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22 May 2023

Dear Sir or Madam

CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR THE CONSTRUCTION AND OPERATION OF ACHANY EXTENSION WIND FARM IN THE HIGHLAND COUNCIL PLANNING AUTHORITY AREA

Application

I refer to the Application made on 21 July 2021 under section 36 of the Electricity Act 1989 ("the Electricity Act") made by SSE Generation Limited, a company incorporated under the Companies Act with company number: 02310571 ("the Company") and having its registered office at No.1 Forbury Place, 43 Forbury Road, Reading, United Kingdom, RG1 3JH for the construction and operation of Achany Extension Wind Farm.

The Application proposes 18 wind turbines with a blade to tip height not exceeding 149.9 metres and with a generating capacity in excess of 50 megawatts ("MW") to be located within the Highland Council area ("the proposed Development").

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

Planning Permission

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

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

Background

The proposed Development is an extension to the operational Achany Wind Farm and is located on land adjacent (to the north west) to the operational Achany and Rosehall Wind Farms, between Glen Cassley and Loch Shin, and is situated approximately 4.5 kilometres (“km”) north of the village of Rosehall and 11km west-north-west of Lairg within the planning authority area of the Highland Council.

The proposed Development will be located within the southern fringes of Reay-Cassley wild land area (“WLA 34”). Foinaven – Ben Hee wild land area (“WLA 37”) is located 11.6km to the north of the proposed Development at its closest point. When combined with the existing operational Achany Wind Farm, which is located outwith WLA 34 and consists of 19 wind turbines with an installed capacity of 38MW, the total generating capacity will be in excess of 114MW.

Previous Wind Farm Applications

There was a previous proposal to construct a wind farm around the same area as the proposed Development. The proposal to construct and operate a 26 wind turbine wind farm (126.5m to tip height) and associated works on Glencassley Estate, (Glencassley Wind Farm), was refused by the Scottish Ministers in 2015, on the grounds of perceived impacts on the Assynt Coigach National Scenic Area (“the NSA”) and on WLA 34.

The Scottish Ministers note that although the proposed Development would be sited in an area close to the previously proposed Glencassley Wind Farm, it does not replicate the same design. The Scottish Ministers have assessed the effects of the proposed Development on its own merits taking into account the cumulative effects with the operational Achany Wind Farm and other surrounding wind farm development.

Additional Information

Following initial consultation the Company amended the proposed design, to overcome the reasons for the Highland Council’s objection, by reducing the number of wind turbines from 20 to 18. The Highland Council’s response is set out in more detail at pages 5 and 6 of this decision letter.

In response to the Highland Council stating they would have no objection to the Application subject to the removal of 2 wind turbines, reducing the proposal from 20 wind turbines to 18 wind turbines, the Company submitted Additional Information (“AI”) on 29 April 2022 which comprised of four volumes: Volume 1: Main Report; Volume 2: Figures; Volume 3: Visualisation Pack; and Volume 4: Appendices. Further consultation was undertaken following the submission of the AI.

Legislation and Consultation

Under paragraph 2(1) of Schedule 8 to the Electricity Act, the relevant planning authority, the Highland Council in this case, 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”) and The Electricity Works

(Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020, the Company submitted an Environmental Impact Assessment report (“the EIA report”) dated July 2021 consisting of seven volumes, comprising (1) Non-Technical Summary, (2) Main Report, (3) Figures, (3a) Landscape and Visual Photomontages (NatureScot Methodology), (3b) Landscape and Visual Photomontages (The Highland Council Methodology), (4) Technical Appendices, (5) Confidential Annex as well as a Planning Statement and Pre-application Consultation Report in support of the Application describing the proposed Development and giving an analysis of its environmental effects.

To comply with the EIA Regulations, the Scottish Ministers are required to consult the relevant planning authority, as well as NatureScot, the Scottish Environment Protection Agency (“SEPA”) and Historic Environment Scotland (“HES”) as well as other public bodies likely to be concerned by the proposed Development by reason of that body's specific environmental responsibilities.

In accordance with requirements of both the Electricity (Applications for Consent) Regulations 1990 (“the Consents Regulations”) and the EIA Regulations, a notice of the proposed Development was published on the Company’s website and advertised in local and national press. The Application was made available in the public domain, and the opportunity given for those wishing to make representations to do so. Notifications were sent to the Highland Council (“the Planning Authority”) as well as to NatureScot, SEPA and HES.

In April 2022, the Company submitted AI relating to the removal of two turbines as proposed by the Planning Authority. In accordance with Regulation 20 of the EIA Regulations, the AI was made available for public inspection. Further notices were published in the Edinburgh Gazette, the application website and in newspapers circulated in the respective local communities informing the public of the AI and, if they wished to do so, how representations to the Scottish Ministers could be made.

The Scottish Ministers have had regard to the matters set out in Schedule 9 of the Electricity Act in respect of the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna and geological and physiological features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest. The Scottish Ministers shall avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

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

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

SEPA’s advice has been 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.

In its response to the Scottish Ministers SEPA direct the Company to the Regulations

section of the SEPA website for advice on regulatory requirements and good practice advice.

The Scottish Ministers are satisfied that the EIA report and the AI have been produced in accordance with the EIA Regulations. The Scottish Ministers have assessed the environmental impacts of the proposed Development and have taken the environmental information being the Application, EIA report, AI, representations and consultation responses into consideration in reaching their decision.

The Scottish Ministers consider that there is sufficient information 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.

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

The Scottish Ministers have had regard to the requirements regarding publicity and consultation laid down in the Consents Regulations, EIA Regulations, and The Electricity Works (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020, and are satisfied the general public as well as statutory and other consultees have been afforded the opportunity to consider and make representations on the proposed Development.

Conservation of Habitats and Species Regulations

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

The site boundary of the proposed Development abuts a component part of the Caithness & Sutherland Peatlands Special Protection Area (“SPA”), Ramsar Site and Caithness & Sutherland Peatlands Special Area of Conservation (“SAC”) protected for its range of upland birds, peatland habitats and otter, and the River Oykel SAC designated for Atlantic salmon and freshwater pearl mussel.

Grudie Peatlands (Site of Special Scientific Interest (“SSSI”)) and Strath an Loin SSSI are protected for their blanket bog and habitats and are both component parts of the Caithness & Sutherland Peatlands SPA, the Caithness & Sutherland Peatlands SAC and Ramsar site. Grudie Peatlands SSSI is also protected for its breeding population of waders, including golden plover, greenshank and dunlin.

There is the potential for the proposed Development to have a significant effect on the qualifying interests of the following Natura 2000 sites:

- the Caithness and Sutherland Peatlands SPA;

- the Caithness and Sutherland Peatlands SAC; and
- the River Oykel SAC.

Consequently, the Scottish Ministers, as the competent authority, are required to carry out an appropriate assessment in view of each site's conservation objectives for its qualifying interests. In compliance with the Habitats Regulations, Appropriate Assessments (Annex 4) have been carried out with respect to the above mentioned Natura 2000 sites. The environmental information to inform the assessments was presented in the EIA report and the AI which accompanied the Application. The Appropriate Assessments have therefore been produced using information already advertised in accordance with the EIA Regulations.

Caithness and Sutherland Peatlands SPA

Following an appropriate assessment the Scottish Ministers conclude, taking account of advice from NatureScot, and in view of the conservation objectives of the Caithness and Sutherland Peatlands SPA, that the mitigation measures proposed in the EIA report (chapter 9 – Ornithology, paragraphs 9.9.3 – 9.9.11) to provide a Bird Protection & Mitigation Plan, in consultation with NatureScot, in addition to carrying out pre-construction bird surveys, demonstrate that the proposed Development will not, either alone or in combination with other developments, adversely affect the integrity of the site.

The Scottish Ministers have imposed planning conditions, attached to this consent within **Annex 2**, to secure the above mitigation.

Caithness and Sutherland Peatlands SAC and River Oykel SAC

Following an appropriate assessment the Scottish Ministers conclude, taking account of advice from NatureScot, that subject to mitigation measures proposed in the EIA report (chapter 8 – Ecology, paragraphs 8.7.1 – 8.12.4), the conservation objectives for both the Caithness and Sutherland Peatlands SAC otter and blanket bog and the River Oykel SAC Atlantic salmon and freshwater pearl mussel qualifying interests can be maintained, and demonstrate that the proposed Development will not, either alone or in combination with other developments adversely affect the integrity of either sites. The mitigation measures include but are not limited to temporary drainage during construction to accommodate a 1:200 year storm event, a construction and environmental management plan ("CEMP"), a pollution prevention plan ("PPP"), a revised deer management plan, an otter Species Protection Plan (to be undertaken in advance of bog restoration as part of the Habitat Management Plan), temporary fencing if infrastructure is proposed within 100m of SAC boundary, and no micro-siting to be permitted of infrastructure within 100m of either of the SAC's boundaries. The Scottish Ministers have imposed planning conditions, attached to this consent within **Annex 2**, to secure the above mitigation.

Summary of the Consultation Responses

Statutory consultees

The Planning Authority does not object subject to conditions to be imposed on the planning permission.

The Planning Authority determined its response to the Application, against a range of policies set out in its Development Plan, principally Policy 67 of the Highland-wide Local Development Plan. In its response to the Scottish Ministers the Planning Authority advised that the proposed Development is, on balance, considered acceptable in terms of the Development Plan, national policy and is acceptable in terms of all other applicable material considerations.

The Planning Authority acknowledge that although the proposed Development is in a similar area to a previous wind farm proposal known as Glencassley wind farm, it is a redesign which is situated further south than the Glencassley application site. It is also sited further away from the NSA (5.2km to the east closer to the existing cluster of wind farms) and, albeit at a greater height, it comprises a reduced amount of wind turbines. The Planning Authority consider that the impact on the qualities of WLA 34 would be substantially overcome by virtue of siting and design.

