

Energy and Climate Change Directorate
Energy Consents



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Dear Ms Winter

APPLICATION UNDER SECTION 36C OF THE ELECTRICITY ACT 1989 TO VARY THE CONSENT GRANTED UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 ON 27 APRIL 2018 TO CONSTRUCT AND OPERATE STRATHY SOUTH WIND FARM LOCATED IN THE HIGHLAND COUNCIL PLANNING AREA

Application

I refer to the application (“the Variation Application”) made on 27 August 2020 under section 36C of the Electricity Act 1989 (“the Act”) by SSE Renewables Services Ltd on behalf of SSE Generation Limited, a company incorporated under the Companies Act with company number 02310571 (“the Company”) and having its registered office at No.1 Forbury Place, 43 Forbury Road, Reading, United Kingdom, RG1 3JH for:

1. a variation of the consent granted under section 36 of the Act on 27 April 2018 for the construction and operation of Strathy South Wind Farm, an electricity generating station with a generating capacity exceeding 50 MW, comprised of 39 turbines with a hub height of 83 metres (“m”), tip height of up to 135m high, maximum rotor diameter of 104m, located in Sutherland in the Highland Council area (“consented Development”); and
2. a direction under section 57(2) of the Town and Country Planning (Scotland) Act 1997 for planning permission deemed to be granted in respect of the proposed varied Development.

This letter contains the Scottish Ministers' decision to vary the section 36 consent.

Planning Permission

On varying a consent granted under section 36 of the Act, the Scottish Ministers may give a direction either:-

- to vary an existing deemed planning permission; or
- to grant a new deemed planning permission for the development.

The Company is seeking a direction under section 57(2) of the Town and Country Planning (Scotland) Act 1997 that a new deemed planning permission be granted.

This letter contains the Scottish Ministers' decision to give a direction for a new deemed planning permission to be granted.

The section 36 consent

On 28 June 2007, the Company submitted an application under section 36 of the Act for the Scottish Ministers' consent to construct and operate the Strathy South Wind Farm ("the 2007 Application") located approximately 15 kilometres ("km") south of Strathy village, and 35 km south-west of Thurso in Sutherland in the Highland Council area, adjacent to the operational Strathy North Wind Farm. The 2007 Application proposed 77 turbines with a tip height of 110 metres and a generating capacity of up to 177 MW.

In July 2013, in response to issues raised in consultation responses, the Company revised the 2007 Application by:

- reducing the number of turbines from 77 to 47;
- increasing the height of the remaining 47 turbines to 135 metres;
- reducing the number of laydown areas;
- reducing the number of borrow pits; and
- re-positioning the remaining turbines to optimise their yield and reduce environmental impact.

Scottish Natural Heritage (now "NatureScot") objected on the basis of there being an adverse impact on the integrity of the Caithness and Sutherland Peatlands Special Protection Area. This related to three bird species, greenshank, hen harrier and red throated diver.

In June 2014, the relevant planning authority, the Highland Council, objected to the 2007 Application, as revised, on the basis that the position taken by NatureScot led them to the conclusion that the 2007 Application, as revised, was contrary to policies

57 (Natural, Built and Cultural Heritage) and 67 (Renewable Energy) of the Highland-wide Local Development Plan.

As a consequence of the Highland Council's objection, the Scottish Ministers were required to cause a Public Inquiry to be held.

In August 2014 the 2007 Application was referred to the Scottish Government's Planning and Environmental Appeals Division ("the DPEA") for a Public Inquiry to be held. Through the course of the Public Inquiry the Company further revised the 2007 Application by:

- reducing the number of turbines from 47 to 39;
- reducing the land-take;
- reducing the length of on-site tracks,
- reducing the number of stream crossings; and
- reducing the number of anemometer masts.

On 27 April 2018, following consideration of the Public Inquiry report and the Reporter's recommendation therein, the Scottish Ministers, subject to conditions, granted 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, to the Company for the construction and operation of the Strathy South Wind Farm. The consented Development comprised of the following:

- 39 wind turbines, with a hub height of 83m, tip height of up to 135m high, and maximum rotor diameter of 104m;
- use of 3.4 MW turbines;
- reinforced concrete foundations for each turbine, typically 16-20m in diameter by 2m to 3m deep (5.734 to 4.758 hectares of permanent land take);
- access from the A836 public road via the access to the Strathy North Wind Farm;
- 32 kilometres of access tracks;
- 15 stream crossings;
- a single switching station;
- 3 anemometry masts at 90m high;
- cabling trenches estimated at 42km in length;
- 4 borrow pits;
- 1 site compound; 1 lay down area; 1 crane pad for each turbine; and
- a 100m by 100m concrete batching plant.

The duration of the consent granted was 25 years.

The Variation Application - variations sought

Key changes between the consented Development and the proposed varied Development as set out in the Variation Application are as follows:

Infrastructure Element	consented Development	proposed varied Development
No. of Turbines	39	39 (same location)
Tip Height (metres)	up to 135 m	up to 200 m
Rotor Diameter (metres)	up to 104 m	up to 162 m
Hub Height (metres)	83 m	119 m
Access Track Length (kilometres)	32.0 km	31.4 km
Turbine Foundations & Hardstanding (per turbine)	Temporary infrastructure land take: 0.098 hectares (ha). Permanent land take: 0.122 (ha).	Temporary infrastructure land take: 0.080 hectares (ha). Permanent land take: 0.250 (ha).
Borrow Pits	Four borrow pits	Up to seven borrow bits
Lighting	The 2018 Consent conditions required aviation infra-red lighting would be fitted to turbines and omni-directional red lighting would be fitted to turbines at the cardinal points.	Aviation lighting requirements for turbines up to 200 m to be agreed.
Substation	The switching station as consented was located to the south of the spur road to T9.	The proposed substation and associated temporary laydown area are now located to the west of T4.
Laydown Areas	Two laydown areas; one located to the north of T43 and one within the borrow pit to the east of T8.	Two laydown areas; one located to the north of T43 and one located to the east of the track between T11 and T17.
Construction Compounds	A construction compound located to the west of the track between T4 and T8.	One construction compound located to the east of T4.
Permanent Met Masts/ LiDAR	Three permanent met masts	Two permanent LiDAR (Light Detection and Ranging).
Concrete Batching Plant	One 100 m x 100 m concrete batching plant to the north of T43.	One 100 m x 100 m batching plant located to the east of the track between T11 and T17.
Watercourse Crossings	15 watercourse crossings	16 watercourse crossings
Yellow Bog Road	Permitted for 4x4 vehicle usage	Proposal to upgrade Yellow Bog Road for initial construction phase.
Duration of consent	25 years	50 years

The generating capacity of each of the turbines in the consented Development was up to 3.4 megawatts (“MW”) which would generate a total capacity of up to 132.6 MW.

The proposed varied Development’s wind turbines would have a generating capacity of up to 5.6 MW which would generate a total capacity of up to 218.4 MW thereby increasing the generating capacity by approximately 85.8 MW.

Further Information

Article 222 of the UK Air Navigation Order 2016 requires medium intensity (2000 candela) steady red aviation warning lights to be mounted as close as possible to the top of all structures at or above 150m above ground level. When the Variation Application was submitted it included an assessment of the landscape and visual impacts of night-time aviation lighting assuming that all 39 wind turbines required to be lit. In their consultation response NatureScot objected to the proposed varied Development on the grounds of the potential impacts the night-time aviation lighting would have on the East Halladale Flows Wild Land Area (“WLA 39”).

Following discussion with the Civil Aviation Authority (the “CAA”), the Company secured agreement that only six turbines would be required to be equipped with the required night-time aviation lighting. These turbines are located in the north west, north east, south west and south east corners and at the mid-points of the east and west sides of the proposed varied Development. The remaining perimeter turbines would be fitted with infra-red lighting which is not visible to the human eye.

In April 2021 the Company submitted Additional Information (submitted as “Further Information”) comprising an updated lighting assessment to reflect the changes to the agreed lighting scheme and to address concerns raised by NatureScot on the potential impacts of night-time aviation lighting on East Halladale Flows Wild Land Area.

Supplementary Information

In its submission to the Scottish Ministers, the Highland Council advised that it would raise no objection to the proposed varied Development subject to the removal of turbines 35, 36, 39 and 41 and associated infrastructure. The Company agreed to do so. On 29 July 2021, following a formal request from the Scottish Ministers, the Company submitted further information (submitted as Supplementary Information) addressing the Highland Council’s conditional objection to the proposed varied Development subject to the removal of turbines 35, 36, 39 and 41. In addition to the removal of four turbines, the key changes to the proposed varied Development, as stated in the Supplementary Information, are as follows:

Infrastructure element	39 turbine Development	35 turbine Development	Notes
Night-time aviation lighting	Turbines 2, 15, 26, 35, 49 & 69 to be equipped with lighting. (Turbine 5 was 1 of the 5 subsequently removed)	Turbines 2, 15, 26, 33, 49 & 69 to be equipped with lighting	Turbine 33 was selected for lighting to replace turbine 35.
Permanent Met Masts/LiDAR	Two permanent LiDAR; one located southeast of T36 and one located west of T70.	Two permanent LiDAR are proposed. The location of LiDAR A has been adjusted following the removal of the four turbines.	LiDAR A has been repositioned to avoid the need for excess access track construction.
Access Track length	31.4 km	24.8km	Reduction in track required due to removal of 4 turbines and repositioning of LiDAR A
Turbine Foundations & Hardstanding	Permanent land take per turbine is 0.250 hectares	Permanent land take per turbine is 0.250 hectares	1 hectare less permanent land take overall due to removal of 4 turbines.
Permanent Met Masts/LiDAR	Two permanent LiDAR; one located southeast of T36 and one located west of T70.	The location of one of the two LiDAR, LiDAR A, has been adjusted following the removal of the four turbines.	LiDAR A has been repositioned to avoid the need for excess access track construction.

The locations of the remaining 35 turbines are unchanged from those in the 39 turbine proposed varied Development. The turbine numbering is the same as that set out in the consented Development and in all subsequent documentation associated with the Variation Application .

Turbine 35 was one of those that had night-time aviation lighting. It was also one of the turbines which was removed to resolve the objection made by the Highland Council. As a replacement, turbine 33 was selected to have the night-time aviation lighting instead.

The Supplementary Information submitted addressed possible impacts on the following:

- Landscape and Visual Impact including night-time aviation lighting;
- Ornithology;
- Noise;
- Cultural Heritage;
- Roads and Traffic;

- Ecology;
- Soils and Water; and
- Socioeconomics.

Variation application process, EIA Regulations and Environmental Information

The application process for varying a section 36 consent is established under the Electricity Generating Stations (Applications for Variation of Consent)(Scotland) Regulations 2013 (“the Variation Regulations”). In cases where a proposed development amounts to EIA development, the Electricity Works (Environmental Impact Assessment)(Scotland) Regulations 2017 (“the EIA Regulations”) also apply.

In accordance with requirements of Regulation 4 of the Variation Regulations the applicant published a summary and copy of their Variation Application on the Company’s website; served a copy of it on the Planning Authority; published notice of it in the Edinburgh Gazette and one or more national newspapers; published notice of it in one or more local newspapers for two successive weeks; and served notice of it on the owner and occupier of the land to which it relates.

Regulation 28(1) of the EIA Regulations sets out that the Scottish Ministers must not, in relation to a variation application in respect of EIA development, vary the section 36 consent, or when varying a consent direct that planning permission is deemed to be granted, in respect of EIA development, unless an environmental impact assessment has been carried out in respect of the proposed variation. In this instance, an Environmental Impact Assessment report (“EIA report”) containing an assessment of the proposed varied Development in respect of a range of environmental factors was submitted to accompany the Variation Application. As set out above, the Company has also provided additional environmental information in the form of Further Information and Supplementary Information. The Scottish Ministers are satisfied that the environmental information, including the EIA report, the Further Information and the Supplementary information have been produced in accordance with the EIA Regulations.

For an application to vary a section 36 consent, the notification requirements in the Variation Regulations apply as well as those in the EIA Regulations.

The Electricity Works (Miscellaneous Temporary Modifications)(Coronavirus) (Scotland) Regulations 2020 (“the Coronavirus Regulations”) came in to effect on 24 April 2020. These Regulations make temporary modifications to the Electricity Generating Stations (Applications for Variation of Consent)(Scotland) Regulations 2013. These modifications alter requirements to make information or documentation available for inspection in a public place and to enable objections to applications under the Electricity Act 1989 to be made by means of electronic communication.

As statutorily required the Scottish Ministers consulted a range of organisations relevant to the Variation Application, the Further Information and the Supplementary Information. Those consulted included the Planning Authority (the Highland Council), Historic Environment Scotland (“HES”), Scottish Environment Protection Agency (“SEPA”) and NatureScot. Other bodies who were likely to be concerned by the proposed varied Development by virtue of their specific environmental responsibilities, were also consulted.

The Scottish Ministers have had regard to the requirements regarding publicity and consultation laid down in the Variation Regulations and EIA Regulations and are satisfied that appropriate notice of the Variation Application, the Further Information and the Supplementary Information was given to the Planning Authority and members of the public. The Scottish Ministers are also satisfied that the Planning Authority, members of the public and all consultees were given adequate opportunities to study the Variation Application, the Further Information and the Supplementary Information and make representations to the Scottish Government.

Consultation Responses

The Scottish Ministers consulted various bodies on the Variation Application, the Further Information and the Supplementary Information in line with the relevant regulatory requirements. Responses to the consultations are summarised as follows:

Highland Council (“the Planning Authority”) have no objection. The proposed varied Development was assessed against the Highland Council’s own Development Plan and Policies. The report to the Planning Committee dated 08 June 2021 concluded *“All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations”*. The recommendation to the Planning Committee was that the Highland Council raise no objection to the proposed varied Development subject to the removal of turbines 35, 36, 39 and 41 and associated infrastructure and the application of conditions.

In relation to turbines 35, 36, 39 and 41 the Highland Council considered them to cause *“horizontal spread”* and *“overlapping and stacking of turbines”* which created unacceptable detrimental landscape and visual impacts. The Highland Council also considered that these turbines appeared to be separate from the other turbines thereby creating a lack of visual cohesion.

After the proposed varied Development had been considered by the Council's Planning Committee, the Highland Council, on 15 July 2021, submitted their consultation response to the Scottish Ministers in which it was stated ***“the Council RAISE NO OBJECTION to the application subject to conditions and the removal of***

Turbines 35, 36, 39 and 41 from the scheme as contained within the Report on Handling”.

In response to the Supplementary Information consultation, the Highland Council stated that as result of the removal of the four turbines, *“the Council raise no objection”*.

HES do not object. They advise the proposed varied Development does not *“raise historic environment issues of national significance”*. In their response to the Further Information consultation HES advised that the proposed aviation lighting did not change their ‘no objection’ and in their response to the Supplementary Information consultation, HES stated they are *“satisfied”* that the removal of four turbines *“will not lead to any increase in effects on historic environments assets”* within their remit.

NatureScot object to the proposed varied Development due to it potentially affecting the natural heritage interests of the Caithness and Sutherland Peatlands Special Protection Area (“the SPA”). This relates to impacts on greenshank which is a qualifying species of the SPA. NatureScot raised concerns that the submitted survey data regarding this bird species underestimates collision mortality because a significant number of turbines are likely to overlap with the current distribution of greenshank breeding territories and the removal of forestry to construct the wind farm will create a habitat which is attractive to other greenshank resulting in them moving in and creating and occupying breeding sites thereby increasing the numbers susceptible to collision risk.

With regards to greenshank, NatureScot also stated *“Our advice is that this proposal is likely to have a significant effect on greenshank of this SPA. Consequently, the Scottish Government, as competent authority, is required to carry out an appropriate assessment in view of the site’s conservation objectives for its qualifying interests”*.

In relation to other qualifying features of the SPA (hen harrier, red-throated diver and merlin), NatureScot advised that although the proposed varied Development is likely to have significant effects, mitigation measures, including a habitat management plan and a sward management plan, will help ensure that the integrity of the site will not be adversely affected. In relation to other SPA species it is not considered there will be likely significant effects.

Although NatureScot had no objection regarding the landscape and visual effects of the turbines during daylight, they initially objected on the grounds that the statutorily required night-time aviation lighting for the proposed varied Development would have significant effects on the WLA 39.

In their response to the Further Information consultation, NatureScot removed their objection on the basis of the effects of aviation lighting advising that although *“there would be some effects on wild land responses, the quality would remain well expressed”* as a result of the reduced night-time aviation lighting and the effect of lighting *“will not be significant”* and *“will not raise issues of national interest”*.

