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The Scottish Government
Riaghaltas na h-Alba

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Dear Ms Anderson

CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR THE CONSTRUCTION AND OPERATION OF TANGY IV WIND FARM, LOCATED 3 KILOMETRES NORTH OF KILKENZIE, KINTYRE, WITHIN THE PLANNING AUTHORITY AREA OF THE ARGYLL AND BUTE COUNCIL.

Application

I refer to the application (the "Application") made on 06 September 2018 under section 36 of the Electricity Act 1989 ("the Act") made by SSE Generation Limited, a company incorporated under the Companies Act with company number 02310571 and having its registered office at No.1 Forbury Place, 43 Forbury Road, Reading, RG1 3JH ("the Company"), as supplemented by the additional information provided by the Company on 10 October 2018 ("the Additional Information"), for the construction and operation of a wind powered electricity generating station comprising 16 turbines with a ground to blade tip height of up to 149.9 metres ("the proposed Development").

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

Planning Permission

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

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

Planning Background to the Proposed Development Site

The proposed Development is sited on land approximately 9km north-west of Campbeltown. The site comprises of a combination of land uses including commercial forestry, grazing and electricity generation. Part of the land depicted in the red line boundary (Fig 1.1 of the EIA report) contains the existing and operational Tangy I and Tangy II wind farms, comprising a total of 22 wind turbines at 75 metres ground to blade tip height. Tangy I has been generating electricity since 2003 and Tangy II generating since 2007. Tangy I and Tangy II have a combined installed capacity of 18.7MW and are due for decommissioning in 2022.

The Company also hold planning permission, granted by Argyll and Bute Council in August 2017, for the construction and operation of Tangy III wind farm, comprising of 15 wind turbines at 130 metres ground to blade tip height with an installed capacity anticipated to be around 49.5MW.

Throughout the Application the Company reference where existing infrastructure can be reused or recycled as part of the proposed Development. This includes the upgrading and reuse of access tracks and the continued use of the existing 18.7MW capacity grid connection.

The proposed Development is to construct and operate 16 wind turbines at 149.9 metres ground to blade tip height with an installed capacity anticipated to be around 80MW, representing a 38 percent increase of renewable electricity generation in comparison to the already permitted Tangy III development.

Consultation, EIA Regulations and other Environmental Consideration

Under Schedule 8 to the Act, and the Electricity (Applications for Consent) Regulations 1990 ("the Consents Regulations") made under the Act, the relevant Planning Authority is required to be notified in respect of a section 36 consent application. In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the EIA Regulations") the Company submitted an Environmental Impact Assessment report ("the EIA report") in support of the Application describing the proposed Development and giving an analysis of its environmental effects. In accordance with requirements of both the Consents Regulations and the EIA Regulations, advertisement of the Application and the EIA report 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.

In addition, to comply with the EIA Regulations, Scottish Ministers require to consult the relevant planning authority, as well as Scottish Natural Heritage (SNH), the Scottish Environment Protection Agency (SEPA) and Historic Environment Scotland (HES) as well as other persons that are likely to be concerned by the proposed Development by reason of their specific environmental responsibilities. Notifications were sent to Argyll and Bute Council (the "Planning Authority") as the relevant planning authority as well as to SNH, SEPA and HES.

Under paragraph 3(2) of Schedule 9 to the Act Scottish Ministers must have regard to the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna and geological and physiological features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest. Scottish Ministers must have regard to the extent to which the Company has complied with its duty under paragraph 3(1)(b) requiring the Company must do 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) Scottish Ministers must avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

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

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

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

On the 10 October 2018, the Company submitted Additional Information comprising of 6 drawings, relating to the long term forestry plan referenced in the EIA report. In accordance with regulation 20 of the EIA Regulations the Additional Information was advertised, placed in the public domain and opportunity was given to those wishing to make a representation.

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

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

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

Under paragraph 3(3) of Schedule 9 of the 1989 Act, Scottish Ministers must also avoid, so far as possible, causing injury to fisheries or to stock of fish in any waters. Scottish Ministers are satisfied that this is the case and more generally that the requirements of paragraph 3 have been met.

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

Conservation of Habitats and Species Regulations

SNH in their response to Scottish Ministers advised of the connectivity between the proposed Development and the Kintyre Goose Roosts Special Protection Area (SPA) classified for its non-breeding Greenland white-fronted goose (GWFG) population, which lies adjacent to the site boundary. SNH also advised that the Kintyre Goose Roosts Ramsar site and Kintyre Goose Lochs SSSI may also be affected but that any concerns about the interests of these designations had been fully addressed as part of SNH's consideration and advice given on the SPA.

A Habitats Regulation Appraisal (HRA) has been carried out. The environmental information to inform the appraisal was presented in the EIA Report which 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, and in view of the proposed conservation objectives of the Kintyre Goose Roosts SPA, that the results of survey work and collision risk analysis demonstrate that the proposed Development will not, adversely affect the integrity of the site.

Public Local Inquiry

In terms of paragraph 2 of Schedule 8 to the Electricity Act if the Planning Authority make an objection and that objection is not withdrawn, the Scottish Ministers must cause a public inquiry to be held unless the Scottish Ministers propose to accede to the application subject to such modifications or conditions as will give effect to the objection of the Planning Authority. Following the consultation exercise Argyll and Bute Council did not object therefore a PLI is not a statutory requirement.

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

West Kintyre Community Council object to the proposed Development on the grounds that the increased size of the turbines significantly increase the visual effect on the landscape to both the local community residing within the area and those visiting and travelling within and around the area and the Scottish Rights of Way and Access Society (ScotWays) also object to the prospect of this proposed Development being given consent 'in perpetuity'.

Scottish Ministers have considered the afore mentioned objections as well as the 7 public objections received and taking all material considerations and other consultation responses into account, consider that there are no significant issues which have not been adequately considered in the EIA Report, the Additional Information and the consultation responses.

Ministers are satisfied there is sufficient information to be able to make an informed decision on the application and that it would not be appropriate to hold a PLI.

Summary of the Consultation Responses

Argyll and Bute Council (the Planning Authority) does not object to the proposed Development. They advised in their response that they had considered the proposed Development against the following local and national policies, plans and supplementary guidance:

- Scottish Planning Policy;
- National Planning policy Framework 3;
- the Argyll and Bute Local Development Plan (2015);
- Supplementary Guidance to the Argyll & Bute Local Development Plan 2015 & 2016;
- *The Future of Energy in Scotland: Scottish Energy Strategy*; Onshore wind policy statement, SNH Review 78 – Landscape assessment of Argyll and the Firth of Clyde (1996);
- SNH Siting and Designing Wind Farms in the Landscape Guidance; guidance for Landscape and Visual Impact Assessment, 3rd Edition, Landscape Institute and Institute of Environmental Management & Assessment;
- 'Argyll and Bute Landscape Wind Energy Capacity Study' SNH and A&BC (2017);
- The Scottish Government's Policy on 'Control of Woodland Removal' (Forestry Commission Scotland 2009); and
- Historic Environment Scotland Policy (June 2016).

The Planning Authority took into account the views of statutory and other consultees; the planning history of the site; and legitimate public concern or support expressed on relevant planning matters before providing Ministers with their response.

The Planning Authority summarise that the proposed Development is located within a mixture of Rural Opportunity Area, Countryside and very sensitive countryside, as delineated by the Local Development Plan maps for South Kintyre. The Planning Authority advises that the proposed Development has demonstrated that the scale and location, in combination with other existing and consented large scale turbines, will integrate sympathetically with the landscape, without giving rise to adverse consequences for the visual amenity of its surroundings. The Planning Authority concludes that the proposed Development therefore satisfies Development Plan Policy and associated guidance in respect of the wind farm development.

The Planning Authority made a number of recommendations for conditions to be imposed to any planning permission granted by Scottish Ministers and to also be consulted on any final draft prior to determination. The conditions recommended by Planning Authority include:

- Requiring the woodland replanting figure, outlined in the EIA Report is corrected to reflect the known locations of the badger setts within the site;
- Requiring the mitigation measures, detailed in the EIA Report, are implemented;
- The provision of an updated detailed Habitat Management Plan (HMP) as outlined by SNH;
- Securing the appropriate mitigation to protect Tangy Loch SSSI from water quality impacts;
- Securing a Construction Environment Management Plan (CEMP);
- Preventing disturbance to Greenland white-fronted goose (GWFG);
- Ensuring requirements for compensatory planting for any felling undertaken as part of the Development;
- Requiring the control of noise immissions as recommended by the Council's Environment Protection Officer;
- Mitigation measures to secure the quality, quantity and continuity of private water supplies;
- Final details of external lighting;
- Control potential Shadow Flicker impact to ensure that the relevant turbines are programmed to shut down at appropriate times to avoid any adverse impact on neighbouring properties;
- Secure appropriate aviation lighting as required by the Ministry of Defence (MOD) and Highlands and Islands Airports Limited (HIAL);
- Conditions for traffic management as required by Transport Scotland and the Planning Authority's area roads engineer;
- Conditions to secure the decommissioning of the Tangy I and II wind farms; and
- Conditions to secure the decommissioning of the Development to an acceptable standard, including associated ancillary infrastructure and site restoration.

Ministers have consulted with the Planning Authority and have imposed appropriate conditions at Annex 2 to address the aforementioned recommendations.