The Planning Authority consider the proposed Development represents a significant renewable energy development and has the potential to contribute up to 76MW of renewable energy capacity. Whilst the Planning Authority do recognise and acknowledge the potential significant impacts (namely in relation to landscape and visual impacts and impacts on WLA 34), these are considered on balance to be acceptable when all matters are taken into account.

The Scottish Ministers have imposed appropriately worded conditions on the planning permission which give effect to the requirements of the Planning Authority.

NatureScot does not object. It removed its objection in relation to WLA 34, by letter dated 20 June 2022. NatureScot advised that as a consequence of the effects of another wind farm proposal (Sallachy Wind Farm) having received planning permission, the area within which the proposed Development would be sited *“could not now be considered as qualifying as part of the WLA 34 and may be considered lost. The addition of the proposed Development to this new baseline will compound these effects, however, as these are areas that are no longer of the highest wilderness and, importantly, no longer contribute to the wider WLA, these effects are not considered to be to the degree that they would sustain an objection.”* It also has no objection in relation to the impacts of the proposed Development on the NSA or with regards to matters concerning, ornithology, mammals or wider ecological aspects. NatureScot advised the measures proposed in the EIA report and AI demonstrate the proposed Development would have no adverse effect on the integrity of the Caithness and Sutherland Peatlands SPA provided there is a Bird Protection and Mitigation Plan (“BPMP”) in place with regards to Dunlin, Golden Plover, Greenshank and Hen Harrier in addition to a pre-construction bird surveys. It also advised that there would be no adverse effect on the integrity of the Caithness and Sutherland Peatlands SAC subject to the provision of conditions ensuring any infra-structure proposed within 100m of the SAC boundary should not be micro-sited any closer, temporary fencing to be installed if infrastructure is proposed within 100m of the SAC boundary, a revised Deer Management Plan (“DMP”) ensuring deer management does not undermine the restoration objectives for SAC blanket bog and wet heath interests, and an otter Species Protection Plan (“SPP”) informed by a pre-construction otter survey. It advised that, with regards to the River Oykel SAC, mitigation is considered achievable and effective in preventing identified potential adverse effects if secured by a condition

ensuring that temporary drainage during construction should accommodate a 1:200 year storm event. It has requested conditions be attached to any consent covering mitigation outlined in the EIA report (Volume 2 – Chapter 18 – schedule of mitigation); a finalised Construction Environmental Management Plan (“CEMP”); Pollution Prevention Plans (“PPP”); a finalised Habitat Management Plan (“HMP”); and pre-commencement surveys.

The Scottish Ministers have considered NatureScot’s response with regards to the impacts on WLA under the heading “Assessment of Determining Issues” and have imposed appropriately worded conditions which give effect to matters raised on peat, ornithology, mammals and wider ecological aspects and which secure a finalised CEMP, BPMP, SPP, PPP and HMP.

SEPA does not object. It removed its holding objection following clarification from the Company, which addressed its concerns, regarding the siting of wind turbines 8 and 19 within the micro-siting allowance of 50m to avoid the deepest area of peat. SEPA requested that conditions be imposed in relation to micro-siting allowances, a Peat Management Plan (“PMP”), a finalised HMP, watercourse crossings, borrow pit restoration and a finalised Decommissioning and Restoration Plan (“DRP”).

The Scottish Ministers have imposed appropriately worded conditions addressing the matters raised by SEPA.

HES does not object. Although it recognises that there will be significant impacts upon the setting of the Iron Age Dail Langwell broch HES advise that the significance of this impact does not raise issues of national interest.

Internal Scottish Government Advisors

Scottish Forestry advise, with the exception of a proposed temporary construction compound, the proposed Development is likely to have no impact on forests and woodlands. Should felling be required, Scottish Forestry require felling and compensatory planting plans.

Transport Scotland requires conditions to secure details of the final abnormal road route and for traffic management requirements to be undertaken by a quality assured traffic management consultant.

The Scottish Ministers have imposed appropriately worded conditions which address the requirements of Scottish Forestry and Transport Scotland.

Advisors to Scottish Government

The Scottish Government’s peat landslide hazard risk advisor (Ironside Farrar) recommended minor revisions to the Peat Landslide Hazard Risk Assessment in order to ensure the assessment is sufficiently robust. Following further engagement with the Company and the provision of clarifications, Ironside Farrar is content with the assessment and have no further comments to make.

Non-statutory consultees

British Telecom (“BT”) does not object. It considers the proposal should not cause

interference to BT's current and presently planned radio network.

Crown Estate Scotland does not object. It confirms that the assets of Crown Estate Scotland are not affected by the proposal.

Defence Infrastructure Organisation (Ministry of Defence ("MOD")) does not object. It requests a condition requiring the submission of an aviation lighting scheme and that it is notified at least 14 days prior to the commencement of the development. The Scottish Ministers have imposed an appropriately worded condition which addresses the requirements of MOD.

Joint Radio Company does not object. It does not foresee any potential problems based on known interference scenarios.

John Muir Trust objects to the proposed Development on the grounds of high landscape value, direct impacts on wild land, in particular impacts on the NSA and WLA 34, indirect impacts on wild land, impacts on ecology and peatlands and cumulative effects. It believes it is not simply the siting of the proposed Development in WLA 34 but the scale and extent of what is being proposed and the implications for sensitive upland habitats, which mean the significant effects cannot be overcome by design or other mitigation. It also raises concerns regarding the impacts upon peat, stating that siting wind turbines on Class 1 peatland is at odds with planning policy that seeks to protect peatlands from development. It considers that the removal of 2 wind turbines will not lead to a reduction in the significance of effects on WLA 34 or have any landscape or visual benefits. It recognises the benefits of removing the wind turbines in reducing habitat loss but considers there should be a firm commitment to additional and early habitat restoration in the area where wind turbine 20 has been removed.

The Scottish Ministers have given consideration to the proposed Development's landscape and visual impacts as well as its impacts on wild land (in particular on WLA 34) in this decision letter under the heading "Assessment of Determining Issues."

The Scottish Ministers acknowledge that although the proposed Development site comprises mostly of class 1 and class 2 peat, the site specific detailed peat depth and habitat assessments provided in the EIA report demonstrate that the infrastructure has been optimally sited to avoid both high quality and deeper peat. The Scottish Ministers are satisfied that, in combination, the avoidance of, reuse of peat on site and commitments to bog restoration in the HMP (secured by condition) achieve an acceptable balance.

The Kyle of Sutherland District Salmon Fishery Board does not object to the Application.

Mountaineering Scotland objects to the proposed Development on the grounds of visual impacts in particular relating to the NSA and WLA 34. In its opinion it is not only very small areas that would experience localised impacts. It is of the view that, in contrast, the openness of the local wider area would interact with the straggling layout of the proposed Development to adversely impact on the mountaineering experience across a wide area. It raises concerns with regards to the photomontages which lack clarity from some of the mountain locations. It also raises concerns in relation to

tourism and recreation. It does not consider that the AI addresses those concerns. It considers the removal of wind turbines may increase the “*visual straggle*” of the development from a mountaineering perspective.

The Scottish Ministers have given consideration to the effects on visual impact in this decision letter under the heading “Assessment of Determining Issues.” The Scottish Ministers have taken into account Volume 2 – Chapter 14 of the EIA report and are satisfied that effects of construction and operation of the proposed Development on recreation and tourism are not significant.

National Air Traffic Services Safeguarding (NATS) does not object. It notes that the proposal does not conflict with its safeguarding criteria.

Rogart Community Council did not respond to the consultation by the Scottish Ministers. It is however acknowledged that it did object in its response to the Planning Authority’s internal notification of the proposed Development, and it raises concerns over the individual and cumulative impact of construction traffic on the local road network.

Royal Society for the Protection of Birds Scotland (RSPB) does not object. It is content that the proposal would be unlikely to result in an adverse effect on the integrity to the Caithness and Sutherland Peatlands SPA and Caithness and Sutherland Peatlands SAC. However, RSPB have concerns regarding the potential impact of the proposed Development on a number of wider countryside species and believe a precautionary approach is required and further mitigation and a robust and deliverable, detailed HMP, should be secured by condition.

The Scottish Ministers have given consideration to the effects of the proposed Development on the Caithness and Sutherland Peatlands SPA and Caithness and Sutherland Peatlands SAC at pages 4 and 5 of this decision letter under the heading “Conservation of Habitats and Species Regulations” and agree with NatureScot and the RSPB that the proposed Development would have no adverse effect on the integrity of the Caithness and Sutherland Peatlands SPA and SAC. The Scottish Ministers have also imposed appropriately worded conditions which satisfactorily address the concerns raised by RSPB.

Scottish Water does not object. It notes that the proposed Development would not affect any Scottish Water drinking water catchment area. It advises that it would not support surface water drainage connections to the public sewer network.

Civil Aviation Authority, Fisheries Management Scotland, Friends of the Earth Scotland, Highlands and Islands Airports Ltd, Scottish Wildland Group, Scottish Wildlife Trust, Scotways, Visit Scotland, WWF Scotland, Ardgay and District Community Council, Creich Community Council, Lairg Community Council, Kyle of Sutherland Development Trust and Lairg Community Development did not submit a consultation response.

All consultation responses received have been taken into account in the determination of the proposed Development.

Full details of the consultation responses are available on the Energy Consents

website at www.energyconsents.scot

Representations

A total of 71 public representations were received regarding the proposed Development, 31 in support and 40 objections. Full details of the representations received are available on the Energy Consents website at www.energyconsents.scot

The public representations in support of the proposed Development cited the following reasons:

- socio-economic benefit;
- visual impact is acceptable;
- as this is an extension the use of existing infrastructure is supported, existing wind farm operates well; and
- responds to climate change emergency and road to net zero, benefits to habitat management.