In their response to the Supplementary Information consultation NatureScot stated that the removal of four turbines does not change their “*previous advice on greenshank*”.

On other matters, NatureScot provided advice. This included advice on impacts on the Caithness and Sutherland Peatlands SAC (“the SAC”) relating to the disturbance of deer during construction which could result in effects on the Caithness and Sutherland blanket bog and wet heath habitats due to increased grazing and trampling. NatureScot recommend that a condition to secure a deer management plan should be imposed prior to and during construction. It also included advice regarding the upgrade of the Yellow Bog track, within the SAC which connects elements of the proposed varied Development and which will now be used for construction traffic. NatureScot advised that the upgrades should be contained within the non-qualifying habitat either side of the existing track and subject to the appointment of an Ecological Clerk of Works (“EcoW”) to oversee the works, to prevent any breach or potential breach of the construction methodology, then the conservation objectives of the SAC would be met.

The Scottish Ministers have taken account of NatureScot’s recommendations and have imposed suitably worded conditions (Annex 2, part 2) which give effect to requirements for an ECoW, habitat management, sward management, deer management and other mitigation for protected species. NatureScot’s concerns regarding the collision risk modelling for greenshank has been taken in to consideration as a determinative issue at page 19 of this decision.

SEPA do not object to the proposed varied Development subject to the amendment of micro-siting related and peat related conditions relevant to the consented Development. SEPA advised that they had no further comments in respect of the Further Information.

The Scottish Ministers have imposed updated conditions (Annex 2, part 2) which take account of the advice from SEPA on micro-siting and the peat plan.

RSPB Scotland object to the proposed varied Development. Although they welcomed the Company’s engagement on seeking to resolve the matters raised in the original application, in their response to the Variation Application consultation they stated “*RSPB Scotland remains fundamentally opposed to any wind farm development on this site due to its unique character and location; the site comprises blanket bog which was inappropriately planted with forestry in the 1980s and is surrounded by land internationally designated for habitat and wildlife. The full restoration of the site would better connect parts of the SAC and the SPA which are currently separated by forestry, thereby enhancing its integrity*”. RSPB Scotland made reference to an undertaking by Scottish Forestry that trees felled for the purpose of a Strathly South Wind Farm would “*not be re-stocked to ensure habitat benefits of the adjoining Caithness and Sutherland Peatlands SAC and SPA*” and stated that the development of a wind farm on the site would “*prevent the full restoration of the site now, and any time in the future due to the infrastructure left on site, even after decommissioning*”.

RSPB Scotland also objected on the following grounds for which they stated “*are new or altered from our previous objection to the now consented application*”:

- adverse impacts on hen harrier and red-throated diver as qualifying features of Caithness and Sutherland Peatlands Special Protection Area (SPA);
- lack of information on collision risk and barrier effects on common scoter;
- inadequate cumulative assessment with regard to collision risk, displacement impacts and barrier effects on common scoter, a qualifying feature of the Caithness and Sutherland Peatlands SPA;
- additional loss of designated land and permanent habitat change within the Caithness and Sutherlands SAC due to upgrade of access tracks; and
- collision risk for white-tailed eagle.

In response to the Supplementary Information consultation RSPB Scotland stated *“Without prejudice to our position, we support the removal of Turbines 35, 36, 39 and 41 and associated infrastructure as this would reduce impacts on birds, habitats and peat”*. RSPB Scotland also stated that sections of the Supplementary Information Report *“suggest the land on which the turbines are to be removed would be made available for peatland restoration action, which we would support. This would be particularly beneficial due to the close proximity of previously proposed turbines 35,36, 39 and 41 to the application’s site boundary with European sites and the RSPB reserve to the south. If the 35-turbine scheme is consented, this restoration should be secured to by condition as part of any Habitat Management Plan”*.

The Scottish Ministers have taken account of RSPB Scotland’s response and are satisfied that suitably worded conditions (Annex 2, part 2) give effect to their concerns. RSPB Scotland’s objections have been taken into account as determinative issues under the heading *“Assessment of the Determining Issues”*.

ScotWays objected to the proposed varied Development due the proximity of turbines to a promoted route, Scottish Hill Track route 344 Strath Halladale (Trantlebeg) to Strathy. In their response ScotWays stated *“There is potential disruption to Hill Track 344 during construction, however the Applicant has committed to ensure that access is not affected. Further details would be provided in an Outdoor Access Management Plan which would be agreed with the relevant consultees pre-construction as a condition of consent. We strongly recommend that this is drawn up in consultation with the access team at Highland Council”*.

The Scottish Ministers acknowledge there could be direct impacts on the Rights of Way within the site which do not comply with ScotWays’ guidance on preferred separation distance from turbines, but are satisfied that imposing a condition requiring an access management plan to be approved and implemented (Annex 2, part 2), as requested by ScotWays, will help compensate for any associated impacts and allay ScotWays’ concerns.

Bettyhill, Strathnaver and Altnahara Community Council, Melvich Community Council and Strathy and Armadale Community Council do not object to the proposed varied Development. Each gave their support to it for reasons including:

- there is benefit to the removal of a the non-native conifer plantation and its restoration to peatland could contribute to the case for the Flow Country World Heritage Site;
- social and economic benefits outweigh the visual impacts;
- contribution to combating climate change; and
- the wellbeing and continuation of the community.

Advisors to the Scottish Ministers

Marine Scotland Science (“MSS”) did not submit a response to the consultations. When consulted at Scoping, MSS advised *“The advice which MSS provided in relation to the consented Strathly South wind farm and outlined in the decision letter and attached conditions should address our concerns relating to the potential impacts on freshwater and diadromous fish populations associated with this scheme”*. The conditions referred which MSS were satisfied with are still applicable to the proposed varied Development.

Scottish Forestry do not object. In their response to the consultation Scottish Forestry stated *“As the development site is surrounded by Caithness and Sutherland SAC & SPA, the removal of conifer plantation and subsequent proposed peatland restoration will bring environmental benefit in terms of peatland habitats and landscape. As such, the woodland removal proposal is in line with Scottish Government’s Policy on Control of Woodland Removal and does not require compensatory planting”*. In their response to the Further Information consultation Scottish Forestry advised that the proposed aviation lighting did not change their ‘no objection’.

Transport Scotland do not object subject to there being conditions relating to abnormal loads on the trunk road network and additional signage and temporary traffic control measures when abnormal loads are being delivered or removed. In their response to the Further Information consultation, Transport Scotland advised that the proposed aviation lighting does not alter their view.

The Scottish Ministers have had regard to the requests for conditions as set out above by MSS and Transport Scotland and have attached suitably worded conditions to the planning permission at Annex 2, part 2.

Ironside Farrar were engaged by the Scottish Ministers to assess the Peat Landslide Hazard and Risk Assessment submitted by the Company. They had no concerns with the Peat Landslide Hazard and Risk Assessment submitted by the Company.

The following consultees stated that they had no concerns about or did not object to the proposed varied Development:

Aberdeen Airport, British Telecom, Crown Estate Scotland, Edinburgh Airport, Glasgow Airport, Glasgow Prestwick Airport, Joint Radio Company, National Air Traffic Services, Scottish Water, Defence Infrastructure Organisation, Highlands and Islands Airports Limited and Northern District Salmon Fisheries Board.

Public Representations

The Scottish Ministers received a total of 37 public representations to the Variation Application, 34 of which were supportive and 3 being objections. Reasons for supporting the proposed varied Development included its contribution to Scotland's climate change targets and that it would be good for the local economy. Reasons for objecting to the proposed varied Development included the likely significant landscape and visual effects on the East Halladale Flows Wild Land Area and on the wider Flow Country Candidate World Heritage Site and that there will be an increase in noise. One representation called for the Scottish Ministers to hold a Public Inquiry to enable objectors the opportunity to question the Highland Council's "approach".

It is noted by the Scottish Ministers that NatureScot did not raise any concerns in relation to impacts on wild land and that the Highland Council stated that the previously "acceptable" impacts had not been changed by the removal of the four turbines.

In relation to impacts on the wider Flow Country Candidate World Heritage Site it is noted and conditioned by the Scottish Ministers that there will be the removal of a non-native conifer plantation and the land then restored to peatland and, as stated by the Bettyhill, Strathnaver and Altnahara Community Council in their consultation response that this could contribute to the case for the Flow Country World Heritage Site.

In relation to increased noise, it is noted by the Scottish Ministers that in their response to the Supplementary Information consultation the Highland Council stated "*It is not anticipated that noise will be a significant issue as a result of this development, both individually and in combination with the consented scheme, due to the distance between it and noise sensitive properties*". Whereas the consented Development did not have noise condition attached to it the Scottish Ministers have included a noise condition to the proposed varied Development.

All consultee responses and representations can be viewed in full on the Energy Consents website at www.energyconsents.scot

Public Inquiry

Regulation 6 of the Variation Regulations makes provision for the holding of a Public Inquiry into an Application for Variation and applies certain provisions of Schedule 8 to the Act (relating to Public Inquiries) with modifications. In accordance with Regulation 6 of the Variation Regulations, the Scottish Ministers may cause a Public Inquiry to be held if they consider it appropriate to do so.

The Scottish Ministers have considered the objections raised and have taken all material considerations into account and are satisfied that it is not appropriate in this

case to cause a Public Inquiry to be held. The objections have been fully considered when weighing up the impacts of the proposed varied Development. The Scottish Ministers are satisfied that both the public and the consultative bodies have been afforded ample opportunity for their objections to be made and that little would be added to the Scottish Ministers' understanding of parties' positions by discussing representations in a Public Inquiry forum.

Considerations of the Scottish Ministers

The Scottish Ministers have assessed the environmental impacts of the proposed varied Development and taken the environmental information in the EIA report, the Further Information, the Supplementary Information, the representations, consultation responses including those from the Planning Authority, SEPA, HES and NatureScot, into consideration in reaching their decision.

The Scottish Ministers have had regard to the matters set out in Schedule 9 of the Electricity Act 1989 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.

SEPA's advice has been considered as required by section 36(5A) of the Act 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 varied Development subject to minor revisions/updates of specific conditions which were applied to the consented Development. In their response to the Scottish Ministers they direct the Company to the Regulations section of the SEPA website for advice on regulatory requirements and good practice advice. In their consultation response SEPA stated that they expect the proposed Development to be "capable" of being authorised under the Water Environment (Controlled Activities)(Scotland) Regulations 2011.

The Scottish Ministers consider that there is sufficient information to be satisfied that the Company has had regard to the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna, and geological and physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest and further that it has done what it reasonably can to mitigate the effects of the proposed varied Development on its surrounding environment. The Scottish Ministers are also satisfied that the proposed varied Development would not have any adverse effect on fisheries or to stock of fish in any waters.

Conservation of Habitats and Species Regulations

The Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”) require the Scottish Ministers to consider whether the proposed varied Development would be likely to have a significant effect on a European site or European offshore marine site (either alone or in combination with other plans or projects), as defined in the Habitats Regulations, and if the proposed varied Development is directly connected with or necessary to the management of the site.

NatureScot advise that the proposed varied Development is likely to have a significant effect on the blanket bog and wet heath interests of the **Caithness and Sutherland Peatlands Special Area of Conservation SAC**. Consequently, the Scottish Government, as the competent authority, is required to carry out an appropriate assessment in view of the site’s conservation objectives for its qualifying interests.

NatureScot have also identified the proposed varied Development is likely to have significant effects on, greenshank, red-throated divers, hen harriers and merlin, all qualifying species of the **Caithness and Sutherland Peatlands Special Protection Area SPA**. Consequently, the Scottish Government, as the competent authority, is required to carry out an appropriate assessment in view of the site’s conservation objectives for its qualifying interests.

A Habitats Regulation Appraisal (“HRA”) has been carried out for the SPA. The environmental information to inform the appraisal was presented in the EIA report which accompanied the Variation Application. The HRA has therefore been produced using information already advertised in accordance with the EIA regulations. The Scottish Ministers have undertaken an appropriate assessment (Annex 4A) of the likely significant effects and can conclude, taking account of advice and in view of the conservation objectives of the SPA, that the results of survey work, proposed mitigation (secured by conditions imposed on the planning permission at Annex 2, part 2) and collision risk analysis demonstrate that the proposed varied Development will not, either alone or in combination with other developments, adversely affect the integrity of the site.

A Habitats Regulation Appraisal (“HRA”) has been carried out for the SAC. The environmental information to inform the appraisal was presented in the EIA report which accompanied the Variation Application. The HRA has therefore been produced using information already advertised in accordance with the EIA regulations. Following an appropriate assessment (Annex 4B) The Scottish Ministers can conclude, taking account of advice and in view of the conservation objectives of the SAC, that the results of survey work and proposed construction mitigation, deer management and habitat management (secured by conditions imposed on the planning permission at Annex 2, part 2) demonstrate that the proposed varied

development will not, either alone or in combination with other Developments, adversely affect the integrity of the site.

Policy Context

Climate Change and Renewable Energy Targets

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

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.

SES provides a long-term vision to guide energy policy decisions to tackle the challenges of decarbonising heat and transport in order to meet Scotland's long-term energy and climate change targets. The 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.

National Planning Framework 3 ("NPF3")

NPF3 published in June 2014 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.

Scottish Planning Policy (“SPP”)

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. The aim is to achieve the correct development in the right place, it is not to allow development at any cost. 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.

In respect of protected species, SPP advises that the presence (or potential presence) of a legally protected species is an important consideration in decisions on planning applications. If there is evidence to suggest that a protected species is present on a site or may be affected by a proposed development, steps must be taken to establish their presence. The level of protection afforded by legislation must be factored into the planning and design of the development and any impacts must be fully considered prior to the determination of an application.

Local Development Plan

The Highland Council considered the proposed varied Development against the following:

- the Highland Wide Local Development Plan 2012; and
- the Caithness and Sutherland Local Development Plan 2018.

It was also considered against the following Highland Council Supplementary Guidance:

- Onshore Wind Energy Supplementary Guidance, Nov 2016;

- Developer Contributions (Nov 2018);
- Flood Risk & Drainage Impact Assessment (Jan 2013);
- Highland Historic Environment Strategy (Jan 2013);
- Highland's Statutorily Protected Species (Mar 2013);
- Highland Renewable Energy Strategy & Planning Guidelines (May 2006);
- Managing Waste in New Developments (Mar 2013);
- Physical Constraints (Mar 2013);
- Special Landscape Area Citations (Jun 2011);
- Standards for Archaeological Work (Mar 2012); and
- Trees, Woodlands and Development (Jan 2013).

The Highland Council advised that within the context of the Highland-wide Local Development Plan 2012 and all other relevant policies and guidance, proposals which *“are located, sited and designed such as they will not be significantly detrimental overall, individually or cumulatively with other developments”* will be supported. After due consideration of the proposed varied Development against the local development plan and other local and national policies, the Highland Council concluded that *“the application to increase the blade tip heights of the turbines from 135m to 200m is considered acceptable in terms of the Development Plan, national policy and is acceptable in terms of all other applicable material considerations subject to the removal of turbines 35, 36, 39 and 41”*.

The Highland Council also advised that in their assessment of the proposed varied Development against their local development plan policies the proposed varied Development, subject to the conditions recommended in their response to the Scottish Ministers, accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

National Planning Framework 4

Our Fourth National Planning Framework Draft (“the 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 varied Development and given the Draft NPF4 is at the consultative draft stage, the Scottish Ministers have given it limited weight.

Determining Issues

Having considered the Variation Application, EIA Report (August 2020), Further Information (April 2021), Supplementary Information (July 2021), responses from consultees and third parties and Scottish Government policies, the Scottish Ministers consider that the main determining issues are:

- impacts on the interests of the Caithness and Sutherland Peatlands Special Protection Area and other ornithological matters;
- Impacts on the Caithness and Sutherlands Special Area of Conservation; and
- the extent of the increase in the landscape and visual impacts of the proposed varied Development; and
- the extent to which the proposed varied Development accords with and is supported by Scottish Government policy.

These issues are considered in turn below.

Assessment of the Determining Issues

Impacts on the interests of the Caithness and Sutherland Peatlands Special Protection Area and other birds.

Greenshank

Chapter 5 of Volume 2 of the EIA report sets out the ornithological assessment that was undertaken in respect of the proposed varied Development where combined 2018 and 2019 desk studies and surveys (to determine the bird species, their abundance and distribution data) confirm that the Strathy South site remains relatively poorly used by qualifying species of the Caithness and Sutherland Peatlands Special Protection Area (SPA), with the exception of small numbers of greenshank, which annually use interior forest lochans and boggy clearings for nesting, feeding, and/or chick-rearing.

