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ECU Ref: ECU00004695

18 December 2025

Dear Mr Frost

**APPLICATION FOR 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 WIND FARM EXTENSION WITHIN THE PLANNING AUTHORITY AREA OF MORAY COUNCIL**

**Application**

1. I refer to the application made on 12 December 2022 (“the Application”) under section 36 of the Electricity Act 1989 (“the Act”) made by Infinergy Ltd (now Boralex) on behalf of Clashindarroch Wind Farm Extension Limited a company incorporated under the Companies Acts with company number 12435260 (“the Company”) having its registered office at Chelsea Cloisters, Sloane Avenue, London SW3 3DW for the construction and operation of the Clashindarroch Wind Farm Extension.

2. **This letter contains the Scottish Ministers’ decision to grant section 36 consent, subject to conditions, for the development as described at Annex 1.**

**Planning Permission**

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

4. **This letter contains the Scottish Ministers’ direction that planning permission is deemed to be granted, for the development as described in Annex 1.**

## **Background**

5. The Application proposed the construction and operation of an electricity generating station comprising 22 wind turbines, 13 with a blade tip height of up to 200 metres (“m”) and nine having blade tip heights of up to 180m, a battery energy storage facility and associated infrastructure (“the proposed Development”) with a total generating capacity in excess of 50 megawatts (“MW”). The applicant has sought an operational life for the proposed Development of 40 years.

6. In response to an objection by the Scottish Environment Protection Agency (“SEPA”) in relation to the impact of the proposed Development on peat, the Company propose to remove wind turbine 19 with a blade tip height of up to 180m, including its associated access track, reducing the total number of proposed wind turbines to 21.

7. The operational Clashindarroch Wind Farm comprising 18 wind turbines with a 110m tip height is located immediately to the east of the proposed Development. The consented Clashindarroch II Wind Farm comprising 14 wind turbines of up to 180m tip height is located 1.4km to the northeast. The Company advise the proposed Development is not specifically designed as an extension to the existing or consented development but is considered to form an integrated wind cluster with the existing wind farms.

8. The proposed Development is located wholly within the administrative boundary of Moray Council approximately 11 kilometres (“km”) southeast of Dufftown and 8 km northwest of Rhynie. The proposed Development is located immediately adjacent to the boundary of Aberdeenshire Council along its eastern edge. The site lies within the Cabrach Estate and comprises approximately 881.7 hectares (“ha”) of heather upland managed as grouse moor. The Clashindarroch Forest lies to the east of the site. The proposed Development will have a permanent land take of approximately 57 ha. Access to the site will be from the A941 at the location of an existing track to a disused farm known as Redford.

9. There are no settlements located within 5 km of the site. Within 2 km of the proposed turbines there are 34 residential properties. 24 of these are estate owned, eight of which are estate owned and derelict, and 10 are privately owned.

10. There are no designated landscapes within the Application site. The Cairngorms National Park (“CNP”) is located approximately 7 km to the southwest of the proposed Development. The Ben Rinnes, Deveron Valley and Upper Don Valley Special Landscape Areas (“SLA”), all local landscape designations, are also located within 10 km of the proposed Development. The proposed Development lies wholly within the Landscape Character Type (“LCT”) 12b Open Uplands with Settled Glens.

11. The proposed Development site is located outside any internationally designated nature conservation areas however it is approximately 1 km north of the Hill of Towanreef Special Area of Conservation (“SAC”) largely designated for its mosaic of high-quality grassland, heathland and blanket bog habitat. Tips of Corsemal and Tom Mor Special Protection Area (“SPA”) protected for its population of common gull is located approximately 4.6 km north of the proposed Development. The proposed Development also lies in the outer part of the Strathbogie Wild Cat Protection area.

12. There are no designated cultural heritage assets within the proposed Development site but a number of Scheduled Monuments are located within 10 km including the Tap o’Noth Iron Age Fort (SM63) approximately 7.5 km to the east.

## **Relevant legislation and consultation**

13. The application for Section 36 consent requires to be determined in line with the provisions of the Act, the Electricity (Applications for Consent) Regulations 1990 (“the Consents Regulations”), and the Electricity Works (Environmental Impact Assessment (Scotland) Regulation 2017 (“the EIA Regulations”).

14. Under paragraph 2(1) of Schedule 8 to the Act and the Consents Regulations, the relevant Planning Authority, Moray Council in this case, is required to be notified in respect of an application for section 36 consent

15. In accordance with the EIA regulations, the Company submitted an Environmental Impact Assessment Report (“the EIA report”) in support of the Application, describing the proposed Development and describing its likely significant effects on the environment on the factors set out in Regulation 4 of the regulations as are relevant to the development. The Scottish Ministers have examined the EIA report and are satisfied that it has been produced in accordance with the EIA Regulations.

16. In accordance with the requirements of both the Consents Regulations and the EIA Regulations, the Application was placed in the public domain, and opportunity was provided for those wishing to make representations to do so. A notice of the Application was published on the Company’s website and advertised in the local and national press. In addition, to comply with the EIA Regulations, Scottish Ministers are required to consult the Planning Authority, as well as NatureScot, the SEPA and Historic Environment Scotland as well as other public bodies that, in the opinion of the Scottish Ministers, are likely to be concerned by the proposed Development by reason of their specific environmental responsibilities or local or regional competencies. A wide range of other relevant organisations were also notified and consulted when the Application consultation was initiated.

17. The Scottish Ministers have had regard to the matters set out in Schedule 9 of the Act. The Scottish Ministers consider that there is sufficient information to allow them 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 physiological features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest. Scottish Ministers have sought in examining the Application to ensure the proposed Development avoids, so far as is possible, causing injury to fisheries or to the stock of fish in any waters.

18. Scottish Ministers have had regard to the extent to which the Company has demonstrated in the Application that it has done what it reasonably can to mitigate any effect, which the proposed Development would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

19. In accordance with section 36(5A) of the Act, before granting any section 36 consent Scottish Ministers are also required to have regard to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003. In meeting this requirement, the Scottish Ministers have consulted SEPA and have considered the advice they have provided.

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

## **Summary of Consultation Responses**

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

### **Statutory Consultees**

22. **Moray Council** (“the Planning Authority”) does not object to the proposed Development. The Planning Authority raises significant concerns regarding:

- the significant landscape and visual effects of the proposed Development where they are not considered by the Planning Authority to be sufficiently localised or mitigated;
- the landscape and amenity impact on a rural community;
- the siting of wind turbines 16, 17 and 19 on deep peat;
- whether the application site is an appropriate location for a battery energy storage system;
- a lack of detail regarding roadside tree felling and compensatory planting; and
- the lack of connectivity for recreational users of the proposed Development site with the adjacent operational Clashindarroch Wind Farm.

23. The Planning Authority recommend mitigation and a number of changes to the proposed Development. These recommendations comprise:

- the removal of wind turbines 2 – 6 to reduce the impact on the Upper Deveron Valley;
- a redesign of the southern end of the proposed Development to mitigate impacts upon Cabrach;
- the provision of landscaping on the south and west sides of the substation compound and battery energy storage facility;
- the implementation of a radar activated aviation lighting scheme;
- the removal of wind turbines 16, 17 and 19 to avoid areas of deep peat; and
- the creation of a path between the proposed Development and the operational Clashindarroch Wind Farm.

24. **Historic Environment Scotland (“HES”)** does not consider the proposed Development raises historic environment issues of national significance and therefore do not object. HES advises that the impact on the setting of Fort, Craig Dorney is likely to be higher than concluded in the EIA report, but they are content that it is not so significant as to warrant an objection. For other scheduled monuments considered, including Tap o’Noth, fort, HES conclude that impacts are not likely to be significant.

25. **NatureScot** does not object to the proposed Development advising:

- it will not have an adverse effect on the integrity or objectives of the Cairngorms National Park;
- the application of good practice and proposed mitigation measures can avoid significant effects on habitats and species; and
- the impact on carbon-rich soils could be reduced by removing wind turbine 19.

26. NatureScot advises that a condition should be imposed to secure a scheme for aviation lighting which should incorporate all proposed measures within the EIA report which have been identified to mitigate the effects of aviation lighting. NatureScot also recommend a Golden Eagle Species Protection Plan and Breeding Bird Protection Plan is developed for the proposed Development and that the Peat and Habitat Management Plan (“PHMP”) is reviewed to ensure the proposed measures do not impact golden eagles. The conditions sought by NatureScot, and to secure the mitigation measures identified in the EIA report for habitats and species, are contained in Annex 2, part 2 of this determination.

27. **Scottish Environment Protection Agency (“SEPA”)** did not object to the proposed Development following a proposal by the Company to remove wind turbine 19, its associated hardstanding and access track to reduce impacts on peat. In addition, SEPA requests the imposition of conditions that will:

- minimise negative impacts on peat and carbon loss including:
  - a final PHMP;
  - infrastructure micro-siting allowances to avoid deeper areas of deep peat including the adjustment of the locations of wind turbines 16 and 17;
  - the use of floating roads on peat depths greater than 1m.
- secure the submission of a national vegetation classification map;
- ensure water crossing 1 is designed to an appropriate size;
- micro-site infrastructure to avoid the 50m watercourse buffer zone; and
- secure the submission of a revised borrow pit reinstatement plans to demonstrate no peat is to be used in these locations.

28. The Scottish Ministers have imposed appropriately worded conditions addressing the matters raised by SEPA and Annex 1 ‘Description of the Development’ of this determination reflects the removal of wind turbine 19.

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

#### Internal Scottish Government Advisors

30. **Marine Scotland (now known as Marine Directorate – Science, Evidence, Data and Digital (MD SEDD))** advises that an integrated water quality and fish population monitoring programme should be established following its guidelines. With reference to potential cumulative impacts on water quality and fish populations it is recommended that this be considered in the selection of control sites in the proposed monitoring programme.

31. **Scottish Forestry** is content to accept a condition requiring the provision of a compensatory planting plan to provide for the replanting of an estimated 1.22 ha of woodland which requires to be removed to facilitate the transport of abnormal loads along the access route to the site. Scottish Ministers have attached conditions to secure the delivery of this via a compensatory planting plan.

32. **Transport Scotland** does not object to the proposed Development subject to the imposition of conditions relating to the:

- proposed route for any abnormal loads on the trunk road network and any accommodation measures required; and
- additional signing or temporary traffic control measures required.

#### External Advisors to Scottish Government

33. The Scottish Government's peat landslide hazard risk advisor (Ironside Farrar) was engaged by the Scottish Ministers to assess the Peat Landslide Hazard Risk Assessment ("PLHRA") presented by the Company in Appendix 11.2 of the EIA report.

34. After initial feedback from Ironside Farrar, the Company provided clarifications and updates to the PLHRA which included minor changes to the process of assessment of peat landslide hazards and risks. The final PLHRA finds that the majority of infrastructure associated with the proposed Development would be in areas of no risk, negligible or low risk from peat landslides. Mitigation measures are identified for those areas assessed to be at greater risk to ensure there is effective control. Following review of the PLHRA and clarification provided by the Company, Ironside Farrar confirmed outstanding queries had been addressed and the assessment can be considered to be complete.

#### Non-statutory consultees

35. **Aberdeenshire Council**, a neighbouring Planning Authority, does not object to the proposed Development. Aberdeenshire Council raises significant concern regarding the potential landscape and visual impact of the proposed Development to receptors within Aberdeenshire but considers the impacts to be local in nature. Aberdeenshire Council also raise significant concerns in respect of operational noise of the proposed Development but advise this can be mitigated with the imposition of suitable worded planning conditions.

36. In addition, Aberdeenshire Council request the imposition of planning conditions requiring:

- the retrospective fitting of transponder-based aviation lighting;
- a finalised Construction Environmental Management Plan ("CEMP");
- an assessment of the potential for impacts on public access for recreation prior to the commencement of any development;
- a programme of archaeological works and protective fencing during construction to protect known features of the historic environment; and
- a road conditions survey of the route and junctions to be used for the development.

37. **Archaeology Service for Aberdeenshire, Moray, Angus & Aberdeen City Councils** do not object to the proposed Development subject to conditions for a programme of archaeological works and a site protection plan for historic environment features during construction works.

38. **Cairngorms National Park Authority** do not object to the proposed Development advising that it is not considered it would compromise the objectives or integrity of the National Park and therefore is considered to be in accordance with National Planning Framework 4 ("NPF4") policies 4 and 11.

39. **Cabrach Community Association** objected to the proposed Development due to the impact on local residents, businesses and environment particularly in relation to noise, shadow flicker, water supply, wildlife and habitats, historic environment, business and tourism and on landscape and visual receptors. The Cabrach Community Association also question the community benefits the proposed Development would provide and raise concerns regarding the overall cumulative effect of the proposed Development with other wind farm projects.
40. **Defence Infrastructure Organisation (MOD)** does not object. It removed its objection on the impact of the proposed Development on the Air Defence radar at Remote Radar Head Buchan subject to a condition requiring the approval and implementation of an Air Defence Radar Mitigation Scheme prior to operation. The MOD also request conditions in relation to an aviation lighting scheme and to inform aviation charting and safety management to address the potential for the proposed Development to create a physical obstruction to air traffic movements.
41. **Huntly Nordic Ski Club**, representing cross country skiers who use the trails in Clashindarroch Forest, does not object but raises concerns regarding the visual impact (including from visible aviation lighting), noise and disruption to traffic during construction. Huntly Nordic Ski Club also requests a condition for an access management plan.
42. **National Air Traffic Services (“NATS”) Safeguarding** does not object subject to a condition requiring the approval and implementation of a primary radar mitigation scheme to avoid impact of the proposed Development on the Alanshill radar and associated air traffic operations.
43. **River Deveron District Salmon Fishery Board (“DSFB”)** welcomes the inclusion of the Habitat Management Plan and CEMP and recommends a Fishery Management Plan to include pre, during and post construction fish surveys. The DSFB also highlights the need to reinstate disturbed peat as per the outline PHMP submitted with the Application.
44. **Royal Society for Protection of Birds (“RSPB”)** initially objected to the proposed Development due to likely adverse impacts on ornithological interests in the area. RSPB advised that the impact on Hen Harrier had not been sufficiently assessed to determine whether there is likely to be a significant impact for the species and that the proposed mitigation would not be sufficient to address impacts associated with likely displacement and disturbance. Following clarification provided by the Company, including a commitment to extend heathland management actions to the whole of the site, RSPB does not object subject to conditions to secure a detailed PHMP, breeding bird protection plan and post construction monitoring. RSPB also advise they agree with the recommendations from NatureScot in relation to measures to benefit golden eagle.
45. **Scottish Water** do not object advising that the proposed Development falls within two Drinking Water Protected Areas (“DWPA”) supplying the Turiff Water Treatment Works (“WTW”) and Craighead WTW. Scottish Water advise the risk is likely to be low to the supply for the Turiff WTW due to the size of the catchment and distance of the proposed Development from the intake but that risks may be higher for the catchment serving Craighead WTW. To address this, they therefore advise of the necessary steps the Company is required to take for works falling within the DWPAs and that mitigation measures are needed to minimise risk to water quality. Scottish Water also recommend the undertaking of water quality monitoring prior to construction.

46. **The Cabrach Trust** object advising it considers the proposed Development does not accord with NPF4 or the adopted Local Development Plan specifically on account of the landscape and visual impacts (including cumulative). The Cabrach Trust also objects to the impact on cultural heritage, water, ornithology, peat, and health and wellbeing (specifically noise and shadow flicker). The Cabrach Trust highlights the effects on housing provision and efforts to regenerate the community and question the necessity for the proposed Development to meet renewable energy targets in the context of existing development.