The public representations objecting to the proposed Development cited the following reasons:

- impact upon wildlife – ornithology and fish within the River Cassley;
- visual and landscape impacts – including cumulative and scale of wind turbines;
- photomontages are not clear and EIA report underestimates landscape and visual impacts;
- impact upon tourism;
- need to find alternative technologies;
- adverse transportation impacts;
- adverse impact on the NSA and WLA's;
- impact on peat;
- policy position does not allow development at any cost to the environment;
- not in compliance with the Development Plan;
- impact upon amenity;
- concerns raised regarding conflict of interest within the Highland Council;
- provisions of the Electricity Act 1989 are not met; and
- the carbon payback model should be independently validated.

The effects of the proposed Development, during its construction and operation, on the surrounding landscape character, visual receptors, on areas of wild land, habitats, peat, birds, fish, transport routes, local amenity and its positive contribution to climate change have been assessed in the EIA report and the further information provided in AI. The EIA report and the AI identify there are some significant effects and taking this into account, together with the advice from statutory consultees, the Scottish Ministers consider the effects are acceptable subject to conditions and mitigation measures being implemented.

The Scottish Ministers are satisfied that the matters pertaining to representations have been appropriately assessed, in the context of current policy and guidance, and the matters raised have been taken into account in the determination of the proposed Development.

Scotland's fourth National Planning Framework ("NPF4")

The Application was submitted prior to the adoption of NPF4 on 13 February 2023.

A revised Draft NPF4 was laid in Parliament on 8 November 2022. In December 2022 the Company and parties who had provided a consultation response, or made a representation, to the Application were invited to provide updated responses in respect of revised Draft NPF4. The Company provided an updated position statement with regards to NPF4 Policy 1 - Tackling the climate and nature crises, Policy 3 - Biodiversity, Policy 4 - Natural places, Policy 5 - Soils, and Policy 11 - Energy, which is available to view on Energy Consents website at www.energyconsents.scot

Where further comments have not been made and the original response or representation was made in terms of an objection, it has been taken that the position remains the same and NPF4 has not changed this position.

It is noted the John Muir Trust provided further comments regarding NPF4 Policy 1, Policy 2 – Climate mitigation and adaptation, Policy 3, Policy 4 and Policy 11, maintaining its objection, which can be viewed on Energy Consents website at www.energyconsents.scot

All of the statutory consultative bodies advised that NPF4 did not alter the views held by them prior to the adoption of it. All further responses received have been considered in addition to previous representations and consultation responses.

Public Inquiry

In accordance with paragraph 2(2) of Schedule 8 to the Electricity Act, where the relevant planning authority objects to an application and that objection is not withdrawn, the Scottish Ministers shall cause a public inquiry to be held, unless the Scottish Ministers propose to accede to the application subject to such modifications or conditions as will give effect to the objection of the planning authority. Following the consultation exercise the Planning Authority did not object, therefore, a public inquiry is not a statutory requirement.

Paragraph 3 of Schedule 8 to the Electricity Act provides that where the Scottish Ministers are not by virtue of paragraph 2(2) to cause a public enquiry to be held, but objections or copies of objections have been sent to the Scottish Ministers, the Scottish Ministers must consider those objections together with all other material considerations with a view to determining whether a public inquiry should be held with respect to the application and, if they think it appropriate to do so, they must cause a public inquiry to be held.

The Scottish Ministers have considered the objections raised by John Muir Trust, Mountaineering Scotland and Rogart Community Council as well as the 40 public objections received. The Scottish Ministers have taken account of the objections, EIA report, AI and the consultation responses and representations, and are satisfied there is sufficient information to be able to make an informed decision on the Application and can weigh the conflicting issues without recourse to hold a public inquiry.

The Scottish Ministers' Considerations

Main Determining Issues

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

- environmental impacts of the proposed Development in particular:
 - (a) impacts on the qualities of WLA 34;
 - (b) the landscape and visual impacts including the effects on the NSA;
- the benefits of the proposed Development, including its renewable energy generation and targets, and net economic impact; and,
- the extent to which the proposed Development accords Scottish Government policies, the local development plan and other relevant guidance.

Assessment of Determining Issues

Impacts on Wild Land

The EIA report sets out that two WLA's have been identified to be affected by the proposed Development, WLA 34 and WLA 37, EIA Volume 2 – Chapter 7 – table 7.6.1 with a *localised* significant effect identified to WLA 34 paragraph 7.7.34. WLA Assessments have been undertaken for WLA 34 and WLA 37 and are set out in Technical Appendix 7.5 and 7.6 of the EIA report respectively.

The proposed Development is located within the southern fringes of Reay-Cassley WLA 34 and Foinaven – Ben Hee WLA 37 is located 11.6km to the north of the proposed Development at its closest point. WLA 34 extends 560km² across north-west Sutherland covering the mountain massif area of Ben More Assynt, remote areas around Lochs Glendhu and Glencoul, and elevated plateau areas to the east and west of Glen Cassley.

WLA's have been defined by NatureScot as those areas comprising the greatest and most extensive areas of wild characteristics within Scotland. The Wild Land Qualities ("WLQ") of WLA 34 identified by NatureScot are:

- a range of large, irregular, rocky mountains with steep, arresting slopes and a variety of lochs and lochans, possessing a strong sense of naturalness, remoteness and sanctuary;
- an awe-inspiring, broad scale expanse of cnochan in which there is a complex pattern of features at a local level that contribute to the sense of naturalness and sanctuary;
- a variety of spaces created by irregular landforms in which there is perceived naturalness, as well as a strong sense of sanctuary and solitude; and
- extensive, elevated peatland slopes whose simplicity and openness contribute to a perception of awe, whilst highlighting the qualities of adjacent mountains.

NatureScot advised on the impacts of the proposed Development on WLA 34. It is considered by NatureScot that the eastern limb of WLA 34 will be severed at its narrowest point around the hill of Maovally as a direct result of Sallachy Wind Farm

which received planning permission. NatureScot advise that this area of WLA 34 could not be considered as qualifying as part of the WLA and may be considered lost. It is acknowledged by NatureScot that the proposed Development in addition to the consented Sallachy Wind Farm would compound these effects, further diminishing the strength of the WLQ 4 across much of the remaining areas of the eastern limb. NatureScot state that these areas at the eastern limb are no longer of the highest wilderness and importantly no longer contribute to the wider WLA.

Consultation responses and representations raise objections and concerns regarding the significant effect of the proposed Development on WLAs in particular WLA 34. The Planning Authority considers by virtue of siting and design of the proposed Development, the impacts on the qualities of the WLA 34 have been substantially overcome and are satisfied that the impact from key areas within the WLA 34, including Ben More Assynt, are reduced.

The WLA Assessment within the EIA report identifies that locally significant effects would occur to one of the WLQ: *“Extensive, elevated peatland slopes whose simplicity and openness contribute to a perception of awe, whilst highlighting the qualities of adjacent mountains,”* within the eastern limb up to around 5-6km from the proposed Development, and within the western limb up to around 8km and locally to 10km.

In terms of the effects on WLA 37 the assessment concludes that no significant effects would be likely to occur to WLA 37 either to WLQ or the strength of wildness within the WLA.

NPF4 , Policy 4g, sets out that development proposals in areas identified as wild land in the NatureScot WLA’s map will be supported where the proposal will support meeting renewable energy targets. It requires that all such proposals must be accompanied by a wild land impact assessment which sets out how design, siting, or other mitigation measures have been and will be used to minimise significant impacts on the qualities of the wild land, as well as any management and monitoring arrangements where appropriate.

The Scottish Ministers are satisfied, as per NPF4, that the design and siting of the proposed turbines has minimised the significance of the effects on the qualities of WLA 34. With regards to WLA 37, NPF4 - Policy 4 g) sets out that *buffer zones around wild land will not be applied, and effects of development outwith wild land areas will not be a significant consideration*. It is acknowledged that WLA 37 is located 11.6km to the north of the proposed Development at its closest point and that the WLA Assessment concludes no significant effects on WLA 37.

Having considered the EIA report, the AI, the consultation responses and the representations, and taking into account NatureScot’s and the Planning Authority’s responses, the Scottish Ministers are of the view that the overall impact on WLAs is acceptable.

Landscape Character and Visual Impacts

The proposed Development site is located on adjoining land to the north west of the operational Achany Wind Farm. To the north west and west of the Application site the land rises into a complex landscape of rugged mountains, moorland and lochs. To the

east and south east, the landscape comprises of lower lying, rounded hills and plateaux, straths, glens and coastal lands. An extensive pattern of commercial forest plantation characterises the straths which wrap around outwith the proposed Development site to the south and east. Wind turbines, of varying heights, are an established feature within parts of this central and eastern area, mostly focused around the lower lying ridges and plateaux that flank the main inhabited glens, inland from the immediate coastal ridges. The Company provided a detailed assessment of the landscape and visual impacts of the proposed Development in the EIA report at Volume 2 - Chapter 7 and AI, Volume 1 - Main Report.

The Landscape and Visual Impact Assessment (“LVIA”) summarised that the majority of effects to landscape character, landscape designations and other protected landscapes resulting from the proposed Development would not be significant, largely due to the presence of existing wind turbines which create a precedent for wind turbines as a characteristic of the landscape. EIA report Volume 2 - Chapter 7 concludes that the proposed Development would result in a limited number of localised significant effects on landscape character and visual amenity, affecting relatively localised parts of the landscape and visual resource and some significant effects on a localised area within the southern part of WLA 34. A moderate and significant effect has been identified on the setting of Dail Langwell, Broch (Asset 45) Scheduled Monument, EIA report Volume 2 - Chapter 12. The visual effects in the LVIA including on residents, road users and recreational users within the study area were assessed as not significant.

Mountaineering Scotland, John Muir Trust as well as a number of people who made representations to the Application, object to the proposed Development due to its landscape and visual impacts. Mountaineering Scotland are of the view that the proposed Development does not reduce the visual straggle between the existing Achany/Rosehall wind farm cluster and the proposed Development, and John Muir Trust do not consider that the removal of 2 wind turbines would have any landscape or visual benefits due to the wind turbines removed being further from the sensitive landscapes than other remaining wind turbines.