Table 5.29 of chapter 5 of the EIA report: “Summary Comparison of Residual Effects of the Consented Scheme Compared to the Proposed Varied Development”, sets out that the collision risk to greenshank during breeding season for the proposed varied Development was found to be not significant, the same as for the consented Development.

At paragraph 5.1.8, Chapter 5 of the Supplementary Information it is acknowledged that the collision risk to greenshank was not reassessed, having been agreed prior to its provision that collision risk modelling did not need to be re-run in order to assess the predicted collision rates with four fewer turbines. This is because having fewer turbines either does not affect collision risk (where there were no ‘at risk’ flights associated with these turbines), or the collision risk is lower if there were ‘at risk’ flights within these turbines’ airspace.

It is reported that the deletion of turbines would result in fewer ‘at risk’ flights in respect of the following SPA qualifying species;

- black-throated diver,
- golden eagle; and,
- greenshank.

NatureScot objects to the proposed varied Development as a consequence of the potential impacts on greenshank. The objection reiterates NatureScot's original greenshank related objection to the consented Development on the basis that the collision risk modelling ("CRM") underestimates the predicted numbers of greenshank that may be lost to the population of the SPA. The principle of the disagreement on CRM numbers relates to whether or not the removal of forestry to construct the wind farm will create a habitat which is attractive to other greenshank resulting in them moving in and creating and occupying breeding sites thereby increasing the numbers susceptible to collision risk.

Noting that the objection to the proposed varied Development did not appear to be based on any difference of effects between the consented Development and the proposed varied Development, NatureScot were asked to clarify their position. In response to the Supplementary Information consultation NatureScot confirmed that their objection to proposed varied Development *"is a reiteration of the previous advice and objection submitted in relation to the original proposal and that the variation to the proposal has had no further bearing on that advice and objection"*.

In their response to the Variation Application consultation RSPB Scotland advised in relation to greenshank *"that the collision risk, calculated as 15 deaths over the 50-year operational life of the Proposed Varied Development, is the same figure as the CRM result for the Consented Scheme. We note that this does not take into account the likelihood of birds breeding on the site once the forestry is felled. We see no point in reiterating the argument which the Reporter dismissed at inquiry, but these concerns remain"*.

In their determination of the Consented Development the Scottish Ministers concluded they agreed with the reasoning and findings of the Reporter in relation to the methodology for assessing greenshank. The Scottish Ministers found that it was appropriate for the greenshank data collected by the Company to be used in reaching conclusions on potential impacts on the SPA, and that substantially more weight should be given to the CRM estimates provided by the Company.

The Scottish Ministers adopted the following conclusions of the Reporter:

- there would be no deterioration of the greenshank habitat within the SPA;
- the predicted mortality as a result of collisions with turbines is very small and not of a magnitude that could have an adverse effect on the population of greenshank as a viable component of the SPA; and,
- there would not be any significant disturbance or displacement of greenshank.

In the absence of any updated arguments or evidence regarding impacts on greenshank, the Scottish Ministers are again content to conclude as above that the predicted mortality as a result of collisions with turbines is very small and not of a magnitude that could have an adverse effect on the population of greenshank as a viable component of the SPA; and that there would not be any significant disturbance

or displacement of greenshank as a consequence of the proposed varied Development.

Other Qualifying Species of the Caithness and Sutherland Peatlands Special Protection Area

Chapter 5 of Volume 2 of the EIA report also sets out an updated assessment that was carried out in respect hen harrier, red-throated diver and common scoter. A comparative analysis of the effects of the consented Development versus the proposed varied Development for hen harrier and red-throated diver is also provided in Table 5.29. where it was forecast that the effects of proposed varied Development would not be significant, the same again as for the consented Development.

A comparative analysis was unable to be undertaken for common scoter because it had not been required to be assessed for the consented Development (due to only one bird being recorded over the 2003 to 2014 survey period).

Assessment undertaken for the proposed varied Development in respect of common scoter found no observations of common scoter on or over the main site or survey area during the 2018 and 2019 baseline surveys however in order to address concerns, raised by RSPB Scotland through the pre-application stage, data on breeding distribution (provided by NatureScot and RSPB Scotland) was considered in tandem with the 2018 and 2019 survey findings and survey results from Strathy South, Strathy North and Strathy Wood wind farms. The assessment found that common scoter has only been recorded three times in total over 16 years across the combination of these wind farm sites. No breeding common scoter have been recorded breeding within 2 km of the main site, Strathy North wind farm or Strathy Wood wind farm over this period. The findings of the EIA report conclude that the main site is considered as “of negligible importance” for the common scoter as a qualifying species of the SPA.

RSPB Scotland object on the basis of:-

- adverse impacts on hen harrier and red-throated diver as qualifying features of Caithness and Sutherland Peatlands Special Protection Area (SPA);
- the lack of information on collision risk and barrier effects on common scoter; and
- inadequate cumulative assessment with regard to collision risk, displacement impacts and barrier effects on common scoter.

NatureScot, in their response to the Scottish Ministers, advised the following in respect of the aforementioned qualifying bird species;

- hen harriers – that the proposed varied Development “*will not adversely affect the integrity of the SPA*” in respect of hen harriers subject to the imposition of conditions to secure the proposed Habitat Management Plan (HMP) and sward

- management to make the deforested areas less attractive to hen harriers, thereby reducing collision risk; and
- red-throated divers - that the proposed varied Development “*will not adversely affect the integrity of the SPA*” as a consequence of the low numbers or absence of pairs of red-throated divers from lochs around the proposed varied Development (except for the pair at lochan 44), evidence that the breeding divers (within 1km of the main site) commute north or northwest away from Strathy South and the application of increased avoidance rates for red-throated divers now adopted in collision risk modelling.

NatureScot did not respond specifically in respect of common scoter but advised in respect of “*other SPA species*” that “*it is unlikely that the proposal will have a significant effect on any other qualifying interests either directly or indirectly.*”

Having considered the EIA report and the consultation responses the Scottish Ministers are satisfied that the level of assessment undertaken by the Company in the EIA report, comprehensively and substantively, establishes that the proposed varied Development, subject to conditions requiring a habitat management plan and sward management will not have adverse effects on hen harriers, red-throated divers or common scoters as viable components of the SPA.

White-tailed eagle

Chapter 5 of Volume 2 of the EIA report, reports that the flight activity of white-tailed eagles has increased in comparison to the baseline activity for the consented Development as a consequence of expansion in numbers and distribution of the white-tailed eagle population. However the number of flights recorded in 2018 and 2019 is still very low, with the residual effect of the consented Development and the proposed varied Development on this species being assessed as not significant.

The EIA report also identifies that there is no evidence of nesting on site with surveys and information from the Highland Raptor Study Group suggesting there was no nesting within at least 6 km from the site in either 2018 or 2019.

RSPB Scotland objected to the proposed varied Development on the basis of the collision risk for white-tailed eagle stating that there is “*an increased collision risk compared to the Consented Scheme due to the more frequent flight activity at the site, reflecting the range and population expansion of this species, as well as the use of the site and its surroundings to forage. This finding is consistent with increasing observations of both adults and juveniles by staff at the neighbouring RSPB Forsinard Reserve*”.

NatureScot did not comment in relation to the predicted effects of the proposed varied Development on white-tailed eagle.

The Scottish Ministers, having considered the EIA report and consultation responses, agree with the conclusions, and the reasons for the conclusions, set out in paragraph

5.9.8 of chapter 5, Volume 2 of the EIA report which concludes that the effect of collision from the proposed varied Development, whilst greater than that of the consented Development, would not result in significant effects for the regional breeding population (the regional population being taken as the Scotland/UK population, given the extensive ranging distribution of this species).

Impacts on the Caithness and Sutherlands Peatlands Special Area of Conservation (“the SAC”)

Chapter 3, of Volume 2 of the EIA report sets out a comparison of the environmental impacts of the consented Development versus the proposed varied Development. Table 3.1 of chapter 3 sets out that impacts on habitats within the SAC, as a consequence of construction activities for the both the consented Development and the proposed varied Development are “negligible/minor beneficial” leading to a “not significant” conclusion.

Construction methods have been updated as detailed in Technical Appendix 9.4 of Volume 4 of the EIA report to reduce the potential impact of any identified effect from upgrading of the access track, in particular for the “common access” which passes through the SAC. The Yellow Bog track is also included within the assessment of the potential effects to the SAC. It is further proposed at paragraph 2 of chapter 2 of Volume 2 of the EIA report that the enabling works on the main access track would be completed ahead of the site investigation works for the proposed varied Development site as a way of avoiding impacts on the SAC. Completing the main access in advance would remove the need for large numbers of passing places and allow for a smaller working corridor.

RSPB Scotland objected on the basis of the “*additional loss of designated land and permanent habitat change within the Caithness and Sutherlands SAC due to upgrade of access tracks*”.

NatureScot responded noting that upgrades to the Yellow Bog track would be contained within the non-qualifying habitat either side of the existing track and that an Ecological Clerk of Works (ECoW) would be present on site. NatureScot considers it is reasonable to conclude that all the SAC conservation objectives would be met.

The Scottish Ministers note that the habitats associated with direct habitat loss and temporary habitat loss for the common access and Yellow Bog track upgrades are atypical having been affected by the construction of the existing tracks and therefore are not qualifying features of the SAC.

Having considered the EIA report and the consultation responses the Scottish Ministers are satisfied that the level of assessment undertaken by the Company in the EIA report comprehensively establishes that the upgrade of the access tracks, required for the proposed varied Development, subject to conditions requiring the presence of an Ecological Clerk of Works (ECoW) and for works on the common

access track to be undertaken in accordance with the proposals in the EIA report, will not adversely affect the conservation objectives of the SAC.

Landscape and Visual Impacts

Section 4.11, chapter 4 of Volume 2 of the EIA report sets out a comparison of significant landscape and visual amenity effects between the consented Development and the proposed varied Development.

Table 4.11, chapter 4 of Volume 2 of the EIA report summarises a comparison of the predicted significant effects identified for the consented Development and the proposed varied Development where it also reported that the effects, which include aviation lighting on each of the 39 turbines *“represents a worst case scenario and that the Applicant is engaging with aviation stakeholders and the CAA to agree a lighting solution which could result in reduced landscape and visual effects.”*

Following discussion with the CAA, the Company secured agreement that only six turbines would be required to be equipped with the required night-time aviation lighting. In April 2021 the Company submitted Additional Information (submitted as “Further Information”) comprising an updated lighting assessment to reflect the changes to the agreed lighting scheme and to address concerns raised by NatureScot on the potential impacts of night-time aviation lighting on East Halladale Flows Wild Land Area.

In paragraph 4.12.22, chapter 4 of Volume 2 the EIA report concludes that although the proposed varied Development would have wind turbines that are 65m taller than those of the consented Development, with the exception of one landscape receptor, one viewpoint and localised parts of two routes, the landscape and visual impacts of the proposed varied Development would be very similar to those of the consented Development. A summary of the predicted significant landscape and visual effects of the proposed varied Development is provided in Table 4.12, of chapter 4 of Volume 2 of the EIA report.

In their consultation response of June 2021, the Highland Council stated that the *“original Strathy South Wind Farm, consented at 135m to blade tip height, had been developed through an iterative design process which considered the scheme in the context of the then consented Strathy North Wind Farm”* especially *“when viewed from the north, in particular in areas around Strathy, Bettyhill, and along the A836”*. The Highland Council also stated that *“Similar views are gained from those more elevated areas to the south of the scheme”* and that from these views the proposed varied Development appear *“larger in scale than Strathy North”* but this is *“not necessarily problematic given the level of topographic screening and containment provided by the intervening landscape”*. However, the Highland Council also stated that although the consented Development created *“an element of visual clutter as a result of the location and height of the turbines”* the increased height of the turbines in the proposed varied Development increased *“the visual clutter from areas to the north”* hence their objection to wind turbines 35, 36, 39 and 41, advising that the removal of these would

“make the design more compact when viewed from the east and west and reduced visual stacking/ overlapping of wind turbines within the development when viewed from the north and south” and reduce the “horizontal spread of the development and removing a level of turbine blade stacking and overlapping”.

On 29 July 2021, following a formal request from the Scottish Ministers, the Company submitted Additional Information (submitted as Supplementary Information) addressing the Highland Council’s conditional objection to the proposed varied Development subject to the removal of turbines 35, 36, 39 and 41.

With regards to landscape and visual impacts, the Highland Council stated in their response to the Supplementary Information consultation that the removal of turbines 35, 36, 39 and 41 *“confirms that the horizontal emphasis of the proposed development would be reduced and the scheme would have a better composition”* and that there would be *“less overlapping and stacking of turbine blades”*. The Highland Council also stated that the removal of these turbines *“has reduced the horizontal spread”* and *“increased visual cohesion”*.

With regards to cumulative landscape and visual impacts the Highland Council stated that the proposed varied Development *“has improved the composition of the development when viewed by road users on the A836 and by residents of Strathy through less overlapping and stacking of turbine blades. This improvement to composition is more evident when considering the scheme cumulatively with the consented Strathy North Wind Farm and the proposed Strathy Wood Wind Farm”*.

In summary, the Highland Council considered that *“through the improved composition and reduction in horizontal extent of the wind farm, the concerns previously expressed have been reduced to a level that the scheme is acceptable in design and visual impact terms”*.

Having considered the EIA report, the Further Information and the Supplementary Information and the consultation responses, the Scottish Ministers are satisfied that the reduced requirements for aviation lighting and the amendment to the proposed varied Development to remove turbines 35, 36, 39 and 41 reduces the significance of the landscape and visual impacts to an acceptable extent and that whilst significant landscape and visual impacts remain, these are tolerable when weighed against the benefits of the increased low carbon electricity generation the larger wind turbines will produce.

Scottish Government Policy

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

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

As previously set out, SPP contains guidance in respect of the granting of development consent for wind farm development. SPP is to be read and applied as a whole. It sets out overarching Principal 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. The aim is to achieve the right development in the right place; it is not to allow development at any cost. This means that decisions and policies should be guided by certain principles including, among others, giving due weight to net economic benefit; supporting the delivery of infrastructure; supporting climate change mitigation and protecting natural heritage. The aims of these policies require to be considered and balanced when reaching a decision on applications for wind energy development.

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. The Scottish Ministers in making their determination on the Variation Application have had to balance these considerations, decide what weight is to be given to each, and reach a view as to where the balance of benefit lies.

SES and OWPS sets out targets for the increase in the supply of renewable energy. The OWPS in particular reaffirms the vital role for onshore wind in meeting Scotland's energy targets. The statement sets out the Scottish Government's position for the ongoing need for more onshore wind development in locations across Scotland where it can be accommodated.

The results of the carbon calculator for the consented Development concluded that the carbon payback period (i.e. offset by carbon savings) would be expected to be 1.1 years. The estimated expected carbon dioxide saving from fossil fuel mix electricity generation would be 228,808 tonnes of carbon dioxide per year.

The carbon payback for the proposed varied Development has been re-evaluated and presented in the EIA report using the approved carbon calculator. Whilst noting the limitations of any such calculations, the online carbon calculator provides the best available means by which carbon calculations can be provided in a consistent and comparable format.

The results of the carbon calculator for the 39 turbine proposed varied Development concluded that the carbon payback period would be expected to be 1.5 years. The estimated expected carbon dioxide saving from fossil fuel mix electricity generation would be 387,420 tonnes of carbon dioxide per year. This is an increased saving of 158,612 tonnes of carbon dioxide per year when compared to the consented scheme.

With regards to a 35 turbine proposed varied Development, calculations indicate that the carbon payback period would be expected to be the same and that the estimated expected carbon dioxide saving from fossil fuel mix electricity generation would be at least commensurate to that of a 39 turbine development.

It is also considered by the Scottish Ministers that in addition to the carbon payback benefits as stated above further carbon offsetting will come in the form of peatland restoration which will occur following the felling of the forestry and erection of the wind farm as part of the habitat management plan.

It is also noted by the Scottish Ministers that whereas the consented Development has the potential capacity to generate up to 132.6MW, the proposed varied Development would have the potential capacity to generate up to approximately 186MW.

The Scottish Ministers are satisfied that the proposed varied Development would make a larger contribution than the consented Development to the Scottish Government achieving its targets for increasing the generation of electricity from renewable sources. The Scottish Ministers are also satisfied that deploying larger and more efficient turbines and the operation of the proposed varied Development for longer period would provide considerable carbon savings and these savings would be of an order that weighs in favour of the proposed varied Development.

The Scottish Ministers have considered the landscape and visual effects that the proposed varied Development will have and are satisfied that the increase in turbine dimensions of the proposed varied Development will not create any unacceptable additional adverse effects when compared to the consented Development. The Scottish Ministers are also satisfied that it will not have any significant effects on protected species, National Scenic Areas or National Parks.

