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Your ref: 405.03640.00011
Our ref: ECU00002002

26 June 2023

Dear Alison Sidgwick

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 CLASHINDARROCH (II) WIND FARM WITHIN THE PLANNING AUTHORITY AREA OF ABERDEENSHIRE COUNCIL

Application

I refer to the application ("Application") made on 23 December 2019 under section 36 of the Electricity Act 1989 ("the Electricity Act") made by you on behalf of Vattenfall Wind Power Limited, a company incorporated under the Companies Acts with company number 06205750 and having its registered office at 5th Floor 70, St Mary Axe, London, United Kingdom, EC3A 8BE ("the Company") for the construction and operation of Clashindarroch (II) Wind Farm, an electricity generating station comprising up to 14 wind turbines with a maximum blade tip height of 180 m, giving a total generating capacity of between 56 and 84 megawatts (MW), along with associated infrastructure ("the proposed Development").

The proposed Development is located approximately 6 kilometres (km) to the south west of Huntly in Aberdeenshire.

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

Planning Permission

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.

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

Background

The site covers 1,234 ha of Clashindarroch Forest, owned by Forestry and Land Scotland, lying approximately 6 km to the south west of the settlement of Huntly and 55 km north west of Aberdeen. The small rural settlements of Rhynie, Cabrach and Haugh of Glass lie to the south and north west with a number of individual houses located within or close to the forest.

Permission is sought for a 30 year operating period for up to 14 wind turbines with a blade tip height of up to 180 m each having an output of between 4 and 6MW . Each turbine would have an external transformer and four would be fitted with visible aviation lighting. Underground cabling, following the route of existing and new access tracks would link the turbines to a new substation within a welfare compound. The construction process requires forestry removal and restructuring, the extraction of material from up to three borrow pits and the upgrading of the site access.

The application is supported by an Environmental Impact Assessment Report (December 2019). Supplementary Information (SI), relating to an updated cumulative assessment including landscape and visual impact matters and a reduced aviation lighting scheme, was submitted in October 2021.

Public Inquiry

In terms of paragraph 2(2) of Schedule 8 to the 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.

As set out below, Aberdeenshire Council, as the relevant 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.

On 10 May 2020 the Application was accordingly referred to the Planning and Environmental Appeals Division ("DPEA") for a public inquiry to be held.

Public Inquiry and its Report

Supplementary environmental information was requested by the Reporter for the purposes of the inquiry (the "2021 SI"). Details of the request is set out at paragraph 1.13 of the Public Inquiry Report.

The Public Inquiry Reporter held an inquiry with two inquiry sessions: 28 February to 2 March 2022; and two hearing sessions both held on 3 March 2022. The Reporter conducted

site visits on 15 - 17 November 2021 and 4 - 5 August 2022. The Reporter produced a report dated 17 October 2022 recommending refusal.

Scottish Ministers asked the Reporter to reopen the inquiry process to allow the parties to make submissions regarding the implications of the Fourth National Planning Framework that had been placed before parliament on the 8 November 2022.

The Reporter also considered other changes to the list of relevant energy and planning policy which occurred around the same time. The Reporter noted that the Onshore Wind Policy statement 2022 now supersedes the 2017 edition and follows publication of a consultative draft in 2021. The Reporter noted that whilst the 2017 Scottish Energy Strategy remains in place, the Draft Energy Strategy and Just Transition Plan has now been published for consultation purposes in January 2023. The Third National Planning Framework (NPF3), Scottish Planning Policy 2014 and the 2021 Draft Fourth National Planning Framework have now all been superseded by the Fourth National Planning Framework (NPF4). The Reporter indicated that following its adoption on 13 February 2023 NPF4 became, not just a statement of national planning policy, but part of the statutory development plan. The Reporter added that NPF4 supersedes all current strategic development plans and thus the Aberdeen City and Shire Strategic Development Plan 2020 is also no longer relevant.

The Reporter conducted a further hearing session on 8 February 2023 and a Supplementary Report was provided on 3 March 2023 recommending consent subject to conditions. This supplementary report takes the form of a summary of the new policy documents (Chapter 1) and then an updated assessment of policy in the context of the other matters raised throughout the inquiry (Chapter 2). The Reporter states that although it should be read with their original report, Chapter 2 replaces Chapter 7 of that report in its entirety.

The chapters of the Public Inquiry Report provide the following:

- Chapter 1. Background, consultations and representations
- Chapter 2. Legislative and policy context
- Chapter 3. Landscape and Visual Impacts
- Chapter 4. Ecology – including effects on wild cat
- Chapter 5. Other Matters: noise, ecology, forestry, ornithology, cultural heritage, hydrology hydrogeology & geology, traffic, transport & access, aviation highways, shadow flicker, telecommunications infrastructure, socioeconomics and tourism and, carbon balance.
- Chapter 6. Planning Conditions and Monitoring
- Chapter 7. Policy Assessment, Overall Conclusions and Recommendation

The chapters of the Public Inquiry Supplementary Report provide the following:

- Chapter 1. Summary of new policy documents
- Chapter 2. Updated Policy Assessment, Overall Conclusions and Recommendation

The Reporter recommended that subject to the satisfactory completion of an appropriate assessment as set out at Chapter 5 of the Public Inquiry Report, consent should be granted under section 36 of the Electricity Act 1989 and that planning permission should be deemed to be granted under section 57 of the Town and Country Planning (Scotland) Act 1997 (as amended), subject to the conditions listed in

Appendix 1 of the Public Inquiry Report as adjusted by Appendix 1 of the Public Inquiry Supplementary Report.

Summary of the Consultation Responses and Representations

The following summary of consultation responses, unless otherwise stated, reflects the position of consultees in response to the proposed Development as presented in the Application.

Statutory Consultees

The Planning Authority **originally objected** on the basis that the proposed Development is contrary to relevant policies in the Aberdeenshire Local Development Plan for the following reasons:

1. The proposed development is contrary to Aberdeenshire Local Development Plan Policy C2 (Renewable energy) and the associated Spatial Framework Mapping and Planning Advice 'Strategic Landscape Capacity Assessment for Wind Energy in Aberdeenshire' 2014 as:
 - a) the proposed development would, by virtue of its scale and location, cause adverse landscape and visual impacts in an area identified as having no underlying capacity for new wind energy developments of any scale (Outlying Hills and Ridges Landscape Character Type (formerly Moorland Plateaux Landscape Character Type and Grampian Outliers Landscape Character Area).
 - b) the proposed development would have a significant adverse impact upon the visual amenity of nearby popular hillwalking routes/points, most notably significant local landmarks of Tap o'Noth (VP4), The Buck (VP5), Clashmach Hill (VP6) and the Correen Hills (VP12).
 - c) the scale and location of the proposed development would result in unacceptable adverse visual impacts upon dwellinghouses and settlement of Tillathrowie (VP1) and dwellings south east of Rhynie (on the lower slopes of the Correen Hills below VP12).
2. The proposed development is contrary to Aberdeenshire Local Development Plan Policy E2 (Landscape) as there is insufficient information to determine that the development, specifically borrow pits, would not cause unacceptable effects on the landscape of the site or surrounding area.
3. The proposed development is contrary to Aberdeenshire Local Development Plan Policy E2 (Landscape) as the scale and location of the proposed wind turbines cause a sprawl of similar wind energy developments across the landscape. The scale and location of the proposed wind turbines create a sense of dominance in the landscape with a discordant and cluttered visual impact from various viewpoints, most notably VP4, VP5, VP6 and VP12. The impact is not considered to be outweighed by any economic or carbon reduction benefits.
4. The proposed development is contrary to Aberdeenshire Local Development Plan Policy P4 (Hazardous and potentially polluting developments and contaminated land) as there is the potential for the development to cause noise pollution and nuisance when considered cumulatively with the adjacent Clashindarroch Wind Farm

("Clashindarroch (I)"). No details of proposed mitigation to reduce the residual impact is provided.

At Public Inquiry, the Planning Authority maintained its objection, but withdrew grounds 2 and 4, citing its case that if the proposed Development was consented:

- There would be significant adverse landscape effects predominantly within the immediate landscape character type area and extending east to include the adjacent landscape type area. Significant adverse visual effects would be experienced from locations to the east, south east and south of the application site affecting notable scenic views and residential properties. In particular the views from, and of, the Tap o' Noth hill, a distinctive peak south east of the site. Similar effects were identified in two earlier schemes to develop a wind farm in this general area and were removed by the deletion of turbines (the 2009 scheme for Clashindarroch (I)) or through the refusal of consent (the 2006 scheme).
- The proximity of the proposed higher turbines to the existing wind farm leads to disparities in scale, height and rotor speeds. The guidance set out in Scottish Natural Heritage's (now NatureScot) publication Siting and Designing Wind Farms in the Landscape 2017 recommends that adjacent windfarms avoid such effects. These adverse landscape and visual effects lead to conflict with the Aberdeenshire Local Development Plan and in terms of Scottish Planning Policy the proposed development would not constitute the right development in the right place.
- The cumulative noise arising from the existing and proposed wind farms has the potential to impact on nearby residential properties and the applicant's proposed conditions may not secure a suitable means to control that noise should it occur.

Around the time of the virtual hearing on 8 February 2023, the Planning Authority case was as follows:

- NPF4 and the Onshore Wind Policy Statement 2022 reinforces the significant support offered to onshore wind developments that was present in the superseded energy and planning policy. However the requirement to consider whether this is the right development in the right place remains firm. The decision maker must carry out a balancing exercise taking into account a range of considerations, not just the contribution to the energy targets.
- In this case there would be significant adverse landscape effects predominantly within the immediate landscape character type area and extending east to include the adjacent landscape type area. Significant adverse visual effects would be experienced from locations to the east, south east and south of the application site affecting notable scenic views and residential properties. In particular the views from, and of, the Tap o' Noth hill, a distinctive peak south east of the site. Similar effects were identified in two earlier schemes to develop a wind farm in this general area and were removed by the deletion of turbines (the 2009 Clashindarroch (I) scheme) or through the refusal of consent (the 2006 scheme).
- The proximity of the proposed higher turbines to the existing wind farm leads to disparities in scale, height and rotor speeds. The guidance set out in Scottish Natural Heritage's (now NatureScot) publication Siting and Designing Wind Farms in the

Landscape 2017 recommends that adjacent windfarms avoid such effects. These adverse landscape and visual effects lead to conflict with the policies of the Aberdeenshire Local Development Plan 2023 and NPF4.

- The cumulative noise arising from the existing and proposed wind farms has the potential to impact on nearby residential properties and it is important that conditions are applied to secure a suitable means to control that noise should it occur.

Historic Environment Scotland (HES) Historic Environment Scotland consider there to be significant adverse impacts on the setting of the scheduled monuments at Tap o' Noth hillfort, Wormy Hillock henge and Croc Cailliche fort but such effects do not raise matters of national interest. These views did not change following the submission of the 2021 SI.