The Planning Authority also asked Ministers to take account of the following matters, raised in response to the consultation on the proposed Development, in their consideration of the proposed Development:

- Requirement for an independent tourism impact assessment;
- Limiting the permission to reflect the expected lifespan of the turbine technology;
- The mitigation measures suggested by SNH and the Planning Authority's Landscape Consultant to lessen the impact of the proposal on the raised beach; and
- The relocation of the turbine nearest to Tangy Loch (Turbine 5) and the relocation of borrow pit search areas depicted adjacent to Turbines 4 and 5 as

recommended by HES to reduce the adverse impact upon Tangy Loch, Fortified Dwelling.

Scottish Ministers have given detailed consideration to the recommendations made by the Planning Authority in this decision letter under the heading *"Assessment of the Determining Issues"*.

The Scottish Environmental Protection Agency (SEPA) initially objected to the proposed Development on the grounds that there was a lack of information regarding private water supplies. Following clarification from the Company which set out that no excavations or modifications will take place at existing roads which intersect the 100m and 250m buffer around private water supplies, SEPA removed its objection. SEPA are content with the Peat Management Plan (PMP) submitted with the EIA report. They advise of the need for any surplus peat to be disposed of appropriately in line with regulatory requirements. SEPA have considered the flood risk in the area of the proposed Development and have no objection. SEPA also directs the Company to the Regulations section of the SEPA website for advice on regulatory requirements and good practice advice.

Scottish Natural Heritage (SNH) does not object to the proposed Development subject to appropriate conditions in relation to Tangy Loch Site of Special Scientific Interest (SSSIs). The proposed Development's boundary is also adjacent to the Kintyre Goose Roosts Special Protected Area (SPA) classified for its nonbreeding Greenland white-fronted goose population. The section of this letter headed "Conservation of Habitats and Species Regulations" sets out SNH's advice regarding the requirements of the Habitats Regulations.

SNH additionally concludes that the proposed Development has a hydrological connection with Tangy Loch SSSI, which is notified for its non-breeding Greenland white-fronted goose population, oligotrophic loch, and slender naiad (a nationally rare aquatic plant). SNH concludes that the proposed Development could be progressed with appropriate mitigation measures, and that suitably worded conditions should be included to address the following:

- Further site investigation following tree removal to determine more accurately the peat slide risk associated with all infrastructure;
- Implementation of site specific mitigation measures based on the recommendations in Sections 1.16 – 1.19 of the Peat Slide Risk Assessment (Technical Appendix 11.1); and
- Implementation of site specific mitigation measures based on the Watercourse and Aquatic Habitat Pollution Prevention Measures outlined in Section 10.6.10 and implementation of a detailed site specific CEMP as discussed in Section 10.6.7 of the EIA Report.

SNH made a number of further recommendations which have been considered by Scottish Ministers in relation to ecological impacts; updating the replanting figure to reflect known badger setts within the site; and peatland. Scottish Ministers are satisfied that appropriate conditions, set out at annex 2, give effect to the matters raised by SNH and their recommendations.

Scottish Ministers note the concerns raised by SNH in the context of the landscape and visual impacts of the proposed Development and their advice that the turbine heights and scale would require to be significantly reduced as well as consideration given to the re-siting/removal of wind turbines away from the west coast in order to reduce the adverse landscape and visual impacts of the proposed Development. Scottish Ministers have given their consideration to the landscape concerns raised by SNH in this decision letter under the heading *"Assessment of the Determining Issues"*.

Historic Environment Scotland (HES) does not object to the proposed Development. They noted the significant effects, identified in the EIA Report, on the following two scheduled monuments:

- Tangy Loch, Fortified Dwelling (SM3180); and
- Killocraw Cairn, 450m ESE of (SM3664).

They concurred with the findings of the EIA report that there would be a moderate and therefore significant effect on the setting of these assets but considered that, while significant in EIA terms, the effects do not adversely affect the integrity of the setting of these scheduled monuments and were not of such an order that they warranted an objection. They recommended that the re-location of turbine number 5 and the search areas for borrow pits adjacent to turbines numbered 4 and 5 should be considered to reduce the adverse impact on the Tangy Loch Fortified Dwelling.

Scottish Ministers have given further consideration to the recommendations made by HES in this decision letter under the heading *"Assessment of the Determining Issues"*.

Internal Scottish Government advisors

Marine Scotland does not object to the proposed Development and welcomed the proposed water quality monitoring programme. It recommends the Company establish a robust integrated water quality and fish monitoring programme to ensure the water quality does not deteriorate throughout the development, as required by the Water Framework Directive, and to protect fish populations of high national conservation importance within and downstream of the proposed development area.

Scottish Ministers have attached a condition within Annex 2 which gives effect to Marine Scotland's recommendation.

Transport Scotland does not object to the proposed Development. Transport Scotland requests that Scottish Ministers include a condition to prevent movement of abnormal loads on trunk roads without the prior approval by Transport Scotland of route plans indicating accommodation measures including the removal of street furniture, junction widening, and traffic management. A further condition was requested to require the use of a recognised *"QA traffic management consultant"* to be approved by Transport Scotland in the event that additional signing or temporary traffic control measures are deemed necessary due to the size or length of any loads being delivered or removed, before delivery of wind turbine construction materials commences. Scottish Ministers have imposed planning conditions within Annex 2 to secure Transport Scotland's requirements.

Scottish Forestry (formally Forestry Commission Scotland) initially objected to the proposed Development on the basis of lack of information regarding UK Forestry Standard compliance. Following further engagement with the Company and further assessment of the information provided, Scottish Forestry withdrew its objection. Scottish Forestry requested that Ministers include a condition to secure the appropriate compensatory planting. Scottish Ministers have attached an appropriately worded condition within Annex 2 which gives effect to this request.

Advisors to Scottish Government

AM Geomorphology Ltd recommended minor revisions and justifications to the Peat Landslide Hazard Risk Assessment in order to ensure the assessment is sufficiently robust. Following justification and clarification from the Company, AM Geomorphology is satisfied with the assessment and had no further comments to make.

Other Consultees

British Telecom does not object to the proposed Development. The Development should not cause interference to BT's current and presently planned radio network.

Campbeltown Community Council did not respond to the consultation.

Civil Aviation Authority did not respond to the consultation.

Crown Estate Scotland does not object to the proposed Development and confirmed that assets of Crown Estate Scotland are not affected.

Defence Infrastructure Organisation does not object to the proposed Development. It was requested that in the interest of air safety that the Development be fitted with aviation safety lighting. The Defence Infrastructure Organisation also requires to be advised of the following prior to the commencement of construction:

- the date construction starts and ends;
- the maximum height of construction equipment; and,
- the latitude and longitude of every turbine.

Ministers have included planning conditions within Annex 2 to give effect to these requirements.

East Kintyre Community Council did not respond to the consultation.

Fisheries Management Scotland did not respond to the consultation.

Glasgow Airport does not object to the proposed Development as it is outwith their consultation zone.

Glasgow Prestwick Airport does not object to the proposed Development as it does not interfere with their radar or safeguarding functions or areas.

Highland and Island Airport does not object to the proposed Development subject to conditions to ensure red aviation warning lighting is fitted at hub height for some of the turbines. Scottish Ministers have imposed an appropriate condition at Annex 2 to addresses Highland and Island Airport's concerns.

John Muir Trust did not respond to the consultation.

Joint Radio Company does not object to the proposed Development.

Local Salmon Fisheries Board did not respond to the consultation.

Mountaineering Council of Scotland did not respond to the consultation.

NATS Safeguarding initially objected to the proposed Development as its preliminary findings found that the Development would conflict with their safeguarding criteria. Following further studies and modelling, NATS withdrew its objection.

Nuclear Safety Directorate did not respond to the consultation.

RSPB does not object to the proposed Development but recommended that suitable conditions are applied to prevent disturbance of Greenland white-fronted goose. RSPB asked that a Habitat Management Plan and group with funding be established to deliver biodiversity improvements alongside the wind farm throughout operation and decommissioning.

Scottish Ministers have secured further requirements as detailed by SNH in the Habitat Management Plan and are satisfied that no other additions or alterations are required.

Scottish Water does not object to the proposed Development.

Scottish Rights of Way and Access Society (ScotWays) objected to the prospect of this Development being given consent 'in perpetuity'.

Scottish Ministers have set out their consideration of this matter within this letter under the heading *"Period of Consent"*.

Scottish Wildlife Trust did not respond to the consultation.

Southend Community Council did not respond to the consultation.

The Laggan Community Council did not respond to the consultation.

Visit Scotland does not object to the proposed Development. In general terms, without specific reference to the proposed Development, it highlighted the importance of scenery to tourism and advised that any potential detrimental visual, environmental or economic impact on tourism be identified and considered in full.

West Kintyre Community Council objected to the Development on the grounds that the increased size of the turbines significantly increase the visual effect on the landscape to both the local community residing within the area and those visiting and travelling within and around the area.

Scottish Ministers are satisfied that the landscape and visual impacts of the proposed Development are acceptable in the balance of the provision of renewable energy in a location on which there currently is an operational wind farm. Ministers' consideration of the landscape and visual concerns raised by consultees has been undertaken under *"Assessment of the Determining Issues"* of this decision letter.

Summary of Public Representations

Scottish Ministers received 38 representations from members of the public in support of the proposed Development and 7 representations from members of the public objecting to the Application.

Representations in support of proposed Development state the following: the benefit renewable energy has on the environment; the boost in the local economy as a result of the proposed Development; and that repowering this site with modern turbines enhances renewable energy going forward.

The concerns raised within the objections are: the height of the larger turbines will overpower and spoil beautiful and tranquil areas; there will be an increase in traffic during construction affecting local people; effects on private water supplies; valuation of properties will be damaged due to overpowering views of wind turbines; and that the proposed Development will increase the noise pollution and have a detrimental effect on residents health.