The Scottish Ministers also note that there will be local and national economic benefits associated with large scale capital expenditure projects such as the proposed varied Development. The Scottish Ministers consider that the effects of the proposed varied Development would be acceptable in the context of the benefits that the proposed varied Development will bring in terms of net economic benefit, contributing to renewable energy and climate change targets, while protecting the natural environment. On balance, it is considered that the proposed varied Development is sustainable development.

Taking everything into account, the Scottish Ministers are content that the proposed varied Development is supported by Scottish Government Policies.

Reasoned Conclusions and Determination

Environment

The Scottish Ministers are satisfied that the EIA report (August 2020), Further Information (April 2021) and Supplementary Information (July 2021) have been produced in accordance with the EIA Regulations.

Having considered the EIA report and the Further Information and the Supplementary Information as well as representations from consultative bodies including the Planning Authority, HES, SEPA and NatureScot the Scottish Ministers conclude the proposed varied Development is likely to have some significant landscape and visual impacts as well as low significance impacts on ornithological and habitat interests.

The Scottish Ministers are satisfied, having regard to current knowledge and methods of assessment that the environmental impacts have been appropriately addressed by way of the design of the proposed varied Development and by appropriate mitigation and the application of conditions. In particular the Scottish Ministers are satisfied that the proposed varied Development will not adversely affect the integrity of the Caithness and Sutherland Peatlands SPA or the Caithness and Sutherland Peatlands SAC. The Scottish Ministers are satisfied that this reasoned conclusion is up to date.

Acceptability of the proposed varied Development

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

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

SPP contains guidance in respect of the granting of development consent for wind farm development. SPP is to be read and applied as a whole. It sets out overarching Principal Policies to be applied to all development and Subject Policies which set out guidance in respect of development management.

In terms of Subject Policy: A Low Carbon Place, the merits of an individual proposal for a wind farm development are to be considered against a range of impacts. A non-exhaustive list of such considerations is given in paragraph 169. This paragraph sets out considerations which are to be taken into account when considering proposals for

energy infrastructure development, including wind farms. These considerations include, along with the economic benefits and scale of contribution to renewable energy generation targets, the landscape and visual impacts of the proposed development and impacts on natural heritage (including birds) and carbon rich soils. The Scottish Ministers have had regard to those factors when considering this application.

The proposed varied Development, would significantly contribute to renewable electricity targets and towards reducing greenhouse gas emissions. Economic benefits to the local and Scottish economy are also anticipated

As set out previously the Scottish Ministers are satisfied that impacts on protected bird species have been appropriately assessed and surveyed and that the proposed varied Development will not adversely affect the integrity of the SPA. Potential for adverse effects on habitats of the SAC have also been avoided through mitigation measures.

The Scottish Ministers acknowledge that the proposed varied Development, similar to the consented Development, is likely to have some significant landscape and visual impacts. However the Scottish Ministers consider these impacts are acceptable when weighed against the benefits of the increased low carbon electricity generation the larger turbines, operating for a longer period, will produce.

The Scottish Ministers are satisfied that other environmental issues can be appropriately addressed by way of mitigation, and that any impacts which remain are outweighed by the benefits the proposed varied Development will bring. Having considered the benefits and cost of this proposal, the Scottish Ministers are satisfied that this proposed varied Development is sustainable development and should therefore be supported.

Conditions have been imposed to give effect to the relevant mitigation and compensatory measures outlined in the EIA report and referenced in consultation responses.

THE SCOTTISH MINISTERS' DETERMINATION

The Scottish Ministers hereby determine that the section 36 consent is varied as described in **Appendix 1 “Table of Variations”**.

A version of the section 36 consent and its conditions (with variations and additions shown in tracked changes for ease of reference), is included within **Appendix 2**.

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

The Scottish Ministers also direct under section 57(2) of the Town and Country Planning (Scotland) Act 1997 that planning permission for the development described in Annex 2, Part 1 is deemed to be granted, subject to the conditions set out in Annex 2 (Part 2) of this letter.

Expiry of Planning Permission

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

The Scottish Ministers consider that due to the constraints, scale and complexity of constructing such developments, and the timescales associated with grid connection, a 5 year time scale for the commencement of the development 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 EIA Regulations, the Company must publicise notice of the determination and how a copy of this decision letter may be inspected on the “application website”, in the Edinburgh Gazette and in a newspaper circulating in the locality in which the land to which the Variation Application relates is situated.

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

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

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

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

Yours sincerely

WILLIAM BLACK

Head of Energy Consents

For and on behalf of the Scottish Ministers

A member of the staff of the Scottish Government

Appendix 1	-	Table of Variations;
Appendix 2	-	Illustrative consolidated version of the varied section 36 conditions;
Annex 1	-	Description of Development;
Annex 2	-	Part 1 - (see Appendix 2); Part 2 - Conditions applying to Deemed Planning Permission;
Annex 3A	-	Figure 2.1a - 35 turbine layout plan;
Annex 3b	-	Figure 2.1a.- 35 turbine scheme micro-siting map;
Annex 4A	-	HRA – Caithness & Sutherland SPA;
Annex 4B	-	HRA – Caithness & Sutherland SAC.

Appendix 1

The section 36 consent is varied in accordance with the modifications set out in the following Table of Variations:

Annex or condition	Alteration, Addition or Deletion
In Annex 1	<p>(a) Replace the text following the heading “ANNEX 1 – DESCRIPTION OF THE DEVELOPMENT” in its entirety and replace with:-</p> <p>“A wind powered electricity generating station with generating capacity in excess of 50 megawatts, situated on the site with Central Grid Reference 280600, 953000, being approximately 15 kilometres south of Strathy village and 35 kilometres south-west of the settlement of Thurso in the Highland Council planning area.</p> <p>The principal components and ancillary development comprise;</p> <ul style="list-style-type: none"> • 35 turbines, each with a maximum blade tip height of 200 m and rotor diameter of up to 162 m; • Turbine foundations and hardstandings (temporary infrastructure land take (per turbine): 0.1 ha and permanent land take (per turbine): 0.25 ha) • access from the A836 public road via the access to the Strathy North Wind Farm • 31.4 kilometres of access tracks; • 16 water crossings; • a substation; • 2 permanent LiDAR • cabling trenches extending to approximately 25.2 kilometres; • Up to 7 borrow pits • 1 site compound; 2 lay down areas; 1 crane pad for each turbine • a 100 metre by 100 metre concrete batching plant. <p>All as more particularly shown on Figure 2.1a <i>35 Turbine Proposed Varied Development – Changes from 39 Turbine Layout</i> as contained in the Supplementary Information submitted by SSE Generation Limited in July 2021 appended to this decision letter and all as specified in the Variation Application (submitted 27 August 2020), as revised in the Further Information (submitted in April 2021) and revised in the Supplementary Information (submitted 29 July 2021).”</p>

In Annex 2	(a) Delete the table in “Interpretation of Annex 2” in its entirety.
In Annex 2 – Part 1 - Conditions Attached to Section 36 Consent at Condition 1	(a) Delete the first sentence which says “The consent is for a period from the date of this consent decision letter until the date occurring 50 years after the date of First Commissioning.”; (b) In the second sentence, following “Date of First Commissioning” insert “and the Date of Final Commissioning”; and, (c) Replace “that date” with “those dates”.
In Annex 2 – Part 1 - Conditions Attached to Section 36 Consent at Condition 2	(a) Replace “five” with “six”; and, (b) Replace “date of this consent” with “24 November 2021”

An illustrative consolidated version of the varied section 36 conditions.

(Annex 2 part 1 - Conditions to be Attached to Section 36 Consent)

1. Duration of the Consent

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

Reason: *To define the duration of the consent.*

2. Commencement of Development

The Commencement of the Development shall be no later than ~~five~~ **six** years from the ~~date of this consent~~ **24 November 2021**, or in substitution such other period as the Scottish Ministers may hereafter direct in writing. Written confirmation of the intended date of Commencement of Development shall be provided to the planning authority and Scottish Ministers no later than one calendar month before that date.

3. Non-assignation

The Developer shall not be permitted to assign this consent without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignation of the consent or refuse consent to assignation as they may, in their own discretion, see fit. The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure. The Developer shall notify the planning authority in writing of the name of the assignee, principal named contact and contact details within 14 days of written confirmation from the Scottish Ministers of an assignation having been granted.

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

4. Serious Incident Reporting

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

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

Description of Development for the purpose of the s36 consent, granted on 27 April 2018 and varied on 24 November 2021 and planning permission deemed to be granted for that varied s36 consent on 24 November 2021

A wind powered electricity generating station with generating capacity in excess of 50 megawatts, situated on the site with Central Grid Reference 280600, 953000, being approximately 15 kilometres south of Strathy village and 35 kilometres south-west of the settlement of Thurso in the Highland Council planning area.

The principal components and ancillary development comprise;

- 35 turbines, each with a maximum tip height of 200 m and rotor diameter of up to 162 m;
- Turbine foundations and hardstandings (temporary infrastructure land take (per turbine): 0.1 ha and permanent land take (per turbine): 0.25 ha)
- access from the A836 public road via the access to the Strathy North Wind Farm
- 31.4 kilometres of access tracks;
- 16 water crossings;
- a substation;
- 2 permanent LiDAR;
- cabling trenches extending to approximately 25.2 kilometres;
- Up to 7 borrow pits
- 1 site compound; 2 lay down areas; 1 crane pad for each turbine
- a 100 metre by 100 metre concrete batching plant.

All as more particularly shown on Figure 2.1a *35 Turbine Proposed Varied Development – Changes from 39 Turbine Layout* as contained in the Supplementary Information submitted by SSE Generation Limited in July 2021 appended to this decision letter and all as specified in the Variation Application (submitted 27 August 2020), as revised in the Further Information (submitted in April 2021) and revised in the Supplementary Information (submitted 29 July 2021).

Conditions applying to the deemed planning permission granted in respect of the Development described in Annex 1

1. Duration of the Consent

Upon the expiration of a period of 55 years from the Date of First Commissioning, the wind turbines shall be decommissioned and removed from the site, with decommissioning and restoration works undertaken in accordance with the terms of condition 3 of this permission. Written confirmation of the Date of First Commissioning shall be submitted in writing to the planning authority no later than one calendar month after the Date of First Commissioning.

Reason: *To define the duration of the Consent. The 55 year cessation date allows for a 5 year period to complete decommissioning and site restoration work.*

2. Planning Monitoring Officer

No development shall commence until the planning authority has approved in writing the terms of appointment of an independent and suitably qualified consultant to assist in the monitoring of compliance with conditions attached to this deemed planning permission during the period from Commencement of Development to the Date of Final Commissioning.

Reason: *To enable the Development to be suitably monitored during the construction phase to ensure compliance with the permission issued.*

3. Decommissioning and Restoration Plan

- (1) No development shall commence until an Interim Decommissioning and Restoration Plan (IDRP) for the site has been submitted to and approved in writing by the planning authority in consultation with NATURESCOT.

Thereafter:

- (2) Not later than 3 years prior to the decommissioning of the Development or the expiration of the section 36 consent (whichever is the earlier), the IDRP shall be reviewed by the Developer to ensure that the IDRP reflects best practice in decommissioning prevailing at the time and ensures that site specific conditions identified during construction of the site and subsequent operation and monitoring of the Development are given due consideration. A copy shall be submitted to the planning authority for their written approval, in consultation with NATURESCOT and SEPA.
- (3) Not later than 12 months prior to the decommissioning of the Development, a detailed Decommissioning and Restoration Plan (DRP), based upon the

principles of the approved IDRP, shall be submitted to and approved in writing by the planning authority in consultation with NATURESCOT and SEPA.

- (4) Unless otherwise agreed in advance in writing with the planning authority, the IDRP and subsequent DRP shall outline measures for the decommissioning of the Development, restoration and aftercare of the site in accordance with commitments contained in the information lodged in support of the application for this consent and deemed planning permission, prevailing legislative requirements and published best practice prevailing at the time. The IDRP and DRP shall include details about the removal of all elements of the Development, relevant access tracks and all cabling, including where necessary details of:
- (a) justification for retention of any relevant elements of the Development;
 - (b) the treatment of disturbed ground surfaces;
 - (c) management and timing of the works;
 - (d) environmental management provisions; and
 - (e) a traffic management plan to address any traffic impact issues during the decommissioning period.
- (5) Where infrastructure is removed, provision shall be made for drainage reinstatement to achieve in perpetuity natural drainage patterns consistent with the delivery of the Habitat Management Plan.
- (6) The DRP shall be implemented as approved, unless otherwise agreed in writing with the planning authority in consultation with NATURESCOT and SEPA. In the event that the DRP is not approved by the planning authority in advance of the decommissioning of the Development, then unless otherwise agreed in writing by the planning authority, the Interim IDRP shall be implemented in full.

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.*

4. Financial Guarantee

- (1) No development shall commence until a bond or other form of financial agreement is in place securing delivery by the Developer of a financial guarantee in favour of the planning authority to secure the proper decommissioning of the wind farm and site reinstatement as set out within the approved Interim Decommissioning and Restoration Plan (IDRP) required under Condition 3 above. The agreement shall include:
- (a) The maximum sum determined by a suitably qualified independent professional as being required to decommission the Development in line with the IDRP. The value of the financial guarantee shall be reviewed by a suitably qualified independent professional at intervals of not less than five years. The financial guarantee shall be increased or decreased to

take account of any variation in costs of compliance with restoration and aftercare obligations and best practice prevailing at the time of each review.

- (b) Details of the financial guarantee in terms acceptable to the planning authority, which can either be by way of a (i) restoration bond; (ii) letter of credit (or such other suitable financial instrument with a reputable financial institution); (iii) restoration fund, or (iv) any combination of (i) (ii) and (iii) reflecting the maximum sum required to decommission the site in line with the IDRP.
- (c) Details of provisions related to continuing liability on assignation of the section 36 consent to another person in accordance with condition 3 attached to the section 36 consent.
- (d) Details of procedure in relation to resolution of disputes.

- (2) The financial guarantee shall thereafter be maintained in favour of the planning authority until the date of completion of all restoration and aftercare obligations.

Reason: *To ensure the necessary finances are secured to guarantee site restoration.*

5. Electricity Supply

- (1) The Developer shall, at all times after the Date of First Commissioning, record information regarding the monthly supply of electricity to the national grid from each turbine within the Development and retain the information for a period of at least 24 months. The information shall be made available to the planning authority within one month of any request by them. In the event that:
 - (a) Any wind turbine installed and commissioned fails to supply electricity on a commercial basis to the grid for a continuous period of 6 months, the wind turbine in question shall be deemed to have ceased to be required. Thereafter, if the planning authority so direct in writing the wind turbine, along with any ancillary equipment, fixtures and fittings not required in connection with retained turbines, shall, within 3 months of the end of the said continuous 6 month period, be dismantled and removed from the site and the surrounding land fully reinstated in accordance with this condition; or
 - (b) The wind farm fails to supply electricity on a commercial basis to the grid from 50% or more of the wind turbines installed and commissioned and for a continuous period of 12 months from the date on which it stopped supplying energy, then the Developer must notify the planning authority in writing immediately. Thereafter, if the planning authority so direct in writing the wind farm shall be decommissioned and the application site reinstated in accordance with this condition.
- (2) Paragraph 1(a) and 1(b) shall not apply if such outages are out with the Company's control or as a consequence of any emergency or requirement of

National Grid. In these instances the planning authority shall be informed of the turbine shut downs, reasons for the turbine shut downs and timescales for the outages within 5 working days of the turbines being switched off.

- (3) All decommissioning and reinstatement work required by this condition shall be carried out in accordance with the approved Decommissioning and Restoration Plan (DRP) or, should the DRP not have been approved at that stage, other decommissioning and reinstatement measures, based upon the principles of the Interim Decommissioning and Restoration Plan (IDRP), as may be approved in writing by the planning authority.

Reason: to ensure that any redundant or non-functional wind turbines removed from site, in the interests of safety, amenity and environmental protection.

6. Wind Turbine Details

- (1) No development shall commence until full details of the proposed wind turbines have been submitted to and approved in writing by the planning authority. These details shall include:

- (a) The make, model, design, size, power rating and sound power levels of the turbines to be used. The wind turbines shall be consistent with the candidate turbine or range assessed in the Application Environmental Information.
- (b) The external colour and finish of the turbines to be used (including towers, nacelles and blades) which should be non-reflective pale grey semi-matt.

- (2) Thereafter, development shall progress in accordance with these approved details and, with reference to part (1)(b) above, the turbines shall be maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned. All wind turbine blades shall rotate in the same direction.