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

- Aberdeen International Airport
- British Telecom;
- Crown Estate Scotland;
- Fisheries Management Scotland; and
- Joint Radio Company.

48. The following consultees did not respond:

- British Horse Society;
- Civil Aviation Authority;
- Deveron, Bogie and Isla Rivers Charitable Trust;
- Highland and Islands Airports;
- Huntly Community Council;
- John Muir Trust;
- Mountaineering Scotland;
- Saving Wildcats;
- Scottish Rights of Way and Access Society (ScotWays);
- Spey Foundation;
- Strathbogie Community Council;
- Tap o'Noth Community Council; and
- Visit Scotland.

## **Public Representations**

49. The Scottish Ministers received approximately 26 public representations for the proposed Development, all being objections. Full details of the representations received are available on the Energy Consents website at [www.energyconsents.scot](http://www.energyconsents.scot).

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

- Necessity for further wind development in the area, meeting the renewable energy targets and constraints payments;
- Cumulative impacts with other wind developments in the area;
- Landscape and visual impacts including impact of aviation lighting;
- Poor siting and design of the proposed Development including proximity to residential properties;
- Amenity impacts including from operational noise and shadow flicker;
- Pollution and impacts on the water environment including in relation to public and private water supplies;
- Impacts on peat, habitats and wildlife (including birds and protected species);



- Lack of information regarding the associated grid connection infrastructure;
- Impacts on cultural heritage including the whisky heritage of the area;
- Impacts on the local area including in relation to health and wellbeing, local regeneration, tourism, recreation, property prices and lack of community benefits; and
- The adequacy of the community consultation.

51. 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, that the environmental impacts have been appropriately assessed and taken into account in the determination of the proposed Development. This reasoning is set out in more detail under the heading “Assessment of Determining Issues” of this decision letter.

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

52. The Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”) require the Scottish Ministers to consider whether the proposed Development would be likely to have a significant effect on a European site, as defined in the Habitats Regulations, and if the proposed Development is directly connected with or necessary to the management of the European site. The proposed Development site is located:

- 1 km north of the Hill of Towanreef SAC largely designated for its mosaic of high-quality grassland, heathland and blanket bog habitat;
- 4.7 km south of the Tips of Corsemaul and Tom Mor SPA protected for its population of common gull located; and
- 7.2 km southeast of the River Spey SAC designated for its populations of otter, freshwater pearl mussel, sea lamprey, and Atlantic salmon.

53. The EIA report indicates that the proposed Development is not in the catchment of the River Spey SAC and separated by the A941, River Deveron and 7 km of montane landscape so it is considered unlikely populations of mobile qualifying species would use the Application site. The EIA report also concludes that construction and operational phase effects on the Tips of Corsemaul and Tom Mor SPA are not predicted to be significant.

54. With reference to the Towanreef SAC, the EIA report states that as no parts of the proposed Development fall in the boundary of the SAC no direct habitat loss is possible. It also concludes there is no direct ground or surface water flows connecting the proposed Development and the SAC. NatureScot advise it is unlikely the proposed Development will have a significant effect on any qualifying interests either directly or indirectly and that an appropriate assessment is therefore not required.

55. The Scottish Ministers agree with the assessment in the EIA report and conclude appropriate assessment is not required for these sites.

### **Public Inquiry**

56. In terms of paragraph 2(2) of Schedule 8 to the Electricity Act, where the relevant Planning Authority makes an objection to the Application and that objection is not withdrawn, the Scottish Ministers shall 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 of the Planning Authority.

57. The Planning Authority did not object, therefore, a public inquiry is not a statutory requirement.

58. Paragraph 3 of Schedule 8 provides that where objections or copies of objections have been sent to the Scottish Ministers in pursuance of Regulations made under that paragraph, the Scottish Ministers must consider those objections together with all other material considerations with a view to determining whether a public inquiry should be held with respect to the Application and, if they think it appropriate to do so, they must cause a public inquiry to be held.

59. Scottish Ministers have considered the objections raised by the Cabrach Community Association, the Cabrach Trust and those received from members of the public. The Scottish Ministers having taken account of the objections, the EIA report, the supporting information submitted with the Application, the consultation responses and all material considerations, and consider that there are no significant issues which have not been adequately considered in the EIA report and the consultation responses.

60. The Scottish Ministers are satisfied that they can weigh all the conflicting issues without recourse to holding a public inquiry as little would be added to the Scottish Ministers understanding of parties' positions, beyond that already submitted in writing, by discussion in a public inquiry forum. The Scottish Ministers are therefore satisfied that there is no requirement to cause a public inquiry in this case.

### **Main Determining Issues**

61. Having considered the Application and supporting information, the EIA report, responses from consultees and the public, and Scottish Government policies, Scottish Ministers consider that the main determining issues are the:

- the benefits of the proposed Development;
- landscape and visual (including cumulative) effects;
- effects on residential amenity, including noise, shadow flicker and private water supplies; and
- extent to which the proposed Development accords with and is supported by Scottish Government policies and the Development Plan.

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

#### **Benefits of the proposed development**

##### **Economic benefits**

62. The transition to a low carbon economy is an opportunity for Scotland to take advantage of our natural resources to grow low carbon industries and create jobs. The Company sets out in the Application that the proposed Development, during the development and 22 month construction phase could generate GVA (Gross value added) worth £5.6 million in Moray and £32.6 million for Scotland. In addition, the proposed Development seeks to support an equivalent of up to 88 years of employment in Moray and 499 years of employment across Scotland as a whole.

63. Over a 40-year operational period, it was estimated that the proposed Development could generate GVA worth a cumulative total of £0.3 million in Moray and £1.5 million for

Scotland. It is expected the proposed Development could also provide 5 jobs across Moray and 22 jobs across Scotland.

64. Whilst the overall net economic benefits are estimations and it is acknowledged these estimations include wind turbine 19 which is proposed to be removed, Scottish Ministers are still satisfied there remains the potential for some positive net economic benefits both for the local community, Moray and Scotland.

#### Contribution toward climate change targets

65. The seriousness of climate change, its potential effects and the need to cut carbon dioxide emissions, remain a priority of the Scottish Ministers. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2024, retains a target for Scotland to be carbon neutral, meaning net zero emissions by 2045. It also establishes legally binding limits on the amount of greenhouse gases Scotland can emit, over 5 year periods, up to 2045.

66. The Scottish Ministers consider that the proposed Development would make a contribution towards meeting greenhouse gas emission reduction and renewable electricity targets. With the removal of wind turbine 19, the proposed Development will have a combined installed capacity of approximately 188.2 MW.

67. Carbon payback figures for the proposed Development have been presented in EIA report using the Scottish Government carbon calculator tool. Whilst noting its limitations, the carbon calculator provides the best available means by which carbon calculations can be provided in a consistent and comparable format. The Company's estimation of the time for the proposed Development to generate enough carbon-free electricity to offset its own carbon footprint, known as the expected carbon payback period, was calculated to be in the region of 3.1 years. The carbon saving is approximately 3,505,681 tCO<sub>2</sub>e over the proposed Development's estimated 40 year operational life. These figures are based on the proposed Development as outlined in the Application and therefore account for wind turbine 19.

68. While carbon saving will now be marginally less than predicted in the EIA report due to the removal of wind turbine 19, Scottish Ministers are of the view that the carbon savings will still be significant for the revised proposal and that this is a consideration that weighs in favour of the proposed Development. Overall, Scottish Ministers consider the proposed Development would make a valuable contribution to Scotland's renewable electricity and emissions reductions targets.

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

69. In consideration of the proposed Development, the Scottish Ministers have reviewed the Landscape and Visual Impact Assessment ("LVIA") presented within Chapter 7 and supporting appendices of the EIA report and comments made by consultees including the Planning Authority, Aberdeenshire Council, Cairngorms National Park Authority and NatureScot. The LVIA considers the effects of the proposed Development on landscape, views and visual amenity including designated landscapes and cumulative effects.

70. The Planning Authority published the Moray Wind Energy Landscape Sensitivity Study in May 2023 after the submission of the Application. The study focuses on Assessment Units based on LCTs. For consistency with the EIA report and consultation responses, reference is made where appropriate to LCTs below rather than Assessment Units.

71. There are no designated landscapes within the Application site however the Cairngorms National Park (“CNP”) is situated 7 km to the southwest of the proposed Development. The assessment found that there would be no visibility of the proposed Development from the majority of key visual receptors in the CNP. Visibility from the CNP is considered to be limited primarily beyond 15km to a small number of highpoints and part of the Ladder Hills. Non-significant effects are identified on the ‘Grand panoramas and framed views’, ‘Surrounding Hills’ and ‘Dark Skies’ Special Landscape Qualities (“SLQs”) of the CNP but not to the extent that the overall integrity of the CNP would be undermined.

72. The Cairngorms Mountains National Scenic Area (“NSA”) is located 30 km to the southwest of the proposed Development and the Deeside and Lochnagar NSA is located 30.5 km to the south. The assessment finds that there is no theoretical visibility of the proposed Development from the Deeside and Lochnagar NSA and that due to its distance any effects on the Cairngorms Mountains NSA would be very limited and not significant.

73. The nearest locally designated landscapes are The Deveron Valley SLA and Ben Rinnes SLA. Non-significant effects are identified from views to the south from elevated locations in the Deveron Valley SLA and views east from elevated locations in the Ben Rinnes SLA however the assessment concludes that in neither instance would the proposed Development prevent an understanding or appreciation of the underlying landscape of the SLA or their special qualities.

74. The Cairngorms Wild Land Area is located over 26 km to the southwest of the proposed Development. The assessment found that at such distance effects would not be considered to be significant.

75. All wind turbines forming part of the proposed Development are located in Landscape Character Type (“LCT”) 12b Open Uplands with Settled Glens which includes the elevated shallow bowl of the Cabrach. The LVIA finds that the proposed Development would result in direct significant effects (including during construction) on this LCT and indirect significant effects approximately within 4.1 km to the south, 5 km to the south-west, 4 km to the west and 4.4 km to the northwest. Significant indirect effects are also predicted to be approximately 3km on parts of LCT 13 Narrow Farmed Valleys which is situated immediately to the northwest of the proposed Development covering the upper Deveron Valley. Indirect significant effects are also predicted on LCT 22 (i) Moorland Plateaux – Grampian Outliers which is in Aberdeenshire immediately east of the proposed Development to a distance of 2 km, 5 km to the southeast and part of the LCT 4.4 km to the north. No other significant effects on landscape character are predicted across the study area.

76. Significant visual effects of the proposed Development were found to occur at six of the 15 viewpoints (viewpoints 2, 3, 4, 5, 6 and 10) located within approximately 4.3 km of the proposed Development. Significant effects beyond this distance are identified at viewpoint 9 – Tap o’Noth which is approximately 6.8 km from the nearest proposed wind turbine. No significant effects were found for the remaining viewpoints.

77. The assessment identifies 34 properties within 2 km of the nearest proposed wind turbine. After derelict properties were discounted 26 of these were subject to a Residential Visual Amenity Study. This found that four privately owned properties and nine estate owned properties would experience significant effects and that three of the private owned and four of the estate owned properties would experience significant cumulative visual effects. The assessment concludes that none of the properties would experience such an overbearing or overwhelming effect on their visual amenity such that the properties would become

unattractive places to live. Beyond 2 km but within 5 km, significant effects were also predicted for properties at Todholes/Rinturk, Greenloan/ Belcherrie and towards Backside and Mains of Beldorney within the Deveron Valley.

78. Significant visual effects are assessed for users of the A941 travelling southeast for 4.9 km and northwest for 5.6 km, users travelling northwest for 3.1 km on the B9002 and users travelling 2.8 km northeast and 6.4 km southwest on the minor road through the Deveron Valley. Significant visual effects were also assessed for users on parts of the Moray Core Path SP30, Aberdeenshire 613.01 Core Path to the summit of Tap o'Noth and limited sections of the Clashindarroch Forest Trails adjoining the site.

79. The EIA report indicates that visible aviation lighting would be fitted to nine of the 21 proposed wind turbines. The assessment has found the extent of significant visual effects from aviation lighting would occur during the hours of darkness at four viewpoints (viewpoint 4, 5, 9 and 10) and for the users of the Aberdeenshire 613.01 Core Path to the summit of Tap o'Noth. However, with the exception of viewpoint 5, the assessment considers that few walkers would access these locations during the hours of darkness. A significant effect is also identified on the Dark Skies SLQ of the CNP when other proposed wind farms to the north of the CNP are considered but not to the extent that the overall integrity of the SLQ would be undermined.

80. The assessment of cumulative effects forming part of the LVIA considered all other operational, under construction, consented or in planning wind farm developments within 35 km of the proposed Development up to 01 September 2022. The baseline against which the proposed Development was assessed in the LVIA, as described above, included operational wind farms. The cumulative impact assessment therefore considered the potential for additional effects which might result of the proposed Development in the following two scenarios:

- Scenario 1 assuming all identified consented wind farms are operational; and
- Scenario 2 extends Scenario 1 to assume all wind farms in planning are also operational.

81. In relation to Scenario 2, since the submission of the EIA report, Clash Gour, Clashindarroch II, Garbet and Rothes III Wind Farms have been consented.

82. The assessment found no additional landscape and visual effects to those already identified in the assessment of the proposed Development in Scenario 1. In relation to Scenario 2 the assessment found there is potential for additional significant cumulative effects on LCT 12b in and around the periphery of the Deveron Valley and on LCT 13 in the Deveron Valley. With Clashindarroch II Wind Farm in place, it was found it would reduce the potential for the proposed Development to bring about effects on the character of LCT 22 and 25.

83. The overall totality of effects when the proposed Development is assessed alongside the operational or proposed schemes is considered to be such that the collective character of LCT 12b would become one in which the presence of occasional wind farms was a characteristic feature. Wind energy is noted to be an existing characteristic of this landscape with the operational Dorenell Wind Farm and adjacent Clashindarroch Wind Farm which itself is considered to limit to some degree the significant effect brought about by the proposed Development. The assessment concludes that wind energy would not become a single dominant characteristic of the LCT so as to prevent an understanding and appreciation of the underlying character of the LCT.

84. In relation to LCT 13, should all schemes come forward it is assessed that there would be views of the proposed Development from parts of the LCT as well as of Garbet, Craig Watch and, to a lesser extent, Clashindarroch II Wind Farms. A significant effect on the character of LCT 13 is assessed to arise as a result of the proposed Development but that it would not be introducing views of wind turbines in a new direction from the valley due to the existing Clashindarroch Wind Farm. As above, the assessment finds that overall combined significant effects would occur on LCT 22 but would be brought about because of other schemes whether or not the proposed Development is introduced.

85. Overall, in the wider landscape the assessment acknowledges that if all schemes are consented there would be a large number of wind energy developments and several areas where significant effects on landscape character would occur such that the landscape is one where the presence of wind farms would be an established characteristic. However, the assessment does not consider that wind energy would become a defining characteristic feature of the landscape as a whole and that given the proximity of Clashindarroch Wind Farm that the proposed Development would not give rise to a disproportionate extent of overall effects that would arise.

86. In relation to cumulative visual effects, Table 7.12 of the EIA report identifies the potential for combined cumulative visual effects at Viewpoints 3 – 15 with Clashindarroch II, Garbet and Craig Watch. At all of these viewpoints the combined visibility is considered to be in succession with the exception of Viewpoint 4 where visibility would be simultaneous. The assessment identifies that there would be significant cumulative ‘in combination’ visual effects to receptors which would have views of Garbet and Craig Watch Wind Farms in one direction and the proposed Development in the other in relatively close distances. The assessment highlights there would be simultaneous views of the schemes from a number of viewpoints such as Viewpoints 7 – 11 and successive views from a limited number of receptors including Viewpoint 3. The assessment also found that Clashindarroch II would be seen simultaneously in views towards the proposed Development from the north and east particularly Viewpoints 7, 8 and 9. There is also considered to be the potential for sequential cumulative views on parts of the A941, B9002 and Moray Core Path SP30 and combined effects from the Core Path 613.01 when accounting for Garbet, Craig Watch and Clashindarroch II Wind Farms.

