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Mr Ron Shanks  
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17 October 2016

Dear Mr Shanks,

**CONSENT UNDER S36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER S57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR THE CREAG RIABHACH WIND FARM, ALTNAHARRA ESTATE, ALTNAHARRA IN THE HIGHLAND COUNCIL PLANNING AUTHORITY AREA.**

### **Application**

I refer to the application for consent under section 36 of the Electricity Act 1989 ("the Electricity Act") made by Pegasus Group, on behalf of Creag Riabhach Wind Farm Ltd, a company incorporated under the Companies Acts with company number SC424471 and having its registered office at 22 Carden Place, Aberdeen, AB10 1UQ ("the Applicant"), dated 19 December 2013, for the construction and operation of Creag Riabhach Wind Farm, comprising of 22 wind turbines with a generating capacity exceeding 50MW ("the Application").

This letter contains Scottish Ministers' decision to grant consent.

### **Planning Permission**

In terms of section 57(2) of the Town and Country Planning (Scotland) Act 1997 Scottish Ministers may, on granting consent under section 36 of the Electricity Act, direct that planning permission be deemed to be granted in respect of that generating station and any ancillary development. This letter contains the Scottish Ministers' decision on such a direction.

## **Application History**

The Application was lodged on 19 December 2013. In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (“the EIA Regulations”) the Applicant submitted an Environmental Statement (ES) in support of the Application describing the development and giving an analysis of its environmental effects. In accordance with requirements of the Electricity (Applications for Consent) Regulations 1990 and the EIA Regulations, advertisement of the Application and the ES was made in the local and national press, copies were placed in the public domain, and the opportunity given for those wishing to make representations to do so.

Under Schedule 8 to the Electricity Act and Regulations made under it, the relevant Planning Authority is required to be notified in respect of a section 36 consent application. In addition, to comply with the EIA Regulations, Scottish Ministers have to consult the relevant Planning Authority, Scottish Natural Heritage (SNH), the Scottish Environment Protection Agency (SEPA) and any other person likely to be concerned by the proposed development by reason of their specific environmental responsibilities. Notifications were sent to Highland Council as the relevant Planning Authority, as well as to SNH and SEPA and other relevant consultees.

The proposed development to which this application relates comprises 22 turbines with maximum tip height of 125 metres, 2 anemometer masts, a borrow pit and ancillary development, all as more particularly described at Annex 1 to this decision letter.

## **Public Local Inquiry**

Highland Council (a statutory consultee and the relevant Planning Authority) did not object, subject to conditions being imposed. As the relevant Planning Authority did not object, a Public Local Inquiry (PLI) is not a statutory requirement under paragraph 2 of Schedule 8 to the Electricity Act.

Under paragraph 3(2) of said Schedule 8, where no PLI requires to be held under paragraph 2 but objections are received, the Scottish Ministers must consider the objections together with all other material considerations with a view to determining whether a public inquiry should be held and if they think it is appropriate to do so must cause a PLI to be held.

Scottish Ministers have considered fully and carefully the Application and Environmental Statement, all relevant responses from consultees (including those from SNH and SEPA) and third party representations received. Ministers have considered the 210 objections raised within the 707 public representations received.

The material considerations raised in objection from members of the public relate mainly to: impact on wild land, landscape, valued Munros, designated sites, nature conservation, peat and carbon balance, water quality, fishing interests, tourism, economy, local roads / road safety, that there are cumulative impacts in respect of other onshore wind development in the area, and that it would not create sustainable jobs.

Having considered the objections raised and taken all material considerations into account, Ministers are satisfied that whilst objections from SNH, the Mountaineering Council of Scotland and the John Muir Trust on the basis of the impact on wild land must be fully considered when weighing up the impacts of the proposed development, those impacts have been adequately considered in the Environmental Statement and consultation responses.

Ministers are satisfied that both the public and the consultative bodies have been afforded ample opportunity for their objections to be made. Ministers consider that all interested parties have had an opportunity to make detailed representations on the proposed development and that they have sufficient information to be able to make an informed decision on the application without the need for a PLI and that it is not appropriate to cause a PLI to be held.

### **Environmental matters**

Ministers are satisfied that an Environmental Statement has been produced in accordance with the EIA Regulations and that the applicable procedures regarding publicity and consultation laid down in the EIA Regulations have been followed.

Ministers have assessed the environmental impacts of the proposed development and have taken into consideration the environmental information, including the Environmental Statement and representations from consultative bodies, including SNH, SEPA and Highland Council.

Ministers have, in accordance with paragraph 3 of Schedule 9 to the Electricity Act, in their consideration of the proposed development had regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest and the extent to which the Applicant has done what it reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects. Under paragraph 3(3) of Schedule 8 the Ministers must avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters. Ministers are satisfied that this is the case and more generally that the requirements of paragraph 3 have been met.

Ministers have fully considered the environmental impacts of the proposed development and have taken into consideration the environmental information, including the Environmental Statement, and representations from consultative bodies, including SNH, SEPA and Highland Council, and from third parties and conclude that any impacts which may remain are outweighed by the benefits the development will bring.

### **Habitats Regulations**

SNH advised of the connectivity between the proposed development and the River Naver Special Area of Conservation (SAC), the Caithness and Sutherland Peatlands Special Protection Area (SPA) and the Caithness and Sutherland Peatlands SAC. The status of the SACs and the SPA mean that the requirements of the

Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations) apply.

Habitat Regulation appraisals (HRA - Annex E) have been carried out. The environmental information to inform the appraisals was presented in the ES that accompanied the application. The HRA has therefore been produced using information already advertised in accordance with the EIA regulations.

Ministers conclude following advice from SNH that if the proposed development is undertaken in strict accordance with mitigating conditions requiring approval of construction methodology for site access, including measures to define working corridors, to avoid areas of blanket bog and wet heath qualifying habitats, then the integrity of the SACs or the SPA will not be adversely affected. This has been secured through condition 13, which requires a Construction and Environment Management Plan containing mitigation measures to be approved before development commences and thereafter implemented.

### **Water Environment and Water Services (Scotland) Act 2003**

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

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

SEPA's advice has been considered as required by section 36(5A) and due regard given to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003. SEPA has been consulted regarding a CAR licence in respect of the development proposals. SEPA has confirmed a CAR licence is required and the proposal accords with Water Framework Directive objectives. SEPA has indicated to Scottish Ministers that, based on the information available, a CAR licence is capable of being authorised.

### **Main determining issues**

Having considered the Application, Environmental Statement, responses from consultees and third parties and Scottish Government policy, Ministers consider that the main determining issues are:

- the impact of the proposed development on the environment, in particular wild land and other landscape and natural heritage interests;
- the extent to which the proposed development accords with and is supported by Scottish Government policy
- the amount of renewable energy produced, its contribution to renewable energy targets and its carbon payback; and
- the estimated net economic benefits of the proposed development.

## **The Policy Context**

### **Climate Change and Renewable Targets**

The Climate Change (Scotland) Act 2009, passed by the Scottish Parliament in 2009, sets out the targets for reducing greenhouse gas emissions as an interim 42% reduction target for 2020 and an 80% reduction target for 2050. The Scottish Government's 2020 Routemap for Renewable Energy in Scotland published in June 2011 sets the target to meet an equivalent of 100% demand for electricity from renewable energy by 2020. The Scottish Government's related target is to achieve 30% of total Scottish energy use from renewable sources by 2020. The 2020 100% electricity target equates to approximately 16GW of installed renewables capacity. In 2014, the equivalent of 49.8% of gross electricity consumption was from renewable sources. Using 2014's gross consumption as a proxy for 2015, around 56.9% of Scotland's consumption came from renewables in 2015.

The '2020 Routemap for Renewable Energy in Scotland – Update' published on 17 September 2015 provided an update on Scotland's progress against renewable energy and electricity targets. This was supplemented by the publication of updated statistics in June 2016. As of March 2016, Scotland had 7.9 GW of installed renewable electricity generation capacity, with an additional 1.9 GW of capacity under construction. Not all consented schemes will progress to implementation for a variety of reasons. The Scottish Government remains committed to overcoming barriers to deployment to support the growth in onshore wind where possible to help meet climate change and renewables targets.

### **Scotland's Third National Planning Framework (NPF3)**

NPF3 is the spatial expression of the Scottish Government's economic strategy. It brings together plans and strategies across sectors to provide a coherent vision of how Scotland should evolve over the next 20 to 30 years. It sets out the Scottish Government's commitment to establishing Scotland as a leading location for the development of renewable energy technology. NPF3 describes how, in our more remote areas, this will bring new employment, reverse population decline and stimulate demand for development and services. It also sets out that onshore wind will continue to make a significant contribution to diversification of energy supplies. In Scotland there has been significant progress towards low carbon objectives whilst we have continued to protect our special places from significant adverse impacts.

NPF3, together with SPP, further sets out what is expected of the planning system, including a spatial strategy for a low carbon place where an 80% reduction in greenhouse gas emissions is achieved by 2050. Para 3.23 states that *"onshore wind will continue to make significant contribution to diversification of energy supplies. We do not wish to see wind farm development in our National Parks or National Scenic areas. SPP sets out the required approach to spatial frameworks which will guide new wind energy development to appropriate locations, taking into account important features including wild land."*

Ministers recognise (in line with NPF3 paragraph 4.4) that wild land is a nationally important asset and also that wild land areas are very sensitive to any form of intrusive human activity and have little or no capacity to accept new development.

In NPF3 and the Electricity Generation Policy Statement, the Scottish Government commits to achieving at least 500 megawatts of renewable energy in community and local ownership by 2020. While the Scottish Government's 500 MW target for community and locally owned renewables has recently been met, support for community and local ownership remains undiminished.

### **Scottish Planning Policy (SPP)**

SPP outlines Scottish Government planning policy on Renewable Energy Development. Whilst it makes clear that the criteria against which applications should be assessed will vary depending on the scale of the proposal and area characteristics, it states that these are likely to include impacts on: landscapes and visual (including wild land); natural heritage (including birds); carbon rich soils; public access (including long distance walking, cycling and scenic routes identified in NPF); historic environment; tourism and recreation; road traffic; adjacent trunk roads; the water environment (including flood risk); communities and individual dwellings; aviation; telecommunications; noise; shadow flicker; greenhouse gas emissions; and any cumulative impacts that are likely to arise. It also makes clear that, where relevant, the following should be a material consideration when considering an application: net economic benefit; the scale of contribution to renewable energy generation targets; opportunities for energy storage; the need for conditions relating to decommissioning and site restoration; and the need for robust planning obligations to ensure site restoration is achieved.

Paragraph 154 of SPP sets out the necessary policy principles for transformational change to a low carbon economy. It states that the planning system should support a diverse range of electricity generation from renewable energy technologies, aim to guide development to appropriate locations and advise on issues that will be taken into account when specific proposals are being assessed.

Paragraph 169 of SPP expands on the wider development management considerations that are likely to be taken into account for energy infrastructure developments including wind farms.

Paragraph 200 of SPP, which also sets out advice for development plans states: *"Wild land character is displayed in some of Scotland's remoter upland, mountain and coastal areas, which are very sensitive to any form of intrusive human activity and have little or no capacity to accept new development. Plans should identify and safeguard the character of areas of wild land as identified on the 2014 SNH map of wild land areas."*

Paragraph 215 relates to development situated in wild land areas and recognises that development *"may be appropriate in some circumstances. Further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation"*. This language is mirrored in Table 1, introduced by paragraph 161, which sets out the

approach to preparing spatial frameworks and specifically covers onshore wind development in wild land areas advising that planning authorities should set out in their development plan a spatial framework identifying those areas that are likely to be the most appropriate for onshore wind farms as a guide for developers and communities.

