

T: 0131-244-1197
E: Alan.Brogan@gov.scot

Energiekontor UK Ltd
44 Elliot Street Mews
Glasgow
G3 8DZ

08 January 2025

Dear Sir or Madam

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 STRATH OYKEL WIND FARM WITHIN THE PLANNING AUTHORITY AREA OF THE HIGHLAND COUNCIL

Application

1. I refer to the application made on 16 May 2022 (“the Application”) under section 36 of the Electricity Act 1989 (“the Act”) by Energiekontor UK Ltd (“the Company”), a company incorporated under the Companies Act with company number 03830819 and having its registered office at 114 St Martin’s Lane, Covent Garden, London, United Kingdom, WC2N 4BE, for the construction and operation of Strath Oykel Wind Farm and battery storage electricity generating station.

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

Planning Permission

3. In terms of section 57(2) of the Town and Country Planning (Scotland) Act 1997 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.

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

Background

5. The Application proposes the construction and operation of up to 11 wind turbines of up to 200 metres in height from ground to blade tip, and associated infrastructure including wind turbine compounds, new and upgraded internal access tracks, on-site 132kv substation, three potential borrow pits, a new access junction, watercourse crossings, and with a generating capacity of approximately 72.6MW and a battery electricity storage system (“BESS”) of 5MW capacity (“the proposed Development”), with an operational period of 35 years.

6. The proposed Development is situated within the Strath Oykel forest in Sutherland and is located south of the River Oykel and 1.5km south east of Doune and approximately 2km south west of the village of Rosehall, wholly within the Highland Council planning authority area. It covers an area of 565 hectares currently consisting of mostly commercial forestry. The Application proposes the forestry track within the site would be upgraded while new and upgraded tracks totalling 11.2km would be provided to serve each turbine.

Legislation and Consultation

7. 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 is required to be notified in respect of a section 36 consent application.

8. In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 and the Electricity Works (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 (“the EIA Regulations”) the Company submitted an Environmental Impact Assessment Report (“the EIA Report”) consisting of five volumes, comprising (1) Main Text, (2) Figures, (3) NatureScot Visualisations, (4) Technical Appendices and (5) The Highland Council Visualisations, as well as a Design and Access Statement, a Planning Statement, a Pre-Application Consultation Report and a Non-Technical Summary of the EIA Report in support of the Application describing the proposed Development and giving an analysis of its environmental effects.

9. In accordance with requirements of both the Consents Regulations and the EIA Regulations, a notice of the proposed Development was published on the Company’s website and advertised in 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. In addition, to comply with the EIA Regulations, the Scottish Ministers are required to consult the relevant planning authority, as well as NatureScot, the Scottish Environment Protection Agency (“SEPA”) and Historic Environment Scotland (“HES”) as well as other persons that are likely to be concerned by the proposed Development by reason of their specific environmental responsibilities. Notifications were sent to The Highland Council (“the Planning Authority”) as well as to NatureScot, SEPA and HES.

10. The Scottish Ministers have had regard to the matters set out in Schedule 9 of the 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.

11. SEPA's advice has been considered as required by section 36(5A) of the Act with due regard given to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003.

12. In its response to the Scottish Ministers SEPA direct the Company to the Regulations section of the SEPA website for advice on regulatory requirements and good practice guidance.

13. Under paragraph 3(3) of Schedule 9 of the Electricity Act, the Scottish Ministers shall avoid, so far as possible, causing injury to fisheries or to stock of fish in any waters. The Scottish Ministers are satisfied that this is the case and more generally that the requirements of paragraph 3 have been met.

14. The Scottish Ministers have assessed the environmental impacts of the proposed Development and taken the environmental information in the EIA Report, the representations, consultation responses including those from the Planning Authority, SEPA, HES and NatureScot, into consideration in reaching their decision.

15. The Scottish Ministers have had regard to the requirements regarding publicity and consultation laid down in the Consents Regulations and the EIA Regulations, and are satisfied the general public as well as statutory and other consultees have been afforded the opportunity to consider and make representations on the proposed Development.

Conservation of Habitats and Species Regulations

16. 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, as defined in the Habitats Regulations, and if the development is directly connected with or necessary to the management of the European site.

River Oykel Special Area of Conservation ("SAC")

17. The River Oykel SAC lies approximately 180m to the north of the proposed Development.

18. Consequently, the Scottish Ministers are required to consider the effect of the proposed Development on the SAC by carrying out a Habitats Regulations Appraisal ("HRA") for the site. NatureScot advise that the proposed Development is likely to have a significant effect on the Atlantic salmon and freshwater pearl mussel qualifying interest of the SAC.

19. The Scottish Ministers' appropriate assessment of the HRA (Annex 4) concluded, following advice from NatureScot and in view of the conservation objectives of the SAC being met, that the proposed Development alone and in combination with other projects or proposals that could have impacts on the SAC, will not affect the integrity of the SAC provided

that mitigation measures as set out in the EIA Report and further recommended by NatureScot are implemented. The mitigation measures include:

- Production and implementation of a pollution prevention plan;
- A species protection plan for freshwater pearl mussel; and
- Measures detailed within the CEMP ensure that drainage derived from the proposed Development will be treated in a scheme that is able to treat drainage during a 1:200 year event.

Consultation Responses

Statutory consultees

20. **The Planning Authority** objects to the proposed Development. It considers it would have a detrimental visual impact, both individually and cumulatively with other existing and approved wind farms. It is of the view that the impact of the design, scale and location of the proposed Development on the south of the strath would lead to the perceived encirclement of properties within Strath Oykel including the settlements of Rosehall and Altass, affecting road users, tourists, residents and recreational users of the outdoors. Overall, it considers the proposed Development is not the '*right development in the right place.*'

21. The Planning Authority did not withdraw that objection and the Scottish Ministers did not consider it possible to overcome the objection and therefore caused a Public Inquiry ("PI") to be held as set out in this decision letter under the heading Public Inquiry.

22. **HES** does not object. It is content that the proposed Development would be unlikely to have significant effects on the settings of scheduled monuments nearby.

23. **NatureScot** does not object subject to conditions being imposed to ensure works take place strictly in accordance with mitigation measures to prevent potential adverse effects on the integrity of the River Oykel SAC.

24. It considers the proposed Development would result in some adverse effects on the sense of remoteness and sanctuary of Wild Land Area ("WLA") 29 Rhiddoroch – Beinn Dearg – Ben Wyvis, and this would be substantially amplified by the consented Meall Buidhe Wind Farm, however it does not consider these effects would significantly affect the wild land quality ("WLQ") of the designated areas.

25. NatureScot consider the proposed aviation lighting would diminish the experience of wildness within parts of WLA 34 Reay-Cassley but does not consider this would materially affect the WLQs.

26. The Scottish Ministers have imposed suitably worded conditions in respect of protecting the natural heritage interests of the SAC.

27. **SEPA** does not object subject to conditions being applied to any consent granted relating to peat and carbon loss, a habitat management plan, measures to protect the water environment and avoid flooding, adherence to all proposed mitigation measures outlined in the EIA Report and appropriate reinstatement and decommissioning works that comply with SEPA guidance.

28. The Scottish Ministers have imposed conditions, at Annex 2 - Part 2 which take account of SEPA's requirements.

Advisors to the Scottish Ministers

29. **Scottish Forestry** did not respond to the Scottish Ministers consultation however at the Reporters' request it provided a response during Public Inquiry which identified a number of matters on which it considered further information was required. It requested a restoration plan to demonstrate how land identified for temporary felling for quarrying would be restored to a condition suitable for tree growth, and details of compensatory planting.

30. The Scottish Ministers have attached suitably worded conditions which give account to Scottish Forestry's requirements surrounding a restoration plan and compensatory planting at Annex 2 - Part 1.

31. **Transport Scotland** requires that conditions are imposed in relation to the submission (for its approval) of routes of abnormal load on the trunk road network, and any required accommodation measures.

32. The Scottish Ministers have had regard to the requests for conditions as set out above by Transport Scotland and have attached suitably worded conditions at Annex 2 - Part 2.

33. **Ironside Farrar** was engaged by the Scottish Ministers to assess the Peat Landslide Hazard and Risk Assessment submitted by the Company on the section 36 application who advised it has no concerns.

Other consultees

34. **Defence Infrastructure Organisation (MoD)** does not object. MoD requires a condition to be included in any grant of consent to ensure the proposed Development is fitted with aviation safety lighting and that sufficient data is submitted to ensure that structures can be accurately charted to maintain aviation safety.

35. The Scottish Ministers have had regard to the request by Defence Infrastructure Organisation for information and requirements and included suitably worded conditions at Annex 2 - Part 2.

36. **Highlands and Islands Airport Limited (HIAL)** removed its objection to the proposed Development by letter dated 27 October 2022 following the submission of an aviation impact feasibility study.

37. **Kyle of Sutherland District Salmon Fishery Board** objects due to concerns regarding a risk to salmon and sea trout populations and their ability to migrate in the River Oykel. It is of the view that these matters could be affected by the construction and operation of the proposed Development, in particular the possible construction of a new bridge over the river and any associated pollution.

38. **Royal Society for the Protection of Birds (RSPB) Scotland** does not object to the proposed Development however it advises that white-tailed eagles are in the process of settling in the wider area and conditions are required to secure appropriate mitigation.

39. The Scottish Ministers have considered RSPB Scotland's response and have included suitably worded conditions at Annex 2 - Part 2, including the requirement for a habitat management plan ("HMP") with restoration of peatland to take priority, and any proposed compensatory planting to avoid areas important for birds of open habitats.

40. The following consultees stated that they had no concerns about or did not object to the proposed Development: **Ardgay Community Council, British Telecom, Crown Estate Scotland, Joint Radio Company, Mountaineering Scotland, National Air Traffic Services Safeguarding (NATS) and Scottish Water.**

41. The following consultees did not respond: **British Horse Society, Civil Aviation Authority, Creich Community Council, Fisheries Trust, Fisheries Management Scotland, John Muir Trust, Lairg Community Council, Scotways, Scottish Wildlife Trust and the Scottish Wild Land Group.**

Public Representations

42. The Scottish Ministers received a total of 231 public representations to this Application, all being objections. Reasons for objecting included:

- landscape and visual impacts and the scale of the proposed turbines;
- cumulative visual impacts, including the perceived encirclement of Rosehall;
- impacts on peat, ecology and ornithology, including on salmon and fisheries;
- impacts on tourism and the local economy;
- impacts on traffic and the local road network during construction;
- impacts from noise and light pollution, including cumulative noise impacts;
- health impacts on local residents, including mental health;
- impacts on WLAs; and
- archaeological impacts.

43. **No Ring of Steel (NORoS)** a group of residents in the locality of the proposed Development objected for reasons which included individual and cumulative visual and landscape effects, in particular effects on local communities and homes, effects on ecology, including the River Oykel and protected bird species and associated habitats, and potential adverse economic effects on local tourism interests.