NatureScot advise that there are important wild life interests here (Scottish wildcat and bats) but these will not be adversely affected if mitigation measures and the habitat management plan are implemented. These views did not change following the submission of the 2021 SI. The wildcat matters are addressed in more detail by the Reporter in Chapter 4 of the Public Inquiry Report.

No significant ornithological effects are anticipated however because of the potential for collision mortality and barrier effects the proposal is likely to have a significant effect on breeding common gull at Tips of Corsemal and Tom Mor Special Protection Area. Consequently, NatureScot advises the Scottish Government, as competent authority, is required to carry out an appropriate assessment in view of the site's conservation objectives for its qualifying interest. This matter is dealt with in more detail by the Reporter in Chapter 5 of the Public Inquiry Report.

The predicted significant landscape and visual effects are limited in extent due to screening by surrounding topography and forestry and by the effect of the existing Clashindarroch (I) turbines, with which the proposed scheme would usually be seen. Significant adverse landscape and visual effects remain particularly to the southeast including both the setting and appreciation of Tap o' Noth as a landmark in the wider landscape and in views from its summit. Nature Scot recommend changes to the scheme to reduce impacts and the disparity of scale with Clashindarroch (I) but do not object. These matters are dealt with in more detail by the Reporter in Chapter 3 of the Public Inquiry Report.

Scottish Environmental Protection Agency recommend conditions be applied covering various matters: the submission of a Construction Environmental Management Plan (CEMP) that addresses the effects on the water systems within or adjacent to the site, managing any excavated peat, pollution prevention, forestry removal, and waste management; the appointment of an Environmental (or Ecological) Clerk of Works; the application of a 50 m micro-siting limit; and the final design of watercourse crossings; access tracks, any land raising within a functioning flood plain, borrow pits and the restoration and decommissioning proposals.

The Scottish Ministers have imposed conditions as appropriate, recommended by the Reporter, which give effect to the requirements of the consultation bodies as set out above.

Internal Scottish Government advisors

Marine Scotland confirms that the applicant has adequately addressed water quality and fish population monitoring subject to confirmation that the two control sites are located outwith areas likely to be affected by other existing or proposed developments, adherence to construction mitigation measures for the access track to turbine 13 and the following of Marine Scotland Science (MSS) guidelines.

Scottish Forestry do not object but set out detailed comments regarding the way forestry land uses have been listed in the EIA Report and highlights the importance of upgrading the land management plan to reflect the development proposals to ensure the forest remains compliant with the UK Forestry Standard. Planning conditions are required to secure a felling and replanting scheme including monitoring measures, and details of any off-site compensatory planting. Due to the uncertainty of the land ownership of the compensatory planting areas, the conditions may need to be suspensive to ensure the delivery of such planting is not left to subsequent management plans to resolve.

Transport Scotland are satisfied with the assessment of traffic flows impacting on the trunk road (A96T Aberdeen to Inverness) but acknowledge that specific accommodation works and traffic management may be required on the A96(T) to address the delivery of abnormal loads from Aberdeen Harbour. Conditions are included to address the submission and approval of a Construction Traffic Management Plan and the details of the abnormal load route including accommodation works and; to ensure any traffic management measures are designed by a recognised Quality Audit (QA) traffic management consultant.

Advisors to Scottish Government

The Scottish Government's peat landslide advisor (Ironsides Farrar Limited are contracted to provide advice) stated the findings of the Peat Assessment and the associated overall conclusion that a full Peat Landslide Risk Assessment is not required is considered to be justified. The scope and approach of the work undertaken is deemed both appropriate and robust enough to underpin this conclusion. It is therefore the opinion of Ironsides Farrar that Peat Landslide Risk Assessment can be scoped out.

Other consultees who object or have no objection subject to conditions

Aberdeenshire Council Archaeologist has no objections subject to the implementation of the mitigation strategy set out in the EIA Report Chapter 10, the installation of protective fencing around assets and an archaeological watching brief.

Civil Aviation Authority (CAA) accepts that the majority of night time low level operations in the area will be by night vision device equipped aircraft and agrees with the proposal to fit and operate visible medium intensity lighting on the cardinal points of the development plus infra-red lighting. This consists of four medium intensity (2000 candela) cardinal lights (with a second back up light) on the nacelles of turbines 1, 5, 6 and 12, the ability to dim those lights to 10% of peak intensity when visibility exceeds 5 km and a further three infra-red lights on the nacelles of turbines 8, 9, and 14.

MOD advises the development would provide a potential obstruction hazard to low flying aircraft in Low Flying Area 14 and aviation lighting on the turbines will be required. The lighting scheme agreed with the CAA will be suitable for the purposes of maintaining military aviation safety. Their original safeguarding objection relating to interference with the radar at

Remote Radar Head Buchan was withdrawn following agreement on a technical mitigation solution and the application of conditions delivering this.

NATS originally objected to the proposals as the development, without suitable mitigation, would have caused an adverse impact to the Allanshill radar and associated air traffic operations of NATS (En-Route) PLC. This was withdrawn following agreement with the applicant that a mitigation solution can be put in place. Two conditions are included that are intended to ensure the detail of the mitigation solution is approved and then put in place before the turbines are erected.

Scotways objects due to the impact (predominantly at the construction stage) on a right of way that cuts across the access route into the site and that the site as a whole may be subject to general rights of access under the Land Reform (Scotland) Act 2003. Although these issues could be addressed by a Construction Environmental Management Plan, an Access Management Plan is preferred.

Other consultees who do not object and have no recommendation for conditions

Aberdeen International Airport Ltd confirms that the development would not interfere with the aerodrome safeguarding criteria.

BT Network Radio Protection confirmed no telecommunication infrastructure impacts are anticipated.

Scottish Water confirms the site overlaps a Drinking Water Protected Area and the development could impact on the water quality at Craighead Water Treatment Works. Construction works and borrow pits work should be avoided in the catchment of Collonach (or Croftmillan) Burn. Risks to water quality should be considered in the construction plans.

Strathbogie Community Council wish ministers to take on board the concerns of the local residents.

Those confirming no response needed were **RSPB Scotland, The Met Office** and **The Coal Authority**.

Details of the consultation responses are available on the Energy Consents website at www.energyconsents.scot

Summary of Public Representations

A total of 107 representations have been recorded: 8 in support and 99 objections. In summary the objections raise the following issues.

- Landscape and visual impacts including the relationship to the Tap o' Noth.
- Cumulative landscape and visual impacts and the contrast in turbine heights.
- Aviation lighting impact.
- Visual amenity impact on residential properties.
- Impact on listed buildings and scheduled monuments.
- Ornithological and ecological impacts including protected species (wildcat).
- Forest impacts in terms of recreational value and carbon storage capacity.
- Noise impacts.

- Peat disturbance.
- Carbon balance.
- Transport impacts.
- Proximity of turbines to paths and bridleways.
- Impacts on tourism and economic regeneration.
- Economic viability of onshore wind development.
- Level of community benefit in relationship to the level of adverse effect.

The letters of support raise the following matters.

- Positive economic effects and community benefit.
- Positive contribution to government targets on climate change and green energy.
- Commercial forestry is of less value.
- No loss of amenity in the area.

Correspondence was received from the public following the public inquiry however there were no material issues raised which the Reporter had not already considered.

Details of the representations are available on the Energy Consents website at www.energyconsents.scot

The Scottish Ministers have considered the matters raised in the consultation responses and in the representations made to them on the Application and are satisfied, having taken into account the EIA Report, the 2021 SI, the Public Inquiry Report and the Public Inquiry Supplementary Report, that the significant environmental impacts of the proposed Development have been appropriately assessed and largely mitigated by design. Further environmental mitigation has been secured by the Scottish Ministers through the imposition of conditions attached to the planning permission.

The remaining impacts, mainly landscape and visual impacts, are considered to be acceptable by the Scottish Ministers in light of the overall benefits of the proposed Development. This reasoning is set out in more detail under the heading “Assessment of the Determining Issues” in this decision letter.

The Scottish Ministers’ Considerations

Legislation and Environmental Matters

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.

In accordance with section 36(5A) of the Act, before granting any section 36 consent the Scottish Ministers are also required to obtain SEPA advice on matters relating to the protection of the water environment; and have regard to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003.

SEPA's advice has been obtained and considered as required by section 36(5A) with due regard given to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003. SEPA has no objection to the proposed Development subject to the recommendation of specific conditions in relation to working with peat, pollution prevention, forestry removal and waste management. In its response to the Scottish Ministers SEPA provides regulatory advice and directs the Company to the Regulations section of the SEPA website for advice on regulatory requirements and good practice advice.

The Scottish Ministers are satisfied that the EIA Report and the 2021 SI have been produced in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ('the 2017 Regulations'). The Scottish Ministers have assessed the environmental impacts of the proposed Development and taken the EIA Report, the 2021 SI, representations, consultation responses including those from NatureScot, SEPA, HES and the Planning Authority, the Public Inquiry Report and the Public Inquiry Supplementary Report into consideration in reaching their decision.

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

The Scottish Ministers are satisfied that the Company has done what it reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or any such flora, fauna, features, sites, buildings or objects.

The Scottish Ministers are satisfied that the proposed Development would not have any adverse effect on fisheries or to stock of fish in any waters.

The Scottish Ministers have had regard to the requirements regarding publicity and consultation laid down in the The Electricity (Applications for Consent) Regulations 1990 and the 2017 Regulations as required 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 2017

NatureScot informed the Scottish Ministers of the potential for the proposed Development to have a significant effect on the qualifying interests of the Tips of Corsemaul and Tom Mor Special Protection Area ("SPA") because of the potential for collision mortality and barrier effects.

In compliance with the Conservation of Habitats and Species Regulations 2017, an appropriate assessment has been carried out with respect to the above mentioned SPA. The environmental information to inform the assessment was presented in the EIA Report which accompanied the Application. The appropriate assessment has therefore been produced using information already advertised in accordance with the 2017 Regulations.

The appropriate assessment concluded in respect of the SPA, following advice from NatureScot, that there will be no adverse effect on integrity of the SPA from the proposed Development either on its own or in combination with other developments. The predicted

collision mortality rates are well below any reasonable threshold of importance. Scottish Ministers also judge that barrier effects are very unlikely. NatureScot agrees.

Main Determining Issues

Having considered the Application, the EIA Report, the 2021 SI, the Public Inquiry Report, the Public Inquiry Supplementary Report and Scottish Government policies, the Scottish Ministers consider, in line with the Reporter, that the main determining issues in respect of the proposed Development are:

- The significant landscape and visual effects and any proposed mitigation measures.
- The significant effects on a protected species and any proposed mitigation measures.
- The cumulative noise effects with Clashindarroch (I) wind farm and how this should be addressed by conditions.
- The benefits of the proposal including renewable energy generation and the carbon calculator results.
- The climate emergency and the contribution of the proposed development to meeting national energy policy.
- The extent of consistency with national and local planning policy.
- Considering whether, in the wider planning balance, the climate change emergency increases the importance of renewable energy projects and their ability to contribute to UK and Scottish energy policy goals.