### **Compatibility with Local Development Plan and Supplementary Guidance**

Highland Council, in their response to the Scottish Government’s Energy Consents team, raised no objection to the proposed development. They concluded that the development is, on balance, acceptable under the criteria set out within Policy 67 (Renewable Energy Developments) of the Highland-wide Local Development Plan 2012. Highland Council noted in their response, which followed the publication of SPP 2014, that their interim supplementary guidance for onshore wind, which identifies the site within an area of search for wild land, requires to be updated to accord with SPP 2014. Whilst acknowledging that there would be an impact upon recently identified “areas of wild land” they considered this was not enough to outweigh the benefits of the proposal. Ministers accept the Council’s conclusion that the proposed development is broadly supported by the Development Plan. The Highland Council has since submission of its consultation response produced draft supplementary planning guidance on onshore wind energy, although this has not yet been formally adopted. Ministers have considered the terms of the draft guidance and do not consider that it gives rise to any new issues which have not previously been addressed in the Council’s response or by other consultees.

### **Assessment of Determining Issues**

#### **Wild Land**

SPP refers to wild land by reference to the map of wild land areas, published by SNH in June 2014, which superseded earlier plans which referred to search areas. The SNH wild land maps were developed by SNH from a model based on the presence of five physical attributes and the perceptual responses they evoke:

<b>Physical Attributes</b>	<b>Perceptual Responses</b>
A high degree of perceived naturalness in the setting, especially in its vegetation cover and wildlife, and in the natural processes affecting the land	A sense of sanctuary and solitude
The lack of modern artefacts or structures	Risk, or for some visitors, a sense of awe or anxiety, depending on the individual’s emotional response to the setting
Little evidence of contemporary human uses of the land	Perceptions that the landscape has arresting or inspiring qualities

Landform which is rugged, or otherwise physically challenging	Fulfilment from the physical challenge required to penetrate these places
Remoteness and/or inaccessibility	

There are 42 wild land areas which have been identified. These are the described by SNH as being the areas of highest wildness.

Scottish Ministers' policy envisages that development, including wind farm development, may be appropriate in wild land areas in some circumstances. Ministers have very carefully considered the circumstances in this case.

### **Consultation as a consequence of SPP 2014**

The development's wind turbines are sited in an area that before the publication of SPP 2014 and the associated SNH wild land map was wholly outwith areas that had been mapped as "search areas for wild land" ("SAWL"). Following the introduction of SNH's wild land map, the boundary of Wild Land Area ("WLA") 37 moved further east towards WLA 35, encompassing 5 of the development's turbines. As a result the specific policies in SPP 2014 which relate to development situated in wild land areas apply in respect of the five turbines which are situated within the WLA.

Ministers note that the Applicant in its ES supplied a detailed wild land assessment of the SAWLs and that SNH undertook their own assessment of the impacts on wild land.

A number of consultees and members of the public made representation on the development in advance of SPP 2014. This is reflected in their responses where reference is made to SAWLs or SPP 2010 policies concerning wild land.

On 9 January 2016, following review of the content of the consultation responses, the Applicant submitted to Scottish Ministers an updated planning policy note, relating, in their opinion, how the proposed development was affected by policy provisions in Scottish Planning Policy (SPP) published in June 2014.

Conscious that some parties had made representation prior to its publication, all parties who had made representation on the Application were invited to make further representation on SPP 2014 and in particular on views they may have on how the proposed development related to policies regarding wild land.

Not all of the invited parties made further comments. Where further comments have not been made and the original representation was made in terms of an objection as a consequence of the impacts of the development on wild land or SAWLs, it is assumed that the position remains the same and the reference to SAWLs and or wild land will be considered in respect of the wild land areas referred to in the map published by SNH in June 2014 and referred to in SPP 2014.

This information has been considered together with all other representations on the matter. Ministers are therefore satisfied this issue has been given appropriate consideration.



## **Location**

The proposed development is located west of the A836 and south west of the settlement of Altnaharra on land which forms part of the Altnaharra Estate. The site comprises of two areas (the main site and the borrow pit site). These are located, at the nearest point, 6.5km and 2.5km, respectively, south west of Altnaharra. Altnaharra consists of some 20 residential properties, a primary school, church, estate office, the farm, a Scottish Water facility and a seasonal hotel.

The site runs along the western side of the Strath Vagastie and is associated with the high ground of Meall An Fhuarain (450m), Ben Harrald (400m) and Creag Riabhach (400m). The landscape to the east and west is enclosed by the presence of Ben Klibreck (962m) approximately 4km east and Ben Hee (873m) approximately 10km west.

The proposed development is situated between Wild Land Area (WLA) 35 (Ben Klibreck – Armine Forest) and WLA 37 (Foinaven – Ben Hee) identified on the SNH wild land areas map. Five of the proposed turbines now fall within WLA 37. No wind turbines are situated within WLA35. The two wild land areas are split by the A836 road which branches from the A9 near Tain and runs generally north through Bonar Bridge and Lairg, to Tongue.

The distances from the centre of each of these turbine bases to the edge of the WLA 37 are as follows:-

Turbine 9 = Approx. 14m;  
Turbine 11 = Approx. 122m;  
Turbine 15 = Approx. 230m;  
Turbine 19 = Approx. 348m;  
Turbine 22 = Approx. 195m

## **The Applicant's View**

The assessment undertaken by the Applicant sets out in respect of WLA 35 that, although the proposed development would be visible between the Ben Klibreck ridgeline and the middle slopes of Strath Vagastie to the west of the WLA, the effect of the development on wild land is "not significant" due to the overlapping visual influence of forestry, roads, telecommunications masts and residential properties within Strath Vagastie and Altnaharra. However, the Applicant recognises that the visual influence of the existing man-made artefacts would have a lower visual profile than the proposed turbines within this WLA. They consider that due to the intervening landform of the Ben Klibreck ridgeline, the vast majority of this WLA would be unaffected by the proposed development and therefore the effect would be not significant.

In respect of WLA 37, the Applicant concludes that the proposed development would be visible on Meall an Fhuarain, Meall an Amarich and Ben Hee within 10km distance. The effect between Meall an Amarich at 5km and Ben Hee at 10km distance would be significant due to the visual influence of the proposed development. However, the effects would be not significant between Meall an Amairich, Creag Dubh Mhor and the proposed development within 5km distance due

to the overlapping visibility of forestry, roads and buildings within Strath Vagastie, Strath Tirry and Loch Shin.

In summary, the Applicant considers that:

- By siting the majority of the proposed turbines on the sloping landform of Creag Riabhach outwith WLA 35 to the east and WLA 37 to the west of the application site, this has sited the proposed turbines within the visual influence of other man made elements and built infrastructure within Strath Vagastie all of which exert a visual influence on the application site and reduce the perception of wild land character;
- By utilising the visual and topographic containment provided by the Ben Klibreck ridgeline including Creag an Lochain (808m), A' Chioch (747m) and Meall nan Con (962m) located 4km to the east of the application site this has limited the visual effects on the vast interior of WLA 35; and
- By utilising the visual and topographic containment provided by the rising landforms of Meall an Fhuarain (472m), Meall an Amairich (395m), Creag Dhubh Mhor (553m) and Ben Hee (873m), located within 10km distance of the application site, this has limited the visual effects on the vast interior of WLA 37.

The Applicant further highlights that a relatively small part of the proposed development (5 of the 22 turbines) and wider site (53ha) lies within WLA 37, which itself extends over many thousands of hectares (56,907ha). The adjacent WLA 35 extends to 53,023ha.

It is the Applicant's view that "the pattern of visibility of the proposed development is such that the 'significant' visual effects are generally located within 10km distance of the proposed wind turbines due to the rugged landform, local undulations and extensive areas of commercial forestry. They therefore consider that vast geographical areas of wild land mapped by SNH in 2002 and updated in 2014 would remain largely unaffected by the proposed development. The proposed development would not be significantly detrimental to the overall wild land qualities considering the scale of the geographical coverage of WLA37."

### **SNH's View**

SNH, as the Scottish Government's statutory landscape advisor, have objected to the application on the grounds "of the significant adverse effects it would have on the qualities of the WLA 37 and WLA 35."

Further, in terms of paragraph 215 of SPP 2014, they advise that it has not been demonstrated that the significant effects on the WLA 37, in which the proposal partially lies, can be substantially overcome by siting, design or other mitigation.

SNH advise that the effects of the development, now sited partially within WLA37 and adjacent to WLA35 will extend over a large area, well into the centre of Ben Hee (WLA 37) to the west of the site.

SNH point out that this wild land is an intrinsic part of the character of central Sutherland, with its extensive open nature punctuated by a number of lone mountains, making it sensitive to prominent new features of the scale of this wind farm.

SNH clarify in their objection that they recognise effects of the proposal extend over a large area of Ben Hee WLA but effects on Ben Kilbreck WLA do not extend so far. They add that although Ben Klibreck WLA has already been affected by Gordonbush wind farm, this development would further erode the western margins of Ben Klibreck WLA, resulting in significant adverse cumulative effect on its qualities.

SNH considered the position taken by the Applicant in terms of the Applicant's assertion that the effects on the WLA qualities had been substantially overcome by the siting and design of the wind farm on the edge of the WLA where there is lower wildness, but advise that;

*“the strength of wildness experienced remains strong at the edge of both WLAs. SNH's advice to Government recognises that the particular characteristics and intensity of wildness vary across a WLA. Our advice to Government also recognises that areas of highest wildness are dependent on adjacent areas of lower wildness. These are considered intrinsic to the WLA, and have therefore been included within their definition.*”

SNH also considered the Applicant's position in respect of siting the wind farm within the visual envelope of “existing artefacts within the Strath Vagastie which reduces the perception of wildness” and advise that;

*“the effect of existing artefacts on wildness in the vicinity of Strath Vagastie has been overstated. The qualities of the WLAs remain sensitive to new prominent large scale development of this nature.”*

The position adopted by SNH is reflected to an extent in the objection from the **John Muir Trust (JMT)** who cited their serious concern that *“the proposed development, if approved, would be visually intrusive and significantly and adversely impact on this wild landscape”*. JMT did not update their objection following the publication of SPP 2014 however Ministers have assumed their objection is sustained given the proposed development's position in respect of the final mapping of the wild land areas.

Similar objections were raised in other representations against this application with the **Mountaineering Council of Scotland** stating that their decision to object was based on *“the likely impact on the quality of Scotland's mountain assets and of their setting, and the consequential impact on the mountaineering experience. ‘Quality’ includes perceptions of wildness and therefore defined Wild Land Areas are a relevant consideration.”*

## **The Highland Council's View**

Highland Council, the relevant Planning Authority and a statutory consultee in respect of this development, has considered the impact of the proposal in relation to the size of each WLA and the identified areas of highest quality of wildness within each WLA. They considered the impact to be partial and localised as shown by the Zone of Theoretical Visibility (ZTV).