NatureScot had no objection to the proposed Development on the basis of it's landscape and visual impacts. NatureScot acknowledged the conclusions of the LVIA that the proposed Development would result in a limited number of localised significant effects on landscape character and visual amenity, affecting relatively localised parts of the landscape and visual resource up to 10km, and locally to 12.5km from the Proposed Development. It advised that there would be some significant adverse effects on the special landscape quality (“SLQ”) “*Significant tracts of wild land for the Assynt-Coigach NSA*” but considered that whilst these effects are significant, they are moderated both by the distance of the proposed Development from the NSA and by its proximity to existing wind farms and would not adversely affect the integrity of the NSA.

The Planning Authority considers there is an acceptable transition between the smaller existing wind turbines and the larger proposed wind turbines. It considers that the proposed wind turbines have been sited in a manner which means they sit visually within the cluster of existing development in most views. The Planning Authority concludes that the potential significant impacts of the proposed Development, on balance, are acceptable when all matters are taken into account.

The Scottish Ministers acknowledge that the proposed Development will have some significant landscape and visual impacts but overall these would remain relatively localised with the majority of significant effects occurring within 10km of the proposed Development and none at a distance greater than 12.5km. It is also acknowledged that no national or regional landscape designations will be significantly affected by the proposed Development.

It is therefore considered by the Scottish Ministers that the landscape and visual impacts, including on the NSA, are acceptable.

Scottish Government policies and local development plan including estimated economic and renewable energy benefits

Climate Change and Renewable Targets

The seriousness of climate change, its potential effects and the need to cut carbon dioxide emissions, remain a priority of the Scottish Ministers. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019, introduced a target of net zero greenhouse gas emissions by 2045 at the latest.

Scotland will also have to reduce emissions by at least 75% by 2030 and 90% by 2040. Scotland's Climate Change Plan 2018-2032, sets out the road map for achieving those targets and has set the goal of 50% of Scotland's energy need to be met by renewable energy by 2030. The Climate Change Plan update ("CPPu") was published in December 2020 and sets out the Scottish Government's approach to deliver a green recovery and pathway to deliver world leading climate change targets.

With an anticipated installed capacity of 76 MW, the amount of electricity produced by the proposed Development over its 50 year lifetime has been estimated to be over 10.5 million Megawatt hours ("MWh") of electricity. 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 date for net-zero emissions of all greenhouse gases by 2045.

The carbon payback time is the measurement indicator to assess the influence of the proposed Development on climate change. The shorter the payback period, the greater the benefit the proposed Development would have in displacing emissions associated with electricity generated by burning fossil fuels. It is acknowledged that the proposed Development has been designed to minimise disturbance to peat and carbon losses by avoiding deep peat where possible. The EIA report at Volume 4 Appendix B sets out the carbon balance showing a payback period of 3.2 years. The carbon calculator data was updated in February 2023 resulting in a carbon payback period of 4.1 years (compared to grid-mix electricity generation). Further opportunities for carbon offsetting will come in the form of the provision for a scheme for peatland restoration which forms part of the habitat management plan. The outline habitat management plan in the EIA report identifies over 300 hectares within the wider Glencassley Estate within which restoration would be undertaken. These potential management units have been subject to extensive historical drainage and grazing for many years.

The proposed Development is estimated to result in annual savings of 53,490 tonnes of CO₂e versus grid-mix electricity generation. These savings are even greater (and payback time faster) when compared to fossil fuel-mix electricity and coal-fired electricity thereby illustrating that it has the potential to contribute significantly towards the reduction of greenhouse gas emissions from energy production.

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.

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

Scottish Energy Strategy and Onshore Wind Policy Statement

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

The Onshore Wind Policy Statement (“OWPS”) was published in December 2022 and it reaffirms the vital role for onshore wind in meeting Scotland’s energy targets within the context of the Scottish Government’s 2045 net zero emissions commitment. The OWPS 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 in appropriate locations.

National Planning Policy

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

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

The energy policy sets out the matters that are to be addressed in the design and mitigation of a development which include impacts (including cumulative) on

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

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

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

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

The Scottish Ministers acknowledge that the proposed Development would result in some impacts on WLA's and landscape and visual impacts, which are considered acceptable in the context of the benefits that the proposed Development will bring in terms of net economic benefit, contributing to renewable energy and climate change targets. The Scottish Ministers in making their determination on the Application, have had to balance the above considerations, decide what weight is to be given to each and reach a view as to where the balance of benefit lies. On balance, it is considered that the proposed Development is acceptable.

Economic Benefits

The Company sets out in the EIA report that the proposed Development will result in a significant investment in The Highland Council area and in Scotland, and that it is expected to generate economic impacts during the development and construction phase. It is estimated that, from planning through construction, the proposed Development will be worth approximately £11.7 million to the Scottish economy, £4.1 million of that expected to be spent within the Highlands.

The Company also anticipates that the construction phase of the proposed Development is expected to generate 47.84 job years. This will generate an uplift in employment for the local area and region as a whole and would generate indirect economic benefits through spending both locally and nationally.

The assessment within the EIA report Chapter 14 sets out that there are no significant effects on socio-economics as a result of the proposed Development. Whilst the overall net economic benefits are estimations of the effects of the proposed Development, the Scottish Ministers are satisfied the proposed Development has the potential for positive net economic benefits for the local communities of the Highlands and for Scotland.

Compatibility with the Local Development Plan and Supplementary Guidance

The Planning Authority determined its response to the Application that the proposed Development is compliant when considered against the policies set out in the Development Plan, principally Policy 67 of the Highland-wide Local Development Plan with its eleven tests which are expanded upon with the Onshore Wind Energy Supplementary Guidance. This policy also reflects policy tests of other policies in the plan, including Policy 28. The Planning Authority consider the proposal is acceptable in terms of the Development Plan, national policy and is acceptable in terms of all other applicable material considerations, and appropriate conditions being put into place.

Following the opportunity to provide further comments in relation to the revised draft NPF4, the Planning Authority confirmed the proposed Development continued to have its support as a national scale development.

The Scottish Ministers acknowledge the Planning Authority's view that the proposed Development is supported by its Local Development Plan and Supplementary Guidance and NPF4, and appropriate conditions are imposed as requested by the Planning Authority.

The Scottish Ministers' Conclusions

Reasoned Conclusions on the Environment

The Scottish Ministers are satisfied that the Application, EIA report and AI have been produced in accordance with the Consents Regulations, EIA Regulations and The Electricity Works (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020, and that the procedures regarding publicity and consultation laid down in the those Regulations have been followed.

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

The Scottish Ministers have fully considered the Application, including the EIA report, AI, consultation responses, representations and all other material information and, are satisfied that the environmental impacts of the proposed Development have been assessed. The Scottish Ministers acknowledge that there are environmental effects from the proposed Development including localised visual and landscape impacts as well as impacts on WLA 34. Taking into account the environmental information and assessments, and subject to conditions to secure mitigation measures, the Scottish Ministers consider the environmental effects of the proposed Development are acceptable.

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

Acceptability of the proposed Development

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

The Scottish Ministers have considered the environmental effects, including the effects on WLAs and the landscape and visual impacts of the proposed Development, and consider that the overall impact to the WLAs and the significant landscape and visual impacts are acceptable subject to conditions being imposed. The Scottish Ministers are also satisfied that the proposed Development will not have any significant effects on any protected species, National Scenic Areas or National Parks.

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 Scottish Ministers consider that the effects, including cumulative effects, of the proposed Development will result in some environmental impacts but these are considered acceptable in the context of the benefits that the proposed Development will bring in terms of net economic benefit, contributing to renewable energy and climate change targets.

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

The Scottish Ministers are satisfied that the proposed Development has been designed to minimise impacts on priority peatlands and that further opportunities for carbon offsetting will come in the form of the provision of a scheme for peatland restoration which forms part of the habitat management plan. Overall the Scottish Ministers consider that the proposed Development will provide carbon savings, and that these savings will be of an order that weighs in favour of the proposed Development and will contribute to the Scottish Government's strategic priorities.

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

The Scottish Ministers' Determination

Subject to the conditions set out in **Annex 2 - Part 1**, the Scottish Ministers grant consent under section 36 of the Electricity Act 1989 for the construction and operation of the Achany Extension Wind Farm electricity generating station in the Highland Council Planning Authority area as described in the Application and at **Annex 1**.

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

Section 36 consent and expiry of Planning Permission

The consent hereby granted will last for a period of 50 years from the earlier of:

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

Section 58(1)(a) of the Town and Country Planning (Scotland) Act 1997 requires where planning permission is deemed to be granted, that it must be granted subject to a condition that the permission will expire if it has not begun within a period of 3 years.

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

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

In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, the Company must publicise this determination and how a copy of this decision letter may be inspected on the Application website, in the Edinburgh Gazette and in a newspaper circulating in the locality in which the land to which the Application relates is situated.

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

The Scottish Ministers' decision is final, subject to the right of any aggrieved person to

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

<http://www.scotcourts.gov.uk/docs/default-source/rules-and-practice/rules-of-court/court-of-session/chap58.pdf?sfvrsn=8>.

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

Yours sincerely

Ruth Findlay

A member of the staff of the Scottish Ministers

- Annex 1** Description of the Development;
- Annex 2** (Part 1) Section 36 conditions and
(Part 2) Deemed Planning Permission conditions;
- Annex 3** Revised Site Layout Plan
- Annex 4** Appropriate Assessments in respect of:
 - the Caithness and Sutherland Peatlands SPA
 - the Caithness and Sutherland Peatlands SAC
 - the River Oykel SAC

Description of the Development

The Development comprises a wind-powered electricity generating station known as Achany Extension Wind Farm, located on land adjacent (north west) of the operational Achany and Rosehall Wind Farms, between Glen Cassley and Loch Shin, and is situated approximately 4.5 kilometres (km) north of the village of Rosehall and 11km west north west of Lairg within the Planning Authority area of the Highland Council all as specified in the Application and accompanying EIA report dated July 2021 and Additional Information dated April 2022.