Assessment of the Determining Issues

Landscape and Visual Effects

The Planning Authority objects on the basis of landscape and visual impacts, including those on residential dwellings. A summary of the main points from the Planning Authority on the landscape and visual effects of the proposed Development is set out at paragraphs 3.11 to 3.19 of the Public Inquiry Report. The main points raised in objection on these grounds include disagreement with the applicant's assessment of the extent of impacts on Landscape Character Types (LCT) 28 and 19; disagreement with the applicant's assessment as to the detail and magnitude of landscape and visual impacts; the stark, jarring visual contrast that would occur between existing Clashindarroch (I) wind farm and the proposed Development; conflict with NatureScot's Siting and Designing Wind Farms in the Landscape guidance (2017); turbines encroaching on views from and of Tap o' Noth; and, a significant extension of cumulative effects on the host landscape character area.

Objections on grounds of visual impact were also raised in representations from the general public including Lynn Rutter who spoke at the Public Inquiry on her own behalf and on behalf of "Friends Of The Clash" which are described more fully by the Reporter in paragraphs 3.20 to 3.24 of the Public Inquiry Report. The main points included that a previous independent report concluded that there was no capacity for the landscape to incorporate additional wind turbines; that the proposed Development would lead to unacceptable visual impacts and industrialisation of the landscape; that visualisations are not comprehensive and impact on sensitive receptors and historic destinations would be severe; and, that economic benefits would not compensate for the loss of visual amenity.

The Reporter describes NatureScot's position in paragraphs 3.25 to 3.30 of the Public Inquiry Report. NatureScot, in its consultation responses, did not object to the proposed

Development. It did however advise there would be significant landscape effects on LCT 28 and LCT 19. NatureScot added the proposed Development would significantly extend the cumulative effects of wind energy and significantly alter views from higher areas, introducing a pronounced scale disparity. NatureScot recommended the Company consider smaller turbines, removing or relocating turbines at the southern end of the scheme to achieve closer visual integration with existing turbines, and the use of all available aviation lighting mitigation measures to minimise effects on dark skies.

The Reporter summarises a number of areas where agreement was reached between the Planning Authority and the Company in relation to landscape and visual methodologies and certain specific impacts at paragraphs 3.31 to 3.32 of the Public Inquiry Report.

The Reporter summarises the main areas of dispute as:

- a) the extent of the landscape impacts on LCT 28 and LCT 19;
- b) the nature of the significant visual impacts, including cumulative impacts, taking into account the sensitivity of the affected viewpoints and residential properties;
- c) the relevance of Scottish Natural Heritage (now NatureScot) Siting and Designing Wind Farms in the Landscape Version 3a 2017;
- d) whether Clashindarroch (II) should be treated, as an extension to Clashindarroch (I) and the design implications of this;
- e) the extent to which the history of wind farm proposals at Clashindarroch has influenced the design of the current proposals and whether this is relevant; and
- f) the extent to which the visual or landscape impacts have been mitigated or minimised through the chosen design and layout of the turbines.

The Reporter provides a detailed consideration of landscape and visual effects including consideration of these areas of dispute in paragraphs 3.34 to 3.161 of the Public Inquiry Report.

The Reporter finds that significant adverse landscape effects would arise in the immediate host landscape and within part of the neighbouring landscape area to the north east. Significant visual effects (including cumulative effects) would be experienced from a number of viewpoints including views of and from the distinctive hill Tap o' Noth.

Scottish Ministers accept and agree with the Reporter's conclusions regarding the significance and extent of landscape and visual effects of the proposed Development and adopt them for the purpose of their own decision. These significant adverse visual effects are acceptable when balanced against the contributions to onshore wind and emissions targets offered by this proposal.

Effects on protected species

Wildcat

As the Reporter summarises at paragraph 4.2 of the Public Inquiry Report, the EIA Report describes the potential for effects on wildcat including:

- Construction / decommissioning effects (potential for mortality from vehicle collisions or interference with dens in breeding season; displacement by disturbance from light and noise etc.). Mitigation is also described which focusses on protection of the animal and important elements of its habitat. The residual effect is predicted as negligible.

- Operational effects via disturbance and displacement of wildcat and the consequential effect on breeding success or increased hybridisation. Mitigation is proposed which includes habitat enhancements, a monitoring programme, and financial contributions to both a neutering and vaccination programme and a wildcat project officer. The residual effects are predicted as negligible-minor.

Objectors including Wildcat Haven highlighted the importance of protecting the wildcat population. Wildcat Haven contended that the EIA Report was flawed and criticised the proposed mitigation. The Reporter summarises Wildcat Haven's case in paragraphs 4.23 to 4.33 of the Public Inquiry Report.

NatureScot consultation responses refer to estimates that four to five wildcats use Clashindarroch Forest at any one time and highlight stringent measures are required to ensure that individual animals, their places of shelter or breeding are not adversely affected; and that the species is not prevented from recovering a favourable conservation status in the future. NatureScot's view was that the potential impacts of the proposed Development are mitigated and compensated for by the proposed wildcat conservation measures. Paragraphs 4.34 to 4.35 of the Public Inquiry Report summarise the NatureScot consultation responses.

Paragraphs 4.36 to 4.115 of the Public Inquiry Report set out the Reporter's considerations in detail.

Scottish Ministers agree with the Reporter that while significant adverse effects on the wildcat population at Clashindarroch are predicted the proposed mitigation measures (including species protection and on-site and off-site habitat improvements) would render the residual effects negligible to minor.

Other protected species

The EIA Report concludes that with respect to both construction and operational effects there would be moderate and significant effects on watercourses and fish but the residual effects after mitigation measures are implemented would be minor and not significant. Neither SEPA nor Marine Scotland raise any significant concerns in this regard but confirm conditions are required to secure the mitigation.

The Reporter discusses ecology and protected species (other than wildcat) in paragraphs 5.30 to 5.34 of the Public Inquiry Report. Scottish Ministers agree with the Reporter and conclude on the basis that the relevant conditions are implemented in full, the effects on species and habitats would not be significant.

Scottish Ministers accept and agree with the Reporter's conclusions regarding the effects on protected species arising from the proposed Development and adopt them for the purpose of their own decision.

Cumulative noise effects

Noise is considered in paragraphs 5.5 to 5.29 of the Public Inquiry Report. Paragraphs 5.22 to 5.29 contain the Reporter's conclusions. The Reporter is satisfied that the predicted noise levels and the cumulative effects have been predicted correctly in both the EIA Report and the 2021 SI. The Reporter considers the Company has applied the ETSU-R-97 guidance in reaching these conclusions and states this is currently the government's preferred method

for assessing wind farm noise. The Reporter adds that the updated cumulative assessment based on the noise emitted from the existing wind farm demonstrates that both wind farms are predicted to operate comfortably within the maximum levels derived from the ETSU-R-97 methodology.

The Reporter considered the potential for excess amplitude modulation noise and stated it would be prudent to make provision in the noise condition for any emerging best practice guidance to be taken into account.

The Reporter also considered biennial monitoring and concluded biennial monitoring should be included for the proposed Development as it is for Clashindarroch (I) Wind Farm.

Scottish Ministers accept and agree with the Reporter's conclusions regarding noise arising from the proposed Development and adopt them for the purpose of their own decision.

The benefits of the proposed Development

Energy generation

The proposed Development would generate between 184 GWh and 276 GWh (gigawatt hours) annually and this is equivalent to the power consumed by between 48,653 and 72,980 average homes in the UK.

Carbon payback

Carbon balance is considered in paragraphs 5.119 to 5.122 of the Public Inquiry Report. The Reporter is satisfied that the figures presented by the Company are appropriate as a basis for assessing the overall contributions to renewable energy arising from the proposed development and the associated carbon payback period. The Reporter concludes that Given the associated benefits of the project, including generating 'low carbon' electricity for a minimum of 30 years and contributing to reducing climate change, there would be a net benefit in terms of overall carbon emissions.

Scottish Ministers accept and agree with the Reporter's conclusions regarding the benefits of the proposed Development and adopt them for the purpose of their own decision. The proposed Development would generate electricity from a renewable source of energy and provide carbon savings, and these savings would be of an order that weighs in favour of the proposed Development.

Climate Emergency and national energy policy

The Reporter finds that the ongoing need for renewable energy is undeniable and that the importance of delivering additional renewable energy capacity within a relatively short period (by 2030/2032) is given much greater emphasis in the more recent Scottish Government energy policy documents. This is underpinned by the declaration of a 'climate emergency', the Scottish Government's commitments to meeting the 'net zero' targets in a shorter timescale, the expectation that both heat and transport will be decarbonised and the importance of a 'green' recovery from the Covid pandemic.

The Onshore Wind Policy Statement 2022 (OWPS) now confirms that an additional 8 to 12 GW of onshore wind energy is required to ensure a minimum of 20 GW of installed onshore wind energy is in place by 2030. These figures reflect those presented in the December 2020 Climate Change Plan update which expected to see an additional 11 to 16 GW of renewable energy capacity between 2020 and 2032. They also confirm the scale of additional renewable energy capacity that national energy policy seeks to deliver and that onshore wind developments are expected to make a valuable and significant contribution to that increased capacity. These figures are not to be treated as a maximum and there is no cap on the installed capacity of renewable energy developments which will be supported.

Scottish Ministers accept and agree with the Reporter's conclusions regarding the Climate Emergency and national energy policy in the context of the proposed Development and adopt them for the purpose of their own decision.

There is ongoing demand to increase renewable energy, particularly onshore wind capacity, in Scotland and to do so as quickly as possible if the 2030 or 2032 target dates are to be met. Clashindarroch (II) would make a meaningful contribution towards this within the preferred timescale, as well as supporting emission reduction targets, reducing carbon dioxide emissions, and helping to tackle climate change. The ability of the proposed Development to contribute installed capacity before 2030 is another factor in its favour.

Consistency with national and local planning policy

National Planning Framework 4 (NPF4)

The Planning Authority's position is that due to significant and unacceptable landscape and visual effects, the development is considered to be contrary to the newly adopted 2023 Aberdeenshire Local Development Plan (ALDP) overall due to the extent of conflict with the provisions of Policy C2 Renewable Energy and E2 Landscape. The Planning Authority states that for these same reasons it would also be contrary to the provisions of policies 4 and 11 of NPF4. Other objectors including Wildcat Haven also state that the proposed Development does not comply with several national and local policy requirements including the additional expectations set out in NPF4.

The Reporter notes that the support for onshore wind or renewable energy as expressed in energy and planning policy is not unconditional. The Reporter commented on having been referred to many examples of where the concept of "right development in the right place" is evident in both energy and planning policy, including NPF4. The Reporter considers the new policy position (given largely by the OWPS and NPF4) establishes that onshore windfarms are the "right development" and this is a stronger position than the broad support for renewable energy development evident in previous, superseded policy documents.