In considering Ben Klibreck WLA Highland council noted that there would be visibility of a number of wind farms from the high ground on Ben Klibreck. However it is the impact from the existing wind farms of Gordonbush, Kilbraur, Lairg, Rosehall, Achany and potential further impact from any approval of Braemore, Glencassley and Sallachy projects that would affect this WLA the most. The impact on the west side of Ben Klibreck / Strath Vagastie portion of the WLA particularly arises from this development, although portions of this area are also impacted from the more distant wind farms to the north including Strathy North potentially Strathy South / Strathy Wood and from the south potentially Sallachy.

In considering WLA 37 Highland Council considered that the high ground, such as the summit of Ben Hee, will have sight of many wind farms but it is the visibility from the existing Lairg, Achany and Rosehall wind farms in the main, with potential further impact from any approval of Glencassley and Sallachy projects that will affect this WLA. There is considerable overlap of impact at the south east end (Strathy Tirry), with substantial areas of the highest quality wild land un-affected west of Ben Hee.

(Ministers note that applications for section 36 consent for both Sallachy and Glencassley have now been refused. Applications relating to Braemore, Strathy Wood and Strathy South have yet to be determined.)

Highland Council concluded that the development will present a significant new feature in the Sutherland landscape north and west of Lairg, with impact upon recently identified "wild land areas" and within the immediate vicinity of Strath Vagastie. However this impact is not seen by Highland Council to be significantly adverse overall. This conclusion takes into account the fact that the site is predominantly outwith identified areas of wild land and that its impact is relatively localised and on land which does not present the highest qualities of wildness.

Highland Council further highlighted that the A836 road, from where most receptors will view (and experience) the WLAs, presents a boundary for the demarcation of WLAs. Highland Council further states that commercial forestry developed adjacent to this road has impacted on the wildness qualities of the land in proximity of this road.

## **Site visits**

Officials undertook a site visit on 24 February 2016, accompanied by both SNH and Highland Council. The purpose of the visit was to facilitate a full consideration of the development by experiencing the scale of the landscape, the proximity of the site to

WLAs and some of the viewpoints in the vicinity and to the north and south of the development site.

The Minister for Business, Innovation and Energy undertook a further site visit accompanied by officials from the Energy Consents team in advance of determination to gain an understanding of the of the development site's relationship with the surrounding landscape and neighbouring community.

### **Ministers' Considerations**

Ministers recognise that the location of the turbines has been considered carefully by the Applicant and that the landscape and visual impacts have been limited where possible. It is clear that the Applicant has given thorough consideration to the minimisation of the landscape and visual impact of the development through the design iteration process and in response to comments raised throughout the scoping consultation, in particular by reducing the originally proposed turbines from 38 to 22 prior to submission of the application. It is sympathetically sited alongside the A836, predominantly outwith wild land areas, in a topography that has limited its impact to a relatively localised area.

Ministers consider that significant impacts (considered in more detail below) on wild land remain and have not been substantially overcome. Ministers consider that the proposed development would have a significant effect on the qualities of the area of wild land within the Ben Hee WLA and the Ben Klibreck WLA. In reaching this view Ministers have taken account of the fact that the wild land areas are not empty of human activities or influence.

Ministers accept SNH's advice as set out in their letter of 14 April 2016 that "the physical attributes of these WLAs, and the perceptual responses evoked by them, are very sensitive to the scale of development proposed. The effects of the proposal will extend over a large area, well in to the centre of the Ben Hee WLA to the west. Effects to the east within the Ben Klibreck WLA do not extend so far but include impacts on well-used access routes and the summit of the popular Munro Ben Klibreck."

Both Highland Council and the Applicant consider that the area where the proposed development would be sited already has existing man-made features which have impacted on the wildness qualities of the land in proximity of the road thereby reducing sensitivity to further development. Ministers accept SNH's assessment that the presence of other artefacts has been overstated and the qualities of the wild land remain sensitive to new development.

Ministers accept that the visual influence of the proposed development within some parts of WLA 37, at a 10 km distance, as well as the visibility from the summit of Ben Hee (a Corbett) would inevitably affect both the physical attributes and perceptual responses within WLA 37. Ministers note that although other wind farms are visible here, the proposed development would be closer and therefore have a greater impact as a consequence of its proximity. The same is accepted for WLA35, although it is noted that these effects do not extend so far.

Based on Zone of Theoretical Visibility information, the wild land assessments undertaken by the Applicant and SNH and other consultation responses, Ministers conclude that the proposed development would mean that a wider (10km) area outside the site boundary in the east of the WLA 37 would be significantly impacted, due to views of the proposed development from that area. The area affected would mainly comprise the land immediately to the west of the proposed development to the summit of Ben Hee where the wind farm would be relatively close by and a prominent feature in the landscape. Of the attributes used in the wild land assessment, it is "the lack of modern artefacts or structures" and "little evidence of contemporary human uses of the land" which would be most affected by the proposed development. These physical wildness attributes will be significantly adversely affected on the western edge of the wind farm site with further adverse effects experienced in the area mentioned above. Although the most significant of these effects would be contained to within a 5km radius of the development, particularly in WLA35, and therefore not experienced in large, very wild areas of wild land, this will still have some significance in the context of both WLAs as a whole.

Ministers have had regard to SNH advice that areas of highest wildness within wild land areas are dependent on adjacent areas of lower wildness, which are intrinsic to the wild land area. However, Ministers are mindful that only five of the turbines fall within WLA37 and that significant impacts on the physical attributes of the wild land area will be limited in extent relative to the scale of the wild land area.

### **Consideration of Further Mitigation**

Ministers, have considered whether further amendments to the design of the development could substantially overcome the impact from the of the development on the wild land qualities.

Ministers note that SNH have advised, in terms of paragraph 215 of SPP, that in their view it has not been demonstrated that the significant effects on the Ben Hee WLA, in which five of the turbines forming part of the proposed development lie, can be substantially overcome by siting, design or other mitigation. Therefore there is no further re-design or re-siting of the turbines which could give effect to the removal of their objection.

Having visited the site and considered the location of the 5 turbines which are sited in WLA37, Ministers have deliberated whether refusal for consent for these 5 turbines would overcome the significant effects on the Ben Hee WLA. Ministers, having taken account of the wild land assessment, the ZTV and SNH's response, consider re-siting or re-design, including the removal of wind turbines, cannot overcome the effects. Given that significant impacts on the two wild areas would remain even if the five turbines situated in WLA 37 were removed, Ministers consider there would be little, if any benefit in refusing consent for the five turbines in the wild land area, thereby reducing the potential renewable energy benefits of the development. In granting consent Ministers recognise that in respect of those turbines situated in WLA 37 this runs contrary to the particular policies in SPP which relate to development situated in a wild land area, in particular as set out in paragraph 215 (and reflected in Table 1). In those circumstances it is for Ministers to

balance the benefits and the impacts of the development as a whole, in the context of the requirements of different and competing policies.

## **Other Landscape and Natural Heritage Interests**

### **Habitats Regulations**

SNH advised in their response that there is connectivity between the proposed development and the River Naver Special Area of Conservation (SAC), Caithness and Sutherland Peatlands SAC and Caithness and Sutherland Peatlands Special Protection Area (SPA).

The status of the SACs and the SPA means that the requirements of the Habitats Regulations apply and in SNH's view, the proposal will have a likely significant effect on the qualifying interests of the SAC and the SPA. Therefore, Habitat Regulation appraisals (Annex E) were carried out.

These concluded that if the proposal is undertaken in strict accordance with mitigating conditions, as recommend by SNH, as well as the design details, construction method statement, site environmental management plan and site waste management plan as detailed within the ES, then the proposal will not adversely affect the integrity of the SACs or the SPA.

Ministers are satisfied that relevant planning conditions pertaining to the construction of the development to avoid an adverse impact on the integrity of the SACs and SPA have been imposed.

### **Landscape and Visual Impact – Impact on Residential Amenity and Tourism**

Highland Council consider that the development would have an impact on those who climb and walk in the area, particularly those who go to the top of Ben Klibreck from Strath Vagastie. A number of viewpoints (VPs) have been used to assist with the assessment of visual impact/cumulative impact from key hills including;

VP 6 Ben Klibreck;  
VP 7 Ben Hee  
VP 10 Ben Hope  
VP 12 Ben More Assynt  
VP 13 Beinn Sgeireach  
VP 15 Beinn Leoid; and  
VP 16 Ben Loyal.

Only the impacts from VP 6 Ben Klibreck (a Munro) and VP 7 Ben Hee (a Corbett) are assessed to be major and significant. The ES considers that these views would only be experienced by a relatively small number of physically able climbers and walkers and that on much of the lower ground, impact of the development is much more limited.

Highland Council also advised that although climbers of the many hilltops in Sutherland are experiencing an increasing cumulative effect of onshore wind energy projects there is no evidence to suggest that the development would adversely impact on climbing or walking activity.

The Highland Council in considering their designated Special Landscape Area (SLA) cited the four special qualities for which the area had been designated as;

- Distinctive mountains, including Ben Klibreck, a popular relatively accessible Munro and Ben Armine, one of Scotland's most remote summits.
- Secluded Glen with networks of tracks (wildness areas / non-vehicular tracks).
- Extensive views from peaks and summits – particularly to the northern coastline and neighbouring peaks including Ben Hope and Ben Loyal.
- Historic landscape - with isolated remains on the southern shore of Loch Choire, east of Ben Klibreck and south of Loch Naver.

In their response they considered that although the development was sited out with the SLA designation it would impact on some of the qualities to the west of Ben Klibreck and its connection with open moorland towards Ben Hee. Highland Council further acknowledged that there are large parts of the SLA which will remain unaffected by the development e.g. Loch Choire/Ben Armine. Key views between Ben Klibreck, the coastline, Ben Loyal and Ben Hope will also remain unaffected given the size, scale, distance and general grandeur of the landscape.

In their view, the wind turbines are set apart away from the Lone Mountain Landscape Character Area of Ben Klibreck, which will remain a distinctive and dominant mountain feature in the view of all receptors.

Although not the basis for their objection, SNH advised in their response that there would, in their opinion, be an adverse effect on the appreciation of views from a number of popular mountain summits (including Ben Klibreck, Ben Hee, Beinn Sgeireach and Ben More Assynt). They consider the proposal will introduce a prominent new feature into the wider landscape where the current focus is on expansive views. These summits attract walkers who want to experience these wild land qualities.

The Mountaineering Council of Scotland in their objection stated that *"the proposed development would be detrimental to the visual experience of the local landscape by those undertaking mountain-based recreation in the area. This would have a detrimental impact upon the local tourism economy. It would reduce an extraordinary landscape to just another landscape with wind farm(s). All large-scale wind power development proposals for this area should be refused."*

Ministers note that impact on the nearby community of Altnaharra is limited given the way that most properties are sited in the lee of Creag Riabhach.

Ministers concur with Highland Council's appraisal that, although there will be an impact on from the development, many of the key viewpoints are largely protected or unaffected, including large parts of the SLA. On balance the development from a landscape and visual impact perspective is acceptable.



It is identified in the ES is that Ben Klibreck is one of the most remote Munros in Scotland with a relatively small number of dedicated walkers. There is no available data on exact tourism numbers to the area. None of the top 5 visitor attractions in the Highlands are in this area. However, officials accept advice of SNH and the Highland Council about the popularity of the hills and munros in the area.

Anecdotal evidence within community Councils' responses suggest declining tourism numbers over the last 40 years, with visitors providing a virtually negligible impact on the local economy. Highland Council further emphasises that there is no evidence to support a decline in tourism as a consequence of wind farm development.

