

IN THE SCOTTISH LAND COURT
under the
CROFTERS (SCOTLAND) ACT 1993

Name of Applicant: Stornoway Wind Farm Limited

Address of Applicant or Applicant's agent: Steven Blane, Pinsent Masons LLP, Capital Square, 58 Morrison Street, Edinburgh, EH3 8BP.

Reference: JMH/LE0953.07016

Email address for communication with applicant or agent: steven.blane@pinsentmasons.com

Telephone number for communication with applicant or agent: 0131 777 71

Name of landlord or owner of the land referred to in this application (if not the applicant):
The Stornoway Trust – Urras Steornabhaigh

Address of landlord/owner or agent: Margaret MacKay, Anderson MacArthur, Old Bank of Scotland Buildings, 15 South Beach, Stornoway, HS1 2BG.

Email address for communication with landlord/owner or agent:
Margaret.mackay@andersonmacarthur.com

Telephone number for communication with landlord/owner or agent: 01851 703356

Name of the scheme for development which is the subject of the application: Stornoway Wind Farm - Tuath Gaoith Steòrnabhaigh

Location and extent of the land to be developed in accordance with the scheme: Land located approximately 2.5km from the centre of Stornoway and centred on National Grid Reference E137149, N933373, as shown outlined in orange on Plan 1 annexed to the Scheme for Development.

Delete whichever of the following does not apply:

I/we hereby apply under section 19A(1)(a) of the Crofters (Scotland) Act 1993 for the Court's consent to the land specified above being developed in accordance with the scheme more particularly described in the appended Statement of Facts.

Or

~~I/we hereby intimate to the Court in terms of section 19A(1)(b) of the Crofters (Scotland) Act 1993 that every person who has right in or over the land specified above consents to it being developed in accordance with the scheme more particularly described in the appended Statement of Facts.~~

Signature of Applicant or Applicant's agent

Date



30 May 2022

STATEMENT OF FACTS

1. INTRODUCTION

- 1.1 This application is being made by Stornoway Wind Farm Limited ("**SWF**") with the consent of the Stornoway Trust under section 19A(1) of the Crofters (Scotland) Act 1993 (the "**1993 Act**") to seek the consent of the Scottish Land Court ("**Court**") to develop common grazings in accordance with the Scheme for Development annexed hereto.
- 1.2 An existing Section 19A consent was granted by the Court on 21 July 2021 (reference SLC/59/17) for the then proposed wind farm scheme (the "**2021 Consent**"). This application for an update to the 2021 Consent reflects a number of developments since the 2021 application was granted.
- 1.3 A revised consent in terms of section 36 of the Electricity Act 1989 (as afterwards defined) has been obtained allowing fewer, larger turbines to be utilised with an increased potential megawatt ("**MW**") output. Developments in turbine technology have occurred and the revised section 36 consent allows the project to take advantage of these new turbine types so as to allow increased generation on the Stornoway Wind Farm Site (as afterwards defined). This application seeks to update the 2021 Consent to meet the requirements of the revised section 36 consent. The changes have resulted in a proposed repositioning of the turbines but no significant change to the number of turbines or to the proposed development area. Taken together, the changes will allow SWF to maximise the productivity and efficiency of the Stornoway Wind Farm Site and these changes are reflected in the terms of this application.

2. PURPOSE OF SCHEME FOR DEVELOPMENT

- 2.1 The development for which consent is sought is a wind farm for which on or around 5 January 2022 SWF received 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 a revised layout (the "**New Section 36 Consent**").
- 2.2 This is a new application to meet the requirement of the New Section 36 Consent. The scheme consented in the New Section 36 Consent is substantially similar to the scheme approved by the Court in the 2021 Consent. Accordingly, this application largely follows the scheme consented in the 2021 Consent. This application is accordingly similar to the application submitted to the Court leading to the 2021 Consent and follows the same structure and approach considered by the Court previously.

3. THE APPLICANT

- 3.1 This application is made by SWF. It is a company registered in Scotland with registered number SC225262 and having its registered office at c/o EDF Energy, GSO Business Park, East Kilbride, G74 5PG.
- 3.2 SWF was established to develop a wind farm on the Isle of Lewis. It is a joint venture between AMEC Project Investments Limited, a subsidiary of Wood plc, and EDF Energy Renewables Limited (better known as EDF Renewables), a subsidiary of EDF Energy plc. It was formerly known as Lewis Wind Power Limited, but the name was changed in March 2016 to reflect more accurately its purpose.
- 3.3 Wood is one of the world's leading engineering, project management and consultancy companies working in around 55 countries worldwide. It has considerable experience in the renewables sector, having been involved in numerous wind power projects ranging from single turbines to over 400 MW wind farms.
- 3.4 The shareholders of EDF Renewables are EDF Energy which is one of the largest energy companies in the UK and EDF Energy Nouvelles which operates over 5GW of renewable capacity worldwide. EDF Renewables currently operates more than 36 renewable projects in

the UK totally almost 1GW including wind farms (offshore and onshore), solar and battery storage.

- 3.5 This combination of Wood and EDF Renewables brings substantial experience to the development, in terms of the design, construction and operation of a major wind farm.
- 3.6 The shareholders of SWF have already invested around £16m in development of the project to date and further capital investment will be made as the project is developed.