87. Overall, the LVIA indicates that the proposed Development would give rise to additional localised significant effects on landscape and visual amenity. In relation to cumulative impacts, it notes these would be greater for some locations over others but that the landscape has the capacity to accommodate the proposed Development. The LVIA indicates that the greater part of the overall effect is mainly brought about by another application stage scheme, and that the proposed Development reads as a logical extension to Clashindarroch Wind Farm.

88. Following a review of the LVIA, the Planning Authority does not object to the proposed Development. The Planning Authority considers there would be significant landscape effects on LCT 12b and LCT 13 and significant visual effects largely occurring within 5 km from settlement and roads in the Cabrach and nearby hill ground such as The Buck although noting the numbers of visual receptors affected are likely to be low. The Planning Authority considers that the RVAA is comprehensive and the findings of it are sound. Beyond 5 km the Planning Authority considers visibility principally to occur on less frequented upland slopes and summits and upper slopes of popular hills such as Ben Rinnes, Meikle Conval and Little Conval. The duration of landscape and visual effects are considered to be extended by visible aviation lighting. The Planning Authority also considers significant adverse cumulative landscape and visual effects would occur within the upper Deveron Valley and Cabrach basin.

89. While not objecting the Planning Authority raise significant concerns with the proposed Development that the significant landscape and visual effects are not sufficiently localised or mitigated. The Planning Authority considers the proximity and size of the proposed Development would have a dominant effect on landscape and visual receptors in the upper Deveron Valley and a dominant effect on visual receptors in the Cabrach but an intrusive effect on its landscape character. The Planning Authority also advises that the wider settings of properties considered in the RVAA are likely to be significantly affected. The Planning Authority considers that significant effects on the upper Deveron Valley could be reduced by the removal of the most prominent wind turbines but that a greater number of turbines would need to be removed to mitigate effects on the Cabrach. A lack of landscaping around the substation and energy storage compound is also highlighted. Such measures were included as recommended changes and mitigation within the response from the Planning Authority.

90. Aberdeenshire Council does not object as they consider the landscape and visual effects of the proposed Development will be local in nature although they do express significant concern. Aberdeenshire Council requests a condition requiring the retrospective fitting of a transponder-based Aircraft Detection Lighting System to reduce the occasions when visible aviation lighting would be visible.

91. Neither NatureScot or the Cairngorms National Park Authority object advising the proposed Development will not have an adverse effect on the integrity or objectives of the CNP. Both consultees acknowledge the significant cumulative effect identified in the EIA report on the Dark Skies SLQ of the CNP but agree with the assessment this would not undermine the overall integrity of the SLQ. The measures proposed by the Company to mitigate the effects of visible aviation lighting are also noted by both consultees.

92. Given the nature of the proposed Development, it is expected that significant landscape and visual impacts will arise. The Scottish Ministers have carefully considered the EIA report and have taken into account all of the comments by consultees, including the relevant Planning Authority. The Scottish Ministers consider that the LVIA provided by the Company identifies and describes in appropriate detail the significant landscape, visual and cumulative effects of the proposed Development. The Scottish Ministers agree with the findings of the LVIA and acknowledge that there will be some significant landscape and visual (including cumulative) effects of the proposed Development. No national or regional landscape designations will be significantly affected such that the integrity of the relevant designations would be compromised.

93. The Scottish Ministers find that in designing the proposed Development the Company have considered whether significant landscape visual and cumulative effects could be avoided or minimised and this is evidenced by Chapters 3 and 7 of the EIA report. The Company have described the design rationale – the wind farm layout has evolved in consideration of landscape and visual constraints, and this consideration has been balanced against the need to optimise the proposed Development. While the Planning Authority consider that the removal of turbines could reduce the significant effects of the proposed Development there would be a considerable and corresponding loss of renewable energy and emissions reduction benefits. Taking into account all of the landscape and visual effects as described in the EIAR, and the views of all consultees in relation to such effects, the Scottish Ministers consider that the significant landscape and visual impacts are acceptable when balanced against the contributions to onshore wind and emissions targets offered by the proposed Development.

## **Effects on residential amenity, including noise, shadow flicker and private water supplies**

94. A noise assessment of the proposed Development is presented in Chapter 13 of the EIA report following guidance from ETSU-R-97 and associated good practice in consultation with both the Planning Authority and Aberdeenshire Council. It is understood Planning Authority agreed the additional background noise monitoring locations and attended the installation of the equipment. Monitoring at four other locations undertaken in support of the Clashindarroch Wind Farm and proposed Clashindarroch II Wind Farm was also utilised in the assessment.

95. The assessment of the operational phase considers 16 sensitive receptors located either in the Moray Council or Aberdeenshire Council administrative areas. It considers the cumulative noise effects with nearby existing and proposed wind farms including Clashindarroch, Clashindarroch II, Craig Watch and Garbet Wind Farms. The assessment concludes that cumulative wind turbine noise levels are predicted to be below the cumulative noise limits. A further assessment also found the operational noise from the proposed Development is predicted to be below the site specific apportioned noise limits subject to the use of low noise mode for the five nearest wind turbines to Boganclogh Lodge and Boganclogh in the quiet daytime period and in specific wind speeds and directions. The assessment notes that the implementation of this measure in such narrow time periods and wind conditions would not result in a significant yield loss.

96. The response from the Planning Authority to the Application advised that noise levels can be kept to an acceptable level subject to the implementation of recommended conditions. Aberdeenshire Council also confirms that it is considered it is likely that noise can be mitigated with appropriate planning conditions and were provided detail on the sound power levels of the proposed wind turbines when deployed in low power modes.

97. Chapter 17 of the EIA report assesses the potential effects of shadow flicker on properties within 11 rotor diameters of the proposed wind turbine locations. 20 of the properties identified lie within 11 rotor diameters. The assessment, which has been undertaken on the basis of a worst-case scenario that all houses have windows facing the proposed Development, found that 18 of these properties have the potential to experience shadow flicker effects for about 206 hours per annum once the prevalence of adverse weather conditions has been accounted for although seven are known to be derelict. A cumulative assessment considering Clashindarroch, Clashindarroch II and Craig Watch Wind Farms found that none of the receptors assessed to be within 11 rotor diameters of the proposed Development are considered to experience shadow flicker from the other wind farm developments.

98. The EIA report proposed mitigation comprising the programmed shut down of wind turbines when shadow flicker is predicted and light levels strong enough to cause it. The assessment also indicates that a window survey of properties at risk of shadow flicker will be completed to establish whether they have windows facing directly towards any turbine. With mitigation in place the EIA report concludes that no shadow flicker will be experienced at the inhabited properties considered in the assessment. The Planning Authority raised no specific concerns in relation to the effects of shadow flicker and recommended that a condition is attached requiring a shadow flicker mitigation scheme based on the EIA report.



99. 21 private water supplies, nine wells and one licensed abstraction were identified within 2 km of the proposed Development in the EIA report. None of these were identified to be located onsite or within 250 m of the proposed Development. The Planning Authority raised no objection in relation to private water supplies and Aberdeenshire Council offered no specific comments on this matter. SEPA also raised no objection in relation to private water supplies acknowledging that none have been identified within site boundary and all proposed infrastructure will be beyond the required 250 m buffer.

100. Having considered the EIA report, the consultation responses, representations, the Scottish Ministers are satisfied that there would be no significant effects caused by noise, shadow flicker and on private water supplies subject to the mitigation outlined in the EIA report being implemented. Appropriately worded planning conditions have been imposed to ensure identified environmental mitigation to ensure the effects on residential amenity are minimised.

## **Scottish Government Policies and the Development Plan**

### **Scottish Energy Strategy and Onshore Wind Policy Statement**

101. Scottish Energy Strategy (“SES”) was published in 2017 and Onshore Wind Policy Statement (“OWPS”) published in December 2022. SES sets out a vision for the future energy system in Scotland through to 2050 and sets out the priorities for an integrated system-wide approach that considers the use and supply of energy for heat, power and transport. SES provides a long-term vision to guide energy policy decisions to tackle the challenges of decarbonising heat and transport in order to meet Scotland’s long-term energy and climate change targets.

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

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

### **National planning framework 4**

104. On 13 February 2023 NPF4 was adopted by Scottish Ministers. NPF4 sets out the spatial principles and by applying these, the national spatial strategy will support the planning and delivery of sustainable places, liveable places, and productive places. The national spatial strategy acknowledges that meeting the climate ambition will require rapid transformation across all sectors of our economy and society. It states that this means ensuring the right development happens in the right place. NPF4 recognises that every decision on future development must contribute to making Scotland a more sustainable place. Strategic renewable electricity generation and transmission infrastructure is a national development within NPF4 supporting renewable electricity generation, repowering, and expansion of the electricity grid.

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

## National Parks and NSAs.

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

107. Although the Application was submitted prior to the adoption of NPF4 on 13 February 2023, the Scottish Ministers are satisfied that the matters pertaining to NPF4 have been assessed in the Application, EIA report and considered in responses from the Planning Authority, HES, SEPA, NatureScot and other relevant bodies.

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

109. The Scottish Ministers acknowledge that the proposed Development would result in some significant landscape and visual (including cumulative) impacts. The proposed Development would also however bring benefits, particularly in terms of its contribution to renewable energy and climate change targets as well as some socio-economic benefits such as employment and associated business and supply chain opportunities.

110. The Scottish Ministers in making their determination on the Application, have balanced the above considerations, decided what weight is to be given to each and reached a view as to where the balance of benefit lies. On balance, it is considered that the proposed Development is acceptable and supported overall by NPF4 policies.

## Development Plan

111. The Planning Authority considered the Application against the Development Plan. The Planning Authority's Development Plan comprises:

- National Planning Framework 4 ("NPF4"); and
- Moray Local Development Plan 2020 ("MLDP").

112. The Scottish Ministers consideration of NPF4 is set out above. The Planning Authority have raised concern in relation to compatibility of the proposed Development with NPF4 which they note in a number of areas takes precedence to MLDP. However, as noted in the legislative context provided in the Planning Authority response, in the determination of Section 36 applications the Development Plan is a material consideration but it does not have primacy.

113. The Planning Authority have acknowledged the significant weight that must be attached to contribution the proposed Development has the potential to make towards emission



reduction targets in accordance with NPF4 but raise concerns that the proposed Development fails to comply with Policy 11 where significant landscape and visual effects are not sufficiently localised or mitigated. The Planning Authority also consider that more could have been done to reduce the impact of the proposed Development on peat, to demonstrate the hazards of siting the battery energy storage facility have been fully considered and that the economic impacts have been maximised.

114. The Scottish Ministers consider that the Company's iterative design approach has sought to avoid and minimise such effects where possible during evolution of the layout of the proposed Development, whilst seeking to optimise the benefits that the proposed Development would realise. The Scottish Ministers consider that the residual likely significant landscape and visual impacts of the proposed Development are acceptable in the context of the benefits it will bring in terms of contributing to renewable energy and climate change targets. Following consultation with SEPA, the Company propose to remove wind turbine 19 and adjust the locations of wind turbines 16 and 17 to reduce the impacts of the proposed Development on peat. Scottish Ministers are satisfied, even with the removal of wind turbine 19, that there remains the potential for positive net economic benefits both for the local community, Moray and Scotland.

115. In relation to fire risks, Scottish Ministers consider that the carrying out of a fire risk assessment, the implementation of any practical measures to ensure safety and the creation of a plan to deal with any emergency is a legal duty of responsible persons under Scottish fire safety legislation. Standards applicable, under building regulations, to the design and construction of buildings require there to be accessibility for fire services and provision of water supplies. Furthermore, generators of electricity are subject to safety regulations under the Electricity Act 1989 which require that equipment is constructed, installed, protected, used and maintained so as to prevent danger so far as is reasonably practicable.

116. The Planning Authority also recommended various planning conditions advising that some of these seek to address compliance with NPF4 policies not covered in the Application submission. The Scottish Ministers have given consideration to the conditions proposed by the Planning Authority and have imposed those which give effect to environmental mitigation, including construction methods, and to ensure impacts on the immediate and surrounding environment are minimised.

117. The Scottish Ministers in making their determination on the Application, have balanced the above considerations, decided what weight is to be given to each and reached a view as to where the balance of benefit lies. On balance, it is considered that the proposed Development, is acceptable and supported overall by the Development Plan.

## **The Scottish Ministers' Conclusions**

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

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

119. The Scottish Ministers have considered fully and carefully the Application, including the EIA report, consultation responses and all other material information and are satisfied that the environmental impacts of the proposed Development have been assessed. The Scottish Ministers have taken the environmental information into account when reaching their decision.

120. Taking into account the above assessment, subject to conditions to secure environmental mitigation, the Scottish Ministers consider the environmental effects of the proposed Development are mostly overcome with the exception of some limited landscape and visual impacts which are considered acceptable on balance against the benefits that would be realised by the proposed Development. 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. Ministers are satisfied that this reasoned conclusion is up to date.

#### Acceptability of the proposed Development

121. Scotland's renewable energy and climate change targets, energy policies and planning policies are all material considerations when weighing up this proposed Development. NPF4, the Energy Strategy, and the OWPS make it clear that renewable energy deployment remains a priority of the Scottish Government. This is a matter which should be afforded significant weight in favour of the proposed Development.

122. The Scottish Ministers have considered the environmental effects, including the landscape and visual impacts (including cumulative) of the proposed Development and consider them to be acceptable subject to conditions. The Scottish Ministers are also satisfied that the proposed Development will not have any significant effects on any protected species, NSAs or National Parks such that the integrity of the relevant designations would be compromised.

123. The Scottish Ministers acknowledge that the proposed Development would result in some significant visual and landscape impacts but consider that these are acceptable in the context of the benefits that the proposed Development will bring in terms contributing to renewable energy and climate change targets.

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

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

#### The Scottish Ministers' Determination

126. 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 Wind Farm Extension, in Moray Council Planning Authority area as described in **Annex 1**.

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

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

128. The consent hereby granted will last for a period of 40 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.

129. 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.

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

131. 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.

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

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

134. 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>.

135. Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine applications for consent. The rules relating to the judicial review process can be found on the website of the Scottish Courts:

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

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

Yours sincerely

*pp. Nicola Soave*

**On behalf of Alan Brogan**

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

- Annex 1 Description of the Development
- Annex 2 Part 1 – Conditions attached to Section 36 consent  
Part 2 – Conditions attached to deemed planning permission
- Annex 3 Site Location Plan (EIA report – Figure 2.2 The Site in Detail)
- Annex 4 Site Layout Plan (EIA report – Figure 4.1 Proposed Development Layout)

## **Part 1: Description of the Development**

The Development comprises an electricity generating station known as Clashindarroch Wind Farm Extension with a generating capacity greater than 50MW, located approximately 11 km southeast of Dufftown and 8 km northwest of Rhynie, within the administrative area of Moray Council.