Reason: *To ensure that the turbines chosen are suitable in terms of visual, landscape, noise and environmental impact considerations.*

7. Wind Turbine Transformers

All of the wind turbine transformers shall be located within the tower of the wind turbine to which they relate.

Reason: *To ensure ancillary elements of the Development are only permissible if, following additional design and LVIA work, they are demonstrated to be acceptable in terms of visual, landscape and other environmental impact considerations.*

8. Buildings and Other Facilities

No development shall commence until full details of the location, layout, external appearance, dimensions and surface materials of all control, sub-station and other buildings, welfare facilities, compounds and parking areas, as well as any fencing, walls, paths and any other ancillary elements of the Development, including any proposed screening, have been submitted to and approved in writing by the planning authority, in consultation with SEPA and NATURESCOT. Thereafter, development shall progress in accordance with the approved details.

Reason: *To ensure that all ancillary elements of the Development are acceptable in terms of visual, landscape and environmental impact considerations.*

9. No Advertisements

Unless there is a demonstrable regulatory, statutory, health and safety or operational reason, none of the wind turbines, anemometers, power performance masts, switching stations or transformer buildings/enclosures, ancillary buildings or above ground fixed plant shall display any name, logo, sign or other advertisement without express consent having been granted by the planning authority.

Reason: *To ensure that the turbines are not used for advertising, in the interests of visual amenity.*

10. Aviation Lighting and Information

- (1) No development shall commence until a scheme of aviation lighting is submitted to, and approved in writing by the planning authority after consultation with the Ministry of Defence. Thereafter the approved scheme of aviation lighting shall be fully implemented on site, unless otherwise approved in writing by the planning authority in consultation with the Ministry of Defence, the Civil Aviation Authority, Highlands and Islands Airports Limited and NATURESCOT.
- (2) The Developer shall provide both the Ministry of Defence and the Defence Geographic Centre (AIS Information Centre) with a statement, copied to the planning authority and Highland and Islands Airports Limited, containing the following information:
 - (a) The date of commencement of the development.
 - (b) The exact position of the wind turbine towers in latitude and longitude.
 - (c) A description of all structures over 300 feet high.
 - (d) The maximum extension height of all construction equipment.
 - (e) The height above ground level of the tallest structure.
 - (f) Detail of an infra-red aviation lighting scheme as agreed with aviation interests and the planning authority to include:

- i. turbines at the cardinal points should be fitted with 25 candela omni-directional red lighting and infra-red lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point; and
- ii. remaining perimeter turbines should be fitted with infra-red lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point.

Reason: *To ensure that the erected turbines present no air safety risk and in a manner that is acceptable to local visual impact considerations.*

11. Community Liaison Group

- (1) No development shall commence until a community liaison group is established by the Developer, in collaboration with the planning authority and local Community Councils to act as a vehicle for the community to be kept informed of project progress and, in particular, to allow advanced dialogue on the provision of all transport-related mitigation measures and to keep under review the timing of the delivery of turbine components. This should also ensure that local events and tourist seasons are considered and appropriate measures to co-ordinate deliveries and work with these and any other major projects in the area are adopted to ensure no conflict between construction traffic and the increased traffic generated by such events / seasons / developments.
- (2) The liaison group, or element of any combined liaison group relating to the Development, shall be maintained until the wind farm has been completed and is fully operational.

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

12. Abnormal Loads

- (1) Prior to commencement of deliveries to site, the proposed route for any abnormal loads on the trunk road / local network must be approved by the relevant roads authority. Any accommodation measures required including the removal of street furniture, junction widening, traffic management must similarly be approved.
- (2) Abnormal load movements shall thereafter be undertaken in accordance with the approved details.

Reason: *To minimise interference and maintain the safety and free flow of traffic on the trunk/local road network as a result of the traffic moving to and from the Development.*

13. Turbine Delivery

During the delivery period of the wind turbine construction materials any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed must be undertaken by a recognised traffic management consultant, to be approved by Transport Scotland / the planning authority before delivery commences.

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

14. Traffic Impact Plan

- (1) No development shall commence until a traffic management plan has been submitted to and approved in writing by the planning authority. The traffic management plan shall include:
 - (a) The routing of all traffic associated with the Development on the local road network;
 - (b) Measures to ensure that the specified routes are adhered to, including monitoring procedures;
 - (c) Details of all signage and lining arrangements to be put in place;
 - (d) Provisions for emergency vehicle access;
 - (e) Identification of a nominated person to whom any road safety issues can be referred; and,
 - (f) A plan for access by vehicles carrying abnormal loads, including the number and timing of deliveries, the length, width and axle configuration of all extraordinary traffic accessing the site.
- (2) Where departures are proposed from the approved traffic impact assessment, these must be supported with an agreed pre-construction survey assessment and appropriate mitigation to safeguard the integrity of the local road network including an agreement under Section 96 of the Roads (Scotland) Act 1984.
- (3) The approved traffic management plan shall thereafter be implemented in full, unless otherwise agreed in advance in writing with the planning authority.

Reason: *To ensure that all construction traffic will have no detrimental effect on the road and structures to be used within the construction of the Development.*

15. Access Management Plan

- (1) No development shall commence until a detailed Outdoor Access Plan of public access across the site (as existing, during construction and following completion) has been submitted to, and approved in writing by, the planning authority.

(2) The Outdoor Access Plan shall include details showing:

- (a) All existing access points, paths, core paths, tracks, rights of way and other routes (whether on land or inland water), and any areas currently outwith or excluded from statutory access rights under Part One of the Land Reform (Scotland) Act 2003, within and adjacent to the application site;
- (b) Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or effect on curtilage related to buildings or structures;
- (c) All proposed paths, tracks and other alternative routes for use by walkers, riders, cyclists, canoeists, all-abilities users, etc. and any other relevant outdoor access enhancement (including construction specifications, signage, information leaflets, proposals for on-going maintenance etc.); and
- (d) Any diversion of paths, tracks or other routes (whether on land or inland water), temporary or permanent, proposed as part of the Development (including details of mitigation measures, diversion works, duration and signage).

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

Reason: *In order to safeguard public access during the construction, operation and restoration phases of the Development.*

16. Site Enabling Works

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

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

17. Main Access Route

No development shall commence unless information on the location, design and construction methodology of passing places on the section of the main access route which is located within the boundary of the Caithness and Sutherland Peatlands Special Area of Conservation has been submitted to and approved in writing by the planning authority in consultation with NATURESCOT. The approved details shall thereafter be implemented in full.

Reason: To ensure the required road related mitigation does not have a significantly adverse impact on the Caithness and Sutherland Peatlands SAC.

18. Micro-siting

- (1) Where ground conditions require it, wind turbines, masts, trenches, areas of hard standing and tracks ("Site Infrastructure") within the application site boundary of the Development may, subject to the following restrictions, be 'micro-sited' by the Developer within the application site boundary of the Development to locations other than the locations shown on *Figure 2.1a.1 – 35 turbine scheme – micro-siting* of the approved plans.
- (2) Subject to parts (4) and (5) of this condition any proposed micro-siting of Site Infrastructure is subject to the following restrictions.
 - (a) No wind turbine foundation shall be positioned higher, when measured in metres Above Ordinance Datum (Newlyn), than the height shown on the approved plans.
 - (b) No Site Infrastructure may be relocated:
 - i. More than 50 metres from the position of each relevant item of Site Infrastructure delineated on the approved plans, with the exception of turbines T1, T4, T9, T18, T19, T33, T42, T29, T52, T57, T69 and T72 which may be micro-sited up to 100m to avoid impacts on deep peat;
 - ii. So as to be located within 250 metres (for turbine/mast foundations) or 150 metres (for hardstanding, tracks or trenches) of ground water dependent terrestrial ecosystems;
 - iii. To a position within 50 metres of any watercourse or, where it outlines a lesser distance, to a position within a watercourse buffer zone identified within the Application Environmental Information and/or the approved plans; and,
 - iv. To a position within an area identified within the Application Environmental Information and/or the approved plans as having greater adverse effect in relation to the following: gradient constraint; deep peat (that is peat with a depth of 0.5 metres or greater); peat landslide hazard risk or the qualifying features of the Caithness and Sutherland Peatlands SPA/SAC.
 - (c) No boundaries of roads, access paths and tracks within the boundary of the Caithness and Sutherland Peatlands Special Area of Conservation, may be moved from positions shown on the approved plans.
- (3) All micro-siting permissible under this condition without requiring the approval of the planning authority must be approved in writing and in advance by the Environmental Clerk of Works ("ECOW"). A written record must be kept by the

Developer of any such ECoW approval and shall be maintained for a period extending to no less than four years following the Date of First Commissioning.

- (4) Any relocation of Site Infrastructure with the exception of those turbines denoted in part (2)(b)(i) above, beyond 50 metres of the position shown on the approved plans shall be submitted to and approved in writing by the planning authority in consultation with NATURESCOT and SEPA. In making such a request for relocation beyond the 50 metres of the position shown on the approved plans under this condition, the Developer must submit the following supporting information:
- (a) A plan showing the proposed location of the micro-sited item/installation(s) relative to the original location(s) in the approved plans.
 - (b) Detailed reasoning for the proposed micro-siting of the proposed micro-sited item/installation(s).
 - (c) An assessment of the landscape and visual impact and any adverse impact on any Wild Land Area of the proposed micro-sited item/installation(s).
 - (d) Such other information as may be required by the planning authority.
- (5) Any relocation of turbines, denoted in part (2)(b)(i) above, beyond 100 metres of their position shown on the approved plans shall be submitted and approved in writing by the planning authority in consultation with NATURESCOT and SEPA. In making such a request for relocation beyond the 100 metres of the position shown on the approved plans under this condition, the Developer must submit the following supporting information:
- (a) A plan showing the proposed location of the micro-sited wind turbine(s) relative to the original location(s) in the approved plans.
 - (b) Detailed reasoning for the proposed micro-siting of the proposed wind turbine(s).
 - (c) An assessment of the landscape and visual impact and any adverse impact on any Wild Land Area of the proposed micro-sited wind turbine(s).
 - (d) Such other information as may be required by the planning authority.
- (6) Prior to the Date of First Commissioning, the Developer must submit updated site plans to the planning authority showing the final position of all Site Infrastructure, buildings, transmission lines, anemometer masts and other constructed items within the application site boundary. These updated plans must identify all instances where micro-siting has taken place from the positions identified in the approved plans and, for each such instance, be accompanied by copies of the written ECoW or planning authority's approval to such micro-siting, as applicable.

Reason: *To enable appropriate micro-siting within the site to enable the Developer to respond to site-specific ground conditions, while enabling the planning authority to retain effective control over any changes to layout that may have ramifications for the environment and/or landscape and visual impact.*

19. Construction of Cables

All electricity and control cables between the turbines, substations and control buildings will be laid underground alongside tracks which are to be constructed on the site unless otherwise agreed with the Planning Authority.

Reason: *In the interests of visual amenity and to minimise disruption to habitats.*

20. Schedule of Mitigation

- (1) No development shall commence until an updated Schedule of Mitigation (SM) is compiled, which shall include all mitigation measures set out in the Application Environmental Information and other agreed mitigation as set out within other planning conditions imposed on this permission.
- (2) The SM shall include processes to control any required changes for environmental auditing and monitoring in and around the Site, before and during construction and for 18 months after the construction and all onsite mitigation works and post construction restoration works are completed, and will include the establishment of an environmental checklist, to monitor and input into the planning of construction activities and ensure implementation of all environmental mitigation measures which continue for the duration of operation through to Decommissioning.

Reason: *To ensure the mitigation measures contained in the Application Environmental Information are implemented, monitored and amended as required subject to the agreed processes.*

21. Construction and Environmental Management Document

(1) No development shall commence until a Construction and Environmental Management Document (CEMD) is submitted to and agreed in writing by the planning authority in consultation with NATURESCOT and SEPA. The CEMD shall include but not be limited to:

- (a) A Construction Schedule of Mitigation (CSM) which draws from the SM referenced in condition 20 relevant to the construction and post construction restoration phases;
- (b) Processes to control/action changes from the CSM;
- (c) Full details of the approved location, layout, dimensions, surface materials, type and construction methodologies of all internal access tracks within the application site boundary; and
- (d) The following specific Construction and Environmental Management Plans (CEMPs):
 - i. Peat Management Plan – to be informed by further peat probing and updated layout plan to demonstrate how the proposals have been amended where necessary to reduce peat disturbance and to include details of all proposed peat stripping, excavation, storage, reinstatement or restoration of material in accordance with best practice advice published by SEPA and NATURESCOT. This should for example highlight how sensitive peat areas are to be marked out on-site to prevent any vehicle or work practices causing inadvertent damage and should detail measures to minimise peat wastage and maximise peat restoration on site to preserve, maintain and re-establish peatland habitat.
 - ii. Wetland Ecosystems Survey and Mitigation Plan.
 - iii. Water Management Plan – highlighting proposed drainage provisions including monitoring/ maintenance regimes, deployment of water-crossings using bottomless culverts, surface water drainage management (SUDs), sizing of watercourse crossings not to result in increased flood risk to people or property and development buffers from watercourses (50 metres), water features (20 metres) and identified groundwater dependent terrestrial ecosystems.
 - iv. Pollution Prevention Plan.
 - v. Private Water Supply Protection Plan (PWSP)– including, but not limited to, updated details of monitoring/mitigation measures to protect the private water supplies identified in Technical Appendix 10.5 of the Application Environmental Information, in addition to any new supplies that may have been registered since 2019. The PWSP will include drawings or plans showing the location of the private water supplies in relation to the Development and what monitoring/mitigation is proposed to ensure protection of the supply.

- vi. Site Waste Management Plan – including, but not limited to, quantification, nature, proposed uses, location of proposed uses and management of all material extracted from forest or other tracks or other infrastructure to be restored during or following the construction phase.
- vii. Soil Storage and Management and Spoil Heap Plan – to include plans for the removal, storage, re use and removal of soil and spoil prior to, during and on conclusion of construction.
- viii. Working methods for cable laying.
- ix. Construction Noise Mitigation Plan.
- x. Woodland Plan highlighting the extent and type of felling works to be undertaken. This plan should seek to maximise extraction of timber. Management shall be in accordance with best practice as set out in "Management of Forestry Waste" (SEPA Guidance WST-G-027) and joint-agency "Use of trees to facilitate development on afforested land" (SEPA Guidance LUPS-GU27)".
- xi. Details of any other methods of monitoring, auditing, reporting and communication of environmental management on site and with the Developer, planning authority and other relevant parties.
- xii. Statement of any additional persons responsible for 'stopping the job /activity' if in actual or potential breach of a mitigation or legislation occurs.
- xiii. Details of proposed post-construction restoration/reinstatement of the working areas not required during the operation of the Development, including, construction access tracks, borrow pits, construction compound and other temporary construction areas and, where infrastructure is removed, provision for drainage reinstatement to achieve in perpetuity natural drainage patterns consistent with the delivery of the Habitat Management Plan. 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.

- (2) In implementing the Peat Management Plan the Developer shall comply in full with "Developments on Peatland: Guidance on the assessment of peat volumes, reuse of excavated peat and the minimisation of waste" published by SEPA and Scottish Renewables (version 1, January 2012) or any amending, substitute or replacement guidance.
- (3) All elements of the CEMD shall be devised and drawn up to co-ordinate and be consistent with the approved Habitat Management Plan.
- (4) Unless otherwise agreed in writing in advance by the planning authority, following consultation with NATURESCOT and SEPA, the development shall proceed in accordance with the CEMD, CEMPs and CSM.

Reason: *To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment; to ensure that all extracted peat is extracted, stored, reinstated or restored in a manner which minimises waste and maximises peat restoration on site and that the mitigation measures contained in the Application Environmental Information, or as otherwise agreed, are fully implemented.*

22. Ecological Clerk of Works (ECoW)

- (1) No development shall commence until the planning authority has approved the terms of appointment and the identity of the proposed appointee by and at the cost of the Developer of an independent and suitably qualified ECoW with roles and responsibilities which shall include but not necessarily be limited to:
 - (a) Providing training to the Developer and contractors on their responsibilities to ensure that work is carried out in strict accordance with environmental protection requirements required by this deemed planning permission and by law;
 - (b) Monitoring compliance with all environmental and nature conservation mitigation works and working practices approved under this deemed planning permission, the CEMD, all CEMPs, the Pre-Construction Species Survey and Protection Plan and Habitat Management Plan;
 - (c) Advising the Developer on adequate protection for environmental and nature conservation interests within, and adjacent to, the application site;
 - (d) Liaising with and providing information to the Habitat Management Plan Steering Group (established in accordance with condition 26);
 - (e) Consideration of proposals made by the Developer for review of the Habitat Management Plan and reporting to the planning authority and NATURESCOT on such proposals;
 - (f) Consideration of all reporting by the Developer required in terms of this deemed planning permission during construction, including ornithological and vegetation reporting and tree felling and reporting to the planning authority and NATURESCOT on such reporting;
 - (g) Directing the placement of Site Infrastructure (including written approval of any micro-siting, as permitted by the terms of this deemed consent) and the avoidance of sensitive features; and,
 - (h) Regularly reporting to the planning authority, NATURESCOT and SEPA on all of the matters falling within his or her roles and responsibilities and making urgent reports to the planning authority, NATURESCOT and SEPA as may from time to time be appropriate.
- (2) The ECoW shall be appointed on the approved terms throughout the period from the commencement of the Site Enabling Works, throughout any period of construction activity, during any period of post construction restoration works and as required in terms of the condition 23 and condition 26.