44. The effects of the proposed Development, during its construction and operation, on the surrounding landscape and visual amenity, peat, ecology and ornithology, salmon and fisheries, tourism and economy, habitats, noise, light pollution, human health, impacts on WLAs and archaeological impacts have been assessed in the EIA Report.

45. The Scottish Ministers have considered the matters raised in the consultation responses and public representations and are satisfied, having taken into account the EIA Report, the AI and the report of the public inquiry (the "PI Report"), that the significant environmental impacts of the proposed Development have been appropriately assessed and

largely mitigated by design. Taking account of the conditions proposed in the PI Report, the Scottish Ministers have secured further environmental mitigation through the imposition of conditions attached to the planning permission at Annex 2 - Part 2 of this decision letter.

46. All consultee responses and representations can be viewed in full on the Energy Consents website at www.energyconsents.scot.

Public Inquiry

47. 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.

48. As set out previously, the Planning Authority objected to the Application and did not withdraw that objection. The Scottish Ministers did not consider it possible to overcome the objection, by way of applying conditions to give effect to the Planning Authority's objection, and caused a public inquiry to be held.

49. On 22 February 2023 the Application was accordingly referred to the Planning and Environmental Appeals Division ("DPEA") for a public inquiry to be held.

Public Inquiry Additional Information

50. In September 2023, Additional information ("AI") comprising an updated EIA Report Non -Technical Summary and an Outline Biodiversity Enhancement Plan, to address SEPA's requirements as well as queries raised by the Reporters, was submitted by the Company. The AI was publicised on 26 and 29 September 2023 and notifications sent to those originally consulted on the Application.

51. It is noted by the Scottish Ministers that at paragraph 280 of the PI Report the Reporters confirm that with the imposition of suitably worded conditions to address the matters raised by SEPA and ensure that effects on geology, hydrology and peat are minimised as far as is practicably possible, they are satisfied that the proposed Development would not be likely to have significant effects on these matters.

Report of Inquiry

52. The Reporters held a pre-examination meeting on 11 May 2023 with inquiry and hearing sessions taking place on 24, 25 and 26 October 2023 and further written submissions received 19 May, 25 July and 21 August 2023. The Reporters conducted unaccompanied site inspections on 07 and 08 August and accompanied site inspections took place on 27 October 2023.

53. The PI Report and recommendation was submitted to the Scottish Ministers on 22 February 2024. The PI Report (WIN-270-18) can be viewed here: [Scottish Government - Energy Consents Unit - Application Details](#)

54. The PI Report is set out under the following headings and provides the following:

- Recommendation
- Background
- Landscape and visual effects
- Effects on residential amenity
- Effects on River Oykel Special Area of Conservation and fisheries
- The Renewable Energy and other benefits of the Development
- Other matters for Ministers' consideration
- Proposed conditions
- Conclusions

55. The Reporters recommend that the application should be refused for reasons set out at paragraphs 365 to 378 of the PI Report. For the reasons set out at paragraphs 116 to 126 of this decision letter, the Scottish Ministers have taken a different view, and have granted consent for construction and operation of the proposed Development.

Determining Issues

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

- the landscape and visual effects, including cumulative effects and the effects of aviation lighting at night;
- the effects on residential amenity, including visual amenity, shadow flicker and noise;
- benefits of the proposed Development, including its renewable energy generation and targets, and net economic impact; and,
- the extent to which the proposed Development accords with Scottish Government policies, the national and local development plan and other relevant guidance.

57. These issues are considered in turn below.

Assessment of the Determining Issues

Landscape and Visual Effects

Landscape and Visual effects including cumulative and the effects of aviation lighting at night

58. The Landscape and Visual Impact Assessment ("LVIA") is contained within the EIA Report at Volume 1 – Chapter 6. The proposed Development and associated infrastructure is located on the southern flanks of Strath Oykel within an undesignated area of Rounded Hills – Caithness and Sutherland landscape character type ("LCT") 135. The northernmost part of the site, including part of the access track, is within an area of Strath – Caithness and Sutherland LCT 142.

59. The EIA Report identifies that the proposed Development would have a significant visual effect from parts of Rosehall (the only settlement within 2km), in particular the main

road (A837) and the riverside near the bridge over the River Cassley. It also identifies sections of the A839, and the minor roads in Glen Cassley (C1074 and C1136) as having intermittent significant cumulative visual effects. Viewpoints on or adjacent to these routes are illustrated by viewpoints 1 (A837 near Tuiteam), 2 (Rosehall Bridge), 3 (Altass), 5 (Achnahanat), 9 (Rosehall – Lairg) and 8 (Linsidemore) of the EIA Report.

60. The Company's LVIA sets out that the proposed Development would result in a localised significant direct effect on the host LCT 135 within around 3km but this would not be significant for the entire LCT. Each of the existing operational and consented wind farms within 10km is within this LCT and localised and significant direct and indirect cumulative effects are predicted as a result of the combined effect of these.

61. The LVIA concluded there would be a localised and significant indirect cumulative effect on a small part of the LCT 142 up to 3km from the proposed Development, although the majority of it would not be significantly affected. A small area of this would be significantly directly affected during the construction phase by works at the site entrance.

62. The proposed Development is not within any designated landscapes or WLAs. The LVIA found there would be no significant daytime effects on any WLAs. The Company states that the effects of the proposed aviation lighting on the WLQs of the southern extremities of WLA 34 would be significant however no significant effects are predicted at times when the lights would be operating at reduced intensity, anticipated to be 97% of the time as set out in the EIA Report - Technical Appendix 15.2 – Aviation Lighting Strategy at paragraph 49.

63. The Planning Authority set out in its consultation response that the proposed Development would have a “*significantly detrimental impact, both individually and cumulatively*” with other existing and approved wind farms including Lairg, Braemore, Rosehall and Achany, particularly as viewed by road users, including tourists, residents, and recreational users of the outdoors in the wider vicinity of the site due to the design, scale and location. It considers it is not the right development in the right place.

64. In its consideration of WLAs NatureScot set out that there would be some adverse effects on the sense of remoteness and sanctuary of WLA 29, however, these effects would not significantly affect the WLQs of the designated area. It also considers that the proposed aviation lighting would diminish the experience of wildness within WLA 34 but does not consider this would materially affect its WLQs.

65. The Reporters considered the landscape and visual effects including cumulative and night time. The overall conclusions are set out at paragraph 113 of the PI Report. The Reporters' conclusions set out that there would be no significant effects on any landscape planning designations and that although there would be localised significant landscape effects and cumulative landscape effects, limited to around 3km, these would not be significant for the landscape character types as a whole.

66. The Reporters further set out that there would be significant visual effects and cumulative visual effects from viewpoints, 1,2,3,5,7 and 8 and significant visual effects from Rosehall, sections of the A837 and A839, sections of three minor roads and sections of five core paths. Parts of the dispersed settlements of Altass, Achnahanat, and Linsidemore would also experience significant visual effects.

67. Having considered the EIA Report, the AI, the consultation responses, representations and taking into account the Reporters' conclusions, the Scottish Ministers acknowledge that the proposed Development would avoid significant effects on national, regional or local landscape designations but would result in significant localised landscape impacts (including cumulative) and would introduce significant visual effects (including cumulative) at a number of viewpoints within 10 km to the north and east of the proposed Development site.

68. The effects identified have been carefully considered overall by the Scottish Ministers in the context of the benefits that the proposed Development will bring in terms of its contribution to renewable energy and climate change targets.

Effects on residential amenity, including visual amenity, shadow flicker and noise

69. In the EIA Report at Technical Appendix 6.3 – Residential Visual Amenity Assessment, the Company recognises that there would be significant visual effects from nine residential properties within 2km of the proposed Development (the nearest property located 1,432m from the nearest turbine), with effects on some of the properties gradually reducing as new replanted forestry matures throughout the operational period. Due largely to the intervening distance, partial screening and use / orientation of the property, it does not consider that any of the properties would be affected in terms of their visual amenity such that the living standards would be adversely affected by 'visual dominance' to the extent that it would become an unattractive place to live when judged objectively and in the public interest, on an individual basis or cumulatively. The effect of the proposed aviation lighting would not be significant due to proposed mitigation which would reduce the intensity and luminance of the lights during operation.

70. The EIA Report Chapter 15 – Other Issues, identifies significant effects due to shadow flicker at ten residential properties within 2km of the nearest turbine, however, the Company considers the effects are likely to be substantially less if adjustments are made to take account of sunshine hours.

71. With regard to noise the Company's noise assessment as set out in Chapter 12 – Noise of the EIA Report concludes that noise limits would be exceeded during construction of the proposed Development at two nearby residential properties but the operation of the proposed Development would not exceed noise limits. Cumulative daytime operational noise limits would be exceeded at ten nearby residential properties, however once directional propagation is considered, cumulative noise limits are assessed as being met. Overall construction and operational effects are not considered to be significant.

72. The Planning Authority considers that the proposed Development should be judged as being significantly detrimental in terms of impact on individual and community residential amenity. It is of the view that it would lead to the "perceived encirclement of properties" within Strath Oykel, including the settlements of Rosehall and Altass, and does not demonstrate sensitive siting. It does not dispute that in isolation the adverse effects on any property affected by the proposed Development would render it an unattractive place to live, however, it is of the view that the important consideration is the number of properties affected. It is also of the view that the assessment of aviation lighting does not adequately address the significance of effects

as part of the overall effects on residential amenity.

73. NORoS raised concerns regarding the number of properties affected by the proposed Development and advised that the effects on residential visual amenity should be considered in conjunction with noise and shadow flicker to establish the overall effects. It also raised concerns regarding the overall effects of the proposed aviation lighting.

74. Representations from members of the community in the vicinity of the proposed Development raised concerns regarding noise, individually and cumulatively, with Achany and Rosehall wind farms.

75. The Reporters considered the effects on residential amenity, including visual amenity, shadow flicker and noise and accept the Company's assessment of visual effects at nine residential properties within 2km of the proposed Development, however, they consider there would also be significant visual effects at one further property. The overall conclusions are set out at pages 36 - 37 of the PI Report. The Reporters conclude that there would be significant daytime visual effects and significant night time visual effects, due to the proposed aviation lighting, at ten residential properties within 2km of the proposed Development. The Reporters' conclusions accept that although there would be significant visual effects, these effects would not be so severe that any property would become an unattractive place to live.

76. The Reporters also consider that subject to suitable mitigation there would be no effects on residential properties caused by shadow flicker. Overall, the Reporters are satisfied that the noise levels, both in construction terms and operationally, including cumulatively with other wind farms, would be within an acceptable threshold and any exceedance of construction noise would be temporary.

77. The Scottish Ministers are satisfied that the proposed Development has undergone a thorough design iteration process which took account of all of the environmental constraints.