The Policy Context

Climate Change and Renewable Energy Targets

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

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 Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (the 2019 Act) received Royal Assent on 31 October 2019 and sets a target for Scotland to be carbon-neutral, meaning net-zero CO^2, by 2045 at the latest. Additionally the 2019 Act sets out two interim targets to reduce emissions by 75% by 2030 and by 90% by 2040.

The Scottish Government's 2020 Route map for Renewable Energy in Scotland published in June 2011 and updated in September 2015 confirms that the Scottish Government's target for renewable electricity generation is for renewables to generate at least the equivalent of 100% of gross annual consumption by 2020.

The Scottish Government's ambitions for renewables and the delivery of clean electricity in Scotland go beyond the current 2020 target. The Scottish Government has set a 2030 decarbonisation target, to achieve a carbon intensity of below 50 g CO2/kWh of electricity generation in Scotland.

Published BEIS Energy Trends data showed that in the first quarter of 2019 renewable electricity generation in Scotland was 8,877 gigawatts ("GW"), an increase of 17% on the same quarter in 2018 indicating that Scotland remains above the interim 2015 target of 50% suggesting that progress is being made towards achieving the target of 100% by 2020.

Data as at June 2019 shows that Scotland had 11.6 gigawatts ("GW") of installed renewable electricity generation capacity, with an additional 13GW of capacity either under construction or consented, the majority of which are wind generation projects.

Not all consented schemes will progress to implementation for a variety of reasons and therefore Scottish Ministers consider it is important to capitalise, and indeed maximise, on opportunities to repower and replace in areas where there is currently existing renewable electricity generation.

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 sets out the strategic spatial policy context for decisions and actions by Scottish Government and its agencies, and all planning authorities are required to reflect this policy in their strategic and local development plans. Amongst its wide-ranging policies, NPF3 sets out the need for a strategy to reduce reliance on fossil fuels and emphasises not just the challenges in embracing a renewable and low carbon economy while protecting and sustaining environmental assets but also the wider benefits that this will bring, especially in employment creation. 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 Scottish Planning Policy further sets out what is expected of the planning system, including a spatial strategy for low carbon place where an 80% reduction in greenhouse gas emissions is achieved by 2050.

Ministers are satisfied that the proposed Development makes a valuable contribution towards meeting greenhouse gas emissions and renewable electricity targets, as well as the diversification of energy supplies.

Scottish Planning Policy (SPP)

The Scottish Government supports onshore wind energy development in appropriate locations, setting out that policies and decisions should be guided by certain principles, including: giving due weight to economic benefits; supporting delivery of infrastructure, including energy, and; protecting natural heritage, including landscape and the wider environment. SPP also states that the planning system should support the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity.

SPP introduces a presumption in favour of sustainable development by enabling development that balances the costs and benefits of a proposal over the longer term with the aim being to achieve the right development in the right place.

At paragraph 77 of SPP, it is set out that in remote and fragile areas and island areas outwith defined small towns, in which this proposed Development would be sited, the emphasis should be on maintaining and growing communities by encouraging development that provides suitable sustainable economic activity, while preserving important environmental assets such as landscape and wildlife habitats that underpin continuing tourism visits and quality of place.

Paragraph 169 of SPP identifies a range of considerations which must be balanced to be able to reach an overall conclusion over whether renewable energy proposals, including onshore wind farms, are acceptable on a case by case basis. When considered as a whole, it is principally this balance which also determines whether or not a wind energy proposal would be a sustainable form of development. Consideration will vary relative to the scale of the proposal and area characteristics but are likely to include impacts on: landscapes and visual amenity; natural heritage; 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.

Paragraph 169 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.

The proposed Development has been identified as falling into Group 3 of Scottish Planning Policy spatial framework. These are areas with potential for wind farm development, where wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.

Paragraph 170 further advises that areas identified for wind farms should be suitable for use in perpetuity. It sets out that consents may be time-limited but wind farms should nevertheless be sited and designed to ensure impacts are minimised and to protect an acceptable level of amenity for adjacent communities.

Scottish Ministers are satisfied that matters pertaining to SPP have been addressed in the Application, the EIA report, Additional Information and responses to the consultation by the Planning Authority, SEPA, SNH, HES and other relevant bodies. The range of considerations set out in paragraph 169 have been taken into account by Scottish Ministers before reaching their determination. The site specific, determinative factors in respect of the proposed Development are considered in detail under the heading *"Assessment of the Determining Issues"*

Scotland's Energy Strategy

The Energy Strategy sets out a vision for the future energy system in Scotland through to 2050. It sets out the priorities for an integrated system-wide approach that considers the use and supply of energy for heat, power and transport. The strategy sets out two new targets for the Scottish energy system by 2030 – (1) the equivalent of 50% of the energy for Scotland's heat, transport and electricity consumption to be supplied from renewable sources; (2) an increase by 30% in the productivity of energy uses across the Scottish economy. The strategy provides a long term vision to guide energy policy decisions to tackle the challenges of decarbonising heat and transport in order to meet Scotland's long term energy and climate change targets.

The Onshore Wind Policy Statement (OWPS) reaffirms the vital role for onshore wind in meeting Scotland's energy targets and in particular clear support. The statement sets out the Scottish Government's position for the ongoing need for more onshore wind development and capacity in locations across Scotland where it can be accommodated. It is also recognised that many established onshore wind sites will be coming to the end of their consented life during the coming decade and beyond and as the need and demand for renewable power increases, it is likely that the industry will review the potential for "repowering" at existing sites. This could be in the form of measures designed to extend the life of components and turbines at such sites, or replacing and replanting existing turbines with new turbines.

The Scottish Government's position, set out in the OWPS, remains one of clear support in principle for repowering sites. This is on the grounds of its potential to make the best use of existing sites, and through the continued use of established infrastructure, grid connections and strong wind resource to provide a cost effective option to deliver our renewable and decarbonisation targets.

OWPS also acknowledges that although the common assumption is that there is a 25 year life limit for the operation of a wind farm, there is no current statutory or legislative limits imposed on the duration of consent that may be granted. The operating period of an individual matter which developers may consider prior to the submission of an application. In this case the Company has requested no time limit on the consent to operate the wind farm. Ministers have considered this request in more detail under the section headed *"Period of Consent"*.

Ministers are satisfied that the proposed Development will contribute to these strategic priorities.

Compatibility with Local Development Plan and Supplementary Guidance

Argyll and Bute Council in their response to Scottish Ministers, raised no objection. Having assessed the proposed Development against their Argyll & Bute Local Development Plan 2015 and Supplementary Guidance to the Argyll & Bute Local Development Plan 2015 & 2016, they consider on balance that the proposed

Development is consistent with their Local Development Plan and Supplementary Guidance.

Ministers accept and agree with the Planning Authority's view that the proposed Development is supported by their Local Development Plan and Supplementary Guidance and have imposed the relevant conditions as requested by the Planning Authority.

The Scottish Ministers Considerations

Main Determining Issues

Having considered the Application, the EIA report, the Additional Information, responses from consultees and third parties and Scottish Government policies, Ministers consider that the main determining issues are:

- the environmental impacts of the proposed Development, in particular the landscape and visual impacts and impacts on scheduled monuments;
- impacts of granting consent with no time limit;
- the estimated economic benefits which the proposed Development is likely to bring;
- the renewable energy benefits of the proposed Development; and
- the extent to which the proposed Development accords with and is supported by Scottish Government policies.

Assessment of the Determining Issues

Landscape and visual Impacts

The proposed Development is located within the Upland Forest Moor Mosaic Landscape Character Type, adjacent to the Rocky Mosaic and Bay Farmland Landscape Character Types (LCT). The West Kintyre (Coast) Area of Panoramic Quality (APQ), designated as such within the Argyll and Bute Local Development Plan (2015), is located approximately 300 m to the west of the site, and covers the A83 road corridor. In landscape terms, taking account of the Planning Authority's Spatial Framework, this means the proposed Development falls within a Group 3 area (sites that would be acceptable for wind farms subject to detailed consideration against identified policy criteria).

Policy LDP 6 - Supporting the Sustainable Growth of Renewables of Argyll and Bute's Local Development Plan, Supplementary Guidance 2 (Renewable Energy) and SPP require applications for wind turbine developments to be assessed against any landscape and visual impacts.

The Company provided a full and detailed assessment of the landscape and visual impacts of the proposed Development in the EIA report, which has been considered by SNH and the Planning Authority before responding to Ministers on the proposed Development.

SNH's View

SNH does not object to the proposed Development. They summarise in their response to Scottish Ministers their view that, "*the proposed Development is too close to the coast and too large for this sensitive landscape context. As a result, the scale of turbine proposed would tend to be perceived as overbearing on the landscape.*".

SNH provide advice on mitigating the impacts of the proposed Development stating that "*the turbine height and scale would need to be significantly reduced to improve the landscape fit of the scheme and reduce landscape, visual and cumulative impact. In addition, removing/ re-siting some turbines away from the west coast is likely to reduce impacts on the coast.*".

The Planning Authority's View

The Planning Authority in their consideration of the proposed Development summarised their view that "*the existing wind farm is a well-established part of the local landscape and not an unusual site in this part of Kintyre. It is also a positive that the proposed turbines are being moved away from the coast which helps to compensate for the increase in height. It is concluded that the proposal will not result in significant adverse landscape effects on the Upland Forest Moor Mosaic (LCT) or the Bay Farmland LCT). The proposal does however have the potential to worsen the already accepted impact on the Rocky Mosaic LCT (accepted by approval of Tangy III). This impact is evident from VP 1 where turbines are visible above the raised beach scarp.*"

Other Views

The Scottish Ministers note that West Kintyre Community Council objected on the basis of the landscape and visual effects of the larger wind turbines associated with the proposed Development and there were also 7 representations from members of the public in objection citing the size of the wind turbines as the basis of their objections. Scottish Ministers also note however, the strong support cited in support of the proposed Development, including the support of newer more efficient turbine technology to enhance renewable energy production.

