



T: 0141 242 0361  
E: [William.Black@gov.scot](mailto:William.Black@gov.scot)

Mr Grant Folley  
Stornoway Wind Farm Limited  
EDF Energy  
GSO Business Park  
East Kilbride  
G74 5PG

5 January 2022

Dear Mr Folley

**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 STORNOWAY WIND FARM ON THE ISLE OF LEWIS**

**Application**

I refer to the application made on 22 May 2019, under section 36 of the Electricity Act 1989 (“the Electricity Act”) by Stornoway Wind Farm Limited, a company, incorporated under the Companies Acts with company number SC225262 and having its registered office at EDF Energy, GSO Business Park, East Kilbride, G74 5PG, (“the Company”) for the construction and operation of Stornoway Wind Farm comprising 33 wind turbines (9 wind turbines with a maximum tip height of 156m and 24 wind turbines with a maximum tip height of 180m), and battery storage facility (“the proposed Development”).

The proposed Development is located 1.5km to the west of Stornoway on the Isle of Lewis in the Comhairle nan Eilean Siar planning authority area with a total generating capacity in excess of 50 Mega Watts (MW). The Company is a subsidiary of Lewis Wind Power Holdings Limited, which is a joint venture between EDF Renewables Ltd and Amec Project Investments Ltd in partnership with the Stornoway Trust.

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

## **Planning Permission**

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

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

## **Background**

The Scottish Ministers granted consent for Stornoway Wind Farm in September 2012, to construct and operate 36 wind turbines and ancillary infrastructure. In May 2015, an application was made under the Electricity Act to vary this consent and the deemed planning permission, with regard to the layout, output and size of the wind turbines (increased turbines up to 145m to blade tip) and amendments to certain aspects of the ancillary infrastructure. The varied consent was granted on 22 March 2016 (hereafter referred to as the "Consented Development").

On 22 May 2019, the Company submitted a new application (the "Application") to construct and operate the Stornoway Wind Farm. The proposed Development comprises a different layout to that of the Consented Development with 33 turbines; 9 turbines with a maximum blade tip height of up to 156m, and 24 turbines with a maximum blade tip height of up to 180m. A proposed battery storage facility of around 20 MW is sited within the substation compound in a single storey building of approximately 37m x 10m.

Following the consultation, there were concerns raised in relation to habitat management, ornithology, peat, transport, telecommunications and infrastructure. The Company sought to address those concerns through the submission of Additional Information (AI) on 2 March 2020. Following the consultation on the AI, some concerns were addressed though objections remained in relation to peat and ornithology.

The Company submitted further Additional Information (AI2) on 16 November 2020, which removed two turbines (Turbines 24 and 34) and provided information on ornithological matters in response to concerns from consultations regarding the impact of the proposed Development on the Lewis Peatlands Special Protection Area and birds in the wider countryside.

## **Legislation**

Under paragraph 2(1) of Schedule 8 to the Electricity Act, the relevant Planning Authority is required to be notified in respect of a section 36 consent application. In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the EIA Regulations") and The Electricity Works (Miscellaneous) (Coronavirus) (Scotland) Regulations 2020, the Company submitted an Environmental

Impact Assessment report (“the EIA report”) dated April 2019, AI dated March 2020, and AI2 dated November 2020, in support of the Application describing the proposed Development and giving an analysis of its environmental effects.

In addition, to comply with the EIA Regulations, Scottish Ministers are required to consult the planning authority, as well as Scottish Natural Heritage, acting under its operating name NatureScot, the Scottish Environment Protection Agency (SEPA) and Historic Environment Scotland (HES) as well as other persons that are likely to be concerned by the proposed Development by reason of their specific environmental responsibilities.

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 opportunity given for those wishing to make representations to do so and notifications were sent to Comhairle Nan Eilean Siar (the “Planning Authority”) as the relevant planning authority as well as to NatureScot, SEPA and HES. A wide range of other relevant organisations were also notified and consulted.

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.

The Scottish Ministers have given consideration to the extent to which the Company has demonstrated in the Application submitted, that they have done what they reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites buildings or objects.

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

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

SEPA’s advice has been considered as required by section 36(5A) with due regard given to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003. SEPA have no objection to the proposed Development subject to conditions, which are included in Annex 2. In their response to Scottish Ministers, they direct the Company to the Regulations section of the SEPA website for advice on regulatory requirements and good practice advice, and encourage early engagement with the regulatory services team.

The Scottish Ministers are satisfied that the EIA report, AI and AI2 has been produced in accordance with the EIA Regulations. The Scottish Ministers have assessed the environmental impacts of the proposed Development and taken the environmental information, being the Application, EIA report, AI, AI2, public representations and consultation responses, including those from Nature Scot, SEPA, HES and the Planning Authority into consideration in reaching their decision.

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

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

The Scottish Ministers are satisfied that the Company has avoided so far as possible, causing injury to fisheries or to stock of fish in any waters.

The Scottish Ministers have had regard to the requirements regarding publicity and consultation laid down in the 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 representation on the proposed Development.

### **Consultation**

A summary of consultee responses are provided below and the full response can be viewed on the Energy Consents website at [www.energyconsents.scot](http://www.energyconsents.scot)

### **Statutory Consultees**

**Comhairle nan Eilean Siar** (“the Planning Authority”) raised no objection. The Planning Authority assessed the proposed Development against a number of policy considerations. In terms of landscape and visual impacts, their considerations are set out at section 12.43 – 12.88 of the Planning Application Board report (dated 2 February 2021). The Planning Authority consider significant adverse effects are likely to arise on the appreciation of Stornoway town and its intimately scaled and richly diverse landscape setting from the sea. They also consider the proposed Development will result in widespread significant adverse effects on views extending around 14km of the proposed Development due to the size of the turbines and openness of the landscape. Night time lighting is also considered by the Planning Authority to incur significant adverse effects within 10km of the proposed Development.

The Planning Authority assess the impacts of the proposed Development on cultural heritage and the historic environment. They consider that the effects on the setting of the Category B Listed Lewis War Memorial, Druim Dubh stone circle Scheduled Monument and non-designated archaeological features are considered acceptable

and in accordance with the relevant policies subject to conditions. In respect of the Stornoway Conservation Area, they conclude that the proposed Development would have an adverse effect and there would be conflict with Policy NBH6 of the Outer Hebrides Local Development Plan, which requires all development to preserve or enhance the setting of Historic Areas including Conservation Areas.

The Planning Authority considers the impact of the proposed Development on ecology is acceptable subject to appropriate mitigation measures, compensation and monitoring. In relation to ornithology, the Planning Authority recognise the clear difference in views between the statutory consultee, NatureScot and the Royal Society for the Protection of Birds (RSPB). They consider that, in relation to potential impacts on the Lewis Peatland Special Protection Area, greater weight should be given to the views of NatureScot. In relation to the overall effect of the proposed Development on the wider bird population, the Planning Authority recognise that the adverse impacts of the proposed Development are likely to be significant. The Planning Authority consider that some of these effects are able to be reduced through the use of appropriate mitigation measures and conditions such as the Breeding Bird Protection Plan and the Outline Habitat Management Plan.

The Planning Authority consider that the proposed Development would minimise disturbance of peat and would avoid areas of deepest peat, and the impacts on peat are acceptable subject to a condition requiring a peat management plan.

The Planning Authority set out their assessment of positive, neutral and negative effects of the proposed Development, and overall, they have concluded the considerable weight given to the harmful effects identified in their assessment (which include landscape and visual impacts, effects on the setting of heritage assets, impacts on birds, and blanket bog and wet heath habitat), would be clearly outweighed by the greater substantial and considerable weight given to the benefits of the proposed Development, to renewable energy generation, climate change and carbon emissions, the local economy and employment, and the moderate weight given to public access and recreational benefits.

**NatureScot** do not object. NatureScot provide advice on impacts of the natural heritage, ornithology, ecology and landscape and visual impacts. They advise that the proposed Development lies close to the Lewis Peatlands Special Protection Area ("SPA") and Lewis Peatlands Special Area of Conservation ("SAC"). The effects on the SPA and SAC are considered under the section below at 'Conservation of Habitats and Species Regulations' on pages 11 - 12.

NatureScot raised concerns that the proposed Development could affect nationally important natural heritage interests though following the submission of AI and AI2, NatureScot has no objection subject to conditions which include Breeding Bird Protection Plan, Environmental Clerk of Works, Habitat Management Plan, Otter Species Protection Plan, Pollution Prevention Plan, and Ornithological Monitoring Plan. The Habitat Management Plan requires the restoration of 66ha of peatland habitat off-site and should include measures to minimise and mitigate impacts on hen harrier.

On the basis of landscape and visual impact, NatureScot consider that the proposed Development would not affect landscape interests of national importance. NatureScot consider that the proposed Development would have some significant adverse landscape and visual impacts on the setting of Stornoway and over the island of Lewis, as well as in views from the sea to the southeast of Stornoway. NatureScot consider the main effects arising from the proposed turbines are in relation to their height at 180m, in contrast to the existing Arnish Moor wind turbines 76m height to tip, and the location, large number and extent of wind turbines in the landscape. NatureScot also consider the aviation lighting on the turbines will appear as a prominent feature and consider the visual effects of the proposed lighting to be significant. It is recognised that the effect of the proposed lighting on the wild land area (Uig Hills) in Harris is not considered to be of a magnitude that is significant. NatureScot advise that the landscape and visual impacts could be substantially mitigated if the proposed turbines were reduced in height and number, and that options should be sought for infrared lighting that would not be visible to the human eye.

The Scottish Ministers have given consideration to the recommendations made by NatureScot and have attached conditions within Annex 2. The matters relating to landscape and visual impacts including the effects of aviation lighting are considered below under the 'Assessment of Determining Issues' on pages 16 - 18 of this decision letter.

**SEPA** do not object. SEPA initially objected to the proposed Development due to a lack of information on the impacts on carbon and on peat and wetlands. Following the submission of AI and AI2, SEPA do not object subject to the conditions covering Peat Management Plan, Decommissioning and Restoration Plan, mitigation measures outlined in Table 16.1 of the EIA report, micro siting condition for the built elements of the scheme up to 100m or other reasonable distance, Habitat Management Plan to deliver 66ha of off-site improved blanket bog or wet heath habitat and protection of good quality habitat on site, Borrow Pit Restoration Plan, and battery storage details.

The Scottish Ministers have given consideration to the recommendations made by SEPA and have attached conditions within Annex 2.

**HES** do not object. HES consider that the proposed Development does not raise historic environment issues of national significance and they welcome the reduction of impacts on the setting of Scheduled Monument Druim Dubh stone circle that has been achieved through the iterative design process.

#### Internal consultees

**Marine Scotland Science ("MSS")** do not object. They recommend that a robust integrated water quality and fish population monitoring programme using MSS guidelines is established. This is included in the condition set out in Annex 2 for a Construction Environmental Management Plan.

**Scottish Forestry** do not object. Scottish Forestry initially objected to the proposal on the grounds of unacceptable woodland loss. Following the submission of AI dedicated to forestry (AI Appendix 9) and inclusion of forestry related information within AI Appendix 9 I – Outline Habitat Management Plan. Scottish Forestry removed

the objection subject to conditions for a compensatory planting condition being applied to any consent granted. Scottish Ministers have given consideration to Scottish Forestry response and have imposed appropriately worded condition within Annex 2.

**Transport Scotland** do not object and have no further comment to make in terms of environmental impacts associated with increased traffic and on the truck road network.

**Ironside Farrar** (Scottish Government advisors to technically assess the Peat Landslide Hazard and Risk Assessment (PLHRA)). Ironside Farrar provided a report of their findings and recommendations. Following the provision of justification and clarification by the Company, all queries raised on the PLHRA were reviewed by Ironside Farrar and considered satisfactory.