78. Having considered the EIA Report, the AI, the consultation responses, representations and taking into account the Reporters' conclusions, the Scottish Ministers acknowledge that the proposed Development will have some significant daytime visual effects and some significant night time visual effects on residential properties. The Scottish Ministers are satisfied that there would be no significant effects caused by noise and that the effects of shadow flicker can be overcome. An appropriately worded condition has been imposed to prevent impacts of shadow flicker on residential property.

79. The Scottish Ministers have carefully considered the effects identified above against the benefits that the proposed Development will bring in terms of its contribution to renewable energy and climate change targets.

Climate Change and Renewable Energy Targets

80. The seriousness of climate change, its potential effects and the need to cut carbon dioxide emissions, remain a priority of the Scottish Ministers.

81. Scottish Government are committed to ensuring that an increased proportion of electricity is generated from renewable energy sources in order to meet carbon emission targets.

The Climate Change (Emissions Reduction Targets) (Scotland) Act 2024 introduced a target of net zero greenhouse gas emissions by 2045 at the latest.

82. The carbon payback for the proposed Development has been evaluated and presented in the EIA Report using the approved carbon calculator. Whilst noting the limitations of any such calculations, the online carbon calculator provides the best available means by which carbon calculations can be provided in a consistent and comparable format.

83. The carbon payback period for the proposed Development is expected to be 3 years if it replaces the grid-mix of electricity generation, saving approximately 55,136 tonnes of carbon dioxide per year for its 35 year operational life, compared to a typical grid mix of electricity supply.

84. The Scottish Ministers are satisfied that the proposed Development would provide carbon savings, and that these savings would be of an order that weighs in favour of the proposed Development.

Economic Benefits

85. 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 Company sets out in the Application that the proposed Development, during its 18 month construction phase, could result in between £2.5m and £5.5m being spent in the Highland Council area during the construction phase, with 18-40 full time employment (FTE) direct jobs being created and 45-100 FTE jobs being supported in total.

86. Whilst the overall net economic benefits are estimations, the Scottish Ministers are satisfied there remains the potential for some positive net economic benefits both for the Highland Council area and Scotland.

Scottish Government policies and Local Development Plan

Scottish Energy Strategy and Onshore Wind Policy Statement

87. Scottish Energy Strategy (“SES”) 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).

88. The Onshore Wind Policy Statement (“OWPS”), published in December 2022, reaffirms that the deployment of onshore wind is mission critical for meeting Scotland’s energy targets. The statement renews the commitment to onshore wind technology and sets ambition for a minimum installed capacity of 20GW of onshore wind in Scotland by 2030, while recognising the existing nature crisis, and that onshore wind farms must strike the right balance in how we care for and use the land.

89. The Scottish Ministers are satisfied that the proposed Development will provide a contribution to renewable energy targets and carbon savings in support of the ambitions of the SES and OWPS.

Scotland's National Planning Framework ("NPF4")

90. The Application was submitted prior to the adoption of NPF4 on 13 February 2023.
91. A revised Draft NPF4 was laid in parliament on 08 November 2022. In December 2022 the Company and parties, who had provided a consultation response or made a representation to the Application, were invited to provide updated responses in respect of the revised Draft NPF4. The Company provided an updated position statement with regards to NPF4 which is available to view on Energy Consents website at www.energyconsents.scot
92. Where further comments have not been made and the original response or representation was made in terms of an objection, it has been taken NPF4 has not changed this position.
93. SEPA did not provide an updated response. The rest of the statutory consultative bodies advise that NPF4 did not alter the views held by them prior to the adoption of it. All further responses received have been considered in addition to previous representations and consultation responses.
94. 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. 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. Part 1 of NPF4 sets out a Spatial Strategy for Scotland to 2045 and identifies developments of national importance to help deliver that strategy. The need for renewable electricity generation, of which the proposed Development is an example, is established therein.
95. The energy policy principles encourage, promote and facilitate all forms of renewable energy development onshore and offshore, including energy generation and storage.
96. The energy policy, policy 11, 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 as a whole and balanced on a case by case basis when reaching a decision on applications for wind energy development.
97. The Reporters set out their consideration of the proposed Development against the policies of NPF4 at paragraphs 314 to 345, concluding at paragraph 376 that the proposed Development is not supported by relevant provisions of NPF4 overall. In their considerations they concluded that as a consequence of the significant residential visual amenity effects, the uncertainty over the proposed Development's deliverability as a result of the possible requirement for a new bridge to be built and the uncertainty surrounding the location of the

proposed off-site compensatory woodland planting, it was not supported overall.

98. The Scottish Ministers are satisfied that the matters pertaining to NPF4 have been assessed in the Application, EIA Report, the AI and considered in responses from the Planning Authority, HES, SEPA, NatureScot and other relevant bodies.

99. As stated above, NPF4 supports the planning and delivery of sustainable places, liveable places and productive places, and that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits over the longer term. Decisions should be guided by policy principles including, among others, giving due weight to net economic benefit; supporting the delivery of renewable energy infrastructure; reducing greenhouse gas emissions and responding to the nature crisis.

100. The Scottish Ministers acknowledge that the proposed Development would result in some significant localised landscape impacts and significant visual impacts to within 10 kilometres of the proposed Development, albeit for a development of this type they are comparatively limited in their extent, and significant visual effects on some residential properties. The proposed Development would also however bring benefits, particularly in terms of its contribution to renewable energy and climate change targets as well as socio-economic benefits such as employment and associated business and supply chain opportunities.

101. Having considered the Application, EIA Report, the AI, responses from consultees and third parties as well as the PI Report, the Scottish Ministers consider that appropriate design mitigation has been applied, reducing the significance of the landscape and visual effects to an acceptable level. Whilst there are significant residential visual amenity effects at 10 residential properties within 2 km of the proposed Development, the Scottish Ministers consider, in agreement with the Reporters and the Planning Authority, these effects do not make the residences unattractive places to live. On balance, the Scottish Ministers find that the proposed Development is supported overall by NPF4 policies.

Local Development Plan and Supplementary Guidance

102. The Planning Authority assessed the proposed Development against the Highland Wide Local Development Plan 2012 (“HWLDP”) and principle policy 67 – Renewable Energy, with the Onshore Wind Supplementary Guidance Nov 2016 (OWESG), Caithness and Sutherland Development Plan and NPF4 as well as relevant supplementary and non-statutory guidance.

103. The Planning Authority’s objection to the proposed Development concluded that the proposed Development’s impacts on the environment meant that it was not located, sited or designed such that it would not be significantly detrimental overall, either individually or cumulatively with other developments and was therefore contrary to policy 67 of the HWLDP.

104. The Reporters agree that Policy 67 (Renewable Energy) is the most directly relevant HWLDP policy in respect of the proposed Development.

105. The Reporters consider the proposed Development against the HWLDP (and relevant

supplementary guidance) at paragraphs 348 - 355 of the PI Report. The Reporters recognise the contribution the proposed Development would have towards meeting climate change objectives and emission reduction targets which would be of national importance. The Reporters also take account of the significant adverse environmental effects of the proposed Development.

106. The Reporters conclude at paragraph 356 that the proposed Development is not supported overall by the HWLDP, finding that policy support for the proposed Development is outweighed by the proposed Development's significant environmental impacts.

107. In the determination of Section 36 applications, the Development Plan is a material consideration but it does not have primacy. The Scottish Ministers have considered the vision, spatial strategy and policies of the Local Development Plan and the associated Supplementary Guidance.

108. The Scottish Ministers are satisfied that matters pertaining to the HWLDP have been assessed in the Application, EIA Report, the AI and considered in responses from the Planning Authority, HES, SEPA, NatureScot and other relevant bodies. The Scottish Ministers' find that the location, siting and design of the proposed Development is not so significantly detrimental that it outweighs the positive support that can be drawn from the HWLDP and consider that it is supported overall.

Other Matters Raised

109. The Reporters reference that a replacement bridge, not included as part of the application, would be needed over the River Oykel to accommodate the proposed loads required to access the site for the construction and installation of the proposed Development, as well as an access track linking the public road to the proposed Development site.

110. The Reporters further consider, in their overall conclusions at paragraph 374 of the PI Report that the weight attached to the benefits of the proposed Development *"is reduced somewhat by our finding that there is a degree of uncertainty over the proposal's overall deliverability since a new bridge and access track appear likely to be required to convey turbines to the site but are not included within the application."*

111. The Scottish Ministers accept the Applicant's statement that a potential new bridge crossing does not form part of the section 36 application for the proposed Development because final details of the access route, including the nature of any proposed crossing are still being finalised. The Scottish Ministers also accept that a new bridge crossing would be subject to a separate application for planning permission which would in turn be subject to relevant environmental assessment, including in relation to the River Oykel SAC, which would include an assessment of potential cumulative impacts with the proposed Development forming part of the baseline.

112. At inquiry the Company advised that it is investigating alternative routes for construction traffic, which might result in a different route to the site being chosen. It submits that rights over land would be required as part of any route to the site to allow the delivery of abnormal loads and road upgrade works where necessary, and this is the norm with any wind farm development.

113. The Reporters also raised concerns regarding the uncertainty surrounding the location of the proposed off-site compensatory woodland planting at paragraph 375 of the PI Report, stating that they could not be certain that a suitable and deliverable site for this could be secured in the local area, therefore attributing less weight to the benefits of the proposed Development.

114. The Scottish Ministers consider that the negative effect of the loss of forestry as a result of the proposed Development would not be so substantive as to diminish the support afforded to it and are satisfied that compensatory planting has been secured by virtue of a condition attached to the Section 36 consent which gives account to Scottish Forestry's requirements surrounding a restoration plan and compensatory planting.

115. Having considered the EIA Report, the AI, the consultation responses, representations and the PI Report, the Scottish Ministers disagree with the Reporters, in the circumstances of this case, that the deliverability of the proposed Development is a matter to be weighed in their overall consideration of the proposed Development and are satisfied the proposed Development is capable of being delivered such that the benefits associated with the deployment of the proposed Development will be realised.

The Scottish Ministers' Conclusions

Reasoned Conclusions on the Environment

116. The Scottish Ministers are satisfied that the EIA Report and AI has been produced in accordance with EIA Regulations and that the procedures regarding publicity and consultation laid down in those Regulations have been followed.

117. Having considered the EIA Report and the AI as well as representations from consultative bodies including the Planning Authority, HES, SEPA and NatureScot and other material information, alongside the Reporters' findings, reasoning and conclusion of the proposed Development as set out in the PI Report, the Scottish Ministers are satisfied the environmental impacts of the proposed Development have been assessed and have taken the environmental information into account when reaching their decision.

118. Taking into account the above assessment, subject to conditions to secure environmental mitigation, the Scottish Ministers consider the environmental effects of the proposed Development are mostly overcome with the exception of some significant, localised landscape effects and some significant visual effects (including cumulative) on both visual amenity and residential visual amenity which are on balance considered acceptable.