- (3) In the event that for whatever reason a replacement ECoW shall require to be appointed the Developer shall immediately advise the planning authority in writing that such is the case and shall as soon as reasonably practicable advise the planning authority in writing of the identity of the proposed replacement appointee by and at the cost of the Developer of an independent and suitably qualified ECoW and the terms of his or her proposed appointment for the approval of the planning authority.
- (4) Under the terms of his or her appointment, the ECoW shall be given powers to order a stop to any activity on site which in his or her reasonable opinion could lead to an incidence of non-compliance with the environmental and ecological conditions in this deemed planning permission or a breach of environmental law and such activity shall forthwith stop.
- (5) Under the terms of his or her appointment the ECoW is to report all such stoppages to the Developer's nominated construction project manager and the planning authority without delay and the activity shall not re-commence unless and until the ECoW has confirmed in writing that he or she is satisfied that such measures as are required have been taken to ensure that the relevant incidence of non-compliance with the environmental and ecological conditions in this deemed planning permission or a breach of environmental law shall not re-occur. Any such stoppages which result in a cessation of any construction activity in excess of five working days shall be reported, with full particulars of the works and reasons for stoppage, in writing to the planning authority, NATURESCOT and SEPA within ten working days of the cessation of the relevant works.

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

23. Pre-Construction Species Survey and Protection Plan and Protected Bird Species, Vegetation and Tree Felling Monitoring, Surveys and Reporting

- (1) No development shall commence until a Pre-Construction Species Survey and Protection Plan is submitted to and approved in writing by the planning authority (in consultation with NATURESCOT) outlining details of pre-construction surveys for legally protected species to be carried out at an appropriate time of year for the species, in the 12 months preceding commencement of construction, and a watching brief to be implemented by the ECoW during construction. The species that should be surveyed for include, but are not limited to, otter, water vole, pine marten and breeding birds. The area that is surveyed should include all areas directly affected by construction plus an appropriate buffer to identify any species within disturbance distance of construction activity and to allow for any micro-siting needs.

- (2) The ECoW should be involved in drafting and should approve any species protection plans that are required, using the information from the Application Environmental Information and such pre-construction surveys.
- (3) The Developer shall ensure that the ECoW shall oversee implementation by the Developer of the species protection plans and any licensing requirements.
- (4) Ornithological monitoring and surveys of all protected bird species identified in the Application Environmental Information as being present on and around the application site shall be carried out and reported by the Developer to the ECoW and planning authority by the end of each calendar year during the construction phase of the Development.
- (5) During the operational phase of the Development, bird surveys of all protected bird species identified in the Application Environmental Information as being present on and around the application site or found subsequently shall be carried out by the Developer in accordance with the NATURESCOT post construction ornithological monitoring guidance (SNH, 2009, or any amending, supplementary and/or successor guidance) and will be carried out in Development operational years 1, 3, 5, 10, 15, 25, 35 and 50. The results of all such ornithological monitoring and surveys such shall be reported as soon as practicable in writing by the Developer to the ECoW and the planning authority.
- (6) All mortalities of all protected bird species known or suspected as having been occasioned by collision with any part of the Development infrastructure which are identified by the Developer shall be reported as soon as practicable in writing by the Developer to NATURESCOT and the planning authority.
- (7) Monitoring of sward height shall be carried out by the Developer in the months of July, August or September in operational years 1-5 (inclusive), 7 10, 15, 25, 35 and 50 and shall be reported by the Developer to the planning authority and the HMP Steering Group.
- (8) A report detailing the results of the year's sward height monitoring and any recommendations for the sward management of areas of cleared forestry shall be produced by the Developer at the end of each monitoring year, and shall be reported in writing by the Developer to the planning authority and the HMP Steering Group by the 31st December of Development construction years 1 and 2 and operational years 1, 2, 3, 4, 5, 7, 10, 15, 25, 35 and 50.
- (9) All monitoring, surveying and reporting required by this deemed planning permission condition 23 shall be implemented in full by the Developer.

Reason: *To ensure that impacts on protected species, vegetation and of tree felling are identified, reported on and in the case of protected species mitigated appropriately.*

24. Archaeology

- (1) No development shall commence until an Archaeological Programme of Work (APoW) for the evaluation, preservation and recording of any archaeological and historic features affected by the Development, including a timetable for investigation, has been submitted to and agreed in writing by the planning authority.
- (2) The APoW shall provide details of the archaeological evaluation to determine the archaeological baseline of the application site to be undertaken in advance of development; measures to be taken if significant deposits are encountered; and, shall include:
 - (a) A scheme of investigation containing details of areas where there is potential for archaeological remains, features or deposits to be present; and, methodologies for archaeological monitoring requirements during all site groundworks and site clearance work, including construction of access roads and service arrangements, and in those areas identified where there is potential for archaeological remains, features or deposits to be present. The methodology shall specify how and where topsoil stripping (using a smooth-bladed bucket) shall be monitored and guided by an archaeologist so that any buried archaeological features can be identified, recorded and/or appropriate mitigation put in place to ensure their preservation;
 - (b) Specification of a programme of post-excavation analysis for all recovered artefacts and ecofacts detailing how the results will be incorporated into a final report to be published;
 - (c) A project design detailing how the Company will adhere to minimum standards set out in the Highland Council Standards for Archaeological Work provided on the Highland Council's website, published at https://www.highland.gov.uk/downloads/file/1022/standards_for_archaeological_wok;
 - (d) Arrangements for providing advance notice of archaeological fieldwork to the planning authority, along with contact names, telephone numbers and arrangements for access;
 - (e) Arrangements for communications including a schedule for reports to the planning authority by telephone in every week where archaeological fieldwork is undertaken, and details of how the Company will advise the planning authority immediately after any unexpectedly significant or complex discoveries, or other unexpected occurrences which might significantly affect the archaeological work, with details of how such finds or features will be left in situ until arrangements have been agreed for safeguarding or recording them;
 - (f) Specification of an archive and report including arrangements for dissemination and publication, all according to the standards set out in the Highland Council Standards for Archaeological Work; and,

- (g) Details of how all work will be undertaken according to the Code of Conduct, Standards and Guidance of the Chartered Institute for Archaeologists.
- (3) The approved APoW required by this deemed planning permission condition 24 shall be implemented in full.

Reason: *In order to ensure the protection or recording of archaeological features on the site.*

25. Peat Stability Plan

- (1) No development shall commence until a Peat Stability Management Plan, developed in consultation with Scottish Ministers, has been submitted to and approved in writing by the planning authority. The Peat Stability Management Plan shall draw upon the relevant findings of the Application Environmental Information peat landslide risk assessment, and the findings of any additional ground investigations carried out prior to development commencing.
- (2) The Peat Stability Management Plan shall take due consideration of the mineral and slope stability of the site identified in the peat landslide risk assessment and shall have regard to the drainage implications of soil movement and storage. The Peat Stability Management Plan shall be implemented as approved.

Reason: *To further minimise the risk of peat failure arising from the Development.*

26. Habitat Management Plan

- (1) No development shall commence until a Habitat Management Plan (“HMP”) has been submitted to and approved in writing by the planning authority in consultation with NATURESCOT and SEPA. The HMP shall explore opportunities for the inclusion of the land where turbines 35, 36, 39 and 41 were proposed to be sited, include measures to minimise damage by grazing animals, including deer, to restored and reinstated ground and set out proposed long term management for the wind farm site and shall provide for the management, monitoring and reporting of terrestrial habitats on site. The Habitat Management Plan shall include as an aim targeted sward management to reduce attractiveness of the wind farm site for breeding hen harriers.
- (2) The approved Habitat Management Plan will be reviewed and updated by the Developer to reflect ground condition surveys undertaken from the start of Site Enabling Works through to the Date of First Commissioning and shall be submitted to and approved in writing by the planning authority in consultation with NATURESCOT and SEPA prior to implementation of phase 2 of the Habitat Management Plan (post-commissioning).

- (3) In furtherance of the aim and for the better implementation and review of the Habitat Management Plan a Steering Group (HMP SG) shall be formed prior to the commencement of development. The membership of this HMP SG will include representatives of the Developer, the planning authority and NATURESCOT.
- (4) The Habitat Management Plan shall be further reviewed by the Developer at a frequency of no longer than the 5 year anniversary of the Date of First Commissioning, and no longer than every 6 years thereafter until the Development is no longer in operation and the Decommissioning and Restoration Plan has been implemented in full. The Developer shall submit a stage reviewed Habitat Management Plan following each such Habitat Management Plan monitoring year as provided for in the Habitat Management Plan for approval in writing by the planning authority in consultation with NATURESCOT and SEPA. Mitigation identified through the reviewed Habitat Management Plan shall be implemented in full by the Developer, unless otherwise agreed in writing by the planning authority in consultation with NATURESCOT and SEPA.
- (5) HMP monitoring (excluding sward height monitoring) shall be carried out by the Developer in operational years 1, 5, 10, 15, 25, 35 and 50 and shall be reported to the planning authority and the HMP Steering Group in writing by the Developer.
- (6) The Developer shall submit a monitoring report to the planning authority, NATURESCOT and SEPA on the ongoing implementation of the Habitat Management Plan which will be provided no later than 6 months after the end of each HMP monitoring year. The monitoring report shall present an assessment of the implementation of the Habitat Management Plan, including:
- (a) An assessment of the implementation of the Habitat Management Plan, and any reviewed such plan, in relation to the aims and objectives of the plan;
 - (b) The levels, if any, of habitat restoration delivered on site; and,
 - (c) The results of any monitoring and surveys required in compliance with the conditions of this deemed planning permission.
- (7) If a monitoring report, identifies that the implementation of the Habitat Management Plan is not meeting the aims and objectives of the Habitat Management Plan then this shall be reported by the Developer to the HMP SG along with details of the proposed mitigation and any other works considered to be required to ensure the aims and objectives of the approved Habitat Management Plan will be met within 6 months of the relevant monitoring report being so submitted. The HMP SG will review such proposals and make recommendations thereon. The Developer shall then finalise proposed mitigation and other works, incorporate changes into an updated Habitat Management Plan which shall be submitted to the planning authority within 12

months of the relevant monitoring report for written approval in consultation with NATURESCOT and SEPA.

- (8) The approved Habitat Management Plan, each approved reviewed Habitat Management Plan and updated mitigation and works to achieve same shall be implemented in full by the Developer.
- (9) In implementing the Habitat Management Plan the Developer shall comply in full with the joint agency guidance "Use of Trees Cleared to Facilitate Development on Afforested Land - Joint Guidance from SEPA, NATURESCOT and Forestry Commission Scotland" LUPS-GU27 version 1 (April 2014) and SEPA waste management regulatory guidance "Management of forestry waste" WST-G-027 version 2 (July 2013) and in both cases any amending, substitute or replacement guidance.

Reason: *In the interests of good land management, the protection of habitats and to minimise collision risk to bird species which are qualifying interests of the Caithness and Sutherland Peatlands Special Protection Area.*

27. Deer Management Plan

- (1) No development shall commence until a Deer Management Plan has been submitted to and approved in writing by the planning authority in consultation with NATURESCOT. The deer management plan shall set out proposed long term management of deer using the wind farm site to safeguard adjacent areas of the Caithness and Sutherland Peatlands Special Area of Conservation ("SAC") and shall provide for the monitoring of deer numbers on the wind farm site and of impacts from deer grazing and trampling on SAC habitat within and adjacent to the wind farm site from the period from commencement of development until the date of completion of restoration.
- (2) The approved deer management plan shall thereafter be implemented in full.

Reason: *In the interests of good land management, and the management of deer and to avoid any increase in deer impacts on SAC habitats that might arise from displacement of deer from the wind farm site.*

28. Borrow Pit Working

- (1) No development shall commence until a proposed scheme for the working of each borrow pit within the site has been submitted to, and approved in writing by, the planning authority, in consultation with SEPA and NATURESCOT. Thereafter, the scheme shall be implemented as approved. The scheme shall make provision for:
 - (a) Methods of working (including the timing of works and the use of explosives and/or rock-breaking equipment);

- (b) A description of the volume and type of minerals, aggregates and/or fines to be extracted from each borrow pit, including harness and potential for pollution;
- (c) A site plan and section drawings showing the location and extent of each proposed extraction area;
- (d) Overburden (peat, soil and rock) handling and management;
- (e) Drainage infrastructure, including measures to prevent the drying out of surrounding peatland; and,
- (f) A programme for the re-instatement, restoration and aftercare of each borrow pit once working has ceased.

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

Reason: *To ensure that a scheme is in place to control the use of borrow pits to minimise the level of visual intrusion and any adverse impacts as a result of the construction phase of the Development.*

29. Site Inspection Plan

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

- (a) Requirements to demonstrate that the infrastructure of the Development is still fit for purpose and operating in accordance with condition 6, condition 7 and condition 30; and
- (b) An engineering report which details the condition of tracks, turbine foundations and the wind turbine generators and sets out the requirements and the programme for the implementation for any remedial measures which may be required.

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

Reason: *To ensure the condition of the infrastructure associated with the Development is compliant with the Application Environmental Information, condition 6, condition 7 and condition 30 and to ensure the Development is being monitored at regular intervals throughout its operation.*

30.Noise

The rating level of noise emissions from the combined effects of the wind turbines comprising the Strathy South wind farm (including the application of any tonal penalty) hereby permitted together with the noise emissions of the wind turbines comprising the Strathy North Wind Farm (including the application of any tonal penalty) and if consented the Strathy Wood Wind Farm (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 these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission and; the rating level of noise emissions from the combined effects of the wind turbines (including the application of any tonal penalty) when determined in accordance with the attached **Guidance Notes (relevant to this condition)**, shall not exceed 35dB LA90 at any noise sensitive property.

- (a) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with **Guidance Note 1 (d)**. These data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in **Guidance Note 1(e)** to the planning authority on its request, within 14 days of receipt in writing of such a request.
- (b) No electricity shall be exported until the wind farm operator has submitted to the planning authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the planning authority.
- (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 wind farm operator shall, at its expense, employ a consultant approved by the planning authority to assess the level of noise emissions from the wind farm at the complainant's property in accordance with the procedures described in the **attached Guidance Notes**. The written request from the 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.
- (d) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm operator shall submit to the planning authority for written approval the proposed measurement location identified in accordance with the **Guidance Notes** where measurements for compliance checking purposes shall be undertaken. Measurements to assess compliance with the noise limits as set out in the table (below) attached to these conditions or approved by the planning authority pursuant to paragraph (f) of this condition shall be undertaken at the measurement location approved in writing by the planning authority.

Table 1 Noise Limit – Applicable to all times of the day												
Receptor	Wind Speed (ms-1) as Standardised to 10 m Height											
	1	2	3	4	5	6	7	8	9	10	11	12
NAL1 – Bowside Cottage	35	35	35	35	35	35	35	35	35	35	35	35
NAL2 – Bowside Lodge	35	35	35	35	35	35	35	35	35	35	35	35
NAL3 - Rhifail	35	35	35	35	35	35	35	35	35	35	35	35

- (e) Prior to the submission of the independent consultant's assessment of the rating level of noise emissions pursuant to paragraph (g) of this condition, the wind farm operator shall submit to the planning authority for written approval a proposed assessment protocol setting out the following:
- I. The range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions.
 - II. A reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request from the planning authority under paragraph (c), and such others as the independent consultant considers necessary to fully assess the noise at the complainant's property. The assessment of the rating level of noise emissions shall be undertaken in accordance with the assessment protocol approved in writing by the planning authority and the attached Guidance Notes.
- (f) Where a dwelling to which a complaint is related is not listed in the table attached to these conditions, the wind farm operator 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 dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise emissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the planning authority for the complainant's dwelling.
- (g) The wind farm operator shall provide to the planning authority the independent consultant's assessment of the rating level of noise emissions undertaken in

accordance with the Guidance Notes within 2 months of the date of the written request of the planning authority made under paragraph (c) of this condition unless the time limit is extended in writing by the planning authority. All data collected for the purposes of undertaking the compliance measurements shall be made available to the planning authority on the request of the planning authority. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the planning authority with the independent consultant's assessment of the rating level of noise emissions.