Conclusions

Scottish Ministers agree with the conclusions drawn by the Planning Authority that the proposed Development will not result in significant adverse landscape effects on the Upland Forest Moor Mosaic or the Bay Farmland LCTs. Scottish Ministers acknowledge however that the proposed Development has the potential to worsen the already accepted impact on the Rocky Mosaic Landscape Character Type (accepted by the approval of Tangy III (as varied) planning permission, experienced primarily from the A83 on the west coast of the Kintyre peninsula.

Ministers have considered the Landscape and Visual Impact Assessment (LVIA) provided in Chapter 8 of the EIA report (inclusive of figures 8.7 and 8.81 and 8.82 and 8.9.1.5) and agree with the conclusions *that "the proposed turbines would potentially* *be visible from a relatively short section of the A83 between the area around Glenbarr War Memorial (also a Core Path) and south of Glenbarr Burial Ground".*

In considering figure 8.9.1.5 Ministers find that the potential visibility of 5 of the wind turbines forming part of the proposed Development is significantly more noticeable than the visibility of the 5 wind turbines from the existing wind farm shown in figure 8.9.1.2. Ministers also find however that although the proposed turbines are more noticeable, in comparison to the existing visibility, they are evenly spaced and grade down in height towards the coast. Ministers also agree generally with the statement in the LVIA that *"Within the study area, the A83 carries traffic along (or close to) the west coast of Kintyre and, as such, views are often focussed out to sea, where the islands of Gigha, Islay and Jura are prominent features"* and note the limited extent of the route potentially affected by the proposed development (5.1 km of a 51 km route).

Ministers conclude that although the visibility of the turbines forming part of the proposed Development is clearly more prominent from this small section of the A83, the turbines have been carefully designed and follow the gradient of the beach scarp to the coast. Travellers along this part of the coast will therefore experience their prominence for a very limited amount of time and will not be distracted from views that are likely to be focussed out to sea, travelling either north or south, and therefore should not spoil the overall experience this area of panoramic quality.

Ministers are satisfied that the landscape and visual impacts of the proposed Development are not *unacceptably* greater than those already approved by the Planning Authority and therefore do not find it necessary to require further design mitigation in the form of relocating the wind turbines, reducing the amount or lowering the height of wind turbines forming part of the proposed Development.

Scheduled Monuments

HES does not object to the proposed Development. In their response to Scottish Ministers they noted the significant effects, identified in the EIA Report, on the following two scheduled monuments:

- Tangy Loch, Fortified Dwelling (SM3180); and
- Killocraw Cairn, 450m ESE of (SM3664)

They concurred with the findings of the EIA Report that there would be a moderate and therefore significant effect on the setting of these assets but considered that, while significant in EIA terms, the effects do not adversely affect the integrity of the setting of these scheduled monuments. They recommended that the re-location of turbine number 5 and the search areas for borrow pits adjacent to turbines numbered 4 and 5 should be considered to reduce the adverse impact on the Tangy Loch Fortified Dwelling.

Ministers note that the proposed Development has undergone a thorough design iteration process which took account of *all* of the environmental constraints. Ministers, have considered chapter 13 of the EIA Report, paragraphs 13.7.12 to 13.7.17, and its associated figures, and agree with the conclusions drawn in the assessment at paragraph 13.7.17 that "*the critical relationship between the dwelling, the island and the loch would not be disrupted* ".

Ministers consider that although turbine number 5 is closest to the dwelling, any relocation that could be accommodated, given the other environmental constraints, or indeed its removal given the proximity of the other wind turbines on the site, is unlikely to give effect to any discernible change to the overall impacts on the setting of the asset and therefore do not consider necessary to impose requirements to relocate or remove turbine 5.

Other Environmental Impacts

Scottish Ministers note that the Planning Authority and Visit Scotland in their consideration of the proposed Development requested that an independent tourism impact assessment be carried out. Ministers consider chapter 16 of the EIA report sufficiently addresses tourism impacts and are satisfied that no significant effects will result from the proposed Development and therefore do not consider necessary to carry out an independent tourism impact assessment.

Period of Consent

ScotWays objected to the prospect of this Development being given consent *'in perpetuity'*. The Planning authority also asked Scottish Ministers to consider limiting the permission to reflect the expected lifespan of the turbine technology.

As already set out above in the terms of the policy context, areas identified for wind farms should be suitable for use in perpetuity. Consents may be time-limited but wind farms should nevertheless be sited and designed to ensure impacts are minimised and to protect an acceptable level of amenity for adjacent communities. The OWPS further acknowledges the 25 year time commonly attached to wind farm permissions is an assumption rather than a requirement advising that *"The operating period of an individual wind farm is a matter which developers can consider and discuss prior to the submission of an application. It should be noted that this does not remove the need for decommissioning provisions, where considered appropriate."*

The Company in this case requests that Scottish Ministers consider granting consent in perpetuity, citing supporting policy principles and highlighting that conditions attached to any consent would limit the design to that which had been consented.

Scottish Ministers appreciate that the lifespan of wind farm sites vary and are usually dependant on elements such as site specific weather conditions, turbine performance and condition over time, therefore, the proposed Development (if built) would likely require being revisited at an optimal point in the future. Granting the consent for a longer period than has been typically granted before whilst securing any future requirement to decommission presents a real opportunity to take advantage of potential technological advances in wind turbine replacement and will allow the proposed Development to produce renewable electricity for as long as is possible. It does not permit the Company at a future date to extend the wind farm or materially diverge from the description of the consented Development.

The opportunity in this case to extend the production of renewable energy and promote good practice in the maintenance and operation of the proposed Development, to extend its operational life in line with the principles as set out in SPP, is considered by Ministers to be appropriate in this case.

With continual advancement of technology and the production of more efficient wind turbines it is generally expected that these machines will be capable of producing electricity over a longer period. Nevertheless it is acknowledged in practical terms that, even with good practice in maintenance, wind turbine generators have a natural lifespan of operation. The Scottish Ministers have therefore decided that in this case it is appropriate to grant consent for a period of 50 years and in doing so have specified conditions to control the Development during this time period.

Appropriate conditions have been imposed by Scottish Ministers at Annex 2 of this consent to ensure the proposed Development is maintained and operated in accordance with the terms of the consent.

Economic Benefits

SPP advises that proposals for energy infrastructure developments should always take account of spatial frameworks for wind farms 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 potential tourism effects of the proposed Development have been considered in detail with reference to the most recent and robust evidence available on the potential impact of wind farms on tourism, including a report by BiGGAR Economics undertaken in 2017. None of this suggests that wind farms are likely to have a significant detrimental effect on tourism, nor consequently on the economic benefits of tourism.

The EIA Report acknowledges that Campbeltown has a fragile economy and reports on the benefits that renewable energy generation has had to the Argyll and Bute economy. The Company is committed to utilising local contractors during construction with contract values anticipated to be worth up to £120m. The re-powering of the Tangy site brings further opportunities for economic development within Argyll and Bute which is particularly important for Campbeltown. The associated potential for direct economic benefit and induced employment creation is expected to create moderate and significant beneficial effects at a local scale in Kintyre. Based on the analysis within the EIA report it was estimated that the local area could secure contracts worth £10.8 million and support 95 job years. The largest opportunity in the local area, as a consequence of the presence of an existing local turbine tower manufacturing factory, upgraded harbour facilities, and an existing operational wind farm with exceptional wind resource, and associated infrastructure would be in turbine contracts (including the towers), which could be worth £6.8 million and support 59 job years.

Whilst it is difficult to precisely quantify overall net economic benefits, given direct and indirect effects and timescales, Ministers are satisfied the proposed Development has the potential for significant positive net economic benefits both to the local community and Argyll and Bute more generally.

Renewable Energy Produced and 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.

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 makes a significant contribution towards meeting greenhouse gas emission and renewable electricity targets. The proposed Development will have a generating capacity of up to 80 MW based on current technology. The deployment of this 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.

Carbon Payback

The carbon payback for the proposed Development has been presented in the EIA Report using the approved carbon calculator. In overall terms the proposed Development if built would be expected to have a payback period of 1.8 years of operation (or 4.2 years on worst case expectations).

Whilst noting the limitations of any such calculations, the online carbon calculator provides the best available means by which carbon calculations can be provided in a consistent and comparable format.

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

Development. The annual CO2 savings would be approximately 94,611 tonnes, in comparison to a typical grid mix of electricity supply.

Policy Support

Scotland's renewable energy and climate change targets, energy policies and planning policies are all material considerations when weighing up this development. NPF3, SPP the Energy Strategy and the Onshore Wind Policy Statement 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 varied development.

The aforementioned NPF3 sets out Scottish Government's commitment to establishing Scotland as a leading location for the development of renewable energy technology. In Scotland there has been significant progress towards low carbon objectives whilst we have continued to protect our special places from significant adverse impacts.

As previously set out, SPP contains guidance in respect of the granting of development consent for wind farm development. SPP is to be read and applied as a whole. It sets out overarching Principal Polices to be applied to all development and Subject Policies which set out guidance in respect of development management. An overarching principle of SPP is that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost. This means that decisions and policies should be guided by certain principles including, among others, giving due weight to net economic benefit; supporting the delivery of infrastructure; supporting climate change mitigation and protecting natural heritage. The aims of these policies require to be considered and balanced when reaching a decision on applications for wind energy development.