119. The Scottish Ministers are satisfied that this reasoned conclusion is up to date.

Acceptability of the proposed Development

120. In weighing up the support for the proposed Development against its environmental impacts, in the context of the Scotland's renewable energy and climate change targets and ambitions, energy policies and planning policies, the Scottish Ministers have taken account of the Reporters' overall conclusions and recommendation. The Scottish Ministers, in making their

determination on the Application, have balanced the considerations set out above at paragraphs 54 - 109, decided what weight is to be given to each, and reached a view as to where the balance of benefit lies.

121. 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 the Scottish Ministers have afforded significant weight in favour of the proposed Development.

122. The transition to a low carbon economy is also an opportunity for Scotland to take advantage of our natural resources to grow low carbon industries and create jobs. The Scottish Ministers are satisfied that the proposed Development, in addition to providing a contribution to renewable energy targets and carbon savings, will provide economic benefits which also weigh in its favour.

123. The Scottish Ministers do not consider that the absence of full clarity of the final transportation route to the site nor the uncertainty surrounding the location of the proposed off-site compensatory woodland planting materially affect the prospect of deployment to such an extent that any weight afforded in respect of the proposed Development's benefits should be diminished. The Scottish Ministers are therefore satisfied that the proposed Development would make an important and needed contribution to the Scottish Government achieving its targets for increasing the generation of electricity from renewable sources as well as providing economic benefits.

124. Having considered the effects on the landscape and on visual amenity, including cumulative effects, as well as the effects on residential visual amenity, the Scottish Ministers accept that these are negative effects which must be balanced against the significant support afforded in principle to the proposed Development and have given consideration to whether or not, on balance, they are acceptable.

125. The Scottish Ministers find that the significant effects on residential visual amenity do not constitute a failure in maintaining residential amenity overall, that the significant effects on the landscape and on visual amenity are contained to the extent that they are acceptable overall in the context of the benefits the proposed Development will bring in terms of its contribution to renewable energy and climate change targets.

126. Taking everything into account, the Scottish Ministers disagree with the recommendation of the Reporters and find that the proposed Development is supported overall by Scottish Government Policies and the Local Development Plan, and that the Application should be approved.

The Scottish Ministers' Determination

127. Subject to the conditions set out in Annex 2 – Part 1 of this decision letter, the Scottish Ministers grant consent under section 36 of the Electricity Act 1989 for the construction and operation of Strath Oykel Wind Farm, in the Highland Council Planning Authority area as described in Annex 1.

128. Subject to the conditions set out in Annex 2 – Part 2 of this decision letter, the Scottish Ministers direct under section 57(2) of the Town and Country Planning (Scotland) Act 1997 that

planning permission is deemed to be granted in respect of the Development described in Annex 1.

129. The consent hereby granted will last for a period of 35 years from the earlier of:

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

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

131. Copies of this letter have been sent to the Planning Authority, NatureScot, SEPA and HES. This letter has also been published on the Scottish Government Energy Consents website at www.energyconsents.scot

132. The Scottish Ministers’ decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine Applications for consent. The rules relating to the judicial review process can be found on the website of the Scottish Courts: [chapter-58-judicial-review.pdf \(scotcourts.gov.uk\)](http://www.scotcourts.gov.uk/chapter-58-judicial-review.pdf)

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

Yours sincerely

pp Nikki Anderson

On behalf of Alan Brogan

A member of the staff of the Scottish Ministers

Annex 1 - Description of Development;

Annex 2 - (Part 1) Conditions attached to Section 36 consent;

(Part 2) Conditions attached to Deemed Planning Permission;

Annex 3 - Site Layout Plan and Revised Substation & Compound;

Annex 4 - Appropriate Assessment in respect of the River Oykel SAC.

Description of Development

The Development comprises a wind powered electricity generating station known as Strath Oykel Wind Farm with a generating capacity exceeding 50 MW located within Strath Oykel forest, in the Sutherland region of the Scottish Highlands, south of the River Oykel, 2km south of the A837 and 1.5km south east of Doune and approximately 2km south west of the village of Rosehall.

The principal components of the Development comprise:

- 11 wind turbines; each with a maximum base to tip height of 200m;
- Associated turbine compound areas including foundations and hardstanding areas for erecting cranes at each turbine location;
- On-site tracks connecting each turbine;
- An upgraded existing forestry track;
- An energy storage compound to store batteries with a 5MW capacity which would be within the construction compound footprint;
- Underground cables linking the turbines to the substation;
- Up to three borrow pits for the extraction of stone on-site (indicated on Figure 3.1 as borrow pit search areas);
- A temporary construction compound including provision for onsite concrete batching;
- On-site substation to provide a tee-in connection; and
- Forestry felling and restocking as proposed within the EIA report Chapter 14: Forestry.

All as more particularly shown on Figures 3.1 and 10.7 'Site Layout and Revised Substation & Compound' attached at Annex 3.

Annex 2 – Part 1 - Conditions attached to the Section 36 consent.

1. Notification of Date of First 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 the Scottish Ministers to calculate the date of expiry of the consent.

2. Commencement of Development

- (1) The Commencement of Development shall be no later than 5 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 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 the Scottish Ministers to monitor compliance with obligations attached to this consent and deemed planning permission as appropriate.

3. Assignment

- (1) This consent may not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignment of the consent (with or without conditions) or refuse assignment 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.
- (2) The Company shall notify the local 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 assignment 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 serious 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 and the Planning Authority, 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. Compensatory Planting

(1) No felling shall take place until a woodland planting scheme to compensate for the removal of existing woodland that will be temporarily felled and permanently felled to accommodate the development, as identified in Chapter 14 of the Environmental Impact Assessment Report ("the Replanting Scheme") has been submitted for the written approval of the Scottish Ministers in consultation with Scottish Forestry and the Planning Authority.

(2) The Replanting Scheme shall include:

- (a) details of the location of the area to be planted;
- (b) details of land owners and occupiers of the land to be planted;
- (c) the nature, design and specification of the proposed woodland to be planted;
- (d) the phasing and associated timescales for implementing the Replanting Scheme;
- (e) proposals for the maintenance and establishment of the Replanting Scheme including annual checks, replacement planting, fencing, ground preparation and drainage;
- (f) proposals for reporting to the Scottish Ministers on compliance with timescales for obtaining the necessary consents and thereafter implementation of the Replanting Scheme; and
- (g) 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 Replanting Scheme shall be implemented in full.

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

Annex 2 – Part 2 – Conditions to be 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 development shall commence until full 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, power rating, sound power level and dimensions of the turbines to be installed which shall have internal transformers; and
 - b) The external colour and/or finish of the wind turbines to be used (including towers, nacelles and blades) which shall be non-reflective, pale grey semi-matte.
- (2) All wind turbine blades shall rotate in the same direction.
- (3) No text, sign or logo shall be displayed on any external surface of the wind turbines, save those required by law under other legislation.
- (4) The wind turbines will operate with a blade pitch control system, pitching the blades out of the wind (“feathering”), to reduce rotation speeds below 2rpm while idling to reduce bat collision risk.
- (5) Thereafter, the wind turbines shall be installed and operate in accordance with these approved details and, with reference to part (1)(b) above, the wind turbines shall be maintained in the approved colour, free from rust, staining or dis-colouration until such time as the wind farm is decommissioned.
- (6) All cables between the turbines and between the turbines and the control building on site shall be installed and kept underground.

Reason: To ensure the Planning Authority is aware of the wind turbine details and to protect the visual amenity of the area.

8. Appearance and Design of Sub-station, Ancillary Buildings and other Ancillary Development

- (1) No development shall commence on the sub-station unless and until final details of the external appearance, dimensions, 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) The substation building, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the details approved under Figure 10.7 (Revised Substation and Compound) appended to SEPA's consultation response dated September 2022 as amended by the details approved under part (1)

9. Signage

No anemometer, power performance mast, switching station, transformer building, or enclosure, ancillary building or above ground fixed plant shall display any name, logo, sign or advertisement (other than health and safety signage) unless and until otherwise approved in writing by the Planning Authority.

Reason: To safeguard the visual amenity of the area.

10. Micro-siting

- (1) Subject to part (2), the locations of wind turbines and other infrastructure comprising the Development, shall be the locations shown on Figure 3.1 of the EIA Report as amended by Figure 10.7 (Revised Substation and Compound) appended to SEPA's consultation response dated 8 September 2022.
- (2) Wind turbines, buildings, masts, 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 in consultation with the ECoW, micro-siting is subject to the following restrictions:
 - a) the wind turbines and other infrastructure may be micro-sited up to a maximum distance of 50 metres, from the locations shown on Figure 3.1 of the EIA Report;
 - b) no wind turbine or other infrastructure may be micro-sited to less than 50 metres from a surface water feature or watercourse;
 - c) the wind turbines and other infrastructure may not be micro-sited onto peat deeper than that indicated for the relevant infrastructure on Figures 10.4a and 10.4b of the EIA Report; and
 - d) no wind turbine foundation shall be positioned higher, when measured in metres Above Ordnance Datum (AOD), than the position shown on Figure 3.1 of the EIA Report.
- (3) A plan showing the final position of all wind turbines, buildings, masts, areas of hardstanding, tracks and associated infrastructure forming part of the Development shall be submitted to the Planning Authority within one month of the completion of the

Development works. The plan shall also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the Environmental Clerk of Works' ("ECoW") or Planning Authority's approval, as applicable.

Reason: To enable necessary minor adjustments to the position of the wind turbines and other infrastructure to allow for site-specific conditions while maintaining control of environmental impacts and taking account of local ground conditions.

11. Borrow Pits - Scheme of Works

(1) No development shall commence until a site-specific scheme for the working and restoration of each relevant borrow pit has been submitted to and approved in writing by the Planning Authority. The scheme shall include:

- a) Details of the characteristics and suitability of the rock to be extracted from each relevant borrow pit including an assessment of the calcium content of the rock;
- b) Detailed working method statement based on site survey information and ground investigations;
- c) Details of the handling of any overburden (including peat, soil and rock);
- d) Drainage measures, including measures to prevent surrounding areas of peatland, water dependant sensitive habitats and Ground Water Dependent Terrestrial Ecosystems (GWDTE) from drying out;
- e) A programme of implementation of the works described in the scheme; and
- f) Details of the reinstatement, restoration and aftercare of each borrow pit 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 be implemented in full.

Reason: To ensure that excavation of materials from the borrow pits is carried out in a manner that minimises the impact on road safety, amenity and the environment, and to secure the restoration of borrow pits at the end of the construction period. To ensure that blasting activity is carried out within defined timescales to control impact on amenity.