The principal components of the Development comprise:

- 21 wind turbines, thirteen of which with a maximum blade tip height of 200 metres (m) and eight with a maximum tip height of 180 m
- Associated wind turbine foundations and crane hardstandings;
- A battery energy storage facility;
- Substation and control building compound linked to the wind turbines by a network of underground cables;
- A network of approximately 17 km onsite access tracks connecting each of the wind turbine locations and associated track drainage and watercourse crossings.
- An access junction on the A941 where there is an existing estate track at a disused property called Redford;
- Up to three borrow pits and two reserve borrow pit working search areas; and
- A temporary construction compound and on-site concrete batching plant.

All as more particularly shown on EIA report Figure 4.1 (Proposed Development Layout) of the EIA report at Annex 4.

## **Part 2: Excluded Development**

The following exclusions are made from this determination where consent is refused for:

- One wind turbine numbered 19 (with a maximum blade tip height of 180 m) as depicted on Figure 4.1 (Proposed Development Layout) of the EIA report at Annex 4 and its associated hardstanding and access track extending from grid reference Eastings 340,919 and Northings 828,375 and Eastings 341,366 and Northings 828,188.

## Part 1 – Conditions attached to Section 36 consent

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

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

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

### 2. Commencement of Development

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

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

### 3. Assignment

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

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



#### 4. Serious Incident Reporting

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

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

#### 5. Compensatory Planting

- (1) No felling or development shall commence, including site and ground investigations until a woodland planting scheme to compensate for the removal of 1.22 hectares of existing woodland or such other area as may be appropriate ("the Replanting Scheme") has been submitted to, and approved in writing by, the Scottish Ministers in consultation with the Planning Authority and Scottish Forestry.
- (2) The Replanting Scheme shall provide:
  - (a) details of the location of the area(s) to be planted, including a map and description of current land use;
  - (b) the nature, design/layout, species composition, purpose and specification of the proposed woodland to be planted;
  - (c) the phasing and associated timescales for implementing the Replanting Scheme;
  - (d) proposals for reporting to the Planning Authority on compliance with timescales for obtaining the necessary consents and thereafter implementation of the Replanting Scheme;
  - (e) proposals for the maintenance and establishment of the woodland to be planted, including annual checks, replacement planting, fencing, ground preparation and drainage; and
  - (f) details evidencing compliance with The UK Forestry Standard and the Scottish Government's Policy on Control of Woodland Removal (as amended or replaced from time to time).
- (3) The Replanting Scheme approved under part (1) of this condition shall be implemented in full, unless otherwise agreed in writing by the Scottish Ministers in consultation with the Planning Authority.

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

## **6. Aviation Radar Mitigation Scheme**

- (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 Scottish Ministers 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 parts 1 and 2 above;

"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).

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.*

## **7. Air Defence Radar Mitigation Scheme**

- (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 the 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 ("RRH") 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 scheme or otherwise arranged in accordance with provisions contained in the approved ADRM scheme, 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 the Scottish Government, in conjunction with the Ministry of Defence, has 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.*

## **Part 2 – Conditions attached to the Planning Permission**

### **8. Commencement of Development**

- (1) The Development must be commenced no later than 5 years from the date of this consent.
- (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.*

### **9. Design of Wind Turbines**

- (1) No turbines shall be erected until details and specification of the wind turbines (including the size, make and model, power rating and sound power levels, nameplate generating capacity, type external finish and colour) of the proposed wind turbines and the design of all turbine associated apparatus have been submitted to and approved in writing by the Planning Authority.
- (2) For the avoidance of doubt the scale of the turbines shall not exceed the parameters assessed in the EIA report and set out in the description of the Development at Annex 1.
- (3) The submission shall demonstrate that all wind turbine blades shall rotate in the same direction.
- (4) Thereafter the wind turbines and all associated apparatus shall be constructed and operated in accordance with the details approved under part (1) and shall be maintained in the free from external rust, staining or discolouration, until such time as the Development is decommissioned unless otherwise agreed in writing by the Planning Authority.

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

### **10. Design of Sub-station and ancillary development**

- (1) No development shall commence on the sub-station until final details of the location, layout, external appearance, dimensions, and surface materials of the substation and control room buildings, any above ground electrical equipment, associated compounds, construction compound, boundary fencing, external lighting, parking areas have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt the details of the sub-station shall not exceed the parameters assessed in the EIA report.
- (2) Thereafter, the substation and control room buildings, any above ground electrical equipment, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the details approved under part (1).

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

## **11. Design of Energy Storage Facility**

- (1) No development shall commence on the energy storage facility until details of the location, layout, external finishes and appearance, dimensions and surface materials of the energy storage facility, inclusive of battery containers, substation(s), control buildings, external above ground electrical equipment, associated compounds, construction compound, boundary fencing and other enclosures, external lighting, security cameras and parking areas have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt the details of the energy storage facility shall not exceed the parameters assessed in the EIA report.
- (2) Thereafter, the battery energy storage facility shall be constructed in accordance with the details approved under part (1) and the infrastructure shall be maintained in the approved colour, free from rust, staining or discolouration until such time as the Development is decommissioned.

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

## **12. Landscaping of Sub-station and Energy Storage Facility**

- (1) No development shall commence on the substation or energy storage facility until a detailed landscaping scheme is submitted to and approved in writing by the Planning Authority showing 25m deep structural planting to the south and west sides of the substation and energy storage compound. This scheme must select site appropriate indigenous trees, number and spacing. The scheme must detail how the landscaping will be managed, including a commitment to replace any dead or severely damaged trees within the first five years of the substation and energy storage facility becoming operational.
- (2) Thereafter, the approved landscaping scheme shall be implemented in full unless otherwise approved in writing by the Planning Authority.

**Reason:** *In order to mitigate the landscape and visual impacts of the substation and energy storage compound.*

## **13. Signage**

No part of the Development shall display any text, logo, sign or advertisement (other than health and safety signage as required by law) or be illuminated [with the exception of aviation safety lighting]) unless otherwise approved in writing by the Planning Authority.

**Reason:** *In the interests of health and safety on site and the visual amenity of the area.*

## 14. Micro-siting

- (1) All wind turbines, buildings, areas of hardstanding, associated infrastructure and tracks shall be constructed in the locations shown on plan reference 'EIA report Figure 4.1 Proposed Development Layout dated November 2022' and at the grid references for the wind turbines set out on the same Figure 4.1, except for wind turbine 19 and its associated hardstanding and access track which shall not be constructed.
- (2) The locations of wind turbines, buildings, energy storage facility, areas of hardstanding and tracks may be adjusted by micro-siting within the redline boundary shown on plan reference 'EIA report Figure 4.1 Proposed Development Layout dated November 2022'. Any such micro-siting is subject to the following restrictions unless otherwise approved in advance in writing by the Planning Authority:
  - (a) no wind turbine, building or hardstanding shall be moved more than 75m from the position shown on plan reference 'EIA report Figure 4.1 Proposed Development Layout dated November 2022' and at the grid references set out in the list on the same Figure 4.1;
  - (b) no access track shall be moved more than 75m from the position shown on plan reference EIA report Figure 4.1 Proposed Development Layout dated November 2022' and at the grid references set out in the same Figure 4.1;
  - (c) no micro-siting shall take place with the result that infrastructure (excluding floating tracks or hardstanding) has a greater overall impact on peat than the original location;
  - (d) wind turbine 16 and 17 and their associated hard-standings shown in 'EIA report Figure 4.1 Proposed Development Layout dated November 2022' shall be micro-sited so that they are located outwith peat which is more than 2m deep.
  - (e) no infrastructure other than as required for a water course crossing shall be micro-sited to within 50 metres of a water course;
  - (f) no wind turbine foundation shall be positioned higher than 20m metres Above Ordnance Datum (AOD) than the position for that turbine shown on the Site Layout Plan;
  - (g) no wind turbine shall be micro-sited within the EE/3UK telecommunication microwave link buffer shown on Figure 18.2 of the EIA report and wind turbine 22 shall not be micro-sited unless approved in advance in writing by the Planning Authority due to its close proximity to the microwave link buffer.
  - (h) To avoid deeper peat, wind turbine 4 and 5 shall be micro-sited further west or southwest, and wind turbine 18 shall be micro-sited further south west; and
  - (i) The following track sections shall be micro-sited to ensure that there is no encroachment into the 50m watercourse buffers shown in Figure 12.3 of the EIA report: part of the track approaching turbine 2, part of the track between turbine 4 and 5, part of the track leading north east from the construction compound near Redford.
- (3) All micro-siting required or permissible under this condition shall be submitted to and approved in writing by the Ecological Clerk of Works ("ECoW") in advance of

any works or development associated with the micro-siting request being implemented.

- (4) No later than six months after the Date of Final Commissioning, an updated site layout plan showing the final position of all wind turbines, buildings, areas of hardstanding, tracks and associated infrastructure forming part of the Development shall be submitted to the Planning Authority. 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.*

## **15. Implementation of mitigation measures**

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

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

## **16. Site Enabling Works**

- (1) No development or works shall commence on the Site unless and until a programme of Site Enabling Works, detailing the extent, area and timings of such works (the 'Site Enabling Works Programme') has been submitted to and approved in writing by the Planning Authority. The Site Enabling Works Programme must as a minimum provide for the following:
  - (a) a plan showing the extent and layout of the Site Enabling Works;
  - (b) the employment of a suitably qualified and experienced Ecological Clerk of Works, or equivalent, for the project, with specific responsibility for environmental management and the authority to take action when required, including stopping operations and implementing mitigation measures;
  - (c) The employment of a Planning Monitoring Officer, to discharge and to monitor compliance with this condition, including provision of a quarterly compliance report to the Planning Authority;
  - (d) a programme for environmental auditing and monitoring within the Site, before and during the Site Enabling Works, to provide the establishment of an environmental checklist, to monitor and input into the planning of construction activities and ensure implementation of all environmental mitigation measures;
  - (e) a woodland felling and replacement scheme for any felling associated with road works;

- (f) a site specific statement outlining drainage and sediment management for all exploration areas and measures to limit above ground construction activities during periods of high rainfall, including weather forecasting and actions to be taken in advance of adverse forecasts.
  - (g) working arrangements, including a programme for the phasing of operations, and particularly the movement of plant, materials and rock into, across and out of the site to minimise, so far as reasonably possible, impact on communities or businesses adjacent to or in close proximity to the Site.;
  - (h) waste management and pollution controls including contingency plans in case of pollution incidents;
  - (i) a programme of work for the evaluation, preservation and recording of any archaeological and historic features affected by the Development, including a timetable for investigation, which must be submitted for the written approval of the Planning Authority. The approved programme must be implemented in accordance with the agreed timetable for investigation unless otherwise agreed in writing with the Planning Authority;
  - (j) details for the delivery, storage, loading and unloading of plant to be used in constructing the development, with particular regard for the deployment of HGVs and any abnormal loads;
  - (k) measures to control the emission of dust and dirt during construction;
  - (l) provision of welfare facilities on site during construction and the means of disposal of foul drainage;
  - (m) measures to protect all existing public water, private water and drainage arrangements, with suitable back up arrangements in case of any disruption to these provisions from Site Enabling Works;
  - (n) an Access Management Plan to maintain public access and promote the general safety of walkers, cyclists, fishing and game stalking parties, out-with the principal construction areas and access roads serving the Development during the Site Enabling Works. A key principle to be advanced within the Plan is to minimise restrictions on public access to important recreational facilities;
  - (o) wheel washing facilities to prevent vehicles associated with the Site Enabling Works from depositing mud or dirt on the public road network when leaving the Site.
  - (p) lighting for Site Enabling Works which will minimise illumination, glare or light spillage outwith the site boundary.
  - (q) a peat management plan showing areas of peat potentially affected by the Site Enabling Works and how peat will be reinstated.
- (2) All Site Enabling Works must be carried out in accordance with the approved Site Enabling Works Programme unless otherwise approved in writing by the Planning Authority.

**Reason:** *To ensure that all Site Enabling Works are carried out in a manner that minimises their impact on amenity and the environment, and that the mitigation measures contained in the EIA report accompanying the application are fully implemented.*



## 17. Planning Monitoring Officer

- (1) No development shall commence until the terms of appointment by the Company of an independent and suitably qualified consultant as Planning Monitoring Officer ("PMO") have been submitted to, and approved in writing by, the Planning Authority. The terms of appointment shall:
  - (a) impose a duty to monitor compliance with the terms of the deemed planning permission and the conditions attached to it;
  - (b) require the PMO to submit a quarterly report to the Planning Authority summarising works undertaken on site, matters of compliance or otherwise with the terms of the deemed planning permission and conditions attached to it, alongside a summary of the incidents recorded and reported by the ECoW and GCoW; and
  - (c) require the PMO to report to the Planning Authority any incidences of non-compliance with the terms of the deemed planning permission and conditions attached to it at the earliest practical opportunity, and no later than 10 working days following the incidence of non-compliance.
- (2) The PMO shall be appointed on the approved terms throughout the period from Commencement of Development to completion of construction works and post-construction site reinstatement works.
- (3) Prior to the decommissioning, restoration and aftercare phases of the Development or the expiration of the operational period of the consent (whichever is the earlier), details of the terms of appointment of a suitably qualified consultant as PMO by the Company throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted to and approved in writing by the Planning Authority.
- (4) The PMO shall be appointed on the terms approved under part (3) throughout the decommissioning, restoration and aftercare phases of the Development.

**Reason:** *To ensure compliance with the planning permission and the conditions attached to it.*

## 18. Ecological Clerk of Works

- (1) No development shall commence until the terms of appointment of a suitably qualified, experienced, and independent Ecological Clerk of Works ("ECoW") by the Company have been submitted to, and approved in writing by, the Planning Authority. The terms of appointment shall:
  - (a) impose a duty to monitor compliance with the ecological and hydrological commitments provided in the Schedule of Mitigation required under condition 15, any micro-siting approved under condition 14, the Construction and Environmental Management Plan approved under condition 21, the Habitat Management Plan approved under condition 29, the bird protection plan approved under condition 32, and consider and approve any micro-siting

- requests in accordance with the provisions of condition 14 (“the ECoW works”);
- (b) 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;
  - (c) require the ECoW to submit a quarterly report to the Planning Authority summarising works undertaken on site; and
  - (d) require the ECoW to report to the Planning Authority any incidences of non-compliance with the ECoW works at the earliest practical opportunity, and no later than 5 working days following the incidence of non-compliance.
- (2) The ECoW shall be appointed on the terms approved under part (1) throughout the period from site enabling and pre-construction works, Commencement of Development to completion of construction works and post-construction site reinstatement works.
- (3) Prior to the decommissioning, restoration and aftercare phases of the Development or the expiration of the operational period of the consent (whichever is the earlier), details of the terms of appointment of a suitably qualified, experienced, and independent ECoW by the Company throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted to and approved in writing by the Planning Authority.
- (4) The ECoW shall be appointed on the terms approved under part (3) throughout the decommissioning, restoration and aftercare phases of the Development.

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

## **19. Environmental Clerk of Works**

- (1) No development shall commence until the terms of appointment of an independent Environmental Clerk of Works (“EnvCoW”) by the Company have been submitted to, and approved in writing by, the Planning Authority. The terms of appointment shall:
- (a) impose a duty to monitor compliance with the environmental commitments provided in the EIA report, any micrositing under condition 14, the Construction and Environmental Management Plan approved under condition 21, the Habitat Management Plan approved under condition 29, the Water Quality and Fish Monitoring Plan approved under condition 31 and Peat and Carbon Rich Soils Management Plan approved under condition 34 (“the EnvCoW works”);
  - (b) require the EnvCoW to report to the nominated construction project manager, developer and Planning Authority any incidences of non-compliance with the EnvCoW works at the earliest practical opportunity;

- (c) require the EnvCoW to submit a monthly report to the construction project manager, developer and Planning Authority summarising works undertaken on site.
- (2) Prior to the decommissioning, restoration and aftercare phases of the Development or the expiration of the operational period of the consent (whichever is the earlier), details of the terms of appointment of a suitably qualified, experienced, and independent EnvCoW by the Company throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted to and approved in writing by the Planning Authority.
- (3) The EnvCoW shall be appointed on the terms approved under part (2) throughout the decommissioning, restoration and aftercare phases of the Development.

