardstandings, a battery energy storage facility, on-site access tracks, up to five borrow pits, substation, control building, two meteorological masts and ancillary infrastructure. The operational lifespan of the wind farm will be 30 years. Construction is expected to take 24 months.</p>
2	Name of European site potentially affected	Dornoch Firth and Loch Fleet SPA
3	European site qualifying interest(s)	<p>The SPA was last designated in March 1997. It covers approximately 6513 hectares including the two northern most estuaries in the Moray Basin ecosystem. It qualifies under Article 4.1 and 4.2 of The Birds Directive by regularly supporting populations of the following species:</p> <ul style="list-style-type: none"> <li>• Bar-tailed Godwit.</li> <li>• Curlew.</li> <li>• Dunlin.</li> <li>• Greylag Goose.</li> <li>• Osprey.</li> <li>• Oystercatcher.</li> <li>• Redshank.</li> <li>• Scaup.</li> <li>• Teal.</li> <li>• Wigeon.</li> <li>• Waterfowl assemblage non-breeding - &gt;20,000 waterfowl.</li> </ul>



## Annex 5

4	Conservation objectives for qualifying interest(s)	<p>To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained.</p> <p>To ensure for the qualifying species that the following are maintained in the long term:</p> <ul style="list-style-type: none"> <li>• Population of the species as a viable component of the site.</li> <li>• Distribution of the species within site.</li> <li>• Distribution and extent of habitats supporting the species.</li> <li>• Structure, function and supporting processes of habitats supporting the species.</li> <li>• No significant disturbance of the species.</li> </ul>
<b>Screening</b>		
5	Is the proposal directly connected with, or necessary to, conservation management of the European site?	The proposed Development <b>is not</b> connected with or necessary for the conservation management of the SPA.
6	Is the plan or project (either alone or in combination with other plans or projects) likely to have a significant effect on the site?	The proposed Development is located approximately 10.7km from the SPA. Additional Information Report (“AIR”) Technical Appendix 5.4 – Report to Inform a Habitats Regulations Appraisal indicates that it is therefore not considered the proposed Development will have an effect on the habitats of qualifying species or result in disturbance to qualifying species within the SPA boundary. However, the proposed Development lies within the foraging range for greylag goose only in relation to this SPA. No other qualifying species are within foraging range. It is considered the project is likely to have significant effects on greylag goose only.
<b>Appropriate Assessment</b>		
7	Undertake an appropriate assessment of the implications for the site in view of its conservation objectives.	<p>The proposed Development has to the potential for collision mortality risks and disturbance as it lies within foraging range for greylag goose. On that basis, only the SPA conservation objective ‘population of the species as a viable component of the site’ has been assessed.</p> <p>AIR Chapter 5 estimated an annual collision mortality risk of 0.18 birds / year for the proposed Development. Collision mortality risks to greylag goose are therefore concluded as being of negligible magnitude and not significant. Additionally, AIR Technical Appendix 5.4</p>

## Annex 5

		<p>reports that the habitats within and in proximity of the proposed Development were not found to be important for foraging greylag geese.</p> <p>In its response, NatureScot considered these factors and concluded that the proposed Development will not undermine the conservation objections for the site and not adversely affect the integrity of the SPA. The Scottish Ministers agree with NatureScot's conclusion that the proposed Development will not adversely affect the integrity of the site.</p>
8	Modifications required to ensure adverse effects are avoided and reasons for these	No.
	<b>Conclusion</b>	
9	Can it be ascertained that the proposal will not adversely affect the integrity of the site?	It has been ascertained that the Garvary Wind Farm will not adversely affect the integrity of the Dornoch Firth and Loch Fleet SPA.

## Habitats Regulations Appraisal (HRA)

### Conservation of Habitats and Species Regulations 2017

Assessment of the implications of the proposed Garvary Wind Farm development for the **River Evelix Special Area of Conservation (“SAC”)** in view of the conservation objectives of the SAC.

**January 2025**

The following assessment has been prepared by the Scottish Ministers as the Competent Authority for the above proposal.

	Description	
1	Brief description of the project	<p>On 12 April 2021, Garvary Wind Farm Limited (“the Company”) made an application under section 36 of the Electricity Act 1989 for consent for Garvary Wind Farm approximately 4.5km south of Lairg and 5.5km north of Bonar Bridge within the planning authority area of The Highland Council.</p> <p>The proposal comprises 24 wind turbines with a maximum tip height of 180 metres and associated foundations and crane hardstandings, a battery energy storage facility, on-site access tracks, up to five borrow pits, substation, control building, two meteorological masts and ancillary infrastructure. The operational lifespan of the wind farm will be 30 years. Construction is expected to take 24 months.</p>
2	Name of European site potentially affected	River Evelix SAC
3	European site qualifying interest(s)	The qualifying interests for which the site is designated is freshwater pearl mussel.
4	Conservation objectives for qualifying interest(s)	<p>To ensure that the qualifying feature of the River Evelix SAC is in favourable condition and makes an appropriate contribution to achieving favourable conservation status.</p> <p>To ensure that the integrity of the River Evelix SAC is restored by meeting objectives 2a, 2b, 2c and 2d for the qualifying feature:</p> <p>2a. Restore the population of the species as a viable component of the site.  2b. Restore the distribution of the species throughout the site.  2c. Restore the habitats supporting the species within the site and availability of food.</p>

		2d. Maintain the distribution and viability of freshwater pearl mussel host species and their supporting habitats.
<b>Screening</b>		
5	Is the proposal directly connected with, or necessary to, conservation management of the European site?	The proposed Development <b>is not</b> connected with or necessary for the conservation management of the SAC.
6	Is the plan or project (either alone or in combination with other plans or projects) likely to have a significant effect on the site?	The proposed Development lies approximately 5km upstream of the SAC but will receive waters draining from the southeast of the site. Additional Information Report (“AIR”) Technical Appendix 6.4 – Habitats Regulations Appraisal and Appropriate Assessment reports that no direct impacts on the SAC have been identified due to the distance from the proposed Development. However, indirect impacts during construction and decommissioning, including cumulatively with the consented Lairg to Loch Buidhe overhead line, could result from pollution and silt laden run-off entering the river thus deteriorating water quality. This is identified as a likely significant effect.
<b>Appropriate Assessment</b>		
7	Undertake an appropriate assessment of the implications for the site in view of its conservation objectives.	<p>Due to the potential for pollution and silt laden run-off, the proposed Development has the potential to affect the conservation objectives of the SAC. However, NatureScot advise in their response to the Scottish Ministers that these effects can be easily mitigated by the production of, and adherence to, a pollution prevention plan.</p> <p>The AIR concludes that standard pollution prevention measures detailed in a Construction Environmental Management Plan (“CEMP”) would avoid pollution or sedimentation of tributaries. It is therefore considered there would be no significant adverse effects on the integrity of the River Evelix SAC. NatureScot also concluded that subject to the production and adherence to a pollution prevention plan, as part of the proposed CEMP, the proposed Development will not affect the integrity of the site.</p> <p>On that basis, subject to the implementation of the mitigation identified, Scottish Ministers agree the proposed Development will not undermine the conservation objectives for the site.</p>
8	Modifications required to ensure adverse effects are avoided and reasons for these	Yes, as discussed in Section 7 above, a pollution prevention plan as part of the proposed CEMP. The mitigation will be secured by planning conditions within the planning consent.

## Annex 5

	<b>Conclusion</b>	
9	Can it be ascertained that the proposal will not adversely affect the integrity of the site?	It has been ascertained that, with the implementation of the mitigation described in Section 7 and 8 above, the Garvary Wind Farm will not adversely affect the integrity of the River Evelix SAC.

## Habitats Regulations Appraisal (HRA)

### Conservation of Habitats and Species Regulations 2017

Assessment of the implications of the proposed Garvary Wind Farm development for the **River Oykel Special Area of Conservation (“SAC”)** in view of the conservation objectives of the SAC.

**January 2025**

The following assessment has been prepared by the Scottish Ministers as the Competent Authority for the above proposal.

	Description	
1	Brief description of the project	<p>On 12 April 2021, Garvary Wind Farm Limited (“the Company”) made an application under section 36 of the Electricity Act 1989 for consent for Garvary Wind Farm approximately 4.5km south of Lairg and 5.5km north of Bonar Bridge within the planning authority area of The Highland Council.</p> <p>The proposal comprises 24 wind turbines with a maximum tip height of 180 metres and associated foundations and crane hardstandings, a battery energy storage facility, on-site access tracks, up to five borrow pits, substation, control building, two meteorological masts and ancillary infrastructure. The operational lifespan of the wind farm will be 30 years. Construction is expected to take 24 months.</p>
2	Name of European site potentially affected	River Oykel SAC
3	European site qualifying interest(s)	<p>The qualifying interests for which the site is designated is:</p> <ul style="list-style-type: none"> <li>• Freshwater pearl mussel.</li> <li>• Atlantic salmon.</li> </ul>
4	Conservation objectives for qualifying interest(s)	<p>Overarching Conservation Objectives for both features of River Oykel SAC:</p> <ol style="list-style-type: none"> <li>1. To ensure that the qualifying feature of the River Oykel SAC are in favourable condition and makes an appropriate contribution to achieving favourable conservation status.</li> <li>2. To ensure that the integrity of the River Oykel SAC is restored by meeting objectives 2a, 2b, 2c for both features (and 2d for freshwater pearl mussel).</li> </ol> <p>Conservation Objectives for freshwater pearl mussel:</p> <p>2a. Restore the population of freshwater pearl mussel as a viable component of the site.</p>

## Annex 5

		<p>2b. Restore the distribution of freshwater pearl mussel throughout the site.</p> <p>2c. Restore the habitats supporting the freshwater pearl mussel within the site and availability of food.</p> <p>2d. Maintain the distribution and viability of freshwater pearl mussel host species and their supporting habitats.</p> <p>Conservation Objectives for Atlantic salmon:</p> <p>2a. Maintain the population of Atlantic salmon, including range of genetic types, as a viable component of the site.</p> <p>2b. Maintain the distribution of Atlantic salmon throughout the site.</p> <p>2c. Maintain the habitats supporting Atlantic salmon within the site and availability of food.</p>
<b>Screening</b>		
5	Is the proposal directly connected with, or necessary to, conservation management of the European site?	The proposed Development <b>is not</b> connected with or necessary for the conservation management of the SAC.
6	Is the plan or project (either alone or in combination with other plans or projects) likely to have a significant effect on the site?	The proposed Development lies approximately 4km upstream of the SAC but will receive waters draining from the western parts of the site. Additional Information Report (“AIR”) Technical Appendix 6.4 – Habitats Regulations Appraisal and Appropriate Assessment reports that no direct impacts on the SAC have been identified due to the distance from the proposed Development. However, indirect impacts during construction and decommissioning, including cumulatively with the consented Lairg 2 Wind Farm, could result from pollution and silt laden run-off entering the river thus deteriorating water quality. This is identified as a likely significant effect.
<b>Appropriate Assessment</b>		
7	Undertake an appropriate assessment of the implications for the site in view of its conservation objectives.	<p>Due to the potential for pollution and silt laden run-off, the proposed Development has the potential to affect the conservation objectives of the SAC. However, NatureScot advise in their response to the Scottish Ministers that these effects can be easily mitigated by the production of, and adherence to, a pollution prevention plan.</p> <p>The AIR concludes that standard pollution prevention measures detailed in a Construction Environmental Management Plan (“CEMP”) would avoid pollution or sedimentation of tributaries. It is therefore considered there would be no significant adverse effects on the</p>

## Annex 5

		<p>integrity of the River Oykel SAC. NatureScot also concluded that subject to the production and adherence to a pollution prevention plan, as part of the proposed CEMP, the proposed Development will not affect the integrity of the site.</p> <p>On that basis, subject to the implementation of the mitigation identified, Scottish Ministers agree the proposed Development will not undermine the conservation objectives for the site.</p>
8	Modifications required to ensure adverse effects are avoided and reasons for these	Yes, as discussed in Section 7 above, a pollution prevention plan as part of the proposed CEMP. The mitigation will be secured by planning conditions within the planning consent.
	<b>Conclusion</b>	
9	Can it be ascertained that the proposal will not adversely affect the integrity of the site?	It has been ascertained that, with the implementation of the mitigation described in Section 7 and 8 above, the Garvary Wind Farm will not adversely affect the integrity of the River Oykel SAC.



## Habitats Regulations Appraisal (HRA)

### Conservation of Habitats and Species Regulations 2017

Assessment of the implications of the proposed Garvary Wind Farm development for the **Strath Carnaig and Strath Fleet Moors Special Protection Area (“SPA”)** in view of the conservation objectives of the SPA.

**January 2025**

The following assessment has been prepared by the Scottish Ministers as the Competent Authority for the above proposal.

	Description	
1	Brief description of the project	<p>On 12 April 2021, Garvary Wind Farm Limited (“the Company”) made an application under section 36 of the Electricity Act 1989 for consent for Garvary Wind Farm approximately 4.5km south of Lairg and 5.5km north of Bonar Bridge within the planning authority area of The Highland Council.</p> <p>The proposal comprises 24 wind turbines with a maximum tip height of 180 metres and associated foundations and crane hardstandings, a battery energy storage facility, on-site access tracks, up to five borrow pits, substation, control building, two meteorological masts and ancillary infrastructure. The operational lifespan of the wind farm will be 30 years. Construction is expected to take 24 months.</p>
2	Name of European site potentially affected	Strath Carnaig and Strath Fleet Moors SPA
3	European site qualifying interest(s)	The SPA was last designated in July 2008. It covers a 14,703-hectare area of upland moorland between Lairg and Dornoch. Predominantly the habitats of the SPA are extensive heather moors and upland acid grasslands. The SPA qualifies under Article 4.1 of The Birds Directive by regularly supporting a population of the Annex I species hen harrier. The site supports 12 breeding pairs which represents 2.5% of the GB population.
4	Conservation objectives for qualifying interest(s)	<p>To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained.</p> <p>To ensure for the qualifying species that the following are maintained in the long term:</p> <ul style="list-style-type: none"> <li>Population of the species as a viable component of the site.</li> </ul>

		<ul style="list-style-type: none"> <li>• Distribution of the species within site.</li> <li>• Distribution and extent of habitats supporting the species.</li> <li>• Structure, function and supporting processes of habitats supporting the species.</li> <li>• No significant disturbance of the species.</li> </ul>
<b>Screening</b>		
5	Is the proposal directly connected with, or necessary to, conservation management of the European site?	The proposed Development <b>is not</b> connected with or necessary for the conservation management of the SPA.
6	Is the plan or project (either alone or in combination with other plans or projects) likely to have a significant effect on the site?	Yes, it is considered the proposed Development is likely to have significant effects on hen harrier. The proposed Development boundary is located adjacent to the SPA within the disturbance buffer zone for hen harrier recommended by NatureScot. Additional Information Report (“AIR”) Technical Appendix 5.4 – Report to Inform a Habitats Regulations Appraisal reports flight activity of hen harrier was recorded within the proposed Development so there may be a collision risk and it is also within foraging range for hen harriers. The AIR indicates there are no wind turbines within 1.3km of the SPA however NatureScot calculated this distance to be 870m in their response to Scottish Ministers.
<b>Appropriate Assessment</b>		
7	Undertake an appropriate assessment of the implications for the site in view of its conservation objectives.	<p>All the conservation objectives listed in section 4 are relevant. The implications for the proposed Development in view of these conservation objections are considered below.</p> <p><u>Population of the species as a viable component of the site</u> The AIR estimates an annual collision mortality risk for hen harrier of 0.079 birds / year. NatureScot indicate that this, in combination with other developments, would not increase the cumulative collision risk to a level that would be expected to adversely affect the SPA population. On this basis, it is considered the proposed Development will not undermine this conservation objective.</p> <p><u>Distribution of the species within site.</u> The components of the proposed Development are outwith the typical disturbance distance for hen harrier therefore it is considered unlikely it will affect the distribution of birds within the SPA and undermine this conservation objective.</p>

	<p><u>Distribution and extent of habitats supporting the species</u>  <u>Structure, function and supporting processes of habitats supporting the species</u></p> <p>Built components of the proposed Development are outwith the SPA therefore it will not affect the distribution and extent of habitats supporting the species or the structure, function and supporting processes of habitats supporting the species.</p> <p><u>No significant disturbance of the species</u></p> <p>Based on the separation distance between wind farm components and the SPA it is not considered the proposed Development will result in significant disturbance to nesting hen harriers within the SPA.</p> <p>However, the AIR indicates that breeding hen harrier were recorded within proximity of the proposed Development. The AIR indicates breeding pairs in the study area are not considered to comprise part of the SPA breeding population. In its response, NatureScot advised that wind turbine 17 lies within alternative nesting distance of the SPA and therefore hen harriers breeding in this area in future years would be considered functionally linked to the SPA. On that basis, it is considered that SPA birds could be at risk of significant disturbance and/or displacement should construction coincide with the breeding season (March – August).</p> <p>Mitigation is proposed in the AIR to ensure significant disturbance of hen harrier is avoided. This is to comprise a Breeding Bird Protection Plan, as part of the Construction Environmental Management Plan, to include the adoption of disturbance protection buffers and be informed by further pre-construction surveys for hen harrier. Fortnightly surveys are also planned through the breeding season. It is intended that if any nesting birds are found potentially disturbing activities would be suspended for the breeding season with an appropriate zone. Additionally, works will only be carried out during the breeding season which affect habitats that could be used by nesting birds following an on-site check for nesting birds by an experienced ecologist.</p> <p>NatureScot advise that with this mitigation in place for the duration of the construction period, any SPA hen harrier which may nest closer to the proposal will be safeguarded from significant disturbance. On that basis, it is considered the proposed Development will not</p>
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## Annex 5

		undermine the conservation objectives for the site and therefore will not adversely affect the integrity of the SPA.
8	Modifications required to ensure adverse effects are avoided and reasons for these	Yes, as discussed in Section 7 above, a Breeding Bird Protection Plan. The mitigation will be secured by planning conditions within the planning consent.
	<b>Conclusion</b>	
9	Can it be ascertained that the proposal will not adversely affect the integrity of the site?	It has been ascertained that, with the implementation of the mitigation described in Section 7 and 8 above, the Garvary Wind Farm will not adversely affect the integrity of the Strath Carnaig and Strath Fleet Moors SPA.



## Report of Inquiry into application under section 36 of the Electricity Act 1989 and deemed application for planning permission under section 57 of the Town and Country Planning (Scotland) Act 1997 (as amended)

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Report by Nick Smith, a Reporter appointed by the Scottish Ministers

- Case reference: WIN-270-20
- Site address: Garvary wind farm, approximately 4.5km south of Lairg and 5.5km north of Bonar Bridge, Sutherland, IV27
- Application by Garvary Wind Farm Ltd dated 12 April 2021 and modified 6 December 2022
- The development proposed (as modified): a wind farm under section 36 of the Electricity Act 1989 comprising 25 wind turbines, access tracks, up to five borrow pits, substation, battery storage compound, control building, two meteorological masts, and ancillary infrastructure
- Application drawings: AIR Figure 2.1a: Revised site layout dated February 2024
- Reason for inquiry: objection by The Highland Council
- Dates of procedures:
  - pre-examination meeting (PEM) 31 October 2023
  - further written submissions November and December 2023, and January 2024
  - landscape and visual (including cumulative) inquiry 25 and 26 March 2023
  - policy and conditions hearings 27 March 2024
  - unaccompanied site inspections 25 and 28 March and 8 to 12 April 2024

Date of report: 28 May 2024

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### **Recommendation**

Grant Section 36 consent and deemed planning permission.

### **Background**

#### **Site location and the proposal**

1. The application site covers approximately 18.08 square kilometres east of the A836, approximately 4.5km south of Lairg and 5.5km north of Bonar Bridge, in Sutherland. Access would be taken from the A836 south of Achinduich. The site is upland moorland used predominantly for grazing sheep with some recently planted woodland.
2. The original proposal for 37 turbines (up to 180 metres to blade tip), six borrow pit search areas, over 26km of tracks and associated infrastructure was submitted in April 2021. Following objections from The Highland Council (the council) and NatureScot the applicant sought permission from Scottish Government's Energy Consents Unit (ECU) to modify the proposal. ECU agreed and the modified proposal was submitted in December 2022 with no boundary change.

Original proposal - [Figures 1.1: Red Line Site Boundary and 1.2: Site Layout Mar 2021](#)  
 Modified proposal – [Additional Information Report \(AIR\) Figure 2.1 Site Layout Dec 2022](#)

3. The modified proposal set out in Additional Information Report (AIR) [Chapter 2](#) is for:

- up to 25 three-bladed horizontal axis wind turbines [up to 180 metres to blade tip], internal transformers and related switchgear at each turbine, associated turbine foundations, and, associated hardstanding areas for erection and maintenance cranes at each turbine base
- two permanent free-standing meteorological masts
- a total of approximately 22.1km of on-site tracks with associated water crossings, passing places and turning heads
- site access route with necessary road improvements works from public road network
- search areas of up to five borrow pits [[30 June 2023 Position Statement Annex B section 8](#), erroneously states “up to four borrow pit search areas”]
- substation compound, including battery storage unit
- up to four temporary site construction compounds
- a network of on-site buried electrical cables
- batching plant
- associated ancillary works

4. Following objections by Energiekontor UK Ltd, the applicant proposes to remove turbine T19 (paragraphs 21 to 25 below). This would reduce the proposal to 24 turbines and change the site layout as shown in [AIR Figure 2.1a Revised Site Layout February 2024](#).

5. The 25 turbine proposal (at 180 metres to blade tip) would have installed generating capacity of 150 mega Watts (MW). Removing T19 reduces this to 144MW. Battery storage capacity was not originally stated but [paragraph 1.2.9 of the applicant’s policy hearing statement](#) confirms it as 20MW, and so a total capacity to supply up to 164MW (less T19).

### Environmental Impact Assessment Report (EIAR)

6. The [original EIAR](#) was submitted in April 2021. At ECU’s request, additional environmental information on [operational noise \(Nov 2021\)](#) was submitted (“Additional Information 1”). “Additional Information 2, the Additional Information Report (AIR)” was submitted alongside the modified application in December 2022. AIR replaces much of the original EIAR (2021) or is to be read in conjunction with it, as explained in [the applicant’s Position Statement Appendix 1 Annex B \(30 June 2023\)](#); and summarised in Table 1 below.

**Table 1: Changes to the relevant environmental information made by AIR (Dec 2022)**

Original EIAR (Apr 2021)	Additional Information 2 (AIR) (Dec 2022)
Non-technical summary (NTS)	AIR NTS replaces the EIAR NTS
Chapter 1 – Introduction	AIR Chapters 1, 2 and 3 updated to be read in conjunction with associated figures and technical appendices.
Chapter 2 – Development Description	
Chapter 3 – Design Evolution and Alternatives	
Chapter 4 - Landscape and Visual Amenity	AIR Chapter 4 replaces EIAR Chapter 4, associated visualisations, wirelines, figures and technical appendices. Includes the proposed aviation lighting scheme.
Chapter 5 - Ornithology	AIR Chapter 5 updated to be read in conjunction with EIAR Chapter 5, figures and technical appendices.
Chapter 6 - Non-avian Ecology	AIR Chapter 6 replaces EIAR Chapter 6, figures and Technical Appendices 6.4 to 6.8. All other EIAR technical appendices remain valid.

Original EIAR (Apr 2021)	Additional Information 2 (AIR) (Dec 2022)
Chapter 7 - Geology, Hydrology and Soils	AIR Chapter 7 replaces EIAR Chapter 7, associated figures and technical appendices.
Chapter 8 – Archaeology and Cultural Heritage	AIR Chapter 8 replaces EIAR Chapter 8, associated figures and technical appendices.
Chapter 9 – Noise (plus, additional information 1 (AI 2021), supplementary noise assessment submitted November 2021)	AIR Chapter 9 replaces EIAR Chapter 9, associated figures and AI 2021. EIAR Technical Appendix 9.1 remains relevant. AIR Technical Appendix 9.1 replaces EIAR Technical Appendix 9.2.
Chapter 10 – Shadow Flicker	AIR Chapter 1 Paragraph 2.3; a shadow flicker chapter is no longer required.
Chapter 11 - Transport	AIR Chapter 10 replaces EIAR Chapter 11 and Technical Appendix 11.2. All EIAR figures and Technical Appendix 11.1 remain valid.
Chapter 12 - Socioeconomics, Tourism and Recreation	Following a review, no update was made to EIAR Chapter 12 as the overall level of significance was considered unlikely to alter. Discussions are ongoing with communities about shared ownership/community benefit.
Chapter 13 - Schedule of Mitigation	AIR Chapter 11 – Schedule of Mitigation replaces EIAR Chapter 13.

7. All the above environmental information was advertised under the relevant provisions of the [Electricity Works \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017](#), as set out in Table 2 below. Responses by interested parties are before me.