12. Borrow Pits - Blasting

(1) Blasting shall only take place on the site between the hours of 07:00 to 19:00 on Monday to Friday inclusive and 07:00 to 13:00 on Saturdays, with no blasting taking place on a Sunday or on a Bank or National Public Holiday.

(2) Unless otherwise approved in advance in writing by the Planning Authority in consultation with NatureScot and the Kyle of Sutherland District Salmon Fisheries Board.

Reason: To ensure that blasting activity is carried out within defined timescales to control impact on amenity.

13. Environmental Clerk of Works (ECoW)

- (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 (in consultation with NatureScot, SEPA and the Kyle of Sutherland District Salmon Fisheries Board) and the ECoW has been appointed by the Company on the approved terms. The terms of appointment shall:
 - a) Impose a duty to monitor compliance with the ecological, ornithological and hydrological commitments provided in the EIA Report (including Table 16.1, the Schedule of Mitigation) the Construction Environmental Management Plan, Peat Management Plan, Biodiversity Enhancement Plan, Species Protection Plan, Bird Protection Plan and Water Quality Management Plan (the ECoW Works);
 - b) Advise on any micro-siting proposals pursuant to Condition 10
 - c) Require the ECoW to report to the nominated construction project manager any incidences of non-compliance with the ECoW works at the earliest practical opportunity and stop the job where any breach has been identified until the time it has been reviewed by the construction project manager;
 - d) Require the ECoW to report to the Planning Authority any incidences of non-compliance with the ECoW Works at the earliest practical opportunity; and
 - e) Provide that the ECoW (and, for the avoidance of doubt, any separate Aquatic Clerk of Works appointed under Condition 16) may temporarily require the cessation of works in circumstances where there has been non-compliance (or there is expected to be imminent non-compliance) with any planning condition which the ECoW considers would give rise to an adverse environmental impact and, in such circumstances, to instruct any necessary mitigation or remediation works.
- (2) The ECoW shall be appointed on the approved terms throughout the period from Commencement of Development to completion of post construction restoration works.
- (3) No later than 18 months prior to decommissioning of the Development 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 decommissioning, restoration and aftercare phases.

14. Construction Method Statement

- (1) No development shall commence unless and until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Planning Authority. Thereafter the construction of the Development shall only be carried out in accordance with the approved CMS, subject to any variations approved in writing by the Planning Authority. The CMS shall include details of:

- a) the phasing and timing of construction works;
- b) the formation of temporary construction compounds, access tracks and any areas of hardstanding;
- c) the temporary site compound including temporary structures / buildings, fencing, parking and storage provision to be used in connection with the construction of the development;
- d) the maintenance of visibility splays on the entrance to the site;
- e) the method of construction of the crane pads and turbine foundations;
- f) the method of working cable trenches;
- g) the method of construction and erection of the wind turbines;
- h) all water crossings;
- i) temporary site illumination during the construction period;
- j) surface treatments and the construction of all hard surfaces and access tracks between turbines and between turbines and other infrastructure;
- k) routing of onsite cabling;
- l) siting and operation of wheel washing facilities;
- m) cleaning of site entrances, site tracks and the adjacent public road and the sheeting of all HGVs taking spoil or construction materials to / from the site to prevent spillage or deposit of any materials on the road;
- n) post construction restoration / reinstatement of the temporary working areas and the construction compound and a restoration timetable;
- o) areas on site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant, equipment and vehicles; and
- p) site specific details for management and operation of any concrete batching plant (including disposal of pH rich waste water and substances)

(2) The Development shall be implemented in accordance with the approved CMS unless otherwise agreed in writing by the Planning Authority.

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 Environmental Impact Assessment Report and supplementary information which accompanied the application, or as otherwise agreed, are fully implemented.

15. Protected species Surveys

- (1) Prior to the commencement of development, a survey plan shall be submitted to and approved in writing by the Planning Authority, in consultation with NatureScot and the Kyle of Sutherland District Fisheries Board. No development shall commence unless and until the agreed surveys have been carried out at an appropriate time of year for the species concerned, by a suitably qualified person, comprising:
 - a) otter surveys at watercourses and adjacent suitable habitats and within a 250 metre radius of each wind turbine and associated infrastructure;
 - b) water vole surveys at watercourses and adjacent suitable habitats up to 200 metres upstream and downstream of watercourse crossings;
 - c) pine marten surveys at suitable habitats prior to tree felling, vegetation removal and dismantling of log and rubble piles;
 - d) red squirrel surveys at suitable habitats prior to tree felling, vegetation removal

- and dismantling of log and rubble piles;
 - e) bat surveys between May and September to include surveys at all structures within 30 metres of proposed works;
 - f) breeding bird surveys, particularly for wader and raptors, of any land upon which construction takes place, plus an appropriate buffer as agreed with the ECoW to identify any species within disturbance distance of construction activity (only required if construction work is carried out during the bird breeding season from 15 March to 31 August inclusive);
 - g) electrofishing surveys at Allt Loch Mhic-Mharsaill, Allt Innis nan Damh and the River Oykel; and
 - h) badger and wildcat surveys at suitable habitats and within 30 metres of each wind turbine and associated infrastructure.
- (2) The survey results and any mitigation measures required for these species on site shall be set out in a Species Protection Plan (SPP) and Bird Protection Plan (BPP) which shall inform construction activities. No development shall commence unless and until the SPP and BPP are submitted to and approved in writing by the Planning Authority, in consultation with NatureScot and the Kyle of Sutherland District Salmon Fisheries Board.
- (3) The approved SPP and BPP shall thereafter be implemented in full.

Reason: In the interests of nature conservation.

16. Construction Environmental Management Plan (CEMP)

- (1) No development shall commence until a works specific CEMP related to the phase or phases of works or development to be undertaken has been submitted to and approved in writing by the Planning Authority, in consultation with NatureScot, SEPA and the Kyle of Sutherland District Salmon fisheries Board. The Sutherland CEMP shall (unless such detail is provided pursuant to any other planning condition) include the following management plans and details:
- a) a Peat Management Plan (in accordance with the outline Peat Management Plan submitted as Technical Appendix 10.01 to the EIA Report);
 - b) a Dust Management Plan
 - c) a Site Waste Management Plan;
 - d) a Forestry Residue Management Plan detailing how forest waste will be used;
 - e) a Noise and Vibration Management Plan detailing abatement measures and working practices to control construction noise and vibration in relation to residential dwellings and the River Oykel Special Area of Conservation;
 - f) a Lighting Management Plan detailing measures to control construction lighting and direct lighting away from the River Oykel Special Area of Conservation and watercourses;
 - g) a Biosecurity Security Plan;
 - h) a Pollution Prevention Plan' including measures to prevent impacts on the River Oykel Special Area of Conservation, which measures shall include, but are not limited to:
 - i) storage of waste, oils and chemicals on sealed surfaces and within a bund suitable to contain 110% of the liquid content stored and location of liquids storage areas more than 50 metres from watercourses and

- hydrological pathways;
 - ii) no refuelling or vehicle washing to take place within 50 metres of watercourses and hydrological pathways;
 - iii) washing of any external coarse stone used on-site to reduce fine sediments that may be transported through watercourses;
 - iv) measures to mitigate silt transport via watercourses, including use of silt fencing and silt roadside drainage;
 - v) regular monitoring of the effectiveness of pollution prevention and silt mitigation measures; and
 - vi) an emergency plan in the event of a pollution release.
- i) A Construction Drainage Strategy to ensure that drainage derived from the wind farm site is treated in a scheme that is able to treat drainage during a 1:200 year rainfall event, including but not limited to:
- i) incorporation of SuDS measures (such as filter drains, trackside swales and settlement ponds) for each drainage catchment sized to accommodate the 1 in 200 year return period rainfall event without any flooding, whilst ensuring there is no increase in site runoff rates and volumes;
 - ii) pollution control measures to be adopted within each catchment treatment train;
 - iii) analysis of the geotechnical properties of subsoils likely to be encountered across the site to determine settlement times and hence the required retention time of any attenuation features; and
 - iv) Regular monitoring of the effectiveness of the strategy and identification and implementation of any required remedial measures.
- j) A Species Protection Plan in respect of Freshwater Water Pearl Mussel (FWPM) and Salmonids within the River Oykel Special Area of Conservation, including but not limited to:
- i) Implementation of a Water Quality Monitoring Programme to monitor parameters including calcium; biological oxygen demand; cadmium; reactive phosphorous; nitrate; phosphate; pH; conductivity; and suspended sediment. The monitoring regime must cover the construction period and a suitable period after to monitor ongoing (potential) pollution on site and ensure silt mitigation measures are working effectively;
 - ii) Installation of in-situ automatic water quality loggers to provide an early warning system for potential pollution events on site allowing emergency anti-pollution measures to be quickly deployed to contain any pollution event;
 - iii) Appointment of an Aquatic Clerk of Works (ACoW) (who, subject to having appropriate expertise and experience of aquatic ecosystems, may be the same person as the ECoW) to monitor the Pollution Prevention Plan, the Construction Drainage Plan and the Water Quality Monitoring Plan;
 - iv) Toolbox talk to contractors to highlight necessary working practices and precautions; and
 - v) An emergency response plan in the event of a pollution incident.
- (2) The Development shall be implemented in accordance with the approved CEMP unless otherwise agreed in writing by the Planning Authority in consultation with NatureScot, SEPA and the Kyle of Sutherland District Salmon Fisheries Board.

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 May 2022 which accompanied the application, or as otherwise agreed, are fully implemented and to protect the River Oykel Special Area of Conservation.

17. Construction Hours

Construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 07.00 to 19.00 on Monday to Friday inclusive and 07.00 to 13.00 on Saturdays, with no construction work taking place on a Sunday or on a Public Holiday. Outwith these specified hours, construction activity shall be limited to concrete pours, wind turbine erection and delivery, maintenance, emergency works, dust suppression, and the testing of plant and equipment.

Reason: In the interests of amenity to restrict noise impact and the protection of the local environment.