Scottish Government's Energy Strategy OWPS sets out targets for the increase in the supply of renewable energy. The OWPS in particular reaffirms the vital role for onshore wind in meeting Scotland's energy targets. The statement sets out the Scottish Government's position for the ongoing need for more onshore wind development in locations across Scotland where it can be accommodated. There is also clear support in principle for repowering at existing sites by making best use of the potential at existing sites.

The proposed Development is sited in an area with an already established use as a wind farm. The reuse of some of the existing infrastructure and the opportunity to explore the technological capabilities of future technologies in maximising the operational lifespan of this proposed Development are all in accordance with policy objectives in respect of the provision of renewable energy.

The proposed Development, if built, will contribute to renewable energy targets and towards reducing greenhouse emissions. Economic benefits to the Scottish economy are anticipated alongside short and longer term benefits to the Argyll and Bute planning authority area. Scottish Ministers acknowledge that there will be some significant landscape and visual impacts however Ministers are satisfied, that overall, the proposed Development is appropriately sited and designed. The landscape and visual impacts which remain are acceptable in the context of the benefits that the proposed Development will bring. Scottish Ministers are satisfied that other environmental issues can be appropriately addressed by the mitigation measures set out in the EIA Report and secured by relevant conditions attached to the planning permission deemed to be granted by Scottish Ministers.

The Scottish Ministers are therefore satisfied that the proposed Development is supported by national policies.

Conclusions

Reasoned Conclusions on the Environment

Scottish Ministers have fully considered the EIA Report, the Additional Information and the consultation responses in respect of the proposed Development. The significant effects of the proposed Development on the environment are considered to be those on the landscape. The Scottish Ministers are satisfied that other environmental issues can be appropriately addressed by the mitigation measures set out in chapter 19 of the EIA Report and secured by conditions attached to the planning permission deemed to be granted.

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

Conclusions on Acceptability of the Proposed Development

Scotland's renewable energy and climate change targets, energy policies and planning policies are all material considerations when weighing up this proposed Development. NPF3, SPP and Energy Strategy make it clear that renewable energy deployment remains a priority of the Scottish Government. This is a matter which should be afforded significant weight in favour of the proposed Development.

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.

SPP contains guidance in respect of the granting of development consent for 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. The aims of these policies require to be considered and balanced when reaching a decision on the Application.

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. 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 and impacts on natural heritage. Scottish Ministers have had regard to those factors when considering this application.

Scottish Ministers in making their determination on the Application have had to balance these considerations, decide what weight is to be given to each and reach a view as to where the balance of benefit lies. Ministers consider the landscape and visual impacts are acceptable when weighed against the benefits of the increased low carbon electricity generation the larger turbines will produce.

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 Ministers consider that due to the constraints, scale and complexity of constructing such developments and the timeframes associated with the commissioning of grid infrastructure to connect them, a 5 year time scale for the Commencement of Development is appropriate in this case.

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 Tangy IV Wind Farm electricity generating station in the Argyll and Bute Council area (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 be deemed to be granted** in respect of the development described in Annex 1.

The consent hereby granted will last for a period of 50 years from the earlier of: i) the date when electricity is first exported to the electricity grid network from all of the wind turbines hereby permitted; or ii) the date falling 18 months after electricity is generated from the first of the wind turbines hereby permitted.

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 and that planning permission is to lapse on the expiry of a period of 5 years from the date of this direction if there has been no development within that period.

In accordance with the EIA Regulations, the Company must publicise this determination on a website maintained for the purpose of making information publicly available and in the Edinburgh Gazette and a newspaper circulating in the locality in which the land to which the application relates is situated.

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

The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine Applications for consent. The rules relating to the judicial review process can be found on the website of the Scottish Courts –
http://www.scotcourts.gov.uk/docs/default-source/rules-and-practice/rules-ofcourt/court-of-session/chap58.pdf?sfvrsn=20

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

Yours sincerely

Redacted

WILLIAM BLACK
Head of Energy Consents
For and on behalf of the Scottish Ministers
A member of the staff of the Scottish Government

ANNEX 1

Part 1 – Description of the Development

The Development comprises a wind powered electricity generating station known as Tangy IV Wind Farm, with a generating capacity exceeding 50 MW, located 3 Kilometres north of Kilchenzie, Kintyre, in the Argyll and Bute Council planning area as specified in the Application and accompanying Environmental Impact Assessment report submitted on 06 September 2018 and Additional Information submitted by the Company on 10 October 2018.

The components of the wind farm and related ancillary developments will comprise:

- 16 turbines of up to, but not exceeding, 149.9 m tip height with external transformers;
- hardstanding area at each turbine base with an approximate area of 1,800m²;
- three permanent meteorological masts and associated hardstand areas;
- up to two site substations;
- one operations control building with parking and welfare facilities;
- a total 11 km of onsite access tracks with associated watercourse crossings;
- onsite underground cabling;
- temporary construction compound and laydown areas;
- temporary meteorological masts;
- temporary telecoms infrastructure;
- forest removal and subsequent replanting;
- dismantling of existing turbines and associated reinstatement; and
- up to 4 borrow pits.

ANNEX 2

Part 1

The consent granted in accordance with section 36 of the Electricity Act 1989 is subject to the following conditions:

1. Commencement of Development

(1) Development shall be commenced no later than 5 years from the date of this consent, or in substitution such period as the Scottish Ministers may hereafter direct in writing.

(2) Written confirmation of the intended date of Commencement of Development shall be provided to both the Planning Authority and the Scottish Ministers as soon as is practicable after deciding on such a date.

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

2. Non-assignation of Consent

(1) This consent may not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignation of the consent (with or without conditions) or refuse assignation as they may, at their own discretion, see fit.

(2) The Company shall notify the local planning authority in writing of the name of the assignee, principal named contact and contact details within fourteen days of the consent being assigned.

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

3. Serious Incident Reporting

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

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

4. Long Term Forest Plan

No felling associated with the Development shall commence until the finalised Long Term Forest Plan ('LTFP'), detailing felling and restocking of the woodland within the development is finalised, submitted to, and approved in writing by, the Scottish Ministers. Unless and until otherwise approved in writing by the Scottish Ministers, the approved LTFP shall be implemented in full.

Reason: *To ensure the consented felling and restocking of woodland within the Development 'felling boundary' is carried out in accordance with the UK Forestry Standard.*

ANNEX 2

Part 2

The planning permission deemed to be granted under section 57 of the Town and Country Planning (Scotland) Act 1997 for the Development described in Annex 1 is subject to the following conditions.

5. Implementation in accordance with approved plans and requirements of the section 36 consent

The Development shall be implemented in accordance with the details specified in the Application and accompanying Environmental Impact Assessment Report dated 06 September 2018, and Additional Information submitted by the Company on 10th October 2018. The Company and subsequent operators shall at all times construct and operate the Development hereby permitted in accordance with the mitigation measures identified in the Environmental Impact Assessment Report and shall not omit any mitigation measures within the Environmental Impact Assessment Report.

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

6. Financial Guarantee

(1) No development shall commence unless and until a bond or other form of financial guarantee in terms reasonably acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations referred to in Condition 8 is submitted to the Planning Authority.

(2) The value of the financial guarantee shall be agreed between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations referred to in Condition 8.

(3) The financial guarantee shall be maintained in favour of the Planning Authority from the Commencement of Development until the date of completion of all decommissioning, restoration and aftercare obligations referred to in Condition 8.

(4) The value of the financial guarantee shall be reviewed by agreement between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations and best practice prevailing at the time of each review. Following each review and at least 28 days prior to the expiry of the existing financial guarantee the Company shall submit for the written approval of the Planning Authority a replacement guarantee in favour of and in terms acceptable to the Planning Authority for the value agreed.

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

7. Redundant Wind Turbines

(1) Unless otherwise agreed in writing by the Planning Authority, if one or more wind turbines fails to generate electricity for a continuous period of twelve months a scheme setting out how the relevant wind turbine(s) and associated infrastructure will be removed from the site and the ground restored shall be submitted for the written approval of the Planning Authority no later than one month after the date of expiry of the twelve month period.

(2) The approved scheme shall be implemented within six months of the date of its approval, to the satisfaction of the Planning Authority.

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

8. Decommissioning Requirements

(1) No development shall commence unless and until a draft decommissioning, restoration and aftercare strategy has been submitted to, and approved in writing by, the Planning Authority (in consultation with SNH and SEPA).

(2) In the event of the Development not generating electricity on a commercial basis to the grid network for a continuous period of 12 months, (except where generation is restricted by curtailment, regulatory limitation or restrictions or such other reasonable circumstances) the Company must immediately notify the Planning Authority in writing of that situation and shall, if the Planning Authority in consultation with Scottish Ministers direct, decommission the Development.

(3) No later than 12 months prior to the expected decommissioning of the Development, or 12 months after being directed to decommission the Development a detailed decommissioning, restoration and aftercare plan, based upon the principles of the approved draft decommissioning, restoration and aftercare strategy, shall be submitted for the written approval of the Planning Authority in consultation with SNH and SEPA. The detailed decommissioning, restoration and aftercare plan shall provide updated and detailed proposals, in accordance with relevant guidance at that time, for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall include (but is not limited to):

(a) a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
(b) details of the formation of the construction compound, welfare facilities,

any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;

(c) a dust management plan;

(d) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network, including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;

(e) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;

(f) details of measures for soil storage and management;

(g) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;

(h) details of measures for sewage disposal and treatment;

(i) temporary site illumination;

(j) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;

(k) A traffic management plan (TMP) which provides for the arrangements in respect of traffic associated with the decommissioning of the Development which mirrors the relevant provisions approved in the TMP for the construction of the Development;

(l) details of watercourse crossings; and

(m)a species protection plan based on surveys for protected species (including birds) carried out no longer than eighteen months prior to submission of the plan.