#### Other consultees

**Joint Radio Company (“JRC”)** do not object. Following discussion between the Company and JRC, JRC raise no objection to the proposed Development subject to a condition requiring mitigation of the impact on telecommunication links by Scottish & Southern Energy and Scotia Gas Networks Limited to be approved and implemented. The Scottish Ministers have given consideration to the recommendations made by JRC and have attached a condition within Annex 2.

**MET Office** do not object. Met Office initially objected to the proposed Development as it considered the impact of the proposed turbines on the line of sight of the Druim-a-Starraig weather radar would be unacceptable. The Met Office subsequently withdrew the objection subject to a condition for a radar mitigation scheme to be approved and implemented. The Scottish Ministers have given consideration to the recommendations made by the Met Office and have attached a condition within Annex 2.

**NATS (En-Route) plc (NERL)** do not object. An agreement has been entered into between NERL and Stornoway Wind Farm Limited which identifies suitable, agreed planning conditions and further to which the identification and development of a mitigation solution in relation to the proposed Development is to take place. The Scottish Ministers have given consideration to the recommendations made by NERL and have attached a condition within Annex 2.

**RSPB Scotland** object on the grounds that the proposed Development would cause unacceptable impacts to several bird species of conservation concern through disturbance, displacement and collision impacts to nationally and internationally important populations. Concerns have been expressed by the RSPB regarding the lack of further collision risk modelling following the submission of AI2 which removed two turbines, particularly in view of their continued concern about the significant adverse effect of the proposed Development, which has resulted in their request for the removal of an additional 6 turbines T7, T10, T15, T17, T18, and T23.

RSPB consider that the proposed Development would have a significant impact on the recently established hen harrier population on Lewis. RSPB highlighted that the hen harrier is a species of outstanding conservation importance and they consider the national hen harrier population is in decline, and that the Isle of Lewis offers a potential refuge for a population suppressed on mainland Scotland. They also raise concerns about indirect disturbance resulting from the proposed Development as a result of public recreational access on the new access tracks, and request a comprehensive Habitat Management Plan should be a condition of any consent granted and agreement should be reached on minimum financial commitment by the Company.

The Scottish Ministers have considered indirect disturbance from recreational access and are content that measures aimed at limiting potential additional disturbance will be addressed in the Access Management Plan, Habitat Management Plan and Breeding Bird Protection Plan which are secured by conditions as set out in Annex 2. The impacts on ornithology are considered at 'Assessment of Determination Issues' on pages 18 - 23. The Scottish Ministers have given consideration to RSPB's comments and attached appropriately worded conditions within Annex 2.

**The Lewis and Harris Raptor Study Group (LHRSG)** object. The LHRSG consider there is a strong nest site fidelity and that hen harriers do favour particular areas within the Application site. They agree with RSPB Scotland that turbines should not be placed in close proximity to these favoured nesting areas. LHRSG object to the proposed Development in its current form and request that eight turbines are refused consent (T7, T8, T10, T11, T13, T15, T16 and T23). LHRSG acknowledge the benefits of the proposed Development including the valuable contribution to employment locally and the contribution it will make to meeting targets to reduce CO<sub>2</sub> emissions. However, they highlight that the benefits must be weighed against the likely impacts on biodiversity and hen harriers. Further comments were provided from LHRSG to highlight their reasons and view that the above turbines should be relocated or removed in light of climate crisis and commitment to measures that will encourage both biodiversity as well as renewable energy.

The impacts on ornithology are considered below 'Assessment of Determination Issues' on pages 18 - 23. The Scottish Ministers have given consideration to LHRSG's comments and attached conditions within Annex 2.

**Scotways** object to the proposed Development regarding the standoff distance between the closest turbine and the Hebridean Way, which is 145m.

The Scottish Ministers have taken into consideration the comments from the Planning Authority where they recognise there would be an element of risk associated with the proximity of one turbine to the Hebridean Way, however, in this particular case, the Planning Authority considers that the level of risk would be low and not sufficient to support a recommendation of refusal on this issue. The Scottish Ministers have taken into account the comments made and attached a condition requiring an Access Management Plan, which can set out appropriate measures in relation to way marking, information boards, car parking and other facilities.



**Stornoway Community Council** object. They raise the following concerns regarding landscape and visual impact due to the size and location, lack of awareness that the Application was being progressed, impact on bird life and destruction of peatland, impact on heritage assets and questionable economic benefits. The Stornoway Community Council comment that they would prefer wind farm developments to be taken forward by the community renewables sector to maximise the benefits to those who live in the area. The Stornoway Community Council consider that further consideration should be given as to how to reach people in order to get their views on the proposed Development and request a public local inquiry be held.

The Stornoway Community Council issued a public poll to inform their response to the consultation and sent the details to the Scottish Ministers to support their consultation response. The Scottish Ministers have read and understood how these views have informed the Community Council response to this Application. It is noted by the Scottish Ministers that individual responses referred to, were not received as representations to this Application.

The Scottish Ministers consideration of whether a public inquiry should be held with respect to the Application is set out under 'Public Inquiry' on page 13 of this letter. The Scottish Ministers are satisfied that the matters pertaining to Stornoway Community Council's response have been appropriately assessed and taken into account in the determination of the proposed Development.

**Civil Aviation Authority (CAA)** do not object to the proposed Development and advised that given the location of the turbines, a steady red omnidirectional aviation warning light of 200 candela would be acceptable to the CAA. Scottish Ministers have imposed appropriately worded condition at Annex 2 to address CAA requirements.

**Defence Infrastructure Organisation Safeguarding (Ministry of Defence (MOD))** do not object to the proposed Development, however in the interests of air safety, the MOD request that the turbines are fitted with aviation lighting in accordance with the Civil Aviation Authority, Air Navigation order 2016. MOD request to be advised of the date construction starts and ends, the maximum height of construction equipment and the latitude and longitude of every turbine. The Scottish Ministers have imposed an appropriately worded condition at Annex 2 to address MOD requirements.

**Highland and Islands Airport Ltd** do not object, subject to a condition requiring a steady red omnidirectional aviation warning light with 200 candela on the hub height of the turbines. Scottish Ministers have imposed an appropriately worded condition at Annex 2 to address their requirements.

**Scottish Water** do not object however, according to their records, the proposed Development will impact on existing Scottish Water assets. The Company shall therefore identify any potential conflicts with Scottish Water assets and contact the Asset Impact Team to apply for a diversion.

**Western Isles DSFB** do not object but expect a monitoring programme to be agreed to be implemented throughout the development phase in order to reflect Marine Scotland Science and Fisheries Management Scotland guidelines.

The following consultees provided no objection subject to comments and/or conditions, which are set out in Annex 2: BT, Crown Estate, Fisheries Management Scotland and Visit Scotland.

The following consultees did not provide any comments: Airwave Solutions; Arquiva; John Muir Trust; Mountaineering Scotland; Scottish Wildlife Trust; Stornoway Angling Association; Western Isles Tourist Board; Kinloch Community Council; North Lochs Community Council; Paicr Community Council; Point Community Council; Sandwick Community Council; Tong Community Council.

## **Public Representations**

The Scottish Ministers received 9 public representations. One representation is in support of the proposed Development highlighting the positive economic benefits for the community and the requirement for developers to invest to influence the Islands Transmission Link.

One representation requests that consideration is given to protect the community interest in building a turbine under the planning permission granted in May 2020 for a site on Beinn Thulabaigh which is located near to Turbine 25 of the proposed Development. The Planning Authority considered this matter in their response and had no objection to the proposed Development, though requested that the Company engages with the community interest over the delivery options for Turbine 25, given the extant consent for a community turbine in close proximity. The Scottish Ministers acknowledge the commitment from the Company to engage with the community and enter into an agreement which would set out timeframes in which the community can decide whether to build their turbine, and if they choose not to, the Company could build Turbine 25.

Seven representations received are objecting to the proposed Development on the basis of the impacts on:

- Ornithology;
- Landscape and visual impact;
- Tourism;
- Cultural heritage;
- Blanket bog and wet heath habitat;
- Previous applications having been refused; and
- Requests for a Public Local Inquiry to be held.

The Pre-Application Consultation report sets out the range of communications and consultation activities that have been carried out by the Company to inform all interested parties of the proposed Development. In January 2018 the Company opened a new office in Stornoway to allow the public to drop in and talk about the Company's proposals. In April 2018, there was an announcement that the Company was exploring a number of possible changes to the Consented Development. A scoping report was made available in July 2018, which introduced the broad principles for the proposed Development. The Company contacted stakeholders and the public to offer introductory meetings to the proposed Development and public exhibitions took place in October 2018, with letters distributed, press releases, newspaper and web advertisements.

The Company responded to specific queries in January 2019 and further public exhibitions were advertised and took place in February 2019. The EIA report, AI and AI2 have been prepared in accordance with the EIA Regulations. The process undertaken to comply with EIA Regulations is set out in Chapter 2 of the EIA report.

The matters relating to ornithology, and landscape and visual impact have been considered by Scottish Ministers below under 'Assessment of Determining Issues' at pages 16 -23.

The effects of the proposed Development on habitat, tourism and cultural heritage have been assessed in Chapter 7 – Historic Environment, Chapter 9 – Ecology, and Chapter 11 – Geology, Hydrology and Hydrogeology, and Chapter 14 – Socio Economics within the EIA report and further information provided in AI and AI2. The EIA report identifies 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 consideration of whether a public inquiry should be held with respect to the Application is set out under 'Public Inquiry' on page 13 of this letter.

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

All consultee responses and representations can be viewed in full on the Energy Consents website at [www.energyconsents.scot](http://www.energyconsents.scot)

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

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

The proposed Development lies close to the Lewis Peatlands Special Protection Area (SPA) and Lewis Peatlands Special Area of Conservation (SAC), and the assessment applies to the Lewis Peatlands Ramsar site. The status of the SPA and SAC means that the requirement of the Habitats Regulations apply. Consequently, Scottish Ministers are required to consider the effect of the proposed Development on the SPA and SAC, by carrying out a Habitats Regulations Appraisal ("HRA").

An HRA has been carried out for the Lewis Peatlands SAC, which is classified for its qualifying interests: blanket bog; depressions on peat substrates; otter; acid peat-stained lochs; wet heathland with cross-leaved heath and; clear-water lochs. NatureScot advised the Scottish Ministers that the proposed Development is not likely to have a significant effect on the qualifying interests of the SAC, and therefore, no appropriate assessment is required to be undertaken. NatureScot are content with the assessment of impacts on the European Protected Species otter as low and advised the mitigation measures embedded in the EIA report and the Otter Protection

Plan require to be implemented. These measures are secured through planning conditions attached at Annex 2.

The Lewis Peatlands SPA is classified for its qualifying interests: red-throated diver; black-throated diver; golden eagle; merlin; golden plover; dunlin and; greenshank.

The HRA concluded that the proposed Development is likely to have a significant effect on the golden eagle and red-throated diver qualifying interests of the SPA and therefore Scottish Ministers have undertaken an appropriate assessment in view of the site's conservation objectives for its qualifying interests.

The Scottish Ministers appropriate assessment has been carried out as set out in Annex 4 and the environmental information to inform the assessment was presented in the EIA report, A1 and A12. The appropriate assessment has therefore been carried out using information already advertised in accordance with the EIA Regulations, and with regard to the advice from NatureScot.

The Scottish Ministers appropriate assessment concluded, following advice from NatureScot, in view of the conservation objectives of the SPA being met, the proposed Development alone and in combination with other projects or proposals that could have impacts on the SPA, will not have an adverse effect on SPA's integrity.

### **Public Inquiry**

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

Paragraph 3 of Schedule 8 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 consultees and representations received. In deciding not to invoke the discretionary power to cause a public inquiry to be held, the Scottish Ministers have taken all material considerations into account, and are content that adequate opportunity was afforded for public representation, and that those representations received and consultation responses have been taken into account in the determination. The Scottish Ministers are content there is sufficient information to be able to make an informed decision on the Application and that they can weigh all the conflicting issues without recourse to hold a public inquiry.