4. **LANDOWNER**

- 4.1 The site of the proposed wind farm is owned by the Stornoway Trust, a community- owned charitable trust incorporated under the Stornoway Trust Order Confirmation Act 1975 and having its principal place of business at the Estate Office, Leverhulme House, Perceval Square, Stornoway, Isle of Lewis HS1 2DD (the "**Trust**").
- 4.2 This application is made by SWF with the consent of the Trust.
- 4.3 Originally established in 1923, the Trust owns an area covering some 70,000 acres (approximately 28,000 ha). The population living in the Trust area is approximately 12,000, with 45 crofting townships including some 1,347 crofters within that population.
- 4.4 The Trust has been a long-standing supporter of the development of a renewable energy industry in the Western Isles and, over the past 20 years, has explored a range of options to stimulate renewable energy projects on its land. SWF has worked in partnership with the Trust since 2002 to bring forward its proposals for this wind farm including for the scheme consented in the 2021 Consent.

5. **LEASE**

- 5.1 SWF has a long-term lease from the Trust of land upon which it is proposed to develop the wind farm.
- 5.2 The original lease between SWF and the Trust is dated 25 and 28 November 2003 and is registered in the Land Register of Scotland under Title Number ROS1235. It has been varied by: (i) Minute of Alteration and Extension of Lease dated 28 June and 20 July 2010 registered in the Land Register and Books of Council and Session on 24 August 2010; (ii) Minute of Alteration and Extension of Lease dated 15 and 19 July 2011 and registered in the Land Register and Books of Council and Session on 17 August 2011; (iii) Partial Renunciation among the Trust, SWF and Point and Sandwick Power Limited dated 7, 8 and 11 August 2014; (iv) Minute of Alteration and Extension of Lease dated 5 April 2016 and 26 May 2017 registered in the Books of Council and Session on 12 July 2016 and the Land Register on 22 July 2016; (v) Minute of Alteration of Lease dated 26 May 2017; and (vi) Minute of Alteration, Extension and Partial Renunciation of Lease dated and 22 February and 7 April 2022; and as may be further varied from time to time (together these documents are referred to as the "**Lease**").
- 5.3 The leased area is shown outlined in red on Plan 2 annexed to the Scheme for Development ("**Stornoway Wind Farm Site**"). The Stornoway Wind Farm Site forms part of the Stornoway Trust Estate as more particularly described in the Lease.
- 5.4 The Lease commenced on 28 November 2003 and expires on 27 November 2053. Following termination of the Lease, at the end of the operational life of the wind farm, SWF are given a further 2-year period within which to complete decommissioning of the wind farm and reinstatement of the land (Clause 8.8 of the Lease).
- 5.5 In terms of Clause 3.6 of the Lease, SWF has agreed to make payment of all sums due to any and all crofters, as determined by the Court.

6. **STORNOWAY WIND FARM SITE / SCHEME AREA**

6.1 SWF hold the New Section 36 Consent.

6.2 The Stornoway Wind Farm Site is located to the west of Stornoway (approximately 2.5km from the centre of Stornoway at its closest point) and centred on National Grid Reference (NGR) E 137149, N 933373. The location and layout of the Stornoway Wind Farm are shown on Plans 1, 2 and 3 (Plan 3 comprising 12 parts hereinafter referred to as "Plan 3") annexed to the Scheme for Development.

6.3 The Stornoway Wind Farm Site boundary covers an area of approximately 1,700 hectares. However, within that area, the permanent infrastructure footprint of the Stornoway Wind Farm will amount to 38 hectares (2%).

6.4 The following common grazings within the Stornoway Wind Farm Site will host the infrastructure and will be subject to the restrictions set out in the Scheme for Development (each common grazing being as shown coloured on Plan 1 and outlined in purple on each of the plans comprising Plan 3 annexed to the Scheme for Development):

- (a) Aignish
- (b) Garrabost and New Garrabost
- (c) Holm
- (d) Knock and Swordale
- (e) Melbost and Branahuie
- (f) New Valley, Guershader and Laxdale Lane
- (g) Sandwick and Sandwick East Street
- (h) Sandwick North Street
- (i) Sheshader
- (j) Steinish
- (k) Stornoway General

All of these common grazings are situated (in part or wholly) within the area shown outlined in orange on Plan 1 annexed to the Scheme for Development, being the "Scheme Area". The Scheme for Development applies to the Scheme Area only.

6.5 The common grazing areas listed below hold shares in the Stornoway General common grazing area (some of which also hold their own separate apportionments as detailed above):

- (a) Bennadrove
- (b) Garrabost and New Garrabost
- (c) Holm
- (d) Lower Bayble
- (e) Melbost and Branahuie
- (f) Newmarket, Laxdale & Coulregrein

- (g) New Valley, Guershader and Laxdale Lane
- (h) Portnaguran, Newlands and Broker
- (i) Portvoller
- (j) Sandwick North Street
- (k) Shulishader & Newlands
- (l) Steinish

Upper Aird There is a further common grazings (Marybank) and one apportionment located within or partly within the Stornoway Wind Farm Site but outwith the Scheme Area. These areas will not be subject to any of the restrictions detailed in the Scheme for Development.