18. Traffic Management Plan

(1) No development shall commence until Stage 1 of a Traffic Management Plan (TMP) has been submitted to and approved by the Planning Authority, in consultation with the Roads Authority and Transport Scotland. Stage 1 of the TMP, which shall be implemented as approved, must include:

- a) a description of all measures to be implemented by the Company in order to manage general traffic during the construction phase (including routing strategies), with any additional or temporary signage and traffic control undertaken by a recognised Quality Assured traffic management consultant;
- b) provision for Community Liaison in line with the scheme agreed under Condition 31;
- c) the identification of all upgrades to the public road network, including but not limited to upgrades to the local and trunk road network to make it suitable for general construction traffic, to ensure that it is to a standard capable of accommodating construction related traffic (including the formation or improvement of any junctions leading from the site to the public road) to the satisfaction of the Roads Authorities. This shall include the following:
 - i) the site access being via the local road network;
 - ii) a detailed review of the routes to site for general construction traffic;
 - iii) details of all mitigation / improvement works for general construction traffic;
 - iv) a route assessment report for general construction traffic and details of the movement of any street furniture, any traffic management measures and any upgrades and mitigation measures as necessary;
 - v) an initial assessment of the capacity of existing bridges, culverts and other structures along the construction access routes to cater for general construction traffic, with upgrades and mitigation measures proposed and implemented as necessary;
- d) details of any upgrading works required at the junction of the site access and the

public road. Such works may include suitable drainage measures, improved geometry and construction, measures to protect the public road and the provision and maintenance of appropriate visibility splays;

- e) details of wheel washing measures, with all vehicles transporting construction material to be sheeted to ensure water and debris are prevented from discharging from the site onto the public road;
- f) details of appropriate traffic management which shall be established and maintained at the site access for the duration of the construction period;
- g) measures to ensure that construction traffic adheres to agreed routes on the road network; and
- h) a procedure, including a survey of relevant roads before the commencement of development, for the regular monitoring of road conditions and the implementation of any remedial works required during construction and decommissioning periods.

(2) There shall be no commencement of abnormal load deliveries until Stage 2 of the TMP has been submitted to, and approved by, the Planning Authority, in consultation with the Roads Authority and Transport Scotland at least two months in advance of the first anticipated abnormal load delivery to the site, the date of which shall be notified to the Council prior to commencement of development of any development on the site. Stage 2 of the TMP, which shall be implemented as approved, must include:

- a) the identification and delivery of all upgrades to the public road network, including but not limited to upgrades to the local and trunk road network to make it suitable for abnormal load deliveries, to ensure that it is to a standard capable of accommodating the identified vehicles (including the formation or improvement of any junctions leading from the site to the public road) to the satisfaction of the Roads Authorities. This shall include the following:
- b) a detailed review of the routes to site for abnormal loads, with a delivery route from the Port of Entry to site;
- c) details of all mitigation / improvement works required to facilitate abnormal load movements, including details of any upgrading works and an associated construction and reinstatement management plan for any works required;
- d) a route assessment report for abnormal loads, including swept path analysis and details of the movement of any street furniture, any traffic management measures and any upgrades and mitigation measures as necessary;
- e) an initial assessment of the capacity of existing bridges, culverts and other structures along the abnormal loads delivery route to cater for abnormal load vehicles, with upgrades and mitigation measures proposed and implemented as necessary;
- f) a videoed trial run to confirm the ability of the local road network to cater for turbine delivery. Three weeks' notice of this trial run must be made to the local Roads Authority and Transport Scotland, with the local Roads Authority in attendance unless agreed in writing;
- g) no deliveries by abnormal loads shall take place until a final assessment of the capacity of existing bridges and structures along the abnormal load delivery route is carried out and submitted to and approved by the Planning Authority and full engineering details and drawings of any works required to such structures to accommodate the passage of abnormal loads have been submitted to and approved by the Planning Authority; thereafter the approved works shall be completed prior to the abnormal load deliveries to the site;

- h) a risk assessment for the transportation of abnormal loads to site during daylight hours and hours of darkness;
- i) a detailed protocol for the delivery of abnormal loads / vehicles shall be submitted to and approved by the Planning Authority. The protocol shall identify any requirement for convoy working and / or escorting of vehicles and include arrangements to provide advance notice of abnormal load movements in the local media. Temporary signage, in the form of demountable signs or similar approved, shall be established, when required, to alert road users and local residents of expected abnormal load movements. The protocol shall identify any times that loads / vehicles would avoid;
- j) a contingency plan prepared by the abnormal load haulier. The plan shall be adopted only after consultation and agreement with the Police and the respective Roads Authorities. It shall include measures to deal with any haulage incidents that may result in public roads becoming temporarily closed or restricted;
- k) a detailed delivery programme for abnormal load movements, which shall be made available to the Planning Authority;
- l) a procedure, including a survey of relevant roads before the commencement of any abnormal load deliveries, after any abnormal load deliveries, and the implementation of any remedial works required during construction/ decommissioning periods; and
- m) appropriate reinstatement works shall be carried out, as required by the Planning Authority, at the end of the turbine delivery and erection period.

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

19. Redundant Turbines

- (1) The Company shall, at all times after the Date of First Commissioning, record information regarding the monthly supply of electricity to the national grid from the site as a whole and electricity generated by each individual turbine within the Development and retain the information for a period of at least 12 months. The information shall be made available to the Planning Authority within one month of any request by them.
- (2) If one or more turbines fail to generate electricity to the grid for a continuous period of 6 months then, unless otherwise agreed in writing by the Planning Authority, the Company shall:
 - a) by no later than 3 months from the date of expiration of the 6 month period, submit a scheme to the Planning Authority setting out how the relevant turbine(s) and associated infrastructure will be removed from the site and the ground restored; and
 - b) implement the approved scheme within six 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.

20. Deer Management Statement

- (1) No development shall commence unless a deer management statement has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot. The deer management statement shall set out proposed long term management of deer using the wind farm site and shall provide for the monitoring of deer numbers on site from the period from Commencement of Development until the date of completion of restoration. It shall also include a deer fence management plan.
- (2) The approved deer management statement shall thereafter be implemented in full.

Reason: In the interests of good land management and the management of deer.

21. Biodiversity Enhancement Plan

- (1) No development shall commence unless and until a Biodiversity Enhancement Plan ("BEP") has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot, SEPA, Scottish Forestry and the Kyle of Sutherland District Salmon Fisheries Board.
- (2) The BEP shall fully address the habitat management and biodiversity enhancement measures outlined in the Outline Biodiversity Enhancement Plan dated 4 September 2023.
- (3) The approved BEP will include provision for regular monitoring and review to be undertaken on at least a five-yearly basis to consider whether amendments are needed to better meet the BEP objectives. In particular, the approved BEP shall be updated to reflect ground condition surveys undertaken following construction and prior to the date of Final Commissioning.
- (4) The approved BEP (as amended from time to time) shall thereafter be implemented in full, including any offsite provision (which may require to be governed under a separate legal agreement).

Reason: In the interests of good land management, the protection of habitats and to enhance biodiversity on the site.

22. Tree Felling

No felling of existing trees and woodland shall commence unless and until a scheme has been submitted to and approved in writing by the Planning Authority which describes proposals for the felling of trees to enable the construction and operation of the Development, and for the mitigation of the visual effects of tree removal, together with a timetable for all works. The scheme shall be implemented as approved.

Reason: To enable attention to be given to issues of the structural diversity of the woodland and to manage the relationship with adjacent coupes already planned for felling.

23. Road Mitigation Scheme

(1) No construction works shall commence on site until a detailed scheme for the following mitigation (including scale plans as necessary), inclusive of timescales for delivery, has been submitted to, and approved in writing by, the Planning Authority, in consultation with the Roads Authority and, where works interface with watercourse crossings, SEPA and the Kyle of Sutherland District Salmon Fisheries Board:

- a) a detailed design of the main site access junction onto the public road;
- b) an assessment of the capacity of existing bridges and other structures along the routes to site for abnormal loads and general construction traffic, with upgrades and mitigation measures proposed in relation to junction improvements, watercourse crossings and road upgrades and implemented as necessary;
- c) a visual and structural condition survey of the local road network which will be used for delivery and construction traffic shall be undertaken to establish a baseline for any widening and strengthening of the local road network and any additional passing places or diversions required to facilitate the wind farm.
- d) widening works at junctions on the abnormal load route to remove horizontal and vertical constraints on the network for the delivery of turbine components and abnormal loads.; and
- e) details of provision of road markings and signage to accompany the proposed works.

(2) Unless otherwise agreed with the Council, the proposed mitigation works shall be subject to a combined Stage 1 / Stage 2 Road Safety Audit in accordance with the Design Manual for Roads and Bridges. Thereafter the upgrades and other work approved under parts i-iv above shall be completed to the satisfaction of the Planning Authority before commencement of construction, or as otherwise agreed in writing with the Planning Authority.

Reason: In order to secure a proportionate level of road mitigation works to safeguard the local road network and local communities due to the increased numbers of HGV and workers traffic which will be generated.

24. Programme of Archaeological Works

No development shall commence unless and until the Company has secured the full implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation ("WSI") which has been submitted to and approved in writing by the Planning Authority. This written scheme shall include the following components:

- a) an archaeological evaluation to be undertaken in accordance with the agreed WSI; and
- b) an archaeological recording programme the scope of which will be dependent upon the results of the evaluation and will be in accordance with the agreed WSI.

Reason: To protect and/or record features of archaeological importance on this site.

25. Access Management Plan

No development shall commence unless and until an Access Management Plan ("AMP") has been submitted to and agreed in writing by the Planning Authority. The AMP should ensure that public access is retained in the vicinity of the Strath Oykel Wind Farm during construction, and thereafter that suitable public access is provided during the operational phase of the wind farm. It shall also include details of the proposed public car park within the site and a timetable for its provision. The plan as agreed shall be implemented in full.

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

26. Floating Roads

Floating roads shall be installed in areas where peat depths are in excess of 1 metre and in the locations shown on Figure 10.6 of the EIA Report. Prior to the installation of any floating road, the detailed location and cross section of the floating road to be installed shall be submitted to and approved in writing by the Planning Authority. The floating road shall then be implemented as approved.

Reason: To ensure peat is not unnecessarily disturbed or destroyed.

27. Aviation - Lighting

- (1) Aviation lighting shall be installed in accordance with the aviation lighting scheme described in the document "Wind Farm Aviation Lighting and Mitigation Report for Strath Oykel Wind Farm V3.0" (reference WPAC/070/21 Version 3) dated 24 February 2022.
- (2) For the avoidance of doubt the Aviation Lighting Scheme provides for:
 - a) medium intensity steady red (2000 candela) lights installed on the nacelles of Turbines 1, 2, 3, 4, 7, 8, 10 and 11;
 - b) a second 2000 candela light installed on the nacelles of the turbines stated in part (2)(a) to act as alternates in the event of failure of the main light;
 - c) the visible lighting being capable of being dimmed to 10% of peak intensity when visibility as measured at the Development exceeds 5km;
 - d) infra-red lights to Ministry of Defence specification installed on the nacelles of Turbines 1 to 4 and 7 to 11 inclusive; and
 - e) the selected lights to include angle intensity reduction.
- (3) Prior to erection of the first turbine and no later than the first, third and fifth anniversary of the date of First Commissioning and every five year anniversary thereafter, and unless otherwise agreed with the Planning Authority, the Company shall submit a written review of the Aviation Lighting Scheme to the Planning Authority. Each review shall include:
 - a) an assessment of options available for the reduction in the number and a variation of the type of visible lights installed on turbines and the time period when lights are visible;

- b) an assessment of the potential for installation of an Aircraft Detection Lighting System (ADLS), including a statement setting out the current and anticipated regulatory environment in relation to ADLS; and
 - c) an assessment of whether, in the Company's view, it is reasonably practicable to install an ADLS at the Development.
- (4) The review may propose amendment of the Aviation Lighting Scheme. If a review assesses that it is reasonably practicable to install ADLS, such review shall also include the Company's proposals for installation of ADLS together with a proposed timetable for installation. Any proposed amendment shall be compliant with the then current aviation lighting requirements of the Civil Aviation Authority and the Ministry of Defence.
- (5) Any proposed amendment to the Aviation Lighting Scheme shall be subject to the written approval of the Planning Authority in consultation with the Civil Aviation Authority and the Ministry of Defence and shall thereafter be installed in accordance with the approved details.
- (6) The Aviation Lighting Scheme, or such alternative scheme as may be approved under part (5), shall thereafter be maintained throughout the operational life of the Development.