The principal components of the Development comprise:

- 18 wind turbines, each with a maximum base to tip height of 149.9 metres;
- Wind turbine foundations and crane hardstandings;
- Borrow pits; comprising both new and reworking of borrow pits used for Achany Wind Farm;
- New on-site substation, welfare building and store;
- New operations building at Achany Wind Farm to accommodate additional staff;
- On-site access tracks;
- A network of underground cabling to connect each wind turbine to the on-site substation;
- A permanent LiDAR unit to collect meteorological and wind speed, and associated hardstand;
- Any associated ancillary works required;
- Temporary construction compounds, including concrete batching plant area;
- Site compound areas, including welfare facilities, site cabins, and parking;
- Batching plant facilities for temporary concrete batching plants; and
- Temporary telecommunications infrastructure.

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

1. Notification of Date of First Commissioning

Written confirmation of the Date of First Commissioning and the Date of Final Commissioning shall be provided to the Planning Authority and the Scottish Ministers no later than one calendar month after those dates.

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

2. Commencement of Development

- (1) The commencement of Development shall be no later than 5 years from the date of this consent, or such other period as the Scottish Ministers may direct in writing.
- (2) Written confirmation of the intended date of Commencement of Development shall be provided to the Scottish Ministers and the Planning Authority as soon as practicable after deciding on such a date.

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

3. Non Assignment

- (1) This consent may not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignment of the consent (with or without conditions) or refuse assignment as they may, in their own discretion, see fit. The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure.
- (2) The Company shall notify the local Planning Authority in writing of the name of the assignee, principal named contact and contact details within 14 days of written confirmation from the Scottish Ministers of an assignment having been granted.

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

4. Serious Incident Reporting

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

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

Annex 2 – Part 2 - Conditions to be attached to deemed planning permission

5. Commencement of Development

- (1) The Development must be begun not later than the expiration of 5 years beginning with the date of permission.
- (2) Written confirmation of the intended date of commencement of Development shall be provided to the Planning Authority and the Scottish Ministers no later than one calendar month before that date.

Reason: To comply with section 58 of the Town and Country Planning (Scotland) Act 1997.

6. Implementation in accordance with approved plans

The Development shall be undertaken in accordance with the Application and EIA report, and AI except in so far as amended by the terms of this consent.

Reason: To ensure that the Development is carried out in accordance with the application documentation.

7. Site Enabling Works

The site Enabling Works shall not commence until a detailed scheme of all Site Enabling Works (including off-site and on-site works) has been submitted to and approved by the Planning Authority. This shall include a timetable for all enabling works and shall be submitted a minimum of 1 month in advance of the proposed date of commencement of any site Enabling Works.

Reason: To ensure the final details of the Site Enabling Works have regard for rural setting of the Development site and the potential impact of such works on the infrastructure of the area.

8. Design and Operation of Wind Turbines

No turbine shall be erected until full details of the proposed wind turbines hereby permitted have been submitted to and approved in writing by the Planning Authority. These details shall include:

- a) The make, model, design, direction of rotation (all wind turbine blades shall rotate in the same direction), power rating, sound power level and dimensions of the turbines to be installed;
- b) The external colour and/or finish of the wind turbines to be used (including towers, nacelles and blades) which shall be non-reflective, pale grey semi- matte;
- c) No text, sign or logo shall be displayed on any external surface of the wind turbines, save those required by law under other legislation;

- d) Thereafter, the wind turbines shall be installed and operate in accordance with these approved details and, with reference to part b) above, the wind turbines shall be maintained in the approved colour, free from rust, staining or dis-colouration until such time as the wind farm is decommissioned;
- e) All wind turbine blades shall rotate in the same direction; and
- f) All cables between the turbines and between the turbines and the control building on site shall be installed and kept underground.

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

9. Signage

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

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

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

- (1) No development, with the exception of the Site Enabling Works, shall commence on the sub-station unless and until final details of the external appearance, dimensions, and surface materials of the substation building, associated compounds, construction compound boundary fencing, external lighting and parking areas have been submitted to, and approved in writing by, the Planning Authority.
- (2) The substation building, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the details approved under paragraph (1).

Reason: To safeguard the visual amenity of the area.

11. Micro-siting

- (1) All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the location shown on plan reference Annex 3 – Revised Site Layout Plan (Figure 2.1). Wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting within the site. However, unless alternative micro-siting allowances are otherwise approved in advance in writing by the Planning Authority in consultation with NatureScot, SEPA and the ECoW, micro-siting is subject to the following restrictions:
 - a) The wind turbines and other infrastructure hereby permitted may be micro-sited within 50 metres;
 - b) No wind turbine foundation shall be positioned higher, when measured in metres Above Ordinance Datum (AOD), than the position shown Revised Site Layout Plan (Figure 2.1);

- c) No micro-siting shall take place within areas of peat deeper than currently shown for the relevant infrastructure on Figure 11.3C and Figure 11.3E of Volume 3 of the EIA report.
 - d) Any infrastructure proposed within 100m of the SAC boundary should not be micro-sited any closer to the boundary;
 - e) Where any infrastructure is proposed to be within 100m of the SAC boundary, temporary fencing should be installed to ensure no construction traffic accidentally enters the SAC, and causes inadvertent damage;
 - f) All micro-siting permissible under this condition must be approved in advance in writing by the Environmental Clerk of Works (ECoW) (see condition 13).
- (2) A plan showing the final position of all wind turbines buildings, masts, areas of hardstanding, tracks and associated infrastructure forming part of the Development shall be submitted to the Planning Authority within one month of the completion of the development works. The plan shall also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW or Planning Authority's approval, as applicable.

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

12. Borrow Pit – Blasting

Blasting shall only take place on the Site between the hours of 07.00 to 19.00 on Monday to Friday inclusive and 07.00 to 13.00 on Saturdays, with no blasting taking place on a Sunday or on a Public Holiday.

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

13. Ecological Clerk of Works (ECoW)

- (1) No development shall take place unless and until the terms of appointment of an independent Ecological Clerk of Works (ECoW) by the Company have been submitted to and approved in writing by the Planning Authority (in consultation with NatureScot and SEPA). The terms of appointment shall:
 - a) Impose a duty to monitor compliance with the ecological, ornithological and hydrological commitments provided in the EIA report and AI and the Construction Environmental Management Plan, Peat Management Plan, Habitat Management Plan, Species Protection Plan, Bird Protection Plan, Water Quality Management Plan (the ECoW Works);
 - b) Advise on micro-siting proposals issued pursuant to Condition 11;
 - c) Require the ECoW to report to the nominated Construction Project Manager any incidences of non-compliance with the ECoW Works at the earliest practical opportunity and stop the job where any breach has been identified until the time that it has been reviewed by the Construction Project Manager; and

- d) Require the ECoW to report to the Planning Authority any significant incidences of noncompliance with the ECoW Works at the earliest practical opportunity.
- (2) The ECoW shall be appointed on the approved terms during the preparation and any commencement of the Habitat Management Plan during the construction period and throughout the period from the Commencement of Enabling Works during development to completion of post construction reinstatement works.
- (3) No later than eighteen months prior to decommissioning of the Development or the expiry of the section 36 consent (whichever is the earlier), details of the terms of appointment of an ECoW by the Company throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted for the written approval of the Planning Authority.
- (4) The ECoW shall be appointed on the approved terms throughout the construction, decommissioning, restoration and aftercare phases of the Development.

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

14. Construction and Environmental Management Plan (CEMP)

- (1) No development or site Enabling Works shall commence until a works specific CEMP, related to the phase or phases of works or development to be undertaken has been submitted to and approved in writing by the Planning Authority. The CEMP shall outline site specific details of all on-site construction works, post- construction reinstatement, drainage and mitigation, together with details of their timetabling.
- (2) The CEMP for each phase of works or development shall include:
 - a) Adherence to the mitigation outlined in the Schedule of Mitigation (EIA report Volume 2, Chapter 18);
 - b) A water quality management plan;
 - c) Temporary drainage during construction shall be designed to accommodate a 1:200 year storm event in accordance with Guidance - Good Practice for Wind Farm Construction (NatureScot, 2019);
 - d) The section of new track which intersects the territory centre of one breeding curlew pair shall be constructed outside of the bird breeding season (April to July inclusive);
 - e) Private Water Supply Protection Plan;
 - f) Confirmation that all natural watercourses, ephemeral streams as well as habitat containing natural flows (all potential GWDTE habitats identified in Figure 10.1.5a), as identified in Figure 10.1.7a, be provided with site specific mitigation where the access track traverses these features. This will ensure that the habitats either side of the proposed track continue to function with uninterrupted hydrological connectivity;
 - g) Details of for the submission of a quarterly report summarising work undertaken at the site and compliance with the conditions imposed under the Deemed Planning Consent during the period of construction and post construction reinstatement;

- h) A Pollution Prevention Plan (PPP) that details all of the measures set out in the schedule of mitigation; and
 - i) a felling and compensatory replanting plan to account for any felling required as a consequence of micro-siting
- (3) The Development shall be implemented thereafter in accordance with the approved CEMP unless otherwise approved in writing by the Planning Authority.

Reason: To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Impact Assessment Report which accompanied the application, or as otherwise agreed, are fully implemented to avoid significant effects on Caithness and Sutherland Peatland Special Area of Conservation and the Caithness & Sutherlands Peatlands Special Protection Area.