Ministers therefore agree with the assessment that there would be no likely significant adverse effect on tourism in the area.

### **Renewable Energy Produced- Contribution to Targets and Carbon Payback**

NPF3 is clear that planning must facilitate the transition to a low carbon economy, and help to deliver the aims of the Scottish Government's Report on Proposals and Policies. Our spatial strategy facilitates the development of generation technologies that will help to reduce greenhouse gas emissions from the energy sector. Scotland has significant renewable energy resources, both onshore and offshore. Spatial priorities range from extending heat networks in our cities and towns to realising the potential for renewable energy generation in our coastal and island areas.

Policy Principles set out in SPP state that the planning system should:

Support the transformational change to a low carbon economy, consistent with national objectives and targets, including deriving:

- 30% of overall energy demand from renewable sources by 2020;
- 11% of heat demand from renewable sources by 2020; and
- the equivalent of 100% of electricity demand from renewable sources by 2020;

Support the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity – and the development of heat networks.

The proposed development contributes towards meeting greenhouse gas emission and renewable electricity targets. This 22 turbine wind farm would have a nominal installed capacity of 72.6 MW which will likely produce, on an annual basis, electricity equivalent to the demands of approximately 36,257 average households. This increase in the amount of renewable energy produced in Scotland is entirely consistent with the Scottish Government's policy on the promotion of renewable energy and its target for the equivalent of 100% of Scotland's electricity demand to be met from renewable sources by 2020.

On the basis that the site will have a nominal installed capacity of 72.6MW, it is calculated by the Applicant that per annum the Creag Riabhach wind farm would generate carbon savings of up to 95,7802 tonnes of CO<sub>2</sub>.

The total annual CO<sub>2</sub> saving from the wind farm, is estimated by the Applicant to be:

- 172,095 of CO<sub>2</sub> per year saved per year over coal fired electricity generation; or
- 87,765 of CO<sub>2</sub> per year saved per year over grid-mix of electricity generation; or
- 121,344 of CO<sub>2</sub> per year saved per year over fossil fuel mix of electricity generation.

Scottish Government's own calculations are more conservative than those put forward by the Applicant and indicate that the development would save 66,304 tonnes of CO<sub>2</sub> per year over grid-mix electricity generation.

SPP states that where peat and other carbon rich soils are present, companies should assess the likely effects of development on carbon dioxide (CO<sub>2</sub>) emissions. Where peatland is drained or otherwise disturbed, there is liable to be a release of CO<sub>2</sub> to the atmosphere. Developments should aim to minimise this release.

Ministers note SEPA's comments in response to SPP 2014 "that to a large extent this has been demonstrated in the information submitted with the application. Such information includes a layout which demonstrably avoids placing infrastructure in deep peat, construction methods that demonstrably minimise excavation into peat, schedules of mitigation and peat management plans."

The Applicant has also submitted their calculation of the time required for the development to generate enough carbon-free electricity to offset its own carbon footprint (known as the "CO<sub>2</sub> payback period"), based on available information, this indicates that the site will pay back the carbon emissions associated with its construction, operation and decommissioning in 1.3 years. Assuming a 25 year wind farm life, this equates to an overall carbon saving of over 19 times the carbon emitted.

Ministers' are satisfied these indicative figures demonstrate that the wind farm will make a significant positive contribution to reducing CO<sub>2</sub> emissions.

### **Net Economic Benefit**

SPP advises that proposals for energy infrastructure developments should always take account of spatial frameworks for wind farms and heat maps where these are relevant. Considerations will vary relative to the scale of the proposal and area characteristics but are likely to include, as well as a number of other considerations, net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.

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 Applicant has reported that significant economic benefits to Scotland will arise through investment in construction and employment, the production of electricity, and providing security of supply. The Applicant has estimated that during the development and construction phase, the proposed development would contribute £44.8 million to the Scottish economy and support 422 job years of employment, and in the Highland Council Local Authority area, the impact would amount to £20.7 million and support 168 job years.

During each year of the operations and maintenance phase the proposed development would contribute £3.8 million to the Scottish economy (£94 million over 25 years) and support 41 jobs, and in the Highland Council Local Authority area, this impact would amount to £2.0 million (£50 million over 25 years) and 20 jobs.

It is further estimated by the Applicant that during the decommissioning phase, the proposed development would contribute £2.5 million to the Scottish economy and support 27 job years, and in the Highland Council Local Authority area this impact would amount to £1.3 million and 13 job years.

The development would support five permanent jobs.

The ES has considered visitors using the area through cycling and walking to ascertain if there is the possibility of any offset to these benefits by virtue of negative impacts. The impacts on the nearby National Cycle Route do not appear to be significant. There is no evidence to suggest that the development would adversely affect climbing or walking activity in the area. Improved road infrastructure could offset any negative impacts on tourism / recreation numbers.

Whilst it is difficult to precisely quantify overall net economic benefits, given direct and indirect effects and timescales, Ministers are satisfied the development has the potential for a substantial positive net economic benefit. Scottish Ministers agree with the view expressed by the Highland Council that the investment opportunities provided by the proposed development are important to an area which is regarded as fragile, given the aging and declining population of the area, where young people continue to leave.

## **Conclusions**

Scotland's renewable energy and climate change targets, energy policies and planning policies are all material considerations when weighing up this development. RPP2, NPF3 and SPP 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 wind farm.

The National Planning Framework 3 (NPF3) sets out the Scottish Government's commitment to establishing Scotland as a leading location for the development of renewable energy technology. NPF3 describes how, in our more remote areas, this will bring new employment, reverse population decline and stimulate demand for development and services, and also that onshore wind will continue to make a significant contribution to diversification of energy supplies. In Scotland there has

been significant progress towards low carbon objectives whilst we have continued to protect our special places from significant adverse impacts.

NPF3 together with SPP further sets out what is expected of the planning system, including a spatial strategy for a low carbon place where an 80% reduction in greenhouse gas emissions is achieved by 2050. Para 3.23 states that “onshore wind will continue to make significant contribution to diversification of energy supplies”.

NPF3 (paragraph 3.23) is not supportive of wind farm development in National Parks and National Scenic Areas but does support new wind energy development to appropriate locations, taking into account, among other matters, impacts on wild land. SPP sets out guidance both for the preparation of spatial frameworks by planning authorities and in respect of development management – how decisions on particular cases should be considered. Those policies relating to development management are of particular relevance to the decision in this case.

Ministers recognise that (in line with NPF3 paragraph 4.4) wild land is a nationally important asset and also that wild land areas are very sensitive to any form of intrusive human activity and may have little or no capacity to accept new development.

However, NPF3 is also clear that planning must facilitate the transition to a low carbon economy, and help to deliver the aims of the Scottish Government’s Report on Proposals and Policies.

As previously set out, SPP also advises that proposals for energy infrastructure developments should always take account of spatial frameworks for wind farms and although considerations will vary relative to the scale of the proposal and area characteristics, they are likely to include the net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities. It is clear that 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.

SPP contains guidance in respect of the granting of development consent for new wind farm development. SPP is to be read and applied as a whole. It sets out overarching Principal Policies to be applied to all development and Subject Policies which set out guidance in respect of development management. There are inevitable tensions between the aims of these policies which require to be considered and balanced when reaching a decision on the application. The Scottish Ministers have had to balance these potentially conflicting policy aspirations when making a determination in the present case.

In terms of Subject Policy: A Low Carbon Place, the merits of an individual proposal for a wind farm development are to be considered against a range of impacts. A non-exhaustive list of such considerations is given in paragraph 169. This paragraph sets out considerations which are to be taken into account when considering proposals for energy infrastructure development, including wind farms. These considerations include, along with the economic benefits and scale of contribution to renewable energy generation targets, the landscape and visual impacts of the

proposed development including effects on wild land. Ministers have had regard to those factors when considering this application.

Subject Policy: A Natural, Resilient Place, also contains policy considerations to be taken into account for the purposes of development management, in particular paragraph 215, is concerned with development situated in wild land areas. This policy applies in respect of the five turbines situated within WLA 37. Paragraph 215 requires consideration of whether or not any significant effect on the qualities of a wild land area can be substantially overcome but recognises that development may be appropriate in some circumstances. It is recognised, in respect of those turbines situated in WLA 37, that the proposed development runs contrary to paragraph 215 (and related Table 1) but Ministers consider that overall the development as a whole is on balance supported by the policy considerations set out in SPP.

Ministers in reaching their decision have had to balance these competing considerations, decide what weight is to be given to each and reach a view as to where the balance of benefit lies. Ministers have in particular had regard to their assessment, which accords with that of SNH, that removal of the turbines which are to be situated within WLA 37 would not substantially reduce or remove the significant impact on the two wild land areas. In this context Ministers consider that the benefits of the proposed development as a whole, and which are supported by policy, have to be balanced against impacts on wild land and that development should not be refused on the basis that a part of it would be contrary to specific policies relating to protection against unsuitable development situated in the mapped wild land areas.

The proposed development, if consented, would contribute to renewable electricity targets and towards reducing greenhouse gas emissions. Economic benefits to the Scottish economy are anticipated alongside short and long term benefits to the Highland Council Local Authority area as well as, more particularly, the surrounding area.

Ministers have recognised that as wild land areas are very sensitive to any form of development, a substantial development of this nature would always be likely to, and in this case is considered to, give rise to effects on the qualities of the wild land areas which are regarded as significant. Not all significant impacts on a wild land area however are of the same nature or extent. The level of "significance" in each particular case will vary in the context of the particular qualities of the wild land affected, the siting of development in relation to the cumulative baseline and the topography of the land. The nature of the particular impacts in this case have been carefully considered. Ministers have, in reaching a view that the renewable energy and economic benefits of this development outweigh the impacts on the Ben Hee and Ben Kilbreck WLAs in the circumstances of this case, had particular regard to the location of the development at the very edge of the Ben Hee WLA and largely outwith the boundaries of both WLAs. While Ministers accept SNH's advice that there will be significant impacts on wild land which cannot be substantially overcome, Ministers are mindful that only five of the turbines fall within WLA37 and that significant impacts on the physical attributes of the wild land area will be limited in their extent.

Scottish Ministers are satisfied that other environmental issues can be appropriately addressed by way of mitigation, and that any impacts which remain are outweighed

by the benefits the development will bring. Conditions have been imposed to give effect to all mitigation and compensatory measures outlined in the ES.

Ministers consider that in the circumstances of this case and in the context of the competing policy considerations the balance of benefit is in favour of the grant of consent for the development.

### **Duration of Deemed Planning Permission**

Section 58(1) of the Town and Country Planning (Scotland) Act 1997 provides that planning permission lapses if development has not begun within a period of 3 years. Section 58(2) of that Act enables Ministers to direct that a longer period is allowed before planning permission lapses. Scottish Government policy is that due to the constraints, scale and complexity of constructing such developments, a 5 year time scale for the commencement of the development is appropriate. A direction by Scottish Ministers under section 58(2) of the Town and Country Planning (Scotland) Act 1997 has therefore been made as part of the determination for this consent.

### **The Scottish Ministers' Determination**

Subject to the conditions set out in Part 1 of Annex 2, Scottish Ministers **grant consent** under section 36 of the Electricity Act 1989 for construction and operation of the Creag Riabhach wind powered electricity generating station in the planning authority area of Highland Council (as described in Annex 1).