The spatial strategy of NPF4 supports development proposals that will reduce greenhouse gas emissions as an important element of the goal to deliver 'Sustainable places'. National developments within the Strategic Renewable Electricity Generation and Transmission Infrastructure category are one of six national developments that would support this. The proposed Development is a national development supported by NPF4. The Reporter comments that NPF4 support is only in principle and the requirements of the individual policies must still be applied. The Reporter states that the key policies are policy 1 Tackling the Climate and Nature Crises; policy 3 Biodiversity; policy 4 Natural Places and policy 11 Energy.

In summary, the Reporter finds the proposed Development would provide a positive response to the climate crisis but that the proposed Development would not benefit from the 'significant weight' offered by policy 1 in relation to addressing the nature crisis, although it would not conflict with the intent of this part of policy 1.

In terms of policy 3, Wildcat Haven contended the changes to the biodiversity of the forest habitat will interfere with essential habitat for wildcat to the detriment of this important protected species. The Reporter does not disagree but is clear that that the residual impacts on wildcat and other species would not be significant. The Reporter has recommended a planning condition to make it clear that the Company is expected to provide biodiversity enhancement above and beyond that required to simply mitigate the effects of the proposed Development.

On policy 4, the Reporter finds there would not be a significant adverse residual effect on wildcat or other protected species (and references Chapters 4 and 5 of the Public Inquiry Report). On that basis the Reporter does not identify any conflict with policy 4 with respect to protected species.

The Reporter considered the issue of acceptability in terms of landscape and visual impacts under policy 4 should be considered alongside policy 11, Energy, where some specific direction on the acceptability of landscape or visual impacts is offered. The Reporter is satisfied that there is strong evidence of positive economic benefits from the proposed Development. There are significant localised landscape and visual effects, including that on part of the setting of a scheduled monument (Tap o' Noth), and cumulative impacts. Significant visual impact referred to above includes that experienced at a scenic viewpoint where users of the public road are encouraged to stop and look towards the Tap o' Noth.

Significant cumulative visual impacts remain important negative effects to be weighed up in this assessment. Taking into account the support in principle offered by part a) of policy 4 and the positive net economic impact figures associated with the development the Reporter finds the proposals would comply with policy 11. Balancing this conclusion with the compliance with other key policies and the significant weight that should be given to addressing the climate crisis in policy 1, the Reporter finds the development would comply with NPF4 overall.

Aberdeenshire Local Development Plan 2023 (ALDP)

The Reporter considered the matters most pertinent to the inquiry are policies C2 Renewable Energy, E1 Natural Heritage, E2 Landscape and P4 Hazardous and Potentially Polluting Developments and Contaminated Land. The Reporter noted that other policies contain provisions relating to mineral extraction, hill tracks, forestry and woodland, historic environment, protecting resources, carbon, and the provision of services however neither the council, nor other parties, identified any conflict with those policies.

The Reporter considered the potential for noise to be a "significant nuisance" under Policy P4 but finds that a planning condition to address noise would address the risk of a significant noise nuisance and that the proposed Development therefore does not conflict with P4, furthermore, that extending the noise protection measures applying to dwellings to users of the forest as a whole is not the intention of Policy C2 part C2.4.

The Reporter finds there would be no conflict with policy E1 Natural Heritage, and that the residual effects on protected species, taking into account the proposed mitigation measures, would not be significant.

In terms of Policy E2 Landscape, the Reporter balances the contributions to emissions and onshore wind targets against the adverse effects and does not find any of the adverse effects to be unacceptable overall.

The Reporter considered where there was support for the proposed Development under Policy C2 Renewable Energy which provides support in principle for renewable energy developments which are in appropriate sites. The Reporter has considered the siting of the turbines in an area which a sensitivity study suggested has no capacity for large scale wind farms, and also considered whether the proposed Development would meet the expectations of policy C2 for appropriate design, and being appropriately sited and designed taking into account cumulative effects. The Reporter considered the relationship between the local development plan and NPF4, where the provisions of the latter would prevail if there is incompatibility between the two and does not consider this particular policy conflict would lead to non-compliance with the development plan as a whole.

The Reporter makes it clear that, subject to the recommended conditions, the proposed Development would comply overall with NPF4 and the Aberdeenshire Local Development Plan 2023.

Scottish Ministers accept and agree with the Reporter's conclusions regarding the consistency of the proposed Development with national and local planning policy and adopt them for the purpose of their own decision.

Considering whether, in the wider planning balance, the climate change emergency increases the importance of renewable energy projects and their ability to contribute to UK and Scottish energy policy goals

The Reporter states that in making an assessment of the acceptability of the proposal, significant importance should be attributed to the climate change emergency as required by policy 1 of the Fourth National Planning Framework (NPF4), the bringing forward of key target dates for carbon emissions reductions and the strong support for onshore wind developments set out in recent energy policy. NPF4 is a response to the unprecedented challenges presented by the global climate emergency and the growing nature crisis.

Scottish Ministers accept and agree with the Reporter's conclusions regarding the increased importance of renewable energy projects and their ability to contribute to UK and Scottish energy policy goals under the climate change emergency and adopt them for the purpose of their own decision.

The Scottish Ministers' Conclusions

Reasoned Conclusions on the Environment

The Scottish Ministers are satisfied that the EIA Report and the 2021 SI have been produced in accordance with the 2017 Regulations and that the procedures regarding publicity and consultation laid down in those Regulations have been followed.

The Scottish Ministers have fully considered the EIA Report, responses from consultees and third parties, the 2021 SI, the Public Inquiry Report and the Public Inquiry Supplementary Report alongside the Reporters' considerations and subsequent conclusions and are satisfied that the environmental impacts of the proposed Development have been sufficiently assessed and have taken the environmental information into account when reaching their decision.

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 overcome with the exception of significant adverse landscape and visual effects.

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

Acceptability of the proposed Development

The seriousness of climate change, its potential effects, and the need to cut carbon dioxide emissions, remain a significant priority for the Scottish Ministers. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (the "2019 Act") sets a target for Scotland to be carbon-neutral, meaning net-zero CO₂, by 2045 at the latest. Additionally, the 2019 Act sets out two interim targets to reduce emissions by 75% by 2030 and by 90% by 2040.

Scotland's renewable energy and climate change targets, energy policies and planning policies are all relevant considerations when weighing up the proposed Development. NPF4, the Onshore Wind Policy Statement 2022 and the Draft Energy Strategy and Just Transition Plan 2023 make it clear that renewable energy deployment remains a priority of the Scottish Government. It remains clear from NPF4, as well as the Onshore Wind Policy Statement 2022, that this is a matter which should be afforded significant weight in favour of the proposed Development.

The Scottish Ministers consider that the proposed Development, if deployed, would create net economic benefits, and deliver significant renewable energy benefits that would support climate change mitigation and are wholly in accordance with Scottish Government's climate change ambitions. These benefits however must be considered carefully in the context of the negative impacts on the natural environment that would result and whether or not, on balance, they are acceptable.

The Scottish Ministers acknowledge that the proposed Development will have significant adverse landscape and visual effects (including some on views from houses and on visitors to Tap o' Noth), however the Scottish Ministers find that these negative impacts on the natural environment are acceptable in the context of the net economic benefits and significant renewable energy benefits, in support of climate change mitigation, that would arise if the proposed Development were deployed.

The Scottish Ministers therefore consider the Application for consent under section 36 of the Electricity Act 1989, for the construction and operation of Clashindarroch (II) Wind Farm

located approximately 6 kilometres to the south west of Huntly in Aberdeenshire, wholly within the planning authority area of Aberdeenshire Council, should be approved.

The Scottish Ministers' Determination

As set out above the Scottish Ministers have considered fully the Reporter's findings and their reasoned conclusions, including their reasoned conclusion on the likely significant effects of the proposed Development on the environment, and adopt them for the purposes of their own decision.

The Scottish Ministers agree with the Reporters' recommendation that section 36 consent should be granted for the construction and operation of Clashindarroch (II) Wind Farm, and that a direction deeming planning permission to be granted should be given for the Development.

Subject to the conditions set out in Annex 2, Part 1, the Scottish Ministers grant consent under section 36 of the Electricity Act 1989 for the construction and operation of the Clashindarroch (II) Wind Farm, a wind powered electricity generating station in the Aberdeenshire Council area, as described at Annex 1.

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

Section 36 consent and expiry of Planning Permission

The consent hereby granted will last for a period of 30 years from the earlier of: i) the date when electricity is first exported to the electricity grid network from all of the wind turbines hereby permitted; or ii) the date falling 18 months after electricity is generated from the first of the wind turbines hereby permitted.

Section 58(1)(a) of the Town and Country Planning (Scotland) Act 1997 requires where planning permission is deemed to be granted, that it must be granted subject to a condition that the permission will expire if has not begun within a period of 3 years. Section 58(1)(b) of that Act enables the Scottish Ministers to specify that a longer period is allowed before planning permission will lapse. Scottish Government policy is that due to the constraints, scale and complexity of constructing such developments, a 5-year time scale for the commencement of development is appropriate.

The Scottish Ministers consider that 3 years is not to apply with regard to the planning permission granted above, and that planning permission is to lapse on the expiry of a period of 5 years from the date of this direction, unless the development to which the permission relates is begun before the expiry of that period. A condition has been imposed stating that development must be begun within 5 years beginning with the date on which the permission is deemed to be granted and if development has not begun at the expiration of that period, the planning permission will lapse in terms of section 58(3) of the 1997 Act.

In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, the Company must publicise notice of this determination and how a copy of this decision letter may be inspected on the application website, in the Edinburgh Gazette

and a newspaper circulating in the locality in which the land to which the application relates is situated.

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

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:

<https://www.scotcourts.gov.uk/docs/default-source/rules-and-practice/rules-of-court/court-of-session/chap58.pdf?sfvrsn=20>

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

Yours sincerely,

pp Alan Brogan

Ruth Findlay
For and on behalf of the Scottish Ministers
A member of the staff of the Scottish Government

Annex 1: Description of development

The wind powered electricity generating station known as Clashindarroch (II) Wind Farm with a generating capacity exceeding 50MW located within Clashindarroch Forest within Aberdeenshire, approximately 6km to the south-west of Huntly, in the planning jurisdiction of Aberdeenshire Council.

The principal components of the wind farm and ancillary development include:

- 14 wind turbines with a maximum tip height of 180 m and associated aviation lighting, transformers, foundations, crane hardstanding and a temporary working area;
- approximately 10.9km of new access tracks, associated drainage and improvement of site entrance;
- upgrading of up to 1.9km of the existing on-site access tracks;
- 3 borrow pit search areas and borrow pits within these areas;
- underground cabling along access tracks to connect the turbine locations, and control building;
- a control building with welfare facilities and associated substation compound;
- a temporary construction compound during the construction period with a central laydown area including a concrete batching facility;
- a substation;
- forestry felling and compensatory planting; and
- one permanent met mast 112m in height.

As shown on Volume 3a Chapter 3 Figure 3.1 of the Environmental Impact Assessment Report dated November 2019 and the site boundary as shown on amended Figure 1 of the Environmental Impact Assessment Report, submitted in May 2021.