15. Construction Traffic Management Plan (CTMP)

- (1) No development or Site Enabling Works shall commence until a works specific CTMP related to the phase or phases of works or development to be undertaken has been submitted to and approved in writing by the Planning Authority in consultation with the Trunk and Local Roads Authorities and Transport Scotland. The CTMP shall be submitted no later than six months prior to commencement. The approved CTMP shall be carried out as approved in accordance with the timetable specified within the approved CTMP. The CTMP shall include proposals for:
 - a) A description of all measures to be implemented by the Company in order to manage traffic during the construction phase (incl. routing strategies), with any additional or temporary signage and traffic control undertaken by a recognised QA traffic management consultant. No construction vehicle routing should take place on the A837 to the west of the proposed Development and the plan should identify measures to restrict vehicles from utilising this route;
 - b) Detailed information on vehicle numbers, signing and lining arrangements, arrangements for emergency vehicle access, measures to minimise traffic impacts on existing road users, measures to accommodate pedestrians and cyclists and a nominated road safety person;
 - c) A risk assessment for transportation of abnormal loads during daylight hours and hours of darkness;
 - d) Proposed traffic management and mitigation measures on the abnormal load access routes. Measures such as temporary speed limits, suitable temporary signage, road markings and the use of speed activated signs should be considered;
 - e) A contingency plan prepared by the abnormal load haulier. The plan shall be adopted only after consultation and agreement with the Police and the respective roads authorities. It shall include measures to deal with any haulage incidents that may result in public roads becoming temporarily closed or restricted;
 - f) A detailed protocol for abnormal load movements, prepared in consultation and agreement with interested parties. The protocol shall identify any requirement for convoy working and/or escorting of vehicles and include arrangements to provide advance notice of abnormal load movements in the local media. Temporary signage, in the form of demountable signs or similar approved, shall be established, when required. All such movements on Council maintained roads shall take place

outwith peak times on the network, including school travel times and shall avoid local community events;

- g) Details of appropriate traffic management which shall be established and maintained at the site access for the duration of the construction period. Full details shall be submitted for the prior arrival of the Planning Authority;
- h) Drainage and wheel washing measures to ensure water and debris are prevented from discharging from the site onto the public road; and
- i) A mitigation strategy for the abnormal loads on the trunk road network including any accommodation measures required, incorporating the removal of street furniture, junction widening, or traffic management of road-based traffic and transportation associated with the construction of the Development.

(2) All construction traffic associated with the Development must conform to the approved CTMP.

(3) The company shall enter into a maintenance agreement under Section 96 of the Roads (Scotland) Act 1984, as amended or any re-enactment thereof, in respect of the A839 and A836, whereby a baseline survey of the road shall be completed and agreed by the Company and the Planning Authority and thereafter the road shall be inspected on a regular basis by the appropriate Council officers and repairs attributable to the wind farm traffic carried out to the timescale and standards specified and to the satisfaction of the Planning Authority.

Reason: To ensure that the construction of the wind farm is carried out appropriately and does not have an adverse effect on the environment, and to protect road safety and the amenity of other users of the public road and rights of way.

16. Road Mitigation Schedule of Works

(1) No development shall commence until a Road Mitigation Schedule of Works and transport report has been submitted to and approved in writing by the Planning Authority in consultation with the Local Roads Authority. The report, primarily in relation to road mitigation shall be implemented as approved, must include as a minimum:

- a) An updated route assessment report for abnormal loads, including swept path analysis and details of the movement of any street furniture, any traffic management measures, and any upgrades and mitigations measures as necessary. This should be undertaken for the candidate turbine and any subsequent changes to either the turbine specifications or proposed method of transport would require any assessments to be updated as necessary.

(2) The route assessment report should include the following as a minimum:

- a) A review of overhead services along the route;
- b) A review of roadside vegetation along the access route and clearance of any vegetation that may interfere with abnormal load movements at all times of the year;

- c) A review of road works or road closures that could affect the movement of abnormal loads; and
 - d) Consultation and agreement with the Police and respective roads authorities regarding the movement of abnormal loads on the local road network.
- (3) A videoed trial run supported by a summary report to confirm the ability of the local road network to cater for turbine delivery, undertaken in conjunction with the agreement of both the roads authority and Police Scotland.
- (4) Details of the proposed site access at its junction with the public road and any required works to the standards as set out within The Planning Authority's Roads and Transportation Guidelines for New Developments. Such works may include suitable drainage measures, improved geometry and construction, measures to protect the public road, and the provision and maintenance of appropriate visibility splays.
- (5) An assessment of the capacity of existing bridges and other structures along the construction access route(s) to cater for all the construction traffic and abnormal load traffic, with upgrades and mitigation measures proposed as necessary. All assessment works must be carried out under the Technical Approval process laid out in DMRB CG300. This involves the submission of an Approval in Principle (AIP) for each assessment for acceptance by the Technical Approval Authority (TAA). This AIP should include details of the proposed delivery vehicles, including axle weights and spacings. On completion of the assessment, assessment and check certificates must be submitted to the TAA, along with the assessment report and copies of the assessment and check calculations. All works to be completed to the reasonable satisfaction of the Planning Authority to any construction activities taking place.
- (6) Following completion of the trial run and structural assessments, full details of all road mitigation measures needed to facilitate abnormal load movements shall be agreed with The Planning Authority. The said measures shall be fully implemented to the reasonable satisfaction of the Planning Authority prior to any abnormal load movements commencing. Appropriate reinstatement and/or restoration works shall be carried out, as required by The Planning Authority, at the end of the turbine delivery and erection period.
- (7) The A839 between its junction with the B864 and the site entrance shall be re-evaluated and if deemed necessary by the Planning Authority, improved by means of passing places at locations within public ownership. The frequency and location of any passing places shall be agreed with the Planning Authority in consultation with the relevant Roads Authority. All works shall be carried out under Section 56 of the Roads (Scotland) Act 1984, as amended or any re-enactment thereof.

Reason: To ensure that the construction of the wind farm is carried out appropriately and does not have an adverse effect on the environment, and to protect road safety and the amenity of other users of the public road and rights of way.

17. Floating Access Tracks

Floating roads shall be installed in areas where peat depths are in excess of 1 metre. Prior to the installation of any floating road, the detailed location and cross section of the floating road to be installed shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA. The floating road shall then be implemented as approved.

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

18. Finalised Peat Management Plan (PMP)

- (1) No development or Site Enabling Works shall commence until a works specific finalised PMP, related to the phase or phases of works or development to be undertaken, has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot and SEPA. The details shall include:
 - a) The mitigation measures described within the EIA report and AI; and
 - b) Demonstrate how micro-siting and other measures such as floating tracks have been used to further minimise peat and good quality peat habitat disturbance.
- (2) The development shall not be carried out other than in accordance with approved details.

Reason: To ensure that a plan is in place to deal with the storage and reuse of peat within the application site, including peat stability and slide risks.

19. Habitat Management Plan (HMP)

- (1) No development, with the exception of the Site Enabling Works, shall commence unless and until a finalised HMP, which is based on the outline HMP (TA-8.10 provided in the EIA report), has been submitted to, and approved in writing by the Planning Authority in consultation with NatureScot, and SEPA. The information shall include:
 - a) The mitigation measures described within the EIA report and be based upon the Outline Plan provided (EIA report, Volume 4 Appendix 8.10) and any further revision as part of the AI;
 - b) The proposed habitat management of the site during the period of construction, operation, decommissioning, restoration and aftercare, and shall provide for the maintenance, monitoring and reporting of habitat on site;
 - c) Details of a scheme for peatland restoration works to deliver peatland improvements works commensurate with the quality of the habitat that will be lost directly and indirectly and take advantage of the opportunity for peatland restoration across the site of the Achany Wind Farm and Achany Extension Wind Farm;
 - d) A suitable area to leave deer stalking grallochs or carcasses outwith the wind farm development;
 - e) A scheme for the delivery of biodiversity enhancement; and
 - f) The provision for regular monitoring and review of the HMP, to reflect ground condition surveys undertaken following construction and prior to the date of Final

Commissioning. Any updates to the HMP shall be submitted for the written approval of the Planning Authority in consultation with NatureScot and SEPA.

- (2) Unless and until otherwise agreed in advance in writing with the Planning Authority, in consultation with NatureScot and SEPA, the approved HMP (as amended from time to time) shall be implemented in full.

Reason: In the interests of protecting ecological features and to ensure that the development secures positive effects for biodiversity.

20. Water Quality and Fish Monitoring Plan

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

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

21. Bat Species Protection Plan (BSPP)

No development, other than site enabling works, shall commence until a Species Protection Plan is prepared for the protection of bats during the operational phase at Turbines 5, 8 & 17. The BSPP should include for monitoring of bat activity, carcass searches and mitigation, if necessary, is submitted to and approved in writing by the Planning Authority in consultation with NatureScot. 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.

22. Borrow Pits – Scheme of Works

- (1) No development or Site Enabling Works shall commence unless and until a scheme for the working and restoration of each borrow pit has been prepared in advance of each phase of works and submitted to, and approved in writing by, the Planning Authority (in consultation with SEPA). The scheme shall include:
 - a) a detailed working method statement based on site survey information and ground investigations;
 - b) details of the handling of any overburden (including peat, soil and rock);
 - c) drainage measures, including measures to prevent surrounding areas of peatland, water dependent sensitive habitats and Ground Water dependent Terrestrial Ecosystems (GWDTE) from drying out;
 - d) a programme of implementation of the works described in the scheme; and
 - e) details of the reinstatement, restoration and aftercare of the borrow pits to be undertaken at the end of the construction period, including topographic surveys of pre-construction profiles and details of topographical surveys to be undertaken of the restored borrow pit profiles.
- (2) The approved scheme shall be implemented in full.

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

23. Deer Management Plan (DMP)

No development, with the exception of the Site Enabling Works, shall commence until a DMP has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot. The DMP will set out proposed long term management of deer using the wind farm site and shall provide for the monitoring of deer numbers on site from the period from Commencement of development and would be subject to ongoing review, based on the habitat condition monitoring of the restoration areas. The approved DMP shall thereafter be implemented in full.

Reason: To protect ecological interests of the Caithness and Sutherland Peatlands Special Area of Conservation.

24. Programme of Archaeological Works

- (1) No development shall commence unless and until a programme of archaeological works to be carried out during construction of the Development has been submitted to, and approved in writing by, the Planning Authority.