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

The Scottish Ministers direct that section 58(1) of the Town and Country Planning (Scotland) Act 1997 is not to apply with regard to that planning permission but that planning permission is to lapse on the expiry of a period of 5 years from the date of this direction if there has not been Commencement of the Development within that period.

In accordance with the EIA Regulations, the Applicant must publicise this determination for two successive weeks in the Edinburgh Gazette and one or more newspapers circulating in the locality in which the land to which the Application relates is situated.

Copies of this letter and the consent have been sent to the Planning Authority. This letter has also been published on the Scottish Government Energy Consents website.

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

The rules relating to the judicial review process can be found on the website of the Scottish Courts – <http://www.scotcourts.gov.uk/session/rules/print/rules/CHAP58.pdf>. Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

Yours sincerely

A solid black rectangular box redacting the signature of Frances Pacitti.

*FP*  
**Frances Pacitti**  
Head of Energy Consents  
For and on behalf of the Scottish Ministers  
A member of the staff of the Scottish Government

## **ANNEX 1**

### ***Description of the Development***

The Development is the Creag Riabhach wind powered electricity generating station, comprising 22 turbines with a generating capacity exceeding 50MW, on the Altnaharra Estate, Altnaharra, by Lairg in the local Planning Authority area of Highland Council as described in the Application and Environmental Statement submitted on 19 December 2013.

The principal components and related ancillary development of the wind farm comprise:

- 22 wind turbines with a maximum tip height of up to 125m
- 2 anemometer masts
- Site access tracks
- Access point with the A836
- A new bridge over the River Vagastie
- Cable trenches
- Crane hard standing pads and lay down areas
- Site construction compound for a temporary period
- Substation
- Control room
- External compound approximately 90 metres by 75 metres
- Borrow pit



## **ANNEX 2**

### **Part 1 - Conditions attached to section 36 Consent**

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

(1) This consent shall expire after a period of 25 years from the Date of Final Commissioning.

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

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

#### **2. Commencement of Development**

Development must commence no later than five years from the date of this consent, or such other period as the Scottish Ministers may direct in writing. Written confirmation of the intended date of Commencement of Development must be provided to the Planning Authority and Scottish Ministers no later than one calendar month before that date.

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

#### **3. Non-assignment**

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

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

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

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

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

## **Part 2 - Conditions attached to the deemed Planning Permission**

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

Except as otherwise required or authorised in terms of an approval required by the terms of the section 36 consent and deemed planning permission, the Development must be undertaken in accordance with the Application (including the approved drawings listed at Annex 4 to this decision) and Environmental Statement lodged in support of the application.

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

### **6. Design and operation of wind turbines**

(1) Development may not commence until details of the proposed wind turbines (including, but not limited to, the size, type, external finish and colour, which should be non-reflective pale grey semi-matt), any anemometry masts and all associated apparatus have been submitted to, and approved in writing by, the Planning Authority. The wind turbines must be consistent with the candidate wind turbine or range assessed in the environmental statement, and the tip height must not exceed 125 metres above ground level.

(2) The wind turbines must be constructed and operated in accordance with the approved details and maintained in the approved colour, free from external rust, staining or discolouration, until the Development is decommissioned.

(3) All wind turbine blades must rotate in the same direction.

(4) All wind turbine transformers must be located within the tower of the wind turbine to which they relate.

(5) None of the wind turbines, anemometers, power performance masts, switching stations or transformer buildings/enclosures, ancillary buildings or above ground fixed plant may display any name, logo or other signage (other than health and safety signage) unless otherwise approved in advance in writing by the Planning Authority

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

### **7. Design of sub-station and ancillary development**

(1) Development may not commence until details of the external appearance, dimensions, and surface materials of the substation building, associated compounds, any construction compound boundary fencing, external lighting and parking areas have been submitted to, and approved in writing by, the Planning Authority.

(2) The substation building, associated compounds, fencing, external lighting and parking areas must be constructed in accordance with the approved details.

**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 environmental statement and in the interests of the visual amenity of the area.*

## **8. Micro-siting**

(1) All wind turbines, buildings, masts, areas of hardstanding and tracks must be constructed in the location shown on Figure 2.10 listed at Annex 4b. However, wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting within the site but micro-siting is subject to the following restrictions:

- (a) No wind turbine, building, mast or hardstanding may be moved more than 50m from the position shown on Figure 2.10 ;
- (b) No access track may be moved more than 50m from the position shown on Figure 2.10;
- (c) No micro-siting may take place which increases disturbances in overall peat balance;
- (d) No micro-siting may take place within areas hosting Ground Water Dependent Terrestrial Ecosystems;
- (e) No micro-siting may take place within a 50m buffer zone around all watercourses as denoted within Figure 2.10.
- (f) All micro-siting permissible under this condition must be managed by the Environmental Clerk of Works (ECoW)

(2) No later than one month after the date of Final Commissioning, an updated site plan must be submitted to the Planning Authority showing the final position of all wind turbines, buildings, masts, areas of hardstanding, tracks and associated infrastructure forming part of the Development. The plan should also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of any relevant approval.

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

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

(1) Development may not commence until a site specific scheme for the working and temporary restoration of the borrow pit has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. The scheme must include:

- (a) A detailed working method statement based on site survey information and ground investigations which takes account of road safety requirements as a consequence of the borrow pit's proximity to the A836;
- (b) Details of the handling of any overburden (including peat, soil and rock);

- (c) Drainage measures, including measures to prevent surrounding areas of peatland, water dependant sensitive habitats and Ground Water Dependant Terrestrial Ecosystems from drying out;
- (d) A programme of implementation of the works described in the scheme; and
- (e) Details of the temporary reinstatement, restoration and aftercare of the borrow pit to be undertaken at the end of the construction period, including topographic surveys of pre-construction profiles, and details of topographical surveys to be undertaken of the restored borrow pit profiles.

(2) The approved scheme must be implemented in full.

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

## **10. Borrow Pits – Blasting**

(1) Blasting may only take place between the hours of 10.00 and 16.00 on Monday to Friday inclusive and 10.00 and 12.00 on Saturdays. No blasting may take place outwith these times, or on Sundays and national public holidays, unless approved in advance in writing by the planning authority.

(2) Ground vibration from blasting may not exceed a peak particle velocity of 6mm/second at blasting monitoring locations which have been agreed in advance by the Planning Authority. The measurement is to be the maximum of three mutually perpendicular directions taken at the ground surface.

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

## **11. Planning Monitoring Officer**

(1) Development may not commence until the terms of appointment of an independent and suitably qualified environmental consultant as Planning Monitoring Officer (“PMO”) have been submitted to, and approved in writing by, the Planning Authority. The terms of appointment must:

- (a) Impose a duty on the PMO to monitor compliance with the terms of the deemed planning permission and the conditions attached to it;
- (b) Require the PMO to submit a monthly report to the Planning Authority summarising works undertaken on site; and
- (c) Require the PMO to report to the Planning Authority any incidences of non-compliance with the terms of the terms of the deemed planning permission and conditions attached to it at the earliest practical opportunity.

(2) The PMO must be appointed on the approved terms throughout the period from Commencement of Development to completion of post construction restoration works.

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

## **12. Ecological Clerk of Works**

(1) Development may not commence until the Planning Authority has approved in writing the terms of appointment of an independent Ecological Clerk of Works (ECoW) in consultation with SNH and SEPA. The terms of appointment must;

- (a) Impose a duty to monitor compliance with the ecological and hydrological measures in the environmental statement and, the Construction and Environmental Management Plan, and other measures approved by virtue of conditions attached to the deemed planning permission;
- (b) Require the ECoW to report to the nominated construction project manager and PMO any incidences of non-compliance with the ECoW works at the earliest practical opportunity;
- (c) Require the ECoW to submit a monthly report to the 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.

(2) The ECoW must be appointed on the approved terms throughout the period from Commencement of Development until completion of all post construction restoration works.

(3) No later than 18 months prior to decommissioning of the Development (as defined in condition 23 attached to this consent) or the expiration of the section 36 consent (whichever is the earlier), details of the terms of appointment of an independent ECoW throughout the decommissioning, restoration and aftercare phases of the Development must be submitted to the Planning Authority for approval in consultation with SNH and SEPA. The ECoW must be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the Development.

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

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

Development may not commence until a Construction and Environmental Management Plan ("CEMP") with 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 SNH and SEPA. The CEMP, must include (but is not limited to):

- (a) A schedule containing mitigation proposals identified in the ES as well as those set out by conditions. Which will be updated to reflect any pre-

construction, site specific, survey work. This will thereafter be identified as the agreed Schedule of Mitigation (SM) required for construction.

- (b) Processes to control / action changes from the agreed Schedule of Mitigation.
- (c) Peat/Soil Management Plan, to include details of all peat stripping, excavation, storage and reuse of material in accordance with best practice advice published by SEPA and SNH, and wind turbine siting which demonstrates avoidance of deepest peat in line with advice provided from SEPA in their consultation response letter dated 5 February 2014.
- (d) Water Quality Management Plan, with details of drainage provisions including:
  - (i) monitoring/maintenance regimes, water crossings designed to 1 in 200 year event, plus 20% for climate change,
  - (ii) surface water drainage management,
  - (iii) development buffers (50m minimum) from existing watercourses as identified within Fig 2.10 of the Environmental Statement. This should include details of proposed mitigation where the proposed water buffer is breached and measures to protect areas with Ground Water Dependent Terrestrial Eco-systems. It should also establish an integrated water quality, macroinvertebrate and fish monitoring programme to enable any changes to be detected and rapidly remedied.
- (e) Design details of the proposed new River Vagastie Bridge which must not impede the estimated 1 in 200 year flood event, plus 20% for climate change.
- (f) Details of the construction methodology for site access, including measures to define working corridors (required to avoid areas of blanket bog and wet heath as qualifying habitats of the Caithness and Sutherland Peatlands SAC) in the site access area.
- (g) Pollution Prevention Plan.
- (h) Site Waste Management Plan.
- (i) Provision of wheel washing facilities.
- (j) Construction Noise Mitigation Plan.
- (k) Species Protection Plan to ensure a pre-construction survey for legally protected species is carried out at an appropriate time of year for the species, at a maximum of 8 months preceding commencement of development, and that a watching brief is implemented by the Ecological Clerk of Works (ECOW) during construction. The species that should be surveyed for include, but are not limited to, breeding birds, otter and water vole. The area that is surveyed should include all areas directly affected by construction plus an appropriate buffer to identify any species within disturbance distance of construction activity and to allow for any micro-siting needs.
- (l) A Peatland Habitat Restoration Plan including the total area (441ha) to be managed, the measures to be undertaken, timing of works and proposed monitoring of the measures undertaken for the duration of the consent.
- (m) Details of the Deer Management Plan, including measures to be undertaken, timing of works and proposed monitoring the measures undertaken for duration of the consent.

The Development must proceed in accordance with the approved CEMP.

**Reason:** *To protect the environment from the construction and operation of the Development and secure final detailed information on the delivery of all site specific*

*mitigation projects and avoidance of adverse impacts on the integrity of the Caithness and Sutherland and River Naver Special Areas of Conservation.*

#### **14. Construction Hours**

(1) Construction work which is audible from any noise-sensitive receptor may only take place on the site between the hours of 07.00 to 19.00 on Monday to Friday and 07.00 to 16.00 on Saturday, with no construction work taking place on Sunday or a national public holiday. Outwith these specified hours, development on the site must be limited to wind turbine erection, maintenance, emergency works, dust suppression, and the testing of plant and equipment, unless otherwise approved in advance in writing by the planning authority.