Annex 2 part 1 – Section 36 consent conditions

Notification of Date of First Commissioning and Final Commissioning

1. Written confirmation of the date of First Commissioning shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that date. 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 define the duration of the consent.

Commencement of Development

2. The commencement of the development shall be no later than five years from 26 June 2023, or such other period as the Scottish Ministers may direct in writing. Written confirmation of the intended date of Commencement of Development shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month before that date.

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

Non-assignment

3. 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. The Company shall notify the Planning Authority in writing of the name of the assignee, principal named contact and contact details within 14 days of written confirmation from the Scottish Ministers of an assignment having been granted.

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

Serious Incident Reporting

4. In the event of any breach of health and safety or environmental obligations relating to the Development during the period of this consent, the Company will provide written notification of the nature and timing of the incident to the Scottish Ministers, including confirmation of remedial measures taken and/or to be taken to rectify the breach, within 48 hours of the incident occurring.

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

Aviation Radar

5. (1) No part of any turbine shall be erected above ground until a Primary Radar Mitigation Scheme agreed with the Operator has been submitted to and approved in writing

by the Planning Authority in order to avoid the impact of the development on the Primary Radar of the Operator located at Allanshill and associated air traffic management operations.

(2) No part of any turbine shall be erected above ground until the approved Primary Radar Mitigation Scheme has been implemented and the development shall thereafter be operated fully in accordance with such approved Scheme.

For the purpose of this condition:

"Operator" means NATS (En Route) plc, incorporated under the Companies Act (4129273) whose registered office is 4000 Parkway, Whiteley, Fareham, Hants PO15 7FL or such other organisation licensed from time to time under sections 5 and 6 of the Transport Act 2000 to provide air traffic services to the relevant managed area (within the meaning of section 40 of that Act); and

"Primary Radar Mitigation Scheme" or "Scheme" means a detailed scheme agreed with the Operator which sets out the measures to be taken to avoid at all times the impact of the development on the Allanshill primary radar and air traffic management operations of the Operator.

Reason: In the interests of aviation safety.

Air Defence Radar

6. (1) No development of any wind turbine generator forming part of the authorised development shall commence unless and until an Air Defence Radar Mitigation Scheme (the "ADRM scheme") has been submitted to and approved in writing by Scottish Ministers in conjunction with the Ministry of Defence ("MOD").

For the purposes of this condition, the "ADRM Scheme" means a detailed scheme to mitigate the adverse impacts of the development on the air defence radar at Remote Radar Head Buchan and the air surveillance and control operations of the MOD. The scheme will set out the appropriate measures to be implemented to that end.

(2) No wind turbine erected as part of this development shall be permitted to rotate its rotor blades about its horizontal axis, other than for the purpose of testing radar mitigation for this development for specific periods as defined in the approved ADRM or otherwise arranged in accordance with provisions contained in the approved ADRM, until:

- a) those mitigation measures required to be implemented prior to any wind turbine being permitted to rotate its rotor blades about its horizontal axis as set out in the approved ADRM scheme have been implemented; and
- b) any performance criteria specified in the approved ADRM scheme and which the approved ADRM scheme requires to have been satisfied prior to any wind turbine being permitted to rotate its rotor blades about its horizontal axis have been satisfied and Scottish Ministers, in consultation with the Ministry of Defence, have confirmed this in writing.

Thereafter the development shall be operated strictly in accordance with the details set out in the approved ADRM scheme for the lifetime of the development.

Reason: In the interests of aviation safety.

Annex 2 part 2 – Deemed planning permission conditions

Decommissioning and Site Restoration

7. (1) The Development will cease to generate electricity by no later than the date falling 30 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 after the date of cessation of electricity generation by the Development without prior written approval of the Scottish Ministers in consultation with the Planning Authority.

(2) There shall be no Commencement of Development, including tree felling and vegetation clearance 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 and SEPA. The strategy shall include measures for the decommissioning of the Development, restoration and aftercare of the site and will include, without limitation, proposals for the removal of the above ground elements of the Development, confirmation of the status of subterranean elements of the development (retention, removal or other such proposal), the treatment of ground surfaces, the management and timing of the works and environmental management provisions.

(3) No later than twelve months prior to 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 to the Planning Authority for written approval in consultation with NatureScot and SEPA. The detailed decommissioning, restoration and aftercare plan will provide updated and detailed proposals for the removal of above ground elements of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions. It shall include (but shall not be 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 new features required to facilitate the decommissioning and restoration including but not limited to: the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- (c) a dust management plan;
- (d) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- (e) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- (f) soil storage and management;
- (g) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- (h) sewage disposal and treatment;
- (i) temporary site illumination;

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

(4) The Development shall be decommissioned, site restored and aftercare thereafter undertaken in accordance with the detailed decommissioning, restoration and aftercare plan as approved, 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.

Financial Guarantee

8. No works in connection with the development hereby approved shall commence unless the developer has provided to the planning authority written details of the guarantee or other financial provision (which may also benefit Forestry and Land Scotland) that is proposed to be put in place to cover all site restoration and aftercare liabilities at the end of the period of this permission. The developer shall also provide an independent confirmation by a suitably qualified independent professional that the amount of the guarantee or financial provision so proposed is sufficient to meet the full estimated costs of dismantling, removal, disposal, site restoration, remediation, aftercare liabilities and incidental work as well as associated professional costs. No works shall commence on site unless written confirmation has been given by the planning authority that the proposed guarantee is satisfactory, and the developer has confirmed in writing to the planning authority that the guarantee has been put in place. The guarantee or other financial provision shall:

- a) be granted in favour of the Council as planning authority (but may also benefit Forestry and Land Scotland);
- b) unless in the form of a parent company guarantee, be from a bank or other institution which is of sound financial standing and capable of fulfilling the obligations under the guarantee;
- c) the value of the financial provision shall be reviewed by a suitably qualified independent professional at least every five years and increased or decreased to take account of any variation in costs of compliance with restoration and aftercare obligations;
- d) come into effect on or before the date of commencement of development and expire no earlier than the completion of the site restoration and aftercare period.

In the event that the guarantee becomes invalid for any reason, operations in connection with the development shall cease within 12 weeks of the date on which the financial guarantee became invalid unless a replacement guarantee, completed in accordance with the terms of this condition has been submitted to and approved in writing by the planning authority. This stipulation shall apply unless otherwise agreed in writing with the Planning Authority.

Reason: To ensure financial security for the cost of the site reinstatement to the satisfaction of the planning authority is in place to provide that any redundant wind turbine(s) and

ancillary equipment is removed from the site, in the interests of the safety and visual amenity of the area.

Supply of Electricity to the National Grid

9. In the event that one or more turbines fail to generate electricity for a continuous period of six months then unless otherwise approved in writing by the Planning Authority the Company shall:

- a) submit a scheme to the Planning Authority within three months of the end of that six month period setting out how the relevant turbine(s) and associated infrastructure will either be repaired or removed from the site and the ground restored, together with a programme for such works; and
- b) implement the approved scheme in accordance with the programme contained therein.

Reason: To ensure appropriate provision is made for turbine(s) requiring repair or for turbine(s) which require decommissioning.

Appearance

10. (1) No construction of the control building, substation or ancillary infrastructure shall commence until final details of the location, layout, external appearance, any and all external lighting to be used during the operation of the site, fencing, walls, paths and any other ancillary elements of the development, have been submitted to, and approved in writing by, the Planning Authority. Thereafter, development shall progress in accordance with these approved details.

(2) No development shall commence until the external finishes and colour of the turbines and any anemometry masts have been submitted to and approved in writing by the Planning Authority. The approved details shall be implemented.

(3) The tip height of turbines shall not exceed 180 metres to the tip of the blades when the turbine is in the vertical position as measured from the natural ground surface immediately adjacent to the turbine base.

(4) All wind turbine blades shall rotate in the same direction.

(5) All cables between the turbines and between the turbines and the control building on site shall be installed and kept underground.

(6) No part of the development, including external transformers, anemometry masts, substation buildings, ancillary buildings or above ground fixed plant shall display any name, logo, sign or other advertisement other than as specified in the application, unless approved in advance in writing by the Planning Authority or if required by law.

(7) The Development shall be constructed and operated in accordance with the approved details and maintained in the approved colour, free from external rust, staining or discolouration which in the opinion of the Planning Authority materially effects the colour and characteristics of the wind turbine, until such time as the wind farm is decommissioned.

Reason: to ensure that the environmental impacts of the turbines forming part of the development conform to the impacts of the candidate turbine assessed in the Environmental Impact Assessment Report and in the interests of the visual amenity of the area.

Construction Method Statement

11. There shall be no commencement of development, including tree felling and vegetation clearance, until a Construction Method Statement ("CMS") has been submitted to and approved in writing by the Planning Authority. Construction of the development shall be carried out in accordance with the approved CMS, subject to any variations approved in writing by the Planning Authority. The CMS shall include:

- a) details of the phasing of construction works;
- b) the formation of temporary construction compounds, access tracks and any areas of hardstanding;
- c) details of 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) details of foundation design;
- e) the method of construction and erection of the wind turbines;
- f) the method of construction of the crane pads and turbine foundations;
- g) the method of working cable trenches;
- h) dust management;
- i) pollution control measures including protection of the water environment, bunding of fuel storage areas, surface water drainage, sewage disposal and discharge of foul drainage;
- j) details of watercourse crossings;
- k) temporary site illumination during the construction period;
- l) details of the proposed storage of materials and surplus materials;
- m) details of surface treatments and the construction of all hard surfaces and access tracks between turbines and between turbines and other infrastructure;
- n) details of routeing of onsite cabling;
- o) details of emergency procedures and pollution response plans;
- p) maintenance of visibility splays on the entrance to the site;
- q) siting and details of wheel washing facilities;
- r) cleaning of site entrances, site tracks and the adjacent public highway 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 highway;
- s) details and a timetable for post construction restoration/reinstatement of the temporary working areas, and the construction compound;
- t) working practices for protecting nearby residential dwellings, including good practice as set out in PAN1/2011 and general measures to control noise and vibration arising from on-site activities, shall be adopted as set out in British Standard 5228 Part 1: 2009;
- u) location of fencing or other barriers to be erected around assets which might be affected by construction works;
- v) areas on site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant, equipment and vehicles;
- w) details of safety arrangements for crossing any public rights of way during construction; and
- x) drainage management plan, including details of roadside drainage ditch discharge.

The CMS shall contain a schedule of mitigation as an Appendix. This Schedule shall address each point listed in the condition (i.e. a to x) and shall identify the part of the document which addresses each point.

Reason: To ensure a satisfactory level of environmental protection and to minimise disturbance to local residents during the construction process.