(4) The Development shall be decommissioned, the site restored and aftercare undertaken in accordance with the approved plan, unless and until 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 of the site and in the interests of safety, amenity and environmental protection.*

9. Wind Turbine Locations and Micro-siting

(1) All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the locations shown on plan reference Figure 4.1c save for the ability to vary without further recourse to the Planning Authority, the indicated position of any turbine, track, or associated infrastructure by up to 50 metres.

(2) Unless otherwise agreed with the Planning Authority in consultation with SNH and SEPA, any such micro- siting, permitted by part (1) of this condition, shall not encroach further into any buffer areas identified in respect of water courses, or nature conservation or historic environment interests as set out in Chapter 9 to 13 inclusive of the Environmental Impact Assessment Report.

(3) Any such micro-siting shall be carried out under the supervision of the Ecological Clerk of Works ("ECoW) required to be employed pursuant to Condition 24 of this permission and shall be informed by the outcome of the Peat Management Plan required pursuant to Condition 13 and shall avoid areas of deep peat.

(4) No later than one month after the date of Final Commissioning an updated site plan showing the final position of all wind turbines, buildings, masts, areas of hardstanding, tracks and associated infrastructure forming part of the Development shall be submitted to the Planning Authority. The plan shall also specify areas where micrositing has taken place and, for each instance, be accompanied by copies of the ECoW's approval (if applicable).

Reason: *For the avoidance of doubt and to take account of local ground conditions, for the protection of amenity.*

10. Decommissioning Method Statement – Tangy I and Tangy II

No development shall commence until an outline Decommissioning Method Statement (DMS) for the dismantling of the existing 22 wind turbines and their associated infrastructure which form part of the Tangy I and Tangy II developments and any associated ground restoration works as described as a principal operation at Chapter 5.4 of the EIA Report, is submitted for the written approval of the Planning Authority.

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

11. Site Investigatory Works

No Site Investigatory Works shall commence until a programme of Site Investigation Works, detailing the extent and area of pre-commencement felling and detailing other ground investigation works has been submitted to the Planning Authority for their written approval.

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

12. Construction and Environmental Management Plan

(1) No development, other than Site Investigatory Works, shall commence until a full site specific Construction and Environmental Management Plan (CEMP) is submitted for the written approval of the Planning Authority in consultation with SEPA and SNH. This shall provide details, mitigation measures and timetabling in respect of the following:

(a) Pollution prevention and control measures;
(b) Dust management, including cleaning of the junction between the site access and the trunk road;
(c) Arrangements for on-site storage of fuel and other chemicals;
(d) SuDS design philosophy including run-off and sediment control measures including measures for the blocking of existing drains, if required);
(e) Details of foul drainage arrangements;
(f) Site specific waste management proposals;
(g) Ecological monitoring over construction period including all necessary pre- construction surveys and a species protection plan to clearly identify measures to minimise risk to water vole, badger, otter, and any other protected mammal species during construction;
(h) Details of the methods to be adopted to reduce the effects of noise occurring during the construction period to the lowest practicable level in accordance with BS5228;
(i) Post-construction restoration/reinstatement of the working areas;
(j) Details of temporary site illumination;
(k) Details, following SIWs, of the of site specific mitigation measures based on the Watercourse and Aquatic Habitat Pollution Prevention Measures outlined in Section 10.6.10 of the EIA Report;
(l) Provision of a Geotechnical Risk Register with details of updated peat landslide mitigation measures, following SIWs, to demonstrably reduce hazard rankings associated with all infrastructure;
(m)Details of proposed watercourse crossings and engineering works in water environment vicinities; and
(n) Details of proposed measures during cable installation to prevent the creation of drainage runs in cable trenches.

(2) The CEMP shall be adhered to throughout the construction and site restoration phases unless otherwise agreed in writing by the Planning Authority.

Reason: *To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and that the mitigation measures contained in the EIA Report accompanying the application, or as otherwise agreed in respect of SSSI's or other sensitive habitats, are fully implemented.*

13. Peat Management Plan

(1) No development shall commence until a detailed Peat Management Plan, addressing all areas to be disturbed by construction, has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. This shall include:

(a) Volumes, depth and location of any peat disturbed;
(b) Details of any proposed re-use of the peat within the site, including a plan showing volumes, location and usage;

(c) Details of any disposal of peat proposed, including volumes, detailed disposal proposals and details of how peat usage has been limited to undisturbed ground; and
(d) Details of storage and handling of excavated peat, including a plan showing proposed storage areas.

(2) All works on site must be undertaken in accordance with the approved Peat Management Plan unless otherwise agreed in advance in writing by the Planning Authority.

Reason: *In the interests of ensuring the conservation of peat resources and the protection of Tangy Loch SSSI.*

14. Shadow Flicker

(1) No development shall commence unless and until a scheme for the avoidance or mitigation of any shadow flicker at residential properties situated at a distance which is the same as ten rotor diameters of any wind turbine forming part of the Development, 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.

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

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

15. Traffic Management Plan

(1) No development shall commence unless and until a traffic management plan has been submitted to, and approved in writing by, the Planning Authority and in consultation with Transport Scotland. The traffic management plan shall include (but is not limited to):

(a) the proposed routing for any abnormal loads associated with the Development;
(b) the accommodation measures required including the removal of street furniture, junction widening and traffic management;
(c) details of materials, plant, equipment and labour required during the construction period; and
(d) Details of any temporary diversions of access routes and associate signage.

(2) The approved traffic management plan shall be implemented in full, unless and until otherwise agreed in advance in writing with the Planning Authority.

Reason: *To minimise interference and maintain the safety and free flow of traffic on the Trunk Road as a consequence of traffic moving to and from the development.*

16. Road Improvement Scheme

(1) No development shall commence until a scheme for improvements to the public road between the junction with the trunk road and the private access serving the site has been submitted to and has been approved in writing by the Planning Authority in consultation with the Council's Roads Engineers this shall include but not be limited to:

(a) the provision of new passing places;
(b) the improvement of existing passing places;
(c) the location of temporary carriageway widening and reinstatement measures; and
(d) a programme for the implementation of the improvements.

(2) The duly approved improvement measures shall be carried out in full in accordance with the programme for implementation, unless any variation thereof is agreed in writing in advance by the Planning Authority.

Reason: *In the interests of road safety.*

17. Road Condition Surveys

(1) No development shall commence until a detailed condition survey of the public road between the junction with the trunk road and the private access serving the site has been carried out and submitted to the Planning Authority for their Roads Engineers written approval. This condition survey should include:

(a) video and photographs and an identification of areas of road which will be vulnerable to the proposed traffic loading; and
(b) an assessment of any culverts or other structures, and the identification of measures to mitigate against any likely damage.

(2) During the construction period the section of the public road in question shall be the subject of inspection on a weekly basis, in accordance with a method to be agreed in writing in advance by the Planning Authority's Roads Engineers, and any damage arising from abnormal traffic associated with the construction of the Development shall be reinstated either upon significant damage being identified during the course of construction works, or following a final inspection upon completion of construction works, whichever is the sooner.

Reason: *In the interests of road safety.*

18. Temporary Road Signage and Traffic Control Measures

During the delivery period of the wind turbine construction materials, any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed must be undertaken by a recognised "*QA traffic management consultant*" to be approved by the Planning Authority in consultation with Transport Scotland before delivery commences.

Reason: *To ensure that the transportation will not have any detrimental effect on the road and structures along the road.*

19. Public Road Cleaning

Prior to the commencement of deliveries to the site, measures to ensure that all affected public roads are kept free of mud and debris arising from the Development shall be agreed with the Planning Authority.

Reason: *To ensure that material from the site is not deposited on public roads to the detriment of road safety.*

20. Water Quality and Fish Monitoring Programme

(1) No development shall commence until a Water Quality and Fish Monitoring Programme (WQFMP) has been submitted and approved by the Planning Authority. The WQFMP must take account of the Scottish Government's Marine Scotland Science's response and must include:

   (a) Water quality and fish monitoring programme (carried out at least 12 months prior to construction and decommissioning of the existing turbines taking place, during construction and for up to 12 months, after construction is complete, subject to survey results and in agreement with the Planning Authority and Marine Scotland); and
   (b) Mitigation measures detailed in the Environmental Impact Assessment.

(2) Thereafter the WQFMP must be implemented in full and in accordance with the timescales set out in the plan. No changes to the WQFMP shall take place unless they are with prior written approval of the Planning Authority.

Reason: *To ensure compliance with all commitments made in the Environmental Impact Assessment Report.*

21. Habitat Management Plan

(1) No development shall commence until a detailed Habitat Management Plan (HMP) has been submitted to, and approved in writing, by the Planning Authority in consultation with SNH. The HMP shall include measures to secure the restoration of peatland outlined in Appendix 10.6 of the EIA report.

(2) All works on site must be undertaken in accordance with the approved Habitat Management Plan unless otherwise agreed in writing by the Planning Authority and the identified measures shall be implemented in accordance with the methods approved and for the durations identified in the approved HMP.