(2) HGV movements to and from the site (excluding abnormal loads) during construction must be limited to 07.00 to 19.00 on Monday to Friday, and 07.00 to 16.00 on Saturday, with no HGV movements to or from the site taking place on Sunday or on a national public holiday.

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

#### **15. Traffic Management Plan**

(1) Development may not commence until a Traffic Management Plan has been submitted to, and approved in writing by, the Planning Authority in consultation with the Trunk and Local Road Authorities. The Traffic Management Plan must include:

- (a) The routing of all traffic associated with the Development on the road network including diversions on and off the local network at Dalchork;
- (b) Measures to ensure that the specified routes are adhered to, including monitoring procedures;
- (c) Confirmation that a "wear and tear" agreement has been put in place with the local roads authority, including the posting of a financial bond covering initial construction or when undertaking significant repairs during the operational phase and or at decommissioning;
- (d) Details of all signage and lining arrangements to be put in place, including any temporary repositioning of existing signs and or lighting to facilitate deliveries;
- (e) Provisions for emergency vehicle access;
- (f) Identification of a nominated person to whom any road safety issues can be referred; and
- (g) A plan for access by vehicles carrying abnormal loads, including the number and timing of deliveries, the length, width and axle configuration of all extraordinary traffic accessing the site.

The approved traffic management plan must be implemented in full, unless otherwise agreed in advance in writing with the Planning Authority.

**Reason:** *In the interests of road safety and to ensure that all construction traffic including abnormal loads access the site in a safe manner.*

## 16. Programme of Archaeological Works

(1) Development may not commence until the Planning Authority has approved the terms of a programme of archaeological works to be undertaken during construction of the Development, to include measures to be taken to protect and preserve any features of archaeological interest in situ and the recording and recovery of archaeological features which cannot be so preserved.

(2) The approved scheme of archaeological works must thereafter be implemented in full.

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

## 17. Replanting of Forestry

(1) Development may not commence until a woodland planting scheme to compensate for the removal of up to 5 hectares of existing woodland ("the Replanting Scheme") has been submitted and approved in writing by the Planning Authority in consultation with Forestry Commission Scotland.

(2) The Replanting Scheme must comply with the requirements set out in the UK Forestry Standard (Forestry Commission, 2011, ISBN 978-0-85538-830-0) and the guidelines to which it refers, or such replacement standard as may be in place at the time of submission of the Replanting Scheme for approval. The Replanting Scheme must include:

- (a) details of the location of the alternative area of land to be converted to woodland by planting;
- (b) details of land owners and occupiers of the land to be planted;
- (c) the nature, design and specification of the proposed woodland to be planted;
- (d) details of all consents required for delivery of the Replanting Scheme and timescales within which each will be obtained;
- (e) the phasing and associated timescales for implementing the Replanting Scheme;
- (f) proposals for the maintenance and establishment of the Replanting Scheme, including annual checks, replacement planting, fencing, ground preparation, deer control, drainage and fertiliser.
- (g) proposals for reporting to the Planning Authority on compliance with timescales for obtaining the necessary consents and implementation of the Replanting Scheme.

(3) The approved Replanting Scheme (or, as the case may be, an approved amended Replanting Scheme) must be implemented in full, unless otherwise agreed in writing by the Planning Authority after consultation with Forestry Commission Scotland.

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



## **18. Noise**

(1) The rating level of noise immissions from the combined effects of the wind turbines forming part of the Development (including the application of any tonal penalty) may not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to this condition at any dwelling which is lawfully existing or has planning permission at the date of the section 36 consent.

(2) The wind turbines must 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) Electricity may not be generated to the grid on a commercial basis until a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition has been submitted to, and approved by, the Planning Authority. Amendments to the list of approved consultants may be made only with the written approval of the Planning Authority.

(4) Subject to paragraph (6), within 21 days of receipt of a written request of the Planning Authority, setting out the date, time and location to which a complaint made to the Authority alleging noise disturbance at a dwelling, an independent consultant on the list approved by the Planning Authority by virtue of paragraph (3) must assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes.

(5) Within 21 days of receipt of such a request from the Planning Authority the information logged in accordance with paragraph (12) must be submitted to the Planning Authority in the format set out in Guidance Note 1(e).

(6) The noise limits are set for the two residential properties named in Tables 1 and 2 below. Where a dwelling to which a complaint relates is not identified in the Tables below, proposed noise limits must be selected from those listed in the Tables, to be adopted at the complainant's dwelling for the compliance checking purposes set out below, and must be submitted for the written approval of the Planning Authority. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The submission of the proposed noise limits to the Planning Authority must include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes may not exceed the noise limits approved in writing by the Planning Authority for the complainant's dwelling.

(7) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with this conditions the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes must be undertaken and must be

submitted for the written approval of the Planning Authority. Measurements to assess compliance with the noise limits set out in the Tables below or approved by the Planning Authority by virtue of paragraph (6) must be undertaken at the measurement location approved in writing by the Planning Authority.

(8) Prior to the submission of the independent consultant's assessment of the rating level of noise immissions in accordance with paragraph (4) a proposed assessment protocol setting out the following must be submitted for the written approval of the Planning Authority:

- (a) the range of meteorological and operational conditions to be taken into account to determine the assessment of rating level of noise immissions.
- (b) a reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.

(9) The proposed range of conditions must be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request from the Planning Authority under paragraph (4), to fully assess the noise at the complainant's property. The assessment of the rating level of noise immissions must be undertaken in accordance with the assessment protocol approved in writing by the Planning Authority and the attached Guidance Notes.

(10) The independent consultant's assessment of the rating level of noise immissions, undertaken in accordance with the Guidance Notes, must be submitted to the Planning Authority within 2 months of the date of the written request of the Planning Authority made under paragraph (4) unless the time limit is extended in writing by the Planning Authority. All data collected for the purposes of undertaking the compliance measurements must be made available to the Planning Authority on the request of the Planning Authority. The instrumentation used to undertake the measurements must be calibrated in accordance with Guidance Note 1(a) and certificates of calibration must be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immissions.

(11) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c) of the attached Guidance Notes, a copy of the further assessment must be submitted to the Planning Authority within 21 days of submission to them of the independent consultant's assessment in accordance with paragraph (10) unless that time limit is extended in writing by the Planning Authority.

(12) Power production, wind speed and wind direction must be continuously logged, all in accordance with Guidance Note 1(d). These data must be retained for a period of not less than 24 months. This information must be submitted to the Planning Authority on their written request, in the format set out in Guidance Note 1(e), within 14 days of receipt of the request.

**Note:** For the purposes of this condition, a “dwelling” is a building within Use Class 9 of the Use Classes Order which lawfully exists or had planning permission at the date of this consent.

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

Location	Wind Speed at Ten Metres Height, m/s, within the site averaged over 10-minute periods									
	4	5	6	7	8	9	10	11	12	
	LA90 Decibel									
Vagastie	45	45	45	45	45	45	45	45	45	45
Crask Inn	33	33	33	33	33	33	33	33	33	33

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

Location	Wind Speed at Ten Metres Height, m/s, within the site averaged over 10-minute periods									
	4	5	6	7	8	9	10	11	12	
	LA90 Decibel									
Vagastie	45	45	45	45	45	45	45	45	45	45
Crask Inn	33	33	33	33	33	33	33	33	33	33

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

Location	Easting	Northing
Vagastie	253,728	928,220
Crask Inn	252,416	924,723

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

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

## 19. Shadow Flicker

(1) Development may not commence until a scheme for the avoidance or mitigation of any shadow flicker experienced by residential and commercial properties situated within 10 rotor diameters of any wind turbine and which lawfully exist or for which planning permission has been granted at the date of the section 36 consent has been submitted to and approved in writing by the Planning Authority. The scheme must include mitigation measures to reduce the impact of shadow flicker on Vagastie Cottage based on a detailed assessment of the impact of the final siting of wind turbines.

(2) The approved mitigation scheme must be implemented in full.

**Reason:** *To offset impacts of shadow flicker on residential and commercial property amenity*

## **20. Aviation Safety**

(1) Development may not commence until the Developer has provided the Planning Authority, Ministry of Defence, Defence Geographic Centre and NATS with the following information, and has provided evidence to the Planning Authority of having done so;

- (a) the date commencement of development;
- (b) the height above ground level of the tallest structure forming part of the Development;
- (c) the maximum extension height of any construction equipment; and
- (d) the position of the turbines and masts in latitude and longitude.

**Reason:** *To ensure that the erected wind turbines present no air safety risk.*

## **21. Aviation Lighting**

The Developer shall install MOD-accredited 25 candela omni-directional red lighting or infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point on all turbines. There also needs to be 25 Candela **AND** infra –red lighting on all of the cardinal wind turbines at the highest practicable point. The turbines will be erected with this lighting installed and the lighting will remain operational throughout the duration of this consent.

**Reason:** *To ensure the appropriate aviation warning lighting is provided.*

## **22. Duration of Consent**

Upon the expiration of a period of 25 years from the Date of Final Commissioning, the wind turbines shall be decommissioned and removed from the site, with decommissioning and restoration works undertaken in accordance with the terms of condition 23 of this permission. Written confirmation of the Date of First Commissioning shall be submitted in writing to the Planning Authority no later than one calendar month after the Date of First Commissioning.

**Reason:** *To define the duration of the consent. The 30 year cessation date allows for a 5 year period to complete decommissioning and site restoration work.*

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

(1) The Development will be decommissioned and will cease to generate electricity by no later than the date falling twenty five years from the date of Final Commissioning. The total period for restoration of the Site in accordance with this condition may not exceed the period of 5 years after that date without the written approval of the Planning Authority.

Development may not commence until a decommissioning, restoration and aftercare strategy has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. The strategy must outline measures for the decommissioning of the Development, restoration and aftercare of the site and borrow pit final site restoration and must include proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works, and environmental management provisions.

No later than 18 months prior to decommissioning of the Development or the expiration of the section 36 consent (whichever is the earlier) a detailed decommissioning, restoration and aftercare plan (DRP), based upon the principles of the approved decommissioning, restoration and aftercare strategy, must be submitted to the Planning Authority for written approval in consultation with SNH and SEPA. The detailed decommissioning, restoration and aftercare plan will provide updated and detailed proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which must include:

- (a) a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
- (b) details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- (c) a dust management plan;
- (d) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- (e) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- (f) soil storage and management;
- (g) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- (h) sewage disposal and treatment;
- (i) temporary site illumination;
- (j) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- (k) details of watercourse crossings;
- (l) a species protection plan based on surveys for protected species (including birds) carried out no longer than 18 months prior to submission of the plan.

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

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

## 24. Financial Guarantee

(1) Development may not commence until:

- I. Full details of a bond or other financial provision to be put in place to cover the costs of all of the decommissioning and site restoration measures outlined in the decommissioning, restoration and aftercare strategy approved under Condition 23 have been submitted to, and approved in writing by, the Planning Authority; and
- II. Confirmation in writing by a suitably qualified independent professional that the amount of financial provision proposed by virtue of sub-paragraph (a) is sufficient to meet the full estimated costs of all decommissioning, dismantling, removal, disposal, site restoration, remediation and incidental work, as well as associated professional costs, has been submitted to, and approved in writing by, the Planning Authority; and
- III. Documentary evidence that the bond or other financial provision approved by virtue of sub-paragraph (a) is in place.