Construction Environmental Management Plan

12. No works in connection with the development hereby approved (including demolition, ground works, tree felling and vegetation clearance) shall commence unless a Construction Environmental Management Plan ("CEMP") has been submitted to and approved in writing by the planning authority in consultation with SEPA. The CEMP shall include:

- a) the risk assessment of potentially damaging construction activities;
- b) the identification of biodiversity protection zones;
- c) the practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d) the location and timing of sensitive works to avoid harm to biodiversity features;
- e) the times during construction when specialist ecologists need to be present on site to oversee works;
- f) the responsible persons and lines of communication;
- g) the role and responsibilities on site of the environmental clerk of works (ECoW) or similarly competent person;
- h) the use of protective fences, exclusion barriers and warning signs;
- i) updated NVC survey work carried out along sections of access track which are to be upgraded, and details of any resultant mitigation which shall be undertaken in order to protect Ground Water Dependent Terrestrial Ecosystems (GWDTE).
- j) Details of any dewatering activities, alongside any necessary mitigation in relation to dewatering;
- k) a Peat Management Plan;
- l) a Water Quality Monitoring Plan; and
- m) a Site Waste Management Plan, including details of any peat excavation.

The CEMP shall contain a schedule of mitigation as an Appendix. This Schedule shall address each point listed in the condition (i.e. a to m) and shall identify the part of the document which addresses each point. All works carried out during the construction period shall be undertaken strictly in accordance with the approved CEMP unless otherwise agreed in writing with the Planning Authority, in consultation with SEPA.

Reason: In the interests of protecting the biodiversity of the environment

New Access Track

13. There shall be no elevation of land within the functional floodplain as a result of the creation of the new access tracks.

Reason: To protect people and property from flood risk.

Construction Traffic Management Plan

14. There shall be no commencement of development, including tree felling and vegetation clearance, until a Construction Traffic Management Plan ("CTMP") has been submitted to and approved in writing by the Planning Authority. The approved CTMP shall be carried out as approved and shall include:

- a) the mitigation measures described within the Outline CTMP at Appendix 13.4 of the EIA Report;
- b) the routeing of construction traffic and traffic management;
- c) scheduling and timing of movements;
- d) the management of junctions to and crossings of the public highway and other public rights of way;
- e) any identified works to accommodate abnormal loads along the delivery route including any temporary warning signs;
- f) temporary removal and replacement of highway infrastructure/street furniture;
- g) reinstatement of any signs, verges or other items displaced by construction traffic;
- h) banksman/escort details;
- i) a procedure for monitoring road conditions and applying remedial measures where required as well as reinstatement measures;
- j) a timetable for implementation of the measures detailed in the CTMP;
- k) measures to ensure that the specified routes are adhered to, including monitoring procedures;
- l) details of all signage and lining arrangements to be put in place;
- m) provisions for emergency vehicle access; and
- n) identification of a nominated person to whom any road safety issues can be referred.

Reason: to maintain the safety and free flow of traffic on the road network.

Abnormal Loads

15. There shall be no movement of any abnormal loads until an Abnormal Loads Routeing Plan has been submitted to and approved in writing by the Planning Authority in consultation with the trunk roads authority. The approved Abnormal Loads Routeing Plan shall be carried out as approved and shall include:

- a) the proposed route for any abnormal loads on the trunk road network including any accommodation measures required such as the removal of street furniture, junction widening and traffic management;
- b) details of any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed: this must be undertaken by a recognised QA (Quality Audit) traffic management consultant;
- c) a plan for access by vehicles carrying abnormal loads, including the number and timing of deliveries, the length, width and axle configuration of all extraordinary traffic accessing the site;
- d) detailed proposals for undertaking trial runs and delivery of abnormal indivisible loads, including measures proposed to protect the public road and structures, traffic

- management including temporary waiting restrictions, vehicle holding areas and non-vehicular management during deliveries;
- e) time restrictions for abnormal indivisible load deliveries; and
- f) traffic surveys to be undertaken including details of count locations and length of survey period.

Reason: To minimise interference and maintain the safety and free flow of traffic on the Trunk Road as a result of the traffic moving to and from the development and to ensure that the transportation will not have any detrimental effect on the road and structures along the route.

Hours of Construction and Deliveries

16. Noise generating construction work and HGV movements to and from the site (excluding abnormal loads) during construction of the wind farm shall only take place on the site between the hours of 0700 to 1900 on Monday to Friday inclusive and 0700 to 1300 on Saturdays, with no construction work or HGV movements taking place on a Sunday or on national public holidays. Outwith these hours, construction activity (including associated vehicle movements) shall be limited to concrete pours, wind turbine erection and delivery, maintenance, emergency works, dust suppression, and the testing of plant and equipment, unless otherwise approved in advance in writing by the Planning Authority.

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

Micrositing

17. The wind turbines hereby permitted shall be erected at the following grid co-ordinates:

Turbine	Easting	Northing	Altitude (AOD)
1	344086	833617	390
2	343640	831705	358
3	343415	832583	393
4	344357	832735	375
5	344076	831659	381
6	344821	833268	342
7	344002	832977	344
8	343603	833107	396
9	344460	833440	359
10	344118	832206	417
11	343713	832298	429
12	342964	832151	388
13	343286	831912	384
14	344533	832177	393

Notwithstanding the terms of this condition, the wind turbines and other infrastructure hereby permitted may be adjusted by micro-siting within 50 metres of the above grid reference points, subject to the following restrictions unless otherwise approved in advance in writing by the Planning Authority (in consultation with SEPA and NatureScot):

- a) turbines 1, 3, 8, 10, 11 and 12 may only be positioned higher, when measured in metres Above Ordnance Datum (Newlyn), than the altitude position detailed within the above table with prior written approval of the Planning Authority;
- b) Turbines 2, 4, 5, 6, 7, 9, 13 and 14 may only be positioned higher, when measured in metres Above Ordnance Datum (Newlyn), than the altitude position detailed within the above table to a maximum elevation increase of 10 metres;
- c) no micro-siting shall take place within areas of peat of greater depth than the original location;
- d) no micro-siting shall take place within areas hosting Ground Water Dependent Terrestrial Ecosystems;
- e) no wind turbine or other infrastructure may be micro-sited to less than 50 metres from watercourses, except access tracks in the vicinity of watercourse crossings; and
- f) all micro-siting permissible under this condition must be approved in advance in writing by the Environmental Clerk of Works (ECoW).

No later than one month after the date of First Commissioning, an updated site plan shall be submitted to the Planning Authority showing the final position of all wind turbines and other associated infrastructure forming part of the Development. This shall include clearly marked northing and eastings for each turbine and the altitude (AOD). The plan shall also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW or Planning Authority's approval, as applicable.

Reason: to control environmental impacts while taking account of local ground conditions.

Borrow Pits

18. No development in connection with the permission hereby granted shall commence until such a time as a site specific scheme providing full details for the working and restoration of the proposed borrow pits has been submitted to and agreed in writing with the Planning Authority, in consultation with SEPA. The details shall comprise:

- a) the location of each borrow pit to be used for extraction;
- b) the volume of material to be extracted;
- c) the depth of proposed extraction (including existing and proposed cross sections);
- d) the working methods and timing or phasing for the extraction of each borrow pit;
- e) the management measures for each borrow pit; and
- f) the proposed restoration of each borrow pit (including cross sections and the timing of said restoration).

Thereafter the development of the borrow pits shall be carried out in accordance with the agreed scheme, unless otherwise agreed in writing with the Planning Authority.

Reason: In order to ensure that the full detail of the proposed borrow pits is provided and in order to protect the recreational and visual amenity of the surrounding area.

19. Blasting shall only take place on the site between the hours of 1000 to 1600 on Monday to Saturday inclusive, with no blasting taking place on a Sunday or on national public holidays, unless otherwise approved in advance in writing by the Planning Authority.

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

Ecology and Ornithology

20. No works in connection with the development hereby approved (including demolition, ground works, tree felling and vegetation clearance) shall commence unless a Species Protection Plan and a Habitat Management Plan have been submitted to and agreed in writing by the Planning Authority in consultation with NatureScot.

The Habitat Management Plan shall include the mitigation measures described within the Outline Habitat Management Plan contained at Appendix 9.5 of the EIA Report and detail:

- a) measures to be undertaken in order to prevent the destruction or disturbance of the habitats of protected species, including Wildcat;
- b) measures to be undertaken in order to mitigate the loss of habitats, where said loss is unavoidable;
- c) working practices in the event that protected species are identified on site (during the construction phase) in order to prevent disturbance; and
- d) measures to restore and enhance woodland and peatland habitats and to improve habitat connectivity for wildcat between Clashindarroch Forest and the large woodland blocks within the Strathbogie Wildcat Protection Area (WPA) that would meet and exceed the mitigation measures described in the EIA Report.

The Species Protection Plan and the Habitat Management Plan shall set out proposed species and habitat management of the wind farm site and offsite habitat connectivity land during the period of construction, operation, decommissioning, restoration, and aftercare of the site.

Documentary evidence shall be submitted prior to commencement of development on site, including any tree felling associated with the development, that the applicant has received the authority from land owners to carry out works, secured the necessary funding and/or reached an agreement with other organisations as relevant to deliver i) the TNVR programme within the Strathbogie WPA, ii) the appointment of a Wildcat Project Officer and iii) the creation of habitat links between Clashindarroch and the wider WPA referred to in d) above.

The approved Habitat Management Plan shall include provision for regular monitoring and review to be undertaken to consider whether amendments are needed to better meet the habitat plan objectives. In particular, the approved habitat management plan shall be updated to reflect ground condition surveys undertaken following construction and prior to the date of Final Commissioning and submitted to the Planning Authority for written approval in consultation with NatureScot.

The development shall be carried out in accordance with the agreed Species Protection Plan and the Habitat Management Plan, unless otherwise agreed in writing with the Planning Authority in consultation with NatureScot.

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

21. There shall be no commencement of development, including tree felling and vegetation clearance until an independent suitably qualified Environmental Clerk of Works

("ECoW") has been appointed, such appointment to be approved in advance in writing by the Planning Authority. The terms of appointment shall:

- a) impose a duty to monitor compliance with the ecological, ornithological and hydrological commitments provided in the EIA Report lodged in support of the application and the Construction Environmental Management Plan, Species Protection Plan, Peat Management Plan, Habitat Management Plan and other plans approved in terms of the conditions of this permission ("the ECoW Works");
- b) require the ECoW to advise on micro-siting proposals issued pursuant to Condition 17;
- 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 that it has been reviewed by the construction project manager;
- d) require the ECoW to report to the appropriate statutory body any incidences of non-compliance with the ECoW Works at the earliest practical opportunity; and
- e) require the ECoW to submit a monthly report to the Planning Authority summarising works undertaken on site.

The ECoW shall be appointed on the approved terms throughout the period of commencement of development, throughout any period of construction activity and during any period of post construction restoration works approved in terms of condition 11.

No later than 18 months prior to the decommissioning of the Development or the expiration of this consent (whichever is the earlier), the Company shall submit details of the terms of the appointment by the Company of an independent ECoW throughout the decommissioning, restoration and aftercare phases of the Development to the Planning Authority for approval in consultation with NatureScot and SEPA. 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.