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

## **20. Geotechnical Clerk of Works**

- (1) There shall be no Commencement of Development until the terms of appointment by the Company of an independent and suitably qualified engineer as a Geotechnical Clerk of Works ("GCoW") have been submitted to, and approved in writing by, the Planning Authority. The terms of appointment shall:
  - (a) impose a duty to monitor compliance with the Construction and Environmental Management Plan approved under condition 21, the Peat Management Plan, the Peat Landslide Risk Management Plan, and consider and approve any micro-siting requests in accordance with the provisions of condition 14 ("the GCoW works");
  - (b) require the GCoW to report to the Planning Authority and nominated construction project manager any incidences of geotechnical risks at the earliest practical opportunity, and no later than 5 working days following the incidence of non-compliance; and
  - (c) require the GCoW to report to the Planning Authority any incidences of peat land slips at the earliest practical opportunity to SEPA where there are risks to the wider environment, and no later than 5 working days following the incidence of peat land slips.
- (2) The GCoW shall be appointed on the terms approved under part (1) throughout the period from Commencement of Development to completion of construction works and post-construction site reinstatement works.
- (3) Prior to the decommissioning, restoration and aftercare phases of the Development or the expiration of the operational period of the consent (whichever is the earlier), details of the terms of appointment of a suitably qualified engineer as a GCoW by the Company throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted to and approved in writing by the Planning Authority.

- (4) The GCoW shall be appointed on the terms approved under part (3) throughout the decommissioning, restoration and aftercare phases of the Development.

**Reason:** *To secure effective monitoring of and compliance with the mitigation related to geotechnical matters, particularly peat land slip and management measures associated with the Development during the construction, post-construction restoration, decommissioning, restoration and aftercare phases.*

## **21. Construction and Environmental Management Plan**

- (1) No development shall commence until a Construction and Environmental Management Plan ("CEMP") containing site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling, has been submitted to, and approved in writing by, the Planning Authority in consultation with Aberdeenshire Council. The CEMP shall be informed by the site and ground investigation works and best practice guidance.
- (2) The CEMP shall provide:
- (a) a site waste management plan (dealing with all aspects of waste produced during the construction period other than peat and other carbon rich soils), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment, evidencing all proposals comply with SEPA's guidance and the requirements of the waste management licensing regime as appropriate;
  - (b) details of the location, layout, formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil, fuel and chemical storage, lighting columns, and any construction compound boundary fencing required for the construction period;
  - (c) internal access tracks shall be of the floating track design where underlying peat is equal to or greater than 1.0m in depth unless agreed otherwise with the Planning Authority in consultation with SEPA;
  - (d) a dust management plan detailing all mitigation/dust suppression measures intended to reduce the impacts of dust on site, including measures to reduce dust on roads;
  - (e) site specific details for management and operation of any concrete batching plant (including disposal of pH-rich waste water and substances);
  - (f) 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;
  - (g) a Pollution Prevention and Incident Plan incorporating a Pollution Prevention Plan, Pollution Incident Plan and a Pollution Control Monitoring Plan, this shall provide measures to protect watercourses, groundwater, management of natural surface hydrological flows (flushes, springs, etc.) and protection of peatland/soils, arrangements for the storage and management of oil and fuel and other chemicals on the site and sewage disposal and treatment;

- (h) incorporating the mitigation measures identified within the Peat Landslide Hazard Risk Assessment (dated February 2025) updated as appropriate to reflect any ground investigations undertaken prior to Commencement of Development and adjustments to site design following micro-siting;
- (i) details of measures to minimise the risk to water quality within the Drinking Water Protected Areas where Scottish Water abstractions are located in consultation with Scottish Water;
- (j) details of soil storage and management including outline quantities, locations (other than peat and other carbon rich soils) management of long term storage of construction generated to facilitate future site restoration;
- (k) a drainage management strategy, demonstrating how all surface and waste water arising during and after construction is to be managed and prevented from impacting on the water environment and to mitigate flood risk;
- (l) 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
- (m) details of the private water supply and foul drainage arrangements for the staff welfare facilities;
- (n) details of temporary site illumination, including measures to ensure light spill/pollution is minimised and avoids habitats within the site and does not extend beyond the immediate working area, and not beyond the site boundary;
- (o) Protected Species Plan. The Plan shall be informed by Badger, Otter, Pine Marten, Water Vole and Wildcat surveys carried out by a suitably qualified person. The surveys shall inform the mitigation measures required to protect Badger, Otter, Pine Marten, Water Vole and Wildcat during construction of the Development. The Plan shall provide mitigation measures, as required, and a timetable for implementation.
- (p) details of the construction of the access into the site, including associated drainage and the creation and maintenance of associated visibility splays;
- (q) Site-specific Construction Method Statements for the following:
  - i. crane pads;
  - ii. turbine foundations;
  - iii. working cable trenches;
  - iv. erection of the wind turbines;
  - v. Energy storage compound formation and installation of energy storage equipment;
  - vi. Substation compound formation, erection of associated buildings and ancillary infrastructure;
  - vii. watercourse crossings including full details and plans of the design and specification of all new and upgraded watercourse crossings to be constructed, ensuring continuous flow and fish passage with no hanging culverts, noting all crossings shall be oversized bottomless arched culverts or traditional style bridges. Watercourse crossing WX1 shown on EIA report Figure 12.3 Watercourse Crossing dated November 2022 shall be designed so that it can convey 1 in 200-year flow plus climate change plus freeboard allowance.

- (r) details of post-construction restoration/reinstatement of the working areas not required during the operation of the Development;
  - (s) Historic Environment Protection Plan including details of protective fencing of the location of the historic environment features to be protected during construction works, including appropriate buffers;
  - (t) a wetland ecosystems survey and mitigation plan;
  - (u) a tree felling and management plan;
  - (v) a Construction Noise Management Plan including details of the management of noise and vibration during construction and post-construction restoration, including that caused by construction traffic, to the lowest practicable levels and in accordance with BS 5228:2009 “Code of Practice for noise and vibration control on construction and open sites – Part 1: Noise and Part 2: Vibration” (or any updated version/document which superseded this document) and how any properties likely to be affected by construction noise will be kept informed;
  - (w) Construction Method Statements for all roads/tracks to be altered/formed within the development site including their width, likelihood of widening or passing places, means of drainage (which shall have regard to SUDS principles), means of construction, and edge reinstatement including verge width. The specification shall be accompanied by relevant plans at a scale sufficient;
  - (x) the cable trenches;
  - (y) a phasing plan for the construction works; and
  - (z) a written scheme which details the methodology for dealing with any revisions to any of the documents required under the CEMP. Any revised documents will require to be submitted to and approved in writing by the Planning Authority prior to the revisions being implemented on site.
- (3) The Development shall be implemented in accordance with the CEMP approved under part (1) unless otherwise approved in advance in writing by the Planning Authority.

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

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

- (1) No development shall commence until a scheme for the working and restoration of each borrow pit forming part of the Development has been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA. The scheme shall provide:
  - (a) a detailed working method statement based on site survey information and ground investigations;
  - (b) details of the handling of any overburden (including peat, soil and rock);

- (c) drainage measures, including measures to protect and manage surrounding areas of peatland, water dependant sensitive habitats and ground water dependent terrestrial ecosystems from drying out;
  - (d) a programme of implementation of the works described in the scheme; and
  - (e) outline details of the reinstatement, restoration and aftercare of the borrow pits to be undertaken at the end of the construction period, including topographic surveys of pre-construction profiles and details of topographical surveys to be undertaken of the restored borrow pit profiles; and
  - (f) the details for the reinstatement, restoration and aftercare of the borrow pits shall avoid the placement of substantial thicknesses of catotelmic peat within the borrow pits. Catotelmic peat shall only be used in borrow pit restoration if it can be demonstrated that placed peat can be kept permanently wet to enable the retention of carbon within the peat and its ability to sustain peatland habitats.
- (2) The scheme approved under part (1) shall thereafter be implemented in full following Commencement of Development.

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

## **23. Borrow Pits – Blasting**

- (1) No blasting shall take place until a scheme specifying blast monitoring locations is submitted to and approved in writing by the Planning Authority in consultation with Aberdeenshire Council.
- (2) Ground vibration from blasting shall not exceed a peak particle velocity of 6mm/second at the blasting monitoring locations approved in the scheme. The measurement is to be the maximum of three mutually perpendicular directions taken at the ground surface.
- (3) Unless otherwise approved in writing in advance by the Planning Authority, blasting shall only take place between the hours of 10.00 to 16.00 on Monday to Friday inclusive and 10.00 to 12.00 on Saturdays, with no blasting taking place on a Sunday or on a Public Holiday.
- (4) At the reasonable request of the Planning Authority, following a complaint relating to vibration from blasting operations to form borrow pits, the Company shall measure at its own expense ground vibration to ensure compliance with the above condition. The results of such monitoring shall thereafter be forwarded to the Planning Authority.
- (5) The scheme shall be implemented as approved.

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

## 24. Construction Hours

- (1) Construction work shall only take place between the hours of 07.00 to 19.00 on Monday to Friday inclusive and 07.00 to 16.00 on Saturdays, with no construction work taking place on a Sunday or Public Holiday. Outwith these specified hours, maintenance works, emergency works and construction works shall be limited to concrete pours, wind turbine erection, dust suppression, and the testing of plant and equipment, unless otherwise approved in advance in writing by the Planning Authority.
- (2) HGV movements (excluding abnormal loads) to or from the site during construction of the wind farm shall be limited to 07.00 to 19.00 Monday to Friday (inclusive), and 07.00 to 16.00 on Saturdays, with no HGV movements to or from site taking place on a Sunday or Public Holiday. Outwith these hours, and subject to paragraph (1), HGV movements are to be limited to wind turbine delivery (unless otherwise approved in advance in writing by the Planning Authority).

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

## 25. Traffic Management Plan

- (1) No development shall commence until a Traffic Management Plan has been submitted to, and approved in writing by, the Planning Authority in consultation with Aberdeenshire Council and Transport Scotland. The Traffic Management Plan shall provide:
  - (a) the routeing of all traffic associated with the Development on public roads including that, unless otherwise agreed, all delivery vehicles shall arrive and depart via the A941 to the north of the site access;
  - (b) measures to ensure that the specified routes are adhered to, including monitoring procedures;
  - (c) confirmation of the final turbine type(s), maximum component dimensions and weights, delivery vehicle(s) types and specification(s) including details of swept paths of all abnormal indivisible loads over the length of the A941 (from the A920 to the site access);
  - (d) classified traffic surveys over a 4 week period for a neutral period outwith school/public holidays prior to development commencing. The counts will be required at locations to be agreed with the relevant Roads Authority on the A941 between the A920 and the site access;
  - (e) provision for the submission and agreement of a roads condition survey pre- and post construction which includes for a joint inspection of the A941 from the A920 to the site access carried out by the Company and relevant Roads Authority with coring of the full depth of the road construction carried out at 200 metre intervals (minimum) or at locations as deemed necessary by the Roads Authority;
  - (f) a report to inform and agree any mitigation works required to the public road network prior to commencement of any construction or abnormal load deliveries;
  - (g) 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, time restrictions for deliveries (i.e. outwith school arrival and departure times);
  - (h) detailed plans of all temporary and permanent works proposed to the public road including vertical sections for slope reprofiling and details of any existing/modified or proposed retaining structures;
  - (i) an assessment of the A941 road widths and existing passing places between the A920 and details of the provision of passing places (intervisible at maximum 150m spacing) for any sections of road which are less than 6 metres wide or lack passing places in accordance with the minimum specification (6m wide with minimum length 15m, 10m tapers and 150m intervisible spacing);
  - (j) details identifying all structures (culverts, bridges, retaining structures/walls) on the local road networks within Moray along the abnormal indivisible load route and any mitigation works required, together with evidence to confirm the impact from the development traffic on these has been assessed;
  - (k) detailed plans showing the full visibility envelope of the site access visibility splay (4.5m x 160m) in both directions including confirmation of landownership or written consent from the landowner and a schedule of maintenance;
  - (l) plans identifying the extents of any potential 3rd party land impacts (outwith the public road envelope);
  - (m) details of all signage and lining arrangements to be put in place;
  - (n) provisions for emergency vehicle access;
  - (o) an appropriate agreement between the relevant Roads Authority and the Company to ensure the delivery of any post-construction public road restoration that may be required including evidence that a wear and tear agreement under Section 96 of the Roads (Scotland) Act 1984 (As Amended) has been completed and signed by the Company and the relevant Roads Authority; and
  - (p) identification of a nominated person to whom any road safety issues can be referred.
- (2) The approved Traffic Management Plan shall be implemented in full, unless otherwise approved in advance in writing by the Planning Authority.

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

## **26. Site Access Visibility Splay**

Prior to the Commencement of Development and deliveries the site access visibility splay (4.5m by 160m) shall be provided and thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the carriageway for the duration of the operation of the Development unless otherwise agreed in writing with the Planning Authority.

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

## 27. Road Wear and Tear Agreement

- (1) Prior to the Commencement of Development, evidence shall be provided to confirm that a Bond or other financial security has been agreed by both parties (the Company and the Roads Authority) and put in place to cover the construction period of the Development and to be called in the event that the Company fails to meet their obligations under the wear and tear agreement to maintain the road in a safe condition during the construction phase of the development and to restore the road to its original predevelopment condition within 1 year of the completion of construction or the development becoming operational.
- (2) The bond/security shall relate to the full extent of the A941 from its junction to the north with the A920 to the site access (A distance of approximately 10 miles) and is required to mitigate the potential risks from damage to the public road occurring during the construction phase of the development.

**Reason:** *To ensure the protection of the road network, and to secure the cost of repairing any damage to the road network.*

## 28. Abnormal Loads

- (1) There shall be no abnormal load deliveries to the site until an Abnormal Load Route Assessment Report, including proposed trial runs, has been submitted to and approved in writing by the Planning Authority in consultation with Transport Scotland and Aberdeenshire Council. The Abnormal Load Route Assessment Report shall provide:
  - (a) details of a communications strategy to inform the relevant communities of the programme of abnormal load deliveries;
  - (b) details of any accommodation measures required for the local road network including the removal of street furniture, junction widening and traffic management;
  - (c) any additional signing or temporary traffic control measures deemed necessary on the trunk road network due to the size or length of any loads being transported must be undertaken by a recognised Quality Assured traffic management consultant, to be approved by Transport Scotland.
  - (d) details of the route for abnormal loads on the local and trunk road networks and any recommendations for delivery of abnormal loads;
  - (e) an assessment of the capacity of any bridge crossings on the route to cater for abnormal loads, and details of proposed upgrades and mitigation measures required for any bridge crossings;
  - (f) a plan for access by vehicles carrying abnormal loads, including but not limited to the number and timing of deliveries and the length, width and axle configuration of all such traffic associated with the Development;
  - (g) evidence to demonstrate approval in writing from the landowner for any works (permanent or temporary) to modify or amend the public road including road verges, or any works or access required to facilitate the delivery of any abnormal indivisible loads; and

- (h) extruded edge lining (both sides) over the full length of the A941 between the A920 and the site access, shall be provided and maintained for the duration of the construction period.
- (2) Prior to the first delivery of an abnormal load, a programme for abnormal load deliveries shall be submitted to and be approved in writing by the Planning Authority in consultation with Transport Scotland.
- (3) Prior to any movement of abnormal loads (including trial runs) the Company must complete any mitigation works set out in the scheme approved under part (1) of this condition and maintain such measures during the period of abnormal load deliveries.
- (4) The trial-run shall be undertaken in accordance with the details approved under part (1) prior to the movement of any abnormal loads.
- (5) The details in the approved report shall thereafter be implemented in full prior the first delivery of an abnormal load.