(2) Thereafter:

- (a) the bond or other financial provision must be maintained throughout the duration of this permission; and
- (b) the bond or other financial provision must be subject to a review five years after the Commencement of Development and every five years until such time as the wind farm is decommissioned and the site restored.
- (c) Each review must be:
  - (i) conducted by a suitably qualified independent professional; and
  - (ii) published within three months of each five year period ending, with a copy submitted upon its publication to the Planning Authority; and
  - (iii) approved in writing by the Planning Authority without amendment or, as the case may be, approved in writing by the Planning Authority following amendment to their reasonable satisfaction.

(3) Where a review approved by virtue of sub-paragraph (c) recommends that the amount of the bond or other financial provision should be altered (be that an increase or decrease) or the framework governing the bond or other financial provision requires to be amended, that must be done within one month of receiving the approved review, or another timescale as may be agreed in writing by the Planning Authority, and in accordance with the recommendations contained therein.

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

## 25. Redundant Turbines

In the event that;

- (a) one or more wind turbine, installed and commissioned, fails to supply electricity on a commercial basis to the grid for a continuous period of 12 months, then unless otherwise agreed by the Planning Authority, the wind turbine, along with any ancillary equipment, fixtures and fittings not required in connection with retained wind turbines, must, within 3 months of the end of the said continuous 12 month period, be dismantled and removed from the site and the surrounding land fully reinstated;
- (b) the wind farm fails to supply electricity on a commercial basis to the grid from 50% or more of the wind turbines installed and commissioned and for a continuous period of 12 months, then the Developer must notify the Planning Authority, Scottish Ministers must immediately be informed in writing of that fact. Thereafter the Planning Authority may direct in writing that the wind farm must be decommissioned and the application site reinstated in accordance with this condition. For the avoidance of doubt, in making a direction under this condition, the Planning Authority shall have due regard to the circumstances surrounding the failure to generate and shall only do so following discussion with the Developer and such other parties as they consider appropriate.

All decommissioning and reinstatement work required by this condition must be carried out in accordance with the approved detailed Decommissioning and Restoration Plan (DRP), or, should the detailed DRP not have been approved at that stage, other decommissioning and reinstatement measures, based upon the principles of the approved draft DRP, as may be specified in writing by the Planning Authority.

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

## **26. Community Liaison Group**

Development may not commence until a community liaison group is established by the developer, in collaboration with the Planning Authority and affected local Community Councils. The group shall act as a vehicle for the community to be kept informed of project progress and in particular, should allow advanced dialogue on the provision of all transport-related mitigation measures and to keep under review the timing of the delivery of wind turbine components. This should ensure that local events and tourist seasons are considered and appropriate measures to co-ordinate deliveries and work with these and any other major projects in the area to ensure no conflict between construction traffic and the increased traffic generated by such events/ seasons / developments. The liaison group, or element of any combined liaison group relating to this Development, shall be maintained until the wind farm has been completed and is fully operational.

**Reason:** *To assist with the provision of mitigation measures to minimise potential hazards to road users, including pedestrians, travelling on the road networks.*

## **27. Outdoor Access Plan**

(1) Development may not commence until an Outdoor Access Plan is submitted to and approved in writing by the Planning Authority. The purpose of the Outdoor Access Plan is to plan site tracks and paths to enhance public outdoor access.

(2) The approved Outdoor Access Plan must be implemented in full.


**Reason:** *To ensure public access to the countryside is not unnecessarily impeded as a result of this Development.*



## Definitions

In this consent and deemed planning permission:-

The Application	Means the Application submitted by the Applicant on 23 December 2013
The Developer	Means Creag Riabhach Wind Farm Ltd having its registered office at 22 Carden Place, Aberdeen, AB10 1UQ, Company No. SC424471, or such other person who from time to time may lawfully have the benefit of this consent.
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.
Date of First Commissioning	Means the date on which electricity is first exported to the grid network on a commercial basis from any of the wind turbines forming part of the Development.
Date of Final Commissioning	Means the earlier of (i) the date on which electricity is exported to the grid on a commercial basis from the last of the wind turbines forming part of the Development or (ii) the date falling eighteen months from the date of First Commissioning.
Development	Means the development as described in Annex 1

  
PF **Frances Pacitti**  
Head of Energy Consents  
For and on behalf of the Scottish Ministers  
A member of the staff of the Scottish Government

## ANNEX 3

### ***Summary of Consultation Responses***

**The Highland Council** considered the relevant Development Plan policies in their assessment of the application. On 17 September 2015, in their response to the Energy Consents unit of the Scottish Government, they stated they had **no objection** to the proposed development, subject to conditions. In reaching this view, consideration was given to the benefits of the proposal including the contribution to renewable energy targets, localised road improvements and peatland restoration. Whilst it was acknowledged there would be adverse landscape and visual impacts on areas of wild land, this did not on balance, outweigh the benefits of the proposal and therefore they recommended the proposed development should be supported.

**Scottish Natural Heritage (SNH)** objected to the application citing "it would significantly and adversely affect the wild land character of the Ben Klibreck Search Area for Wild Land (SAWL) and the Ben Hee SAWL". Both are now areas of wild land as shown on the 2014 SNH Map of Wild Land Areas. SNH maintained their objection in response to the invite for further comments on SPP 2014, due to the significant adverse effects on the qualities of the Ben Hee WLA and Ben Klibreck WLA.

SNH also advised of the connectivity between the proposed development and the River Naver Special Area of Conservation (SAC), the Caithness and Sutherland Peatlands Special Protection Area (SPA) and the Caithness and Sutherland Peatlands SAC. The status of the SACs and the SPA mean that the requirements of the Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations) apply. Consequently Ministers must consider the effects of the development before consenting such applications.

Habitat Regulation appraisals have been carried out which conclude that if the proposal is undertaken in strict accordance with mitigating conditions requiring approval of construction methodology for site access, including measures to define working corridors, to avoid areas of blanket bog and wet heath qualifying habitats, then the integrity of the SACs or the SPA will not be adversely affected.

**Scottish Environment Protection Agency (SEPA)** have **no objection** subject to conditions (see Annex C) relating to details of the proposed river crossing, water environment buffers, micro-siting to minimise peat disturbance, a site specific Construction and Environmental Management Document (CEMD) and a Restoration and Aftercare Plan. A detailed construction and environmental management plan with site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation has been secured through condition 13. The construction and environmental management plan will address a range of issues controlling environmental impacts throughout the construction period. No work can commence on site until the plan has been approved by the planning authority in consultation with both SEPA and SNH. This provides a framework for monitoring and enforcement of environmental impacts throughout the construction period.

### **Other parties**

**The following parties objected to the proposed development:**

**The John Muir Trust** objects to the application on the grounds that it would significantly and adversely impact on wild land and potentially cause considerable damage to peatlands, affecting biodiversity, ecosystems and greenhouse gas emissions. Ministers are satisfied that the matters pertaining to objections have been addressed.

**The Northern District Salmon Fishery Board (NDSFB)** objects to the application and considers that it currently lacks a number of plans which are relevant to salmonid issues resulting in it being very hard to determine what impact the development will have on the salmonid population and its environment without further data collection and consideration. Ministers are satisfied that the Company's commitment to provide a detailed finalised site specific Construction Environmental Management Document (CEMD) addressing outstanding issues prior to development commencing will ensure water quality management in protection of fishing and other interests is implemented to meet the concerns raised. This can involve water quality monitoring and response protocols to manage any changes to water quality arising from construction impacts, including any associated forestry works.

**Mountaineering Council of Scotland** objects to the application. It considers the proposed development would have severe landscape and visual impacts that would diminish the local tourist and recreation resource, particularly for mountain-based recreation. Minister's note that the ES content and Highland Council's response has concluded that there is no likely significant adverse effect on tourism in the area.

**Scottish Wildlife Trust** objects to the application. This position is adopted on account of likely effects the proposal would have on Blanket Bog, an internationally important Annex I Habitat under the Habitats Directive. The trust is concerned by the loss of habitat during construction and the removal of peat and believe that this is contrary to the Scottish Government's second Report on Proposals and Policies (RPP2). Ministers note that SNH responded in respect of the impact of the development on blanket bog and wet heath, identifying that if the proposal were undertaken strictly in accordance with a condition to "identify in detail the construction methodology for site access, including measures to define working corridors (required to avoid areas of blanket bog and wet heath qualifying habitat in the site access area) it would not likely to have a significant effect. A condition to this effect has been secured within the Construction Method Statement.

**The following consultees had no objection and/or no comments to the proposed Development:**

**The Association of Salmon Fishery Boards (ASFB)** does not object. ASFB states that it does not have the appropriate local knowledge, nor the technical expertise to respond to specific projects, and is only able to provide a general response with regard to the potential risk of such developments to fish, their habitats and any dependent fisheries. Accordingly, its remit is confined mainly to alerting the relevant local DSFB/Trust to any proposal. Ministers note the Northern District Salmon Fishery Board were accordingly consulted.

**Bettyhill, Strathnaver and Altnaharra Community Council** supports the application. It welcomes the investment, in an area which has a continuing trend of depopulation.

**BT** did not object as the proposed development and considers it should not cause interference to BT's current and presently planned radio networks.

**CH2M HILL (formerly Halcrow Group Ltd)** has no objection to the application. It considers that the Peat Stability assessment within the ES is relatively robust, adding that conditions should require some additional peat probing to aid micro-siting.

**Civil Aviation Authority (CAA)** has no objection to the application. A request is made for a condition to ensure the Defence Geographic Centre is informed of construction details for inclusion on aviation charts.

**The Crown Estate** has no objection to the application.

**Defence Infrastructure Organisation** has no objection to the application. A request is made for a condition to secure aviation warning lighting (infra-red acceptable) on each turbine and in addition 25 candela lighting on all of the cardinal wind turbines at the highest practicable point. It also requests to be consulted and notified of the progression of planning applications and submissions relating to this proposal to verify that it will not adversely affect defence interests. Ministers note this request.

**Durness Community Council** a neighbouring CC, has no objection to the application.

**Forestry Commission Scotland (FCS)** has no objection to the application. This position is subject to the provision of compensatory tree planting for an area of up to 5ha and the provision of a Forest Plan to manage forestry on site. Ministers confirm that both have been secured by way of planning conditions.

**Highland and Islands Airports Limited (HIAL)** has no objection to the application.

**Historic Scotland** had some concerns about the methodology used to assess the impacts on cultural and heritage interests, however, despite this, concluded that there would be no significant effects and therefore did not object.

**Joint Radio Company (JRC)** did not object as it did not foresee any potential problems based on known interference scenarios for the proposal.

**Kinlochbervie Community Council** a neighbouring CC, has no objection to the development.

**Marine Scotland (MS)** has no objection to the application. However, Marine Scotland recommends that the Developer: establishes an integrated water quality, macroinvertebrate and fish monitoring programme in order that potential changes

can be detected and remediated; considers potential effects from recent felling in the water quality monitoring programme; considers cumulative effects on fish populations and fisheries; and ensures adequate mitigation and micro-siting minimises potential peat impacts on fish populations. Ministers note that a Water Quality Monitoring Plan, taking account of the aforementioned potential effects, has been secured by way of a planning condition within the Construction and Environmental Management Plan (CEMP) .

**National Air Traffic Systems (NATS)** has no objection to the application. They request to be consulted further should there be any changes to the application.