22. No development, including tree felling and vegetation clearance, shall commence until a survey method statement has been submitted to and approved in writing by the Planning Authority. The survey method statement shall include a timetable for implementation of the measures detailed therein. Thereafter, surveys shall be undertaken in accordance with the approved survey method statement. The survey results shall inform mitigation measures required for protection of such species on site which shall be incorporated into a Species Protection Plan ("SPP"), based on the principles set out in Appendix 9.4 of the EIA Report, and incorporated into a Bird Protection Plan ("BPP"), based on the principles set out in Appendix 8.4 of the EIA Report.

The SPP and the BPP shall be submitted to and approved in writing by the Planning Authority prior to the commencement of development. Thereafter the plans shall be implemented as approved, unless otherwise agreed in writing with the Planning Authority in consultation with NatureScot.

Reason: In the interests of nature conservation.

Fisheries management

23. Prior to the commencement of development, including tree felling and vegetation clearance, a Fisheries Management Plan (“FMP”) shall be submitted to and approved in writing by the Planning Authority in consultation with the Deveron Fisheries Board. The FMP shall include:

- a) Details of a water quality monitoring programme;
- b) Details of a fish population monitoring programme; and
- c) Details of the mitigation measures described within the outline FMP at appendix 9.6 of the EIA Report.

The development shall be carried out in accordance with the agreed FMP unless otherwise agreed in writing with the Planning Authority.

Reason: To manage the potential impact of the proposed development on fresh water fish.

Forestry

24. No felling required for site investigation works shall be carried out until a plan has been submitted to and approved in writing by the Planning Authority which describes the felling proposals.

Reason: In the interests of sound forest management.

25. Felling associated with the construction of the wind farm, hereby approved, shall not commence until a long term forest plan for any remaining woodland within the Site Boundary shown on amended Figure 1.2 of the EIA Report (submitted in May 2021) has been submitted to and approved in writing by the Planning Authority. The plan shall also describe proposals for the felling of trees to enable the construction and operation of the Development and indicate how the deforested land will be managed. The plan shall follow the principles described within Appendix 3.2 of the EIA Report and shall follow the scoping process and content described in the Forestry Commission’s Long Term Forest Plan: Applicant’s Guidance (2016) (or any revision or replacement subsequently published). The plan 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.

26. 1) Felling associated with construction of the wind farm shall not commence until a woodland planting scheme to compensate for the removal of any existing woodland as a result of Condition 25 (the “Compensatory Planting Scheme”) has been submitted to and approved in writing by the Planning Authority.

2) The Compensatory Planting Scheme shall comply with the requirements set out in the UK Forestry Standard (Forestry Commission, 2017, ISBN 978-0-85538-999-4 or any revision or replacement subsequently published) and the guidelines to which it refers. The Compensatory Planting Scheme submitted for approval shall include:

- a) details of the location of the area(s) to be planted;
- b) the nature, design and specification of the proposed woodland to be planted;

- c) the phasing and associated timescales for implementing the Compensatory Planting Scheme;
- d) proposals for the maintenance and establishment of the Compensatory Planting Scheme, including: regular monitoring by an independent, qualified and technically competent professional, annual checks, replacement planting, fencing, ground preparation and drainage; and
- e) proposals for reporting to the Planning Authority on compliance with timescales for delivery of the Compensatory Planting Scheme.

3) The works set out within the Compensatory Planting Scheme shall be completed within five years of the removal of the woodland or within two years of the Development being completed, whichever is the earlier.

4) The approved Compensatory Planting Scheme, or any revised Compensatory Planting Scheme subsequently approved by the Planning Authority in writing, shall thereafter be implemented in full and in accordance with the phasing set out therein, and in accordance with the timescales set out under parts 2c) and 3 of this condition, unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of nature conservation.

Archaeology

27. There shall be no commencement of development, including tree felling and vegetation clearance, unless a programme of archaeological watching briefs to be undertaken during ground breaking works has been submitted to and approved in writing by the Planning Authority. The approved scheme of archaeological watching brief shall thereafter be implemented in full.

Reason: To safeguard and record the archaeological features on the site.

Protective fencing during construction

28. No works in connection with the development, hereby approved including tree felling and vegetation clearance shall commence unless a site protection plan has been submitted to and approved in writing by the planning authority. Site protection measures shall be shown on a layout plan accompanied by descriptive text and shall include:

- a) the location of the historic environment features to be protected during construction works; and
- b) the position and details of the warning signs and protective fencing to be erected.

No works in connection with the development hereby approved including tree felling shall commence unless the site protection measures have been implemented in full in accordance with the approved details. All protective fencing and warning signs shall be retained during the construction period in accordance with the approved details and no works shall take place at any time within the protected areas.

Reason: In the interests of protecting known features of the historic environment.

Air Safety

29. The Company shall provide the Planning Authority and Ministry of Defence with the following information in writing prior to the commencement of development:

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

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

Reason: In the interests of aviation safety.

Aviation Lighting

30. Lights for the purposes of aviation safety shall be installed in accordance with the lighting scheme approved by the Civil Aviation Authority (CAA) on 23 December 2020 and infra -red lighting shall be installed in accordance with the scheme approved by the Ministry of Defence (MoD) on 27 July 2020 or such alternative scheme which may subsequently be submitted to and approved by the Council in consultation with the CAA and the MoD.

Reason: In the interests of aviation safety.

Private Water Supplies

31. (1) No development including tree felling and vegetation clearance shall commence unless and until a private water supply method statement and monitoring plan in respect of private water supplies has been submitted to and approved in writing by the Planning Authority.

(2) The private water supply method statement shall detail all mitigation measures to be taken to secure the quality, quantity and continuity of water supplies to properties which are served by private water supplies at the date of this permission and which may be affected by the Development.

(3) The private water supply method statement shall include water quality sampling methods and shall specify abstraction points.

(4) The approved private water supply method statement and monitoring plan shall be implemented in full.

(5) Monitoring results obtained as described in the private water supply method statement shall be submitted to the Planning Authority on a quarterly basis or on request during the approved programme of monitoring.

Reason: To maintain a secure and adequate quality water supply to all properties with private water supplies which may be affected by the Development.

Hydrology

32. No development shall commence 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 of prevailing guidance) have been submitted to, and approved in writing by, the Planning Authority. The details shall be implemented as approved.

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

Access Management

33. There shall be no commencement of development including tree felling and vegetation clearance until an Access Management Plan ("AMP") has been submitted to and agreed in writing by the Planning Authority in consultation with ScotWays. The AMP shall ensure that public access is retained in the vicinity of Clashindarroch (II) Wind Farm during construction, and thereafter that suitable public access is provided during the operational phase of the wind farm. The plan as agreed shall be implemented in full.

Reason: In the interests of maintaining public access rights.

Noise Conditions

34. 1) No turbine shall be erected until a written report on the predicted acoustic performance of the turbines (including any tonal assessment) selected by the developer (including noise immissions at dwellings near to the development) when operating as the proposed development in isolation, and also cumulatively with nearby wind turbine development and on any curtailment of performance which may be required to enable compliance with condition 36 has been submitted to and approved in writing by the Planning Authority.

2) No turbine shall be erected until a scheme providing for the measurement of noise emitted by the wind turbines hereby consented, together with those forming the existing operational Clashindarroch wind farm site permitted under planning reference M/APP/2009/1380, with the objective of demonstrating compliance with the noise rating requirements of condition 36 has been submitted to and approved in writing by the Planning Authority. The scheme, which shall be implemented as approved, shall provide that within 1 year of the generation of electricity from the development for commercial sale an independent consultant as approved under condition 36(a) shall measure noise immissions from the turbines at the locations/dwellings agreed as part of the scheme, such measurements to be made in a sufficient range of wind directions and wind speeds, and shall demonstrate how (if necessary) one or more operational modes of the wind turbines will secure compliance with condition 36.

35. No turbine shall be erected until a scheme providing for the investigation and control of Excess Amplitude Modulation has been submitted to and approved in writing by the

Planning Authority. The scheme shall be based on best available techniques and shall be implemented as approved.

“Excess Amplitude Modulation” means the modulation of aerodynamic noise produced at the frequency at which a blade passes a fixed point and occurring in ways not anticipated by ETSU-R-97, The Assessment and Rating of Noise from Wind Farms, at page 68.

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

36. The rating level of noise immissions from the combined effects of the wind turbines hereby permitted, together with those forming the existing operational Clashindarroch wind farm site permitted under planning reference M/APP/2009/1380, (including the application of any tonal penalty) 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 this condition at any dwelling which is lawfully existing or has planning permission at the date of this permission.

The turbines shall be designed to permit individually controlled operation or shut down at specified wind speeds and directions in order to facilitate compliance with the limits in the Tables and:

a) The development shall not be commenced unless the wind farm operator has submitted a list of independent consultants who may undertake compliance measurements in accordance with this condition and has received written approval from the planning authority of that list. Amendments to the list of approved consultants shall be made only with the prior written approval of the Planning Authority.

b) 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.

c) The wind farm operator shall employ an independent consultant approved by the planning authority under Clause 36(a) to measure, at the wind farm operator’s own expense, the rating level of noise emissions from the wind turbine within the first year of the operation of the turbines and every two years thereafter. The biennial noise emissions monitoring shall continue for the working life of the turbines unless the planning authority determines in writing that the period between noise monitoring surveys can be altered or extended or that continued routine monitoring is no longer required. The development shall not be commissioned unless the procedure for measuring the noise emissions for the first year of operation has been approved in writing by the planning authority in accordance with Condition 34(2). Thereafter, all subsequent measurement procedures shall be agreed in writing with the planning authority prior to the commencement of each monitoring survey. The wind farm operator shall provide a report detailing the results of the monitoring survey to the planning authority within 3 months of completion of the monitoring survey. The report shall be submitted together with all data collected for the purposes of undertaking the compliance measurements and analysis, such data to be provided in a format to be agreed with the planning authority. Unless otherwise agreed in writing by the planning authority the turbines shall be switched off during part of the monitoring period to permit reliable background noise level data to be determined.

e) The assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall, prior to the commencement of any measurements, have been submitted to and approved in writing by the Planning Authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. 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 written request of the Planning Authority under Clause (d), and such others as the independent consultant considers likely to result in a breach of the noise limits.