**Table 2: Submission and newspaper advertisement of environmental information**

Original EIAR Apr 2021	<ul style="list-style-type: none"> <li>• Edinburgh Gazette on 16 April 2021</li> <li>• Northern Times on 16 April 2021 and 23 April 2021</li> <li>• The Herald on 15 April 2021</li> </ul>
Additional Information 1 (Noise) Nov 2021	<ul style="list-style-type: none"> <li>• Edinburgh Gazette for one week on 12 November 2021</li> <li>• Northern Times for one week on 12 November 2021</li> </ul>
Additional Information 2 (AIR) Dec 2022	<ul style="list-style-type: none"> <li>• Edinburgh Gazette on 17 January 2023</li> <li>• Northern Times for one week on 20 January 2023</li> </ul>

### Supplementary information sought for the inquiry

8. At the Pre-Examination Meeting (PEM) (31 October 2023) it was agreed that an updated cumulative landscape and visual impact assessment (CLVIA) was necessary to cover changes to the cumulative baseline since publishing AIR (Dec 2022). Removal of T19 is also accounted for. It was also agreed that the applicant should update the Draft Habitats Management Plan at the same time. I invited the applicant to submit both updates to the inquiry as supplementary information. The Updated CLVIA ([section a](#), [b](#), [c](#), [d](#), [e](#), [f](#), and [g](#)) should be read in conjunction with [AIR Chapter 4](#) and, in stated instances supersede it.

9. Opted-in parties and those previously served with copies of the EIAR were invited to comment between 15 December 2023 and 31 January 2024. No formal press notice was needed under regulations 19 and 20(6) of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017. Only [NatureScot](#), [Scottish Environment Protection Agency \(SEPA\)](#), [Historic Environment Scotland \(HES\)](#), [the Crown Estate Scotland](#) and [Royal Society for the Protection of Birds \(RSPB\) Scotland](#) responded. None objected. I allowed the applicant to [respond \(16 Feb 2024\)](#). All points inform this report.

### The objection from [The Highland Council](#) (the council)

10. The scale and location of the proposal would impact on one of the special qualities of the Dornoch Firth National Scenic Area (NSA) such that the objectives of the designation

and its overall integrity would be compromised, particularly at the Struie Viewpoint and for travellers on the B9176. The significant effects have not been outweighed by social, environmental or economic benefits of national importance. Consequently, the type, location, and scale of the development would have an unacceptable impact on the natural environment, contrary to NPF4 Policy 4 (Natural Places) part a) and parts c) i. and ii, and Policy 11 (Energy) part e) ii, and, Highland-wide Local Development Plan (HWLDP) Policy 67 (Renewable Energy), and 57 (Natural, Built and Cultural Heritage). The council raises no other objections but disagrees with some visual assessment findings and seeks conditions on matters including noise, transport, access and archaeology.

## **Consultation bodies**

[Creich Community Council](#) objects to adverse landscape and visual (including cumulative) impacts, including creating a “mega development” with others, adverse impacts on the qualifying interests of a special protection area (SPA) and inadequate public consultation. It opted-in to the inquiry process but later withdrew due to the timing of its own elections.

[Rogart Community Council](#) objects to the cumulative impacts of abnormal loads for this proposal along with others in the area and its cumulative landscape and visual effects.

[Defence Infrastructure Organisation \(DIO\)](#) does not object provided conditions secure appropriate aviation safety lighting and turbine coordinates and heights for flight charts.

[Joint Radio Company \(JRC\)](#) withdrew its objection provided conditions secure mitigation of predicted interference of communications equipment.

[Royal Society for the Protection of Birds \(RSPB\) Scotland](#) does not object but is concerned that the impact on the Strath Carnaig and Strath Fleet Moors SPA and Site of Special Scientific Interest (SSSI) has not been fully assessed.

[Scottish Environment Protection Agency \(SEPA\)](#) does not object provided conditions minimise impacts on peat and carbon loss, to protect and enhance (where possible) wetland and peat habitats, to improve carbon sequestration, to use appropriate water crossings constructed in line with the schedule of mitigation and that decommissioning adheres to an agreed, finalised decommissioning and restoration plan.

[Scottish Forestry](#) does not object provided conditions secure compensatory woodland planting in accordance with UK Forestry Standards.

[Scottish Water](#) does not object but provides advice on matters relating to its responsibilities.

[Transport Scotland](#) does not object provided conditions secure information for abnormal loads (including routes and accommodation measures along the trunk road network), matters regarding construction traffic, and traffic management (including construction materials, additional signage and temporary controls) relating to the trunk roads network.

[Historic Environment Scotland \(HES\)](#) does not object and concludes that significant effects on the settings of four scheduled monuments would not affect their integrity.

[Marine Scotland](#) does not object provided conditions secure establishment of an integrated water quality and biotic monitoring programme.



[Fisheries Management Scotland](#) and [Kyle of Sutherland District Salmon Fisheries Board and Kyle of Sutherland Fisheries Trust](#) do not object provided conditions secure mitigation to avoid pollution risks to water bodies and fisheries connected to the site.

[NatureScot](#) withdrew its objection to the original proposal, stating that the modified proposal would have significant effects on one of the special landscape qualities of the Dornoch Firth NSA but would not compromise the integrity of the designation. It predicts likely significant effects for the River Oykel Special Area of Conservation (SAC) and River Evelix SAC and Strath Carnaig and Strath Fleet Moors SPA, requiring an appropriate assessment. It considers that these matters could be “easily mitigated” but would object if that mitigation was not secured by condition. It does not object on any other matter provided conditions secure appropriate mitigation.

11. The following bodies did not object: [Aberdeen International Airport](#), [British Horse Society](#), [British Telecom](#), [Civil Aviation Authority](#), [Crown Estate Scotland](#), [Glasgow Airport](#), [Glasgow Prestwick Airport](#), [Highlands and Islands Airports Limited \(HIAL\)](#), [National Air Traffic Services \(NATS\) Safeguarding](#), [Scotways](#)

### **Other representations**

12. Only representations made directly to Scottish Ministers are considered in this report. The applicant advises of 49 representations (seven in support and 42 objecting). I count eight in support and 41 objecting. Supporters welcome “tackling of climate change” and “clean, green energy”. The objecting representations broadly relate to:

- adverse landscape and visual (including cumulative) impacts
- harm to the Dornoch Firth NSA and to Wild Land Areas
- harm to peat and carbon storage, habitats, birds and protected species
- water pollution and adverse impacts for drainage and water supplies
- constraints payments, threats to tourism and scepticism of local benefits
- adverse impacts on health (including mental health), core paths and Loch Laro
- road suitability, noise and construction traffic disruption
- proximity of proposed turbines to those of the adjacent consented Lairg II wind farm
- absence of information on off-site infrastructure and grid connections
- lack of consistency with national and local policy
- poor public engagement and effects on property/land values

13. The above public representations are to the original 37 turbine proposal, predating the modified proposal. Only the Struie Action Group made [representations to the modified proposal](#) claiming it to be a nullity. I consider this below (paragraphs 16 to 20). Having opted into the inquiry, the Struie Action Group subsequently withdrew and submitted a [position statement dated February 2024](#). I consider all public representations against the modified proposal and its environmental information.

### **Policy context**

14. The main policy documents relevant to this application are listed below in reverse chronological order. The applicant’s and council’s [Agreed Matters for Policy](#) list other legislation, policy and advice/research documents with others in the [core documents list](#).

- [National Planning Framework \(NPF\) 4 \(2023\)](#)
- [Draft Energy Strategy and Just Transition Plan \(2023\)](#)
- [Onshore Wind Policy Statement \(2022\)](#)

- [Highland Council Onshore Wind Energy Supplementary Guidance \(OWESG\) \(2016\)](#) and [addendum \(2017\)](#)
- [Highland Wide Local Development Plan \(HWLDP\) \(2012\)](#)

### **Summaries of inquiry parties' cases**

- The applicant's summary of case is at [Appendix 3](#)
- The planning authority's summary of case is at [Appendix 4](#)

### **The relevant issues for Ministers' consideration**

15. Having considered all the evidence before me, my advice is that the main considerations for Ministers in deciding this application are:

- nullity and related expenses claim
- proximity to adjacent Lairg II wind farm
- landscape and visual (including cumulative) effects
- renewable energy generation and other benefits of the proposal
- other effects and matters

### **Nullity and related expenses claim**

Struie Action Group Position statement and expenses claim [14 Feb 2024](#) and representations [24 May 2021](#), [4 Mar 2022](#) and [3 Feb 2023](#)

### **Reporter's conclusions**

16. The Struie Action Group argues the modified proposal is a nullity, believing Scottish Ministers did not have the lawful competence under Schedule 8 of the Electricity Act 1989 to allow the modification. Instead, it believes that role to be for the "Secretary of State" and thus, that the council's objection to the original proposal was not withdrawn and so should have caused a public inquiry under that same Act. It therefore asked me to return the modified application to Scottish Ministers and to refuse to conduct the public inquiry, with an inquiry instead being held on the original 37 turbine proposal.

17. The applicant sought permission to modify the original application in April 2022, arguing the modification to be "in substance" the same as the original. ECU agreed and the modified application and environmental report (AIR) were submitted in December 2022 with the relevant publicity and consultation following.

18. It is lawful to modify applications under Schedule 8 of the Electricity Act 1989 to try to overcome objections, as was so here. I understand the roles of the "Secretary of State" in that Act to have been transferred to the Scottish Ministers under section 53 of the Scotland Act 1998 and The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (both are before me). Therefore, the modified proposal is not a nullity. As such, there was no substantive reason for me to return the application to the Scottish Ministers or to ask them to retrieve it. I declined the Struie Action Group's request, advising that I would conduct a public inquiry for the modified proposal as instructed by Scottish Ministers' [minute of appointment](#) of 23 August 2023.

19. The Struie Action Group's objections to the original proposal show that it wished to opt-in to the inquiry. It then opted-in to the modified proposal inquiry and its consultant attended the PEM. It later withdrew and submitted a statement, which includes a claim for

expenses against DPEA and/or ECU arguing the above nullity matter unreasonably forced it to incur expenses in preparing its statement.

20. For clarity, the Struie Action Group was not required to submit a statement, it asked to do so. The modified proposal is not a nullity, and no compelling evidence suggests the Struie Action Group was prejudiced or incurred expenses it would not otherwise have done in one form or other under its own preferred circumstances. Besides, section 210 of the Local Government (Scotland) Act 1973 defines the limited circumstances under which Scottish Ministers may award expenses in relation to public inquiries. Awarding expenses against themselves is not one of those provisions. Thus, I find this claim for expenses to be without foundation and recommend rejecting it.

## **Proximity to adjacent Lairg II wind farm**

### **Evidence for the applicant**

[Closing Statement](#) and [Summary of Case](#) (Appendix 3 of this report)

Further Written Submissions [17 Nov 2023i](#), [ii](#), [iii](#) and [iv](#), [14 Dec 2023j](#), [ii](#) and [iii](#), and [17 Jan 2024](#)

[Schedule of Draft Conditions](#) agreed with the Council 26 Mar 2024

### **Evidence for Energiekontor UK Ltd and its successors**

[Representation dated 14 Jun 2022](#)

Further Written Submissions dated [4 Dec 2023j](#), [ii](#) and [iii](#), and [16 Jan 2024](#)

### **Reporter's conclusions**

21. Energiekontor UK Ltd (and now its successors) are the developers of the consented Lairg II wind farm, adjacent north of the proposal. Energiekontor UK Ltd's representation was to the original proposal but remains relevant and so I consider it here. At the PEM it was agreed that this matter would be considered by further written submissions.

22. Energiekontor UK Ltd objected since the separation distances between proposed turbine T19 and consented Lairg II turbine T4 (348.3 metres), and proposed turbine T28 and consented Lairg II turbine T8 (445.6 metres) would exceed the minimum separation distances (489 metres), based on three rotor diameters. In its view, this would place additional stress, and wear and tear on those Lairg II turbines, invalidate turbine warranties, reduce their energy output and their contribution to meeting national targets.

23. However, the applicant (17 November 2023) argues the Lairg II turbine model to have now changed to one with a smaller rotor diameter with a shorter minimum separation distance of 447.3 metres. That means that turbine T28 would be located 1.7 metres outside the revised minimum separation distance from consented Lairg II turbine T8. Energiekontor UK Ltd's successors (4 December 2023) do not dispute this.

24. Both parties recognise that micro-siting of up to 50 metres could bring both turbines back within the minimum separation distance. They agree condition wording to ensure that proposed turbine T28 cannot be micro-sited into the minimum separation distance. The applicant and council also agree this wording. I accept this solution as reasonable.

25. However, proposed turbine T19 would still be 99 metres inside the revised minimum separation distance from consented Lairg II turbine T4. Both parties agree that this could only be resolved by removing T19 (and its access tracks and hard standing). The applicant initially suggested using a condition but both parties now agree to revise the description of development to be for 24 turbines. Wording for a [revised description of development](#) and a

[modified site layout dated February 2024](#) are submitted to that effect. The applicant and council also agree to revise the description of development to achieve this. Whilst a condition could also achieve the removal of T19, I recommend accepting the proposed solution as the development would be in substance the same and no new planning issues would be raised. The applicant's and council's other disputes about this revised description of development are covered under the [Conditions heading](#) (below).

## **Landscape and visual (including cumulative) effects**

### **Applicant's evidence**

[Closing Statement](#) and [Summary of Case](#) (Appendix 3 of this report)  
[Precognition](#) and [Inquiry Report](#)

### **The Highland Council's evidence**

[Closing Statement](#) and [Summary of Case](#) (Appendix 4 to this report)  
[Landscape Precognition](#) and [Landscape Inquiry Report](#)  
[Visual Precognition](#), [appendix 1](#), [appendix 2](#), [appendix 3](#), [appendix 4](#) and [appendix 5](#) and  
[Visual Inquiry Report](#)  
[Report of Handling 14 June 2023](#)

### **Evidence of other parties**

[Rogart Community Council representation 24 May 2021](#)  
[Creich Community Council representation 21 May 2021](#)  
Struie Action Group responses [24 May 2021](#), [4 Mar 2022](#), [3 Feb 2023](#) and [14 Feb 2024](#)  
NatureScot responses [15 Jun 2021](#), [3 Dec 2021](#), [10 Mar 2023](#) and [31 Jan 2024](#)

**Representations by:** [Win Brinklow](#), [E Calder](#), [Christina Campbell](#), [Graham Charge](#), [Janet Charge](#), [J Cooper](#), [H J Douglas](#), [Mr C E Gilmour](#), [Rupert Haig-Thomas](#), [Colin Hambridge](#), [Rosemary Hambridge](#), [Chris Henzler](#), [Lynne Henzler](#), [Bridget Horne](#), [K2 Action Group](#), [Elaine Kirby](#), [Keith Legg](#), [Sandra Legg](#), [Janet MacKay](#), [Peter MacKay](#), [D Morrish](#), [M C Morrison](#), [Roger P Oliver](#), [Meg O'Reilly](#), [Michael O'Reilly](#), [Christina Perera](#), [M Ross](#), [Dianna Royce](#), [James Sayer](#), [Jackie Smalley](#), [Richard Smalley](#), and [David Wheeler](#).

## **Introduction**

26. Landscape and visual (including cumulative) matters were covered at an inquiry session on 25 and 26 March 2024. For the applicant Marcus Trinick KC led with James Welch as a landscape and visual witness. For the council James Findlay KC led with Anne Cowling as a landscape witness and with Mark Fitzpatrick as a visual witness.

27. My consideration is informed by all of the submitted and oral evidence. I consider assessment methodology. I then consider landscape (including cumulative) effects (physical landscape, landscape character and designated landscapes) followed by visual (including cumulative) effects at all viewpoints, identified settlements and routes. Finally, I consider the night-time (including cumulative) effects of proposed aviation lighting.

## **Assessment Methodology**

28. [AIR Chapter 4](#) and the Updated CLVIA ([a](#), [b](#), [c](#), [d](#), [e](#), [f](#), and [g](#)) are the most recent assessment of the landscape and visual (including cumulative) effects of the proposal, including removal of T19. Updated CLVIA (2023) Figures 4 to 39 and 4.52a to r replace the AIR Chapter 4 visualisations and wirelines to reflect the removal of proposed turbine T19. Updated CLVIA Table 2: Updated Cumulative Wind Farms within 30km, updates the status of various wind farm proposals covered by the assessment. Updated CLVIA Figures 1

and 3 provide updated zones of theoretical visibility (ZTVs) to account for these changes and Updated CLVIA Figure 2 provides a revised wind farm location plan. Removing turbine T19 does not substantively alter the assessment findings already stated in AIR Chapter 4.

29. No parties objected to the updated CLVIA (Dec 2023). The council retains its report of handling position (14 June 2023). Otherwise, no parties criticise the methodology or findings of the Updated CLVIA (2023). Although most representations predate the modified proposal, I consider them against it and the related evidence before me.

30. Since publication of the updated CLVIA, the application stage Chleansaid proposal has now been approved. It is contained in the visualisations and so I have sufficient information on which to base my considerations. Despite its report of handling suggesting otherwise, the council confirms that it understands Lairg II to be consented but not yet under construction. That is also the applicant's understanding.

31. The applicant and council [agree that the assessment methodology](#) follows the appropriate guidance. NatureScot does not object on methodology grounds. The council criticises elements of the assessment, reaching different conclusions in several instances but does not object. I consider those matters under the respective headings below.

32. The 16 viewpoints (VPs) listed in AIR Chapter 4 Table 4.4 were agreed with the council and NatureScot. Additional viewpoints (AVP) wirelines for AVP17 and AVP18 were added for context at the council's request. No parties oppose any of these. I travelled extensively across the area in good visibility. I visited all viewpoints except for VP5, VP15 and VP16, where hill snow did not favour a safe ascent. I am content that the visualisations and wirelines are representative of the proposal's effects on the study area. Therefore, the absence of visualisations for any other location is not, of itself, a failing.

33. One set of visualisations and wirelines adheres to NatureScot's requirements and another to the council's. I found the extent of available views to be wider than suggested by the visualisations using the council's standards. Nevertheless, they are otherwise accurate. Both types of visualisation therefore inform my considerations. In line with NatureScot guidance, the visualisations omit temporary parts of the proposal such as borrow pits and construction compounds.

34. Wirelines and ZTV mapping assume "bare earth", which is not always the case. They also omit some localised geological features that may not be covered by the Ordnance Survey 3D mapping data from which they are derived. The inclusion of vegetation in photomontages represents how viewpoints appeared at the time of the assessment but may not always be in place. Therefore, I apply the appropriate caution in my considerations.

35. The Struie Action Group is correct that two-dimensional visualisations cannot replicate turbine blade movement. However, the assessment provides an impression of this by showing blades in different rotational positions. This is not an assessment failing.

36. Both the council and Struie Action Group highlight how reversibility is considered by the assessment. I consider the acceptability of the proposal in perpetuity. However, reversibility is a component of magnitude of change and is also important to understand the restoration of temporary action during the construction phase. The assessment satisfactorily distinguishes between findings on those matters with no evident risk of under assessment.

37. Micro-siting is a common tolerance to overcome risks to peat and habitats. Given the scale of the landscape into which the proposal would be introduced, I am not convinced that micro-siting of up to 50 metres would bring material changes.

38. No residential visual amenity assessment was conducted as no residential properties are within 2km of the nearest turbine. This is reasonable and no parties argue differently.

39. Most representations argue that landscape, visual and/or cumulative effects would arise, but none specifically challenge the assessment findings for receptor sensitivity or predicted magnitude of change. Without such justification, no compelling evidence supports concluding differently to the assessment for significance of effect. Only the council and NatureScot (and by extension the Struie Action Group) contest assessment findings for effects on the Dornoch Firth NSA and/or visual (including cumulative) effects. I consider these matters under respective headings below.

### **Physical landscape**

40. Onsite woodland and rough grassland/moorland would be affected by felling and construction works. The woodland is not yet established and proposed compensatory planting would resolve felling impacts. Temporary construction disturbance would also be restored. I agree with the assessment findings for sensitivity and magnitude of change. I therefore agree that the proposal would lead to moderate/minor (not significant) effects for rough grassland/moorland and minor (not significant) effects for woodland.

### **Landscape character**

41. No party contests the assessment findings on sensitivity of Landscape Character Types (LCTs) or magnitude of change. Thus, there is no compelling evidence to reach alternative conclusions for the predicted levels and significance of effects on LCTs. Having reviewed the evidence and visited the area, I share the assessment conclusions for sensitivity, magnitude of change and significance of effect for each of the LCTs listed in AIR Table 4.3 and Updated CLVIA Table 3: Updated Cumulative Assessment.

42. The first four LCTs listed in AIR Table 4.3 are assessed in detail due to the level of influence and visibility of the proposal. I rehearse these findings below. Otherwise, the proposal would have either no effect or not significant effects on the remaining eight LCTs listed in AIR Table 4.3. This is due to a mixture of limited, intermittent or no theoretical visibility of the proposal and their distance from it.

43. Much of the host LCT (Rounded Hills (LCT 135) - south of Strath Fleet unit) would have no theoretical visibility of the proposal and so no significant effects in either the current or predicted baselines. Otherwise, its influence would vary due to landform screening and distance. As such the effects on landscape character would be most evident on the site and its immediate vicinity, up to around 1.5km northwest and 5km east from the nearest proposed turbine. The effects would be a maximum of major/moderate (significant) in the current baseline. This would fall to moderate (significant) effects in the predicted baseline as the proposal would appear with the adjacent consented Lairg II (also in this LCT). Beyond, the effects would be not significant in the current and predicted baselines. No significant cumulative effects on landscape character are predicted.

44. Effects on The Farmed and Forested Slopes with Crofting – Lairg unit (LCT 145) would be mostly evident in the south around VP1 and on east/southeast facing slopes (around VP6 and VP7). This would bring a maximum of major/moderate (significant) effects in the current baseline, falling with distance. In the predicted baseline the proposal would be seen through the consented Lairg II, with major/moderate and moderate (significant) effects. Beyond 6km, the effects would be not significant. No significant cumulative effects are predicted.



45. The Rounded Hills (LCT 135) Other Areas are the same category as the host LCT but geographically separate from it. For the north of Strath Fleet area, a minimum of 4.5km north of the proposal, only some south facing slopes and higher ground would have theoretical visibility of it. In the current and predicted baselines, this would bring moderate (significant) effects on the upper slopes of Meall Dola only. Otherwise, effects would be minimal and not significant.

46. To the south and southwest of the proposal, comparatively more extensive areas of this LCT would experience theoretical visibility on north facing slopes and higher ground. The worst effects would be major/moderate (significant) between Loch Shin and the Kyle of Sutherland (about 2.5km to 3.5km south of the nearest proposed turbine). Beyond, it would fall to moderate (significant) effects, made intermittent by forestry. Beyond 6km, the effects would fall to a maximum of moderate/minor (not significant) effects or no visibility.

47. The elevated position and panoramic views at Meall Dola take in numerous current baseline wind farms. Adding the proposal would result in a maximum of moderate (significant) cumulative effects. Elsewhere, landform screening would reduce this to medium-low with moderate/minor (not significant) cumulative effects. In the predicted baseline, integration of the proposal with consented Lairg II would also lead to not significant cumulative effects. Application and scoping stage proposals would not alter this.

48. For The Strath (LCT 142) – Kyle of Sutherland unit sinuous landform and woodland cover mean limited or no theoretical visibility of the proposal from much of this LCT, as at VP2 and VP3. The closest area of high visibility would be on east facing slopes north of Culrain and the upper north-facing slopes near Achnahamat (VP8). The worst-case effects would be moderate (not significant) in the current and predicted baselines, falling to moderate/minor or minor (not significant) beyond 6km. These factors would similarly limit the cumulative effects to moderate/minor (not significant) for all four cumulative scenarios.

49. Council report of handling paragraph 10.97 states there to be no assessment of the combined effect of the proposal on multiple LCTs that are visible together. That is correct. I understand the purpose of a landscape character assessment to be to consider how proposals affect the individual character of each LCT. That is what the assessment does.

50. Following my question at inquiry, the council did not advise of any method for me to combine the assessment findings for individual LCTs when they are seen together. No compelling evidence suggests that the circumstances outlined by the council would result in the effects of the proposal being different to those already reported for LCTs. I have sufficient information from the assessment to understand the effects on different parts of individual LCTs, which the council does not contest. This does not alter my above findings and I find no methodology failure in the assessment.

### **Landscape designations**

51. No landscape designation covers the application site, but several are within the study area. Gardens and Designed Landscapes (GDLs) and Special Landscape Areas (SLAs) are scoped out due to no or negligible theoretical visibility of the proposal. No parties disagree and I find this to be so. The Dornoch Firth National Scenic Area (NSA) and nearby Wild Land Areas (WLAs) are subject of objections and covered by respective headings below.

### Wild Land Areas (WLAs)

52. Representations criticising the assessment for not considering the proposal's effects on WLAs predate the modified proposal. NatureScot states that AIR Chapter 4 follows its [guidance for considering WLAs](#). Neither it, nor the council contest the assessment findings.

53. The assessment covers the four closest WLAs to the proposal: Ben Klibreck – Armine Forest (WLA35); Foinaven – Ben Hee (WLA37); Reay – Cassley (WLA34); and Rhiddoroch – Beinn Dearg – Ben Wyvis (WLA29). These coincide with high ground, but comparatively small parts of them would have theoretical visibility of the proposal.

54. The only visualisations/wirelines from within a WLA (VP15 in WLA35 and VP16 in WLA29) show that the proposal (where visible) would be a small part of the view and below the horizon. Whether viewed cumulatively or individually, the expansive depth and breadth of view would diminish the relative scale of the proposal. The evidence persuades me that the observations for each WLA's respective Wild Land Qualities (WLQs) in AIR Tables 4.7 to 4.10 respectively, are accurate. I therefore agree that the magnitude of change and the cumulative magnitude of change would be negligible at worst in each instance. No compelling evidence refutes these findings.

55. The assessment does not appear to state the sensitivity of WLAs, but I assume these national designations to be of high sensitivity (the highest). Therefore, at worst, the effects and cumulative effects would be minor (not significant) on each of the respective WLQs. As such, the proposal would have not significant effects on the integrity of each WLA.