## **The Scottish Ministers Considerations**

### **Main Determining Issues**

Having considered the Application, the EIA report, A1 and A12, responses from consultees, representations and Scottish Government policies, Ministers consider that the main determining issues are:

- The extent to which the proposed Development accords with and is supported by Scottish Government policies and local development plan policies;
- The estimated economic and renewable energy benefits which the proposed Development is likely to bring; and
- The environmental impacts of the proposed Development, in particular landscape and visual impacts including effects of aviation lighting, impacts on historic environment, and impacts on ornithology.

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

#### **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.

The proposed Development makes a significant contribution towards meeting greenhouse gas emission and renewable electricity targets with a generating capacity of approximately 184.8 MW from the proposed wind turbines and 20MW from the battery storage facility, with a potential annual CO<sub>2</sub> savings of some 345,119 tonnes per year. This is predicated to result in electricity generation of some 773,809 MegaWatt Hours ("MWh") per year, which would be enough power to supply the equivalent of 228,061 households in Scotland based on average consumption. It is predicted that the carbon loss in developing the proposed Development would be paid back in approximately 1.1 years based upon the fossil fuel mix and the expected outcome.

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 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”) and Onshore Wind Policy Statement (“OWPS”) were 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.

The strategy provides a long-term vision to guide energy policy decisions to tackle the challenges of decarbonising heat and transport in order to meet Scotland’s long-term energy and climate change targets. The OWPS reaffirms the vital role for onshore wind in meeting Scotland’s energy targets. The statement sets out the Scottish Government’s position for the ongoing need for more onshore wind development and capacity in locations across Scotland where it can be accommodated in appropriate locations.

### Scotland’s National Planning Framework

National Planning Framework 3 (“NPF3”) sets out the long term vision for the development of Scotland and is the spatial expression of the Scottish Government’s Economic Strategy, that has a focus on supporting sustainable economic growth which respects the quality of the environment, place and life in Scotland and the transition to a low carbon economy. NPF3 sets out strategic outcomes aimed at supporting the vision – a successful, sustainable place, a low carbon place, a natural, resilient place and a connected place.

It establishes the Scottish Government’s commitment to establishing Scotland as a leading location for the development of renewable energy technology. Amongst its wide-ranging policies, NPF3 sets out the need for a strategy to reduce reliance on fossil fuels and emphasises not just the challenges in embracing a renewable and low carbon economy while protecting and sustaining environmental assets but also the wider benefits that this will bring, especially in employment creation. It sets out that onshore wind will continue to make a significant contribution to the diversification of energy supplies.

Scotland 2045: Our Fourth National Planning Framework Draft (“Draft NPF4”) was laid in Parliament on 10 November 2021. The Draft NPF4 sets out the spatial strategy with a shared vision that is to guide future development in a way which reflects the overarching spatial principles: sustainable places, liveable places, productive places and distinctive places. It does not reduce the current policy support for the proposed Development and given the Draft NPF4 is at the consultative draft stage, Scottish Ministers have given it limited weight.

## Scottish Planning Policy

Scottish Planning Policy (“SPP”) aligns itself with NPF3 and contains guidance in respect of the granting of consent for wind farm development, and is to be read and applied as a whole. It sets out overarching principal policies to be applied to all development and subject policies which set out guidance in respect of development management.

An overarching principle of SPP is that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits over the longer term. SPP advises that proposals for energy infrastructure developments should always take account of spatial frameworks for wind farms where these are relevant. SPP identifies a number of considerations to be taken into account when determining energy infrastructure developments (set out at SPP paragraph 169) including but not limited to, landscape and visual, cumulative impact, net economic impact, and contribution to the renewable energy generation targets.

SPP sets out that policies and decisions should be guided by certain principles giving due weight to net economic benefit; the contribution to renewable energy targets; supporting delivery of infrastructure, including energy, and; protecting natural heritage, including landscape and the wider environment. SPP also states that the planning system should support the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity.

The Scottish Ministers consider that the effects including cumulatively of the proposed Development would result in some environmental 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, while protecting the natural and historic environment. On balance, it is considered that the proposed Development is sustainable development.

The Scottish Ministers are satisfied that the proposed Development will contribute to the Scottish Government’s strategic priorities.

## Outer Hebrides Local Development Plan (2018)

The relevant Development Plan that applies to the location of the proposed Development is the Outer Hebrides Local Development Plan (OHLDP), which was adopted in 2018. The OHLDP provides a framework to develop and sustain the communities of the Outer Hebrides and identifies considerations within its policies relevant to renewable energy developments.

The Planning Authority, in their response concluded, that the considerable weight given to the harmful effects identified in their assessment, including landscape and visual impacts, effects on the setting of heritage assets, blanket bog and wet heath habitat, and on birds, including nationally important species, would be clearly outweighed by the considerable benefits of the scheme to renewable energy generation, climate change and carbon emissions, the local economy and

employment, and the moderate weight given to public access and recreation benefits. The Planning Authority consequently conclude that the identified conflict with OHLDP Policies NBH1: Landscape, NBH2: Natural Heritage and NBH6: Historic Areas would be outweighed by the particular benefits of the proposed Development which would be sufficient to justify the response of no objection to the Scottish Ministers.

### Economic Benefits

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 are satisfied the proposed Development has the potential for significant positive net economic benefits for the Outer Hebrides and Scotland.

The Company sets out in the EIA report that the proposed Development will result in a substantial investment in the Planning Authority area and in Scotland. It is expected to generate positive economic impacts during the development and construction phase.

The capital cost of the proposed Development is estimated to be between £229m and £353m. It is estimated that the proposed Development would result in £27.5m - £42.36m (12% of the estimated capital costs) being spent locally and £82.44 - £127.08m (36% of the capital costs) being spent within Scotland. During the construction phase, the proposed Development could directly support up to 307 Full Time Equivalent (FTE) local jobs and up to 921 FTE jobs within Scotland. During the operational phase, employment related to operations and maintenance for the proposed Development could directly support up to 208 FTE jobs of which between 15.5 – 87.7 FTE would be local and between 21.4 - 120.6 FTE jobs would be likely to be within Scotland. Other employment is likely to be supported or generated through induced and indirect economic and employment effects throughout all phases of the proposed Development.

Whilst the overall net economic benefits are estimations of the effects of the proposed Development, and that the number of FTE would depend on the duration of the construction programme, which is estimated to be 30 months, Ministers are satisfied the proposed Development has the potential for significant positive net economic benefits both for the community within the Isle of Lewis and within wider Scotland.

### **Landscape and visual impacts including cumulative effects and effects of aviation lighting**

In consideration of the proposed Development, Scottish Ministers have considered the comments made by consultees and representations with regards to the landscape and visual impacts including the cumulative effects and the effects of aviation lighting.

The Landscape and Visual Impact Assessment (“LVIA”) is presented within the EIA report with additional information in AI2. It identifies any likely significant landscape and visual effects arising as a result of the proposed Development. The LVIA findings conclude that the proposed Development would result in some significant landscape and visual effects, which is inevitable given the nature of this proposed Development.



Taking into account consultation responses, Scottish Ministers therefore considered the concerns raised.

The Planning Authority take into account that there is a disparate pattern of existing wind turbines with contrasting spacing, layout and height in the area of the proposed Development which is evident in key views from the surrounding area. The Planning Authority consider that while it would not be possible to design a wind farm of this scale to integrate or ameliorate these relatively confined groups of smaller turbines, in some more distant views the proposed Development, by virtue of the size and extensive spread of turbines, would form a dominant feature, and thus deflect from the contrast that presently occurs in terms of size and pattern between existing turbine groups.

In terms of the effects of the proposed Development on landscape character, the Planning Authority consider that while there would be significant adverse effects on the receiving landscape of the Boggy Moor 1 Landscape Character Type ("LCT"), the landscape of the Application site is less sensitive than the Stornoway Inlet. A concern of the Planning Authority is the proximity of the proposed Development to Stornoway and the significant adverse effects likely to arise on the appreciation of the town and its intimately scaled and richly diverse landscape setting from the sea. The Planning Authority's response acknowledges that the scale of the large expanses of Boggy Moor 1 LCT could physically accommodate a large wind farm development. The Planning Authority give weight to the effects on visual amenity with the proposed Development having extensive visibility across Lewis and northern area of Harris due to the openness of the landscape and will be visible from roads, footpaths and from many residential properties. The LVIA considers Muaitheabhal Wind Farm and its extensions and the Druim Leathann Wind Farm, which both lie approximately 16 km from the proposed Development. The Planning Authority acknowledge the cumulative effects and considers that while inter-visibility will occur in some areas, the separation distances would be such that significant cumulative effects would be unlikely to occur.

The Planning Authority consider that significant adverse effects would occur on the landscape and significant adverse night time effects would occur on views from sections of the A859, A857, the Ullapool – Stornoway ferry, from parts of the Eye peninsula and elevated residential, recreational and heritage areas around Stornoway.

NatureScot advise of significant adverse landscape and visual impacts on the setting of Stornoway and over the island of Lewis, as well as in views from the sea to the southeast of Stornoway. NatureScot consider the effects from the height of the proposed turbines and the aviation lighting on the turbines will be significant. NatureScot advise that the landscape and visual impacts could be substantially mitigated if the proposed turbines were reduced in height and number, and that options should be sought for infrared lighting that would not be visible to the human eye.

The Scottish Ministers have taken into account the views of the consultees and representations that the proposed Development will have significant landscape and visual impacts. It is inevitable given the location of the proposed Development in the simple, flat and open landscape, and its extent and scale, that it will result in significant landscape and visual impacts.

The effects of the aviation lighting have been assessed and the Scottish Ministers consider that there would be potential for significant effects on the character of the landscape and on some receptors in the vicinity of the proposed Development during night time and low light levels.

The Scottish Ministers have attached a condition at Annex 2, which requires an Aviation Lighting Strategy to be prepared to minimise the lighting effects, and to ensure that aviation lighting requirements are met and complies with current policies. Having considered all the information and when taking the Scottish Government policy, the economics benefits, and contribution to renewable energy targets into account, the Scottish Ministers consider, on balance, the landscape and visual impacts including the effects of aviation lighting to be acceptable.

### **Impacts on historic environment**

The assessment on the historic environment is set out at Chapter 7 of the EIA report and identifies significant effects on the setting of two assets: Stornoway War Memorial and Druim Dubh Stone Circle Scheduled Monument. The Planning Authority advise that the views from the War Memorial looking towards Stornoway and the coast are considered to be most significant and, would not be affected and therefore they consider that the proposed turbines would not detract from an understanding or appreciation of the War Memorial itself.

The assessment identifies a significant effect in views north from the Scheduled Monument, and the Planning Authority consider that the important aspects of the character of this heritage asset relate to its immediate surroundings rather than long distance views to the north. HES set out that they agree with the assessment in the EIA report that the proposed Development would impact the Scheduled Monument to some degree, however they are content that the impact is not of such a level as to affect the integrity of the Scheduled Monument's setting.

The Planning Authority consider the proposed Development would result in a significant change to the perception of the Stornoway Conservation Area, resulting in a significant negative effect on people's appreciation of its historic setting and the Lews Castle and Lady Lever Park Garden and Designed Landscape. The Planning Authority has given considerable weight to the harmful effects they identified on the setting of the Conservation Area. The Planning Authority, on balance, considered that the benefits of the proposed Development including renewable energy generation, climate change and carbon emissions, the local economy and employment, and public access and recreation clearly outweigh the harmful effects identified.

The assessment within the EIA report identifies that turbines would be visible from the Conservation Area and is considered likely to be peripheral in a small number of key views from the harbour, and the effects on the understanding and appreciation of the asset via setting would be negligible.

The Scottish Ministers have taken into account the significant effects on the historical assets identified by the assessment within EIA report and the concerns raised by the Planning Authority on the effects of the proposed Development on the Stornoway Conservation Area.