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 shall be those limits selected from the Tables specified for a listed location which is the geographically nearest dwelling to the complainant's dwelling, unless otherwise agreed with the Planning Authority due to location-specific factors.

g) The wind farm operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 3 months of the date of the written request of the Planning Authority for compliance measurements to be made under Clause (d), unless the time limit is extended in writing by the Planning Authority. Unless otherwise agreed in writing by the Planning Authority, the assessment shall be accompanied by all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes with the exception of audio data which shall be supplied in the format in which it is recorded. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immissions.

h) Where a further assessment of the rating level of noise immissions 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 – Noise Limits 2300-0700 (dB LA90)

Location	Standardised 10 metre-height Wind Speed (as defined in accordance with the attached Guidance Notes to Condition 36)									
	3	4	5	6	7	8	9	10	11	12
Boganclogh	38.4	38.4	38.5	38.9	39.5	40.4	41.7	43.2	45	47
Boganclogh Lodge	38.4	38.4	38.5	38.9	39.5	40.4	41.7	43.2	45	47
Finglenny	41.5	42.0	42.9	44.2	45.8	47.6	49.6	51.6	53.6	55.6
Corrylair	38.0	38.0	38.3	40.6	42.8	45.1	47.2	49.1	50.7	52.0

Table 2 – Noise Limits 0700- 2300 (dB LA90)

Location	Standardised 10 metre-height Wind Speed (as defined in accordance with the attached Guidance Notes to Condition 36)									
	3	4	5	6	7	8	9	10	11	12
Boganclogh	39.6	39.6	39.8	40.1	40.6	41.3	43.3	43.5	45.0	46.6
Boganclogh Lodge	39.6	39.6	39.8	40.1	40.6	41.3	43.3	43.5	45.0	46.6
Finglenny	41.6	42.4	43.7	45.2	47.1	49.0	51.1	53.2	55.1	56.9
Corrylair	35.9	36.7	38.1	40.0	42.2	44.5	46.9	49.3	51.4	53.2

Table 3: Coordinate locations of the dwellings listed in Tables 1 and 2

Dwelling	Easting	Northing
Boganclogh	343608	829466
Boganclogh Lodge	343595	829381
Finglenny	345668	830574
Corrylair	346337	834028

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

Note: For the purposes of this condition, a “dwelling” is 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.

Guidance Notes

These notes are to be read with and form part of Condition 36. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm hereby permitted. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any penalties applied in accordance with Guidance Note 3. Reference to ETSU-R-97 refers to the publication entitled “The Assessment and Rating of Noise from Wind Farms” (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

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 BS 4142: 2014 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable amplitude modulation and/or tonal penalties to be applied in accordance with these Guidance Notes.

(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 dwelling to undertake compliance measurements is withheld, the wind farm operator 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 two wind farms.

(d) To enable compliance with Condition 36 to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height 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, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. All 10 minute arithmetic average mean wind speed data measured at hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2, such correlation to be undertaken in the manner described in 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 noise condition 36 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 36, 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.

(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 wind speed, as derived from the standardised ten 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 standardised 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 (e) of Condition 36, noise immissions at the location or locations where compliance measurements

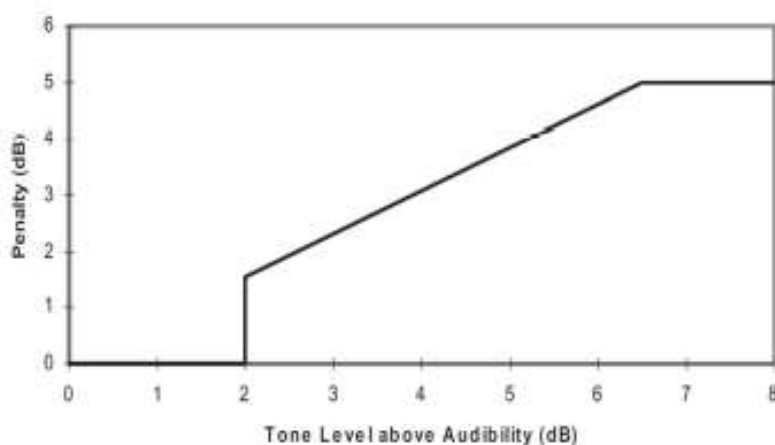
are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.

(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”). 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 average tone level above audibility shall be calculated for each wind speed bin, each bin being 1 metre per second wide and centred on integer wind speeds. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.

(e) The tonal penalty for each wind speed bin 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 Condition 36.

(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 Condition 38 or the noise limits for a complainant's dwelling approved in accordance with paragraph (f) of Condition 38, the independent consultant shall undertake a further

assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

(d) The wind farm operator shall ensure that all necessary wind turbines within the two developments are turned off for such period as the independent consultant requires to undertake any further noise measurements required under Guidance Note 4(c). If the number of turbines to be turned off are less than the total number of turbines on the two sites then this shall be agreed in advance with the Planning Authority.

(e) To this end, the steps in Guidance Note 2 shall be repeated with the required number of turbines shut-down in accordance with Guidance Note 4(d) in order to determine 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 Condition 36.

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

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

(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 L1 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 Guidance 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 Condition 36 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 (f) of Condition 36 then the development fails to comply with Condition 36.

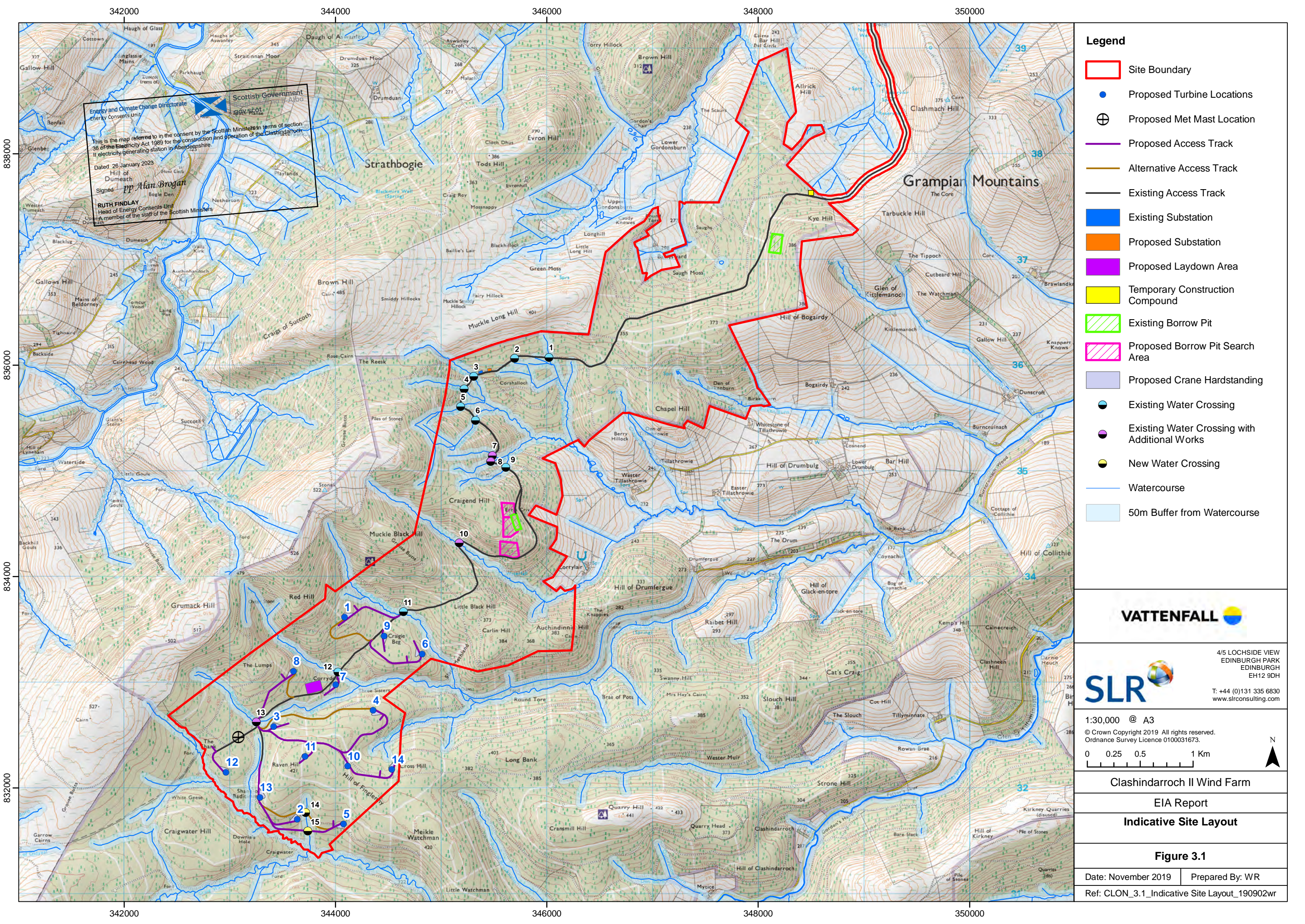
Commencement of development

37. (1) The development must be begun not later than the expiration of 5 years beginning with 26 June 2023.

(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.

Definitions	
Company	Means Vattenfall Wind Power Limited (Registered number: 06205750; Registered office: 5th Floor 70, St Mary Axe, London, United Kingdom, EC3A 8BE) and its permitted assignees who are in possession of a letter of authorisation from the Scottish Ministers in accordance with Consent Condition 3
construction period (i.e. non-capitalised)	Means the period from the commencement of development until the approved site compound areas have been reinstated in accordance with the conditions of this consent and deemed planning permission.
Date of Final Commissioning	Means the earlier of (i) the date on which electricity is exported to the grid on a commercial basis from the last of the wind turbines forming part of the Development erected in accordance with this consent; or (ii) the date falling eighteen months from the Date of First Commissioning.
Date of 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.
development (i.e. non-capitalised, such as “No development shall commence” or “There shall be no commencement of development”)	Means the implementation of the consent and/or deemed planning permission by the carrying out of a material operation within the meaning of section 27 of the Town and Country Planning (Scotland) Act 1997
Development	Means Clashindarroch (II) Wind Farm, as described in Annex 1.
EIA Report	Means the Environmental Impact Assessment Report dated November 2019 submitted with the application for the Development and includes the amended figures submitted in May 2021.
Planning Authority	Means Aberdeenshire Council.
Public Holiday	Means: <ul style="list-style-type: none"> • New Year's Day, if it is not a Saturday or Sunday or, if it is a Saturday or Sunday, the next working day. • 2nd January, if it is not a Sunday or, if it is a Sunday, the next working day. • The first Monday in April. • Good Friday. • The first Monday in May. • The last Monday in May. • The first Monday in June. • The first Monday in August. • The first Monday in October. • 30th November, if it is not a Saturday or Sunday or, if it is a Saturday or Sunday, the next working day. • Christmas Day, if it is not a Saturday or Sunday or, if it is a Saturday or Sunday, the next working day. • Boxing Day, if it is not a Saturday or Sunday or, if it is a Saturday or Sunday, the next working day



- Legend**
- Site Boundary
 - Proposed Turbine Locations
 - Proposed Met Mast Location
 - Proposed Access Track
 - Alternative Access Track
 - Existing Access Track
 - Existing Substation
 - Proposed Substation
 - Proposed Laydown Area
 - Temporary Construction Compound
 - Existing Borrow Pit
 - Proposed Borrow Pit Search Area
 - Proposed Crane Hardstanding
 - Existing Water Crossing
 - Existing Water Crossing with Additional Works
 - New Water Crossing
 - Watercourse
 - 50m Buffer from Watercourse



4/5 LOCHSIDE VIEW
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0 0.25 0.5 1 Km

Clashindarroch II Wind Farm

EIA Report

Indicative Site Layout

Figure 3.1

Date: November 2019	Prepared By: WR
Ref: CLON_3.1_Indicative Site Layout_190902wr	