6.6 The site predominantly consists of a mixture of open moorland with areas of woodland.

7. OFFICERS OF COMMON GRAZINGS

The Clerks of the various common grazings committees within the Scheme Area as at the date of this application (including the Clerks of the common grazing areas holding shares in the Stornoway General common grazing area) are as follows:

Common Grazing Committee	Name & Address of Clerk
Aignish	Mr Donald M Macdonald 25 Aignish Point HS2 OPS
Bennadrove	Mr Donald Matheson 33 Newton Street Stornoway HS1 2RW Mr Alexander Matheson 22 Bennadrove HS2 ODL
Garrabost and New Garrabost	Mr Murdo Macleod 15 Garrabost Point HS2 OPW
Holm	Mr Angus Macleod 10a Holm Stornoway HS2 OAZ
Knock and Swordale	Mr Donald Macritchie 17 Knock, Point Isle of Lewis HS2 0BW
Lower Bayble	Mr Neil Stewart, 35 Lewis Street Stornoway

Common Grazing Committee	Name & Address of Clerk
	HS1 2JL
Melbost and Branahuie	Mr Angus Campbell 26 Melbost Stornoway HS2 0BG
New Valley, Guershader and Laxdale Lane	Mr Donald Maclean 11 Newvalley HS2 ODN
Newmarket, Laxdale & Coulregrein	Mr Colin Chisholm, c/o Miss Shona Chisholm 3 Murdoch Place HS1 2YA
Portnaguran, Newlands and Broker	Mr Callum Macleod Ronaidh 3 Broker HS2 O EZ
Portvoller	Mr Conan Macleod 11 Portvoller Point HS2 OHA
Sandwick and Sandwick East Street	Mr Calum J Buchanan 14 East Street Sandwick HS2 OAG
Sandwick North Street	Mrs Mary A Morrison "Ensay" 22 North Street Sandwick HS2 OAD
Sheshader	Mr Ivor Maclean Norvik 21b Sheshader Point HS2 OEW
Shulishader & Newlands	Mr Iain Macsween 8b Shulishader Point HS2 OPU
Steinish	Mr David Ross, 6 Steinish HS2 OM
Stornoway General	Mr Andrew G Muir 3 Barony Square Stornoway

Common Grazing Committee	Name & Address of Clerk
	HS1 2TQ
Upper Aird	Mr Angus Mackenzie, 10b Aird Point HS2 OEU

8. CROFTING COMMUNITY

8.1 The crofting community in the area affected by the development is all those with common grazing rights in each of the common grazing areas within the Scheme Area ("**Crofting Community**")

8.2 A full list of all those comprising the Crofting Community at the time of this application are listed in the List of Crofters annexed to the Scheme for Development (comprising ten parts relative to the various Common Grazing Areas). This List was compiled by and will be maintained by the Trust, in close consultation and in conjunction with the Crofting Commission. The Crofting Community will comprise those crofters listed in the List of Crofters from time to time.

8.3 In order that the List of Crofters accurately records the names and addresses of the Crofting Community affected by the Scheme for Development, it will be subject to annual review by the Trust. At the end of each year, following the Date of Consent (as defined in the Scheme for Development), the Trust shall (a) contact each of the Crofting Commission and the Clerks of each common grazing area requesting details of any changes required to the List of Crofters, to be submitted to the Trust within 28 days of request; and (b) make any updates required to the List of Crofters as a result of information received timeously from the Crofting Commission and/or Clerks of each common grazing area, or information received by the Trust from other sources.

8.4 Following consultation with these parties and the receipt of any revised crofters' details, the Trust will produce a revised List of Crofters. The Trust shall send a copy of each revised List of Crofters to SWF, the Crofting Commission and the Clerks of each common grazing area (where appointed).

9. THE CONSENTED PROJECT

9.1 The construction and operation of any new generating station with a capacity of or exceeding 50MW requires consent from the Scottish Ministers under section 36 of the Electricity Act 1989. Planning permission is also required.

9.2 On or around 5 January 2022, in terms of the New Section 36 Consent, the Scottish Ministers:-

(a) granted consent under section 36 of the Electricity Act 1989 for construction and operation of Stornoway wind farm generating station 1.5km west of the town of Stornoway on the Isle of Lewis for a period of 25 years after full commissioning of the development; and

(b) issued a direction under section 57(2) of the Town and Country Planning (Scotland) Act 1997 that planning permission is deemed to be granted in respect of that generating station.

- 9.3 The permitted development is a wind-powered electricity generating station with a total generating capacity in excess of 50MW, approximately 1.5km west of Stornoway, Isle of Lewis comprising:
- (a) 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;
 - (b) Battery Storage Facility;
 - (c) Crane hard standings;
 - (d) Construction of site entrances;
 - (e) Upgrade and construction of internal tracks and passing bays;
 - (f) Establishment and working of up to five borrow pits;
 - (g) Construction of a temporary site compound(s); and
 - (h) Construction of a new on-site control building and substation.

(which together will be known as the "**Wind Farm**").

- 9.4 The New Section 36 Consent permits SWF to develop within the area shown outlined in red on Plan 2. The consented development is shown on Plans 1, 2 and 3, all as annexed to the Scheme for Development. Plan 1 shows the detail of the infrastructure SWF intends to develop within the Scheme Area, with Plan 3 showing the proposed position of infrastructure within each individual common grazing area as at the date of this application.

- 9.5 Subject to a tripartite agreement between Knock and Swordale Grazings, SWF and the Trust, Knock and Swordale Grazings may set up a company to build a wind turbine near the location of T25 see Plan 3. As agreed with Knock and Swordale, if this turbine is erected by their company, SWF will not build T25, otherwise SWF have the option to build T25.