It is acknowledged by the Scottish Ministers that the view of HES is that the proposed Development does not raise historic environment issues of national significance. Taking into account the above, the Scottish Ministers consider the effects on the historic environment to be acceptable subject to conditions requiring a scheme of archaeological works.

### **Impacts on ornithology**

In consideration of the impacts on ornithology, the Scottish Ministers have considered the comments made by consultees and representations, and taken into account the EIA report at Chapter 8 that provides the assessment on ornithology and the additional information provided in AI and AI2.

NatureScot's initial consultation response to the Application raised an objection and they advised that the proposed Development could affect nationally important natural heritage interests, and they required further information which included further bird survey work, to enable an appraisal of the effects on birds to be carried out. NatureScot considered the AI, and advised that there were outstanding issues in relation to the Lewis Peatlands SPA. Further information was submitted in AI2 and subsequently NatureScot advised they had no objection subject to the turbines T24 and T35 being removed, and the implementation of the Breeding Bird Protection Plan being secured by condition. NatureScot recommended measures such as Environmental Clerk of Works, restoration of peatland habitat off-site, Habitat Management Plan, ornithological monitoring be implemented, which are attached as conditions within Annex 2.

RSPB's initial consultation response to the Application raised an objection and advised that the survey work was incomplete, and they raised concerns relating to collision risk modelling, the effects on the Lewis Peatlands SPA, and requested the removal of turbines T17 and T24 as a result of the impact on red-throated divers. In response to the AI, RSPB noted that the information provided allows them to fully comment on the likely impact of the proposed Development on birds. The comments from RSPB following the AI maintained their objection on the grounds that the proposed Development is likely to cause unacceptable impacts to several bird species of conservation concern, at the scale of the Isle of Lewis; Lewis Peatlands SPA and the Western Isles Natural Heritage Zone.

RSPB objection remains and they consider that the likely impacts would be as a result of disturbance and displacement to red-throated diver (breeding within and outside the Lewis Peatlands SPA); disturbance and displacement to breeding and roosting hen harrier; and collision risk to hen harrier, red-throated diver and white-tailed eagle. It was acknowledged that RSPB is supportive of renewable energy development, but they highlighted we are facing a climate and nature emergency, with huge losses of biodiversity in Scotland and worldwide.

It is acknowledged by the Scottish Ministers that there is a difference in views between consultees and representations in relation to ornithology matters. The Scottish Ministers have considered the consultation responses and representations received in the determination of this Application. The detailed consultees and representations responses are available on the Energy Consents Unit website.

## Lewis Peatlands SPA

In relation to displacement of species for which the Lewis Peatlands SPA is designated, NatureScot raised concerns during the Application consultation that it is possible that a breeding pair of golden eagles near the site would have been displaced, potentially leading to range abandonment. NatureScot also considered that it is possible that a breeding pair of red-throated divers near the site would be displaced, compromising the size and distribution of the red-throated diver population on the SPA. NatureScot advised that the impact arises from the proximity of turbine T24 to a successful red-throated diver breeding site within the SPA. Subsequently turbine T24 has been removed from the proposed Development.

The appraisal NatureScot carried out considered the impact of the proposed Development on the potential displacement of golden eagles from their range within the SPA. Following submission of AI2 which removed turbines T24 and T34, NatureScot advised that the proposed Development will not adversely affect the integrity of the Lewis Peatlands SPA.

The proposed Development is likely to have a significant effect on the golden eagle and red-throated diver qualifying interests of the SPA. As a consequence the Scottish Ministers have undertaken an appropriate assessment as referred to on pages 11 -12 and set out in Annex 4, and concludes the proposed Development will not adversely affect the integrity of the SPA site.

## Birds in the wider countryside

### Collision risk

For golden eagle, NatureScot consider, from the collision risk modelling presented in AI, that it is unlikely the regional population would decline at the current cumulative mortality should it be realised, and consider it may not be, given the emerging evidence of displacement. NatureScot consider that the collision risk modelling outputs do not necessarily mean the population will actually increase to the level predicted, as the Outer Hebrides golden eagle population is probably already close to the maximum carrying capacity. NatureScot advise that the modelling shows that the golden eagle population could tolerate the relatively high additional mortality that the assessment predicts.

The Scottish Ministers acknowledge that RSPB disagree with the conclusions of the EIA report and AI that the proposed Development would not have a significant effect on birds; and they note that the data presented in the EIA report and AI predicts significant negative impacts from the proposed Development, alone or in combination with other wind farm proposals for the red-throated diver, hen harrier and white-tailed eagle.

With regards to collision risk modelling carried out for the white-tailed eagle, NatureScot advise that the population of this species is highly unlikely to decline as a result of the proposed Development, nor would the range and population recovery of this re-introduced species be significantly slowed.

In terms of collision risk to hen harriers, NatureScot advise that hen harriers very recently begun breeding in Lewis even though there have long been significant populations elsewhere in the Outer Hebrides. It is acknowledged by NatureScot that the new population in Lewis has been growing significantly since establishing. NatureScot advise that the population of hen harrier should continue to grow and establish, and they do not consider that the proposed Development affects the status of hen harrier in the Outer Hebrides, and recommend that the mitigation measures are secured by conditions.

NatureScot advise that based on population modelling, they concluded that the predicted collision mortality and displacement impact on the red-throated diver would not result in an adverse impact on the integrity of the SPA.

NatureScot also advise that the proposed Development overlaps a large herring gull colony which is a species that has undergone significant regional and national decline. NatureScot advise that detailed post-construction monitoring is needed to understand any ornithological impacts that arise and advise that this can be secured as a condition.

#### Disturbance and displacement

NatureScot advise that there are several proposed turbines sited close to nesting sites of red throated diver, black-throated diver and hen harrier. It is acknowledged that the standard guidance for disturbance distance for these species is a minimum of 500m and within the proposed Development there are several cases of turbines and associated infrastructure that are proposed within this distance. NatureScot advise that the Breeding Bird Protection Plan covers all the likely eventualities, and NatureScot have recommended that adherence to the Breeding Bird Protection Plan be incorporated as a condition if consent is granted, and that it should apply to all phases of the development: construction, operational and decommissioning.

Seven turbines (T7, T10, T15, T17, T18, T23 and T24) were requested to be removed by RSPB following the AI, to reduce the risk of disturbance and collisions with turbines or displacement of red throated diver and hen harrier. RSPB requested that after removing or moving turbines that are close to hen harrier and red-throated diver nesting areas, the collision risk must be re-calculated. RSPB advised that consideration should then be given to removing further turbines in areas of high flight activity to further reduce collision risk.

Following AI2, RSPB maintain their objection. The AI2 removed two turbines one of which was T24 as requested by RSPB but the other six turbines they requested to be removed remained part of the proposed Development. RSPB considers that AI2 does not go far enough to reduce the impacts to an acceptable level particularly in relation to nationally important populations of hen harrier, red-throated diver and white-tailed eagle using the Application site. RSPB requests that further collision risk modelling is required.

RSPB welcome the removal of two turbines, particularly turbine T24 which was located close to a red-throated diver nest site on the SPA, which will reduce the disturbance and displacement risk at this nest site. RSPB also agree that the removal of both turbine T24 and T34 will reduce the extent of range loss to a SPA pair of golden eagles. It is acknowledged by RSPB that the implementation of the Breeding Bird Protection Plan, which limits construction and maintenance activities during the bird breeding season, would reduce disturbance impacts during the construction phase but would have little impact on disturbance and displacement impacts during operation.

RSPB considers that further turbine removal is considered necessary in order to avoid significant adverse impacts on birds.

LHRSG raised an objection and consider there is a strong nest site fidelity and that hen harriers do favour particular areas within the Application site. They provide further data gathered on the distribution of breeding hen harriers which has been collected more recently than the data within the EIA report, AI and AI2. LHRSG agree with RSPB that turbines should not be placed in close proximity to the favoured nesting areas. LHRSG request the removal of eight turbines T7, T8, T10, T11, T13, T15, T16 and T23.

NatureScot consider that the hen harrier population in Lewis is unlikely to be restricted to the Application site in the long term and even if displaced, there is other suitable habitat outside the Application area. It is set out by NatureScot that given the wider evidence for hen harrier displacement is relatively weak (including nesting as close as 100m to operational turbines), and that hen harriers are nesting within 330m of existing turbines on the Application site, it is unlikely that the other nest sites required to be buffered by 500m in this instance.

#### Habitat Management Plan

NatureScot consider that in future, hen harriers are unlikely to be restricted to the Application site in terms of suitable habitat and breeding distribution. The suitable habitat has also been considered by the Company in the Habitat Management Plan which proposes to include three areas of plantation moorland nearby which also have potential for hen harrier use and with the opportunity to enhance further habitat for new hen harrier population.

RSPB welcomed the changes made to the Habitat Management Plan and would be keen to contribute to the development and delivery of the Habitat Management Plan for any proposed Development that may be granted consent. RSPB stated that they do not believe a Habitat Management Plan could provide sufficient mitigation or compensation against the impacts presented in the EIA report and AI, and that turbine removal is required to reduce the impacts on birds.

## Public access

Concerns regarding the likely impact of public access on birds has been raised by consultees and representations, and taken into account by the Planning Authority in their considerations. The Company provided AI and AI2 which sets out appropriate mitigation measures that have been secured in conditions such as Breeding Bird Protection Plan, Habitat Management Plan and Access Management Plan, which require details of measures to encourage access by the public in less ecologically sensitive areas of the site, and to discourage access to sensitive locations, including at particular times of the year, for example, during the ground nesting bird breeding season.

RSPB consider that some access tracks could cause significant disturbance to red throated diver and hen harrier breeding sites, potentially leading to displacement. They note that a balance would need to be reached between promotion of public access and limiting disturbance to sensitive bird species.

NatureScot acknowledge that there is known nest sites around 100m from proposed track, and this brings a higher risk of displacement, but they consider that there is likely to be other suitable habitat for the hen harriers. NatureScot advise that the Breeding Bird Protection Plan and Habitat Management Plan are acceptable.

The Planning Authority considered that the proposed Development would not have an adverse effect on the integrity of the SPA. The Planning Authority considered that the views expressed by consultees have not indicated that the proposed Development, even taking a worst case scenario, could result in significant irreversible damage to ornithology species. The Planning Authority has taken into account the strong national and local policy support for the protection and enhancement of biodiversity including birds.

The Scottish Ministers have taken into account the EIA, AI and AI2, consultation responses and representations, and acknowledge the differing views in relation to ornithology matters and the competing approaches towards biodiversity and renewable energy development.

The EIA report, AI and AI2 sets out that the proposed Development has been modified and designed with widely spaced turbines and corridors between them, and sets out mitigation measure to enhance habitat and biodiversity. Mitigation is proposed and can be secured through conditions that is considered to minimise potential impacts on birds such as; Breeding Bird Protection Plan with measures to protect nests and breeding birds; Habitat Management Plan with the aim at ensuring continued growth of hen harrier population within and outside of the Application site; Access Management Plan to restrict access in sensitive areas; use of good practice when designing and constructing river crossing; Pollution Prevention Plan; and Construction Environmental Management Plan. The full set of conditions are set out in Annex 2.

The request from consultees to remove further turbines (up to ten) has been considered by the Scottish Ministers. The Scottish Ministers have given more weight to the advice provided by NatureScot as a key statutory advisor. On this basis, the Scottish Ministers conclude that there will be some significant effects on birds as a result of the proposed Development, and that taking into account the advice of NatureScot, and the benefits of the proposed Development, on balance, it is considered that the impacts on ornithology are acceptable subject to conditions securing the appropriate mitigation measures.