**Reason:** *In the interest of road safety and to ensure that abnormal loads access the site in a safe manner.*

## **29. Habitat Management and Monitoring Plan**

- (1) No development shall commence until a Habitat Management Plan (“HMP”) taking account of the Outline Peat and Habitat Management Plan (EIA report Appendix 11.3) and the letter sent to RSPB on behalf of the Company dated 07 May 2024, has been submitted to, and approved in writing by the Planning Authority in consultation with NatureScot, RSPB, SEPA and the River Deveron District Salmon Fishery Board.
- (2) The HMP shall set out proposed habitat management of the site during the period of construction, operation, and decommissioning, restoration and aftercare, and shall provide for the maintenance, monitoring and reporting of habitat and species on site taking into account the monitoring proposals set out in section 8 of the Outline Peat and Habitat Management Plan (EIA report Appendix 11.3) .
- (3) The HMP shall provide provision and details for regular monitoring and review to be undertaken against the HMP objectives and reasonable measures for securing amendments or additions to the HMP in the event that the HMP objectives are not being met.
- (4) Until otherwise approved in advance in writing by the Planning Authority, the approved HMP (as amended from time to time with written approval of the Planning Authority) shall be implemented in full in line with the timescales set out in the approved plan.

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

### **30. National Vegetation Classification Map**

No development shall commence until a National Vegetation Classification Map with the proposed development layout overlain, which incorporates micro-siting adjustments, is submitted to and approved by the Planning Authority. The development shall be implemented in accordance with the approved map.

**Reason:** *In the interests of the protection of habitats.*

### **31. Water Quality and Fish Monitoring Plan**

- (1) No development shall commence until an integrated Water Quality and Fish Monitoring Plan ("WQFMP") has been submitted to and approved in writing by the Planning Authority in consultation with the River Deveron District Salmon Fishery Board and Scottish Water.
- (2) The WQFMP must take account of the Marine Directorate's guidance and shall provide:
  - (a) provision that water quality sampling should be carried out for at least 12 months prior to Commencement of Development, during construction and for at least 12 months after construction is complete;
  - (b) key hydrochemical parameters (including turbidity and flow data), the identification of sampling locations (including control sites), frequency of sampling, sampling methodology, data analysis and reporting;
  - (c) fully quantitative electrofishing surveys at sites potentially impacted and at control sites for at least 12 months prior to the Commencement of Development, during construction and for at least 12 months after construction is completed to detect any changes in fish populations; and
  - (d) appropriate site specific mitigation measures including those detailed in the EIA report.
- (3) Thereafter, the WQFMP shall be implemented in full within the timescales set out in the WQFMP.

**Reason:** *To ensure no deterioration of water quality and to protect fish populations within and downstream of the development area.*

### **32. Bird Protection Plan**

- (1) No development shall commence until a Breeding Golden Eagle and Other Bird Species Protection Plan ("BPP") has been submitted to and approved in writing by the Planning Authority. The BPP shall be informed by pre-commencement bird surveys and set out measures to protect bird species (including but not limited to Black Grouse, Curlew, Golden Eagle, Goshawk, Hen harrier and Merlin) including post construction ornithology surveys at intervals to be agreed with the Planning Authority.
- (2) The BPP shall set out survey methods for the identification of sites used by protected and sensitive birds during construction and shall detail operational

protocols to prevent or minimise disturbance of birds during construction of the Development.

- (3) The BPP shall include a disturbance buffer of at least 1,000m between any Golden Eagle nesting site and any construction activity during the Golden Eagle nesting season (February to April) and a disturbance buffer of at least 500m between any Golden Eagle nesting site and any construction activity outside of the Golden Eagle nesting season (May – January).
- (4) The approved BPP shall be implemented.

**Reason:** *To minimise impacts on Golden Eagle and Other Bird Species during the construction phase.*

### **33. Programme of Archaeological Works**

- (1) No development shall commence unless an archaeological Written Scheme of Investigation (WSI) has been submitted to, and approved in writing by, the Planning Authority. The WSI shall provide details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the Written Scheme of Investigation will be provided throughout the implementation of the programme of archaeological works. The WSI shall also detail how any requirement for reporting, post-excavation analysis, archive deposition, publication of results, and the delivery of public benefit (including how this will be recorded and reported) will be undertaken.
- (2) A programme of archaeological works must be carried out in accordance with the approved WSI, and any addendums to it, as agreed under part (1).
- (3) Should the archaeological works carried out under part (2) reveal the need for post excavation analysis, the development hereby approved shall not be occupied or brought into use unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results, including additional public engagement, and archive deposition has been submitted to and approved in writing by the Planning Authority. The PERD shall be carried out in complete accordance with the approved details.

**Reason:** *To ensure the protection or recording of archaeological features on the site.*

### **34. Peat and Carbon Rich Soils Management Plan**

- (1) No development shall commence until a detailed Peat and Carbon Rich Soils Management Plan ("PMP"), taking account of the Outline Peat and Habitat Management Plan (Appendix 11.3 of the EIA report) and updated Table 1 (Rev 4) Peat Balance of Appendix 11.3 dated 16 May 2025 has been submitted to and approved in writing by the Planning Authority in consultation with SEPA.
- (2) The PMP shall:
  - (a) take account of site and ground investigations to minimise the loss of peat and other carbon rich soil and minimise carbon loss;

- (b) include actions, including micrositing, and the use of floating track designs where peat is greater than 1m deep to minimise excavated peat and other carbon rich soils volumes;
  - (c) encourage use of excavated peat and other carbon rich soils in an appropriate manner; and
  - (d) follow good practice for handling, storing and reinstating peat and other carbon rich soils.
- (3) The Peat and Carbon Rich Soils Management Plan shall thereafter be implemented as approved upon the Commencement of Development.

**Reason:** *To ensure that disruption to peat is minimised.*

### **35. Shadow Flicker**

- (1) No turbine shall be erected until a scheme for the avoidance or mitigation of shadow flicker at residential properties which lawfully exist or for which planning permission has been granted as at the date of this section 36 consent, has been submitted to, and approved in writing by, the Planning Authority in consultation with Aberdeenshire Council. The scheme shall take account of the measures described in Chapter 17 of the EIA report.
- (2) The approved mitigation scheme shall be implemented in full in line with the approved scheme.

**Reason:** *To offset any impacts of shadow flicker on residential property amenity.*

### **36. Radio Reception**

- (1) No development shall commence unless and until a baseline Radio Reception survey has been undertaken.
- (2) In the event of a claim by any individual person regarding loss or interference of radio reception, at their house, business premise or other building, this shall be investigated by an independent qualified engineer, appointed by the Company, and the results, including any mitigation measures, shall be submitted to the Planning Authority, alongside a copy of the results of the baseline survey undertaken under the terms of part (1).
- (3) Should any impairment to the radio reception be attributable to the Development, the Company shall remedy such impairment so that the standard of reception at the affected property is equivalent to the baseline radio reception as relevant. For the avoidance of doubt, the resolution of disputes shall be determined by an independent arbiter e.g. OFCOM or other professional body as appropriate.

**Reason:** *To ensure local radio services are sustained during the construction and operation of the Development.*

### **37. Access Management Plan**

- (1) No development shall commence until an Access Management Plan ("AMP") has been submitted to and approved in writing by the Planning Authority in consultation with Aberdeenshire Council. The AMP should ensure that public access is retained within and across the Development site during construction, where appropriate, and thereafter that suitable public access is provided during the operational phase of the wind farm.
- (2) The approved plan shall be implemented in full upon Commencement of Development.

**Reason:** *In the interests of securing public access rights.*

### **38. Access Path**

Unless otherwise agreed with the Planning Authority, and prior to energy production occurring in the interests of improved public access, the public access plan to be provided, must provide a footpath/cycle pathway between the existing Clashindarroch Wind Farm and the Development.

**Reason:** *In order to ensure the proposed development maximises public access benefits and potential.*

### **39. Private Water Supplies**

- (1) No development shall commence until a private water supplies method statement has been submitted to and approved in writing by the Planning Authority, detailing all contingent mitigation measures to be delivered to secure the quality, quantity and continuity of water supplies to any properties which are served by private water supplies at the date of this planning permission which may be affected by the Development.
- (2) The method statement shall set out:
  - (a) details of the methodology for water quality and quantity sampling for a period of 12 months prior to construction (including abstraction points);
  - (b) details of the methodology and programme for undertaking water quality and quantity sampling during the construction period (including abstraction points); and
  - (c) details of the methodology for water quality and quantity sampling for a period of 12 months post construction (including abstraction points);
- (3) The approved method statement shall thereafter be implemented in full upon the Commencement of Development.

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

#### **40. Aviation Safety**

- (1) Prior to the installation of any turbine, the Company shall provide the Planning Authority, Ministry of Defence, Defence Geographic Centre and NATS with the following information in writing, and provide evidence to the Planning Authority that this has been done:
  - (a) the dates of the expected stages of construction of the Development;
  - (b) the height above ground level of the tallest structure forming part of the Development;
  - (c) the maximum height of any construction equipment;
  - (d) the position of the wind turbines in latitude and longitude; and
  - (e) the date any wind turbine generators are brought into use.
- (2) The Company shall, as soon as is practicable and in any event with 7 days prior to the event, provide to the Planning Authority and the Ministry of Defence and NATS written notice of any proposed changes to the information provided under part (1).
- (3) Within 1 month of the erection of the final turbine, the Company shall provide written confirmation to the Planning Authority, the Ministry of Defence and NATS of the actual date on which construction was completed and the confirmed latitude and longitude of all turbines (in degrees, minutes and seconds) and the height above ground level of each turbine (in metres to blade tip).

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

#### **41. Aviation and Other Lighting**

- (1) No development shall commence until a scheme for aviation lighting (Aviation Lighting Scheme) for the Development has been submitted to, and approved in writing by, the Planning Authority in consultation with the Ministry of Defence and the Civil Aviation Authority. The scheme shall provide details of aviation lighting which is to be applied and define how the Development will be lit throughout its life to maintain civil and military aviation safety requirements and shall include:
  - (a) Details of any construction equipment and temporal structures with a total height of 50m or greater (above ground level) that will be deployed during the construction of wind turbine generators and details of any aviation warning lighting that they will be fitted with; and
  - (b) the locations and heights of all wind turbine generators in the development identifying those that will be fitted with aviation warning lighting identifying the position of the lights on the wind turbine generators; the type(s) of lights that will be fitted and the performance specification(s) of the lighting type(s) to be used.
- (2) No later than the third and fifth anniversary of the date of First Commissioning and every five-year anniversary thereafter, the Company shall submit a written review of the Aviation Lighting Scheme to the Planning Authority. Each review shall provide:



- (a) an assessment of options available for the reduction in the number of visible lights installed on turbines, the time period when lights are visible, and/or the intensity of the visible lighting;
  - (b) an assessment of the potential for installation of an Aircraft Detection Lighting System (“ADLS”), including a statement setting out the current and anticipated regulatory environment in relation to ADLS; and
  - (c) an assessment of whether it is technically feasible, through the regulatory framework to install an ADLS at the Development (taking into account installation and operational costs).
- (3) The review may propose amendment of the Aviation Lighting Scheme. Specifically regarding ADLS, if a review assesses that it is technically feasible to install ADLS, provided that such installation shall not require planning permission, such review shall also provide the Company’s proposals for installation of ADLS together with a proposed timetable for installation. Any proposed amendment shall be compliant with the then current aviation lighting requirements of the Civil Aviation Authority.
- (4) Any proposed amendment to the Aviation Lighting Scheme under part (3) must be submitted to and have received the written approval of the Planning Authority, in consultation with the Civil Aviation Authority, and shall thereafter be installed in accordance with the approved details.
- (5) The Aviation Lighting Scheme, or such alternative scheme as may be approved under part (4), shall thereafter be maintained throughout the operational life of the Development.
- (6) The Development shall be operated in accordance with the approved scheme, or any alternative scheme as may be approved under part (4), unless otherwise approved in advance in writing by the Planning Authority in consultation with the Ministry of Defence and the Civil Aviation Authority as a result of periodic reviews.

**Reason:** *In the interests of aviation safety and to minimise visual effects of the Development.*

## **42. Redundant Turbines**

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

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

#### **43. Site Inspection Strategy**

- (1) Prior to the Date of Final Commissioning, the Company shall submit an outline Site Inspection Strategy (Outline SIS) for the written approval of the Planning Authority. The Outline SIS shall set out a strategy for the provision of site inspections and accompanying Site Inspection Reports (SIR) to be carried out at 25 years of operation from the Date of Final Commissioning and every five years thereafter.
- (2) No later than 24 years after the Date of Final Commissioning, the Company shall submit a final detailed Site Inspection Strategy (Final SIS), based on the principles of the approved Outline SIS for the written approval of the Planning Authority. The Final SIS shall set out updated details for the provision of site inspections and accompanying Site Inspection Reports (SIR), in accordance with relevant guidance at that time, to be carried out at 25 years of operation from the Date of Final Commissioning and every five years thereafter.
- (3) At least one month in advance of submitting each SIR to the Planning Authority, the scope of the SIR shall be agreed with the Planning Authority.
- (4) The SIR shall provide:
  - (a) details to demonstrate that the infrastructure components of the Development are still operating in accordance with condition 9 and condition 48; and
  - (b) an engineering report which details the condition of tracks, turbine foundations and the wind turbines and sets out the requirements and the programme for the implementation for any remedial measures which may be required.
- (5) The SIS and each SIR shall be implemented in full following the Date of Final Commissioning unless otherwise agreed in advance in writing by the Planning Authority.

**Reason:** *To ensure the Development is being monitored at regular intervals after the first 25 years of operation.*

#### **44. Interim Decommissioning, Restoration and Aftercare Strategy**

No development shall commence until an Interim decommissioning, restoration and aftercare strategy has been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA and Transport Scotland. The interim decommissioning, restoration and aftercare strategy shall outline measures for the decommissioning of the Development and restoration and aftercare of the site, and shall provide proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environmental management provisions in any instance that the site as a whole, or in part, ceases to operate prior to the approval of the Decommissioning, Restoration and Aftercare Plan required under the provisions of condition 45.

**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 when a detailed decommissioning, restoration and aftercare Plan has not yet been approved.*

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

- (1) The Development shall cease to generate electricity to the grid network by no later than the date falling 40 years from the Date of Final Commissioning.
- (2) No later than one year prior to the Date of Final Generation or the expiry of the section 36 consent (whichever is earlier) a decommissioning, restoration and aftercare plan shall be submitted for the written approval of the Planning Authority, in consultation with SEPA and Transport Scotland. The detailed decommissioning, restoration and aftercare plan shall provide updated and detailed proposals, in accordance with relevant guidance at that time, for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall provide:
  - (a) a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases and, including details of measures to be taken to minimise waste associated with the Development and promote the recycling of materials and infrastructure components);
  - (b) details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
  - (c) a dust management plan;
  - (d) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network, including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
  - (e) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
  - (f) details of measures for soil storage and management;
  - (g) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
  - (h) details of measures for sewage disposal and treatment;
  - (i) temporary site illumination;
  - (j) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays; and
  - (k) a species protection plan based on surveys for protected species (including birds) carried out no longer than eighteen months prior to submission of the plan.
- (3) The Development shall be decommissioned, the site restored and aftercare undertaken prior to the date falling three years after the Date of Final Generation

and in accordance with the approved detailed decommissioning, restoration and aftercare plan.