- (2) The programme of archaeological works shall include measures to be taken to protect and preserve any features of archaeological interest in situ and the recording and recovery of archaeological features which cannot be protected or preserved.
- (3) The approved programme of archaeological works (as amended from time to time with written agreement from the Planning Authority) shall be implemented in full.

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

25. Television Reception

- (1) No development, with the exception of the Site Enabling Works, shall commence until a Television Reception Mitigation Plan has been submitted to, and approved in writing by, the Planning Authority. The Television Reception Mitigation Plan shall provide for a baseline television reception survey to be carried out prior to the installation of any wind turbine forming part of the Development, the results of which shall be submitted to the Planning Authority. For the avoidance of doubt the scheme shall include, but not be limited to:
 - a) Details of publication and publicity for the scheme;
 - b) Timescale for investigation of any claims within a reasonable timescale;
 - c) Details for reporting mechanism to the Planning Authority the number of complaints/claims;
 - d) Details of the length of the operation of the mitigation scheme. This shall be no less than 18 months of the first export of electricity from the site; and
 - e) Details of the bond to be placed with the Planning Authority to ensure funds are available to deliver the mitigation plan.
- (2) The approved Television Reception Mitigation Plan shall be implemented in full.
- (3) Any claim by any individual person regarding television picture loss or interference at their house, business premises or other building, made during the period from installation of any wind turbine forming part of the Development to the date falling twelve months after the date of Final Commissioning, shall be investigated by a qualified engineer appointed by the Company and the results of the investigation shall be submitted to the Planning Authority.
- (4) Should any impairment to the television signal be attributable to the Development, the Company shall remedy such impairment so that the standard of reception at the affected property is equivalent to the baseline television reception.

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

26. Redundant Turbines

- (1) In the event that any wind turbine installed and commissioned fails to produce electricity on a commercial basis to the public network for a continuous period of 12 months, then unless otherwise agreed in writing with the Planning Authority, after

consultation with the Scottish Ministers and NatureScot, such wind turbine will be deemed to have ceased to be required.

- (2) If deemed to have ceased to be required, the wind turbine and its ancillary equipment will be dismantled and removed from the site within the following 12 month period, and the ground reinstated to the specification and satisfaction of the Planning Authority after consultation with the Scottish Ministers and NatureScot.

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

27. Aviation Safety – Lighting

No turbine shall be erected until a scheme for aviation lighting for the wind farm consisting of Ministry of Defence (MoD) accredited infra-red aviation lighting has been submitted to and approved in writing by the Planning Authority in consultation with the MoD. The turbines shall be erected with the approved lighting installed and the lighting shall remain operational throughout the duration of the permission.

Reason: in the interests of aviation safety.

28. Aviation Safety

At least 14 days prior to the commencement of the erection of the turbines the Company has provided the Planning Authority, Ministry of Defence, Defence Geographic Centre and National Air Traffic Services (NATS) with the following information and has provided evidence to the Planning Authority of having done so:

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

Reason: In the interests of aviation safety.

29. Site Decommissioning, Restoration and Aftercare

- (1) The Development will be decommissioned and will cease to generate electricity by no later than the date fifty years from the date of Final Commissioning. The total period for restoration of the site in accordance with this condition shall not exceed three years from the date of Final Decommissioning without prior written approval of the Scottish Ministers in consultation with the Planning Authority.
- (2) No development shall commence with the exception of the Site Enabling Works unless and until a decommissioning, restoration and aftercare strategy has been submitted to, and approved in writing by, the Planning Authority. The strategy shall

outline measures for the decommissioning of the Development and restoration and aftercare of the site, and shall include proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environmental management provisions.

- (3) Not later than 3 years before decommissioning of the Development or the expiration of this consent (whichever is the earlier), a detailed decommissioning, restoration and aftercare plan, based upon the principles of the approved decommissioning, restoration and aftercare strategy, shall be submitted for the written approval of the Planning Authority in consultation with NatureScot and SEPA.
- (4) The detailed decommissioning, restoration and aftercare plan shall provide updated and detailed proposals, in accordance with relevant guidance at that time, for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall include (but is not limited to):
 - a) 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) Details of watercourse crossings; and
 - l) A species protection plan based on surveys for protected species (including birds) carried out no longer than eighteen months prior to submission of the plan.
- (5) The Development shall be decommissioned, site restored and aftercare thereafter undertaken in accordance with the approved plan, unless otherwise agreed in writing in advance with the Planning Authority in consultation with NatureScot and SEPA.

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

30. Financial Guarantee

- (1) No development or the Site Enabling Works shall take place 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 obligation as referred to in condition 29 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 29.
- (3) The financial guarantee shall be maintained in favour of the Planning Authority until the date of completion of all decommissioning, restoration and aftercare obligations referred to in condition 29.
- (4) The value of the financial guarantee shall be reviewed by agreement between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations and best practice prevailing at the time of each review.

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

31. Outdoor Access

- (1) No Development shall commence until a detailed Outdoor Access Plan of public access across the site (as existing, during construction and following completion) has been submitted to, and approved in writing by, the Planning Authority. The Outdoor Access Plan shall include details showing:
 - a) All existing access points, paths, core paths, tracks, rights of way and other routes (whether on land or inland water), and any areas currently outwith or excluded from statutory access rights under Part One of the Land Reform (Scotland) Act 2003, within and adjacent to the application site;
 - b) Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or effect on curtilage related to buildings or structures;
 - c) All proposed paths tracks and other alternative routes for use by walkers, riders, cyclists, canoeists, all-abilities users, etc. and any other relevant outdoor access enhancement (including construction specifications, signage, information leaflets, proposals for on-going maintenance etc); and
 - d) Any diversion of paths, tracks or other routes (whether on land or inland water), temporary or permanent, proposed as part of the Development (including details of mitigation measures, diversion works, duration and signage).

- (2) The approved Outdoor Access Plan, and any associated works, shall be implemented in full prior to the commencement of development or as otherwise may be agreed within the approved plan.

Reason: In the interests of securing public access rights.

32. Species Specific Surveys and Protection Plans

- (1) No development shall commence unless and until pre-construction surveys and Protection Plans have been carried out at an appropriate time of year for the species concerned, by a suitably qualified person, comprising:
 - a) Otter surveys at watercourses and adjacent suitable habitats and within a 250m radius of each wind turbine and associated infrastructure, this shall inform an otter Species Protection Plan to ensure that any otters, within and adjacent to the development, remain as part of the otter population linked to the Caithness and Sutherland Peatlands SAC;
 - b) A water vole survey shall be carried out within the six month period preceding commencement of construction, and inform a Species Protection Plan;
 - c) Breeding bird surveys, for breeding waders, raptors, upland birds of any land upon which construction (including the existing Achany Wind Farm access track and additional laydown/welfare areas in that vicinity) takes place, plus an appropriate buffer as agreed with the EcoW to identify any species within disturbance distance of construction activity; and
 - d) A bird protection and Mitigation Plan which shall set out measures required to avoid disturbing the Caithness and Sutherland Peatlands Special Protection Area (SPA) waders during the summer months;
- (2) The survey results and any mitigation measures required for these species on site shall be set out in a species mitigation and management plan, which shall inform construction activities.
- (3) No development shall commence unless and until the plan is submitted to an approved in writing by the Planning Authority and the approved plan shall then be implemented in full.

Reason: In the interests of nature conservation.

33. Community Liaison Group

- (1) No development or Site Enabling Works shall commence unless and until a Community Liaison Plan has been approved in writing by the Planning Authority after consultation with the relevant local community council.
- (2) This plan shall include the arrangements for establishing a Community Liaison Group to act as a vehicle for the community to be kept informed of project progress by the Company.

- (3) The terms and condition of these arrangements must include that the Community Liaison Group will have timely dialogue in advance on the provision of all transport-related mitigation measures and keep under review the timing of the delivery of turbine components.
- (4) The terms and conditions shall detail the continuation of the Community Liaison Group until the Development has been completed and is fully operational. The approved Community Liaison Plan shall be implemented in full.

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

34. Noise

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 Guidance Notes, shall not exceed 35dB LA90, 10-minute at any noise sensitive location existing at the time of consent and:

- a) Prior to the Date of First Commissioning, the wind farm operator shall submit to the Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Planning Authority;
- b) Prior to the Date of First Commissioning, and where it is proposed to operate any turbine in a noise-reduced running mode in order to meet the noise limits the wind farm operator shall submit a curtailment plan to the Planning Authority for written approval. The curtailment plan shall demonstrate how the limits will be complied with and shall include the following:
 - i. Definition of each noise reduced running mode including sound power data;
 - ii. The wind conditions (speed & direction) at which any noise reduced running mode will be implemented;
 - iii. Details of the manner in which the running modes will be defined in the SCADA data or how the implementation of the curtailment plan can be otherwise monitored and evidenced. The Curtailment Plan shall be implemented in accordance with the approved details unless otherwise agreed in writing with the Planning Authority.
- c) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1 d) of the attached Guidance Notes. The data from each wind turbine 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) of the attached Guidance Notes to the Local Authority on its request within 14 days of receipt in writing of such a request.
- d) Within 21 days from receipt of a written request of the Planning Authority, following a complaint to it alleging noise disturbance at a dwelling, the wind farm operator shall, at its expense, employ an independent consultant approved by the Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property (or a suitable alternative location agreed in writing with the

Planning Authority) in accordance with the procedures described in the attached Guidance Notes. The written request from the Planning Authority shall set out at least the date, time and location that the complaint relates to. Within 14 days of receipt of the written request of the Planning Authority made under this paragraph b), the wind farm operator shall provide the information relevant to the complaint to the Planning Authority in the format set out in Guidance Note 1 e);

- e) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm operator shall submit to the Planning Authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Where the proposed measurement location is close to the wind turbines, rather than at the complainant's property (to improve the signal to noise ratio), then the operator's submission shall include a method to calculate the noise level from the wind turbines at the complainant's property based on the noise levels measured at the agreed location (the alternative method). Details of the alternative method, together with any associated guidance notes deemed necessary, shall be submitted to and agreed in writing by the Planning Authority prior to the commencement of any measurements. Measurements to assess compliance with the noise limits of this condition shall be undertaken at the measurement location approved in writing by the Planning Authority;
- f) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm operator shall submit to the Planning Authority for written approval a proposed assessment protocol setting out the following:
 - i. The range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions; and
 - ii. A reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.