Reason: *To secure the restoration of peatland.*

22. Construction Hours

(1) Construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 07:30 to 19:00 on Monday to Friday inclusive and 08:00 to 16:00 on Saturdays, with no construction work taking place on a Sunday or on a Bank Holiday or Public Holiday. Outwith these specified hours, development on the site shall be limited to turbine delivery and erection, commissioning, maintenance, dust suppression, and pouring of concrete foundations (provided that the developer retrospectively notifies the Planning Authority of the works within 24 hours if prior notification is not possible). In addition, access for security reasons, emergency responses or to effect any necessary environmental controls is permitted outwith these hours.

(2) Movements of heavy goods vehicles (HGVs) to and from the site during construction of the Development shall be limited to 07:00 hours to 19:00 hours Monday to Friday and 08:00 to 16:00 hours on Saturdays and no vehicular access during these periods shall take place on Sundays or Bank Holidays, unless previously approved in writing by the Planning Authority.

Reason: *In the interests of local amenity.*

23. Construction and Decommissioning Hours Within 1 Kilometre of Tangy Loch

During construction and decommissioning all works within 1 kilometre of Tangy Loch are restricted to between the hours starting from one hour after dawn to one hour before dusk during the goose roosting season (30 September – 30 April).

Reason: *To avoid risk of disturbance to the over wintering population of Greenland white fronted goose.*

24. Ecological Clerk of Works

(1) No development shall commence until the Planning Authority has approved in writing the terms of appointment by the Company of an independent Ecological Clerk of Works (ECoW) in consultation with SNH and SEPA. The terms of appointment shall;

(a) Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the EIA Report and other information lodged in support of the application, the Construction and Environmental Management Plan, and other plans approved in terms of Condition 26 ("the ECoW works");

(b) Require the EcoW to report to the Company's nominated construction project manager any incidences of non-compliance with the ECoW works at the earliest practical opportunity;

(c) Require the ECoW to submit a monthly report to the Planning Authority summarising works undertaken on site; and

(d) Require the ECoW to report to the Planning Authority any serious environmental incidences resulting as a consequence of non-compliance with the ECoW Works at the earliest practical opportunity.

(2) The EcoW shall be appointed on the approved terms throughout the period from the Commencement of Development, throughout any period of construction activity and during any period of post construction restoration works approved in terms of conditions 8 and 12.

25. Environmental Clerk of Works Decommissioning

No later than 12 months after being directed to decommission the Development, the Company shall submit details of the terms of appointment by the Company of an independent ECoW throughout the decommissioning, restoration and aftercare phases of the Development to the Planning Authority for approval in consultation with SNH and SEPA. The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the Development.

Reason: *To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Development.*

26. ECoW Works

No development shall commence until a pre–construction survey is carried out by the Ecological Clerks of Works (ECOW), in respect of the areas to be affected by development work, to establish any presence of otter, water vole, badger and other protected mammal species. In the event of any evidence of such mammals being present, the appropriate licensing process should be concluded prior to continuing works and any measures identified in the Construction Environmental Management Plan (CEMP) required in terms of condition 12 to safeguard this protected species should be implemented for the duration of construction activities on the site.

Reason: *In order to safeguard protected species the interests of nature conservation.*

27. Breeding Bird Protection Plan

No development shall commence until a Breeding Bird Protection Plan is submitted to and approved in writing by the Planning Authority in consultation with SNH. Thereafter the Development shall be implemented in accordance with the duly approved plan or any subsequent variation thereof as may be approved in writing in advance by the Planning Authority.

Reason: *In the interests of nature conservation.*

28. Design of sub-station and ancillary development

No development shall commence until final 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. The substation building, associated compounds, fencing, external lighting and parking areas shall 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 Impact Assessment Report and in the interests of the visual amenity of the area.*

29. Design and operation of wind turbines

(1) No development shall commence unless and until full details of the wind turbines (including, but not limited to, the power rating and sound power levels, 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.

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

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

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

30. Site Inspection Plan

(1) Prior to the Date of Final Commissioning the Company must submit a draft Site Inspection Strategy (SIS), for the written approval of the Planning Authority. This shall set out details for the provision of site inspections and accompanying Site Inspection Reports (SIR) to be carried out at 25 years of operation from the Date of Final Commissioning and every 5 years thereafter. At least one month in advance of submitting the SIR, the scope of content shall be agreed with the Planning Authority. The SIR shall include, but not be limited to:

(a) Requirements to demonstrate that the infrastructure of the Development is still fit for purpose and operating in accordance with condition 29 and condition 34; and

(b) An engineering report which details the condition of tracks, turbine foundations and the wind turbine generators and sets out the requirements and the programme for the implementation for any remedial measures which may be required.

(2) Thereafter the SIS and SIR shall be implemented in full unless otherwise agreed in advance in writing by the Planning Authority.

Reason: *To ensure the condition of the infrastructure associated with the Development is compliant with the EIA report, condition 29 and condition 34 and is to ensure the Development is being monitored at regular intervals throughout its operation.*

31. Aviation Safety

No development shall commence until the Company 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 of the expected commencement of each stage of construction;
(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: *In the interests of aviation safety.*

32. Aviation Lighting

(1) No wind turbine forming part of the Development shall be erected until, the Company has submitted a scheme for aviation lighting for the Development to the Planning Authority for written approval. The scheme shall include details of Red Aviation Warning Lighting or infra-red aviation lighting to be applied. No lighting other than that described in the scheme may be applied at the site, other than as required for health and safety, unless otherwise agreed in advance and in writing by the Planning Authority.

(2) No turbines shall be erected on site until the scheme has been approved in writing. The Development shall thereafter be operated fully in accordance with the approved scheme.

Reason: *In the interests of aviation safety.*

33. Forestry – Compensatory Planting

(1) No development (other than Site Investigatory Works) shall commence unless and until a compensatory planting scheme (CP scheme) to compensate for the removal of 31.73 hectares of existing woodland has been submitted to, and approved by, the Planning Authority in consultation with Scottish Forestry Perth & Argyll Conservancy.

(2) The CP Scheme shall comply with the requirements set out in the UK Forestry Standard (Forestry Commission, Edinburgh 2017. ISBN 978-0-85538-999-4) and the guidelines to which it refers, or such replacement standard as may be in place at the time of submission of the CP Scheme for approval. The CP Scheme shall include:

(e) details of the location of the area to be planted;
(f) details of owners and occupiers of the land to be planted;
(g) the nature, design and specification of the proposed woodland to be planted;
(h) details of all consents required for delivery of the CP Scheme and timescales within which each will be obtained;
(i) the phasing and associated timescales for implementing the CP Scheme;
(j) proposals for the maintenance of the CP Scheme, including annual checks, replacement planting, fencing, ground preparation and drainage; and
(k) proposals for reporting to the Planning Authority on compliance with timescales for obtaining the necessary consents and implementation of the CP Scheme.

3 The approved CP Scheme shall be implemented in full, unless otherwise agreed in writing by the Planning Authority after consultation with Scottish Forestry, Perth & Argyll Conservancy.

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

34. Noise

(1) The rating level of noise immissions from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty) when determined in accordance with the attached Tables and Guidance Notes appended to this condition, shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission, and

(a) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). These data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) to the Local Planning Authority on its request, within 14 days of receipt in writing of such a request.

(b) No electricity shall be exported until the wind farm operator has submitted to the Local Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Local Planning Authority.

(c) Within 21 days from receipt of a written request from the Local Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind farm operator shall, at its expense, employ a consultant approved by the Local Planning Authority to 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. The written request from the Local Planning Authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Local Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.

(d) The assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Local Planning Authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Local Planning Authority under paragraph (c), and such others as the independent consultant considers likely to result in a breach of the noise limits.

(e) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind farm operator shall submit to the Local Planning Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Local Planning Authority for the complainant's dwelling.

(f) The wind farm operator shall provide to the Local Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Local Planning Authority for compliance measurements to be made under paragraph (c), unless the time limit is extended in writing by the Local Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Local Planning Authority with the independent consultant's assessment of the rating level of noise immissions.

(2) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c), the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (d) above unless the time limit has been extended in writing by the Local Planning Authority.

Reason: *To minimise the adverse impact of noise generated by the operations on the local community.*

APPENDIX TO CONDITIONS - Noise Tables and Guidance Notes

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

Location	Standardised wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods								
	4	5	6	7	8	9	10	11	12
Breakachy	43	43	43	43	43	43	44.4	47.0	49.8
Corrylach	40.0	40.0	40.0	40.0	40.0	40.0	41.6	45.1	48.9
Drumalea	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Gobagrennan	42.0	42.0	42.0	42.0	42.0	42.0	42.0	42.0	43.0
Hazels Cottage	43.0	43.0	43.0	43.0	43.0	43.0	44.4	47.0	49.8
High Ballevain Cottage	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Killarow	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0
Killocraw	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
South Lagalgarve	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Tangy Farm	45.0	45.0	45.0	45.0	45.0	45.0	45.0	47.0	49.8

Tangy Glen Cottages	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Tangy Mill	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Tangy Mill Croft	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Tangylee	45.0	45.0	45.0	45.0	45.0	45.0	45.0	47.0	49.8
Tangymoil	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0
Tigh Na Mara	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0

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

Location	Standardised wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods								
	4	5	6	7	8	9	10	11	12
Breakachy	38.0	38.0	38.5	40.2	41.9	43.6	45.4	47.3	49.2
Corrylach	35.0	35.0	35.0	35.0	37.0	39.6	42.2	44.7	46.8
Drumalea	38.0	38.0	38.0	38.0	38.0	38.0	40.2	42.7	45.6
Gobagrennan	37.0	37.0	37.0	37.0	37.0	38.5	40.7	42.9	44.9
Hazels Cottage	38.0	38.0	38.5	40.2	41.9	43.6	45.4	47.3	49.2
High Ballevain Cottage	38.0	38.0	38.0	38.0	38.0	38.0	40.2	42.7	45.6
Killarow	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.6
Killocraw	38.0	38.0	38.0	38.0	38.0	38.0	40.2	42.7	45.6
South Lagalgarve	38.0	38.0	38.0	38.0	38.0	38.0	40.2	42.7	45.6