#### The Dornoch Firth National Scenic Area (NSA)

56. No parties argue the assessment was carried out incorrectly or contrary to [Scottish Natural Heritage Guidance for Assessing Effects on Special Qualities and Special Landscape Qualities Working Draft 11 \(2018\)](#). I am not advised of a more recent or finalised iteration of that working draft or any alternative. Therefore, I use its four-step approach to assist my consideration of matters and to enable read across with the assessment.

57. **Step one** promotes as full an understanding of the proposal as possible. This is sufficiently clear from the submitted evidence (including [AIR Chapter 2: description of development](#) and the maps and visualisations in updated CLVIA (2023)). The proposal is outside the NSA and so any effects on its special landscape qualities (SLQs) could only arise from visibility of the proposal. They would be indirect and perceived. The assessment finds the same and no parties contest it.

58. **Step two** is to define the study area and scope of the assessment to identify the area likely to be affected. The applicant's inquiry report [Figure JW1](#) includes a mapped boundary of the NSA shown with the ZTV for the proposal. This brings together various information that was previously submitted. No parties dispute this boundary, and it is evident that the assessment is based on it.

59. Applicant inquiry report [Figure JW8](#) shades in purple part of the VP12 visualisation to show which parts of the view would be within the NSA and which not. The applicant accepts the council's criticism that it excludes part of Migdale Rock. This is due to the land profile data, from which the shading is derived, excluding tree height. Both parties agree where Migdale Rock is and that it is within the NSA. This is a presentational issue and does not suggest an assessment failure. In fairness, the council does not argue that.

60. The council also disputes that applicant inquiry report [Figure JW10](#) shows the distinctive backdrop to Migdale. JW10 is taken on the outer edge of the NSA just south of



Migdale Church with the road forming the NSA boundary. I found the western edge of the NSA, around JW10, to afford relatively open views of the backdrop to Migdale (to the north). These views diminish quickly when travelling eastwards into the NSA due to extensive roadside vegetation and landform.

61. The applicant and council disagree on what is meant by Migdale in relation to VP12. Loch Migdale and most of its surroundings, except Migdale Rock and perhaps some other high ground cannot be seen from VP12. However, the surrounding moorland that is outside the NSA, to the north, can be seen from VP12. Both parties agree that VP10 and VP12 are representative of what would be experienced from within the Migdale area. This reflects the ZTV shading in Inquiry Report Figure JW1.

62. The ZTV confirms that parts of the proposal would be theoretically visible from various parts of the NSA. The assessment considers the eastern, central and western parts of the NSA and uses wirelines and visualisations for three viewpoints within it (VP10, VP12 and AVP18). My observations from the evidence and my site visit are set out below. These largely correspond with the assessment.

63. The north shores of the firth and large parts of the central and eastern NSA would experience no or limited theoretical visibility of the proposal due to landform screening and distance. Otherwise, AVP18 (Dornoch Firth Bridge) is one of the closest points to the proposal in the central and eastern NSA with theoretical visibility of it. It shows the proposal to be largely screened by landform with only parts of some blade tips being theoretically visible. Woodland may screen those further as long as it remains present.

64. Across the comparatively more enclosed western part of the NSA, much of the northern side of the firth would experience no theoretical visibility due to landform screening. Low lying areas on the south side of the firth would also be fully or partly screened by landform, as at VP10. The VP10 bare earth wirelines show that landform would screen much of the proposal with parts of blade tips for several turbines and the hubs of two being visible. Hillside woodland would filter or screen those views further as long as it remains in place. The hills and backdrop to the north would also be screened by landform.

65. Greater theoretical visibility would be evident on higher ground, as at VP12. It offers open views into and across the western part of the NSA into the comparatively vast and expansive non-NSA backdrop. Views of the eastern and central NSA are screened by landform to the east. Parts of all 24 proposed turbines (T19 removed) would be visible from VP12, including blade tips for all, hubs for many and towers for some. Most would be located behind the horizon, but for two turbines that would be visible from base to blade tip.

66. The council concentrates on VP12, referring to its importance. Many representations agree. Matters relating to the value of a view from any receptor are sensitivity judgements. The assessment assumes high sensitivity (the highest) for the SLQs as they are part of a national scenic designation. This trumps any other factors that may contribute to value and thus sensitivity of the receptor. No parties dispute the assessment finding of high sensitivity and I find it to be appropriate.

67. **Step three** involves the analysis of impacts and effects on SLQs of the NSA. The Dornoch Firth NSA has seven SLQs. However, the assessment scopes out five with the agreement of NatureScot and the council. No parties dispute this and I find it reasonable. The assessment refers to these for completeness. The two SLQs that are covered by the assessment are:

- SLQ1: The contrast between the enclosed west and the expansive east

- SLQ2: Inhabited surrounds within a wilder backdrop of hills and moors

68. NatureScot's [working draft guidance](#) uses the term risk of loss/damage to the SLQ. The assessment uses magnitude of change as a proxy for this. This was discussed at inquiry. The council's landscape witness appeared to suggest that it took a slightly different approach of considering the likelihood of the risk arising. However, since the assessment tries to understand the effects of the proposal if it did occur, that would seem to inherently capture the point about probability of occurrence. Other than that, the evidence suggests both parties to use the same or similar factors to those for magnitude of change in their considerations. No compelling evidence suggests this to be counter to the working draft guidance or otherwise unreasonable or illogical.

69. No party contests the assessment findings for SLQ1. My observations for step two above confirm that the proposal would be visible from various parts of the NSA but would not fundamentally alter the openness in the east or the enclosed nature of the west. Therefore, I agree with AIR Table 4.6 that the proposal would not disrupt the relationship in SLQ1, resulting in low risk of loss/damage to SLQ1. A low risk and high sensitivity would lead to moderate/minor (not significant) effects.

70. I now consider the disagreements for SLQ2 (inhabited surrounds within a wilder backdrop of hills and moors). The evidence suggests that AIR Table 4.6: Assessment of Effects accurately describes the main characteristics that underpin SLQ2. No parties argue the contrary, but they differ on their findings for effects.

71. Several public representations believe the proposal would adversely affect the NSA by overwhelming views from VP12. However, none provide further evidence to substantiate their points, and none challenge the assessment methodology or findings for SLQ2. Those representations also relate to the original larger proposal, predating the modified proposal. The same is true for the Struie Action Group. It largely supported NatureScot's and the council's objections to the original proposal. Its February 2024 statement does not modify this position even though NatureScot's objection was withdrawn and the council's amended when the proposal was modified. Otherwise, three differing positions are before me.

72. The assessment finds high sensitivity, medium-low risk of loss/damage to SLQ2 and moderate (not significant) effects. It concludes that NSA integrity would not be compromised. NatureScot agrees except that it finds the effects on SLQ2 to be moderate (significant). The council criticises both, arguing the assessment to understate matters.

73. Report of Handling paragraph 10.103 and Summary of Case page 3 paragraphs 2 and 3 (Appendix 4) predict a medium risk of loss/damage to SLQ2 resulting in a "medium to medium-high and significant level of effect". However, the council's terminology for level of effect differs from the assessment. AIR Table 4.2 shows that a medium magnitude of change (risk of loss/damage) with a high sensitivity receptor would lead to major/moderate (significant) effects. Therefore, whether deliberate or not, it is unclear how the council arrives at its findings. Even so, it is clear that the council argues the assessment to understate matters and that instead believes there would be significant adverse effects on SLQ2 that would also compromise NSA integrity.

74. The above convinces me that NSA integrity being compromised is not contingent on finding significant effects for all SLQs and nor is it the automatic consequence of significant effects for one SLQ. In paragraphs 75 to 85 below I consider the various arguments put to me along with my own observations and consideration of the evidence.

75. Both the council and NatureScot objected to the original proposal, in part due to the effects on the integrity of the NSA. The council wishes me to treat that as a baseline that would have compromised NSA integrity. It asks me to find that the removal of turbines T1 to T12 from the original proposal would not substantively alter this and so find its position to be correct. Whilst it is not my role to consider the original proposal, comparing the original VP12 visualisations ([EIAR Viewpoint 12](#)) with those of the CLVIA (Figures [15](#) and [33](#)) shows how the visible extent of the proposal changed. This matter was discussed at inquiry.

76. The horizontal extent of the original proposal would have been visible cresting the horizon for virtually all of the moorland backdrop visible from VP12. Removing T1 to T12 reduced the horizontal extent of visible turbines by between one third and one half. Therefore, the modified proposal substantively changes the proposal's relationship with the moorland backdrop covered by SLQ2. This does not suggest NatureScot's change of stance to be unjustified, as the council argues.

77. Whilst NatureScot may not have referred to horizontal extent in its original objection, this would not preclude it from later doing so for the modified proposal. Besides, the evidence before NatureScot (and the council) had changed, with a new landscape and visual assessment that uses a different method to that of the original and was prepared by a different consultant. For the same reasons it does not seem "particularly odd" as the council states, that NatureScot considers VP10 and AVP18 when it did not previously. I understand that AVP18 was added to AIR Chapter 4 at the council's request, having not been part of the original EIAR. Self-evidently, it was impossible for NatureScot to comment on it earlier.

78. The council is correct that there is a contrast between the horizontal landscape and the vertical nature of the proposal. However, the VP12 visualisations show this to be minimal as the landscape on the north side of the firth is between six and seven times higher than the tallest visible turbine. The horizontal extent of the modified proposal represents about 9 degrees in a field of view extending around 270 degrees. It therefore forms a minimal part of the more extensive area of inhabited surrounds within wilder backdrops of hills and moors and the area of sweeping moorland that forms a distinctive backdrop to Migdale's settlement and character.

79. I understand the background hill feature in the VP12 visualisations to be the Ben Klibreck range referenced by the council. Four summits are visible, the highest is flanked by two lower summits to the west and one to the east. These could be some of the "higher peaks" referenced in the citation. Turbines T30, T37, T17 and T35 would obscure long distance views of the western two summits only and not the highest of the four summits. The extent of this would vary depending on visibility conditions.

80. NatureScot describes the proposal as "dominant" in relation to SLQ2 but described the original larger proposal as "prominent" in relation to SLQ2. It is unclear what prompted this change, but NatureScot makes clear that it does not object and that it does not find the proposal would compromise NSA integrity. The council describes the proposal as "excessively prominent". "Excessively" is a judgement that I take to mean the proposal is more prominent than it should be in the council's opinion. I understand prominent to be something particularly noticeable. I understand "dominant" to be something which commands attention above all other things. Therefore, things can be prominent without being dominant, but something that is dominant is also likely to be prominent.

81. On any reasonable analysis, the proposal would be clearly visible in views from VP12 looking across the NSA into the inhabited surrounds with a backdrop of hills and moors. However, it would largely sit behind the horizon, but for two turbines that would be fully visible. It would be narrower in visible width and shorter in visible height than the

landscape into which it would be introduced. Therefore, I find the proposal would be prominent because it would be noticeable. However, I find the dominant feature would be the extensive landscape and waters of the valley.

82. That dominant valley already competes with the comparatively less remarkable moorland covered by the NSA citation at VP12. The evidence persuades me that the proposal would not disrupt the settlement pattern. Nor would it disrupt the impression of hills and moors sweeping along the valley and forming depth and backdrop for the NSA. The contrast between the green and fertile alluvial lands and the undulating background would not be corrupted. Other parts of the NSA covered by the citation in AIR Table 4.6 for SLQ2 would be barely affected by the proposal or considerably less affected than VP12.

83. The council's commentary relies on frequent references to matters relating to the importance of VP12, the direction of the view from it, the accessibility of the NSA and this being the only NSA on the east coast within the council area. Direction of the view varies depending on where the viewer looks, and I already consider the extent of the view above. This NSA does not have a status different to any other. It is a national designation and that has already been factored into the sensitivity findings. Accessibility is a derivation of value which is also a sensitivity factor. By my reading, the council's analysis often blurs sensitivity factors into its consideration of risk of loss/damage. Sensitivity matters differ from matters that influence magnitude of change (risk of loss/damage to SLQ2).

84. My considerations in steps two and three persuade me that the council overstates the risk of loss/damage to SLQ2. I therefore agree with the assessment and NatureScot that the proposal would result in a medium/low risk of loss/damage to SLQ2. A medium/low risk and high Sensitivity result in moderate effects, which could be significant or not significant depending on professional judgement.

85. NatureScot finds these moderate effects to be significant whereas the assessment finds them not significant. I agree with NatureScot that these moderate effects on SLQ2 would be limited in magnitude and extent. That much is clear from the evidence above. However, I disagree with NatureScot (above) on its point that the proposal's effect on SLQ2 would be dominant. For that reason, I cannot find as NatureScot does and instead find as the assessment does; high sensitivity, medium/low risk of loss/damage with moderate (not significant) effects on SLQ2. Even if I am wrong, NatureScot advises that its finding of moderate (significant) effects on SLQ2 would not compromise NSA integrity.

86. **Step four** is a summary of impacts on the SLQs, the implications for the NSA and possible future effects on SLQs and recommendations for mitigation. AIR Chapter 4 at page 4-49 erroneously describes step four as being to "consider the potential for mitigation and determine level of effect". I take this to be a typing error as the matters covered under that heading are a summary of the impacts.

87. I find that no significant effects would arise for SLQ2 and no other significant risk of loss/damage to the other six SLQs are predicted by any party. As such, the authenticity of the NSA would remain intact, in terms of its sense of place, and its character would not be fundamentally spoilt. Therefore, the integrity of the Dornoch Firth NSA would not be compromised by the proposal.

88. Some of the proposed turbines would appear in a similar location to those removed from the consented Lairg II to mitigate landscape and visual effects, including on the NSA. Even so, the above considerations persuade me that the proposal would not compromise the integrity of the NSA. Therefore, the council's concerns are unwarranted.

## Visual effects

89. Many representations seek refusal due to the proposal's size, which they argue would dominate views and/or bring unacceptable visual (including cumulative) effects. They predate the modified proposal, provide no evidence to corroborate their position and do not otherwise challenge the assessment findings.

90. Only the council challenges the assessment on sensitivity and magnitude of change for viewpoints. It asks me to find that many more viewpoints would experience significant effects than the assessment finds, and thus that the proposal's effects would not be "localised". However, it does not object on these matters. The Struie Action Group largely adopts the council's position but provides some of its own commentary. I explore these challenges under separate headings below for visual receptor sensitivity, visual effects and cumulative visual effects at VP1 to VP16, identified settlements, identified transport routes and aviation lighting.

### Challenges to the assessed visual receptor sensitivity

91. The council is correct that the assessment findings of high susceptibility and medium value of view at VP7, 8, 9 and 11 suggest a medium-high sensitivity. However, the assessment treats the residential nature of all four as outweighing the value of the views. Its conclusion of high sensitivity for each is a worst case and does not contradict [AIR Technical Appendix 4.1](#): Landscape and Visual Impact Assessment Methodology or [GLVIA3](#). I accept the assessment findings of high sensitivity for VP7, 8, 9 and 11.

92. At inquiry, the council confirmed that Report of Handling Appendix 2 represents the council's position for VP4 and does not contest the assessment finding of medium-high sensitivity. The contrary position at Report of Handling paragraph 10.110 is a typing error.

93. Report of handling paragraph 10.130 acknowledges that National Cycle Route (NCR) 1 status has been removed north of Tain. This contradicts its earlier argument that NCR1 justifies high sensitivity at VP13. The assessment recognises that former parts of NCR1 at VP13 may be used by experienced cyclists giving it a high susceptibility to change. However, despite some scenic qualities, I cannot conclude the maximum value for the view when the formal status it previously held is removed. I therefore agree with the assessment finding of medium-high sensitivity for VP13.

### Challenges to magnitude of change and level of effect at viewpoints VP1 to VP16

94. VP1 to VP7 are within 6km of the proposal. VP3, 2, 1, 4, 6 and 7 run south to north and are located to the west and northwest of the proposal with VP5 located east of it. I reject the council's reasoning for higher sensitivity at VP7, above. The council otherwise only contests the assessed medium magnitude of change for VP1, preferring medium-high. I consider VP1 first below and then the remaining viewpoints 2 to 7 and then VP8 to VP16.

95. The VP1 wirelines (CLVIA [Figures 4 and 15](#)) show that parts of all 24 turbines (less T19) would be visible. However, most towers and nine hubs would be screened by landform. Lairg I and parts of Achany would be visible in the current baseline with parts of the Achany Extension and Lairg II visible in the predicted baseline. The visible parts of the proposal would form a linear extension of Lairg II in the predicted baseline. These factors and the proximity of the visible parts of the proposal would result in a major alteration to the view in the current and predicted baselines.

96. However, the presence of other wind farms in the current and predicted baselines suggest the proposal may be prominent but not necessarily uncharacteristic. I therefore agree with the council that a medium-high magnitude of change would arise. With a medium-high sensitivity receptor, this would lead to major/moderate (significant) effects. Whilst I agree with the council, this does not differ from the assessment findings for level of effect or significance at VP1.

97. Large amounts of gravel were stored in the layby at VP1, but I was able to safely stop. I saw that roadside and other vegetation would further screen or filter views of the proposal as suggested by the photomontages. Commercial forestry on the west side of the road all but eliminates views of Achany. Parts of the consented Achany Extension could be visible from VP1. Therefore, the assessed effects at VP1 are a worst case and would be moderated by vegetation for as long as it remains.

98. No party disputes the assessment findings for magnitude of change at VP2 to VP7. I find them to be accurate for sensitivity, magnitude of change, and for level and significance of effect. I therefore find no significant effects for VP2 and VP3. The remaining five (VP1 and VP4 to VP7) are each of medium/high or high sensitivity. In the current baseline, the magnitudes of change for all five would range from medium to medium-high resulting in major (significant) or major/moderate (significant) effects. At VP1, VP4, VP6 and VP7 the proposal would be seen fully or partly through or overlapping with Lairg II in the predicted baseline. Whilst this would diminish the respective magnitudes of change, the visual effects would remain significant.

99. VP8 to VP16 are located at or further than 9km from the proposal in an arc from VP12 (southeast of the proposal) clockwise to VP9 (northeast of it). It is these viewpoints from which the council wishes me to find significant effects where the assessment does not. The council argues the assessment to overstate the roles of landscape and vegetation screening and the perceived extent of the proposal in a view.

100. However, I disagree. The extent of the proposal and landform screening are critical as they influence which parts of the proposal can be seen in context. What is visible and how it is positioned in the landscape form part of the assessment in AIR Technical Appendix 4.1 and GLVIA3, the latter of which the council agrees the assessment to follow.

101. The area surrounding the proposal includes commercial and non-commercial vegetation. Where relevant, the assessment remarks on whether that would further screen or filter visual effects. This does not exaggerate or incorrectly consider the role of that vegetation. As such, this does not persuade me to doubt the assessment findings.

102. Otherwise, the evidence does not suggest substantive assessment inaccuracies in considering VP8, VP10, VP11, VP14, VP15 or VP16. Therefore, I share the assessment findings for sensitivity, magnitude of change and for the level and significance of effect at all six viewpoints. Each has a sensitivity of high, medium high or medium and would experience magnitudes of change ranging from medium-low to low in the current and predicted baselines. The level of effect would therefore range from moderate to minor and would be not significant in all six instances. I now consider the assessment findings contested by the council for VP9, VP12 and VP13 in numerical order.

103. The council agrees with the assessment finding for VP9 of high sensitivity, a medium magnitude of change and moderate effects. It argues the moderate effects to be significant as the proposal would “out-compete” the distant peaks of the Fannichs, Beinn Dearg and Glenclavie SLA for visual prominence and reduce the sense of scale and distance.

104. I saw that VP9 offers extensive views across a relatively even horizon. The visible parts of the proposal would occupy a horizontally narrow and vertically short extent of the view, mainly with hubs and blades with parts of some towers. It would cross in front of the smallest and least visible group of distant peaks but only the blades of turbines T37 and T14 would be visible at that point. Those peaks would not be obscured. This does not convince me that the assessment is inaccurate and so I share its findings of moderate (not significant) effects at VP9.

105. The council argues the magnitude of change at VP12 to be medium-high and not medium-low, as the assessment finds. However, I find that the proposal would be positioned behind the horizon except for two turbines that would be fully visible. It would occupy a narrow part of the visible skyline. The sheer breadth and scale of the landscape into which it would be introduced would remain significantly wider, higher and deeper in appearance than the proposal. Those features form a mix of colour and texture that would outcompete the proposal's different scale and colouring.

106. I find the proposal would not alter field patterns or the appearance of moors, woodland and agricultural fields. The waters of the Dornoch Firth and the surrounding hills and mountains form an impressive backdrop that naturally draws the eye along the valley to the northwest, away from the proposal location. The orientation of the northbound B9176 also points drivers who are accessing VP12 in that direction. In my opinion, this valley would remain the dominant feature from VP12 if the proposal was approved. The proposal would appear a similar height to the highest summit of the Ben Klibreck range but would not obscure it or substantively challenge to its prominence.

107. Therefore, I am not convinced that the proposal would represent a major alteration to the current or predicted baseline. Nor would it provide a prevailing influence or introduce into the view elements that are substantially uncharacteristic. Indeed, various turbines are already visible on the horizon from VP12 and more would be visible in the predicted baseline. I find the council's evidence to overstate the influence of the proposal.

108. As such I find the proposal would bring a moderate alteration to the current baseline view, where existing more distant wind farms would be visible to the west and northwest. In the predicted baseline its positioning in front of Lairg II would not alter my findings. On balance, this persuades me that the assessment accurately concludes high sensitivity and a medium-low magnitude of change with moderate (not significant) visual effects at VP12. This makes the council's point about interference with mitigation for Lairg II inconsequential.

109. The updated CLVIA visualisations for VP13 correct previous inaccuracies in the location of Strath Tirry wind farm. This does not alter the assessment findings. The council argues a medium magnitude of change instead of the assessment finding of medium-low.

110. VP13 (15km from the proposal) offers sweeping views across a wide landscape with a relatively even horizon. The A836 southbound and adjacent woodland (east) draw the eye south. In the current baseline the eye would eventually meet the proposal, covering a relatively short extent of the horizon before then seeing existing wind farms further to the southwest. In the predicted baseline the eye would also be drawn south to meet the Strath Tirry turbines, whose closer proximity, would make them appear comparatively larger and more prominent than others. The proposal would be seen behind the consented Lairg II.

111. Since publication of the Updated CLVIA (Dec 2023), Chleansaid wind farm has been approved. The VP13 wirelines show it as an application stage proposal east of VP13 where it would be entirely screened by commercial woodland, having little effect on my above observations. Were the commercial woodland removed, it is likely that Strath Tirry and



Chleansaid would be the most prominent features in the predicted baseline given their proximity. Either way, this does not persuade me to side with the council's argument.

112. Therefore, whilst the proposal would be visible, it would not be uncharacteristic in either the current or predicted baselines given the operational and consented wind farms that would also be visible. As such it would result in a minor to moderate alteration and apparent influence in the current baseline with a slightly apparent influence and minor alteration in the predicted baseline. I therefore find the assessment to accurately conclude medium-high sensitivity and medium-low magnitude of change leading to moderate (not significant) visual effects at worst for VP13.

113. Overall, I have found all of the assessment conclusions for visual effects to be accurate and am not persuaded to accept the reasons for challenging them.

#### Cumulative visual effects VP1 to VP16

114. The Updated CLVIA (Dec 2023) accounts for the removal of T19 and changes to the status of other wind farms post December 2022. However, it retains the cumulative visual effects at the 16 viewpoints concluded by AIR Chapter 4. The exception is Updated CLVIA (2023) [Table 3](#) which corrects AIR Chapter 4 paragraph 4.5.317. That had erroneously reported moderate/minor (not significant) cumulative visual effects at VP9. AIR Table 4.2 shows that a high sensitivity receptor and a low-medium (cumulative) magnitude of change would lead to moderate effects. This correction is presentational and does not change the assessment finding of not significant cumulative visual effects at VP9.

115. The council does not object but argues the cumulative magnitudes of change to be higher than the assessment, generally for viewpoints beyond 6km from the proposal. The Struie Action Group adopts the council's findings but provides additional commentary.

116. The council assumes that the introduction of the proposal into the environment with other wind farms would have an additional and substantive cumulative effect. However, NatureScot's guidance [Assessing the Cumulative Landscape and Visual Impact of Onshore Wind Energy Developments \(2021\)](#) is clear that there would not automatically be a higher cumulative effect if more than one wind farm is present.

117. The council contends that the cumulative assessment fails to appreciate the interaction of the proposal and Lairg II, particularly where the two overlap. This is on the basis that the proposal would increase the density of the combined array, instances of stacking and visual clutter. The council also believes that the assessment has not fully considered the horizontal spread of installed and approved developments.

118. However, the council confirmed at inquiry that its findings in Report of Handling Appendix 2 apply only to the current and predicted baselines and not to the application or scoping stage scenarios. That would leave the differently considered assessment findings for application and scoping stage scenarios risking inconsistency. The council also appears to include factors in its analysis that already form part of the non-cumulative viewpoint analysis in the assessment. Doing that would blur both sets of analyses risking further inconsistency. Having already reached reasoned conclusions on non-cumulative matters above and agreed with the assessment, I find no compelling reason to revisit them. Therefore, if I accepted the council's position, I would be obliged to accept the above inconsistencies and the doubt they would bring to conclusions.

119. The assessment appears consistent with NatureScot's 2021 guidance and GLVIA3. No parties argue differently. This provides no methodological reason to dismiss its findings.