- 9.6 It is anticipated that construction will take place between 2024 and 2027 with the project being fully operational in the latter part of 2027. When completed it is likely that the Wind Farm will have a generating capacity of approximately 200MW depending on the model of wind turbine selected.

- 9.7 Condition 13 of the New Section 36 Consent allows SWF to microsite (i.e. relocate) infrastructure subject to certain restrictions, primarily that the micrositeing of turbines must be no more than 50 meters, and all other infrastructure must be no more than 100m, from the location as set out on Plan 1, Plan 2 and Plan 3, unless agreed in advance in writing by the Comhairle nan Eilean Siar as Planning Authority (in consultation with NatureScot, the Scottish Environment Protection Agency and the Joint Radio Company). In respect of turbines T3, T4, T7, T25 and T28, additional restrictions apply.

- 9.8 Following completion of construction, SWF will submit final "as-built" drawings of the Wind Farm to the Court and to the Clerks of each common grazing area within the Scheme Area, which drawings shall replace Plans 1, 2 and 3 annexed to the Scheme for Development.

10. **GRID CONNECTION**

The Wind Farm holds both an offer to connect to the national grid and an offer of capacity.

11. **RESTRICTIONS TO USE OF COMMON GRAZINGS**

- 11.1 The changes to the Scheme Area which are sought by the Scheme for Development are broadly threefold: (1) rights required by SWF prior to construction; (2) the construction and

maintenance on the land of infrastructure; and (3) restrictions placed on the use of the common grazings. All of these changes are more particularly described in sections 5 and 6 of the Scheme for Development but have been summarised below.

- 11.2 The effect of these restrictions on the use of common grazings is minimal. The Scheme for Development will not significantly restrict the ability of the Crofting Community to exercise their rights over the common grazings, should they choose to so do, on a day-to-day basis.

Rights Prior to Construction

- 11.3 Following approval of the Scheme for Development but prior to commencing construction of the Wind Farm, SWF will require to undertake various tests and surveys within the Scheme Area. This will include making bore holes and digging trial pits. It may also involve the felling of trees, the relocation of the local authority road salt storage area and constructing a bellmouth at the junction of the Northern Access Road and the A859 public road. These rights are more fully described in section 5 of the Scheme for Development.

Infrastructure

- 11.4 Of the Stornoway Wind Farm Site, 38 hectares (or 2%) will be occupied by Wind Farm infrastructure. Plans 1 and 3 annexed to the Scheme for Development identify the location of that infrastructure within the Scheme Area and within each individual common grazing area respectively. The Scheme for Development grants rights for SWF to construct and maintain infrastructure within the Scheme Area.
- 11.5 In terms of Clause 4.1 of the Lease, SWF must serve a written notice on the Trust, SWF's website for the Wind Farm, specifying the date on which they intend to take full occupation of the Stornoway Wind Farm Site. From this date until the date on which the Wind Farm has been fully decommissioned, SWF will construct and maintain various pieces of infrastructure on the Scheme Area and may also require to relocate or remove and replace existing infrastructure within the Scheme Area. A summary of the infrastructure is set out below.

Wind turbines

- 11.6 The specific choice of wind turbine to be installed at the proposed Wind Farm is still to be determined. The hub height and rotor diameter may vary depending on the final turbine type selected. However, the New Section 36 Consent limits the blade tip height to of 24 turbines of up to 180m and 9 turbines of up to 156m. Each wind turbine will require a reinforced concrete foundation comprising a circular base typically 27m in diameter.
- 11.7 The proposed locations of the turbines are shown on Plans 1, 2 and 3 annexed to the Scheme for Development. However, as set out in paragraph 9.8 above, the New Section 36 Consent allows SWF to microsite.

Access tracks

- 11.8 Up to 27 km of new and upgraded access/site tracks, turning areas and water course crossings roads will be constructed. Owing to the size of some of the turbine components, all on-site access tracks will have to be a minimum of 5m wide with some additional localised bend widening to a maximum of approximately 13m. Temporary passing places (up to 33 m x 4 m) will also be provided every 500m (or as required) to facilitate traffic movements.
- 11.9 The location of both existing and proposed site access tracks is shown on Plan 2 annexed to the Scheme for Development.

Crane hardstanding

- 11.10 Each wind turbine will require an area of hardstanding to be built adjacent to the turbine foundation. This provides a stable base on which to lay down turbine components ready for assembly and erection, and to site the cranes necessary to lift the tower sections, nacelle and

rotor into place. The total area of hardstanding at each turbine location, including the turbine foundations and the crane pad will be approximately 1,250 m².

11.11 The location of these is shown on Plan 2 annexed to the Scheme for Development.

Construction compounds and equipment laydown areas

11.12 One temporary main site compound, three other temporary compounds and three equipment laydown areas will be constructed within the Scheme Area, as described in the table below.

Description of compound/ laydown area	Description of Location (per Plan 2 annexed to Scheme for Development)
Main site compound	Compound A near Southern entrance
Temporary compound / storage area 1	In Substation compound near North Entrance
Temporary compound/ storage area 2	Near turbine 35
Temporary compound / storage area 3	Between turbine 19 and main substation
Temporary compound / storage area 4	Between turbine 9 and turbine 15

11.13 The main site compound and temporary compound 1 are planned to be 150 m by 80 m. A size of 100 m x 100 m has been allowed for the other three compounds / laydown areas, each of which may be enclosed by appropriate security fencing.