Reason: In the interests of aviation safety.

28. Aviation Safety

- (1) There shall be no commencement of works for the erection of any wind turbine or anemometer mast unless and until the Company has provided the Planning Authority, the Civil Aviation Authority and the Ministry of Defence, Defence Geographic Centre with the following information in respect of that turbine or anemometer mast:-
- a) the date of expected commencement of the erection of the wind turbine or anemometer mast;
 - b) the maximum height above ground level of the wind turbine or anemometer mast;
 - c) the maximum extension height of any construction equipment to be used in the erection of the wind turbine or anemometer mast; and
 - d) the position of the wind turbine and anemometer mast in latitude and longitude.
- (2) The information listed in part (1) shall be provided in writing at least 14 days prior to the commencement of works for the erection of the relevant wind turbine or anemometer mast.
- (3) The Company shall notify in writing the parties in part (1) within 7 days of the date that any wind turbine or anemometer mast is brought into use.
- (4) The Company shall notify in writing the parties in paragraph (1) of any change in the information provided under parts (1) or (3) and of the completion of construction of the Development within 7 days of such change or completion occurring.

Reason: In the interests of aviation safety.

29. Surface Water Drainage

No development shall commence unless and until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable Drainage Systems (SuDS) and be designed to the standards outlined in Sewers for Scotland Third Edition, or any superseding guidance prevailing at the time) have been submitted to, and approved in writing by, the Planning Authority. Thereafter, only the approved details shall be implemented and all surface water drainage provision shall be completed prior to the Date of First Commissioning.

Reason: To ensure that surface water drainage is provided timeously and complies with the principles of SuDS; in order to protect the water environment.

30. Planning Monitoring Officer

- (1) No development shall commence unless and until the planning authority has approved in writing the terms of appointment by the Company of an independent and suitably qualified environmental consultant to assist the planning authority in monitoring compliance with the terms of the deemed planning permission and conditions attached to this consent (a Planning Monitoring Officer or “PMO”) for the period between commencement of development and completion of post construction restoration works. The terms of appointment shall;
 - a) Impose a duty to monitor compliance with the terms of the deemed planning permission and conditions attached thereto;
 - b) Require the PMO to submit a quarterly report to the planning authority summarising works undertaken on site; and
 - c) Require the PMO to report to the planning authority any incidences of non compliance with the terms of the deemed planning permission and conditions attached to this consent at the earliest practical opportunity.
- (2) The PMO shall be appointed on the approved terms throughout the period from Commencement of Development to completion of post construction restoration works.

Reason: To enable the development to be suitably monitored to ensure compliance with the consent issued.

31. Local Liaison Group

- (1) No development shall commence on site until the remit and membership of a Local Liaison Group including representatives of the Company, the contractor who are constructing the Development, the Council, Ardgay Community Council, Creich Community Council and the Kyle of Sutherland District Salmon Fisheries Board has been agreed in writing by the Planning Authority.
- (2) The scheme shall set out how the community is to be kept informed of project progress, including the provision of any mitigation measures. The Group shall be maintained in perpetuity until the development is decommissioned in accordance with

Condition 9, with the first meeting to take place no later than six months prior to the commencement of development. The Group shall meet at least once every six months during construction of the Development and thereafter on an annual basis or on such other basis as may be agreed by the Group.

(3) The scheme shall be implemented as approved.

Reason: To effectively control the impacts of this development in the interests of amenity.

32. Noise

The rating level of noise emissions from the combined effects of the wind turbines comprising the Strath Oykel wind farm, when determined in accordance with the attached Guidance Notes (to this condition), shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission and:

- a) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1 (d). These data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) to the planning authority on its request, within 14 days of receipt in writing of such a request.
- b) No electricity shall be exported until the wind farm operator has submitted to the planning authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the planning authority.
- c) Within 21 days from receipt of a written request from the planning authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind farm operator shall, at its expense, employ a consultant approved by the planning authority to assess the level of noise emissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the planning authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the planning authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.
- 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 planning authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Measurements to assess compliance with the noise limits set out in the Tables attached to these conditions or approved by the planning authority pursuant to paragraph (f) of this condition shall be undertaken at the measurement location approved in writing by the planning authority.
- e) Prior to the submission of the independent consultant's assessment of the rating level of noise emissions pursuant to paragraph (g) of this condition, the wind farm operator shall submit to the planning authority for written approval a

proposed assessment protocol setting out the following:

- i) The range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions.
 - ii) A reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request from the planning authority under paragraph (c), 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 emissions shall be undertaken in accordance with the assessment protocol approved in writing by the planning authority and the attached Guidance Notes.
- f) Where a dwelling to which a complaint is related is not listed in the Tables attached to these conditions, the wind farm operator shall submit to the planning 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 rating level of noise emissions 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 planning authority for the complainant's dwelling.
- g) The wind farm operator shall provide to the planning authority the independent consultant's assessment of the rating level of noise emissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the planning authority made under paragraph (c) of this condition unless the time limit is extended in writing by the planning authority. All data collected for the purposes of undertaking the compliance measurements shall be made available to the planning authority on the request of the planning authority. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the planning authority with the independent consultant's assessment of the rating level of noise emissions.
- h) Where a further assessment of the rating level of noise emissions from the wind farm is required pursuant to Guidance Note 4(c), 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 (d) above unless the time limit has been extended in writing by the planning authority.

Table 1 - Between 07:00 and 23:00 - Noise limits expressed in dB LA90,10minute as a function of the measured wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods

Receptor	Wind Speed (m/s at 10 metres)								
	4	5	6	7	8	9	10	11	12
1	A (241641, 901012)								
Noise limit (DB)	21.2	26.1	27.9	27.9	27.9	27.9	27.9	27.9	27.9
2	B (243599, 901472)								

Noise limit (DB)	25.3	30.1	31.9	31.9	31.9	31.9	31.9	31.9	31.9
3	C (243608, 900989)								
Noise limit (DB)	27.6	32.4	34.3	34.3	34.3	34.3	34.3	34.3	34.3
4	D (243453, 900707)								
Noise limit (DB)	28.9	33.7	35.5	35.5	35.5	35.5	35.5	35.5	35.5
5	E – Ghillies View (245122, 900734)								
Noise limit (DB)	29.2	34	35.8	35.8	35.8	35.8	35.8	35.8	35.8
6	F – Carn Mholloch (245082, 900771)								
Noise limit (DB)	29	33.8	35.6	35.6	35.6	35.6	35.6	35.6	35.6
7	G (244952, 900776)								
Noise limit (DB)	28.8	33.7	35.5	35.5	35.5	35.5	35.5	35.5	35.5
8	H (244855, 900710)								
Noise limit (DB)	29.7	34.5	36.3	36.3	36.3	36.3	36.3	36.3	36.3
9	I (244621, 900800)								
Noise limit (DB)	28.1	33	34.8	34.8	34.8	34.8	34.8	34.8	34.8
10	J (244635, 900839)								
Noise limit (DB)	27.9	32.7	34.5	34.5	34.5	34.5	34.5	34.5	34.5
11	K (244596, 900831)								
Noise limit (DB)	28.4	33.2	35	35	35	35	35	35	35
12	L (244487, 900789)								
Noise limit (DB)	28.6	33.4	35.2	35.2	35.2	35.2	35.2	35.2	35.2
13	M (244377, 900749)								
Noise limit (DB)	29.7	34.5	36.4	36.4	36.4	36.4	36.4	36.4	36.4
14	N (244363, 900845)								
Noise limit (DB)	29.1	33.9	35.7	35.7	35.7	35.7	35.7	35.7	35.7
15	O (244342, 900884)								
Noise limit (DB)	28.9	33.7	35.5	35.5	35.5	35.5	35.5	35.5	35.5
16	P (243687, 901025)								
Noise limit (DB)	27.6	32.4	34.2	34.2	34.2	34.2	34.2	34.2	34.2
17	Q (245305, 900723)								
Noise limit (DB)	28.9	33.7	35.5	35.5	35.5	35.5	35.5	35.5	35.5
18	R (245489, 900883)								
Noise limit (DB)	27.7	32.5	34.3	34.3	34.3	34.3	34.3	34.3	34.3
19	S (245864, 900813)								
Noise limit (DB)	27.1	31.9	33.7	33.7	33.7	33.7	33.7	33.7	33.7
20	T (245933, 900848)								
Noise limit (DB)	26.8	31.6	33.4	33.4	33.4	33.4	33.4	33.4	33.4
21	U (245734, 900904)								
Noise limit (DB)	27	31.8	33.6	33.6	33.6	33.6	33.6	33.6	33.6
22	V – Inveroykel Lodge (246490, 900870)								
Noise limit (DB)	25	29.9	31.7	31.7	31.7	31.7	31.7	31.7	31.7

Table 2 — Between 23:00 and 07:00 — Noise limits expressed in dB LA90,10-minute as a function of the measured wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods

Receptor	Wind Speed (m/s at 10 metres)								
	4	5	6	7	8	9	10	11	12
1	A (241641, 901012)								
Noise limit (DB)	21.2	26.1	27.9	27.9	27.9	27.9	27.9	27.9	27.9
2	B (243599, 901472)								
Noise limit (DB)	25.3	30.1	31.9	31.9	31.9	31.9	31.9	31.9	31.9
3	C (243608, 900989)								
Noise limit (DB)	27.6	32.4	34.3	34.3	34.3	34.3	34.3	34.3	34.3
4	D (243453, 900707)								
Noise limit (DB)	28.9	33.7	35.5	35.5	35.5	35.5	35.5	35.5	35.5
5	E – Ghillies View (245122, 900734)								
Noise limit (DB)	29.2	34	35.8	35.8	35.8	35.8	35.8	35.8	35.8
6	F – Carn Mholloch (245082, 900771)								
Noise limit (DB)	29	33.8	35.6	35.6	35.6	35.6	35.6	35.6	35.6
7	G (244952, 900776)								
Noise limit (DB)	28.8	33.7	35.5	35.5	35.5	35.5	35.5	35.5	35.5
8	H (244855, 900710)								
Noise limit (DB)	29.7	34.5	36.3	36.3	36.3	36.3	36.3	36.3	36.3
9	I (244621, 900800)								
Noise limit (DB)	28.1	33	34.8	34.8	34.8	34.8	34.8	34.8	34.8
10	J (244635, 900839)								
Noise limit (DB)	27.9	32.7	34.5	34.5	34.5	34.5	34.5	34.5	34.5
11	K (244596, 900831)								
Noise limit (DB)	28.4	33.2	35	35	35	35	35	35	35
12	L (244487, 900789)								
Noise limit (DB)	28.6	33.4	35.2	35.2	35.2	35.2	35.2	35.2	35.2