## **Conclusions**

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

The Scottish Ministers are satisfied that the Application, EIA report, AI and AI2 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 have fully considered the Application, including the EIA report, AI, AI2, consultation responses, representations and all other material information and, are satisfied that the environmental impacts of the proposed Development have been assessed and have taken the environmental information into account when reaching their decision. Taking into account the above assessment and subject to conditions, 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.

### **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 Stornoway Wind Farm, in the Comhairle nan Eilean Siar area as described 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 25 years from the earlier of:

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

Section 58(1) of the Town and Country Planning (Scotland) Act 1997 provides that planning permission lapses if development has not begun within a period of 3 years. Section 58(2) of that Act enables Ministers to direct that a longer period is allowed before planning permission lapses.

The Scottish Ministers consider that because of the complexities of constructing a generating station of this scale, and the timescales associated with grid connection, a period of 5 years from the date of this direction, is typically appropriate. As a consequence of the potential delays the Covid 19 pandemic may have on predicted construction timescales the Scottish Ministers consider it is reasonable to add an additional year to typical timescales.

The Scottish Ministers therefore direct that section 58(1) of the Town and Country Planning (Scotland) Act 1997 is not to apply with regard to that planning permission and that planning permission is to lapse on the expiry of a period of 6 years from the date of this direction if there has been no development within that period.

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

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

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

<https://www.scotcourts.gov.uk/docs/default-source/rules-and-practice/rules-of-court/court-of-session/chap58.pdf?sfvrsn=12>

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

Yours faithfully

REDACTED

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

Annex 1 – Description of Development

Annex 2 – Section 36 Conditions and Deemed Planning Conditions

Annex 3 – Site Layout Plan

Annex 4 – Habitats Regulation Appraisal

## **ANNEX 1**

### **Description of the Development**

The Development comprises an electricity generating station known as Stornoway Wind Farm located to the west of the town of Stornoway on the Isle of Lewis in the in the Comhairle nan Eilean Siar Planning Authority area.

The principal components and ancillary development comprise:

- 33 wind turbines (24 turbines with blade to tip height of up to 180m and 9 turbines with a blade to tip height of 156m) and associated foundations;
- Battery Storage Facility;
- Crane hard standings;
- Construction of site entrances;
- Upgrade and construction of internal tracks and passing bays;
- Establishment and working of up to five borrow pits;
- Construction of a temporary site compound(s); and
- Construction of a new on-site control building and substation.

## **Conditions Attached to Section 36 Consent**

### **1. Notification of Date of First Commissioning**

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

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

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

- (1) The Development shall be commenced no later than six 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 is 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 Scottish Ministers to monitor compliance with obligations attached to this consent and deemed planning permission as appropriate.*

### **3. Non-assignment of Consent**

- (1) This consent shall not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignment, with or without conditions.
- (2) The Company shall notify the Planning Authority and Scottish Ministers in writing of the name of the assignee, principal named contact and contact details within fourteen days of the consent being assigned.
- (3) The Scottish Ministers shall consult with the Met Office prior to such authorisation.

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

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

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

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

## **5. Aviation Links**

- (1) No above ground works shall commence until a Radar Mitigation Scheme has been submitted to and approved in writing by the Planning Authority following consultation with the Operator.
- (2) Turbine 8 shall not be installed until the technical mitigation measures set out in the approved Radar Mitigation Scheme have been implemented in accordance with its terms and the development shall thereafter be operated fully in accordance with such approved Radar Mitigation Scheme.

**Reason:** *To safeguard radar and air traffic interests.*

For the purpose of condition 5 (1) and (2) above. "Operator" means NATS (En Route) plc, incorporated under the Companies Act (4129273) whose registered office is 4000 Parkway, Whiteley, Fareham, Hants PO15 7FL or such other organisation licensed from time to time under sections 5 and 6 of the Transport Act 2000 to provide air traffic services to the relevant managed area (within the meaning of section 40 of that Act).

"Radar Mitigation Scheme" or "Scheme" means a detailed scheme agreed with the Operator which sets out the measures to be taken to avoid at all times the impact of the development, specifically Turbine 8, on the Far Field Monitor (FFM) and Sandwick to Eitshal Microwave Link and air traffic management operations of the Operator at Sandwick.

## **6. Battery Storage Technology**

- (1) No battery storage technology shall be constructed on the site unless and until details of the battery storage technology to be implemented have been submitted to and approved in writing by the Scottish Ministers.
- (2) Thereafter, the battery storage technology shall be implemented and maintained in accordance with the approved details, unless agreed in writing with the Scottish Ministers.
- (3) Written confirmation of when the Battery Storage Facility is installed and commissioned shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after those dates.
- (4) Except as otherwise required by the terms of this consent and deemed planning permission, the battery storage facility shall be undertaken in accordance with the Application, the planning drawings and all documentation lodged.

**Reason:** *In the interests of protecting the environment and to monitor compliance with obligations attached to this consent and deemed planning permission as appropriate.*

## 7. Met Office Radar

- (1) No development shall commence, unless and until a Radar Mitigation Scheme is submitted for the written approval of the Scottish Ministers, following consultation with the Meteorological Office (“Met Office”).
- (2) At least one month prior to the commencement of the development, the Company shall provide a financial bond or guarantee to cover all liabilities to the Met Office, that are attributable to the Development, testing, delivery into service and support and operation of the mitigation solution(s) contained within the Radar Mitigation Scheme. The Company will provide such (if any) financial bond or guarantee as may be appropriate and reasonable in the circumstances having regard at the appropriate time and from time to time thereafter to the level of any costs then outstanding or to become due and the covenant of the Company to meet such liabilities throughout the remainder of the period of the Development.
- (3) No turbines shall be erected under this consent until the approved Radar Mitigation Scheme has been implemented as required by the approved Radar Mitigation Scheme, and that implementation has been approved by the Scottish Ministers in consultation with the Met Office. The Company shall comply with any ongoing obligations contained within the approved Radar Mitigation Scheme throughout the remainder of the period of the Development.

***Reason:*** *To mitigate the impacts of the Development on the provision of meteorological radar services by the Met Office from the Isle of Lewis.*

For the purpose of Condition 7 (1) “Radar Mitigation Scheme” means a detailed scheme which sets out the measures to implement the mitigation solution the purpose of which is to prevent, remove or reduce to an acceptable level any adverse impacts which the operation of the Development would, but for the implementation of such measures, have upon the operation of the weather radar at Druim-a-Starraig on the Eye Peninsula by the Met Office and therefore to ensure that the Met Office’s minimum operational requirements are maintained.

The Met Office’s minimum operational requirement is that meteorological radar coverage is sufficient to maintain current operational requirements

## **Conditions Attached to Deemed Planning Permission**

### **8. Implementation in accordance with approved plans and requirements of the section 36 consent**

- (1) Except as otherwise required by the terms of the section 36 consent and deemed planning permission, the Development shall be undertaken in accordance with:
  - a) the application details and drawings, including the site layout drawing Ref AI2 Figure 4.1 (which, for the avoidance of doubt, omits turbines T24 and T34 as originally submitted) and those listed in the EIA report Volume 3, Figures, Chapter 4, as amended by the Additional Information;
  - b) the EIA report (as supplemented or amended by Additional Information, Ref AI, dated 2 March 2020, and AI2, dated 4 November 2020); and
  - c) other documentation lodged in support of the application.

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

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

- (1) No Development shall commence unless and until full details of the proposed wind turbines (including, but not limited to, the power rating and sound power levels, the size, type, external finish and colour which should be non-reflective pale grey semi-matt), any anemometry masts and all associated apparatus have been submitted to and approved in writing by the Planning Authority.
- (2) The wind turbines shall be consistent with the candidate wind turbine or range assessed in the EIA Report, and the tip height shall not exceed 156 metres above ground level for the turbines T7, T15, T16, T19-T21, T29, T30, T33, and 180 metres above ground level for the turbines T1-T6, T8-T14, T17, T18, T22, T23, T25-T28, T31, T32, T35 as shown on the approved site layout drawing Ref AI2 Figure 4.1.
- (3) The wind turbines shall be constructed and operated in accordance with the approved details and maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned.
- (4) All wind turbine blades shall rotate in the same direction.

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

## 10. Signage

No wind turbine, 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 interest of visual amenity of the area.*

## 11. Design of sub-station and ancillary development

- (1) No Development shall commence on the sub-station unless and until final details of the external appearance, dimensions, and surface materials of the substation, associated compounds, construction compound boundary fencing, bunding, and parking areas have been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA.
- (2) The substation, associated compounds, bunding, fencing, external lighting and parking areas shall be constructed in accordance with the approved details and made available for use before the First Commissioning of the turbines, and shall be retained as such thereafter, for the duration of the consent.

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

## 12. Design of battery storage facility and ancillary development

- (1) No Development shall commence on the battery storage facility unless and until final details of the external appearance, dimensions, and surface materials of the energy storage building, associated compounds, construction compound boundary fencing, bunding, external lighting and parking areas have been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA.
- (2) The battery storage building, associated compounds, bunding, fencing, external lighting and parking areas shall be constructed in accordance with the approved details and made available for use before the First Commissioning of the turbines, and shall be retained as such thereafter, for the duration of the consent

**Reason:** *To ensure that the environmental impacts of the battery storage and ancillary development forming part of the Development conform to the impacts assessed in the EIA Report and in the interests of the visual amenity of the area.*



### 13. Micro-siting

- (1) All wind turbines, buildings, areas of hardstanding and tracks shall be constructed in the location shown on Site Layout Ref A#2 Figure 4.1. Wind turbines, buildings, areas of hardstanding and tracks may be adjusted by micro-siting within the redline application site boundary as shown on the site layout plan.
- (2) No development shall commence unless and until all micro-siting post consent has been approved in writing by the Planning Authority in consultation with SEPA, NatureScot and the Joint Radio Company. The post consent layout shall be submitted following detailed ground investigations, and take into account updated information to minimise impacts on features such as deep peat, groundwater dependent terrestrial ecosystems, watercourses and ecological and ornithological sensitivities and communication links (restrictions apply to T3, T4, T7, T25 and T28 – see Table A below).

Turbine No.	Hub height (m)	Blade length (m)	Tip Height	Eastings	Northings	Micro-siting	Restrictions (no movement into) Degrees East of Grid North
3	105	75	180	135334	930964	Restricted	262-0-82
4	105	75	180	135974	931083	Restricted	262-0-82
7	88	68	156	137745	931334	Restricted	262-0-82
25	105	75	180	136497	935172	Restricted	53-233
28	105	75	180	137716	934787	Restricted	60-240

- (3) Micro-siting is subject to the following restrictions unless otherwise approved in advance in writing by the Planning Authority (in consultation with NatureScot, SEPA and the Joint Radio Company)
- no wind turbine foundation shall be positioned higher, when measured in metres Above Ordinance Datum (Newlyn), than the position shown on plan reference A12 Figure 4.1 site layout;
  - no wind turbine shall be moved more than 50m from the position shown on plan Reference A12 Figure 4.1;
  - no access track, associated infrastructure, or building shall be moved more than 100m from the position shown on plan Reference A12 Figure 4.1;
  - no micro-siting shall take place within areas of peat of greater depth than the original location;
  - micro-siting shall avoid, areas of highest sensitivity habitats (wetlands);
  - no micro-siting shall take place within 50m of a watercourse;
  - no micro-siting shall take place within areas hosting Ground Water Dependent Terrestrial Ecosystems; and

- (h) all micro-siting permissible under this condition shall be approved in advance in writing by the Planning Monitoring Officer (“PMO”), the Environmental Clerk of Works (“ECoW”) and Archaeological Clerk of Works (“ACoW”);
  - (i) No micro-siting shall locate a turbine closer to a residential property identified in the Residential Visual Amenity Survey (Appendix 6c of the EIA report) unless the Planning Authority has given their prior written approval to the new location;
  - (j) Turbine 7 shall not be micro-sited where the impact will be greater on the BT link or Joint Radio Company link.
- (4) No later than one month after the date of Final Commissioning an updated site plan showing the final position of all wind turbines, buildings, masts, areas of hardstanding, tracks and associated infrastructure forming part of the Development shall be submitted to the Planning Authority. The plan shall also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW or Planning Authority’s approval, as applicable.