The assessment considers whether the proposal would form a new group of turbines or part of an existing/predicted group for each of the four cumulative scenarios. On balance, I accept the applicant's approach.

120. In the current baseline the proposal would be seen as part of a new single group from many viewpoints to the south, east and some to the west. From those to the north and some to the west, it would be seen with the smaller Lairg I. I am not convinced that the cumulative magnitude of change or cumulative visual effects would substantively increase for any of those viewpoints in the predicted baseline. That is because the proposal would appear as an extension of Lairg II rather than as a new single group, where both are viewed together.

121. Now that Chleansaigh is approved, it would influence cumulative visual effects for the predicted baseline. However, it would be a separate grouping to the proposal. All other application stage proposals would also form separate groupings to the proposal. With some exceptions, the proposal would also appear as an extension of the scoping stage Acheilidh (with or without Lairg II).

122. In all four cumulative scenarios, the pattern of wind farm development is/would be of distinct clusters with substantial gaps between them. This would be retained if the proposal was developed. I am therefore not convinced that the introduction of the proposal would result in a wind farm landscape. Instead, it would result in a landscape that contains wind farms, where the proposal would form an additional new grouping or an extension of an existing grouping, depending on viewpoint and cumulative scenario.

123. I therefore find the assessment analysis to be accurate and so share its conclusions that in almost all scenarios for VP1 to VP16, the cumulative magnitude of change would vary from medium low to low. With previous sensitivity findings, this would result in not significant cumulative visual effects. However, there are three exceptions where the assessment finds significant cumulative visual effects would likely arise. I cover each below.

124. At VP6 the high sensitivity of that receptor with a medium low cumulative magnitude of change would lead to moderate (significant) cumulative visual effects in the current baseline. This would become not significant in the predicted baseline and other scenarios, where the proposal would overlap with Lairg II. I therefore agree with the assessment.

125. At VP5 there would only be significant cumulative visual effects if, what were at the time of AIR Chapter 4, application stage proposals for Meall Buidhe, Chleansaigh and Strath Oykel wind farms were all approved. Meall Buidhe and Chleansaigh are now approved but no decision has been taken on Strath Oykel. Otherwise, the cumulative visual effects at VP5 would be not significant in all other scenarios. I agree with the assessment.

126. The council contests the assessed cumulative magnitude of change and cumulative visual effects at VP12. I have already rejected some of its reasoning above and the points it makes in report of handling paragraph 10.129, though correct, have already influenced the high sensitivity. The council's reference to a landscape and seascape composition are inaccurate as there is no maritime view.

127. Current and predicted baseline views from VP12 are not and will not be devoid of wind turbines. The location of the proposal would maintain the spacing between proposed and existing clusters of horizon-cresting wind farms visible from VP12. Based on the factors in AIR Technical Appendix 4.1, I find a medium-low cumulative magnitude of change for the current and predicted baselines. Application stage proposals would not affect this. This

persuades me that the assessment accurately finds moderate (not significant) effects for the current and predicted baselines and application stage cumulative scenarios.

128. However, if scoping stage Acheilidh was in place, there would be a narrow but clear gap between it and the proposal. That would disrupt the above pattern of relatively even distances between current/predicted clusters of horizon-cresting wind farms when seen from VP12. That would lead to a higher cumulative magnitude of change than for the other three cumulative scenarios. I therefore agree with the assessment that this would lead to a medium cumulative magnitude of change at a high sensitivity receptor with major/moderate (significant) cumulative visual effects for the scoping stage cumulative scenario only.

#### Additional Viewpoints AVP17 and AVP18

129. AVP17 and AVP18 were added for context at the council's request. I visited both. No assessment of visual or cumulative visual effects is carried out but updated wirelines are provided in the Updated CLVIA (2023). Those show that only some blade tips would be visible at both locations due to landform screening, albeit some distance away. In both cases the visible parts of the proposal would be outcompeted by the extensive landscape and seascape vista (and nearby buildings at AVP17). No compelling evidence suggests that significant visual (including cumulative) effects would arise at either. No parties contest this.

#### Visual effects and cumulative visual effects on settlements

130. All representations with concerns about the visual effects of the proposal on settlements predate the modified proposal. None challenge the assessment findings.

131. The assessment covers only Lairg, using VP7 as a proxy. VP7 represents the worst case for Lairg with major or major/moderate (significant) visual effects in the current and predicted baselines. Parts of southern Lairg would likely experience little or no effect due to landform screening. Cumulatively, the proposal would appear as an extension of Lairg I in the current baseline and as a larger group with Lairg I and Lairg II in the predicted baseline. Application and scoping stage proposals would not alter this. Therefore, a worst case low cumulative magnitude of change would bring minor (not significant) effects for all four cumulative scenarios. On the evidence and my site visits, I share the assessment findings.

132. All other settlements defined in the development plan are scoped out due to little or no theoretical visibility. Consideration of AVP17 (above) suggests it was reasonable to scope out Tain. Other locations covered by representations that are not defined as settlements in the development plan are sufficiently represented by the viewpoint analysis.

#### Visual effects on views from transport routes and core paths

133. The assessment uses its findings for VP1 to VP16 to assess the visual (including cumulative) effects of the proposal on views from the A836, A837, A838, A839, B9176, Far-North (Inverness to Wick) railway and core paths ([AIR Figure 4.13](#)). Though some parties object, none challenge this method. I find it reasonable and consistent.

134. Whilst not objecting, the council wishes me to find greater magnitudes of change and so significant (including cumulative) visual effects where the assessment does not. Having found the above method reasonable and having already found as the assessment does for visual and cumulative visual effects for all 16 viewpoints, I cannot find as the council asks. Instead, I find that the visual and cumulative visual effects above provide a worst case understanding for transport routes.

135. Therefore, major to major/moderate (significant) visual effects at VP1, VP4, VP6, VP7 and parts of Lairg represent the worst case for users of the A836, for Far North railway users and eastbound users of the A839. Significant effects would also arise at the proposed site access on the A836, becoming not significant following post construction restoration. Moderate (significant) visual effects at VP11 would affect eastbound users of the A838 in the current baseline only. Major/moderate (significant) cumulative visual effects for users of the B9176 near VP12 would arise only if the scoping stage Acheilidh wind farm is in place.

136. The council also wishes me to conclude that the assessment has not focussed strongly on the frequency of wind energy developments whilst moving through the landscape. It argues that respite from wind farms along the route is important and not well articulated by the assessment. This is a legitimate part of a cumulative assessment and is covered by [NatureScot's guidance](#). However, it is covered by the assessment of transport routes, hence my consideration of it here.

137. The combined ZTV mapping (AIR Figures 4.15a to v) shows extensive parts of routes, including the A836 and A839 with no theoretical visibility of any wind turbines identified by the assessment. This is particularly so where those routes pass through steep sided valleys or are otherwise screened by landform. There are also parts of the study area where turbines may be visible (with or without the proposal) but where the gaps between developments and the sheer scale of the landscape would outcompete them. This persuades me that even with the proposal, there would be adequate respite from significant visual and significant cumulative visual effects for users of the above routes.

138. Contrary to the council's suggestion, non-core paths are considered, such as at VP5. My findings confirm the assessment conclusion that significant visual effects of at least major/moderate (significant) are likely for views from core paths within 6km of the proposal. However, those may be moderated by vegetation and/or travel direction. Some core paths within 6km would have no or very limited theoretical visibility of the proposal. Between 6km and 9km from the proposal there is likely to be a transition from significant to not significant effects on views from core paths. Beyond 9km visual effects on views from core paths are unlikely to be significant.

139. Within 6km of the proposal, significant cumulative visual effects are only likely on views from core paths at VP6 in the current baseline and at VP5 if Strath Oykel is approved (VP5 is not served by a core path). Beyond 9km significant cumulative visual effects on views from core paths would arise at VP12 only if scoping stage Acheilidh was in place.

140. Except for at AVP17 and AVP18, there would be no theoretical visibility of the proposal from the North Coast 500 (NC500). No compelling evidence supports claims that the proposal would lead to adverse visual (including cumulative) effects on the NC500.

### **Assessment of visible aviation lighting**

141. The [CAA agrees](#) with the proposed aviation lighting, which includes visible red lights on the nacelles of turbines T15, T16, T17, T24 and T30, with infra-red (non-visible) lighting on the remainder. Representations concerned about aviation lighting predate the modified proposal. None contest the assessment methodology or findings. The assessment is informed by dawn/dusk visualisations for VP1 and VP7 only, as agreed by the council and NatureScot. Updated CLVIA (2023) visualisations do not alter the findings in AIR Chapter 4.

142. The intensity of visible red lighting would be 2,000 candelas (cd) reducing to 200cd when visibility exceeds 5km. The 2,000cd lighting would be used during the worst visibility and those conditions would have some moderating effect on the intensity of emitted visible

light. Each light would also be visible for 360 degrees from a horizontal plain at the level of the light's position. AIR Table 4.11 confirms that viewing angles below that plain would reduce the visible lighting intensity at VP1 by 89% to 92% and at VP7 by 51% to 79%.

143. Night-time effects would also diminish in the predicted baseline, where the aviation lighting for Lairg II would already be a feature in dark skies. At VP1 it would overlap with the proposal and at VP7 it would be in front of it. No other wind farm in the current or predicted baselines or at application stage would be visible during darkness. No lighting scheme is identified for scoping stage Acheilidh.

144. Views from within properties are likely to be obscured by window coverings. Properties within settlements are also likely to be affected by a baseline of street lighting. Locations such as hill tops and paths are infrequently visited at night. Therefore, the effects would be generally limited to those travelling during the hours of darkness.

145. The above persuades me that the assessment findings for significant night-time effects represent a worst case. I agree with the assessment.

### **Conclusions for landscape and visual (including cumulative) effects**

146. The landscape and visual (including cumulative) assessment has been carried out in an appropriate manner. I reach the same conclusions for all landscape, visual and cumulative matters and so adopt the assessment as my own. I therefore conclude that the proposal would result in the following landscape and visual (including cumulative) effects:

- major/moderate to moderate (significant) effects up to 5km on parts of the host Rounded Hills (LCT 135) – South of Strath Fleet, within a 6km radius on parts of the adjoining Farmed and Forested Slopes With Crofting – Lairg Unit (LCT 145), and on parts of the Loch Shin and Kyle of Sutherland part of The Rounded Hills (LCT 135) Other Areas
- major (significant) visual effects on the A836 site access during construction only
- major to major/moderate (significant) visual effects at VP1, VP4, VP5, VP6 and VP7, for parts of Lairg, for the users of the A836 (intermittently) and for Far North railway at VP1 and Lairg, for eastbound users of the A839 at VP4 and for views from core paths within 6km of the proposal with theoretical visibility of the proposal
- moderate (significant) visual effects within 13km at VP11 and for eastbound users of the A838 at VP11 in the current baseline only
- major/moderate (significant) cumulative visual effects for users of the B9176 and VP12 only if the scoping stage Acheilidh wind farm is in place and at VP5 only if application stage Strath Oykel wind farm is in place
- moderate (significant) cumulative visual effects at VP6 and on southbound users of the A836 in the current baselines only
- major/moderate or moderate (significant) night-time effects at VP7 for visible lighting of 2,000cd in the current baseline only when also considering the angle of view
- not significant landscape and visual (including cumulative) effects for other receptors

## **The renewable energy and other benefits of the development**

### [Applicant's Policy Hearing Statement](#)

#### **Reporter's conclusions**

147. The proposal would generate 144MW of renewable electricity per year (less T19). Additionally, up to 20MW of battery storage offers an opportunity to overcome/limit the intermittency of wind and demand mismatches.

148. AIR [Technical Appendix 2.3: Carbon Calculator](#) uses the Scottish Government's calculator tool. It recognises that sourcing of commodities and components, manufacturing, transport and site works/construction (including peat displacement) all contribute to carbon emissions. The proposal would expend carbon, particularly during construction, but this would be "paid back" within 14 months of operations commencing. This has not been recalculated following removal of turbine T19 and so may vary. However, no compelling evidence suggests this calculation to be inaccurate and so I adopt it as my own.

149. The applicant anticipates construction commencing in 2026 and taking two years. At the time of writing this seems feasible. Grid connection is proposed on 30 June 2028. That suggests carbon pay back during 2029 at the earliest. Thereafter, the proposal would be a net contributor to greenhouse gas emissions reduction targets until it ceases operations. It would also make a significant contribution to national renewable energy generation targets. The applicant argues this to be vital in light of previous national targets having been missed.

### **Other matters for Ministers' consideration**

150. At the PEM (31 October 2023), parties agreed that sufficient information has been submitted for the topic headings below, with no further procedure needed.

151. In the event that consent is granted, the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 require the decision notices issued by the Scottish Ministers to provide a reasoned conclusion on the likely significant effects of the proposal on the environment. Therefore, although many of the matters covered by this section are not always disputed by the council, other statutory consultees or in representations, it is still necessary to make the necessary assessment of the relevant environmental information.

152. The summary of the issue, in each case, is derived from the relevant parts of the environmental information or other submitted evidence. Unlike other sections of this report, my findings are set out for each issue and not at the end of the section.

### **Ornithology, Non-Avian Ecology (including habitats), Geology, Hydrology and Soils, and Forestry Matters**

153. The [ornithology, non-avian ecology, geology, hydrology and soils](#) assessments and [AIR Technical Appendix 2.4: Woodland Constraints Report](#) are covered together as many parties refer to "wildlife" and the proposed mitigation is similar and/or interrelated. Confidential material informs my findings and is before Scottish Ministers.

154. No significant effects are predicted for plant life, bats, otter or water vole. Species protection plans are proposed for otter and water vole. The applicant and council agree wording for a suspensive condition to require prior approval of a CEMP, including species protection plans. NatureScot's wish for otter exclusion zones to be included in species protection plans could be ensured at that stage. No evidence of wildcat or badger has been found on site. Otherwise, no evidence suggests that any necessary licences would not be granted by NatureScot in the event of approval.

155. No evidence corroborates or refutes representations stating a "dramatic fall" in the number of summer and winter migrating birds since Lairg wind farm was built. Even so, this



would be the baseline against which this proposal is assessed rather than the effects of it. No party contests the baseline information, and no compelling evidence suggests it to be deficient.

156. RSPB Scotland and others are concerned about the effects on hen harrier, golden eagle, white tailed eagle, short-eared owl, merlin, osprey, swans, kite, golden plover, red throated and black throated diver and migrating geese. [AIR Technical Appendix 5.1: Ornithology](#) confirms that all are covered by the assessment. Pink footed geese are scoped out due to low flight activity and habitats within proximity of the site not being important for the species. AIR Chapter 5, [AIR Technical Appendix 5.2: Collision Mortality Risk](#) and the proposed mitigation suggest no significant residual effects.

157. No compelling evidence supports RSPB Scotland's suggestion that the collision mortality risk calculations under-estimate risk. NatureScot (Scottish Ministers' ornithology adviser) does not object and uses the assessment information to inform its own position on European sites (below). Otherwise NatureScot's evidence does not suggest unacceptable or significant risks to the above listed bird species that could not be mitigated.

158. RSPB Scotland is concerned about dissuading nesting close to turbines. However, I understand that to be to avoid/minimise collision risks by persuading birds to other areas with improved habitat and foraging opportunities. Accepting that not all parties favour the methods for achieving that outcome, no compelling evidence suggests significant effects would arise. NatureScot does not appear to share RSPB Scotland's concerns.

159. [AIR Figure 5.1](#) confirms that no local, national or international designation covers the site. However, it adjoins the Strath Carnaig and Strath Fleet SPA (also a SSSI) with other SPAs, SACs, Ramsars and SSSIs within 20km. The assessment finds no significant environmental effects for these designations which could not otherwise be mitigated. NatureScot concludes the same but identifies likely significant effects on Atlantic salmon and freshwater pearl mussel of the River Oykel SAC and freshwater pearl mussel of the River Evelix SAC. This is due to potential for pollution and/or release of sediments into tributaries connected to these SACs. NatureScot also concludes likely significant effects on hen harriers of the Strath Carnaig and Strath Fleet Moors SPA. Scottish Ministers (as competent authority) would therefore need to carry out an appropriate assessment.

160. NatureScot advises that the above water pollution risks could be "easily mitigated" by production of (and adherence to) a pollution prevention plan. Such mitigation forms part of the CEMP. NatureScot is also satisfied that proposed mitigation would avoid significant disturbance to schedule 1 bird species (including hen harrier of the Strath Carnaig and Strath Fleet Moors SPA) via a Breeding Bird Protection Plan (BBPP). That would also form part of the CEMP. This convinces me that the proposed mitigation would be sufficient to ensure there are no adverse effects on integrity of the River Oykel SAC, of the River Evelix SAC or of the Strath Carnaig and Strath Fleet Moors SPA.

161. The application site is connected to highly regarded fisheries and water bodies which SEPA has assessed to be of "Good" quality. Fisheries Management Scotland and Kyle of Sutherland District Salmon Fisheries Board seek "robust mitigation" to avoid/limit risks from on site pollution and sedimentation. The evidence suggests that measures proposed in the CEMP would be sufficient. MarineScotland, NatureScot and SEPA are content with the proposed mitigation, provided conditions are imposed to implement it (including establishment of an integrated water quality and biotic monitoring programme). That is so. No significant risk to ground water dependent terrestrial ecosystems (GWDTEs) is found.

162. The risk to water supplies (including private supplies) from affected catchments by sedimentation and/or pollution are assessed as negligible to low. These could be avoided/further minimised by good site practices through the CEMP. Scottish Water opposes surface water drainage connections to the public sewer network, and none are proposed. Neither SEPA nor the council objects on flood risk, drainage or water quality grounds. The designs for water crossings and other relevant matters requiring a licence under the Controlled Actions Regulations (CAR) could be resolved under that regime.

163. Of the 8.5ha of woodland to be felled for site access, tracks and borrow pit two search area, 8ha is newly planted and so not yet fully established. This would not have significant effects. The council and Scottish Forestry do not object provided compensatory planting is secured by condition. The applicant and council agree condition wording for 17.5 ha of compensatory/additional planting with land identified in the Updated [Outline Habitats Management Plan](#) (HMP) (2023). RSPB Scotland's concerns that the proposed locations for compensatory planting would compromise existing nesting areas are not shared by NatureScot or the council. The exact location of the compensatory planting could be amended, if necessary, during the HMP approval process.

164. [AIR Figure 7.3](#) confirms that the proposed layout largely avoids Class 1 peatland with peat loss limited to tracks and, turbine and construction crane hard standings. Ironside Farrar, Scottish Government's consultant, is content that the Peat Landslip Hazard Risk Assessment (PLHRA) has been properly carried out with negligible to low risks arising. The applicant and council also agree condition wording to allow up to 50 metres of micro-siting to help avoid deep peat. This would also help avoid protected species and GWDTEs and prevent micro-siting to within 50 metres of watercourses, as sought by NatureScot.

165. Dewatering and other peat disturbance is likely to be temporary. The Draft Peat Management Plan (PMP) outlines storage and replacement of disturbed peat on site. Peat loss and restoration form part of the carbon calculations. Proposals are to restore both the peat disturbed by or lost to the proposal and a much larger area of already degraded peatland on site. This persuades me that the proposal would minimise the impacts on/loss of peat (and carbon loss) and improve carbon sequestration as sought by SEPA.

166. NatureScot agrees that the scale and nature of loss or damage to carbon rich soils, deep peat and priority peatland habitat could be managed through mitigation. [NatureScot](#) and [RSPB Scotland](#) comment that the loss of priority peatland habitat (24.1ha) and the proposed scale of restoration (213ha) give a 1:8.8 ratio of loss to restoration. That is less than the 1:10 ratio recommended by NatureScot's [Advising on Peatland, Carbon-Rich Soils and Priority Peatland Habitats in Development Management \(November 2023\)](#). However, that advice recognises that some proposals may involve a less than 1:10 loss to restoration ratio. In such cases, it recommends considering its own list of five points that form the basis of the 1:10 ratio. I do so in the paragraph below.

167. The Updated Outline HMP (2023) confirms the quality of on-site priority peatland habitat to be variable with much being species poor, largely due to previous land management practices. The proposed measures would restore an area far larger than that predicted to be directly/indirectly lost. I understand that those measures for doing so would improve carbon storage and hydrological condition and function, and bring about the circumstances for improved habitats as NatureScot's advice seeks. The advice also recognises that peatland cannot be created where it does not already exist. I accept the applicant's point that what is proposed likely represents the extent of what can be restored. No compelling evidence suggests the contrary. Therefore, this persuades me that the proposed ratio of 1:8.8 loss to restoration does not represent a mitigation deficiency.

168. A deer management plan would form part of the HMP. RSPB Scotland prefers it to avoid fencing due to possible effects on nesting birds. NatureScot is content provided it is not an alternative to habitat restoration or loss replacement. The Updated HMP (2023) suggests deer management would be complementary to peatland restoration and other measures. That reflects my understanding.

169. The assessment findings that decommissioning would have lesser effects than construction are partly predicated on infrastructure such as tracks, cabling and hard-standings being left in-situ post decommissioning. At the conditions hearing, the applicant advised that removing these would likely cause more damage than leaving them in-situ. I agree that removal of such infrastructure would likely require additional works, import of materials and vehicle movements beyond what is assumed in the assessment. However, no evidence allows me to quantify this or the likely environmental effects of not leaving it in situ. I therefore cannot guarantee that my conclusions above and below would hold if tracks, cabling and hard-standings are removed rather than being left in-situ.

170. The applicant and council agree that suspensive conditions should secure a CEMP, HMP, PMP and a decommissioning and restoration plan and the appointment of an ECoW to oversee them. Their disagreements are about details rather than principle and I consider those detailed matters separately under the [Conditions](#) heading below.

171. The evidence suggests the assessments (AIR Chapters 5, 6 and 7) and AIR Technical Appendix 2.4 have been carried out correctly and reach conclusions substantiated by the evidence. I adopt their findings as my own. Taking into account the proposed peatland restoration, compensatory and additional planting, the proposed monitoring and other mitigation, and the advice of statutory bodies, I find there would be no significant residual effects on non-avian species, habitats or birds, geology, hydrology and soils or forestry. The mitigation sought by parties including SEPA, NatureScot, MarineScotland, Forestry Scotland and the relevant Fisheries Bodies could be secured provided recommended conditions (Appendix 1 below) are imposed.

172. Taking this into account, along with my considerations above, the proposal would result in likely significant effects on the qualifying interests of the River Oykel SAC, the River Evelix SAC, and the Strath Carnaig and Strath Fleet Moors SPA. These risks to the qualifying interests of those respective SACs and SPA can each be satisfactorily mitigated by recommended conditions. Scottish Ministers may wish to take their own legal advice.

## **Socioeconomics, Tourism and Recreation**

173. Original EIAR [Chapter 12: Socioeconomic, Tourism and Recreation](#) was not updated for the modified proposal or the removal of T19. It therefore covers the larger original 37 turbine proposal and is based on 2021 prices. However, it provides an understanding of the proposal's predicted socio-economic, tourism and recreation effects.

174. The assessment's omission of electricity bills and payments to not generate even when there is ample wind are not failings. Bills can be influenced by various factors of which generating costs are one. Payments to not generate are not unique to this proposal. Battery storage would enable generation and storage of power at times of low demand. No evidence quantifies how this would influence payments to not generate but it is likely to limit the circumstances in which such payments are made. Irrespective, omitting these from the assessment is not a failing as neither influences the acceptability of the proposal.



175. The applicant believes that improved on-site tracks could provide easier recreational access to Loch Laro, which is used for fishing. Site access restrictions would be temporary. The assessment finds not significant effects for recreation. That reflects my understanding.

176. Predicted significant landscape and visual (including cumulative) effects do not automatically translate into significant adverse effects for the tourism economy. EIAR Chapter 12 paragraphs 12.2.13 and 12.3.40 to 12.3.44 analysis of studies/ surveys relating to wind farms and tourism suggest that visitors are unlikely to be deterred by wind farms. They also confirm that tourism employment has not been adversely affected in wind farm areas. No compelling evidence persuades me differently. VisitScotland does not object.

177. Many representations are sceptical that the economic benefits would be felt locally. Most expenditure, employment (1,106 job years) and opportunity for contracts would be in the 24 month construction phase. One full time equivalent and 20 days maintenance per turbine over 30 years would lead to 91 job years for the operational phase. This is based on the original proposal, and so would be commensurately lower for the modified proposal.

178. The tourism sector could benefit at all stages with contractors using local hospitality and retail. This could mean a greater chance of hospitality businesses being full/nearly full during the peak season and additional business during the low season. The extra trade could contribute to sustaining businesses and/or improving their future offer. This would not make them immune to failure as they must still compete in the market.

179. The assessment assumes that about 12% of construction contract value would be realised within the Highlands and 36% within Scotland. Even if contracts are won outwith the locality or the Highlands, benefits to local hospitality, retail and quarries could still be expected. Thus, I cannot conclude an absence of net economic benefit to the immediate area, even if it is not particularly substantial and is time limited.

180. EIAR Table 12.12 concludes significant beneficial effects for expenditure (local) and for community benefit (local) in the operational phase. However, with comparatively fewer job years during the operational phase, these findings seem to be heavily influenced by the proposed community benefits package (£33 million based on the original proposal) and community ownership options. Such packages, however valuable, are not of themselves relevant to the acceptability of the proposal and are expected for all proposals.

181. Overall, I am sufficiently satisfied that the assessment can be used to inform my recommendations and so adopt it as my own. The net economic benefits do not appear unique to this proposal or location and so, are not, of themselves an overriding argument that favour the proposal. However, none of the above matters specifically count against it.