The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request of the Planning Authority under paragraph b), and such others as the independent complainant's property. The assessment of the rating level of noise immissions shall be undertaken in accordance with the assessment protocol approved in writing by the Planning Authority and the attached Guidance Notes.

- g) The wind farm operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Planning Authority made under paragraph d) of this condition unless the time limit is extended in writing by the Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurement, 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 Planning Authority with the independent consultant's assessment of the rating level of noise emissions;
- h) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4 c) of the attached Guidance Notes,

the wind farm operator shall submit a copy of the further assessment within 21 days of the independent consultant's assessment pursuant to paragraph e) above unless the time limit for the submission of the further assessment has been extended in writing by the Planning Authority;

- i) In the event that the independent consultant's assessment demonstrates that the rating level (after adjustment for background noise contribution and any tonal penalty) is found to exceed the specified noise limits, the wind farm operator shall submit to the Local Authority for written approval, a scheme of mitigation to be implemented to reduce noise immissions to no greater than the specified noise limits. The scheme shall define any reduced noise operational modes to be used in the mitigation together with sound power levels in these modes and the manner in which the operational modes will be defined in the SCADA data.
- j) The scheme referred to in paragraph i) above should include a framework of immediate and long term mitigation measures. The immediate mitigation measures must ensure the rating level will comply with the conditioned limits and must be implemented within seven days of the further assessment described in paragraph h) being received by the Planning Authority. These measures must remain in place, except during field trials to optimise mitigation, until a long term mitigation strategy is ready to be implemented.

35. Site Inspection Strategy

- (1) Prior to the Date of Final Commissioning, the Company shall submit an outline Site Inspection Strategy (Outline SIS) for the written approval of the Planning Authority. The Outline SIS shall set out a strategy for the provision of site inspections and accompanying Site Inspection Reports (SIR) to be carried out at 25 years of operation from the Date of Final Commissioning and every five years thereafter.
- (2) No later than 24 years after the Date of Final Commissioning, the Company shall submit a final detailed Site Inspection Strategy (Final SIS), based on the principles of the approved Outline SIS for the written approval of the Planning Authority. The Final SIS shall set out updated details for the provision of site inspections and accompanying Site Inspection Reports (SIR), in accordance with relevant guidance at that time, to be carried out at 25 years of operation from the Date of Final Commissioning and every five years thereafter.
- (3) At least one month in advance of submitting each SIR to the Planning Authority, the scope of the SIR shall be agreed with the Planning Authority.
- (4) The SIR shall include, but not be limited to:
 - (a) Details to demonstrate that the infrastructure components of the Development are still operating in accordance with condition 8 and condition 34; and
 - (b) An engineering report which details the condition of tracks, turbine foundations and the wind turbines and sets out the requirements and the programme for the implementation for any remedial measures which may be required.
- (5) The SIS and each SIR shall be implemented in full unless otherwise agreed in advance in writing by the Planning Authority.

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

Guidance Notes for Noise Condition – Condition 34

These notes are to be read with and form part of the planning condition on noise. 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 Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Note 3 with any necessary correction for residual background noise levels in accordance with Note 4. Reference to ETSU-R-97 refers to the publication entitled “The Assessment and Rating of Noise from Wind Farms (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI).

Guidance Note 1

- a) Values of the LA90,10-minute noise statistic should be measured at the complainant’s property (or an approved alternative representative location as detailed in Note 1b)), using a sound level meter of EN60651/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 measurement) 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 measurement). This should be calibrated before and after each set of measurements, using a calibrator meeting BS EN 60942:2018 “Electroacoustics – sound calibrators” Class (or the equivalent UK adopted standard in force at the time of the measurements) and the results shall be recorded. Measurements shall be undertaken in such a manner to enable a tonal penalty to be calculated and applied in accordance with Guidance Note 3.
- b) The microphone shall be mounted at 1.2-1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Planning Authority, and placed outside the complainant’s dwelling. Measurements should be made in “free field” conditions. To achieve this, the microphone shall be placed at least 3.5 metres away from the building façade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.
- c) The LA90,10-minute measurements should be synchronised with measurements of the 10-minute arithmetic mean wind speed wind direction data and with operational data logged in accordance with Guidance Note 1d) and rain data logged in accordance with Note 1f).
- d) 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, arithmetic mean power generated by each turbine and any data necessary to define the running mode a set out in the curtailment plan, 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. Each 10-minute arithmetic average mean wind speed data as measured at turbine 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 Note 2 b). All 10-minute periods shall commence on the hour and in 10-minute increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary.

- e) Data provided to the Planning Authority shall be provided in comma separated values in electronic format with the exception of data collected to assess tonal noise (if required) which shall be provided in a format to be agreed in writing with the Planning Authority.
- f) A data logging rain gauge shall be installed in the course of the independent consultant undertaking an assessment of the level 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). The wind farm operator shall submit details of the proposed location of the data logging rain gauge to the Planning Authority prior to the commencement of measurements.

Guidance Note 2

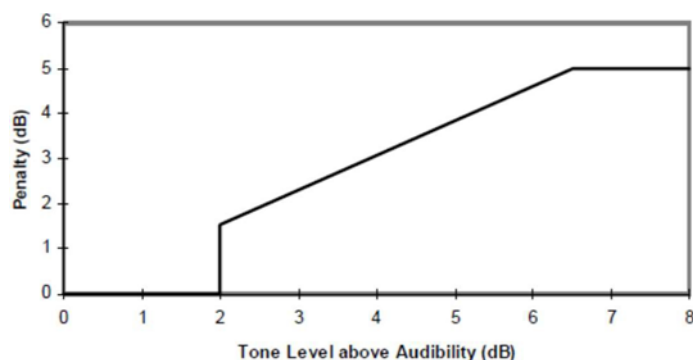
- a) The noise measurements should be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph b).
- b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the Planning Authority but excluding any periods of rainfall measured in accordance with Note 1 f).
- c) Values of the LA90, 10-minute noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed for those data points considered valid in accordance with Note 2 b) shall be plotted on an XY chart with noise level on the Y-axis and 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) shall be fitted to the data points to define the wind farm noise level at each integer speed. If considered appropriate by the independent consultant, the least squares best fit approach may be substituted with using wind speed bin averaging, with each bin being of 1m/s width, centred on integer wind speeds.

Guidance Note 3

- a) Where, in accordance with the approved assessment protocol noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty shall 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 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 shall be reported.

- c) For each of the 2-minute samples the tone level above audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.
- d) The tone level above audibility shall be plotted against wind speeds 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 substituted.
- e) At least squares “best fit” linear regression 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 fitted to values $\pm 0.5\text{m/s}$ of 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 Note 2.
- f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.



Note 4

- a) If a tonal penalty is to be applied in accordance with 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 Note 2 and the penalty for tonal noise as derived in accordance with Note 3 at each integer wind speed within the range set out in the approved assessment protocol.
- b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Note 2.

- c) If the rating level lies at or below the noise limits approved by the Planning Authority then no further action is necessary. In the event that the rating level is above the noise limits, 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:
 - i. Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range set out in the approved noise assessment protocol.
 - ii. 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.

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

- iii. The rating level shall be re-calculated by adding the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.
- iv. If the rating level after adjustment for background noise contribution and adjustment for tonal penalty lies at or below the noise limits approved by the Planning Authority then no further action is necessary. If the rating level at any integer wind speed exceeds the noise limits approved by the Planning Authority then the development fails to comply with the conditions.

Reason: To protect amenity and to ensure that noise limits are not exceeded and to enable prompt investigation of complaints.

Definitions of terms in conditions and related guidance notes

“AI” means Additional Information dated 29 April 2022

“The Application” means the application submitted by the Company on 21 July 2021.

“Bank Holiday” means:

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

“Commencement of development” means the date on which Development shall be taken as having begun in accordance with section 27 of the Town and Country Planning (Scotland) Act 1997.

“the Company” means SSE Generation Limited, company registration number 02310571 and having its registered office at No.1 Forbury Place, 43 Forbury Road, Reading, United Kingdom, RG1 3JH or such other person for the time being entitled of the consent under section 36 of the Electricity Act 1989.

“the Development” means Achany Extension Wind Farm as described in part 1 of Annex 1 and authorised by this consent and deemed planning permission.

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

“EIA report” means Environmental Impact Assessment report dated July 2021

“HES” means Historic Environment Scotland.

“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 a) the date on which electricity is exported to the grid on a commercial basis from the last of the wind turbines forming part of the Development erected in accordance with this consent; or b) the date 18 months after the First Commissioning, unless a longer period is agreed in writing in advance by the Planning Authority.

“National Public Holiday” means Easter Monday and the third Monday in September.

“NatureScot” means Scottish Natural Heritage now operating as NatureScot.

“Planning Authority” means The Highland Council or any successor as Planning

authority.

“SEPA” means the Scottish Environment Protection Agency.

“Site” means the area of land outlined in red on Figure 2.1 a-d The Revised Layout dated 29 April 2022.

“Site Enabling Works” – Formation of temporary construction and welfare compounds and opening of borrow pits adjacent to entrance to Achany Wind Farm and entrance to Achany Extension Wind Farm; formation of access track and associated culverts and watercourse crossings from entrance to Achany Extension Wind Farm to the substation platform; formation of bridge between Turbines T16 and T17; and formation of the substation platform, all as identified on The Revised Layout Figure 2.1.

“wind farm operator” means the Company.