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

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

- (1) No development shall commence unless and until a scheme for the working and phased restoration of each borrow pit has been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA. The development shall be carried out in accordance with the approved scheme, which shall be implemented in full. 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 dependant sensitive habitats and Ground Water Dependent Terrestrial Ecosystems (GWDTE) from drying out;
  - (d) a programme of implementation of the works described in the scheme, which shall include a Quarry Management Plan, incorporating a Blasting Management Plan and Dust Management plan; and
  - (e) a Restoration Plan, incorporating details of the phased reinstatement, restoration and aftercare of the borrow pits to be undertaken at specified timings during the construction period, including topographic surveys of pre-construction profiles and details of topographical surveys to be undertaken of the restored borrow pit profiles.

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

## 15. Borrow Pits – Blasting

- (1) Blasting shall only take place on the site in accordance with the approved Blasting Management Plan and between the hours of 10.00 to 16.00 on Monday to Friday inclusive and 10:00 to 12:00 on Saturdays, with no blasting taking place on a Sunday or on a Public Holiday.
- (2) No blasting shall take place at any other time unless approved in advance in writing by the Planning Authority.
- (3) Ground vibration from blasting shall not exceed a peak particle velocity of 6mm/second at blasting monitoring locations to be agreed and approved in writing, in advance of blasting, by the planning authority. The measurement is to be the maximum of three mutually perpendicular directions taken at the ground surface.

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

## 16. Planning Monitoring Officer

- (1) No development shall commence unless and until the Planning Authority has approved in writing the terms of appointment of an independent, impartial and suitably qualified environmental consultant as Planning Monitoring Officer (“PMO”). The terms of appointment shall:
  - (a) impose a duty to monitor compliance with the terms of the deemed planning permission and the conditions attached to it;
  - (b) require the PMO to submit a monthly report to the Planning Authority summarising works undertaken on site;
  - (c) require the PMO to report to the Planning Authority any incidences of non-compliance with the terms of the deemed planning permission and conditions attached to it at the earliest practical opportunity; and
  - (d) demonstrate how the PMO will have and will maintain a clear independence from the Company, developer of any party involved in the construction process.
- (2) The PMO shall be appointed on the approved terms throughout the period from Commencement of Development to completion of post construction restoration works.
- (3) No later than 18 months prior to decommissioning of the Development or the expiration of this consent (whichever is the earlier), the terms of appointment of an independent, impartial and suitably qualified PMO for throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted to the Planning Authority for approval. The PMO shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the development.

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

## **17. Environmental Clerk of Works**

- (1) No Development shall commence unless and until the terms of appointment of an independent and suitably qualified Environmental Clerk of Works (“ECoW”) and their duties 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 and hydrological commitments provided in EIA Report and other information lodged in support of the application, the Construction and Environmental Management Plan approved under condition 18, the Habitat Management Plan approved under condition 25, Otter Species Protection Plan approved under condition 27, Breeding Bird Protection Plan approved under condition 28, ornithological monitoring plan approved under condition 21, environmental monitoring plan approved under condition 20, Peat Management Plan approved under condition 22 and other plans approved under this consent (“the ECoW works”);
  - (b) require the ECoW to report to the nominated construction project manager and the appointed Planning Monitoring Officer any incidences of non-compliance with the ECoW works at the earliest practical opportunity;
  - (c) require the ECoW in conjunction with the Planning Monitoring Officer to submit a monthly report to the Planning Authority summarising works undertaken on site; and
  - (d) require the ECoW in conjunction with the Planning Monitoring Officer, to report to the Planning Authority any incidences of non-compliance with the ECoW works at the earliest practical opportunity.
- (2) The ECoW shall be appointed on the approved terms throughout the period from Commencement of Development to post construction restoration works.
- (3) No later than 18 months prior to decommissioning of the Development or the expiration of the section 36 consent (whichever is the earlier), details of the terms of appointment of an independent 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 (in consultation with NatureScot and SEPA).
- (4) The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the Development.

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

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

(1) No development shall commence unless and until a Construction and Environmental Management Plan ("CEMP") containing site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling, has been submitted to, at least two months prior to the proposed commencement, and approved in writing by the Planning Authority in consultation with NatureScot and SEPA.

(2) The CEMP shall include (but not limited to):

- (a) details of Tool box talks;
- (b) a Site Waste Management Plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;
- (c) 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;
- (d) a Dust Management Plan;
- (e) site specific details for management and operation of any concrete batching plant (including disposal of pH rich waste water and substances);
- (f) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- (g) a Pollution Prevention Plan, including arrangements for the storage and management of oil and fuel on the site;
- (h) a Pollution Incident Response Plan in line with SEPA's pollution prevention and control guidance;
- (i) details of soil storage and management;
- (j) details of watercourse exclusion zone (50m buffers) and restrictions on timing of works;
- (k) a Drainage Management Strategy, which shall incorporate the principles of a Sustainable Drainage (SUDS), demonstrating how all surface and waste water arising during and after development is to be managed, to prevent pollution of any watercourses or sources and to avoid the risk of flooding, including through the provision of a bunded enclosure for the battery storage area;
- (l) a Surface Water and Groundwater Management and Treatment Plan, including measures to be put in place to protect groundwater dependent habitats, details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- (m) details of sewage disposal and treatment;

- (n) details of temporary site illumination;
  - (o) details of the construction of the access into the site and the creation and maintenance of associated visibility splays;
  - (p) the method of construction of the crane pads;
  - (q) the method of construction of the turbine foundations including the design for dewatering, collection and settling of suspended sediment (i.e. use of silt traps, fences, straw bales or lagoons);
  - (r) the method of working cable trenches;
  - (s) the method of construction and erection of the wind turbines and meteorological masts;
  - (t) details of watercourse crossings including culvert type construction;
  - (u) details of post-construction Restoration/Reinstatement Plan, of the working areas not required during the operation of the Development, including construction access tracks, borrow pits, construction compound, storage areas, laydown areas, access tracks, passing places and other construction areas; with these details to be provided no later than 6 months prior to the date of first commissioning, unless otherwise agreed in writing by the Planning Authority. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation;
  - (v) a Wetland Ecosystems Survey and Mitigation Plan; and
  - (w) a Tree Felling and Management Plan.
- (3) The development shall be carried out in strict accordance with the approved CEMP, which shall be implemented in full, unless otherwise approved in advance in writing by the Planning Authority (in consultation with NatureScot and SEPA).

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

## 19. Construction Hours

- (1) Construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 07.00 to 19.00 on Monday to Friday inclusive and 07.00 to 16.00 on Saturdays, with no construction work taking place on a Sunday or Public Holiday. Out-with these specified hours, development on the site is to be limited to wind turbine erection, maintenance, emergency works, dust suppression, and the testing of plant and equipment.
- (2) HGV movements to and from the site (excluding abnormal loads) during construction of the wind farm shall be limited to 07.00 to 19.00 Monday to Friday, and 07.00 to 16.00 on Saturdays, with no HGV movements to or from site taking place on a Sunday or Public Holiday.

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

## 20. Environmental Monitoring Plan

- (1) No development shall commence unless and until the Environmental Monitoring Plan (“EMP”) has been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA and Marine Scotland Science (MSS). The EMP shall monitor effects on freshwater ecology to include (but is not limited to) matters set out in MSS’s consultation response dated 24 June 2020 and 30 March 2020 and including:
  - (a) fish;
  - (b) freshwater invertebrates;
  - (c) water quality;
  - (d) river habitats;
  - (e) methodology of such monitoring including locations frequency, gathering of information of baseline levels; and
  - (f) all works require to be carried out by a component qualified professional.
- (2) The EMP shall set out proposed monitoring for pre-construction, during construction, operation, decommissioning, restoration and aftercare of the site. The appropriate mitigation measures shall require to be implemented following any impacts identified from the monitoring. The results of such monitoring shall be submitted to the Planning Authority on a 6 monthly basis, or on request.
- (3) The development shall be carried out in accordance with the approved Environmental Monitoring Plan, which shall be implemented in full and in accordance with the timescales specified within it, unless and until otherwise agreed in advance in writing with the Planning Authority in consultation with SEPA and MSS.

***Reason:*** *In the interests of good environmental management and in accordance with that the mitigation measures contained in the EIA Report accompanying the application.*

## 21. Ornithological Monitoring Plan

- (1) No development shall commence unless and until the Ornithological Monitoring Plan (“OMP”) has been submitted to, and approved in writing by, the Planning Authority in consultation with NatureScot.
- (2) The OMP shall set out proposed monitoring for pre-construction, during construction and post-construction. Full breeding bird and year-round vantage point survey in years 1-5, 10 and 15 of operation.
- (3) The appropriate mitigation measures shall require to be implemented following any impacts identified from the monitoring. The results of such monitoring shall be submitted to the Planning Authority and NatureScot on a 6 monthly basis, or on request.
- (4) The OMP shall monitor effects on birds including red-throated diver, black-throated diver, golden eagle, white-tailed eagle; hen harrier; and herring gull unless and until otherwise agreed in advance in writing with the Planning

Authority in consultation with NatureScot. This list is not exhaustive and may change at the time the development commences construction.

- (5) The development shall be carried out in accordance with the approved Ornithological Monitoring Plan, which shall be implemented in full and in accordance with the timescales specified within it, unless and until otherwise agreed in advance in writing with the Planning Authority in consultation with NatureScot.

**Reason:** *In the interests of good environmental management and in accordance with that the mitigation measures contained in the EIA Report accompanying the application.*

## **22. Peat Management Plan**

- (1) No development shall commence unless and until the Peat Management Plan (PMP) is finalised and has been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA and NatureScot. The PMP shall include (but is not limited to) matters set out in SEPA's consultation response dated 17 April 2020 and 8 December 2020 covering:
  - (a) Reuse of peat;
  - (b) Quality of excavated peat; and
  - (c) Preservation and re-use of turves.
- (2) The development shall be carried out in accordance with the approved Peat Management Plan, which shall be implemented in full and in accordance with the timescales specified within it, unless and until otherwise agreed in advance in writing with the Planning Authority.

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

## **23. Traffic Management Plan**

- (1) No development shall commence unless and until a Construction Traffic Management Plan (CTMP) has been submitted to, and approved in writing by, the Planning Authority. The CTMP shall include (but is not limited to):
  - (a) details of pre-start condition surveys by an independent specialist organisation on all those roads likely to be affected by the development;
  - (b) a requirement for similar condition surveys by the same independent specialist at monthly intervals for the duration of the development construction;
  - (c) details of strengthening, re-alignment and road-widening works at any agreed 'pinch-point' and 'at-risk' locations, including structures, which shall be carried out in accordance with a specification and timescale agreed in advance with the Planning Authority;
  - (d) arrangements to ensure that any damage to the road infrastructure as a result of the works is repaired;
  - (e) detailed plans of access arrangements to the public highway on the A859 and the Pentland Road, which shall be in accordance with the submitted access detail drawing Ref AI Figure 13.1;



- (f) details of the routing of all traffic associated with the development on the local road network and, for the avoidance of doubt, the delivery of turbine materials and components for the development should be routed through the Arnish site as proposed and should avoid Stornoway town centre;
  - (g) measures to ensure that the specified routes are adhered to, including monitoring procedures;
  - (h) details of all signage and lining arrangements to be put in place;
  - (i) provisions for emergency vehicle access;
  - (j) identification of a nominated person to whom any road safety issues can be referred;
  - (k) the provision of suitable off-road parking for site workers.
- (2) No development shall commence unless and until an Abnormal Load Route Assessment is submitted to the Planning Authority, for approval. The assessment shall include the number and timing of deliveries and the length, width and axle configuration of all extraordinary traffic accessing the site, following a clear and demonstrable assessment of the suitability of the structure of bridges or culverts.
- (3) The development shall be carried out in strict accordance with the approved Construction Traffic Management Plan and the Abnormal Load Route Assessment, which shall be implemented in full, unless otherwise agreed in advance in writing with the Planning Authority.
- (4) No development shall commence unless and until the Planning Authority has approved in writing the terms of appointment of an independent, impartial and suitably qualified Roads and Traffic Management Monitoring Officer. The terms of the appointment shall be submitted to and approved in writing by the Planning Authority. The Roads and Traffic Management Monitoring Officer shall be appointed on the approved terms during the period from the Commencement of Development to the completion of post-construction restoration works.
- (5) No later than eighteen months prior to decommissioning of the development or the expiry of the Section 36 consent (whichever is the earlier), a detailed Decommissioning Traffic Management Plan shall be submitted to the Planning Authority, for approval. The Decommissioning Traffic Management Plan shall include details of those measures (a) to (l) above and the decommissioning of the development shall be carried out in strict accordance with the Decommissioning Traffic Management Plan, as approved.