## **Transport**

182. Representations' concerns about increased traffic, delays, speed, road safety, noise, dirt, air quality and road conditions predate the modified proposal but are not withdrawn. I consider them in light of [AIR Chapter 10: Transport](#).

183. The 24-month construction phase would see the most additional traffic with a lesser increase predicted for decommissioning. The operational phase is scoped out due to little additional traffic. The assessment concludes ample trunk and local road network capacity to accommodate the above phases with other proposals and growth in traffic. No parties challenge this and neither the council nor Transport Scotland (the two relevant roads authorities) object. No evidence suggests unacceptable traffic noise or air quality effects.

184. The assessment assumes locally based site staff with 25% from Tain and Bonar Bridge respectively, 12.5% from Lairg and 12.5% from east of Lairg. It does not specify where the remaining 25% would come from. Site worker pick up and drop off times could be arranged to minimise car movements. The assessment assumes 40% using a minibus with the remainder in single occupancy cars.

185. Most bulk deliveries would use the A9 and A836 via Ardgay and Bonar Bridge, with none through Lairg. General site deliveries would be via the A9, B9176 and A836. The applicant hopes to reduce predicted HGV movements by minimising the volume of material needed on site. Turbine components would be transported to Invergordon by sea and onward as abnormal loads via the B817, C1063, A9, A839 and A836.

186. Positioning advance warning signage at locations of potential vehicle conflict, could assist other road users. Such locations could be agreed post consent with the relevant roads authority in the traffic management plan (CTMP). The CTMP could include procedures for liaising with the emergency services, a diary of proposed delivery dates that avoids important times such as the Lairg sheep sales, protocols for working with local business to avoid interference with deliveries and establishment of a liaison committee.

187. Other mitigation involves traffic management planning, such as speed training and discipline, limiting working hours, actions to limit dust and spillage risks, and providing local people with information on site traffic activities. Construction traffic and abnormal loads would avoid morning and evening peak traffic times.

188. The applicant proposes to cover the cost of abnormal wear and tear on the A836 within 200 metres of the site access. This includes immediate repair of damage to roads/ infrastructure and reinstating any road furniture that is temporarily removed as a direct result of construction traffic. It would also undertake regular road edge reviews and remove debris and mud from the carriageway during the initial months of construction, until the construction junction and access track works are complete. It would also maintain the site access and drainage systems for the proposal's operational life.

189. No compelling evidence suggests the assessment has been incorrectly carried out or reaches erroneous conclusions. I therefore adopt its findings as my own. No significant environmental effects are likely. This does not suggest that those effects would be unnoticeable or free from inconvenience. However, collectively, the above measures would sufficiently limit the effects raised in representations. This is provided suspensive conditions require a CEMP and a CTMP to deliver the relevant mitigation, as sought by the council and Transport Scotland. The applicant and council agree wording for such conditions.

## **Noise**

190. Representations about operational and traffic noise predate the modified proposal but are not withdrawn. I consider these in light of [AIR Chapter 9: Noise](#), which replaces the [original EIA Chapter 9](#) and [Supplementary Noise Paper](#) assessments. No parties contest its methodology or findings.

191. Traffic noise would be most evident during construction with little predicted during operations. Construction noise is scoped out as the original EIA noise assessment predicted no significant effects for the original larger proposal. The assessment concludes that no specific mitigation would be required during the construction phase other than good site practice detailed in the CEMP. The applicant and council agree a suspensive condition to secure a CEMP. The council opposes in principle the applicant's construction Hours and Timing condition. I find such a condition to be reasonable (paragraph 231 below).

192. Blasting is scoped out as the extent of it cannot be determined until intrusive site investigations are completed. If blasting is required, it would be in accordance with the relevant standards secured by condition. The applicant and council agree condition wording for borrow pit blasting which covers these matters.

193. Decommissioning is scoped out as it would involve less activity than construction. The applicant and council agree that plans covering decommissioning should be secured by suspensive conditions but differ on the exact wording to be used. They also differ on whether tracks and cabling should be left in situ post decommissioning. If that infrastructure was not left in-situ, no evidence on the noise effects of its removal is provided. I cover the disagreements under the conditions heading below.

194. Some noise could be expected during the operational phase. The applicant and council agree condition wording to limit operational noise and to introduce a monitoring and reporting regime with appropriate maximum noise standards against which to measure.

195. No compelling evidence suggests the noise assessment to be incorrectly carried out or to reach erroneous conclusions. I adopt it as my own. Overall, no significant residual noise effects are predicted, and the proposal could be made to comply with the relevant standards (including ETSU-R-97) provided the above-described conditions are imposed.

### **Archaeology and cultural heritage**

196. HES agrees with [AIR Chapter 8](#) that the predicted moderate (significant) cumulative effects on the settings of the four scheduled monuments (listed below) would not adversely affect their respective integrity. Otherwise, there would be no significant effects. No party contests the assessment or its findings. I adopt it as my own provided suspensive conditions secure a CEMP and an archaeological scheme of works to avoid/minimise risks to historic assets. The applicant and council agree condition wording to that effect.

- The Ord, Chambered Cairns, Cairns, Settlements and Field Systems (SM1812)
- Achinduich Stone Circle (SM1761)
- Achany Glen Settlement (SM2208)
- Achany Chambered Cairn (SM1759)

### **Access**

197. The [outline CEMP](#) proposes to minimise impacts, with access route closures only for short times for safety reasons. The applicant and council agree a suspensive condition to secure prior approval of a CEMP by the planning authority. They also agree on a suspensive condition to require preparation of an outdoor access plan. The council is both the planning authority and the access authority and so is well placed in the context of those conditions. No parties object, other than incorrect suggestions that core paths cross the site, this is refuted by [AIR Figure 4.13](#). I adopt the assessment as my own and agree that the proposal would have no significant permanent adverse effects on access provided the above conditions are imposed.

### **Telecoms infrastructure**

198. Telecommunications are covered in the original EIAR. The applicant and council agree condition wording to secure the preconstruction technical solution sought by JRC that is likely to arise if the proposal is consented. No other matters are identified and so I adopt

these findings as my own. No significant effects would arise provided the above condition is imposed.

### **Aviation (civil and military)**

199. Aviation is scoped out of the assessment on the basis of no significant effects ([AIR Chapter 1: Introduction](#)). No parties argue differently or object. As the proposed turbines would exceed 150 metres in height, aviation lighting would be required. The CAA does not object to the proposed lighting scheme in AIR Chapter 1. The landscape and visual (including cumulative) effects from aviation lighting are covered separately above. The applicant and council agree condition wording for aviation lighting and so that the locations and heights of completed turbines and masts are provided for flight charts as sought by the Defence Infrastructure Organisation (DIO). I adopt these findings as my own and so am content that no significant effects would arise provided the above conditions are imposed.

### **Air quality**

200. [AIR Chapter 1](#) finds some risk of localised and temporary air quality effects from dust, construction plant and traffic exhaust fumes. Their temporary nature, and distance from sensitive receptors leads it to conclude low/ negligible (not significant) effects. No evidence suggests the proposal would threaten ambient air quality. The CEMP is proposed to include dust suppression, vehicle covering and wheel washing to prevent dust transfer. I therefore adopt these findings as my own and find no significant effects provided conditions are imposed to secure a CEMP and a CTMP.

### **Shadow flicker**

201. No parties object on shadow flicker grounds. [AIR Chapter 1](#) confirms that the modified proposal would result in only one residential property being at risk of shadow flicker. It is understood to be empty and to belong to the site owner, who intends to keep it empty for the duration of the 30-year consent that is sought. Therefore, no significant shadow flicker effects are anticipated, and no conditions are needed to mitigate this. I adopt these findings as my own.

### **Decommissioning and restoration**

202. No parties oppose decommissioning and restoration of the site when the generating consent ceases or when it otherwise ceases to operate. Some parties prefer this to be secured by legal agreement, but I find a condition to be appropriate. The applicant and council agree on this but disagree about detailed elements of wording. I cover those details separately under the [Conditions](#) heading below.

203. No party disputes that a condition should secure a financial guarantee to ensure that the proposal can be decommissioned, and the site restored in the event of business failure. The applicant and council initially disagreed on the details of this but reached agreement at the conditions hearing. I cover this under the [Conditions](#) heading.

### **Health and Safety**

204. No compelling evidence supports an objector theory of a causal link between landscape and visual effects and tourism business operator mental health. Nor does the evidence convince me that temporary closure of some access routes for safety reasons would lead to meaningful effects on physical or mental health.

205. Conditions would secure a CEMP and CTMP to ensure that various work practices and standards are adopted to avoid health and safety risks. Conditions would also cover working hours, noise, blasting and other onsite activities with health and safety implications.

206. Normal health and safety practices would be evident during the operational phase in line with the relevant legislation. I understand that the control compound would be fenced off from public access and secure. The risk of collapse would be low and, if it transpired, the effects on human health would be low risk as the proposal is in a remote location sufficiently far from sensitive receptors. Otherwise, the applicant and council agree a condition requiring serious incident reporting.

207. [Original EIA chapter 1](#) scopes out ice throw as the distance between the proposed turbines and the nearest public road, residential property or core path would be greater than the maximum potential distance for ice falling from turbines. In line with current guidance, a permanent warning sign at the site's entrances is proposed to alert the public to the possibility of ice throw under certain weather conditions. No significant effects are anticipated, and no ice throw assessment is provided. No evidence suggests that the modified proposal would alter these conclusions and no party otherwise challenges this. As such, I am satisfied that no significant effects would arise for health and safety, provided the above conditions are imposed.

### **Grid connections and off-site infrastructure**

208. All proposed infrastructure would be on site. Grid connections are considered under a separate consenting regime and are not part of this proposal. The implications for off-site transport infrastructure have been covered separately above. Otherwise, no compelling evidence suggests the proposal should be refused due to impacts on off-site infrastructure.

### **Alternative technologies or locations**

209. Several objectors favour alternative technologies to the proposal and/or argue that it would be better located elsewhere: for example closer to sources of energy demand. The transition to renewable energy involves various technologies, of which onshore wind is one. Irrespective of which technologies parties like/dislike or where they think it should be situated, the matter before Scottish Ministers (and me) is whether or not this onshore wind energy proposal is acceptable in this location. This report informs my recommendations to Scottish Ministers on that matter.

### **Public engagement**

210. Interested parties have had sufficient opportunity to be informed about and comment on the proposal at various stages. AIR contains details of EIA scoping during 2018 and 2019 and summarises the views of public bodies and community councils. The pre-application consultation ([PAC](#)) report details pre-application engagement. The original EIA (April 2021) and the subsequent AIR (Dec 2022) were publicised and consulted upon in the requisite manner. I find no irregularities.

211. COVID restrictions during 2020 and 2021 likely prevented public events taking place when they otherwise might have done. However, that was requisite under legislation. It did not make the public engagement insufficient or prevent comments being made which, self-evidently, I consider here. My recommendations to Scottish Ministers are based on the strength of evidence and not the resources available to any particular party versus another. Whilst some parties oppose the proposal, that does not make the engagement process insufficient. All submitted material informs my recommendations to Scottish Ministers.



## **Blight and property values**

212. No compelling evidence suggests the proposal would make homes uninhabitable or result in planning blight. Property and/or land values are irrelevant to the planning balance. This does not inform my recommendations to Scottish Ministers.

## **Conditions and description of development**

213. Though invited to do so, no opted in parties commented on the applicant's first draft schedule of conditions (17 November 2023). The applicant and council submitted three successive schedules of proposed conditions ([14 February 2024](#), then [1 March 2024](#) and finally [26 March 2024](#)). The most recent resolved various disagreements and some queries covered by my hearing agenda. The applicant and council also resolved previous disagreements on notifying Scottish Ministers of battery storage technology and the financial product for a financial guarantee during the conditions hearing (27 March 2024).

214. I denied the Struie Action Group's request to submit further representations on conditions. It had already withdrawn and submitted a statement that did not raise conditions. Allowing this would have disadvantaged other parties.

215. [Schedule of Proposed Conditions Annex 1](#) revises the description of development to cover removal of proposed turbine T19 (paragraphs 21 to 25 above). Some of the disputes between the applicant and council are about whether matters should be covered by conditions or by description of development. This section of my report covers the disputed elements of Annex 1 and disputed conditions only, under respective headings below.

### **Annex 1 Description of Development, Proposed Condition 29: Implementation in Accordance with Approved Plans, and Proposed Condition 18: Appearance of Turbines**

216. The council seeks reference to the original EIAR, AIR and more recent documentation lodged in either proposed condition 29 or the description of development. This is to ensure that only what is proposed is built. However, the revised description of development already refers to "Figure 2.1a dated February 2024 (revised site layout plan)", as do other agreed conditions. This omits T19 and accounts for removal of T1 to T12 and relocation of T17 from the original proposal. It achieves what the council seeks. Therefore, I delete proposed condition 29 and the council's proposed description of development.

217. The council prefers turbine height to be specified in the description of development, but the applicant prefers it in a condition. Either would ensure that turbine heights do not exceed 180 metres. Modification of the development description was prompted by removal of T19 and the original development description ([AIR Chapter 2](#)) does not mention turbine height. It therefore seems reasonable to cover turbine height in a condition.

218. The council's text at proposed condition 18 part (c) is largely identical to the applicant's at part 2. I prefer the applicant's specificity, covering aviation lighting. I agree that the council would need to know about what its wording seeks in part (a), as that could affect the appearance of the turbines. The applicant's condition reason appears to achieve what the council's wording seeks but is more clearly related to the proposal.

219. I therefore recommend the council's wording for proposed condition 18 but replace point (c) with the applicant's point (2). I add turbine height as an extra point and the

applicant's reason for the condition. This forms recommended condition 18: Design and Operation of Wind Turbines (Appendix 1 below).

### **Proposed Condition 8: Redundant Turbines, and a related matter of principle**

220. Proposed condition 8 would be under section 57 of the Town and Country Planning (Scotland) Act 1997 and so a matter for the planning authority, not Scottish Ministers. As such, I omit the council's wording "in consultation with Scottish Ministers" from recommended condition 8: Redundant Turbines (Appendix 1 below).

221. This highlights a related matter of principle. Various agreed/not agreed condition wording covers matters to be approved by the Scottish Ministers or the planning authority "in consultation with" another body; often NatureScot or SEPA. Conditions are binding on the company only, not the planning authority or Scottish Ministers. Therefore, who is consulted and how the planning authority/ Scottish Ministers respond is not enforceable. I therefore delete the references to consultation with other bodies in all proposed conditions.

### **Proposed Condition 9: Decommissioning and Restoration**

222. The applicant and council agree that a suspensive condition should secure decommissioning and restoration plans. The council prefers that section (2) does not allow tracks, hardstandings and cabling to be left in-situ. The applicant states this to be normal, and that the landowners may wish to retain tracks for instance. The applicant's proposed wording now refers to subterranean elements of the proposal remaining in situ. In my view, that is slightly more nuanced as it would require surface infrastructure removal.

223. The environmental information assumes that such infrastructure would be left in situ. I cannot therefore refute or corroborate the applicant's claim that more damage would be done by removing it than leaving it in situ. The evidence suggests the proposal to be acceptable with in-situ retention of tracks, hard standings and cabling. With no compelling contrary evidence, I accept the applicant's position.

224. Council wording sections (2) and (3) are identical, which I assume to be a typing error. The council's text does not reference the time period for submission of the Decommissioning Environmental Management Plan (DEMP), but applicant section (3) does.

225. The applicant opposes the detail in council proposed section (4) about the contents of decommissioning and restoration plans. It directs me to the decision for [Kirkan wind farm](#) Condition 8 where such detail is not included. The dispute is not about whether those plans would include the matters covered by the detail (which are similar to those agreed for the CEMP). The final contents of decommissioning and restoration plans would be for the planning authority to approve (or not) as it sees fit. However, I find nothing unnecessary or unreasonable about specificity in this instance. I also find the specificity of council point (5) helpful in the absence of such from the applicant's wording.

226. Therefore, I adopt applicant and council section (1), applicant sections (2) and (3), and council sections (4) and (5) as recommended condition 9: Site Decommissioning, Restoration and Aftercare (Appendix 1 below).

### **Proposed Condition 14: Ecological/Environmental Clerk of Works (ECoW)**

227. The applicant and council agree on a suspensive condition to employ an ECoW and to define its responsibilities. The applicant is correct that pre-construction surveys, breeding



bird protection plans, deer management plan, water quality management plan and woodland management plan form part of the agreed CEMP contents or proposed contents of the HMP. Both are covered by separate conditions.

228. However, council section (1) (a) (i) to (ix) and (b) to (d), and section (2) offer clarity that the applicant's wording lacks. Given the importance of the ECoW's role in overseeing the mitigation necessary to make the proposal acceptable, I prefer the council's wording. However, I omit the final sentence of section (1) which I read to contradict part (1) (d). I also correct references to the numbering of other conditions to reflect Appendix 1 below.

229. The council uses the term Environmental Clerk of Works, but the applicant uses Ecological Clerk of Works. Neither contests nor explains the difference. Whichever term is used, would have its role defined by the condition. I use Ecological/Environmental Clerk of Works in recommended condition 14 (Appendix 1).

### **Proposed Condition 15: Habitats Management Plan (HMP)**

230. Both parties agree that this condition should state what the HMP is expected to include. I find little difference between council section (1) (a) to (f) and applicant sections (1) to (3), except that the applicant's offers sufficient specificity with greater brevity. The points made by applicant section (4) and council section (3) are also largely identical. However, additional council wording recognises that the HMP could be modified over time and so seems the more accurate. I find it reasonable to require demonstration of control of the land to ensure that HMP actions needed to make the proposal acceptable can be implemented. I therefore accept council section (2). Despite different wording, both party's condition reasons are similar. I prefer the applicant's because it links the condition to the habitats and species identified in the EIAR. Therefore, I recommend applicant sections (1), (2) and (3) with council sections (2) and (3) as recommended condition 15: HMP (Appendix 1 below).

### **Proposed Condition 17: Construction Hours and Timings**

231. Contrary to the council's view, proposed condition 17 does not repeat section 60 of the Control of Pollution Act 1974 (which is before me). Instead, it outlines how the intentions of that Act would apply for this proposal. Deletion would require separate arrangements to be made with the local authority; likely of the nature outlined by the condition. I therefore accept the applicant's wording for recommended condition 17: Construction Hours and Timings (Appendix 1 below).

### **Proposed Condition 26: Private Water Supplies**

232. I recommend the applicant's proposal to delete superfluous words in recommended condition 25: Private Water Supplies (Appendix 1 below). This would neither weaken the condition nor alter its meaning.

### **Proposed Condition 30: Outdoor Access Plan**

233. The applicant and council agree that an outdoor access plan covering the period during and after construction should be secured by suspensive condition. Given the purpose of this plan, it seems deficient to omit the detail proposed by the council since it would bring site specificity to that plan. The council's paragraph (2) would enable actions to occur after construction commences and so it would not be restrictive. I therefore use the council's wording for recommended condition 28: Outdoor Access Plan (Appendix 1 below). However, the plan approved by the planning authority under paragraph (1) would, self-evidently, be the "finalised and detailed" one. I omit those words as they are superfluous.

## **Proposed Condition 34: Supply Chain Opportunity Protocol**

234. The applicant and council agree that a suspensive condition should secure a supply chain opportunity protocol. The council's additional wording would require the company to pay into the community benefit fund, a sum equivalent to any deficit in financial benefits arising to local business compared with what was predicted in EIAR Chapter 12. That appears to make the company liable in any circumstances where the predicted benefits do not arise. I therefore assume it is intended to apply even if no local businesses opt to bid for contracts, and/or, where such businesses fail in a fair tendering process due to cost, capacity, capability, availability or other legitimate business or contracting factors.

235. I already find (above) that Original EIAR Chapter 12's economic findings and monetary values have not been updated for the modified 25 turbine proposal (now 24 turbines without T19). Inflation since that time may also have altered the stated monetary values. That gives me little confidence that EIAR Chapter 12 offers a sufficiently robust evidence base against which to accurately calculate a deficit of the kind that the council's proposed condition wording relies upon.

236. It is unclear whether a condition forms a lawful or reasonable platform from which to introduce a financial penalty regime of the kind sought. Even if it is, I have only the wording supplied by the council and, on the evidence above, I am not remotely convinced it would offer a workable or enforceable means of achieving what the council seeks. I therefore omit the council's additional wording from recommended condition 32: Supply Chain Opportunity Protocol (Appendix 1 below).

### **Other matters**

237. At the hearing, the applicant advised that proposed condition 11: Micro-siting refers to the incorrect site layout plan. This would contradict other conditions and so I modify it to reference the correct Figure 2.1a Revised Site Layout Plan (dated February 2024).

238. The applicant asks for noise to be the final condition in the sequence so as to place it immediately prior to the additional notes on noise. That would enable both to be easily read together and would not affect the meaning of either (or other conditions). Therefore, noise forms the final recommended condition 34 (Appendix 1) followed by the related notes.

### **Conclusions on proposed conditions**

239. I am otherwise satisfied that the conditions set out in Appendix 1 (below) would meet the tests in Circular 4/1998 and should be imposed if the consent is granted, having regard to the likely impacts, the mitigation required to offset these and the model conditions recommended by the ECU. My recommended conditions (Appendix 1 below) incorporate what was requested by statutory bodies. Sometimes what was sought is brought together as one condition rather than several individual ones.

## **Conclusions**

### **The Electricity Act 1989**

240. In accordance with Schedule 9 of the Electricity Act 1989, in preparing my advice and recommendations to Ministers (and as related in this report) I have had regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of

architectural, historic or archaeological interest. I have also had regard to the requirement to avoid, as far as possible, causing injuries to fisheries or to the stock of fish in any waters.

### Environmental Impact Assessment and significant effects

241. My conclusions on the significant effects of the development are up to date at the time of submission of this report. The table below summarises the relevant matters:

EIA Report Chapter	Significant Residual Environmental Effects
AIR Chapter 4: Landscape and Visual Amenity (as amended by the Updated Cumulative Landscape and Visual Impact Assessment (December 2023))	<ul style="list-style-type: none"> <li>• significant landscape character effects on parts of LCT135 Rounded Hills – south of Strath Fleet (host), LCT145 Farmed and Forested Slopes with Crofting – Lairg unit, and LCT135 Rounded Hills - Other Areas</li> <li>• significant visual effects at VP1 and VP4 to VP7, parts of Lairg, the A836 site access during construction only, users of the A836 and for Far North railway near Lairg and eastbound users of the A839 and A838</li> <li>• significant cumulative visual effects on the southbound users of the A836 and at VP6, each in the current baseline only, on the B9176 and at VP12 only if scoping stage Acheilidh wind farm is in place, and at VP5 only if application stage Strath Oykel wind farm is in place</li> <li>• significant night-time visual effects at VP7 only for visible lighting of 2,000cd in the current baseline when considering the angle of view</li> </ul>

### Legislation and National Policy on Energy and Climate Change

242. The [Climate Change \(Emissions Reductions Targets\) \(Scotland\) Act 2019](#) sets statutory targets to reach net zero greenhouse gas emissions by 2045 in Scotland. National energy and climate change policy seeks mitigation to reach net zero and adaptation to address climate change impacts. It also supports a just transition from fossil fuels to renewables for electricity generation, heating and transport as well as other sectors.

243. The Onshore Wind Policy Statement (2022) revises its targets upwards to 20GW of installed onshore wind energy capacity. This is the majority of the 25 to 30GW that the Climate Change Committee suggests is necessary for the UK to reach net zero. These targets also account for higher future electricity demand and form part of a wider strategy that includes energy efficiency and transmission infrastructure improvements. The proposal would likely contribute to renewable energy and installed onshore wind from 2028.

244. The Onshore Wind Policy Statement (2022) confirms that the above targets are not a cap. This refutes the Struie Action Group’s suggestion that grid network capacity and need for the proposal justify refusal.

245. No party disputes the strategic direction of national energy and climate change policy or the targets. National policy recognises that meeting targets for net zero and for installed onshore wind will change Scotland’s landscape. Even so, that does not make this proposal automatically acceptable irrespective of its effects. National policy does not advocate ignoring other policy priorities when conflicts arise. [NPF4](#) translates various considerations into national planning policy and into development plan policy since it forms both. I cover this below.

## National Planning Policy (NPF4)

246. Many objectors argue the proposal to fail Scottish Planning Policy (2014), which was national planning policy in 2021 when their representations were submitted. However, it was replaced by NPF4 in February 2023 and so is no longer relevant.

247. NPF4 was published in draft in November 2022. It received parliamentary approval on 11 January 2023 and was adopted by Scottish Ministers on 13 February 2023. The period for comments on the modified proposal closed on 20 February 2023 and so interested parties were sufficiently able to comment on the proposal in light of NPF4.

248. The proposal is NPF4 national development in an area where wind energy is supported in principle. However, this does not mean automatic approval without further consideration of other matters. NPF4 policies protect valued assets and people from inappropriate development. The NPF4 policies listed in [agreed matters](#) are relevant, particularly Policy 4 (Natural Places) and Policy 11 (Energy). So too are several others that are not listed in agreed matters. I cover all of these in the paragraphs below.

249. I consider NPF4 Policy 3 (Biodiversity) first. It seeks both mitigation and enhancement but does not define the latter. Nevertheless, its wording is sufficiently clear that it expects enhancement to be additional to mitigation. Whilst the Scottish Government's [Draft Planning Guidance: Biodiversity](#) (Nov 23) does not attract the weight that the finalised guidance might, it also views enhancement as additional to mitigation. No specific quantitative or qualitative measure for enhancements is set out by either.