11.14 The locations of these are shown on Plan 2 annexed to the Scheme for Development.

Main Substation

11.15 The turbines will be connected through suitable switchgear to be installed in a control building on-site. The main substation compound will comprise a hard standing with maximum dimensions of approximately 150 m x 80 m and building approximately 45 m x 65 m which will house switchgear, metering, protection and control equipment. A separate building will house the control room and battery store, approximately 44 m x 25 m as well as welfare facilities.

11.16 The location of the substations are shown on Plan 2 annexed to the Scheme for Development.

Borrow Pits

11.17 SWF will require to form and operate five borrow pits within the Scheme Area. The location of the search areas for potential borrow pits are shown on Plan 2 annexed to the Scheme for Development.

Services

11.18 SWF will require to lay within the Scheme Area all services necessary or appropriate for the Wind Farm. This may also include the relocation or removal and replacement of existing services. It is envisaged this will cover electric cables and wires, telecommunications and other data transmission wires and cables, pipes and drains.

Restrictions on Use

- 11.19 The Scheme for Development also seeks to place restrictions on the use of the common grazings within the Scheme Area. These restrictions are sought in order to:
- (a) secure the personal safety of crofters and shareholders, SWF's employees and contractors and the general public;
 - (b) protect any equipment related to the Wind Farm;
 - (c) ensure the safe and efficient construction, operation and decommissioning of the Wind Farm; and
 - (d) seek to protect any livestock within the Scheme Area in order to allow grazing on each common grazing area subject to the limitations set out in the Scheme for Development.
- 11.20 These restrictions are more fully detailed in section 6 of the Scheme for Development, however they include the following:
- (a) not to take access to excluded areas;
 - (b) not to graze on the excluded areas;
 - (c) not to cut peat in the excluded areas;
 - (d) not to deliberately burn anything (including heather) including as a form of muirburn; and
 - (e) to exercise hunting and shooting rights in accordance with a Shooting Code of Practice.
- 11.21 It is intended that these restrictions should be in place from the date SWF first commences its pre-construction surveys and tests and throughout construction and the operational life of the Wind Farm until final decommissioning. Certain additional restrictions apply during periods of construction, material maintenance or decommissioning only.
- 11.22 It is important to note that neither the Lease nor the Scheme for Development, if granted, is intended to preclude all community wind turbine schemes within the Stornoway Wind Farm Site. Clause 4.4 of the Lease provides:
- "If at any time and on each occasion the Landlord produces evidence satisfactory to the Tenant (acting reasonably) that the Landlord or a party deriving right from the Landlord has a bona fide intention to put a Redundant Plot to a use or carry out a development thereon (not being a use or development which could adversely affect the Wind Power Project, it being acknowledged that in principle a small scale, community owned wind farm with a total installed capacity of no more than 4 megawatts should not adversely affect the Wind Power Project), the Landlord shall be entitled to serve a notice upon the Tenant requesting that the Tenant renounce its interest as tenant in and to the Redundant Plot"*
- 11.23 A Redundant Plot is essentially any part of the Stornoway Wind Farm Site which is not required for infrastructure. SWF are keen to support community-based projects in accordance with the above provision and indeed have done so in the past. SWF would be happy to work with the promoters of such schemes and to share information where possible (SWF acting reasonably). Should any such projects be constructed, that co-operation would also be extended to sharing infrastructure such as access roads on appropriate conditions.

12. **BENEFITS**

12.1 The social, environmental and economic benefits included in, and arising from, the Existing Consent are broadly replicated, and in certain cases increased, in the project consented in terms of the New Section 36 Consent. These benefits are outlined in this section 12. As the Court concluded, the Existing Consent, if implemented, would provide fair recompense to each member of the Crofting Community in the area affected by it and that if it is carried out the Crofting Community will be likely to benefit financially. It remains the intention of SWF to achieve the said fair recompense with the scheme now consented in the New Section 36 Consent.

12.2 Development of the Wind Farm in terms of the Scheme for Development gives rise to a number of social, environmental and economic benefits to the wider crofting community (of which the Crofting Community forms part), to Lewis and also the wider general public.

Climate Change Targets

12.3 Climate change, or global warming, is widely recognised as the most serious environmental threat to the planet.

12.4 The Wind Farm has the potential to: power more than 229,000 homes; save 350,000 tonnes of CO₂ per year, and help create a sustainable future. This increase in the amount of renewable energy produced in Scotland is entirely consistent with the Scottish Government's policy on the promotion of renewable.

Security of Supply

12.5 The Wind Farm would contribute to the need, increasingly recognised in energy policy, for diversity and security of supply in the electricity system to combat against vulnerability of energy imports, shortfall in supply and uncertainty on future supply.

Grid Connection

12.6 The Western Isles electricity network currently has only limited grid access to the mainland. The existing grid connector has a capacity of just 22MW with no spare capacity available for any further renewables development.

12.7 It is proposed by Scottish Hydro Electric Transmission Limited that a new interconnector comprising a 320kv 600MW HVDC (high voltage direct current) link (80km subsea cable and 76km underground cable) will be established between Beaully and Amish Point, Stornoway. It is estimated to cost around £780m and it is expected that renewable energy developers will contribute to the cost of the interconnector.