13	M (244377, 900749)								
Noise limit (DB)	29.7	34.5	36.4	36.4	36.4	36.4	36.4	36.4	36.4
14	N (244363, 900845)								
Noise limit (DB)	29.1	33.9	35.7	35.7	35.7	35.7	35.7	35.7	35.7
15	O (244342, 900884)								
Noise limit (DB)	28.9	33.7	35.5	35.5	35.5	35.5	35.5	35.5	35.5
16	P (243687, 901025)								
Noise limit (DB)	27.6	32.4	34.2	34.2	34.2	34.2	34.2	34.2	34.2
17	Q (245305, 900723)								
Noise limit (DB)	28.9	33.7	35.5	35.5	35.5	35.5	35.5	35.5	35.5
18	R (245489, 900883)								
Noise limit (DB)	27.7	32.5	34.3	34.3	34.3	34.3	34.3	34.3	34.3
19	S (245864, 900813)								
Noise limit (DB)	27.1	31.9	33.7	33.7	33.7	33.7	33.7	33.7	33.7
20	T (245933, 900848)								
Noise limit (DB)	26.8	31.6	33.4	33.4	33.4	33.4	33.4	33.4	33.4
21	U (245734, 900904)								
Noise limit (DB)	27	31.8	33.6	33.6	33.6	33.6	33.6	33.6	33.6
22	V – Inveroykel Lodge (246490, 900870)								
Noise limit (DB)	25	29.9	31.7	31.7	31.7	31.7	31.7	31.7	31.7

Guidance Note 1

- a) Values of the LA90,10 minute noise statistic should be measured at the complainant's property, 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 in accordance with the procedure specified in BS4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.
- b) The microphone should 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 Planning Authority, and placed outside the complainant's dwelling. Measurements should be made in "free field" conditions. To achieve this, the microphone should 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 Company shall submit for the written approval of the Planning 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 and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.
- d) To enable compliance with the conditions to be evaluated, the Company shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, such as direct measurement at a height of 10 metres, this wind speed, averaged across all operating wind turbines, and corrected to be representative of wind

speeds measured at a height of 10m, shall be used as the basis for the analysis. It is this 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2. All 10- minute periods shall commence on the hour and in 10- minute increments thereafter.

- e) Data provided to the Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.
- f) A data logging rain gauge shall be installed in the course of the assessment of the levels of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

Guidance Note 2

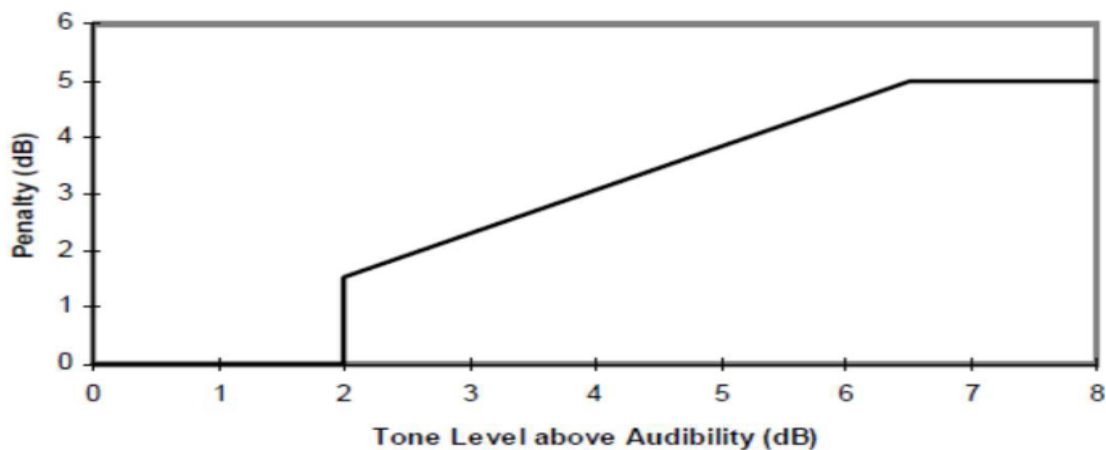
- a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2 (b)
- b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (d) of the noise condition, but excluding any periods of rainfall measured in the vicinity of the sound level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurement periods set out in Guidance Note 1. In specifying such conditions the Planning Authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.
- c) For those data points considered valid in accordance with Guidance Note 2(b), values of the LA90,10 minute noise measurements and corresponding values of the 10- minute 10- metre height wind speed averaged across all operating wind turbines using the procedure specified in Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the 10- metre height mean 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) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

- a) Where, in accordance with the approved assessment protocol under paragraph (d) of the noise condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to 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 Guidance Note 2 a tonal assessment shall be performed on noise immissions 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, as described in Section 2.1 on pages 104- 109 of ETSU-R-97, shall be reported.
- c) For each of the 2 minute samples the tone level above or below 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 used.
- e) A least squares "best fit" linear regression line 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 at 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 Guidance Note 2.
- f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below.



Guidance Note 4

- a) If a tonal penalty is to be applied in accordance with Guidance 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 Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the Planning Authority in its written protocol under paragraph (d) 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 Guidance Note 2.
- c) 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 (e) 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 Company 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:
- e) Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range requested by the Planning Authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of the noise

condition.

- f) The wind farm noise (L_1) at this speed shall then be calculated as follows where L_2 is the measured level with turbines running but without the addition of any tonal penalty:

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

- g) The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L_i at that integer wind speed.
- h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 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 Planning Authority for a complainant's dwelling in accordance with paragraph (e) 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 Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then the development fails to comply with the conditions.

Reason: To ensure that, following a complaint, noise levels can be measured to assess whether or not the predicted noise levels set out within the supporting Environmental Impact Assessment Report have been breached, and where excessive noise is recorded, suitable mitigation measures are undertaken.

33. Site Decommissioning, Restoration and Aftercare

- (1) The Development will cease to generate electricity by no later than the date thirty five 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 Final Generation without prior written approval of the Scottish Ministers in consultation with the Planning Authority.
- (2) No development including Site Enabling Works shall commence unless and until a decommissioning, restoration and aftercare strategy has been submitted to, and approved in writing by, the Planning Authority (in consultation with NatureScot, SEPA and the Kyle of Sutherland District Salmon Fisheries Board). The strategy shall outline measures for the decommissioning of the Development and restoration and aftercare of the site and shall include proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environmental management provisions.
- (3) Not later than 2 years before decommissioning of the Development or the expiration of this consent (whichever is the earlier), a detailed decommissioning, restoration and aftercare plan, based upon the principles of the approved decommissioning, restoration and aftercare strategy, shall be submitted for the written approval of the Planning Authority in consultation with NatureScot, SEPA and the Kyle of Sutherland District Salmon Fisheries Board.

(4) The detailed decommissioning, restoration and aftercare plan 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);
- 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 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;
- 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; and
- m) measures to ensure the protection of the River Oykel Special Area of Conservation from any adverse effects from the decommissioning of the Development and the restoration and aftercare of the Site.

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

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

34. Shadow Flicker

(1) No development shall commence until a scheme for the avoidance of shadow flicker experienced by residential and commercial properties situated within 10 rotor diameters or 1.7km of any turbine forming part of the Development and which lawfully exist or for which planning permission has been granted at the date of this consent has been submitted to and approved in writing by the Planning Authority.

- (2) The scheme shall detail measures to prevent shadow flicker effects, which should involve installation of shadow flicker modules at identified turbines 9, 10 and 11 to shut down the turbines at specific dates and times of the year.
- (3) The approved scheme shall thereafter be implemented in full.

Reason: To prevent impacts of shadow flicker on residential and commercial property. amenity.

35. 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 33 is submitted to 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 33.
- (3) The 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 33.
- (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 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 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.

Definitions relating to Annex 1 & Annex 2

“Additional Information” (“AI”) means information submitted by the Company in September 2023.

"The Application" means the application submitted by the Company on 16 May 2022;

"Bank Holiday" means:

- New Year's Day, if it is not a Sunday or, if it is a Sunday, 3rd January;
- 2nd January, if it is not a Sunday or, if it is a Sunday, 3rd January;
- Good Friday;
- The first Monday in May;
- The first Monday in August;
- 30th November, if it is not a Saturday or Sunday or, if it is a Saturday or Sunday, the first Monday following that day;
- Christmas Day, if it is not a Sunday or if it is a Sunday, 27th December; and
- Boxing Day, if it is not a Sunday or, if it is a Sunday, the 27th December.

"Commencement of Development" means the date on which Development shall be taken as begun in accordance with section 27 of the Town and Country Planning (Scotland) Act 1997;

"the Company" means Energiekontor UK Ltd, company registration number 03830819 and registered address 114 St Martin's Lane, Covent Garden, London, United Kingdom, WC2N 4BE or such other person for the time being entitled to the benefit of the consent under section 36 of the Electricity Act 1989.

"The Development" means the development described in Annex 1;

"dwelling" means a building within Use Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 which lawfully exists or had planning permission at the date of this consent and deemed planning permission.

“ECoW” means the Environmental Clerk of Works appointed in terms of Deemed Planning Permission Conditions 10 and 13.

“EIA Report” means the Environmental Impact Assessment Report dated April 2022;

“First Commissioning” means the date on which electricity is first exported to the grid network on a commercial basis from any of the wind turbines forming part of the Development.

“Final Commissioning” means the earlier of (a) 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 (b) the date falling 18 months from the date of First Commissioning unless a longer period is agreed in writing in advance with the Planning Authority.

“Public Holiday” means;

- New Year's Day, if it is not a Sunday or, if it is a Sunday, 3rd January.
- 2nd January, if it is not a Sunday or, if it is a Sunday, 3rd January.
- Good Friday.
- Easter Monday.
- The first Monday in May.
- The first Monday in August.
- The third Monday in September.
- 30th November, if it is not a Saturday or Sunday or, if it is a Saturday or Sunday, the first Monday following that day.
- Christmas Day, if it is not a Sunday or, if it is a Sunday, 27th December.
- Boxing Day, if it is not a Sunday or, if it is a Sunday, 27th December.