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

Reason: *To protect the amenity of the area and minimise disturbance to residents from noise.*

Guidance Notes for condition 30 Above

Guidance Note 1

(a) Values of the LA90,10 minute noise statistic should be measured at the complainant's property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS4142: 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 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 Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

(c) The LA90,10 minute measurements should be synchronised with measurements of the 10-minute arithmetic mean wind 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 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, such as direct measurement at a height of 10 metres, this wind speed, averaged across all operating wind turbines, and corrected to be representative of wind speeds measured at a height of 10m, shall be used as the basis for the analysis. It is this 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2. All 10-minute periods shall commence on the hour and in 10- minute increments thereafter.

(e) Data provided to the 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

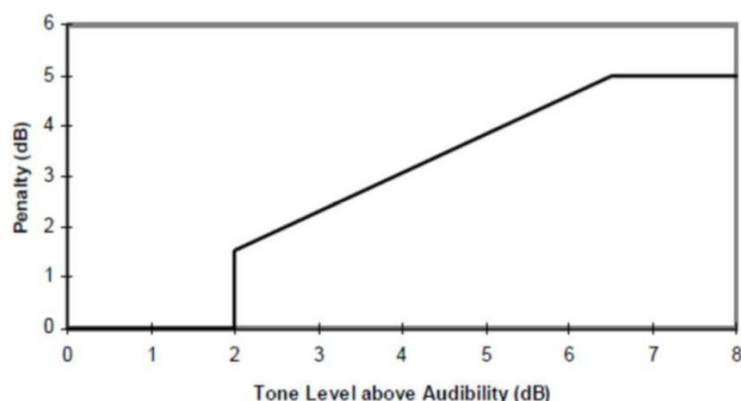
- (a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2 (b)
- (b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (d) of the noise condition, but excluding any periods 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 Planning Authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.
- (c) For those data points considered valid in accordance with Guidance Note 2(b), values of the LA90,10 minute noise measurements and corresponding values of the 10- minute 10- 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 10- metre height mean wind speed on the X-axis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

- (a) Where, in accordance with the approved assessment protocol under paragraph (d) of the noise condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.
- (b) For each 10 minute interval for which LA90,10 minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.
- (c) For each of the 2 minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.
- (d) The tone level above audibility shall be plotted against wind speed for each of the 2 minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be used.
- (e) A least squares "best fit" linear regression line shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line at each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be

repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.

(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 Planning Authority in its written protocol under paragraph (d) of the noise condition.

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

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

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

(e) Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range requested by the 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 Li at that integer wind speed.

(h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the 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 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 Relevant to Conditions in Annex 2

"The Application" means the application submitted by the Company on 27 August 2020;

"Application Environmental Information" means the combination of EIA report submitted by the Company on 27 August 2020, the Further Information submitted in April 2021 and the Supplementary Information (submitted 29 July 2021).

"Bank Holiday" as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended) means:

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

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

"the Company" means SSE Generation Limited, company registration number 02310571 and registered address No.1 Forbury Place, 43 Forbury Road, Reading, United Kingdom, RG1 3JH or such other person for the time being entitled to the benefit of the consent under section 36 of the Act 1989;

"the Developer" means the Company and in substitution therefor any other party who at the time has the benefit of this section 36 consent;

"development" means the implementation of the consent and deemed planning permission excluding Site Enabling Works by the carrying out of a material operation within the meaning of section 27 of the Town and Country Planning (Scotland) Act 1997.

"The Development" means the Development described in Annex 1;

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

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

“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.

“HES” means Historic Environment Scotland

“NATURESCOT” means Scottish Natural Heritage, acting under its operating name NatureScot.

“the planning authority” means the Highland Council.

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

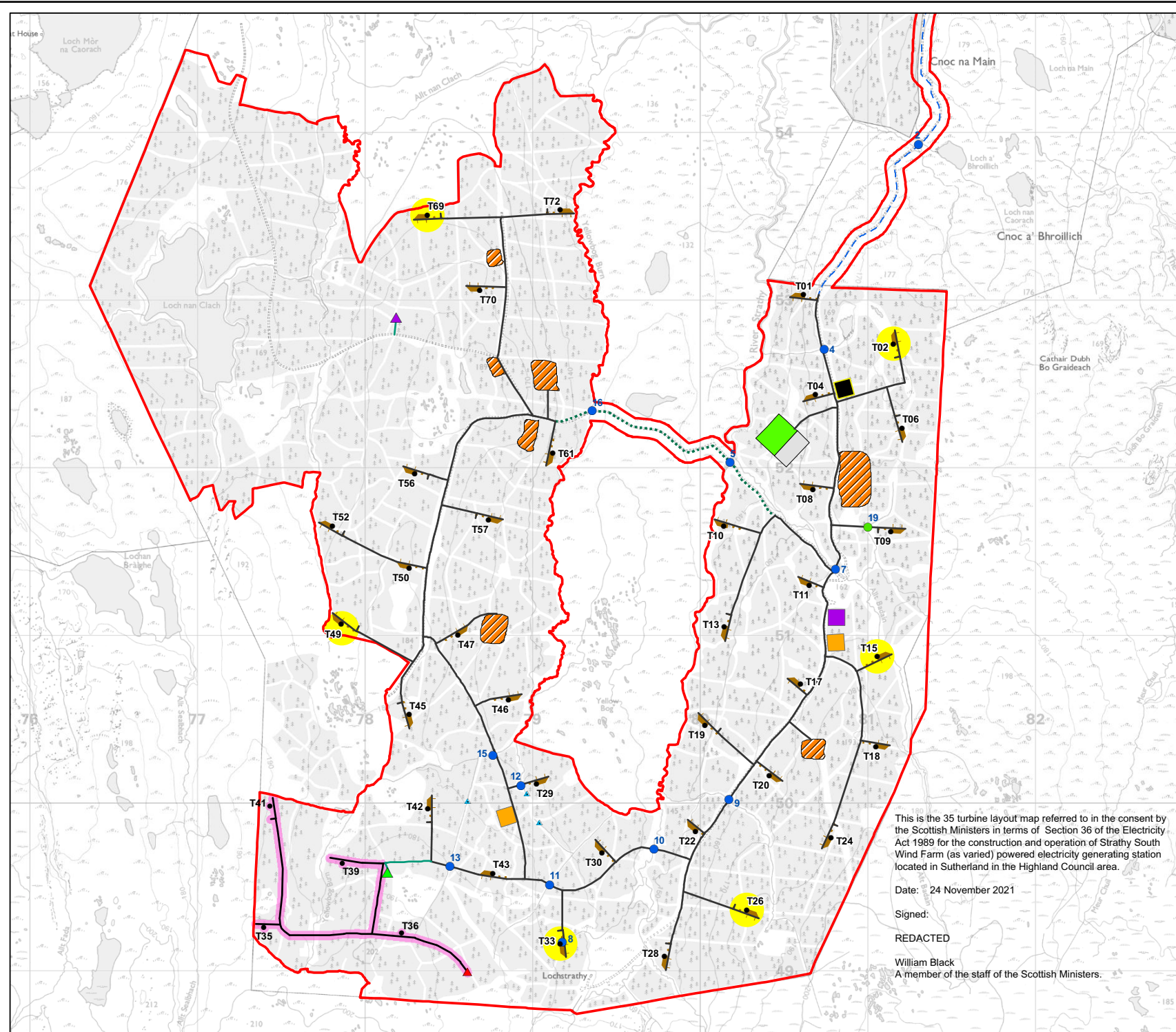
“SEPA” means the Scottish Environment Protection Agency.

“Site Enabling Works” means construction of c.1.3km of new access track from Strathy North wind farm to the site including a new bridge over the River Strathy Upgrading of circa 2.3 km of existing forestry track; and installation of underground wind farm HV cabling required from the site to the existing substation at Strathy North wind farm along the new/upgraded track prior to the commencement of construction of the main site.

Annex 3A

Legend

- Site Boundary
- Turbine
- ▲ Former LiDAR A Location
- ▲ LiDAR A (278133, 949584)
- ▲ LiDAR B (278186, 952895)
- Water Crossing Points**
- Water Crossing
- Water Crossing - New
- ▲ Water Abstraction Location
- Track
- LiDAR Track
- - - Common Access Route
- Existing Yellow Bog Track,
Surfacing to be Upgraded and
Minor Localised Widening
- Substation Temporary Laydown
Area
- Construction Compound
- Substation
- Hardstand
- Batching Plant
- Amended Laydown Area
- Borrow Pit
- Section Removed
- Visibly Lit Turbine



Scale 1:22,000 @ A3
0 0.5 1 Km

Figure 2.1a
35 Turbine Proposed Varied Development
- Changes from 39 Turbine Layout

Strathy South Wind Farm
EIAR 2020

Legend

- This is the micro-siting map referred to in the consent by the Scottish Ministers in terms of Section 36 of the Electricity Act 1989 for the construction and operation of Strathlyon South Wind Farm (as varied) powered electricity generating station located in Sutherland in the Highland Council area.

Date: 24 November 2021

Signed:

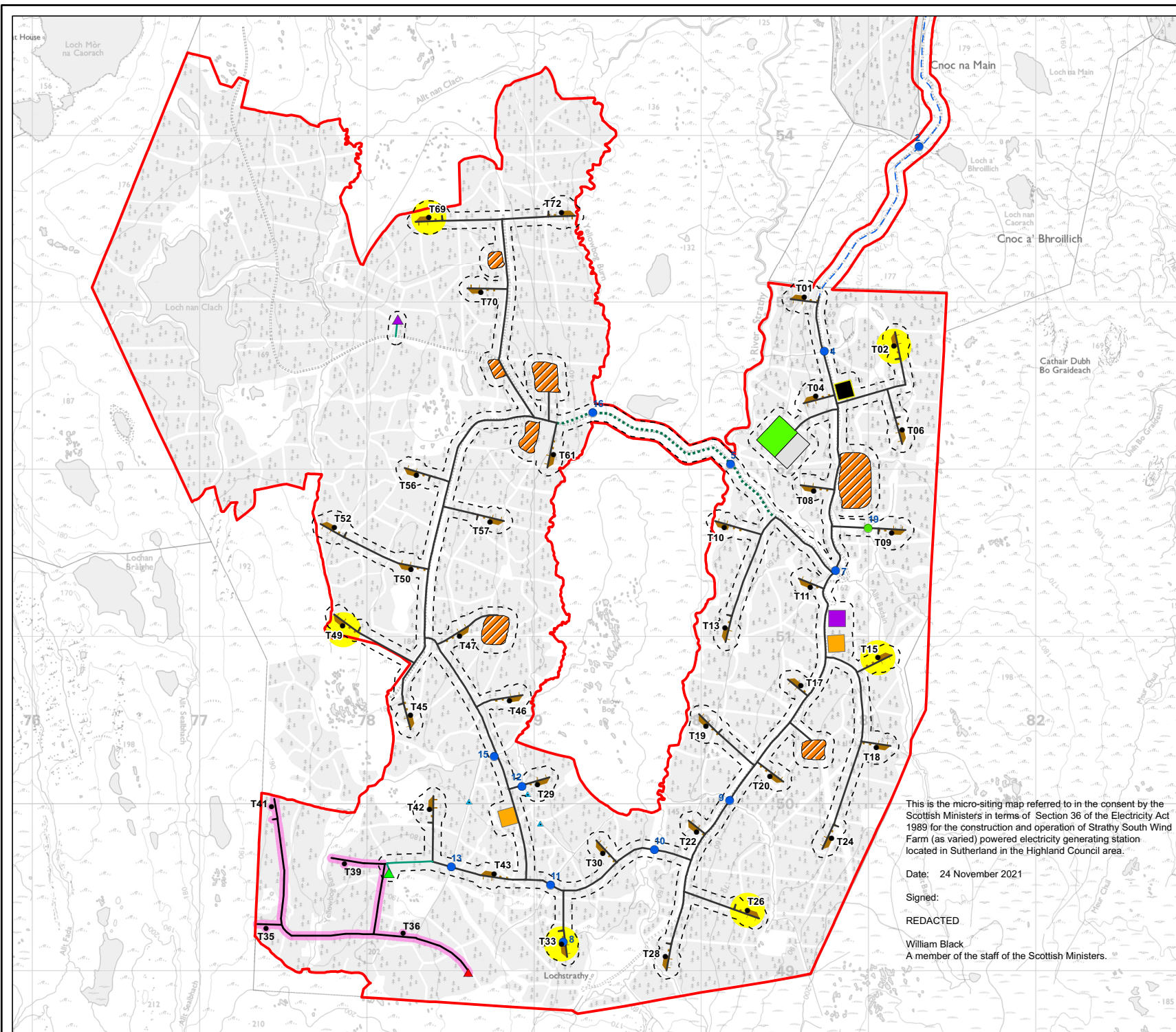
REDACTED

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

Scale 1:22,000 @ A3

Figure 2.1a.1
35 Turbine Scheme-Micrositing

Strathy South Wind Farm
EIAR 2020



APPROPRIATE ASSESSMENT

Annex 4A

Conservation of Habitats and Species Regulations 2017

Assessment of the implications of the proposed **section 36 consent for the** proposed Strathy South Wind Farm development as varied for the for the **Caithness and Sutherland Peatlands Special Protection Area (“the SPA”)** in view of the conservation objectives of the SPA

16 November 2021

The following appraisal has been prepared by the Scottish Ministers as the Competent Authority for the above proposal.

	Description	
1	Brief description of the project	<p>Strathy South Wind Farm is located within the Strathy South forest block, approximately 12km south of Strathy village and 30-35km west of Thurso. In April 2018 the Scottish Ministers granted it consent under section 36 of the Electricity Act 1989.</p> <p>On 27 August 2020, SSE Renewables Services Ltd on behalf of SSE Generation Limited applied to the Scottish Ministers to vary the consent granted in 2018 (“the proposed varied Development”). Following removal of 4 turbines the main components of the proposal to be determined are:</p> <ul style="list-style-type: none">• 35 turbines, each with a maximum tip height of 200 m and rotor diameter of up to 162 m;• turbine foundations and hardstandings (temporary infrastructure land take (per turbine): 0.1 ha and permanent land take (per turbine): 0.25 ha)• access from the A836 public road via the access to the Strathy North Wind Farm• 24.8 kilometres of access tracks;• 16 water crossings;• a substation;

		<ul style="list-style-type: none"> • 2 anemometry masts • cabling trenches extending to approximately 25.2 kilometres; • up to 7 borrow pits • 1 site compound; 2 lay down areas; 1 crane pad for each turbine • a 100 metre by 100 metre concrete batching plant. <p>The duration of the consent and deemed planning permission sought is 50 years.</p> <p>The turbines are to be located within an area of commercial forestry resulting in the requirement to fell an area of forestry prior to the installation of turbines. It is proposed that the two-year timescale for the removal of Strathy South Forest is phased as follows:</p> <p><u>Phase One</u> – clearance to accommodate the initial wind farm infrastructure; <u>Phase Two</u> – clearance of the remainder of the site for the turbine envelope; <u>Phase Three</u> – removal of all remaining conifer plantation.</p> <p>The grid connection is proposed from Strathy South Wind Farm to Strathy North Wind Farm (operational) via underground 33kV cabling.</p> <p>Caithness and Sutherland Peatlands Special Protection Area is adjacent to the site of Strathy South Wind Farm.</p>
2	Brief description of the designated Natura site	<p>The Caithness & Sutherland Peatlands are located across the northernmost parts of mainland Scotland. The SPA contains a large proportion of these peatlands, which form one of the largest and most intact areas of blanket bog in the world. The peatlands include an exceptionally wide range of vegetation and surface pattern types (pool systems), some of which are unknown elsewhere. This range of structurally diverse peatland and freshwater habitats supports a wide variety of breeding birds including internationally important populations of raptors, wildfowl and waders.</p>