**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.*

#### **46. Financial Guarantee**

- (1) No development shall commence until a bond or other form of financial guarantee in terms which secures the cost of performance of all decommissioning, restoration and aftercare obligations referred to in conditions 44 and 45 has been submitted to and approved in writing by the Planning Authority.
- (2) The value of the financial guarantee shall be agreed between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations referred to in condition 45.
- (3) The financial guarantee shall be maintained in favour of the Planning Authority until the completion of all decommissioning, restoration and aftercare obligations referred to in conditions 44 and 45.
- (4) The value of the financial guarantee shall be reviewed by agreement between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional not less than every five years, and at the time of the approval of the detailed decommissioning, restoration and aftercare plan approved under condition 45. The value of the financial guarantee shall be increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations referred to in conditions 44 and 45 and best practice prevailing at the time of each review.

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

#### **47. Noise Measurements**

The Company shall employ an independent consultant, approved by the Planning Authority in consultation with Aberdeenshire Council, to measure and where necessary calculate, at the operator's own expense, the level of noise immisions from the wind turbines within the first year of the operation of the wind turbines. The measurement procedures, which may include filtering data according to wind direction, shall be agreed with the Planning Authority in consultation with Aberdeenshire Council prior to commencement of the Development. The results of any measurement exercise shall be forwarded to the Planning Authority and Aberdeenshire Council as soon as practicable after the completion of the monitoring exercise.

**Reason:** *In order ensure measures are in place to address any noise nuisance arising from the development.*

#### 48. Operational Noise

- (1) The rating level of noise immissions from the combined effects of the wind turbines forming part of the Development (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes for this condition, shall not exceed the values for the relevant integer wind speed set out in, or derived from, **Tables 1a and 2a if Craig Watch is not operational or Tables 1b and 2b if Craig Watch is operational** - at those properties identified or any dwelling which is lawfully existing or has planning permission at the date of this consent.

**Table 1a – If Craig Watch is not operational – Between 07:00 and 23:00 – Noise Limits expressed in dB LA90**

Location (including Coordinates / Council)	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods									
	4	5	6	7	8	9	10	11	12	
Belcherrie (340033, 834094 / Moray)	40.0	40.0	40.0	40.0	40.0	40.3	43.8	43.8	43.8	
Greenloan (339849, 833907 / Moray)	40.0	40.0	40.0	40.0	40.0	40.3	43.8	43.8	43.8	
Succoth (339606, 833351 / Moray )	40.0	40.0	40.0	40.0	40.0	40.0	42.4	42.4	42.4	
Easterton (339516, 833044 / Moray)	40.0	40.0	40.0	40.0	40.0	40.0	42.4	42.4	42.4	
Oldtown of Corinacy (339713,832053 / Moray)	40.0	40.0	40.0	39.2	39.2	39.2	42.4	42.4	42.4	
Milltown (338450,831338 / Moray)	40.0	40.0	40.0	40.0	40.0	40.0	42.4	42.4	42.4	
Tomnaven (340420, 833468 / Moray )	40.0	40.0	40.0	40.0	40.0	43.0	45.0	48.0	51.0	
Hillock of Echt (339880, 832476 / Moray )	40.0	40.0	40.0	40.0	40.0	43.0	45.0	48.0	51.0	
Pyke (339302, 831897 / Moray )	40.0	40.0	40.0	40.0	40.0	43.0	45.0	48.0	51.0	
New town Corinacy ( 339100, 831790 / Moray )	40.0	40.0	40.0	40.0	40.0	43.0	45.0	48.0	51.0	
Inverharrock Cottage(338138,831071 / Moray)	40.0	40.0	40.0	40.0	40.0	40.0	42.4	42.4	42.4	
Dalriach(338148,830678 / Moray)	40.0	40.0	40.0	40.0	40.0	40.0	42.4	42.4	42.4	
Dykeside(338755,827887 / Moray)	40.0	39.8	39.6	39.6	40.7	43.2	45.7	48.2	48.2	
Kirkton(338942,827063 / Moray)	40.0	39.9	39.7	39.7	40.8	43.3	45.7	48.3	48.3	
Elrick(342085,825811 / Moray)	40.0	39.9	39.8	39.8	40.9	43.3	45.8	48.3	48.3	
Bogancloch Lodge(343595,829381 / Aberdeenshire)	30.0	30.0	30.1	30.6	31.3	32.3	33.5	35.0	36.6	
Bogancloch(343608,829466 / Aberdeenshire)	30.0	30.0	30.1	30.6	31.3	32.3	33.5	35.0	36.6	
Finglenny(345668,830574 / Aberdeenshire)	42.3	43.5	44.9	46.9	48.8	51.0	53.1	55.1	56.9	
Corrylair(346337,834028 / Aberdeenshire)	39.9	39.7	39.1	41.5	44.1	46.7	49.2	51.3	53.1	
Meikle Gouls(341912,834780 / Aberdeenshire)	39.9	39.6	39.1	38.9	38.9	42.5	44.7	47.8	50.9	

**Table 2a – If Craig Watch is not operational – Between 23:00 and 07:00 – Noise Limits expressed in dB LA90**

Location (including Coordinates / Council)	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods								
	4	5	6	7	8	9	10	11	12
Belcherrie (340033, 834094 / Moray)	40.0	40.0	40.0	40.0	40.0	40.3	45.8	53.7	53.7

Greenloan (339849, 833907 / Moray)	40.0	40.0	40.0	40.0	40.0	40.3	45.8	53.7	53.7
Succoth (339606, 833351 / Moray )	40.0	40.0	40.0	40.0	40.0	40.0	40.0	41.8	41.8
Easterton (339516, 833044 / Moray)	40.0	40.0	40.0	40.0	40.0	40.0	40.0	41.8	41.8
Oldtown of Corinacy (339713,832053 / Moray)	40.0	40.0	40.0	40.0	40.0	40.0	40.0	41.8	41.8
Milltown (338450,831338 / Moray)	40.0	40.0	40.0	40.0	40.0	40.0	40.0	41.8	41.8
Tomnaven (340420, 833468 / Moray )	40.0	40.0	40.0	40.0	41.0	43.0	45.0	48.0	50.0
Hillock of Echt (339880, 832476 / Moray )	40.0	40.0	40.0	40.0	41.0	43.0	45.0	48.0	50.0
Pyke (339302, 831897 / Moray )	40.0	40.0	40.0	40.0	41.0	43.0	45.0	48.0	50.0
New town Corinacy ( 339100, 831790 / Moray )	40.0	40.0	40.0	40.0	41.0	43.0	45.0	48.0	50.0
Inverharrock Cottage(338138,831071 / Moray)	42.0	42.2	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Dalriach(338148,830678 / Moray)	42.0	42.2	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Dykeside(338755,827887 / Moray)	40.0	40.0	40.0	40.0	40.0	41.1	43.0	43.0	43.0
Kirkton(338942,827063 / Moray)	40.0	40.0	40.0	40.0	40.0	41.1	43.1	43.1	43.1
Elrick(342085,825811 / Moray)	40.0	40.0	40.0	40.0	40.0	41.1	43.1	43.1	43.1
Boganclogh Lodge(343595,829381 / Aberdeenshire)	33.0	33.0	33.0	33.0	33.0	33.0	33.2	35.0	37.0
Boganclogh(343608,829466 / Aberdeenshire)	33.0	33.0	33.0	33.0	33.0	33.0	33.2	35.0	37.0
Finglenny(345668,830574 / Aberdeenshire)	42.0	42.8	43.8	45.5	47.4	49.5	51.5	53.5	55.6
Corrylair(346337,834028 / Aberdeenshire)	40.0	40.0	40.6	42.4	44.8	47.0	49.0	50.6	51.9
Meikle Gouls(341912,834780 / Aberdeenshire)	40.0	40.0	40.0	40.0	41.0	42.5	44.7	47.8	49.9

**Table 1b – If Craig Watch is operational – Between 07:00 and 23:00 – Noise Limits expressed in dB LA90**

Location (including Coordinates / Council)	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods								
	4	5	6	7	8	9	10	11	12
Belcherrie (340033, 834094 / Moray)	35.2	35.2	33.9	33.3	33.3	33.6	37.1	37.1	37.1
Greenloan (339849, 833907 / Moray)	35.2	35.3	34.0	33.4	33.4	33.7	37.2	37.2	37.2
Succoth (339606, 833351 / Moray )	37.1	37.2	36.2	35.8	35.8	35.8	38.2	38.2	38.2
Easterton (339516, 833044 / Moray)	38.1	38.1	37.4	37.0	37.0	37.0	39.4	39.4	39.4
Oldtown of Corinacy (339713,832053 / Moray)	39.5	39.5	39.3	38.4	38.4	38.4	41.6	41.6	41.6
Milltown (338450,831338 / Moray)	40.0	40.0	40.0	40.0	40.0	40.0	42.4	42.4	42.4
Tomnaven (340420, 833468 / Moray )	37.8	37.8	37.0	36.7	36.7	39.7	41.7	44.7	47.7
Hillock of Echt (339880, 832476 / Moray )	39.2	39.2	38.9	38.7	38.7	41.7	43.7	46.7	49.7
Pyke (339302, 831897 / Moray )	39.4	39.4	39.1	39.0	39.0	42.0	44.0	47.0	50.0
New town Corinacy ( 339100, 831790 / Moray )	39.4	39.4	39.1	39.0	39.0	42.0	44.0	47.0	50.0
Inverharrock Cottage(338138,831071 / Moray)	40.0	40.0	40.0	40.0	40.0	40.0	42.4	42.4	42.4
Dalriach(338148,830678 / Moray)	40.0	40.0	40.0	40.0	40.0	40.0	42.4	42.4	42.4
Dykeside(338755,827887 / Moray)	40.0	39.8	39.6	39.6	40.7	43.2	45.7	48.2	48.2
Kirkton(338942,827063 / Moray)	40.0	39.9	39.7	39.7	40.8	43.3	45.7	48.3	48.3
Elrick(342085,825811 / Moray)	40.0	39.9	39.8	39.8	40.9	43.3	45.8	48.3	48.3
Boganclogh Lodge(343595,829381 / Aberdeenshire)	30.0	30.0	30.1	30.6	31.3	32.3	33.5	35.0	36.6

Boganclogh(343608,829466 / Aberdeenshire)	30.0	30.0	30.1	30.6	31.3	32.3	33.5	35.0	36.6
Finglenny(345668,830574 / Aberdeenshire)	42.3	43.5	44.9	46.9	48.8	51.0	53.1	55.1	56.9
Corrylair(346337,834028 / Aberdeenshire)	39.9	39.7	39.1	41.5	44.1	46.7	49.2	51.3	53.1
Meikle Gouls(341912,834780 / Aberdeenshire)	39.9	39.6	39.1	38.9	38.9	42.5	44.7	47.8	50.9

**Table 2b – If Craig Watch is operational – Between 23:00 and 07:00 – Noise Limits expressed in dB LA90**

Location (including Coordinates / Council)	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods									
	4	5	6	7	8	9	10	11	12	
Belcherrie (340033, 834094 / Moray)	33.0	33.0	33.0	33.0	33.0	33.0	35.0	43.0	43.0	
Greenloan (339849, 833907 / Moray)	33.0	33.0	33.0	33.0	33.0	33.0	35.0	43.0	43.0	
Succoth (339606, 833351 / Moray )	40.0	40.0	39.2	38.8	38.8	38.8	38.8	38.8	38.8	
Easterton (339516, 833044 / Moray)	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	
Oldtown of Corinacy (339713,832053 / Moray)	40.0	40.0	40.0	40.0	40.0	40.0	40.0	41.8	41.8	
Milltown (338450,831338 / Moray)	40.0	40.0	40.0	40.0	40.0	40.0	40.0	41.8	41.8	
Tomnaven (340420, 833468 / Moray )	33.0	33.0	33.0	33.0	33.0	33.0	35.0	38.0	40.0	
Hillock of Echt (339880, 832476 / Moray )	40.0	40.0	40.0	40.0	41.0	43.0	45.0	48.0	50.0	
Pyke (339302, 831897 / Moray )	40.0	40.0	40.0	40.0	41.0	43.0	45.0	48.0	50.0	
New town Corinacy ( 339100, 831790 / Moray )	40.0	40.0	40.0	40.0	41.0	43.0	45.0	48.0	50.0	
Inverharrock Cottage(338138,831071 / Moray)	40.0	40.0	40.0	40.0	40.0	40.0	40.0	41.8	41.8	
Dalriach(338148,830678 / Moray)	40.0	40.0	40.0	40.0	40.0	40.0	40.0	41.8	41.8	
Dykeside(338755,827887 / Moray)	40.0	40.0	40.0	40.0	40.0	41.1	43.0	43.0	43.0	
Kirkton(338942,827063 / Moray)	40.0	40.0	40.0	40.0	40.0	41.1	43.1	43.1	43.1	
Elrick(342085,825811 / Moray)	40.0	40.0	40.0	40.0	40.0	41.1	43.1	43.1	43.1	
Boganclogh Lodge(343595,829381 / Aberdeenshire)	33.0	33.0	33.0	33.0	33.0	33.0	33.2	35.0	37.0	
Boganclogh(343608,829466 / Aberdeenshire)	33.0	33.0	33.0	33.0	33.0	33.0	33.2	35.0	37.0	
Finglenny(345668,830574 / Aberdeenshire)	42.0	42.8	43.8	45.5	47.4	49.5	51.5	53.5	55.6	
Corrylair(346337,834028 / Aberdeenshire)	40.0	40.0	40.6	42.4	44.8	47.0	49.0	50.6	51.9	
Meikle Gouls(341912,834780 / Aberdeenshire)	40.0	40.0	40.0	40.0	41.0	42.5	44.7	47.8	49.9	

- (2) 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 noise criteria.
- (3) The Company shall continuously log power production, wind speed and wind direction at each wind turbine (all in accordance with Guidance Notes). These data shall be retained for a period of not less than 24 months. The Company shall provide this information to the Planning Authority and Aberdeenshire Council, in the format set out in the Guidance Notes, within 14 days of receipt in writing of a request to do so.
- (4) Prior to the Date of First Commissioning, the Company shall have submitted to, and received written approval of the Planning Authority of, a list of proposed independent consultants who could undertake compliance measurements in

accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Planning Authority.

- (5) Within 21 days from receipt of a written request from the Planning Authority or Aberdeenshire Council following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the Company shall employ a consultant approved by the Planning Authority in terms of part (4) above to assess the level of noise immissions from the wind farm at the complainant's property (or a suitable alternative location agreed in writing by the Planning Authority). The written request from the Planning Authority shall set out at least the date, time and location to which the complaint relates and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.
- (6) The assessment of the rating level of noise immissions in terms of part (5) above shall be undertaken in accordance with the Guidance Notes and an assessment protocol that shall previously have been submitted to and approved in writing by the Planning Authority in consultation with Aberdeenshire Council. The protocol shall include the proposed measurement location(s) where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, 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 paragraph (5) above.
- (7) Where the property to which a complaint is related is not listed by name or location in Tables 1a, 1b, 2a and 2b at part (1) of this condition, the Company shall submit to the Planning Authority, for its written approval, proposed noise limits selected from those listed in Tables 1a, 1b, 2a and 2b to be adopted at the complainant's property for compliance checking purposes, prior to compliance checking. The proposed noise limits are to be those limits selected from Tables 1a, 1b, 2a and 2b specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's property. The protocol shall include a justification of the choice of the representative background method to determine compliance at the complainant's property based on the noise environment provided by the independent consultant, levels measured at the agreed location and, where appropriate, any limit apportionment undertaken to consider cumulative impacts.
- (8) The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the Guidance Notes and approved Noise Assessment Protocol shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's property.
- (9) In the event that a complainant does not allow the Company access to undertake a compliance assessment, the assessment protocol shall set out details of the proposed alternative representative measurement position. Where the proposed measurement location is close to the wind turbines, rather than at the complainant's property (e.g. to improve the signal to noise ratio).
- (10) The Company 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 and the approved Noise Assessment Protocol within two months of the date of the written request of the Planning



Authority for compliance measurements to be made under part (5), unless the time limit is extended in writing by the Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with the Guidance Notes and certificates of calibration shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immissions.