12.8 If constructed, the grid link will benefit the Western Isles through (a) upgrading the link to the mainland for the benefit of consumers and existing generators, (b) facilitating the connection of more wind energy projects (which are currently on hold) and (c) creating opportunities for innovative wind and tidal projects, all of which represents significant sustainable development for the Western Isles.

12.9 Only large projects promoted by well-established generators/developers are likely to be capable of underwriting the liabilities and associated security requirements needed to gain approval for the construction of the interconnector to the Western Isles. The Wind Farm as promoted by SWF is such a project. If constructed, the link will bring much-needed electricity and capacity to the Western Isles for the benefit of existing and future generators and customers. That includes the opportunity for innovative community schemes.

As matters stand the Wind Farm is a key part of the "Needs Case" being prepared by Scottish Hydro Electric Transmission Limited to justify the subsea grid interconnector.

Community Ownership Option

- 12.10 SWF is also committed to providing the Trust with the option of investing in the Wind Farm. Whether the Trust decide to take up this option is entirely a matter for them and neither the development of the Wind Farm nor the Scheme for Development require the Trust to exercise their right to invest. However, it would provide the Trust with the opportunity to maximise their returns from the project for the benefit of the wider Crofting Community.
- 12.11 The option which has been offered is the right to purchase a stake of up to 20% of the Wind Farm at the point it is operational. SWF has committed to offering this investment at cost value; no premium will be sought for investing in a consented and constructed development.
- 12.12 SWF is also committed to assisting the Trust realise this investment. To that end, SWF has paid for the Trust to obtain independent financial advice from one of the "Big Four" accounting firms on how best to realise the benefit. Whilst that advice is confidential to the Trust, there are a number of options available to the Trust to achieve the investment.

Rental Payments to Trust

- 12.13 In terms of Schedule 3 of the Lease, SWF is obliged to make an annual rental payment to the Trust for the duration of the Lease.
- 12.14 The Trust is both a community landowner and a registered charity. As such the Trust invests the income which it receives in various local projects. The rental money increases the income the Trust receives thereby increasing the money available for these projects.

Financial Payments to Crofters

- 12.15 This is addressed in more detail in sections 17 and 18 below.

Access Roads

- 12.16 The provision of new road infrastructure serving the Wind Farm will lead to improved access to more remote parts within the Stornoway Wind Farm Site. In particular, there will be improved access for existing users such as the local angling club to rivers and lochs, as well as for local crofters accessing forestry plantations and peat cutting areas. These roads will be maintained by SWF. In addition, new gates, fencing and cattle grids will be created to crofters' reasonable requirements where existing boundary markers exist. There is also improved potential for utilisation of crofts through forestry schemes, fishing interests and peat cutting.

Employment

- 12.17 SWF has made a commitment to encourage the use of locally based labour and manufacturing content, where commercially competitive.
- 12.18 The extant section 75 planning agreement entered into among SWF, the Trust and Comhairle nan Eilean Siar requires SWF to prioritise local service providers wherever possible. This will ensure that the economic benefit of building and operating the Wind Farm will be maximised and flow into the local community.
- 12.19 In addition it is anticipated that the Business Rates payable to Comhairle nan Eilean Siar will amount to almost £2.9m per year.

Ecology

- 12.20 The habitat management that is required pursuant to a condition of planning permission will be proactive in protecting and improving the ecology of the Stornoway Wind Farm Site.

Sponsorship

- 12.21 To date SWF has supported the local community through a variety of sponsorship opportunities at a cost of over £50,000. These include the support of local activities of the Stornoway Rugby Club, Stornoway Running and Athletics Club, swimming groups and the junior shinty team. SWF has also supported local cultural events including part funding the production costs of Point Junior Gaelic Singer's fundraising CD and also the "Hebridean Celtic Festival" which attracts visitors to Lewis each year from all over the world.

13. CONSULTATION WITH CROFTERS

- 13.1 SWF undertook extensive consultation with crofters and the wider community in respect of various aspects of its wind power project in advance of submitting the application for the Existing Consent. This included detailed consultation on the Scheme for Development for the Existing Consent. The updated proposal which comprises this application has been the subject of further consultation.
- 13.2 In advance of making this application, SWF has consulted with each of the grazings committees within the Scheme Area, notified individual shareholders and held two general public meetings. This has been to inform affected shareholders of the necessary revisions to the Scheme and seek views on each aspect of the proposed Scheme for Development. SWF has undertaken to notify all affected grazings and shareholders directly by letter and also placed adverts in the local press and via social media.
- 13.3 In addition, SWF has a dedicated website, which it uses to publicise news: <http://www.stornowaywind.co.uk>.
- 13.4 The aim of the current consultation has been to ensure that all crofters within the Crofting Community but also those forming part of the wider community understand what the Scheme for Development is, the process and how to participate but also in order to get feedback and to inform the content of the Scheme for Development.
- 13.5 Initial communication with the Crofting Community involved contacting all affected Common Grazing Areas through their appointed Clerk. SWF took the opportunity to explain that a new Scheme for Development was required relating to the scheme now consented in the New Section 36 Consent. It was explained that terms put forward and agreed as part of the previous Scheme for Development would be honoured and grazings would be expected to be no worse off than the originally granted project. Following these meetings all shareholders were directly notified of two consultation events held centrally in the Town Hall in Stornoway on 9th and 10th November 2021.
- 13.6 All communication and consultation material explained the current position of the project and that a new Scheme for Development required to allow for changes to the likely consented wind farm scheme. The events had c.45 attendees over the two days held between 1300 and 1930. The events had SWF and Stornoway Trust staff on hand to answer any questions. No formal feedback has been received as a result of the consultation exercise carried out.