250. I find above that the proposed peat restoration is not mitigation deficient, despite being less than the 1:10 loss to restoration ratio in [NatureScot's advice \(Nov 2023\)](#). The same fact convinces me that I cannot view this as enhancement, even though what is restored would be greater than what is lost. In fairness no party asks me to. However, NatureScot's advice defines tree and scrub removal, raising the water level/rewetting and revegetating bare peat by blocking drains/ installing dams and other measures as enhancement. Those measures are included in the Draft Outline HMP. Therefore, the proposal would do what the advice describes as mitigation and also what it describes as enhancement for peat and carbon rich soils.

251. The proposed planting of 17.5ha of native species would cover all of the compensatory planting sought by NPF4 Policy 6 (Forestry, Woodland and Trees) and Scottish Government's [Control of Woodland Removal Policy](#) plus 9ha additional planting. No evidence defines the biodiversity credentials of the additional planting, but I assume it to have at least some, which I find to constitute enhancement. Therefore, the planting proposals include all necessary mitigation plus enhancement.

252. Proposals for improved foraging and nesting opportunities are to persuade species to areas away from danger close to turbines. Similarly, the Deer Management Plan is to help establish these areas and prevent disturbance to/destruction of them and restored peatland. I see both as mitigation. I cannot quantify if these would have additional effects beyond mitigation but, if they did, those could be viewed as enhancements.

253. The evidence confirms that the proposal would implement the mitigation hierarchy by design and other measures which seek to avoid/minimise, to conserve and to restore biodiversity adversely affected by the proposal. Those measures would be sufficient to avoid significant adverse environmental effects. The proposal would also bring about enhancements. By my understanding, this would build and strengthen nature networks and connections using nature-based solutions, improve nature networks and strengthen habitat

connectivity, as sought by the policy outcome. As such I am persuaded that the site would be in a demonstrably better state as a result of the proposal than without intervention. I find that the proposal would bring significant biodiversity enhancements to the site for the purposes of NPF4 Policy 3 b) iv.

254. NPF4 Policy 3 b) v does not define “local community benefits” of biodiversity and/or nature networks. The applicant suggests that improved water quality and carbon capture would result from peat restoration. These would be benefits, but additional carbon capture seems more strategic than local. It is less clear how these benefits would be experienced locally and to what extent. Even if I assume that improved site access would enable the local community to visit the area to experience the improved biodiversity, this opportunity would also be open to non-local communities. Either way, I cannot conclude an absence of local community benefits or a failure to consider them.

255. The proposal is for essential infrastructure (of which generation of electricity from renewables forms part) in a location that is not at flood risk, it is not prime agricultural land or land of lesser quality that is culturally or locally important for primary use as identified by the LDP. No compelling evidence suggests it would exacerbate flood risk or compromise blue or green infrastructure to an extent that could not be sufficiently mitigated. On the above evidence it would contribute to improving blue and green infrastructure.

256. Overall, the evidence persuades me that the proposal would glean support from NPF4 Policy 3 (Biodiversity), Policy 5 (Soils), Policy 6 (Forestry, Woodland and Trees), Policy 20 (Blue and Green Infrastructure) and Policy 22 (Flood Risk and Water Management) provided recommended conditions are imposed.

257. The application site is not within a Wild Land Area and would not lead to significant adverse effects on any. NPF4 Policy 4 g) is therefore not applicable.

258. The proposal would have likely significant effects on existing European sites which could be easily mitigated by conditions. No evidence otherwise suggests the proposal would have an adverse effect on species protected by legislation or on local nature conservation or landscape designations that could not be mitigated. This suggests no conflict with NPF4 Policy 4 b), d) and f).

259. Even though the proposal is not within the Dornoch Firth NSA, NPF4 Policy 4 c) applies. It only supports proposals affecting an NSA where the objectives of the designation and its overall integrity will not be compromised “or” (my emphasis) where any significant effects on the qualities for which it is designated are clearly outweighed by social, environmental or economic benefits of national importance.

260. The council considers the proposal to fail all of Policy 4 c). However, it asks me to find the proposal contrary to Policy 4 c) ii and to recommend refusal even if I find it to be supported under Policy 4 c) i. Doing that would require me to read the “or” in the above paragraph as an “and”. It would also require me to assume that the “qualities for which the NSA is designated” covered by Policy 4 c) ii are different to “the objectives of the designation and its overall integrity” covered in Policy 4 c) i. I am not convinced by this as it is the effects on the qualities for which the NSA is designated that enable me to understand whether the objectives of designation and its overall integrity would be compromised.

261. The evidence refutes the council’s NSA arguments and I find no significant effects on any of the NSA’s seven SLQs. As such I also find that the proposal would not compromise the objectives of that designation or its overall integrity. I must therefore find the proposal to glean support from Policy 4 c) i. By my reading that would be sufficient for NPF4 Policy 4,

particularly if the qualities for which the NSA is designated are a subset of the matters covered in Policy 4 c) i. However, I follow the council's logic and consider Policy 4 c) ii for completeness.

262. The council contests the applicant's position on Policy 4 c) ii, arguing the benefits of the proposal are not of national importance. I agree that some are not. However, the proposal is national development, whose contribution to reducing greenhouse gas emissions and to mitigating climate change would bring social, environmental and economic benefits of national importance. Having found no significant effects on any of the seven SLQs there seems little to nothing against which to balance those social, economic and environmental benefits of national importance under Policy 4 c) ii.

263. My findings on the proposal's effects on the NSA differ from those of NatureScot. If I am wrong and NatureScot's position of Moderate (Significant) effects on SLQ2 is correct, NatureScot confirms that this would not affect NSA objectives of designation or overall integrity. Therefore, the proposal would still glean support from Policy 4 c) i. Those effects would be perceived, outside of the NSA and over a limited magnitude and extent. This persuades me that the significant effects found by NatureScot on the qualities for which the NSA is designated would be outweighed by the social, environmental and economic benefits of national importance arising from the proposal. That suggests the proposal would also glean support from NPF4 Policy 4 c) ii in the event that NatureScot is correct.

264. Therefore, I find the proposal to attract support from NPF4 Policy 4 c) i and ii no matter whether my own findings or those of NatureScot are correct and whether I follow Policy 4 in the manner argued by the council or not. Either way, this and my other considerations under Policy 4 persuade me that the type, location or scale of the proposal would not have an unacceptable impact on the natural environment under NPF4 Policy 4 a). Whether Scottish Ministers agree with my findings or those of NatureScot, either would refute the council's objection based on NPF4 Policy 4.

265. The evidence suggests no significant residual effects that would compromise the cultural heritage of any historic asset identified by the assessment and protected by NPF4 Policy 7 (Historic Environment).

266. Measures proposed in the CEMP and PMP would manage construction waste with decommissioning waste covered by respective plans for that phase. The operational phase would involve occasional maintenance and use of the site control centre. No evidence suggests those would fail to comply with the principles of NPF4 Policy 12 (Zero Waste).

267. The operational proposal would not be a high traffic generating use outwith a settlement. The necessary site infrastructure and access would be put in place before development and operations commence. That reflects NPF4 Policy 13 (Sustainable Transport) and Policy 18 (Infrastructure First).

268. No evidence suggests the proposal would generate significant surplus heat for the purposes of NPF4 Policy 19 (Heating and Cooling). However, NPF4 Policy 19 part f) requires buildings that will be occupied by people to be designed to promote sustainable temperature management. The site control centre could qualify as such. A general design for that building has been supplied, which satisfies me that it could be built to the relevant buildings standards and that conditions covering materials and design offer an opportunity to achieve the outcomes sought by Policy 19 f).

269. The evidence does not suggest risks to health and safety that could not otherwise be avoided or acceptably limited by design or working practices covered by conditions. No compelling evidence suggest contradiction of NPF4 Policy 23 (Health and Safety).

270. This proposal is within a rural area, so NPF4 Policy 25 (Community Wealth Building) and Policy 29 (Rural Development) are relevant. Not all of the circumstances they cover are applicable. The proposal would likely bring net economic benefit to the locality, mostly during construction and decommissioning. No evidence suggests the proposal would contradict the relevant parts of either policy.

271. No compelling evidence suggests the proposal would sterilise mineral deposits of economic value. Otherwise, the proposed borrow pits would be tied to a specific project (the proposal), be time limited (24 month construction phase), would comply with the relevant criteria in NPF4 Policy 33 d) and be subject of restoration prior to or in the early stages of operation. Thus, the proposal would be supported by NPF4 Policy 33 Minerals, provided recommended conditions are imposed.

272. NPF4 Policy 11 (Energy) includes considerations relating to my above findings. The proposal is for renewable energy technologies listed in Policy 11 a). It is not located within any national park or NSA consistent with Policy 11 b).

273. No definition of what is meant by “maximising” economic benefits is provided by Policy 11 c). However, the evidence is clear that net local and community socio-economic benefits, including for employment (temporary or full time) and associated business and supply chain opportunities would emerge. A condition for a supply chain opportunity protocol could help to bring this about. I am therefore as satisfied as I can be that the proposal would bring about what is sought by Policy 11 c).

274. In finding the proposal consistent with NPF4 Policy 4 Natural Places (above), it therefore achieves what is sought by Policy 11 d).

275. My above considerations persuade me that the proposal’s project design and mitigation demonstrate how all of the matters listed in Policy 11 e) i), and iii) to xiii) would be satisfactorily addressed, provided my recommended conditions are imposed.

276. NPF4 Policy 11 e) ii covers landscape and visual impacts with cumulative landscape and visual impacts referenced by Policy 11 e) xiii. Policy 11 e) states that “where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable”. It does not define the term “localised” and nor does the NPF4 glossary. No other legal or policy definition is cited to me. Both parties also agree that the NPF4 Policy 11 term “generally acceptable” invites the decision maker to judge the matter of acceptability.

277. At the policy hearing, the applicant and council outlined their view of what is meant by “localised”. This is also covered in closing submissions. Various factors are mentioned including geographic extent, scale, landscape context, and the number and sensitivity of receptors. These all seem logical considerations to inform my recommendations on whether the proposal is generally acceptable. This persuades me that not all localised impacts would be automatically acceptable. Nor does it suggest that impacts which are not localised would be automatically unacceptable.

278. A full landscape and visual impact assessment was prepared with visualisations and wirelines for 16 viewpoints and wirelines for two additional viewpoints. That information



includes the proposal as well as other existing, consented and proposed developments within a 30km or so radius to provide a cumulative assessment.

279. Significant landscape and visual including cumulative effects would be localised, within 6km to 9km of the proposal. Significant effects beyond this distance are likely at VP11 (12km from the proposal), but only in the current baseline. The cumulative visual effects at VP12 would only be significant if the proposal was introduced with the scoping stage Acheilidh already in place and at VP5 if Meall Buidhe, Chleansaid and Strath Oykel are already in place. Those impacts do not adversely affect protected landscapes or views.

280. Despite arguing significant visual effects over a more extensive geographic area than the assessment, the council did not object and concluded those effects to be acceptable. Therefore, even had I accepted the council's findings, this was not a reason why the council asked me to refuse the proposal. I disagree with the council's preferred findings in favour of the assessment. I am generally satisfied that the design has sought to avoid or minimise significant landscape and visual effects and the other effects mentioned in Policy 11 e). Therefore, the evidence persuades me that the proposal would lead to generally acceptable landscape and visual (including cumulative) impacts for the purposes of NPF4 Policy 11 e) ii and xiii. It would also be generally acceptable in terms of the other factors in Policy 11 e).

281. NPF4 Policy 11 e) places significant weight on the contribution of the proposal to renewable energy generation targets and greenhouse gas emissions reduction targets. The evidence confirms that the proposal would contribute to those respective targets once operational and, in the latter case, once the carbon budget is repaid. In this particular instance, I find the impacts of the proposal (such as they are) would be outweighed by the contribution to meeting greenhouse gas emissions reduction targets and renewable energy generation targets.

282. Grid connections and capacity are not reasons for refusal under NPF4 Policy 11 e), contrary to the Struie Action Group's arguments. Grid connections are not part of this proposal and would be for a separate application process. This does not alter my above findings for NPF4 Policy 11 e).

283. The evidence persuades me that this proposal would be acceptable in perpetuity. However, imposing a condition for a 30-year consent, as the applicant requests, would not fail NPF4 Policy 11 f).

284. The proposal would contribute to decarbonising the electricity sector for the wider economy. That, along with the applicant's carbon calculation would contribute to the mitigation sought by NPF4 Policy 2 (Climate Mitigation and Adaptation). Adaptation measures are less clear. Whilst peat restoration would improve site hydrological function, no evidence indicates whether or how this (or anything else) would contribute to adaptation. Nevertheless, my above findings convince me that the proposal is well designed overall, based on NPF4 Policy 14 (Design, Quality and Place).

285. The [applicant's Policy Hearing Statement](#) paragraph 4.7.3 suggests it to be the development that is given significant weight by NPF4 Policy 1 (Tackling the Climate and Nature Crises). However, NPF4 Policy 1 requires the decision maker to give significant weight to those crises when considering development proposals. It does not stipulate any measurement that should be used. In giving those crises significant weight, the evidence confirms that neither would be exacerbated by the proposal, but it would contribute to net benefits for nature and for climate change. I therefore find no reason to recommend refusal on grounds of the proposal's impacts on either the nature or the climate crises.

## **The Local Development Plan (LDP)**

286. The LDP is formed of the Highland-Wide Local Development Plan (HWLDP) (2012) and the Caithness and Sutherland (CaSPlan) LDP (2018). The applicant and council agree that HWLDP Policy 57: Natural, Built and Cultural Heritage, Policy 61: Landscape and Policy 67: Renewable Energy are relevant. The Struie Action Group argues HWLDP Policy 28: Sustainable Development to also be relevant. The council states that proposals complying with Policy 67 can be considered to also comply with Policy 28. As HWLDP Policy 67 is the lead policy for renewable energy, my findings for that assist consideration of other LDP policies.

287. Highland Council Onshore Wind Energy Supplementary Guidance (OWESG) (2016 and 2017) also forms part of the LDP and is referenced in HWLDP Policy 67. At inquiry the applicant asked me to find the OWESG to contradict NPF4 whereas the council argued it to be complimentary. However, the applicant's closing statement now appears to be content that it is possible to operate NPF4 and OWESG without conflict, recognising that section 24 of the Town and Country Planning (Scotland) Act 1997 states that whichever of the two is more recent shall prevail.

288. The OWESG lists ten criteria that inform considerations under HWLDP Policy 67. They are not policy tests of themselves. There would be significant landscape and visual effects and so there could be instances where what the OWESG criteria seek is not wholly fulfilled. That, alone, is not a policy failing. OWESG contains a spatial framework that is no longer relevant since it was derived from SPP (2014), which has now been replaced by a different approach in NPF4. Even so, the site would have been in spatial framework categories two and three, which did not prevent wind farm development.

289. The LDP supports the development of renewable energy technology, including onshore wind in principle, provided it does not conflict with other aims and policies of the plan. I find no significant effects on the Dornoch Firth NSA and the council advises the other landscape and visual effects to be acceptable. Otherwise, the proposal would result in some positive net economic benefits (albeit minor). I therefore find no adverse effects on natural, built or cultural heritage, species or habitats, water, amenity, safety, aviation, communications, transport or tourism and recreation interests that could not be satisfactorily mitigated. The proposal does not therefore conflict with HWLDP Policy 67.

290. Overall, the evidence in this report convinces me that the proposal would not fail the other relevant LDP policies (including HWLDP Policies 28, 57 and 61). Since the broad considerations of HWLDP appear similar to those of NPF4 and because I reach the same conclusions for each, this suggests no conflict between NPF4 and the LDP and OWESG.

291. Even if I am wrong and conflict would arise between NPF4 and HWLDP, section 24 of the Town and Country Planning (Scotland) Act 1997 means that NPF4 would prevail as it is the more recent. That would lead me to the same conclusions I reach for NPF4 (above).

## **Conclusions on the development plan**

292. For applications made under section 36 of the Electricity Act 1989, the relevant considerations for decision makers are set out in Schedule 9 of that Act. Therefore, development plans do not have the primacy that they otherwise would for proposals under section 25 of the Town and Country Planning (Scotland) Act 1997. The development plan is therefore a broader consideration rather than the primary one.

293. However, since NPF4 is both national planning policy and development plan policy, it informs my recommendations to Scottish Ministers under the Electricity Act 1989 as well as being a broader consideration as part of the development plan. Based on my above findings, there is no conflict between the proposal and NPF4 or the LDP (together the development plan). I find the proposal to glean support from both.

294. The proposal would lead to likely significant effects for the River Oykel SAC, the River Evelix SAC, and the Strath Carnaig and Strath Fleet Moors SPA. An appropriate assessment would therefore be necessary. However, the evidence suggests those matters could be easily and satisfactorily mitigated by measures in conditions. Otherwise, I am satisfied that the relevant licences could be granted, if necessary, under The Conservation of Species and Habitats Regulations 2017.

### **Overall conclusions**

295. In balancing the factors for and against the proposal, I recognise the contribution that it would make towards meeting climate change objectives and emission reduction targets, and its net economic effects and the net benefits to nature. I also take into account the significant adverse visual, landscape and night-time (including cumulative) effects. These would be principally within the host LCT and parts of others within 6km or so and at viewpoints within 6km or so. Otherwise, with mitigation, no other significant residual environmental effects are identified for the proposed development.

296. Informed by my findings above, I find the proposal overall to be in accordance with the development plan, the Onshore Wind Policy Statement and other national policy. I find that there are no other relevant considerations which lead me to make a recommendation contrary to policy.

297. Accordingly, I recommend that consent should be granted.

### **Recommendation**

298. Consent should be granted under section 36 of the Electricity Act 1989 and planning permission should be deemed to be granted under section 57 of the Town and Country Planning (Scotland) Act 1997 (as amended), subject to the conditions listed in Appendix 1 and subject to an appropriate assessment on the matters referenced above.

*Nick Smith*

Reporter

## **Appendix 1: Recommended conditions and description of development**

### **Annex 1: description of development**

#### **Section 36 Electricity Act 1989 Consent – Description of Development**

The construction and operation of a wind powered electricity generating station with an installed capacity of more than 50MW known as Garvary Wind Farm situated immediately east of the A836, approximately 4.5km south of Lairg and 5.5km north of Bonar Bridge in Sutherland, within the administrative area of The Highland Council. All as more particularly shown in Figure 2.1a dated February 2024 (revised site layout plan). The Ordnance Survey grid reference for the Site is NH 61421 99681.

The development includes:

- up to 24 three-bladed horizontal axis wind turbines;
- internal transformers and related switchgear at each turbine;
- associated turbine foundations, turbine hard-standings and crane pads;
- two permanent free-standing meteorological masts;
- a total of approximately 22.1km new on-site tracks and approximately 1.5km of upgraded track with associated water crossings, passing places and turning heads;
- a site access route with any necessary road improvement works from public road network;
- search areas of up to 5 borrow pits;
- substation compound, including battery storage unit;
- up to 4 temporary site construction compounds;
- a network of on-site buried electrical cables;
- a batching plant; and
- associated ancillary works.

#### **Deemed Planning Permission under section 57(2) of the Town and Country Planning (Scotland) Act 1997 – Description of Development**

The erection and operation of a wind farm of up to 24 wind turbines and associated development on land situated immediately east of the A836, approximately 4.5km south of Lairg and 5.5km north of Bonar Bridge in Sutherland within the planning jurisdiction of The Highland Council. All as more particularly shown in Figure 2.1a dated February 2024 (revised site layout plan).

### **Recommended Conditions**

#### **1. Duration of the Consent**

(1) The consent is for a period of 30 years from the date of Final Commissioning. Written confirmation of the date of Final Commissioning shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that date.

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

**Reason:** To define the duration of the consent.

## 2. Commencement of Development

(1) The Commencement of the Development shall be no later than five years from the date of this consent, or in substitution, such other period as the Scottish Ministers may hereafter direct in writing.

(2) Written confirmation of the intended date of Commencement of Development shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month before that date.

**Reason:** To avoid uncertainty and ensure that the consent is implemented within a reasonable period.

## 3. Non-assignment

This consent may not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignation of the consent (with or without conditions) or refuse assignation as they may, in their own discretion, see fit. The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure. The Company shall notify the Planning Authority in writing of the name of the assignee, principal named contact and contact details within 14 days of written confirmation from the Scottish Ministers of an assignation having been granted.

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

## 4. Serious Incident Reporting

In the event of any breach of health and safety or environmental obligations relating to the Development during the period of this consent, the Company will 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, within 24 hours of the incident occurring.

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

## 5. Aviation Lighting

(1) Aviation lighting shall be installed in accordance with the reduced aviation lighting scheme described in and approved by the CAA in correspondence dated 21 December 2022 (“the Aviation Lighting Scheme”).

(2) The Aviation Lighting Scheme shall be fully implemented throughout the lifetime of the Development unless any change to the Aviation Lighting Scheme is approved in writing by the Scottish Ministers.

**Reason:** In the interest of air safety.

## 6. Energy Storage Technology

(1) No development shall commence on the energy storage facility unless and until details of the type of energy storage technology to be implemented have been submitted to and approved in writing by the Scottish Ministers.

(2) Thereafter, the type of energy storage technology shall be implemented in accordance with the approved details, unless otherwise agreed in writing with the Scottish Ministers.

(3) Written confirmation of when the energy storage facility is installed and commissioned shall be provided to the Scottish Ministers and the Planning Authority no later than one month after those dates.

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

## **7. Commencement of Development**

The Commencement of Development shall be no later than five years from the date of this deemed planning permission.

**Reason:** to define the period for implementation of the deemed planning permission

## **8. Redundant Turbines**

In the event that any wind turbines installed and commissioned fail to produce electricity on a commercial basis for a continuous period of 12 months then, unless otherwise approved in writing by the Planning Authority, the Company shall submit a scheme for the removal of the wind turbine(s) and ancillary equipment within six months of the expiration of the 12 month period which shall be implemented as approved in writing. The Site shall be reinstated in accordance with the Decommissioning Environmental Management Plan (“DEMP”).

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

## **9. Site Decommissioning, Restoration and Aftercare**

(1) The Development shall be decommissioned and cease to generate electricity by no later than the date falling thirty years from the date of Final Commissioning. The total period for decommissioning and restoration of the Site in accordance with this condition shall not exceed three years from the date of cessation of electricity generation by the Development without the prior written approval of the Planning Authority.

(2) There shall be no Commencement of Development until an Interim Decommissioning, Restoration and aftercare Plan (“IDRP”) has been submitted to and approved in writing by the Planning Authority. The IDRP shall outline measures for the decommissioning of the turbines and the restoration and aftercare of the Site. It shall include, without limitation, proposals for the removal of the above ground elements of the Development and confirmation of the status of subterranean elements of the development (retention, removal or other such proposal), the treatment of ground surfaces, the management and timing of the works and environmental management provisions.

(3) No later than 12 months prior to final decommissioning of the Development a detailed Decommissioning Environmental Management Plan (DEMP), based upon the principles of the approved IDRP, shall be submitted to the Planning Authority for its written approval.

(4) The DEMP shall provide updated and detailed proposals, in accordance with relevant guidance at that time, for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall include (but is not limited to):

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

(5) The Development shall be decommissioned, the site restored, and aftercare undertaken in accordance with the approved DEMP, unless otherwise agreed in writing in advance with the Planning Authority.

**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.

## **10. Financial Guarantee**

(1) No development shall commence unless and until a bond or other form of financial guarantee in terms reasonably acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations referred to in condition 9 is submitted to and approved in writing by the Planning Authority.

(2) The value of the financial provision shall be determined by a suitably qualified independent professional as being sufficient to meet the costs of implementing the IDRP.

(3) The bond or other form of financial guarantee shall be maintained in favour of the Planning Authority until the date of completion of all decommissioning, restoration, and aftercare obligations referred to in Condition 9.

(4) The value of the bond or other form of financial guarantee shall be reviewed by agreement between the Company and the Planning Authority or, failing agreement,



determined (on application by either party) by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations and best practice prevailing at the time of each review.

**Reason:** to ensure sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the company.

## 11. Micro-siting

All wind turbines, buildings, masts, borrow pits, areas of hardstanding and tracks shall be constructed in the location shown in the Figure 2.1a dated February 2024 (“the Site Location Plan”). Wind turbines, buildings, masts, borrow pits, areas of hardstanding and tracks may be adjusted by micro-siting within the Site. However, unless otherwise approved in advance in writing by the Planning Authority, micro-siting is subject to the following restrictions:

- a. Turbine 28 of the Development shown on the Site Layout Plan) shall not be erected closer than 447.3 metres from Turbine 8 within the proposed Lairg II Wind Farm development, either:
  - (i) as the said Turbine 8 is shown on the FEI Infrastructure Layout Revision 1 dated 17th August 2021 referred to in the Highland Council planning permissions references 21/00489/FUL and 22/01058/S42, or
  - (ii) the micro-sited location of the said Turbine 8 as specified in a written notice by the operators of Lairg II Wind Farm served on the operators of the Development provided it is so served prior to 31 October 2026 and that such micro-sited location of Turbine 8 is no more than 50 metres closer to Turbine 28 of the Development. For the avoidance of doubt, this condition will apply irrespective of whether Lairg II Wind Farm is constructed under the said planning permissions references 21/00489/FUL and 22/01058/S42 or under other permissions or consents.
- b. No wind turbine, mast or related hardstanding or access track shall be moved more than 50 metres from the position shown in the Site Layout Plan;
- c. No wind turbine foundation shall be positioned higher than 3 metres Above Ordnance Datum (AOD) than the position for that turbine shown on the Site Layout Plan;
- d. No building, temporary construction compound or borrow pit shall be moved more than 50 metres from the position shown on the Site Layout Plan;
- e. No micro-siting shall take place with the result that infrastructure is located within areas of peat of greater depth than the original location;
- f. No micro-siting shall take place into areas hosting Ground Water Dependent Terrestrial Ecosystems as identified in the EIAR;
- g. With the exception of water-crossings, no element of the proposed development should be located closer than 50 metres from any watercourse;
- h. All micro-siting permissible under this condition must be undertaken under the direction of the Environmental/Ecological Clerk of Works (ECoW) appointed under condition 14; and
- i. The prior written approval of the Planning Authority shall be required if the number of turbines to be built is less than 24 turbines.