- (11) Where a further assessment of the rating level of noise immissions from the wind farm is required (in accordance with the Guidance Notes), the Company shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to part (10) above unless the time limit has been extended in writing by the Planning Authority.
- (12) Within 21 days of a written request by the Planning Authority, following a complaint to it from a resident alleging noise disturbance at the dwelling at which they reside and where Excess Amplitude Modulation is considered by the Planning Authority to be present in the noise immissions at the complainant's property, the Company shall submit a scheme, for the approval of the Planning Authority in consultation with Aberdeenshire Council, providing for the further investigation and, as necessary, control of Excess AM. The scheme shall be based on best available techniques and shall be implemented as approved. "Excess Amplitude Modulation" ("Excess AM") 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:** *To protect nearby residents from undue noise and disturbance and to ensure that noise limits are not exceeded and to enable prompt investigation of complaints.*

### **Guidance Notes for Operational Noise Condition**

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty 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). IOA GPG is "A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise" (2013) and includes Supplementary Guidance Notes 1 to 5 of the IOA GPG.

### **Guidance Note 1**

- (a) The LA90,10 minute noise statistic should be measured in accordance with the IOA GPG. Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.
- (b) To enable compliance with the conditions to be evaluated, the Company shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. All 10 minute

periods shall commence on the hour and in ten minute increments thereafter, synchronised with Universal Coordinated Time (UTC). The wind speeds at turbine hub height shall be 'standardised' to a reference height of ten metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. Unless an alternative procedure is previously agreed in writing with the Planning Authority, it is these standardised ten metre height wind speed data which are correlated with the noise measurements determined as valid.

- (c) Data provided to the Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format unless otherwise agreed in writing with the Planning Authority.
- (d) 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(b).

### **Guidance Note 2**

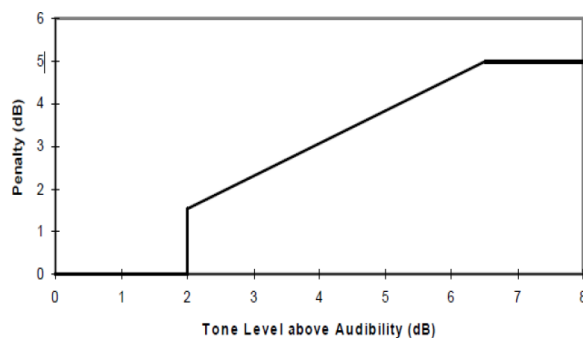
- (a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2 (b)
- (b) Valid data points are those measured in the conditions specified in the agreed written protocol, but excluding any periods of rainfall measured in the vicinity of the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

### **Guidance Note 3**

- (a) Where, in accordance with the protocol, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.
- (b) For each 10 minute interval for which LA90,10 minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure").

Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

- (c) For each of the 2 minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.
- (d) The tone level above audibility shall be plotted against wind speed for each of the 2 minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be used.
- (e) 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. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.
- (f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below.



#### 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 set out in the approved protocol.
- (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 Table attached to the noise conditions or the noise limits for a complainant's dwelling, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.
- (d) The Company shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:
  - (e) Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the

range requested by the Planning Authority in its written request and the approved protocol.

- (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:

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

- (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 note 3 above) at any integer wind speed lies at or below the values set out in the Table attached to the conditions or at or below the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Table attached to the conditions or the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with the noise condition then the Development fails to comply with the conditions.

## **Definitions of terms in this determination**

In this consent and deemed planning permission:-

“Commencement of Development” means the implementation of the consent and 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.

“the Company” means Clashindarroch Wind Farm Extension Limited having its registered office at Chelsea Cloisters, Sloane Avenue, London SW3 3DW, Company No. 12435260, or such other person who from time to time may lawfully have the benefit of this consent.

“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 constructed as part of the Development.

“Date of Final Commissioning” means the earlier of (i) date when electricity is first exported to the electricity grid network on a commercial basis from the last of the wind turbines being constructed as part of the Development; or (ii) the date falling eighteen months from the Date of First Commissioning.

“Date of Final Generation” means the date that the Development ceases to generate electricity to the grid network on a permanent basis.

“the Development” means the development authorised by this section 36 consent and deemed planning permission as described in Annex 1.

“EIA report” means the Environmental Impact Assessment Report in respect of the Development dated November 2022.

“Planning Authority” means Moray Council.

“Public Holiday” means;

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

“SEPA” means the Scottish Environment Protection Agency.

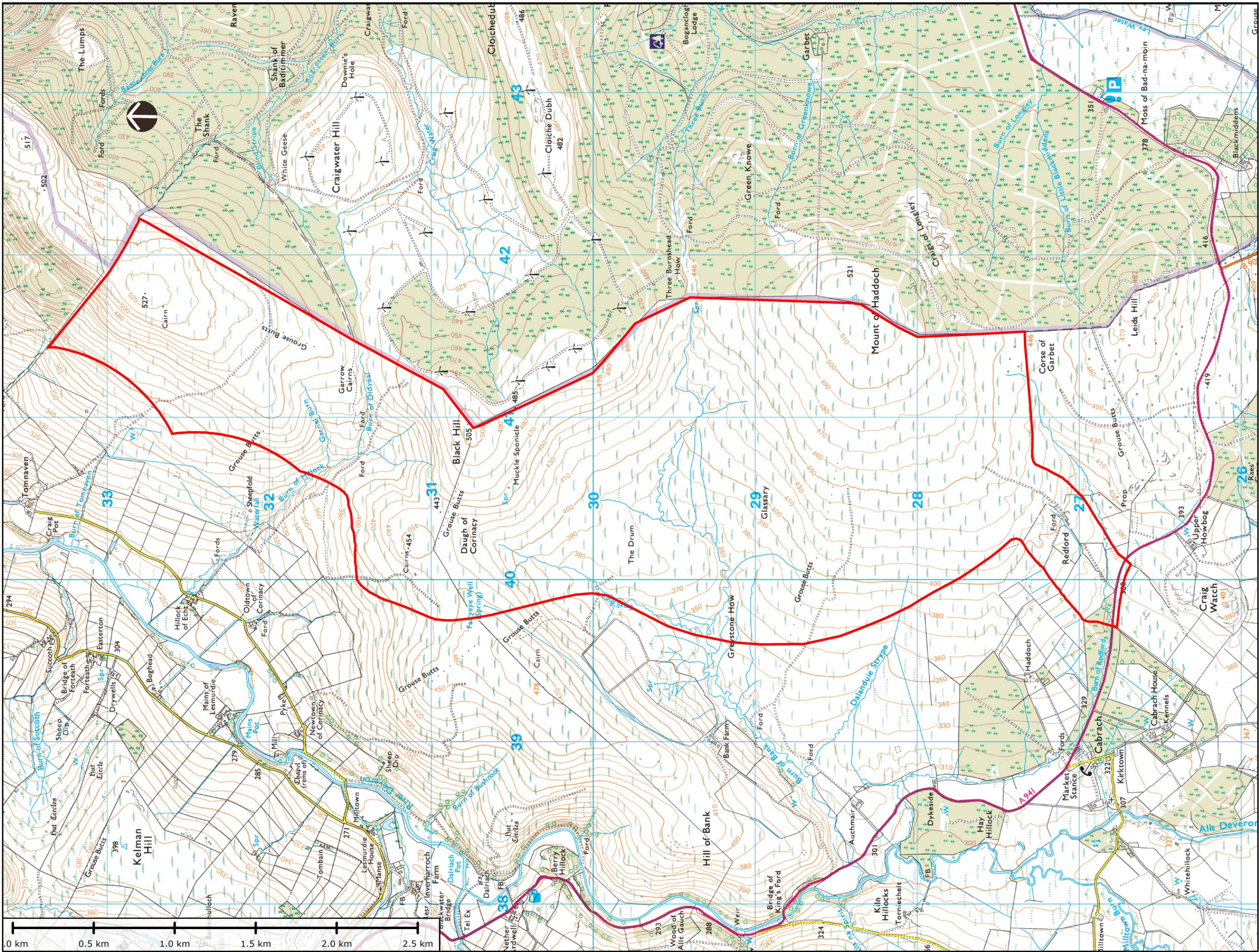
“Site Enabling Works” means;

- i) any site investigation or other preparatory works or surveys necessary for the purpose of satisfying or discharging any conditions which must be satisfied or discharged (in whole or in part) prior to the Commencement of development and
- ii) the provision of any temporary fencing and/or contractors' facilities within the site necessary for (i) above.



Annex 3 Site Location Plan

Figure 2.2: The Site in Detail



KEY:

Energy and Climate Change Directorate  
Energy Consents Unit

Scottish Government  
Riaghaltas na h-Alba

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

Dated 18 December 2025

Signed *pp Nicola Soave*

Alan Brogan  
A member of the staff of the Scottish Ministers

Section 36 Application Redline Boundary

**Title:**  
The Site in Detail

**Project:**  
Clashindarroch Wind Farm Ext

**Source:**  
Reproduced from Ordnance Survey maps ©  
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database rights 2022  
Ordnance Survey 0100031673

<b>Drawn By:</b> SSH	<b>Checked:</b> RFR
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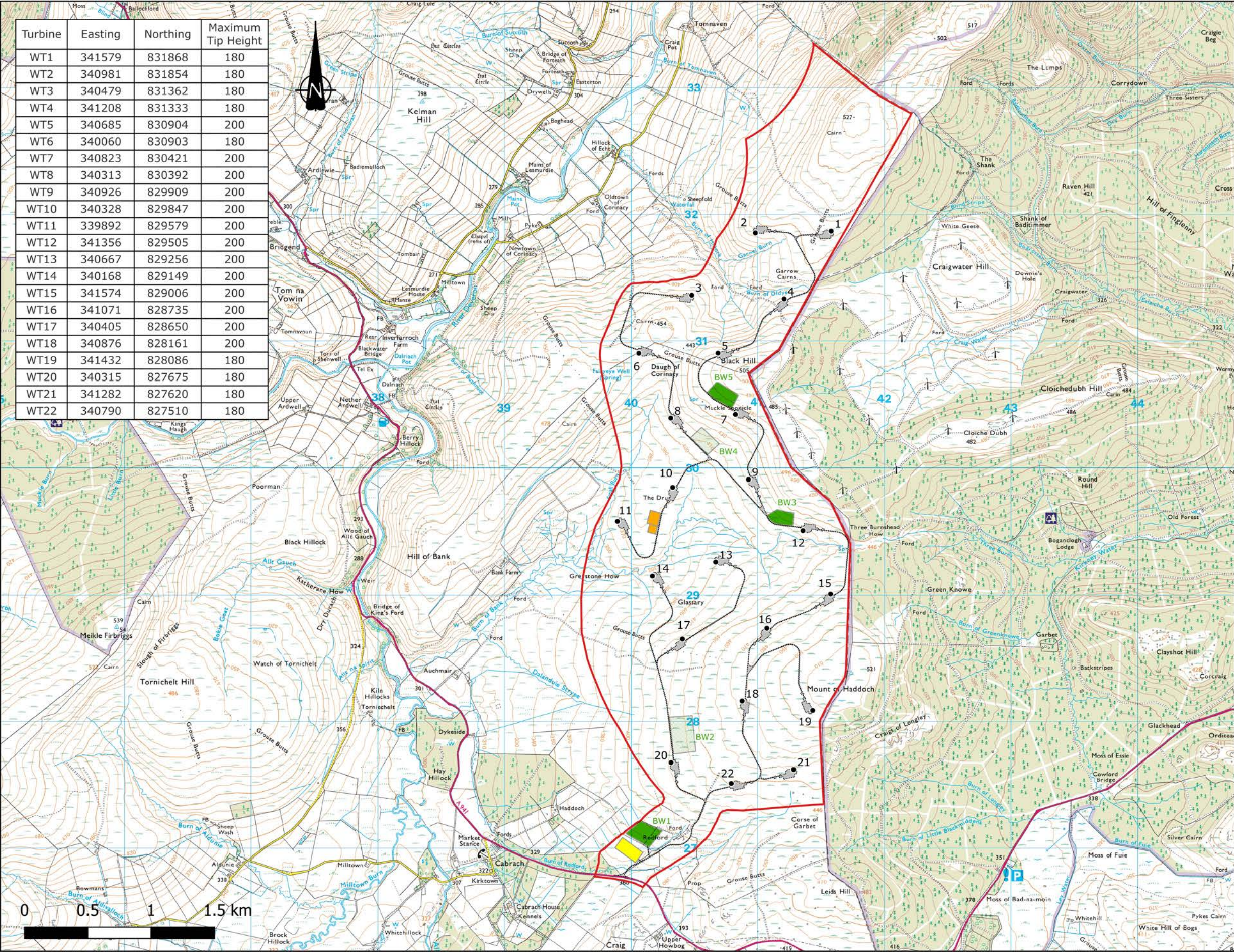
<b>Date:</b> May 2022	<b>Figure:</b> 2.2
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<b>Scale:</b> A3 @ 1-25000	<b>Revision No:</b>
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Figure 4.1: Proposed Development Layout



Turbine	Easting	Northing	Maximum Tip Height
WT1	341579	831868	180
WT2	340981	831854	180
WT3	340479	831362	180
WT4	341208	831333	180
WT5	340685	830904	200
WT6	340060	830903	180
WT7	340823	830421	200
WT8	340313	830392	200
WT9	340926	829909	200
WT10	340328	829847	200
WT11	339892	829579	200
WT12	341356	829505	200
WT13	340667	829256	200
WT14	340168	829149	200
WT15	341574	829006	200
WT16	341071	828735	200
WT17	340405	828650	200
WT18	340876	828161	200
WT19	341432	828086	180
WT20	340315	827675	180
WT21	341282	827620	180
WT22	340790	827510	180

**Legend:**

- Site Boundary
- Substation & Battery Storage
- Construction Compound
- Borrow Working Search Area
- Reserve Borrow Working Search Area
- Track / Hardstanding
- 180m Tip Height

Energy and Climate Change Directorate  
Energy Consents Unit

Scottish Government  
Riaghaltas na h-Alba

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

Dated 18 December 2025

Signed *pp Nicola Soave*

Alan Brogan  
A member of the staff of the Scottish Ministers

**Note:**  
Layout shown based on Wardell Armstrong drawing reference ED13077-C-3210A

**Title:**  
Proposed Development Layout

**Project:**  
Clashindarroch Wind Farm Extension

**Source:**  
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**Client:**  
INFINERGY Ltd

<b>Drawn by:</b> RB	<b>Checked:</b> AB
<b>Date:</b> 9th May 2022	<b>Figure:</b> 4.1
<b>Scale:</b> 1:30,000	<b>Revision No:</b>

INFINERGY

wardell armstrong