14. SCHEME FOR DEVELOPMENT

- 14.1 The Scheme for Development which forms the basis of this application reflects the intention and requirements of section 19A of the 1993 Act. The scheme secures payments to members of the Crofting Community affected by the proposed Wind Farm, in exchange for restrictions being placed on the crofters' rights in the Scheme Area so as to enable the safe and successful construction, operation and decommissioning of the Wind Farm.
- 14.2 Section 19A (2) sets out the four-fold test which must be satisfied before the Court can grant consent to any scheme for development. Those tests are:
- (a) that the development is for a reasonable purpose;

- (b) that to carry it out would not be unfair;
 - (c) that the scheme provides for there to be fair recompense to each member of the crofting community in the area affected by the development for the effects of the development (including, in relation to the croft land of each such member, recompense at least equivalent to the recompense which the member might be expected to have obtained had that croft land been resumed); and
 - (d) that, were the development carried out -
 - (i) that community would be likely to benefit financially; and
 - (ii) such benefit would be at least commensurate with any financial benefit which the members of that community might obtain on the development proceeding other than by virtue of section 19A.
- 14.3 The Court was satisfied that the Existing Consent satisfied the test in section 19A of the 1993 Act and granted SWF's application. It is respectfully submitted that the test is still met in terms of the New Section 36 Consent.
15. **REASONABLE PURPOSE**
- 15.1 Section 19A(3)(a) provides that the definition of "reasonable purpose" in subsection (3) of Section 20 applies to this test.
- 15.2 Section 20(3) provides that reasonable shall include "(viii) the generation of energy".
- 15.3 The development for which consent is sought is a wind farm for which consent in terms of the New Section 36 Consent has been issued.
16. **FAIRNESS OF SCHEME**
- 16.1 In accordance with section 19A the Court must also be satisfied that to carry out the scheme for development would not be unfair.
- 16.2 Section 19A(3)(b) provides that it will be unfair to carry out a development:

"only where to do so would have significant adverse consequences for one or more of the members of the crofting community in the area affected by the development and either those consequences would be disproportionately greater than the adverse consequences for the other members of that community or there would be no adverse consequences for those other members"
- 16.3 Details of the Crofting Community affected by the development are set out in section 8 above and the individual members of that Crofting Community are listed in the List of Crofters annexed to the Scheme for Development. The restrictions that will be placed on the Crofting Community's use of the Scheme Area are summarised in section 11 and set out in full in the Scheme for Development.
- 16.4 There are no significant adverse consequences for any of the members of the Crofting Community. There are no members of the Crofting Community disproportionately affected in the manner envisaged by section 19A(3)(b).
- 16.5 No issues were raised during the consultation process which would give rise to concern or lead to the conclusion that any crofter would be significantly adversely affected by the proposed scheme.

17. RECOMPENSE TO MEMBERS OF THE CROFTING COMMUNITY

- 17.1 The third test is that the Court must be satisfied that each member of the Crofting Community will receive fair recompense for the effects of the development (including, in relation to the croft land of each such member, recompense at least equivalent to the recompense which the member might be expected to have obtained had that croft land been resumed).
- 17.2 Details of the Crofting Community in the area affected by the development are set out in section 8 above and the individual members are listed in the List of Crofters annexed to the Scheme for Development.
- 17.3 The effects of the development are summarised in section 11 and are more fully detailed in sections 5 and 6 of the Scheme for Development.
- 17.4 The sums to be paid by SWF will provide fair recompense having regard to the effects and value of the development. The proposed payments remain at least as generous as the proposals in the 2021 Consent even though the market has changed. The price likely to be paid to suppliers for electricity in terms of any UK Government support for onshore wind (such as the Contracts for Difference regime) has decreased significantly since 2017 when the application was submitted for the 2021 Consent but the rates proposed to be paid to the members of the Crofting Community by SWF have increased.
- 17.5 It is proposed that payments are made to the members of the Crofting Community under 3 broad headings; (1) Pre-construction Payment and FID Success Fee; (2) Wind Farm Payments; and (3) Miscellaneous Payments. Full details of these are set out in the Scheme for Development and what follows is a summary of those provisions.

Pre-Construction Payment and FID Success Fee

- 17.6 An optional success payment of £230,000 has been offered by SWF to the Crofting Community, to be split as follows:
- (a) Pre-Construction payment - £30,000 paid to the Trust and distributed by them to the crofters prior to submission of this application; and
 - (b) FID Success Fee of £200,000 to be paid on SWF obtaining (1) the Court's approval of this section 19A application, and a period of three months has elapsed from the later of (i) such a grant; or (ii) any legal challenges to such order having been fully and finally determined such that the order is upheld, and (2) the board of SWF takes a Final Investment Decision to build Stornoway Wind Farm and three months have elapsed since that date.
- 17.7 The FID Success Fee will be distributed in a manner proposed by the Trust and agreed by the majority of common grazing area clerks, being a split among those common grazings areas which comprise the Scheme Area or have a share in the Stornoway General common grazing area. The payment would be made to crofters on Stornoway Wind Farm taking a Final Investment Decision to proceed with the project. This is referred to as FID Success Fee Distribution Table in Part 4 of the Schedule to the Scheme for Development, within which full details can be found.