***Reason*** *In the interests of road safety, to safeguard the integrity of the existing infrastructure for existing traffic, to enable the safe passage of construction and component traffic, and to ensure that abnormal loads can access the site in a safe manner.*

## **24. Access Management Plan**

- (1) No development shall commence unless and until an detailed Access Management Plan (AMP) has been submitted to and approved by the Planning Authority. The Access Management Plan shall include (but is not limited to):
- (a) any closures of roads, footways, points of access onto public roads, tracks and land within the site during the construction phase of the development;
  - (b) details of measures proposed to manage access to the site during the construction phase of the development;
  - (c) details of measures to facilitate public access to the site during the operation of the development and the timescale for their provision, including the identified access routes, surface dressing material, signage and parking facilities, in order to cater for a variety of potential users, such as walkers, cyclists, anglers, and horse riders;
  - (d) details of measures to encourage access by the public in less ecologically sensitive areas of the site, and to discourage access to sensitive locations, including at particular times of the year, for example, during the ground nesting bird breeding season.
- (2) The development shall be carried out in accordance with the approved Access Management Plan, which shall be implemented in full and in accordance with the timescales specified within it, unless and until otherwise agreed in advance in writing with the Planning Authority.

**Reason:** *In the interests of local amenity and public safety.*

## **25. Habitat Management Plan**

- (1) No development shall commence unless and until a finalised Habitat Management Plan (HMP) has been submitted to, and approved in writing by the Planning Authority in consultation with NatureScot, Scottish Forestry and SEPA. The finalised HMP shall be based on the outline HMP submitted with application (AI Appendix 9I)
- (2) The Finalised Habitat Management Plan shall set out proposed habitat management of the site during the period of construction, operation, decommissioning, restoration and aftercare, and shall provide for:
- (a) on- and off-site tree planting – to minimise tree removal during construction and manage the remaining trees on-site during operation;
  - (b) proposals for native tree planting in appropriate locations within the development site;
  - (c) measure to minimise and mitigate impacts on hen harrier;
  - (d) set out the method for implementing restoration and reinstatement of affected blanket bog and wet heath and the protection of boggy moorland habitat within the development site;
  - (e) set out criteria for identifying and delivering compensatory blanket bog habitat management offsite - restoration of a minimum of 66ha of blanket

bog and wet heath habitat off-site with exact location(s) of the 66ha of compensatory off-site blanket bog management;

- (f) details of measures to encourage access by the public in less ecologically sensitive areas of the site, and to discourage access to sensitive locations, including at particular times of the year, for example, during the ground nesting bird breeding season.

(3) The finalised HMP shall take into account results of the pre-construction surveys and regular monitoring and review to be undertaken of protected species (condition 27), environmental and ornithological monitoring (condition 20 and 21), peat management (condition 22), Breeding Bird Protection Plan (condition 28) and any other mitigation requirements. Considerations shall be given to whether amendments to management provisions are required to better meet the habitat plan objectives. The finalised HMP shall be updated, in accordance with timescales to be agreed as part of its submission, to reflect ground condition surveys undertaken following construction and prior to the date of Final Commissioning and submitted for the written approval of the Planning Authority (in consultation with NatureScot and SEPA).

(4) Unless and until otherwise agreed in advance in writing with the Planning Authority, the development shall be carried out in accordance with the approved finalised Habitat Management Plan (as amended from time to time in accordance with the provisions in (3) above), which shall be implemented in full.

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

## **26. Habitat Management Group**

(1) The Company shall within one month following the date of Commissioning, invite the Planning Authority and NatureScot and other interested parties to participate with them in a Habitat Management Group (HMG). The purpose of the HMG will be to oversee the delivery of the HMP and to review and assess the results from on-going monitoring of peat, birds and otters. Prior to each meeting of the group, an independent audit, including a site visit, shall take place by a suitably qualified ecologist appointed by the Company, who shall not have been involved with the preparation of the corresponding HMP update report, and the results of that audit shall be made available to the Planning Authority, NatureScot and other interested parties before each meeting of the group. The HMG shall have the power to review the terms of the HMP but changes to the HMP shall only take effect once approved in writing by the Planning Authority.

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

## **27. Otter Species Protection Plan**

- (1) No development shall commence unless and until an Otter Species Protection Plan (“OSPP”) has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot. Unless otherwise agreed in advance in writing with the Planning Authority in consultation with NatureScot, the approved OSPP shall be implemented in full.
- (2) Not more than 3 months prior to commencement of development a pre-construction survey for otter shall be undertaken to inform the OSPP. Thereafter any required work must be carried out in accordance with the approved mitigation measures and timescales set out. Should any otter be recorded, a licence must be obtained from NatureScot prior to works commencing if this is required.

*Reason: In the interests of safeguarding protected species*

## **28. Breeding Bird Protection Plan**

- (3) No development shall commence until the outline Breeding Bird Protection Plan (BBPP) has been finalised and submitted to and approved in writing by the Planning Authority in consultation with NatureScot. The Breeding Bird Protection Plan shall set out proposed bird management plan during construction, operation, decommissioning, restoration and aftercare of the site.
- (4) The BBPP shall be overseen by the ECoW on mitigation requirements and act as the lead contact for any communications with NatureScot with regard to breeding and roosting birds.
- (5) The finalised BBPP shall include mitigation measures set out in the outline BBPP submitted as Additional Information 2 (Appendix D2) for hen harrier, red-throated divers and black throated divers, including but not limited to:
  - (a) Measures to manage disturbance from access and recreation by the public in less ecologically sensitive areas of the site, and to discourage access to sensitive locations, and shall link to the Access Management Plan and Habitat Management Plan; and
  - (b) No works or activities associated with the works shall be undertaken within the development site between 15 March and 5 June in each breeding season unless otherwise first agreed in writing with NatureScot and the Planning Authority. (Activity includes no vegetation clearance, helicopter activity or site investigation works).
- (6) The finalised BBPP shall include provision for regular monitoring and review to be undertaken to consider whether amendments are needed to better meet the BBPP objectives.
- (7) Unless otherwise agreed in advance in writing with the Planning Authority in consultation with NatureScot, the approved BBPP and any updated approved BBPP shall be implemented in full.

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

## **29. Programme of Archaeological Works**

- (1) No ground-breaking works shall commence on site unless and until the terms of appointment of an independent Archaeological Clerk of Works (“ACoW”) have been submitted to, and approved in writing by, the Planning Authority. The scope of the ACoW’s appointment shall include:
  - (a) monitoring compliance with the archaeological scheme of mitigation and programme of works that shall be submitted to and approved in writing by the planning authority before any works take place on site . The programme of works shall include, but not be restricted to, provision for monitoring on site, 10% evaluation, paleo-environmental sampling and, where necessary, excavation and post-excavation analysis and publication;
  - (a) advising on adequate protection of archaeological interests on the site;
  - (b) checking for new records of archaeological interests for which additional mitigation may be required;
  - (c) approving in writing any micro-siting and the placement of wind turbines and tracks;
  - (d) monitoring the compliance with mitigation, reinstatement and restoration measures approved in this consent; and
  - (e) reporting any breaches of the approved scheme of mitigation and programme of works, reinstatement and restoration measures as soon as is practicable after the event, to the appointed Planning Monitoring Officer and the planning authority in writing.
- (2) The ACoW shall be appointed on the approved terms from Commencement of Development, during any period of construction activity and during any period of post construction restoration works approved under condition 18.
- (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 independent ACoW throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted to the Planning Authority for approval.

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

## **30. Forestry**

- (1) No development shall commence until a Woodland Replanting Scheme has been submitted to, and approved by the Planning Authority in consultation with Scottish Ministers.

(2) The Woodland Planting Scheme shall provide for the replanting of a minimum of 40.61 hectares of woodland within the Isle of Lewis, in accordance with precise locations and a timescale to be specified within the Scheme.

(3) The approved Woodland Planting Scheme shall thereafter be implemented in full.

*Reason: To secure compensatory planting for the loss of woodland arising from the Development.*

### **31. Operational Development Lighting**

No lighting of the Development site, (excluding wind turbines) shall take place unless in accordance with the Construction Environmental Management Plan or in the event of an emergency.

*Reason: In the interests of minimising visual disturbance in the vicinity of the Development*

### **32. Construction Plant**

(1) No fixed or mobile plant used within the site during the construction period shall incorporate bleeping type warning devices that are audible at any noise sensitive receptor, unless agreed in advance with the Planning Authority.

(2) Details of alternative warning devices or mechanisms shall be submitted to and approved in writing by the Planning Authority prior to development starting on site. Effective silencers shall be fitted to, used and maintained in accordance with manufacturers' instructions on all vehicles, plant and machinery used on the development site.

*Reason: To minimise disturbance to residents in the vicinity of the Development.*

### **33. Television Reception**

(1) No development shall commence unless and until a Television Reception Mitigation Plan has been submitted to, and approved in writing by, the Planning Authority. The Television Reception Mitigation Plan shall be designed to mitigate any interference as a result of the development and shall provide for a baseline television reception survey to be carried out prior to the installation of the first wind turbine. The results of the baseline television reception survey shall be submitted to the Planning Authority within two months of its completion.

(2) The approved Television Reception Mitigation Plan shall be implemented in full.

- (3) Any claim by any 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 to the date falling twelve months after the date of Final Commissioning, shall be investigated by a qualified engineer 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, a scheme of mitigation shall be submitted to and approved in writing by the Planning Authority, which shall ensure that the impairment shall be remedied 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.*

#### **34. Telemetry scanning station scheme**

- (1) No development shall commence until a scheme for the mitigation of the impact of the development on telecommunication links operated by Scottish & Southern Energy and Scotia Gas Networks Limited, within the vicinity of the application site has been submitted and approved in writing by the Planning Authority in consultation with the Joint Radio Company.
- (2) The scheme shall be implemented in full prior to the first installation of any turbines on the site unless otherwise first agreed in writing with the Planning Authority in consultation with the Joint Radio Company.

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

#### **35. Private Water Supplies**

- (1) No development shall commence unless and until a method statement, mitigation and monitoring plan of private water supplies has been submitted to and approved in writing by the Planning Authority.
- (2) The mitigation and monitoring plan must detail all mitigation measures to be taken to secure the quality, quantity and continuity of water supplies to properties which are served by private water supplies at the date of the Section 36 consent and which may be affected by the Development.
- (3) The method statement shall include water quality sampling methods and shall specify abstraction points.
- (4) Unless and until otherwise agreed in advance in writing with the Planning Authority, the approved method statement and mitigation and monitoring plan shall be implemented in full.

- (5) Monitoring results shall be submitted to the Planning Authority on a quarterly basis, unless otherwise specified within the agreed mitigation and monitoring plan, during the approved programme of monitoring.