No later than one month after the date of Final Commissioning, an updated Site Layout Plan must be submitted to the Planning Authority showing the final position of all wind turbines, masts, areas of hardstanding, tracks and associated infrastructure forming part of the Development. The plan should also specify 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 control environmental impacts while taking account of local ground conditions and to provide that Turbine 28 as shown on AIR Figure 2.1a (dated February 2024) is constructed to maintain a distance of 447.3 metres from Turbine 8 as shown on Lairg II Wind Farm Layout Figure dated 17 August 2021 or as micro-sited up to 50 metres from that location.

## **12. Construction and Environmental Management Plan (CEMP)**

No development other than Permitted Preliminary Works shall commence until a Construction and Environmental Management Plan (CEMP) containing site specific details of all on-site construction works, post-construction reinstatement, drainage, and mitigation, together with details of their timetabling, has been submitted to and approved in writing by the Planning Authority. The CEMP shall include the following:

- a. site waste management plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;
- b. site specific details for management and operation of any concrete batching plant (including disposal of waste water and substances);
- c. sustainable drainage system (SuDS) design concept including run-off and sediment control measures; and flood risk management during both the construction and operational phases of the development;
- d. a dust management plan;
- e. a pollution prevention and control method statement including arrangements for on-site storage of fuel and other chemicals;
- f. details of foul drainage arrangements;
- g. details of temporary site illumination;
- h. details of any water course engineering works including any water course crossings which shall be oversized bottomless arched culverts or traditional style bridges so designed to accommodate a 1 in 200 year peak flow plus climate change and enable fish passage and providing that water course crossings shall be oversized bottomless arched culverts or traditional style bridges;
- i. details of the methods to be adopted to reduce the effects of noise occurring during the construction period in accordance with BS5228;
- j. details of post-construction restoration and reinstatement of the working areas not required during the operation of the development;
- k. spoil management plan;
- l. details of the mineral working areas and restoration proposals;
- m. details of the construction works, constructions methods, and surface treatment for all hard surfaces and tracks;
- n. method of construction of the crane pads;
- o. method of construction of the turbine foundations;
- p. method of working cable trenches;
- q. method of construction and erection of the wind turbines and meteorological masts;
- r. 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;

- s. water quality management plan;
- t. species protection plan(s); and
- u. breeding bird protection plan.

Unless otherwise approved in writing by the Planning Authority the CEMP shall be implemented as approved

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

### **13. Construction Traffic Management**

(1) No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to, and approved in writing by, the Planning Authority.

(2) The CTMP shall include information on:

- a. materials, plant, equipment, components;
- b. location and labour required during construction;
- c. measures to ensure that affected public roads are kept free of mud and debris arising from the development, including lorry sheeting facilities (if required) and wheel washing arrangements;
- d. routing, access and egress arrangements for abnormal loads, concrete wagons and heavy goods vehicles (including potential out of hours deliveries);
- e. details and fully dimensioned drawings showing appropriate upgrading works at the junction of the site access and the public road including drainage measures, improved geometry and construction methods, measures to protect the public road, and the provision and maintenance of appropriate visibility splays;
- f. a local signage scheme; the scheduling of pre and post construction surveys; and
- g. a programme and methodology for any repairs as a consequence of any damage caused by construction traffic.

(3) The CTMP shall include contact details for a community traffic liaison officer for the Company to provide proposals and information relating to the arrangements for the delivery of all road and construction traffic mitigation measures required for the Development to affected community councils. This should include, but not be limited to, traffic management arrangements to be in place during any roadworks associated with the development and for the operation of local roads during delivery of abnormal loads during the construction of the development.

(4) Prior to commencement of deliveries of abnormal loads to site, the proposed route for any abnormal loads on the trunk road networks, details of escorts and any accommodation measures required including the removal of street furniture, junction widening, traffic management and the scheduling and timing of abnormal loads movements must be approved in writing by Transport Scotland and the Planning Authority.

(5) During the delivery period of the wind turbine construction materials, any additional signing or temporary traffic control measures necessary due to the size or length of any loads being delivered or removed must be undertaken by a traffic management consultant whose appointment shall be approved by Transport Scotland and the Planning Authority before delivery commences.

**Reason:** To ensure road safety and that transportation will not have any detrimental effect on the road and structures along the route and to minimise interference with the safety and free flow of the traffic on the local and trunk roads and to minimise adverse impacts on residents and local businesses in the area.

#### **14. Environmental/Ecological Clerk of Works**

(1) No development other than Permitted Preliminary Works shall commence unless and until the terms of appointment of an independent Environmental/Ecological Clerk of Works (ECoW) by the Company have been submitted to, and approved in writing by, the Planning Authority. The terms of appointment shall:

- a. impose a duty to monitor compliance with the environmental commitments provided in the EIA Report as well as the following (the ECoW works):
  - (i) any micro-siting under Condition 11;
  - (ii) the Pre-Construction Surveys for protected species including birds under Condition 12;
  - (iii) the Breeding Bird Protection Plan under Condition 12;
  - (iv) the Construction Environmental Management Plan under Condition 12;
  - (v) the Peat Management Plan under Condition 16;
  - (vi) the Habitat Management Plan approved under Condition 15;
  - (vii) the Deer Management Plan under Condition 15;
  - (viii) the Water Quality and Fish Monitoring Plan under Condition 29; and,
  - (ix) the Woodland Management Plan under Condition 15.
- b. require the ECoW to report to the nominated construction project manager, developer and Planning Authority any incidences of non compliance with the ECoW works at the earliest practical opportunity;
- c. require the ECoW to submit a monthly report to the construction project manager, developer and Planning Authority summarising works undertaken on site; and
- d. require a statement that the ECoW shall be engaged by the Planning Authority but funded by the developer. The ECoW shall be appointed on the approved terms throughout the period from Commencement of Development to completion of construction works and post-construction site reinstatement works.

(2) No later than 18 months prior to the Date of Final Generation or the expiry of this consent (whichever is the earlier), details of the terms of appointment of an ECoW by the Company throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted to the Planning Authority for written approval. The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the Development.

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

#### **15. Habitat Management Plan**

(1) No development shall commence until a Habitat Management Plan (HMP) has been submitted to and approved in writing by the Planning Authority. The HMP shall follow the principles set out in the Updated Outline HMP dated 15 December 2023; include a Deer Management Plan in accordance with the principles set out in the Draft Deer Management Plan submitted as EIAR Technical Appendix; take account of the Peat Management Plan to

be approved under condition 16; and shall detail measures to restore and enhance woodland and peatland habitats.

(2). The HMP shall set out proposed habitat management of the site during the period of construction, operation and decommissioning, restoration and aftercare, that would meet and exceed the mitigation measures described in the AIR and shall provide for the maintenance, monitoring and reporting of habitat on site.

(3). The HMP shall include provision for regular monitoring and review to be undertaken to consider whether amendments are needed to better meet the HMP objectives.

(4). Prior to development commencing on site, the applicant shall evidence control over the land required to deliver the approved HMP including the submission of contractual agreements with all affected landowners to demonstrate covering the duration of the HMP, along with a shapefile of the land covered by the plan.

(5). Unless and until otherwise agreed in advance in writing with the Planning Authority, the approved HMP (as amended from time to time) shall be implemented in full.

**Reason:** In the interests of the protection of the habitat and species identified in the EIAR and provision of biodiversity enhancement and monitoring measures.

## **16. Peat Management Plan**

(1) No development shall commence until a Peat Management Plan (PMP) has been submitted to and approved in writing by the Planning Authority. Unless otherwise approved in advance in writing with the Planning Authority, the approved PMP shall be implemented in full.

(2) The PMP shall:

- a. follow the principles set out within the Outline PMP (AIR Technical Appendix 7.2);
- b. ensure that all tracks on peat depths greater than one metre are floated where possible;
- c. demonstrate how micro-siting, floating tracks, location of borrow pits and other techniques will be used to minimise disturbance of peat;
- d. provide a method statement for cable trenching, prioritising use of pre-disturbed land such as track shoulders, and setting out a method for ensuring excavation of cables in virgin ground only takes place once the electrical contractors have cables on site ready for installation.

**Reason:** To minimise negative impacts on peat and carbon loss.

## **17. Construction Hours and Timing**

The hours of operation of the construction phase of the development hereby permitted shall be limited to 0700 hours to 1900 hours on Monday to Saturday and no work shall take place on Sundays or public holidays unless previously approved in writing by the Planning Authority. Out with these hours, development at the site shall be limited to turbine delivery and erection, commissioning, maintenance and pouring of concrete foundations (provided that the developer notifies the Planning Authority of any such works within 24 hours if prior notification is not possible). In addition, access for security reasons, emergency responses or to undertake any necessary environmental controls is permitted out with these hours.

**Reason:** In the interests of local amenity.

## **18. Design and Operation of Wind Turbines**

No turbines shall be erected on site until details of the proposed wind turbines have been submitted to and approved in writing by the Planning Authority. These details shall include:

- (a) the make, model, design, direction of rotation (all wind turbine blades shall rotate in the same direction), power rating, sound power level and dimensions of the turbines to be installed which shall have internal transformers, and
- (b) the external colour and finish of the wind turbines to be used (including towers, nacelles and blades) which shall be non-reflective, pale grey semi-matt;

No turbine shall display any name, logo, sign, lighting (with the exception of aviation lighting permitted under Condition 5) or other advertisement (other than health and safety signage) unless otherwise approved in advance in writing by the Planning Authority or as required by law.

No turbine shall exceed 180 metres ground to tip height and foundations.

Thereafter, the wind turbines shall be installed and operated in accordance with these approved details and, with reference to part (b) above, the wind turbines shall be maintained in the approved colour and monitored to ensure no significant rust, staining or dis-colouration occurs until such time as the wind farm is decommissioned.

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

## **19. Design of sub-station, Ancillary Buildings and other Ancillary Development**

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

(2) Thereafter, the substation building, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the details approved under paragraph (1) unless otherwise approved in advance in writing by the Planning Authority.

(3) None of the anemometers, power performance masts, switching stations or transformer buildings/ enclosures, ancillary buildings or above ground fixed plant shall display any name, logo, sign or other advertisement (other than health and safety signage) unless otherwise approved in advance in writing by the Planning Authority or as required by law.

**Reason:** To safeguard the visual amenity of the area.

## **20. Design of battery energy storage facility**

(1) No development shall commence on the battery energy storage facility unless and until details of the technical specification, layout, external finishes and appearance, dimensions and surface materials of the battery energy storage facility have been submitted to, and approved in writing by the Planning Authority.

(2) The energy storage facility shall be constructed in accordance with the approved details.

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

## **21. Aviation Charting and Safety Management**

The Company must notify the Ministry of Defence, at least 14 days prior to the commencement of the works, in writing of the following information:

- a. the date of the commencement of the erection of wind turbine generators;
- b. the maximum height of any construction equipment to be used in the erection of the wind turbines;
- c. the date any wind turbine generators are brought into use;
- d. the latitude and longitude and maximum heights of each wind turbine generator, and any anemometer mast(s).

The Ministry of Defence must be notified of any changes to the information supplied in accordance with these requirements and of the completion of the construction of the Development.

**Reason:** To maintain aviation safety

## **22. Borrow Pit – Scheme of Works**

No borrow pit shall be excavated until a scheme for the working and restoration of each borrow pit forming part of the Development has been submitted to and approved in writing by the Planning Authority. The scheme shall include:

- a. a detailed working method statement based on site survey information and ground investigations;
- b. details of the handling of any overburden (including peat, soil and rock);
- c. drainage, including measures to prevent surrounding areas of peatland, and Ground Water Dependant Terrestrial Ecosystems (GWDTE) from drying out;
- d. a programme of implementation of the works described in the scheme; and
- e. provision for the reinstatement, restoration and aftercare of the borrow pit at the end of the construction period, to include provision for topographic surveys of pre-restoration profiles, and details of topographical surveys to be undertaken of the restored borrow pit profile.

The approved scheme shall thereafter be implemented in full unless otherwise approved in writing by the Planning Authority.

**Reason:** To ensure that excavation of materials from borrow pits is carried out in a manner that minimises the impact on amenity and the environment, and that the mitigation measures contained in the EIAIR accompanying the application, or as otherwise approved, are fully implemented. To secure the restoration of borrow pits at the end of the construction period.

## **23. Borrow Pit – Blasting**

No blasting shall take place until such time as a blasting method statement has been submitted to and approved in writing by the Planning Authority. The method statement shall



include details of measures required to minimise the impact of blasting on residential dwellings in the vicinity of the Site. The scheme shall include:

- a. details on ground vibration limits at agreed blast monitoring locations;
- b. limitations on blasting to between the hours of 10.00 to 18.00 Monday to Friday inclusive and 10.00 to 13.00 on Saturdays, with no blasting taking place on a Sunday or on national public holidays, unless otherwise approved in advance in writing by the Planning Authority.

Thereafter the approved scheme shall be implemented.

**Reason:** To ensure that blasting activity is carried out within defined timescales to control impact on amenity and in accordance with best current practice.

## **24. Compensatory Planting**

No development shall commence until a Compensatory Planting Plan (“CPP”) to compensate for the removal of 8.5 hectares of existing woodland to provide 17.5 ha of compensatory planting has been submitted to and approved in writing by the Planning Authority. The CPP shall be implemented as approved.

**Reason:** To secure replanting and protect Scotland’s woodland resources in accordance with the Scottish Government’s policy on the Control of Woodland Removal.

## **25. Private Water Supplies (PWS)**

(1) No development shall commence until a Private Water Supplies Method Statement has been submitted to and approved in writing by the Planning Authority. The PWS Method Statement shall:

- a. detail measures to secure the quality, quantity, and continuity of private water supplies at PWS 03 and 04 as identified in the Private Water Supplies Risk Assessment dated November 2022 (Additional Information Report Technical Appendix 7.4);
- b. include proposed contingency plans in the event of an incident resulting in an adverse effect on any PWS, directly attributable to the proposed Development.
- c. include water quality sampling methods and shall specify abstraction points.

(2) The approved method statement shall thereafter be implemented in full.

**Reason:** To protect private water supplies.

## **26. Local radio link infrastructure for the energy industry**

Turbines 27, 21 and 15 as shown on the revised site layout plan AIR Figure 2.1a dated February 2024 shall not be erected above ground level until a mitigation solution in respect of link JESHZS1 - JESHZO06 is approved and implemented by the link operator.

The Company shall provide written confirmation to the Planning Authority that either (1) the link JESHZS1 - JESHZO06 is no longer operational; or (2) an approved mitigation solution has been implemented by the link operator prior to the erection above ground level of turbines 27, 21 and 15.

**Reason:** to maintain the identified radio link infrastructure across the Site.

## 27. Operational Carcass Recovery Scheme

(1) No turbine shall be erected until an Operational Carcass Recovery Scheme (“OCRS”) has been submitted to and approved in writing by the Planning Authority. The OCRS shall be implemented as approved.

(2) The OCRS shall include the following:

- a. land out to at least 200 metres from each turbine will be searched weekly for carcasses of livestock and deer species which may attract scavenging raptors.
- b. all carcasses identified will be removed from the Site.
- c. the submission of a review of the OCRS after the first three complete years of commercial operation of the wind farm. The review may include proposals for amendments and shall be submitted to and approved in writing by the Planning Authority. The amended OCRS shall be implemented as approved.

**Reason:** to reduce the potential for collisions of scavenging raptor species.

## 28. Outdoor Access Plan

(1) No development shall commence until an Outdoor Access Plan has been submitted to and approved in writing by the Planning Authority. The purpose of the plan shall be to maintain public access routes to site tracks and paths through the Site during construction, and to maintain outdoor access in the long-term. The Outdoor Access Plan shall include details showing:

- a. all existing access points, paths, core paths, tracks, rights of way and other routes (whether on land or inland water), and any areas currently outwith or excluded from statutory access rights under Part One of the Land Reform (Scotland) Act 2003, within and adjacent to the application site;
- b. any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or effect on curtilage related to buildings or structures;
- c. all proposed paths tracks and other alternative routes for use by walkers, riders, cyclists, canoeists, all-abilities users, etc. and any other relevant outdoor access enhancement (including construction specifications, signage, information leaflets, proposals for on-going maintenance etc.; any diversion of paths, tracks or other routes (whether on land or inland water), temporary or permanent, proposed as part of the Development (including details of mitigation measures, diversion works, duration and signage);

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

**Reason:** In order to safeguard public access both during and after the construction phases of the development.

## 29. Integrated water quality and biotic monitoring programme

(1) There shall be no Commencement of development until an integrated water quality and biotic monitoring programme has been submitted to and approved in writing by the Planning Authority.

(2) The integrated water quality and biotic monitoring programme shall be in accordance with MarineScotland Science (MSS) generic monitoring programme guidelines. It shall

provide for baseline data to be collected for the monitoring programme at least 12 months prior to construction commencing and no more than five years after completion of development as confirmed in writing by the Ecological/ Environmental Clerk of Works and for appropriate mitigation measures to be implemented.

(3) The integrated water quality and biotic monitoring programme shall be implemented as approved.

**Reason:** To ensure that potential impacts associated with the access track, construction compound and borrow pit within the River Shin catchment are monitored

### **30. Telecommunication**

Within 12 months of First Commissioning, any claim by any individual person regarding television or telecommunications 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 of services be attributable to the development, the developer shall remedy such impairment within 3 months.

**Reason:** To mitigate the potential effect of telecommunications interference on the development.

### **31. Nature Conservation Management Plan**

No development shall commence until details of a Nature Conservation Management Plan (“NCMP”) to include measures aimed at positively affecting regional NHZ 5 golden eagle and white-tailed eagles, have been submitted to, and approved in writing by, the Planning Authority. The NCMP shall include an independent feasibility study which shall inform the measures to be included within it. The NCMP shall be implemented for the period from the commencement of construction to the completion of decommissioning and site restoration.

**Reason:** To provide enhancement measures which will favourably affect the regional golden eagle and white-tailed eagle NHZ 5 populations.

### **32. Supply Chain Opportunity Protocol**

No development shall commence until a supply chain opportunity protocol (“the protocol”) has been submitted to, and approved in writing by the Planning Authority. The protocol shall provide for a minimum of two Meet the Buyer events to be held by the Company within 50km of the Site in order to publicise local supply chain opportunities in connection with the procurement for and construction of the Development. The protocol shall be implemented as approved.

**Reason:** to promote supply chain opportunities to maximise local and community socio-economic benefits in accordance with NPF4 Policy 11 c).

### **33. Archaeology**

No development other than Permitted Preliminary Works shall commence until a programme of work for the survey, evaluation, preservation and recording of any archaeological and historic features affected by the proposed development/work, including a timetable for investigation, 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.

### **34. Noise**

(1) The rating level of noise immission from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speeds set out in or derived from Tables 1 and 2 attached to these conditions and:

- a. Prior to the First Export Date, the wind farm operator shall submit to the Local 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 Local Authority.
- b. Within 21 days from receipt of a written request of the Local 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 Local Authority to assess the level of noise immission from the wind farm at the complainant's property (or a suitable alternative location agreed in writing with the Local Authority) in accordance with the procedures described in the attached Guidance Notes. The written request from the Local Authority shall set out at least the date, time and location that the complaint relates to. Within 14 days of receipt of the written request of the Local 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 Local Authority in the format set out in Guidance Note 1(e).
- c. Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not identified by name or location in the Tables attached to these conditions, the wind farm operator shall submit to the Local Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits 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 Local Authority shall include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise immission resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Local Authority for the complainant's dwelling.
- d. 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 Local Authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Where the proposed measurement location is close to the wind turbines, rather than at the complainants property (to improve the signal to noise ratio), then the operators submission shall include a method to calculate the noise

level from the wind turbines at the complainants property based on the noise levels measured at the agreed location (the alternative method). Details of the alternative method together with any associated guidance notes deemed necessary, shall be submitted to and agreed in writing by the Local Authority prior to the commencement of any measurements. Measurements to assess compliance with the noise limits set out in the Tables attached to these conditions or approved by the Local Authority pursuant to paragraph (c) of this condition shall be undertaken at the measurement location approved in writing by the Local Authority.

- e. Prior to the submission of the independent consultant's assessment of the rating level of noise immission pursuant to paragraph (f) of this condition, the wind farm operator shall submit to the Local 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 immission.
  - 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 of the Local 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 immission shall be undertaken in accordance with the assessment protocol approved in writing by the Local Authority and the attached Guidance Notes.
- f. The wind farm operator shall provide to the Local Authority the independent consultant's assessment of the rating level of noise immission undertaken in accordance with the Guidance Notes within two months of the date of the written request of the Local Authority made under paragraph (b) of this condition unless the time limit is extended in writing by the Local Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. 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 Local Authority with the independent consultant's assessment of the rating level of noise immission.
- g. Where a further assessment of the rating level of noise immission 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 (f) above unless the time limit for the submission of the further assessment has been extended in writing by the Local Authority.
- h. The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d) of the attached Guidance Notes. The 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) of the attached Guidance Notes to the Local 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 Classes 7, 8 and 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 which lawfully exists or had planning permission at the date of this permission.

**Reason:** To protect nearby residents from undue noise and disturbance. To ensure that noise limits are not exceeded and to enable prompt investigation of complaints.

**Table 1 - Between 07:00 and 23:00 - Noise level dB LA90, 10-minute**

Wind Speed (ms-1) as standardised to 10 metres height												
Location (easting, northing grid coordinates)	1	2	3	4	5	6	7	8	9	10	11	12
LA90 Decibel Levels												
The Coachhouse / Aulnagar Lodge Hotel (258406, 898981)	35	35	35	35	35	35	35	35	35	35	35	35
Haradwaith (258171, 898845)	35	35	35	35	35	35	35	35	35	35	35	35
The Gatehouse (258133, 899058)	35	35	35	35	35	35	35	35	35	35	35	35
Achinduich (258132,899872)	35	35	35	35	37	38	40	43	45	47	49	52
Achinduich House (258091, 900118)	45	45	45	45	45	45	45	45	45	47	49	52
Torroble (259593, 904138)	35	35	35	35	35	35	35	34	37	41	44	47
Reidhbreall (263579, 896423)	35	35	35	35	35	35	35	35	35	35	35	35
Craigton (262745, 896149)	35	35	35	35	35	35	35	35	35	35	35	35
Bobtail Cottage (257846, 897033)	35	35	35	35	35	35	35	35	35	35	35	35
Woodlands (257260, 902126)	35	35	35	35	35	35	37	39	41	43	44	46
Cracail (258631, 903766)	35	35	35	35	35	37	39	41	45	47	50	52
Gruids Mill (257672, 903246)	35	35	35	35	35	35	37	39	41	43	44	46
East Tomich (260945, 904951)	35	35	35	35	35	35	35	34	36	41	44	48
Achany (256869, 901620)	35	35	35	35	35	35	37	39	41	43	46	48

**Table 2 - Between 23:00 and 07:00 - Noise level dB LA90, 10-minute**

Wind Speed (ms-1) as standardised to 10 metres height												
Location (easting, northing grid coordinates)	1	2	3	4	5	6	7	8	9	10	11	12
LA90 Decibel Levels												
The Coachhouse / Aulnagar Lodge Hotel (258406, 898981)	35	35	35	35	35	35	35	35	35	35	35	35
Haradwaith (258171, 898845)	35	35	35	35	35	35	35	35	35	35	35	35
The Gatehouse (258133, 899058)	35	35	35	35	35	35	35	35	35	35	35	35
Achinduich (258132,899872)	38	38	38	38	38	38	38	38	40	43	46	49
Achinduich House (258091, 900118)	45	45	45	45	45	45	45	45	45	45	46	49
Torroble (259593, 904138)	38	38	38	38	38	38	38	38	38	38	39	41
Reidhbreall (263579, 896423)	35	35	35	35	35	35	35	35	35	35	35	35
Craigton (262745, 896149)	35	35	35	35	35	35	35	35	35	35	35	35
Bobtail Cottage (257846, 897033)	35	35	35	35	35	35	35	35	35	35	35	35
Woodlands (257260, 902126)	38	38	38	38	38	38	38	38	38	38	40	43
Cracail (258631, 903766)	38	38	38	38	38	38	38	38	39	41	43	46
Gruids Mill (257672, 903246)	38	38	38	38	38	38	38	38	38	38	40	43
East Tomich (260945, 904951)	38	38	38	38	38	38	38	38	38	38	40	41
Achany (256869, 901620)	38	38	38	38	38	38	38	38	38	38	40	41

**Note to Tables 1 and 2:** The geographical coordinates 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 standardised wind speed at 10 metres height within the site refers to wind speed at 10 metres height derived from those measured at hub height, calculated in accordance with the method given in the Guidance Notes.