Wind Farm Payments

- 17.8 The levels of payment due for turbines and access roads will vary depending on how productive the Wind Farm has been in any given year. Full details of the method for calculating these payments are set out in the Scheme for Development.
- 17.9 By way of illustration, an example is contained in Part G of the Payment Schedule to the Scheme for Development showing the range of Basic Payments and Variable Top Up Payments which could be payable during the Wind Farm Period in the Scheme for

Development (without taking into account any index-linking which may be due and based on certain assumptions adopted for the purpose of the calculation).

Miscellaneous Payments

- 17.10 A construction phase payment of £2,250 per MW of the intended capacity of the Wind Farm will be payable on or before the start of the construction period to recognise the occurrence of construction activities across the Scheme Area including the formation of construction compounds, borrow pits, requirements for sheep management etc.
- 17.11 By way of further illustration, a worked example is contained in Part F of the Payment Schedule to the Scheme for Development of how this construction phase payment would be allocated by the Trust among the common grazing areas in accordance with the CGA Share Calculation (as more fully defined in the Scheme for Development) (without taking into account any index-linking which may be due and based on certain assumptions adopted for the purpose of the calculation).

In terms of that example, the allocation would be as follows:

Common Grazing Area	£
Aignish	57,273
Garrabost and New Garrabost	8,182
Holm	24,423
Knock and Swordale	8,182
Melbost and Branahuie	52,266
New Valley, Guershader and Laxdale Lane	29,796
Sandwick and Sandwick East Street	94,091
Sandwick North Street	8,182
Sheshader	84,261
Stornoway General	38,345
Total	405,000

- 17.12 Following commissioning of the Wind Farm, a sum of £5,000 per annum index linked would be payable to the common grazing within the Scheme Area in which the substation is constructed.
- 17.13 In the event that SWF's interest in the Lease is assigned to a third party not being a Group Company of SWF (as more fully defined in the Scheme for Development) then SWF will pay an assignation fee of £25,000 index linked to be split among the common grazing areas in accordance with the CGA Share Calculation. The fee would also be payable by any successors of SWF to the tenant's interest in the Lease.
- 17.14 Finally, if SWF requires to lop, top, trim or fell trees and branches within a common grazing area within the Scheme Area then SWF will pay to that area a felling fee of £2,000 index linked per hectare of trees removed or otherwise affected by the Wind Farm. The members of that Common Grazing will also have the right to seek additional compensation from SWF for costs

for replanting and establishment elsewhere of an equivalent area to replace the trees lost or affected.

Method of Payment

17.15 The Scheme for Development provides that SWF will make the foregoing payments to each common grazing area via the Trust throughout the duration of the Scheme. The payments will be allocated and paid by the Trust to the Clerks of the common grazing areas for the benefit of the crofters.

17.16 It is not proposed to make a capital option available to members of the Crofting Community. The economics of the project would not support the payment of lump sums so, in order to be fair to all, they cannot be offered. The payments are proposed on an annual / recurring basis to reflect the continuing and ongoing nature of the development. Calculated on this basis, the annual payments will also allow members of the Crofting Community to benefit from any uplifts in the sums payable.

18. FINANCIAL BENEFITS

18.1 For the fourth test the Court must be satisfied that, were the development carried out, the Crofting Community in the area affected by the development would be likely to benefit financially and that such benefit would be at least commensurate with any financial benefit which the members of that community might obtain on the development proceeding other than by virtue of section 19A.

18.2 The payments to be made to members of the Crofting Community have already been set out in section 17 above but are more fully detailed in the Scheme for Development. In summary, these include a base rent, and a variable top up rent being either a gross income rent or a payment per megawatt hour. Once operational, the benefits (through payments) to members of the Crofting Community will increase as the generation increases. If comparison is made to the 2021 Consent, while the proposed number of turbines to be accommodated has decreased, the proposed rental terms have increased thus increasing the benefit. The overall compensation package proposed in this application is substantially similar to the package proposed in the 2021 Consent.

18.3 In addition SWF has committed to making an annual payment of £5,000 per installed MW (index linked) into a community fund over the operational lifetime of the Wind Farm. On the basis of a 200MW project, this equates to a payment of £1,000,000 (index linked) per annum.

18.4 The Stornoway Trust, in consultation with Crofting Community, intends to set up a Community Trust which will administer the Community Fund.

18.5 Once the Wind Farm is on course to be built, a public consultation exercise will be arranged to enable the Crofting Community to comment both on how the Community Trust should be structured and how the monies should be distributed. The final form of the Community Trust will then be established with a business plan and legal structure.

18.6 It is anticipated that the sorts of projects the money might be used to pay for include community infrastructure, environmental improvements, sponsorship support and bursaries. SWF has, through its shareholders, significant experience operating successful community funds and it would ensure that a community needs assessment was carried out to direct funds to areas of need.

18.7 The wider community and public benefits of the development are set out in section 12 above.

19. CONCLUSION

The tests for consent under section 19A having been met, SWF respectfully requests that the Court consents to the Scheme for Development.