Tangy Farm	45.0	45.0	45.0	45.0	45.0	45.0	45.4	47.3	49.2
Tangy Glen Cottages	38.0	38.0	38.0	38.0	38.0	38.0	40.2	42.7	45.6
Tangy Mill	38.0	38.0	38.0	38.0	38.0	38.0	40.2	42.7	45.6
Tangy Mill Croft	38.0	38.0	38.0	38.0	38.0	38.0	40.2	42.7	45.6
Tangylee	45.0	45.0	45.0	45.0	45.0	45.0	45.4	47.3	49.2
Tangymoil	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.6
Tigh Na Mara	38.0	38.0	38.0	38.0	38.0	38.0	40.2	42.7	45.6

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

Property	Easting	Northing
Breakachy	167075	626871
Corrylach	170526	630384
Drumalea	166136	627143
Gobagrennan	170591	628598
Hazels Cottage	167597	627306
High Ballevain Cottage	166571	626825
Killarow	166269	628025

Killocraw	166031	630687
South Lagalgarve	165949	629339
Tangy Farm	167489	627768
Tangy Glen Cottages	166067	627768
Tangy Mill	166305	627768
Tangy Mill Croft	166125	627650
Tangylee	167444	627615
Tangymoil	166244	628594
Tigh Na Mara	166079	628171

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

Guidance Notes for Noise Conditions

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

Guidance Note 1

Values of the LA90,10 minute noise statistic should be measured at the complainant's property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

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

(b) The LA90,10 minute measurements should be synchronised with measurements of the 10- minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.

(c) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. All 10 minute arithmetic average mean wind speed data measured at hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres . It is this standardised 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2, such correlation to be undertaken in the manner described in Guidance Note 2. All 10- minute periods shall commence on the hour and in 10- minute increments thereafter.

(d) Data provided to the Local Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.

(e) A data logging rain gauge shall be installed in the course of the assessment of the levels of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

Guidance Note 2

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

(b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (d) of the noise condition, but excluding any periods of rainfall measured in the vicinity of the sound level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurement periods set out in Guidance Note 1. In specifying such conditions the Local Planning Authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.

(c) For those data points considered valid in accordance with Guidance Note 2(b), values of the LA90,10 minute noise measurements and corresponding values of the 10- minute wind speed, as derived from the standardised ten metre height wind speed averaged across all operating wind turbines using the procedure specified in Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the standardised mean wind speed on the X-axis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

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

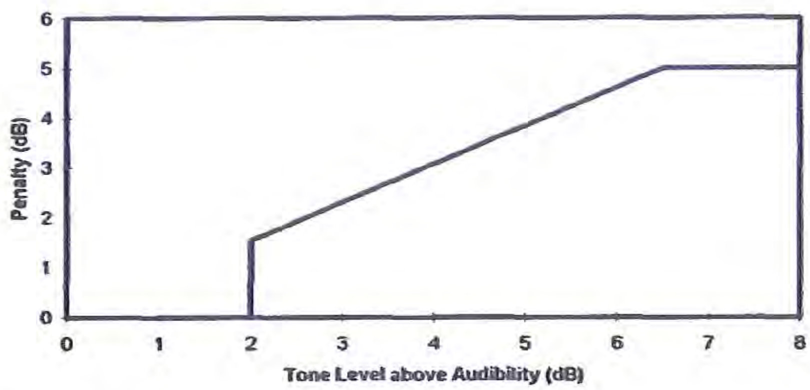
(b) For each 10 minute interval for which LA90,10 minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

(c) For each of the 2 minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104109 of ETSU-R-97.

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

(e) A least squares "best fit" linear regression line shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line at each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.

The tonal penalty is derived from the margin above audibility of the tone according to the figure below:



Guidance Note 4

(a) If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the Local Planning Authority in its written protocol under paragraph (d) of the noise condition.

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

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

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

(e) Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range requested by the Local Planning Authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of the noise condition.

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

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

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

(h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then the development fails to comply with the conditions.

Definitions

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

"the Company" means SSE Generation Limited having its registered office at No.1 Forbury Place, 43 Forbury Road, Reading, RG1 3JH, Company No. 02310571, or such other person who from time to time may lawfully have the benefit of this consent.

"Date of First Commissioning" means the date on which electricity is first exported to the grid network on a commercial basis from any of the wind turbines 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 erected in accordance with this consent; or (ii) the date falling eighteen months from the date of First Commissioning.

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

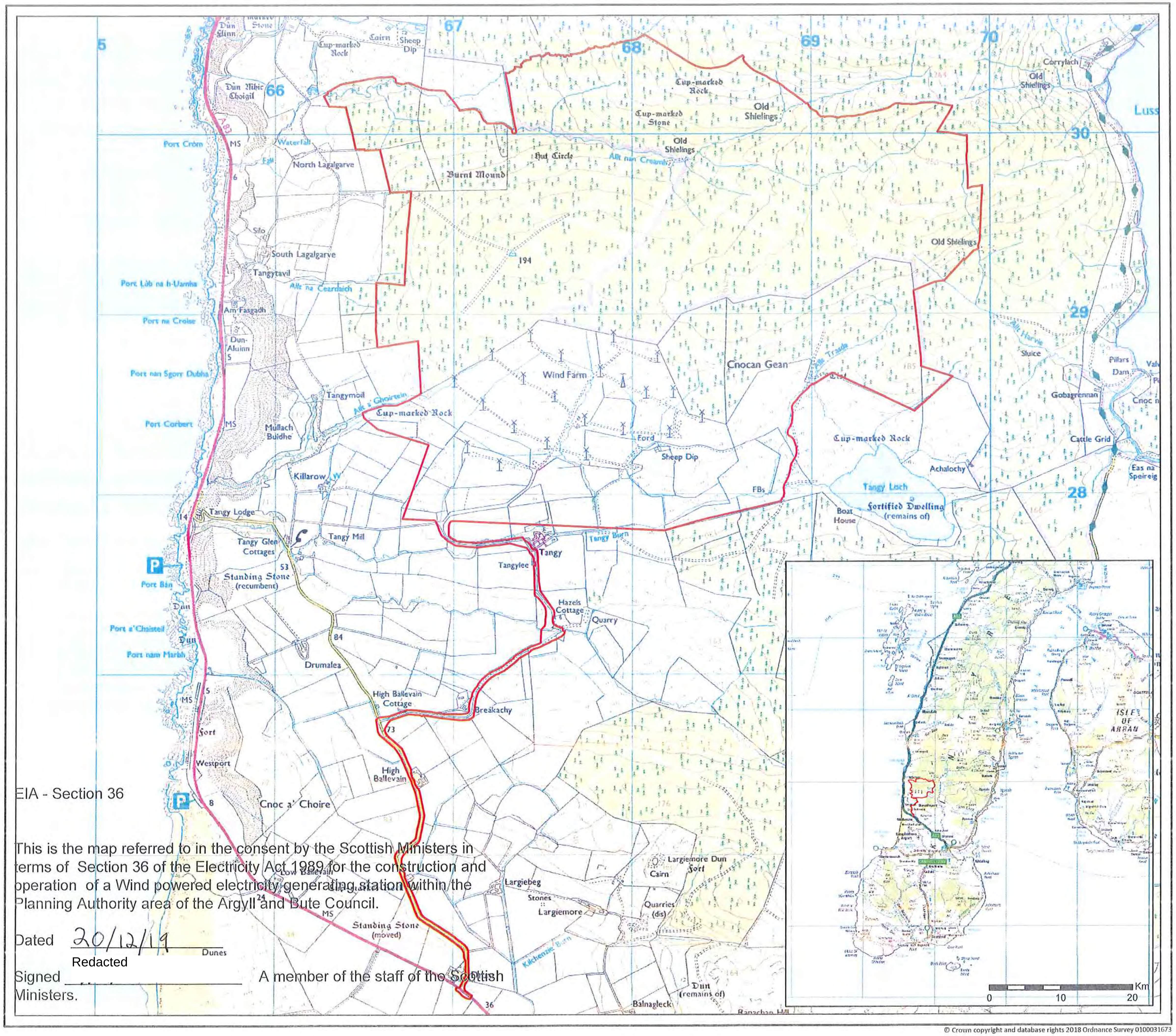
"Site Investigatory Works" means (i) any site investigation or preparatory works or surveys required for the purpose of satisfying or discharging any pre-commencement obligations under the Planning Conditions and (ii) the provision of temporary contractors' facilities within the site that are necessary for the aforementioned (i) above.

"Planning Authority" means Argyll and Bute Council.

"SNH" means Scottish Natural Heritage.

"HES" means Historic Environment Scotland.

"SEPA" means the Scottish Environmental Protection Agency.



EIA - Section 36

This is the map referred to in the consent by the Scottish Ministers in terms of Section 36 of the Electricity Act 1989 for the construction and operation of a Wind powered electricity generating station within the Planning Authority area of the Argyll and Bute Council.

Dated 20/12/19

Redacted

Signed ____________________ A member of the staff of the Scottish Ministers.

Key

Site Boundary

Scale 1:20,000 @ A3

0 0.5 1 Km

N

Figure 1

Site Location

Tangy IV Wind Farm
EIA Report