**Note 2 to Tables 1 and 2:** The noise limits detailed in this condition can be recalculated, if necessary to consider any differences in financial involvement or turbine operation, using the same methodology adopted in Chapter 9 of the AIR Report dated November 2022 and

submitted with the application ECU00003251. Any update to the noise limits shall be submitted to and approved in writing by, the Planning Authority. The development shall operate in accordance with the limits contained in this Condition unless the Planning Authority gives it written consent to an updated set of noise limits.

### **Guidance Notes for Noise Condition**

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immission from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Note 3 with any necessary correction for residual background noise levels in accordance with Note 4. Reference to ETSU-R-97 refers to the publication entitled “The Assessment and Rating of Noise from Wind Farms” (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI).

#### **Note 1**

(a) Values of the LA90,10-minute noise statistic should be measured at the complainant’s property (or an approved alternative representative location as detailed in Note 1(b)), using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated before and after each set of measurements, using a calibrator meeting BS EN 60945:2003 “Electroacoustics – sound calibrators” Class 1 with PTB Type Approval (or the equivalent UK adopted standard in force at the time of the measurements) and the results shall be recorded. Measurements shall be undertaken in such a manner to enable a tonal penalty to be calculated and applied in accordance with Guidance Note 3.

(b) The microphone shall be mounted at 1.2 - 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Local Authority, and placed outside the complainant’s dwelling. Measurements should be made in “free field” conditions. To achieve this, the microphone shall be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Local Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

(c) The LA90,10-minute measurements should be synchronised with measurements of the 10-minute arithmetic mean wind speed and wind direction data and with operational data logged in accordance with Guidance Note 1(d) and rain data logged in accordance with Note 1(f).

(d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second (m/s) and arithmetic mean wind direction in degrees from north in each successive 10-minutes period in a manner to be agreed in writing with the planning authority. Each 10 minute arithmetic average mean wind speed data as measured or calculated at turbine hub height shall be ‘standardised’ to a reference height of 10 metres as described in ETSU-R-97 at page 120



using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Note 2(b), such correlation to be undertaken in the manner described in Note 2(c). All 10-minute periods shall commence on the hour and in 10-minute increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary.

(e) Data provided to the Local Authority in accordance with paragraphs (E) (F) (G) and (H) of the noise condition shall be provided in comma separated values in electronic format with the exception of data collected to assess tonal noise (if required) which shall be provided in a format to be agreed in writing with the Local Authority.

(f) A data logging rain gauge shall be installed in the course of the independent consultant undertaking an assessment of the level of noise immission. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

## **Note 2**

(a) The noise measurements should be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b).

(b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the Local Authority under paragraph (e) of the noise condition but excluding any periods of rainfall measured in accordance with Note 1(f).

(c) Values of the LA90,10-minute noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed for those data points considered valid in accordance with Note 2(b) shall be plotted on an XY chart with noise level on the Y-axis and wind speed on the X-axis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) shall be fitted to the data points to define the wind farm noise level at each integer speed.

## **Note 3**

(a) Where, in accordance with the approved assessment protocol under paragraph (e) of the noise condition, noise immission at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty shall be calculated and applied using the following rating procedure.

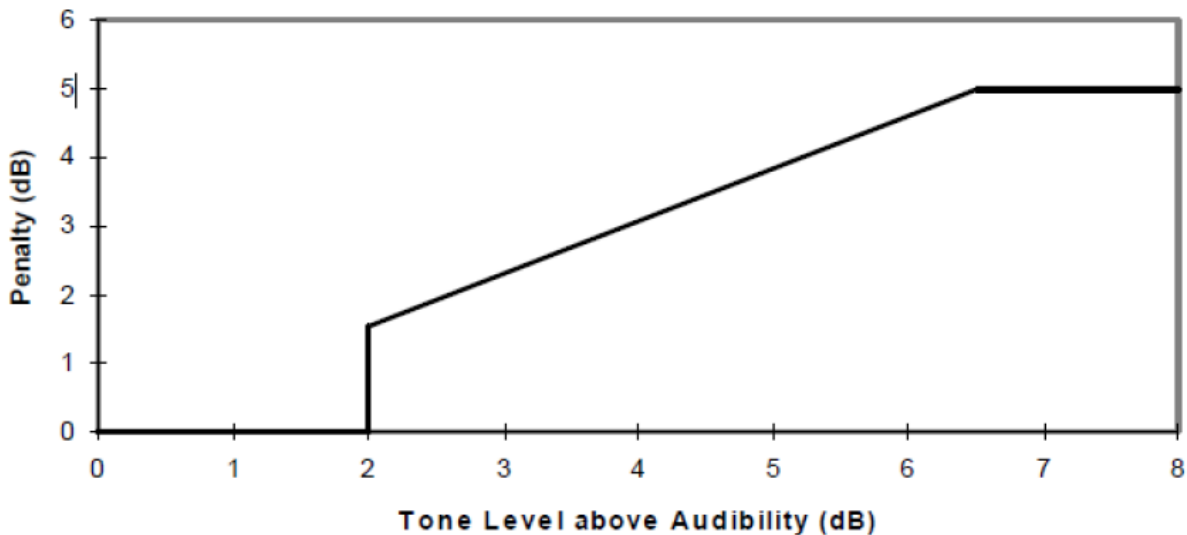
(b) For each 10-minute interval for which LA90,10-minute data have been determined as valid in accordance with Note 2, a tonal assessment shall be performed on noise immission during 2-minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure shall be reported.

(c) For each of the 2-minute samples the tone level above audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 -109 of ETSU-R-97.

(d) The tone level above audibility shall be plotted against wind speed for each of the 2-minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.

(e) A least squares “best fit” linear regression shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the “best fit” line fitted to values within  $\pm 0.5$  m/s of each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.



**Note 4**

(a) If a tonal penalty is to be applied in accordance with Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Note 2 and the penalty for tonal noise as derived in accordance with Note 3 at each integer wind speed within the range set out in the approved assessment protocol under paragraph (e) of the noise condition.

(b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Note 2.

(c) If the rating level at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Authority for a complainant’s dwelling in accordance with paragraph (c) of the noise condition then no further action is necessary. In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant’s dwelling approved in accordance with paragraph (c) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

(d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

i. Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range set out in the approved noise assessment protocol under paragraph (e) of this condition.

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

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

iii. The rating level shall be re-calculated by adding the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.

iv. If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note (iii) above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Authority for a complainant's dwelling in accordance with paragraph (c) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Local Authority for a complainant's dwelling in accordance with paragraph (c) of the noise condition then the development fails to comply with the conditions.

## **Definitions**

<b>Definitions</b>	
<b>Consent</b>	Means the consent granted under section 36 of the Electricity Act 1989 to construct and operate the generating station, which forms part of the Development, and any reference to Consent shall not be taken to include the deemed planning permission unless otherwise stated
<b>Commencement of Development</b>	Means the initiation of any development pursuant to the consent and/or the deemed planning permission by the carrying out of a material operation within the meaning of section 26 of the Town and Country Planning (Scotland) Act 1997 but excluding the Permitted Preliminary Works.
<b>Company</b>	Means Garvary Wind Farm Limited (Company Number 09749336) or in substitution its permitted assignees who are in possession of a letter of authorisation from the Scottish Ministers in accordance with Consent Condition 3.
<b>Development</b>	Means the wind powered generating station and ancillary development located within the Site as described in Annex 1.
<b>Final Commissioning</b>	Means the earlier of (i) the date on which electricity is exported to the grid on a commercial basis from the last of the wind turbines forming part of the Development erected in accordance with this consent; or (ii) the date falling thirty-six months from the date of Commencement of Development.
<b>First Commissioning</b>	Means the date on which electricity is first exported to the grid on a commercial basis from any of the wind turbines forming part of the Development

<b>Definitions</b>	
<b>Permitted Preliminary Works</b>	Means (i) any site investigation or other preparatory works or surveys which do not involve breaking ground and/or which are required for the purpose of satisfying or discharging any pre-commencement obligations under the planning conditions, and (ii) the provision of any temporary contractors' facilities within the Site which are necessary for (i) above.
<b>planning permission</b>	Means the deemed planning permission for the Development as described in Annex 1 granted by direction under section 57 of the 1997 Act
<b>Site</b>	Means the area of land delineated by the outer edge of the red line on the Site Layout Plan, AIR Figure 2.1a dated February 2024.

## **Appendix 2: Core documents and webcast**

Click this link to open the full [list of core documents](#) with weblinks. All weblinks are to documents on the DPEA website. The list omits two weblinks which are included below:

[CD10.16 NatureScot, Advising on peatland, carbon-rich soils and priority peatland habitats in development management \(updated Nov 2023\)](#)

and

[CD16.6 - Table of Proposed Conditions updated 26 Mar 2024](#)

Click the links below to watch the proceedings of the listed meetings. The links direct you to the public i website which hosts the DPEA webcast archive.

<a href="#">Pre-Examination Meeting</a>	31 October 2023
<a href="#">Day 1: Inquiry Session Landscape and visual</a>	25 March 2024
<a href="#">Day 2: Inquiry Session Landscape and visual</a>	26 March 2024
<a href="#">Day 3: Hearing Session Policy</a> <a href="#">Day 3: Hearing Session Draft Conditions</a>	27 March 2024

## **Appendix 3: The applicant's summary of case**

Abbreviations used by applicant:

Anne Cowling	AC	Inquiry report	IR
Cross Examination	XX	Decision Letter	DL
Dornoch Firth NSA	The NSA	David Bell	DB
The Highland Council	THC	James Welch	JW
Special Landscape Quality	SLQ	NatureScot	NS
Proposed Garvary Wind Farm	Garvary	Viewpoint 12	The Struie VP
Onshore Wind Policy Statement	OWPS	Viewpoint	VP
Reason(s) for objection	RFO	Hearing Statement	HS

1. Garvary is a National Development under NPF4. As explained on page 99 of NPF4 "National Developments are significant developments of national importance that will help to

deliver our spatial strategy”. Again, at page 103 of NPF4, it is noted that “Additional electricity generation from renewables and electricity transmission capacity of scale is fundamental to achieving a net zero economy and supports improved network resilience in rural and island areas”. In the OWPS (page 49) onshore wind is assessed as “mission critical” for meeting climate (emissions reduction) targets.

2. The issue which divides the Applicant and THC, which I believe is the only one which requires your close attention as a determining consideration, is strikingly narrow. The evidential questions and planning judgement to which this issue gives rise are as follows:

- (a) will the development have a significant effect on one of the seven SLQs of the NSA?
- (b) if so, will that give rise to an adverse effect on the integrity of the NSA?
- (c) if so, will the effect on the qualities (NB the plural) for which the area has been designated be clearly outweighed by benefits of national importance?
- (d) if not, would the proposed development nevertheless be acceptable in the overall planning balance?

3. Not only are there no issues to resolve, on the evidence, beyond landscape and visual effects, but THC has said, and confirmed in XX, that all such effects of Garvary beyond the interests of the NSA are acceptable.

4. THC is isolated in its view of the impact of the proposed development on the NSA. NS did object to the development as submitted (CD2.16) and indeed noted that the effects it found would not easily be mitigated through the removal of turbines. However, NS withdrew its objection when consulted upon the development before you, whilst still finding a significant effect on the SLQ which THC references in its RFO. Significant weight should be given to the revised NS position. It is highly regrettable that THC failed in any of its evidence to engage with the revised position of NS.

5. On the evidence of JW, Garvary would not have a significant adverse effect on the SLQ: “Inhabited surroundings within a wilder backdrop of hills and moors”. There is a single viewpoint from which THC contends this significant effect would arise: the Struie vp at 14km from the nearest turbine. This is, as noted by NS, a celebrated viewpoint. However, JW is correct that it is just too much to claim such an impact at such a distance, even if the Struie vp includes the short stretch of the B9176 approach from the south from which the development might be seen (JW 5 and 6).

6. Even if you did determine a significant effect on the referenced SLQ this would, on the evidence of JW, be insufficient to give rise to an adverse effect on integrity. As JW argues in Section 9 of his IR (see especially 9.57) the integrity of the NSA would not be adversely affected. It is notable that, as put to AC in XX, she had given no reasons for her opposite view, simply concluding that because of the significant effect on the SLQ, integrity would be adversely affected. The position of THC is extreme, is unconvincing on its own terms, is unreasoned, competes with the views of NS as well as JW, and should be rejected.

7. Even if you find a breach of integrity there is still the balance to apply under NPF4 policy 4c. I ask you to adopt the approach of the Scottish Ministers in the Narachan decision letter (CD11.8). In DL118 the Scottish Ministers concluded that they did not “consider that the social, environmental or economic benefits of the proposed development can be construed as significant or nationally important to the extent that they clearly outweigh the significant adverse effects on the SQs for which the North Arran NSA has been designated.” (my underlining). The Scottish Ministers thereby agreed with the conclusion of the Reporter in IR262 (CD11.5) that “As a proposal having National Development status,

these benefits are of national importance”. The benefits to which the Reporter referred are detailed in IR261. Scottish Ministers reached their concluding view in DL118 on the facts of that case, noting that NS objected to the Narachan proposal. The position of Garvary is very different and in my view the benefits that would ensue from Garvary as a National Development would clearly outweigh a significant adverse effect on the SLQ which THC has referenced and so effects on the SLQs as a whole.

8. Applying NPF4 Policy 4c to these conclusions, the requirements of the policy are, for reasons just given, satisfied on one of three alternative and sequential bases; no significant effect on the SLQ, no breach of integrity, or through the application of the balance in the second limb of Policy 4c.

9. Policy 11e ii and xiii are satisfied. For the purposes of policy 11e ii the effects of the development are on the evidence of JW, and as further explored in the policy hearing session, localised. In the alternative (if required) appropriate attention has been given to design mitigation. As to policy 11e xiii for Garvary, on the evidence of JW, it sits quite happily with the only project which matters in the cumulative baseline, being L2.

10. Policy 3 of NPF4 is handsomely satisfied in this case. I refer here to the evidential basis for my submissions in DB HS 4.9.1 - 25 (for the application of NPF4 Policy 3 in general) and to 4.9.26 - 35 (for the application of the policy to Garvary).

11. Turning to the LDP, there is only really one policy which needs application – Policy 67 on renewable energy development. For the same reasons given in relation to NPF4, with which it can be read compatibly (if, as said in my submissions, in a past context), the requirements of the policy are satisfied.

12. NPF4 presents a seismic shift in the planning balance. It is not simply an evolution from SPP and NPF3. Decision makers must now give significant weight to the global climate and nature crises (Policy 1). Policy 11 also requires decision makers, when considering impacts of wind energy development, to ensure that “significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions production targets.” The attribution of such weight is no longer a matter for the individual planning judgement of the decision maker. It is also essential to read across to the OWPS at section 3.6. It is there made clear that (underlined in the original) new onshore wind development “will change the landscape”. No such clarity or emphasis has been expressed before in national policy, and the words are there quite deliberately and have a clear meaning. Again paragraph 3.6.2 makes it clear that the intention of NPF4 is that stronger weight, that is to say something extra, needs to added to the need side of the planning balance.

13. Garvary is strongly supported by NPF4, which should be given substantial weight (in a Section 36 Electricity Act 1989 context) as the national element of the development plan. For that reason, and since there are no other adverse material considerations, consent and planning permission should be granted for Garvary.

#### **Appendix 4: The Highland Council’s summary of case**

Summary of Case by:	The Highland Council
Main Issue	Policy Assessment and Overall Conclusions
Key References	THC Policy Hearing Statement and Policy section of report CD4.2 & SOAM Policy CD16.1
National Energy and Climate Change Policy	

See below
National Planning Policy and Guidance
See below
Local Planning Policy and Guidance
See below
Other relevant considerations
<ol style="list-style-type: none"> <li>1. The policy framework is substantially agreed between the parties, see the policy SOAM CD16.1(ii), with only quite limited areas of disagreement which were explored in the Policy Hearing session.</li> <li>2. The single ground of objection engages NPF4 Policy 4(a) and (c).</li> <li>3. THC submits that, if as it contends, the proposal is found to conflict with NPF4 policy 4(c)(i) then it is almost inevitable that the proposal would be considered to have an unacceptable impact on the natural environment (policy 4(a)), and that in any final balancing act (taking into account other negative impacts as well as the benefits – about which there is no substantive disagreement) would result in rejection.</li> <li>4. The integrity of an NSA is more important than the contribution this proposal may make in terms of environmental benefits (albeit of national importance) as well as such social and economic benefits (of much more limited importance) as may be forthcoming. It is quite clear that the concept of “the right development in the right place” is retained. Development in a place which undermines the integrity of an NSA is not in the right place.</li> <li>5. If, contrary to THC’s primary case, the proposal does not conflict with NPF4 policy 4(c)(i) but does conflict with (c)(ii) then it submits that approval should not be given as the adverse impacts are not <b>clearly</b> outweighed by benefits of national importance (the only such benefit of national importance being environmental) and therefore would still have an unacceptable impact on the natural environment.</li> <li>6. Of the limited contentious policy issues:- <ol style="list-style-type: none"> <li>(a) First as to the proper approach to NPF4 Policy 11(e)(ii) and the word “localised”. There is no guidance on it, and such approach that can be gleaned from appeal decisions is very case specific (e.g. Achairn CD11.2 - for the reasons given by Mr Fitzpatrick). A decision has to be made on the basis of the particular circumstances of each case as per Mr Welch at paragraph 2.20 CD12.1. The only real dispute concerns whether the outcome may relate to the scale of the development proposed. In THC’s submission such an approach would undermine the whole concept of localised effects, which should relate to a relevant locality. If otherwise, there could be a different locality dependent upon the numbers and size of turbines proposed, which would make the application</li> <li>(b) Secondly, as to the interaction between NPF4 Policies 4 and 11 standing the wording of Policy 11(d), clearly the primary policy to deal with NSA’s is Policy 4 but THC consider that Policy 11(e) retains some relevance to the overall consideration as to whether the proposal accords with the development plan – it is headed “in addition ...”. It is not a major issue, as if a proposal fails Policy 4 it is very unlikely that it could be rescued by application of Policy 11. (Reference is also made to CD7.8 at paragraph 13, which whilst referring to SPP, makes clear that some general approaches remain relevant to consideration of impact on NSAs.)</li> </ol> </li> </ol>



(c) Thirdly, as to the issue of interaction between NPF4 and HWLDP and OWESG, in broad terms THC submits a broad, purposive approach should be taken to the issue of compatibility between the two. In general terms, there should be a reluctance to find incompatibility unless that is clear upon a reading of the documents as a whole, given that merely because some parts of document have been overtaken by events (e.g. different approach to a spatial framework) that does not mean the document as a whole is incompatible.

#### Conclusion

7. The application should be refused by reason of its impact on the NSA.
8. Having regard to the position in respect of the initial application – apparent agreement as to integrity of the NSA – for the reasons set out above insufficient change has occurred to alter that conclusion.
9. In particular whilst the horizontal spread has been reduced, the reduction occurred in respect of those turbines which had the least effect on the NSA (though considerable effect on Achany Glen and other locations). The impact of the numerous remaining turbines has not diminished in any way, nor has the extent of any impact on the NSA in terms of the extent to which it would be affected.
10. The proposal will at the least very significantly detract from SLQ2 – it will draw the focus away from the Firth to the moving blades of the turbines and so, for all the reasons set out above, undermine the integrity of the NSA and impact significantly on SLQ2 to the extent that, even absent impact on integrity, the benefits do not *clearly* outweigh the disbenefits.

Summary of Case by:	The Highland Council
Main Issue	Landscape and Visual Impact
Key References	Report of Handling (CD4.2), THC Landscape and Visual Impact Hearing Statements (CDs 13.1 & 2)
National Park/National Scenic Areas (where applicable)	
<u>Dornoch Firth NSA</u>	
Landscape Character – significant effects	
<ol style="list-style-type: none"> <li>1. The NSA Designation straddles the point where the <i>Ross and Sutherland Kyles and Coasts</i> Landscapes as identified in the SNH Landscapes of Scotland Map [CD008.002] meet. The <i>Sutherland Kyles and Coasts</i> Landscape description highlights the Dornoch Firth penetrating deep into the hills of Ross and Sutherland and the description for <i>Ross</i> in turn emphasises the transition between sheltered east coast and the wilder western landscapes. This transition and combination of landscapes to the north and south of the firth come together with the east-west transition and northward views to the peatlands and hills of <i>Sutherland</i> to create a landscape of a nationally important level of scenic attraction, with a pivotal scenic experience for people moving around the eastern highlands.</li> <li>2. It is not disputed that the Proposed Development lies outwith the NSA. However, the expanded SLQ information in CD008.018 speaks of the '<i>horizon of wilder hills</i>', of the Firth being <i>enclosed by hills</i>, of <i>the broad panorama that opens out at Cadha Mor</i>, which is located by the Ordnance Survey on the immediate stretch of road occupied by Viewpoint 12, and of <i>the sweeping moorland forms</i> that give a <i>distinctive backdrop to Migdale</i>. The hills outwith the NSA boundary are clearly expressed by the NSA</li> </ol>	

citation as being fundamental to this Special Landscape Quality. The level of risk for this SLQ, as appreciated from the higher viewpoints to the south of the NSA where the horizon is formed by hills outwith the designation boundaries, and which are highlighted in this SLQ, is properly assessed as **medium** in relation to the proposed development.

3. In terms of the relative prominence of the Proposed Development from Cadha Mor and Viewpoint 12 a 9° horizontal expanse is not minimal when considered in the context of a direct view across the Firth from a promoted viewpoint. The sense of arrival and the drama of the unfolding view at Viewpoint 12 contributes to the popularity and hence the sensitivity of this viewpoint to change in the landscape. The development would be prominently located on that horizon and seen as part of the layered landscape backdrop to the Firth, the Proposed Development would, combined with the sensitivity of the NSA result in a **Medium to Medium-High** effect, which should be regarded as **Significant**.
4. The level of mitigation which the AIR proposes in respect of *'the very limited parts of the NSA that will actually be affected by visibility of the Proposed Development'* is overstated, particularly when considered in light of the significance of the Struie Viewpoint location, as one which provides the elevated and expansive views from which the SLQ is best appreciated and in which the proposed development would form a key focus.
5. The development would have a significant effect on the *'Inhabited surrounds within a wilder backdrop of hills and moors'* Special Landscape Quality of the Dornoch Firth National Scenic Area and that the development would have a **moderate** and **significant** effect on the integrity of the NSA as a result.
6. In this location so much hinges on the wider landscape compositions and interactions which give rise to the sense of place, and to the regional scale of the landscape defined by the National Scenic Area. This sense of place and the drama of the arrival into the NSA can best be protected by a refusal of consent for the proposed development

#### Visual Impacts – significant effects

1. Despite the removal of T19 and the updated CLVIA (CD1.024), the visual impacts remains unchanged from those assessed in the RoH submitted against the AEIR of January 2023, which judged that the proposal will result in significant visual effects as a singular development from ten VPs and significant cumulative visual effects from 9 VPS.
2. THc acknowledges that the existing Lairg I scheme and the consented scheme of Lairg II already introduce turbines into forward views from the Struie Viewpoint. However the extent of the Garvary turbines visible above the horizon is considerably greater than the scale of visible towers in Lairg II, with Garvary's turbines rising significantly above the variations in the horizon that serve to contain the turbines of Lairg II. Garvary would undo the effective mitigation of the consented Lairg II scheme as it would appear at around the same height as Ben Klibreck on the horizon and reduce its prominence and more generally perceived scale in the landscape.
3. The introduction of the proposed development into this view would represent a considerable detrimental change to the essential character and visual qualities of Viewpoint 12, which is currently characterised not only by its unique land and sea -scape compositions but also by traditional industries. The concentration of towers and

moving blades of the turbines would become a major focal point and hence change the experience of the sense of place for the receptor.

4. THC's assessment has placed greater value than both the applicant and NatureScot to the gateway/entry into the NSA as mentioned in the NSA's description:

*Passage through the hills is confined to the base of the hill slopes at coastal level, or to the natural road-crossing (B8176) at The Struie. As this road leaves the confines of the hills at Cadha Mòr (Great, Narrow Pass), a broad panorama opens out across the Firth*

5. From viewpoint 12 Garvary:

- occupies the most elevated position in forward views;
- is perceptually wide due to its association with three low summits and their shallow surrounding landform - the applicant has relied on the general description of LCT135 rather than an analysis of the specific site conditions to overstate the degree to which the receiving landscape accommodates and reduces the scale of the turbines
- remains prominent due to the elevation of the road and viewpoint receptors along with the perceptual width, scale, and the overall density of moving turbines;
- turbines are visible to the base, appear behind, in front, and positioned on the horizon, such that the degree to which they are screened is overstated;
- sits above several uncomfortable scale comparators both within and outside the NSA;
- is of a very different scale, colour, texture, and character to the majority of features within the view across the NSA land- and sea- scape, which largely encompass traditional industries (noting that existing and approved turbines within the view are recessive and far less conspicuous).

Other headings as appropriate

#### Conclusion

- 1 Thus far, existing and approved development has not diminished or eroded the intactness of the NSA's SLQs and therefore the integrity of the NSA remains intact overall.
- 2 Garvary would pull focus and detract from the features that contribute to the NSA's ever-changing firth, and, the tranquillity of an undeveloped coastline as described by NatureScot, when experienced from the B9176 and Struie Viewpoint.
- 3 The proposal will result in a significant impact on the NSA's second SLQ and this significant effect will result in an evident and noticeable material change to that quality such that the development will constitute an erosion of the integrity of the NSA by virtue of compromising the objective to promote and safeguard the SLQ.