**Ofcom** did not object, however, it identified 3 fixed microwave links that may be impacted by the development and advised the applicant to contact the operators of these directly to establish if they need any further information. Ofcom also advised the applicant to consult directly with Atkins Ltd and Joint Radio Company (JRC) regarding their responsibilities for frequency operations in respect of the water, electricity and utilities industries. Ministers note that Highland Council have confirmed there are no private water sources connected with the site and JRC, who were consulted on behalf of the UK Fuel & Power Industry, to assess the potential of the development to interfere with radio systems operated by utility companies in support of their regulatory operational requirements, advised they could not foresee potential problems.

**Royal Society for the Protection of Birds (RSPB)** do not object to the development. It requests conditions to secure outcomes from the proposed offsite Habitat Management Plan (HMP) and safeguard the interest of breeding birds during construction. It also advised that Scottish Ministers must be satisfied, prior to granting consent should they be minded to do so, that the impacts on the nearby Caithness and Sutherland Peatland SAC and SPA are acceptable. Scottish Ministers, having undertaken the Habitat Regulations appraisals, can confirm this is the case.

**Transport Scotland Trunk Road and Bus Operations Directorate (TSRBOD)** has no objection to the application. It requested conditions related to abnormal loads using the trunk road network to assist in maintaining the safety and free flow of traffic. These have been secured by way of a planning condition.

**Visit Scotland** noted the importance of tourism to the local and national economy, the importance of scenery to tourism, suggested full consideration is given to the impact of wind farms on tourism, including the perceived proliferation of wind farms, and that the Company produced a Tourism Impact Statement in the Environmental Statement (ES).

**The following parties provided no response to the proposed Development:**

Kyle of Sutherland Fisheries Trust Admin (KSDSFB)  
Lairg Community Council  
Scottish Rights of Way and Access Society (ScotWays)  
Scottish Water

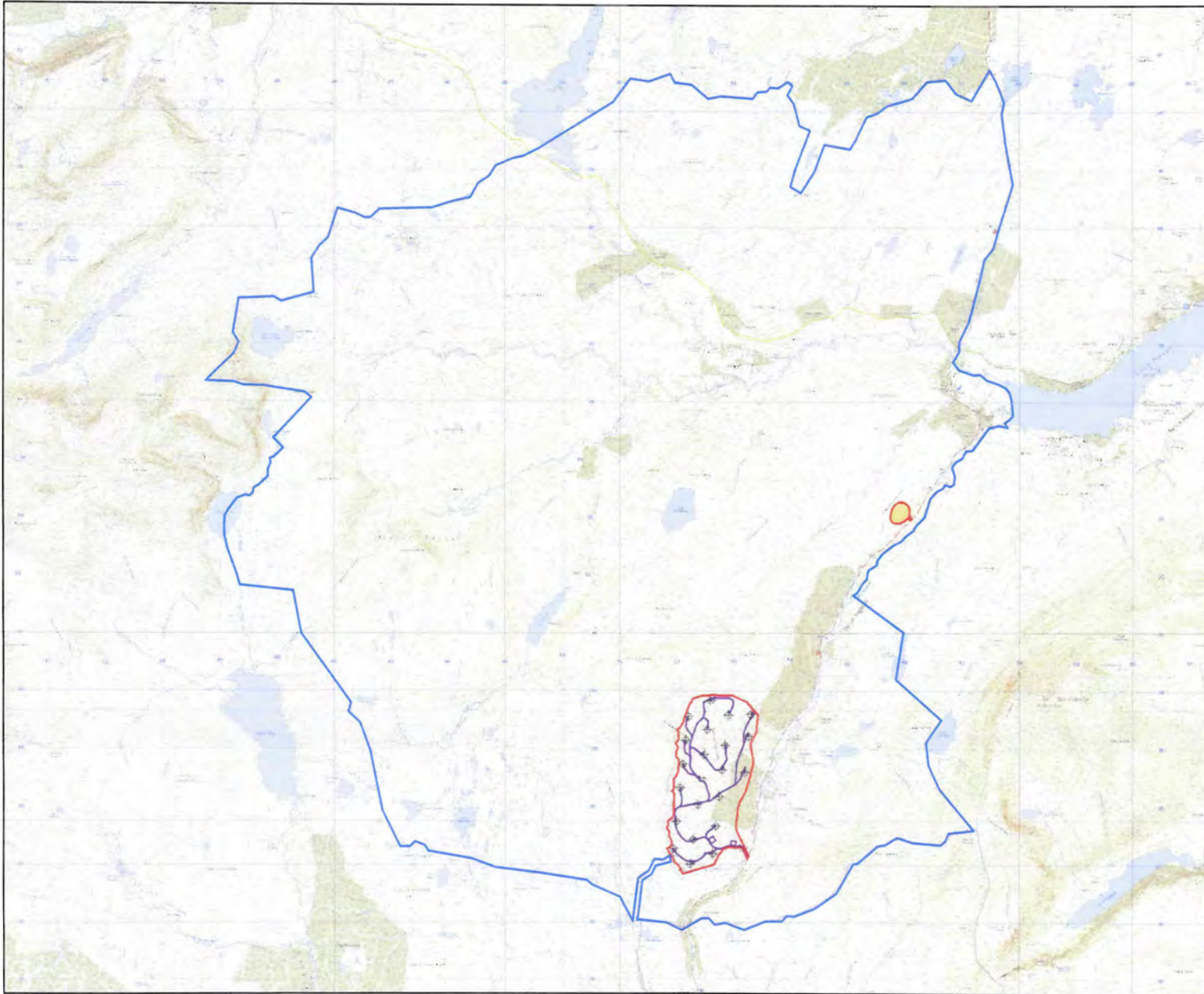
## **Public Representations**

This development has elicited substantial public interest with considered responses providing strong views both in support and against the siting of a wind farm in this area. **707** Public Representations have been received. **210** objected to the proposed development and **497** were in support of the proposed development.





The material considerations raised in objection related mainly to: impact on wild land, landscape, valued Munros, designated sites, nature conservation, peat / valued carbon sinks, water quality, fishing interests, tourism, economy, local roads / road safety; that the project would not create sustainable jobs and there are cumulative impacts.

Material considerations raised in the 497 letters of support related mainly to: benefits to economy, small fragile rural community, local energy costs, local infrastructure, estate diversification, that it is well located, is a good form of cleaner energy contributing to Scotland's climate change targets, is not unattractive and won't impact on nature, landscape and tourism.

# ANNEX 4a



## KEY

-  Estate Boundary
-  Wind Farm Site Boundary
-  Borrow Pit Site Boundary
-  Turbine Location
-  Access Track and Construction Compounds



CREAG RIABHACH  
WIND FARM



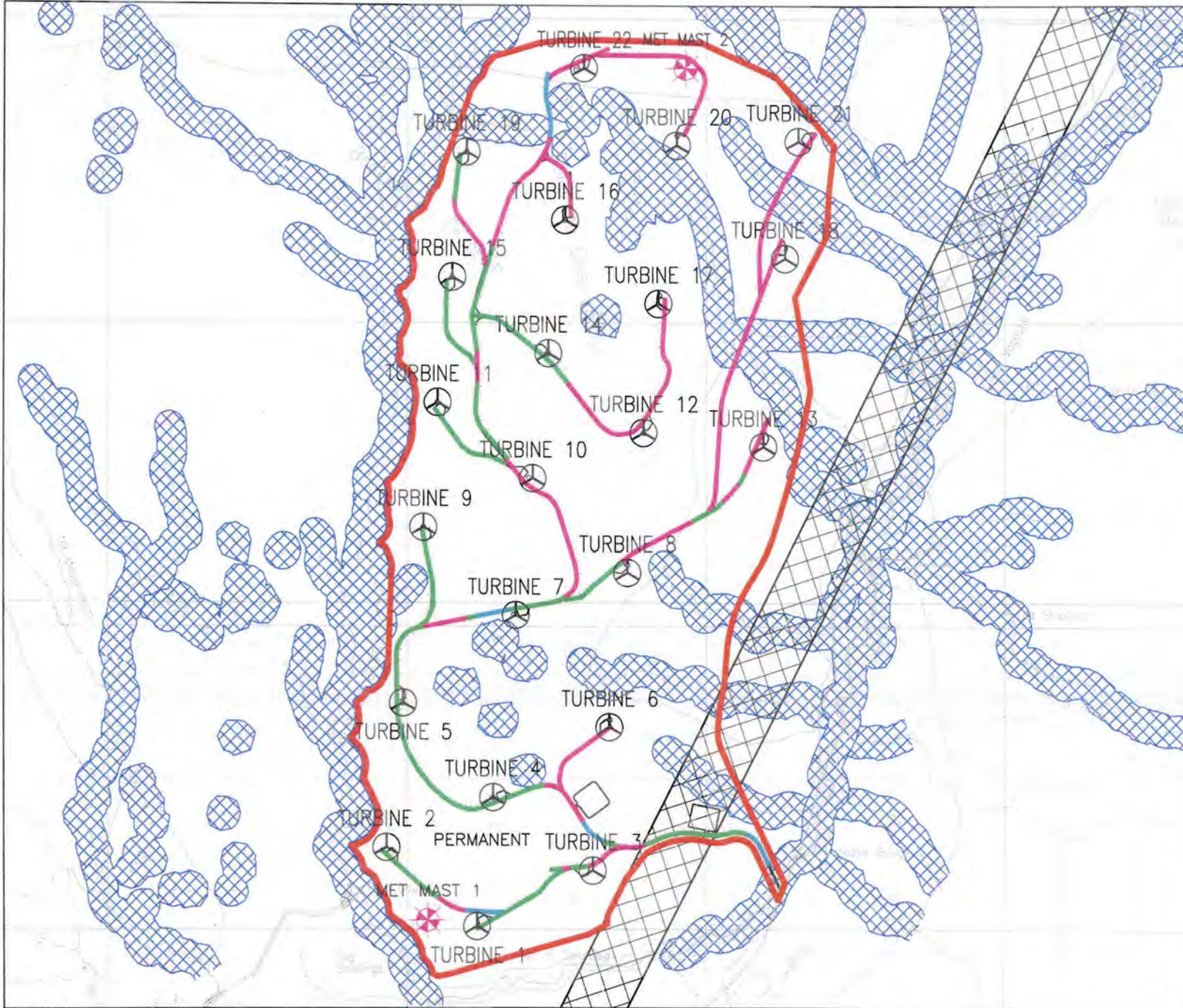
1.2  
Site Location Plan

FIGURE  
TITLE












1:70,000 @ A3  
C.0436\_50-A

SCALE  
DWG. NO.





**LEGEND:-**

-  DENOTES EXTENTS OF DEVELOPMENT SITE BOUNDARY
-  DENOTES 50m EXCLUSION ZONE FROM EXISTING WATERCOURSES
-  DENOTES APPROXIMATE EXTENT OF M200 STORM EVENT AS SHOWN ON SEPA'S FLOOD MAP.
-  DENOTES EVERYTHING EVERYWHERE LINK WITH 100m AND 400m WAYLEAVE.
-  TURBINE ACCESS TRACK
-  CONTOURS
-  WIND TURBINE LOCATION
-  PERMANENT MET MAST
-  EXCAVATE AND REPLACE
-  FLOATED ROAD
-  LOAD TRANSFER



CREAG R ABHACH WIND FARM 

2.10 FIGURE

Access Track Construction Type Plan TITLE

1:12500 @ A3 SCALE

1047868-002-D-016 DWG. NO.