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

### **36. Redundant turbines**

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

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

### **37. Aviation Safety**

- (1) No development shall commence unless and until the Planning Authority, Ministry of Defence, Defence Geographic Centre and NATS have been provided with the following information, and evidence has been provided to the Planning Authority that this has been done:
- (a) the date of the expected commencement of each stage of construction;
  - (b) the height above ground level of the tallest structure forming part of the Development;
  - (c) the maximum extension height of any construction equipment; and
  - (d) the position of the wind turbines and masts in latitude and longitude.

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

### **38. Aviation Lighting**

- (1) No wind turbines shall be erected unless and until a scheme for aviation lighting for the Development has been submitted to, and approved by, the Planning Authority, in consultation with Highlands and Islands Airports Limited and Civil Aviation Authority. The scheme shall include details of infra-red and visible aviation lighting which is to be applied and shall set out the number, type, intensity and location of the lighting. The scheme shall detail the approach



taken to minimise lighting where practicable, having due regard to aviation safety.

- (2) No turbine lighting other than that described in the scheme shall be applied, other than that required for health and safety purposes, unless otherwise agreed in writing by the Planning Authority.
- (3) The development shall be operated in accordance with the approved scheme.

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

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

- (1) The Development shall cease to generate electricity by no later than the date falling 25 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 Termination without prior written approval of the Scottish Ministers in consultation with the Planning Authority.
- (2) No development shall commence until a decommissioning, restoration and aftercare strategy has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot and SEPA. The strategy shall outline measures for the decommissioning of the Development, restoration and aftercare of the site and shall include, without limitation, proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works, and environmental management provisions.
- (3) No later than three years prior to decommissioning of the Development or the expiry of the section 36 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. The detailed decommissioning, restoration and aftercare plan shall provide updated and detailed proposals, in accordance with relevant guidance at that time, for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall include (but is not limited to):
  - (a) a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
  - (b) details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
  - (c) a dust management plan;

- (d) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network, including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
  - (e) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
  - (f) details of measures for soil storage and management;
  - (g) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
  - (h) details of measures for sewage disposal and treatment;
  - (i) temporary site illumination;
  - (j) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
  - (k) 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.
- (4) The Development shall be decommissioned, the site restored and aftercare undertaken in accordance with the approved plan, unless and until otherwise agreed in writing in advance with the Planning Authority (in consultation with 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.*

### **39. Financial Guarantee**

- (1) At least one month prior to the commencement of the development, a guarantee to cover all site restoration and aftercare liabilities imposed on the expiry of this consent will be submitted for the written approval of the Planning Authority.
- (2) No work shall begin at the site until:
  - (a) written approval of the Planning Authority has been given to the terms of such guarantee; and

(b) thereafter the validly executed guarantee has been delivered to the Planning Authority.

(3) In the event that the guarantee becomes invalid for any reason, no operations will be carried out on site until a replacement guarantee completed in accordance with the terms of this condition is lodged with the Planning Authority.

**Reason:** *In the interests of amenity and in order to retain effective planning control.*

#### **40. Noise**

(1) The rating level of noise immissions from the combined effects of the wind turbines forming part of the Development (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes (to this condition), shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to this condition at any dwelling which is lawfully existing or has planning permission at the date of this consent. The turbines shall be designed to permit individually controlled operation or shut down at specified wind speeds and directions in order to facilitate compliance with noise criteria and:

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

b) No electricity shall be exported to the grid on a commercial basis until the Company has submitted a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition and received written approval from the Planning Authority. Amendments to the list of approved consultants shall be made only with the prior written approval of the Planning Authority.

c) Within 21 days from receipt of a written request from the Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the Company shall, at its expense, employ a consultant approved by the Planning Authority in terms of paragraph (b) above, to assess the level of noise immissions from the wind farm at the complainant's dwelling 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 and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component or an amplitude modulation.

d) The assessment of the rating level of noise immissions in terms of paragraph (c) above, shall be undertaken in accordance with an assessment protocol that shall, prior to the commencement of any measurements, have been submitted to and approved in writing by the Planning Authority. The protocol shall include the proposed measurement location(s) identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Planning Authority under paragraph (c) above, and such others as the independent consultant considers likely to result in a breach of the noise limits. Within 21 days of a written request by the Planning Authority, following a complaint to it from a resident alleging noise disturbance at the dwelling at which they reside and where Excess Amplitude Modulation (AM) is considered by the Local Planning Authority to be present in the noise emissions at the complainant's property, the wind farm operator shall submit a scheme, for the approval of the local planning authority, providing for the further investigation and, as necessary, control of Excess AM. The scheme shall be based on best available techniques and shall be implemented as approved.

e) Where the property to which a complaint is related is not listed in the tables attached to this condition, the Company shall submit to the Planning Authority for written approval proposed noise limits selected from those listed in the tables to be adopted at the complainant's property for compliance checking purposes. The proposed noise limits are to be those limits selected from the tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's property. The rating level of noise immissions resulting from the combined effects of the wind turbines shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's property.

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

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

## Tables

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

Location	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
1:Gleann Ur North	36.5	37.8	38.7	39.8	41.1	42.6	44.3	46.2	48.3	50.7
2:Cnoc Uilleam Chubair	36.5	37.8	38.7	39.8	41.1	42.6	44.3	46.2	48.3	50.7
3:Gleann Ur	36.5	37.8	38.7	39.8	41.1	42.6	44.3	46.2	48.3	50.7
4:Bennadrove Road	35	35	35.3	36.5	37.8	39.1	40.4	41.8	43.3	44.8
5:Cnoc Mairi	35	35	35.3	36.5	37.8	39.1	40.4	41.8	43.3	44.8
6:Creed Bridge	38	38.4	39.2	40	41.1	42.3	43.6	45	46.7	48.4
7:Druim Dubh **	45	45	45	45	45	45	45	47.2	49.7	52.1
8:Macaulay Farm	39.4	39.4	39.7	40.2	40.9	41.9	43.2	44.6	46.3	48.3

\*Figures as per background noise assessment in S.9 of SWF EIA report 2011 taking into account 35dB LA90, 10min or the Day-time Hours LA90, 10min Background Noise Level plus 5bB(A), whichever is the greater.

\*\* Financial involvement with the Development.

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

Location	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
1:Gleann Ur North	38	38	38	38	38	38	38	39.4	41.7	44.5
2:Cnoc Uilleam Chubair	38	38	38	38	38	38	38	39.4	41.7	44.5
3:Gleann Ur	38	38	38	38	38	38	38	39.4	41.7	44.5
4:Bennadrove Road	38	38	38	38	38	38	38	38	38.1	40.3
5:Cnoc Mairi	38	38	38	38	38	38	38	38	38.1	40.3
6:Creed Bridge	38	38	38	38	38	38	38.3	39.9	41.7	43.6
7:Druim Dubh **	45	45	45	45	45	45	45	45	45	46.8
8:Macaulay Farm	38	38	38	38	38	38	38.5	40.1	41.8	43.7

\*Figures as per background noise assessment in S.9 of SWF EIA report 2011 taking into account 38dB LA90, 10min or the night Hours LA90, 10min Background Noise Level plus 5bB(A), whichever is the greater;

\*\* Financial involvement with the Development.

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

Property	Grid Reference	Easting	Northing
1:Gleann Ur North	NB 40930 34980	140930	934980
2:Cnoc Uilleam Chubair	NB 41070 35580	141070	935580
3:Gleann Ur	NB 40750 34530	140750	934530
4:Bennadrove Road	NB 40560 34280	140560	934280
5:Cnoc Mairi	NB 40440 33960	140440	933960
6:Creed Bridge	NB 40417 32666	140417	932666

Property	Grid Reference	Easting	Northing
7:Druim Dubh	NB 38330 30520	138330	930520
8:Macaulay Farm	NB 40120 32150	140120	932150

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

**Reason:** *To retain effective planning control and to safeguard the noise amenity of local residents in accordance with ETSU-R-97. To ensure that noise limits are not exceeded and to enable investigation of complaints.*

### Guidance Notes for Noise Conditions

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

#### Guidance Note 1

(a) Values of the  $LA_{90,10 \text{ minute}}$  noise statistic should be measured at the complainant’s property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

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

measurements shall be undertaken at the approved alternative representative measurement location.

(c) The  $LA_{90,10 \text{ minute}}$  measurements should be synchronised with measurements of the 10-minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.

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

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

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

## **Guidance Note 2**

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

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

(c) For those data points considered valid in accordance with Guidance Note 2(b), values of the  $LA_{90,10 \text{ minute}}$  noise measurements and corresponding values of the 10-minute wind speed, as derived from the standardised ten metre height wind speed averaged across all operating wind turbines using the procedure specified in Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the



standardised mean wind speed on the X-axis. A least squares, “best fit” curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed

### **Guidance Note 3**

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

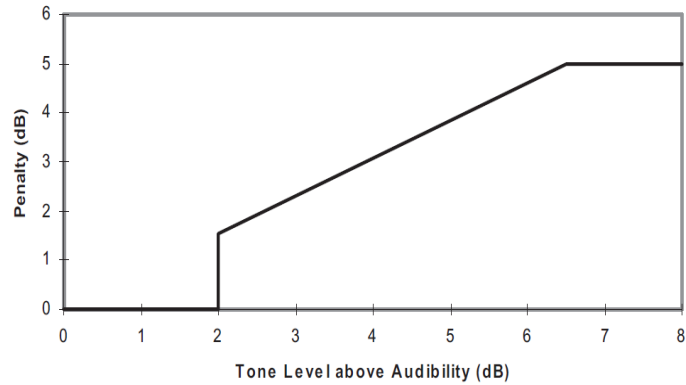
(b) For each 10 minute interval for which  $L_{A90,10 \text{ minute}}$  data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available (“the standard procedure”). Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

(c) For each of the 2 minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.

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

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

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below.



#### Guidance Note 4

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

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

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

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

(e) To this end, the steps in Guidance Note 2 shall be repeated with the required number of turbines shut-down in accordance with Guidance Note 4(d) in order to determine the background noise (L3) at each integer wind speed within the range requested by the Local Planning Authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of the noise condition.

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

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

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

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

## Definitions

In this consent and deemed planning permission:-

**“the Application”** means the Application submitted by the Company on 22 May 2019.

**“Commencement of the Development”** means the implementation of the consent and deemed planning permission by the carrying out of a material operation within the meaning of section 26 of the Town and Country Planning (Scotland) Act 1997 (as amended).

**“the Company”** means Stornoway Wind Farm Limited, having its Registered Office at c/o EDF Energy, GSO Business Park, East Kilbride G74 5PG, Registered Company No. SC225262, or such other person who from time to time may lawfully have the benefit of this consent.

**“Date of First Commissioning”** means the date on which electricity is first exported to the grid network on a commercial basis from any of the wind turbines forming part of the Development.

**“Date of Final Commissioning”** means the earlier of (i) the date on which electricity is exported to the grid on a commercial basis from the last of the wind turbines forming part of the Development erected in accordance with this consent; or (ii) the date falling eighteen months from the Date of First Commissioning.

**“Date of Termination”** means the date on which electricity ceases to be exported to the grid network on a commercial basis from any of the wind turbines forming part of the Development.

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

**“HES”** means Historic Environment Scotland.

**“Nature Scot”** means Scotland’s Nature Agency previously known as Scottish Natural Heritage

**“Planning Authority”** means Comhairle nan Eilean Siar.

**“SEPA”** means Scottish Environmental Protection Agency.

**“Site”** means the area of land outlined in red on AI2 Figure 4.1 Site Layout of the Environmental Impact Assessment report and Annex 3 of this decision letter.

**“Storage technology”** means the electricity storage technology type that is used by the Development.

**“Wind Speed”** means Wind Speeds measured or calculated at a height of 10m above ground level on the wind farm Site at a specified Ordnance Survey national grid reference as agreed with the relevant Planning Authority.