		<p>This site qualifies under Article 4.1 of the Directive (79/409/EEC) by supporting populations of European importance of the following species listed on Annex I of the Directive.</p> <p>During the breeding season:</p> <ul style="list-style-type: none"> • Black-throated Diver (<i>Gavia arctica</i>); • Golden Eagle (<i>Aquila chrysaetos</i>); • Golden Plover (<i>Pluvialis apricaria</i>); • Hen Harrier (<i>Circus cyaneus</i>); • Merlin (<i>Falco columbarius</i>); • Red-throated Diver (<i>Gavia stellate</i>); • Short-eared Owl (<i>Asio flammeus</i>); • Wood Sandpiper (<i>Tringa glareola</i>). <p>This site also qualifies under Article 4.2 of the Directive (79/409/EEC) by supporting populations of European importance of the following migratory species.</p> <p>During the breeding season:</p> <ul style="list-style-type: none"> • Common Scoter (<i>Melanitta nigra</i>); • Dunlin (<i>Calidris alpina schinzii</i>); • Greenshank (<i>Tringa nebularia</i>); • Wigeon (<i>Anas penelope</i>).
3	Conservation objectives for Caithness and Sutherland Peatlands SPA	<p>To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained.</p> <p>To ensure for the qualifying species that the following are maintained in the long term;</p> <ul style="list-style-type: none"> • Population of the species as a viable component of the site; • Distribution of the species within site;

		<ul style="list-style-type: none"> • Distribution and extent of habitats supporting the species; • Structure, function and supporting processes of habitats supporting the species; • No significant disturbance of the species.
	Screening	
4	Is the proposal directly connected with, or necessary to, conservation management of the Natura site?	The proposed varied Development is not directly connected with, or necessary to, conservation management of the Caithness and Sutherland Peatlands Special Protection Area and therefore further consideration is needed.
5	Is the operation likely to have a significant effect on the site's qualifying interests, either alone or in combination, with other plans or projects?	<p>NatureScot advised that the number of breeding territories within potential displacement distances is limited in number, there being one dunlin, one golden plover and one greenshank territory recorded within 500m of these turbines in any one year, all within the SPA.</p> <p>In relation to qualifying interests NatureScot concluded the following:</p> <p>Black-throated Diver</p> <p>Due at a low annual collision rate and breeding activity on waterbodies being greater than 500m from operational activity and there being no significant displacement of any breeding pair, the proposed varied Development is not likely to have a significant effect.</p> <p>Golden Eagle</p> <p>Due to the level of flight activity over the proposed wind farm area and within the buffer zone around the turbines indication breeding pairs will not be affected and that territories are considered to be beyond disturbance distance, the proposed varied Development is not likely to have a significant effect.</p>

		<p>Golden Plover</p> <p>The removal of forestry may change the distribution of golden plover at the site of the proposed varied Development but it's considered unlikely that they will occupy cleared forest areas and consequently potential losses to collision are considered unlikely.</p> <p>Almost all the territory centres are beyond the displacement distance from turbines which is approximately up to 400m. A very small number of territory centres are located closer to turbines than and overall likely displacement will be negligible. Part of the reason golden plover territory centres are where they are is that there is a forest edge effect. If trees are removed this may disappear so it is conceivable that birds could nest closer to the previous forest edge. However, the potential displacement effect due to turbines will nullify this, so the end result is that there will probably not be much change in golden plover distribution. It is therefore concluded that the proposed varied Development is not likely to have a significant effect.</p> <p>Hen Harrier</p> <p>As hen harrier continue to use habitat around the afforested area there is a risk of collision and it is therefore concluded that the proposed varied Development is likely to have a significant effect.</p> <p>Merlin</p> <p>Despite there being no unequivocal evidence, there may be a breeding pair of merlin. However, merlin are not nest-site-specific and there is a high likelihood alternative nest sites would be used on open moorland. However, applying the precautionary principle, it is assumed that these birds are part of the SPA population and it is therefore concluded that the proposed varied Development is likely to have a significant effect.</p>
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		<p>Red-throated Diver</p> <p>Lochs 45 (northwest of Strathy Forest) and Loch 44 (northeast of Strathy Forest and east of access track) were occupied during the breeding seasons in 2018 and 2019 (when survey work was undertaken) The majority of flight activity is to the west, to the northwest of the site and to the northeast i.e. away from the proposed variation. Collision risk is not considered to be significant.</p> <p>It is likely that the traffic and traffic volume will be relatively small, but it is still possible that the increased noise and visual disturbance will increase the likelihood of the loch 44 being abandoned and for that reason, the proposed varied Development is likely to have a significant effect on red-throated diver.</p> <p>Short-eared Owl</p> <p>The main site and survey area are of very low value for short-eared owl. No flights were recorded over the main site or within the survey area. It is concluded that the proposed varied Development is not likely to have a significant effect.</p> <p>Wood Sandpiper</p> <p>There were no confirmed breeding records within the buffer zone. The area previously identified as a potential breeding location within the Yellow Bog area may be used occasionally, though it is possible that these are passage birds. There are no breeding records nearby that are likely to be affected it is concluded that the proposed varied Development is not likely to have a significant effect.</p> <p>Common Scoter</p> <p>There are no breeding records nearby that are likely to be affected it is concluded that the proposed varied Development is not likely to have a significant effect.</p>
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		<p>Dunlin</p> <p>There will be no displacement for dunlin and there were no flights within the potential collision zone during 2018-19 surveys. It is concluded that the project is not likely to have a significant effect.</p> <p>Greenshank</p> <p>There is a large breeding population of greenshank within the survey boundary that surrounds Strathy South forest. The density is very high and above the mean estimated density across the whole of the SPA.</p> <p>The 2018 and 2019 survey work has shown a likely breeding population of 16 territories within the survey buffer around the wind farm which could equate to about 18-20 pairs within the Strathy South proposed turbine envelope.</p> <p>There is little, if any, evidence that the presence of turbines displace greenshank. Flight activity occurs within the turbine envelope</p> <p>This means that greenshank are vulnerable to collision with turbines if/when they fly at collision risk height, as they frequently do when displaying and when alarm calling due to predators or other intruders into their territory. The lower sweep height of both the consented and variation schemes are very similar (42m for the consented scheme and 38m for the variation). The rotor swept area will be greater, therefore increasing the size (volume) of the risk zone. The greenshank flights would still occur in the collision risk zone.</p> <p>Greenshank will occupy cleared areas of forestry (as shown elsewhere across the Flow Country). Their nests are frequently located on drier areas of peatland and so the raised ridges of previously forested habitat provide such nesting opportunities.</p>
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		<p>There is therefore collision risk to breeding greenshank. It is therefore concluded that the project is likely to have a significant effect on greenshank.</p> <p>Wigeon</p> <p>There are no breeding records nearby that are likely to be affected it is concluded that the proposed varied Development is not likely to have a significant effect.</p>
	Appraisal	
6	Identify the relevant conservation objectives to consider for Caithness and Sutherland Peatlands SPA	<p>To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained.</p> <p>To ensure for the qualifying species that the following are maintained in the long term:</p> <ul style="list-style-type: none"> • Population of the species as a viable component of the site; • Distribution of the species within site; • Distribution and extent of habitats supporting the species; • Structure, function and supporting processes of habitats supporting the species; • No significant disturbance of the species.
7	Can it be ascertained that the proposal/plan will not adversely affect the integrity of the Caithness and Sutherland Peatlands SPA	<p>In relation to greenshank, the Scottish Ministers are satisfied that that there would not be any significant disturbance or displacement and that the predicted mortality as a result of collisions with turbines is very small and not of a magnitude that could have an adverse effect on the population of greenshank as a viable component of the SPA .</p>

		<p>In relation to merlin and red throated diver, the Scottish Ministers are satisfied that although there could be a likely significant effect, information from assessments/surveys shows that it will not adversely affect the integrity of the site.</p> <p>In relation to hen harrier, the Scottish Ministers are satisfied that although there could be a likely significant effect, information from assessments/surveys shows that the effect on integrity can be avoided with mitigation.</p> <p>In relation to other qualifying features, the Scottish Ministers are satisfied that the application of mitigation including habitat management and sward management will ensure that the integrity of the SPA will not be adversely affected. The Scottish Ministers have had regard to all significant effects on the site's qualifying interests and have ascertained that the proposed varied Development will not adversely affect the integrity of the SPA.</p>
8	Consider whether mitigation measures or conditions can be adopted to avoid impacts on site integrity	<p>Mitigation measures and conditions can be adopted to manage construction and activity including in proximity to breeding locations as controlled through the Construction Environment Management Document; Micro-siting; the appointment of an Ecological Clerk of Works; a Decommissioning and Restoration Plan; Pre-Construction Species Survey and Protection Plan and Protected Bird Species, Vegetation and Tree Felling Monitoring, Surveys and Reporting, a Sward Management Plan and a Habitat Management Plan.</p> <p>Implementation of the Habitat Management Plan and sward management will make the felled plantation area less attractive to hen harrier and reduce collision risk.</p>
	Conclusion	
9	Can adverse impacts on site integrity be avoided ?	Yes. The proposed varied Development would not have an adverse effect on the integrity of the Caithness and Sutherland Peatlands Special Protection Area subject to implementation of such conditions as indicated.

APPROPRIATE ASSESSMENT

Annex 4B

Conservation of Habitats and Species Regulations 2017

Assessment of the implications of the proposed **section 36 consent for the** proposed Strathy South Wind Farm development as varied for the for the **Caithness and Sutherland Peatlands Special Area of Conservation (“the SAC”)** in view of the conservation objectives of the SAC.

16 November 2021

The following appraisal has been prepared by the Scottish Ministers as the Competent Authority for the above proposal.

	Description	
1	Brief description of the project	<p>Strathy South Wind Farm is located within the Strathy South forest block, approximately 12km south of Strathy village and 30-35km west of Thurso. In April 2018 the Scottish Ministers granted it consent under section 36 of the Electricity Act 1989.</p> <p>On 27 August 2020, SSE Renewables Services Ltd on behalf of SSE Generation Limited applied to the Scottish Ministers to vary the consent granted in 2018 (“the proposed varied Development”). Following removal of 4 turbines the main components of the proposal to be determined are:</p> <ul style="list-style-type: none">• 35 turbines, each with a maximum tip height of 200 m and rotor diameter of up to 162 m;• turbine foundations and hardstandings (temporary infrastructure land take (per turbine): 0.1 ha and permanent land take (per turbine): 0.25 ha)• access from the A836 public road via the access to the Strathy North Wind Farm• 24.8 kilometres of access tracks;• 16 water crossings;• a substation;

		<ul style="list-style-type: none"> • 2 anemometry masts • cabling trenches extending to approximately 25.2 kilometres; • up to 7 borrow pits • 1 site compound; 2 lay down areas; 1 crane pad for each turbine • a 100 metre by 100 metre concrete batching plant. <p>The duration of the consent and deemed planning permission sought is 50 years.</p> <p>The turbines are to be located within an area of commercial forestry resulting in the requirement to fell an area of forestry prior to the installation of turbines. It is proposed that the two-year timescale for the removal of Strathy South Forest is phased as follows:</p> <p><u>Phase One</u> – clearance to accommodate the initial wind farm infrastructure; <u>Phase Two</u> – clearance of the remainder of the site for the turbine envelope; Phase Three – removal of all remaining conifer plantation.</p> <p>The grid connection is proposed from Strathy South Wind Farm to Strathy North Wind Farm (operational) via underground 33kV cabling.</p> <p>Caithness and Sutherland Peatlands Special Area of Conservation is adjacent to the site of Strathy South Wind Farm.</p>
2	Brief description of the designated Natura site	<p>General site character</p> <p>Inland water bodies (Standing water, Running water) (3%) Bogs, Marshes, Water fringed vegetation, Fens (78.5%) Heath, Scrub, Maquis and Garrigue, Phygrana (18%) Dry grassland, Steppes (0.5%)</p> <p>Annex I habitats that are a primary reason for selection of this site</p> <p><u>Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea</i></u></p>

	<p><u>uniflorae</u> and/or of the <u>Isoëto-Nanojuncetea</u></p> <p>Caithness and Sutherland Peatlands supports a range of high-quality freshwater loch habitats that include Oligotrophic to mesotrophic standing waters. The lochs are part of large, generally nutrient-poor, drainage systems which characterise this part of the northern Highlands. The site covers an area greater than 140,000 ha and includes several hundred freshwater lochs of which the larger are oligotrophic. The lochs are generally located within blanket bog and peatlands that sit on nutrient-poor rocks. The aquatic vegetation is dominated by a very narrow range of species typical of northern, upland, lochs but there is much local variation in their abundance. The most characteristic species are shoreweed <i>Littorella uniflora</i>, water lobelia <i>Lobelia dortmanna</i>, bulbous rush <i>Juncus bulbosus</i>, bog pondweed <i>Potamogeton polygonifolius</i> and alternate water-milfoil <i>Myriophyllum alterniflorum</i>. More mesotrophic lochs support a wider range of pondweed <i>Potamogeton</i> species; other species present include stoneworts <i>Chara spp.</i> and <i>Nitella spp.</i> and least bur-reed <i>Sparganium natans</i>. The margins of a few lochs support two nationally scarce plants; bog hair-grass <i>Deschampsia setacea</i> and marsh clubmoss <i>Lycopodiella inundata</i>. Other notable species include awlwort <i>Subularia aquatica</i> and water sedge <i>Carex aquatilis</i>. The range of aquatic invertebrates includes the nationally rare water beetle <i>Oreodytes alpinus</i>.</p> <p><u>Natural dystrophic lakes and ponds</u></p> <p>This site represents Natural dystrophic lakes and ponds on Blanket bogs in northern Scotland. The scale and diversity of the peatlands of Caithness and Sutherland make them unique in Europe. They are three times larger than any other peat mass in the UK. Dystrophic waters are especially common in the Peatlands. Compared to most other blanket bog systems, at this site waterbodies account for a high proportion of the bog surface. Dystrophic water bodies here range in size from pools to medium-sized lochans. Surface patterns and pool complexes occur in a variety of forms, reflecting different climatic and hydrological conditions within the site.</p>
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	<p><u>Blanket bogs (Priority feature)</u></p> <p>The scale and diversity of the Caithness and Sutherland peatlands in northern Scotland make them unique in Europe. They form the largest peat mass in the UK and are three times larger than any other peatland area in either Britain or Ireland. The site is important because of the considerable abundance of large (several square kilometres) continuous areas of Sphagnum carpets and hummocks, including <i>Sphagnum fuscum</i>, <i>S. imbricatum</i> and <i>S. pulchrum</i>, and for its numerous intact pool systems. Not only are these features usually rare and localised on other bog systems in the UK, but a very high proportion of this ground remains undisturbed. The vegetation is mainly cross-leaved heath <i>Erica tetralix</i> with <i>Sphagnum papillosum</i> as well as deergrass <i>Trichophorum cespitosum</i> and hare's-tail cottongrass <i>Eriophorum vaginatum</i> blanket mire. Freshwater pools and lochans are an integral component of the mire expanse.</p> <p>Annex I habitats present as a qualifying feature, but not a primary reason for selection of this site</p> <ul style="list-style-type: none"> • <u>Northern Atlantic wet heaths with <i>Erica tetralix</i>;</u> • <u>Transition mires and quaking bogs;</u> • <u>Depressions on peat substrates of the <i>Rhynchosporion</i>.</u> <p>Annex II species that are a primary reason for selection of this site</p> <p><u>Otter <i>Lutra lutra</i></u></p> <p>This extensive site contains numerous lochs, lochans and extensive areas of headwaters of burns and rivers. There is extensive habitat suitable for otters <i>Lutra lutra</i> and this is reflected in the presence of a good population, representative of the northern mainland of Scotland.</p>
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		<u>Marsh saxifrage <i>Saxifraga hirculus</i></u>
3	Conservation objectives for Caithness and Sutherland Peatlands SAC	<p>Annex I habitats</p> <p>To avoid deterioration of the qualifying habitats thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features.</p> <p>To ensure for the qualifying habitats that the following are maintained in the long term:</p> <ul style="list-style-type: none"> • Extent of the habitats on site • Distribution of the habitats within site • Structure and function of the habitats • Processes supporting the habitats • Distribution of typical species of the habitats • Viability of typical species as components of the habitats • No significant disturbance of typical species of the habitats <p>Annex II species</p> <p>To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for the qualifying feature.</p> <p>To ensure for the qualifying species that the following are maintained in the long term:</p> <ul style="list-style-type: none"> • Population of the species as a viable component of the site. • Distribution of the species within the site. • Distribution and extent of habitats supporting the species. • Structure, function and supporting processes of habitats supporting the species.

		<ul style="list-style-type: none"> No significant disturbance of the species.
	Screening	
4	Is the proposal directly connected with, or necessary to, conservation management of the Natura site?	The proposal <u>is not</u> directly connected with, or necessary to, conservation management of the Caithness and Sutherland Peatlands Special Area of Conservation and therefore further consideration is needed.
5	Is the operation likely to have a significant effect on the site's qualifying interests, either alone or in combination, with other plans or projects?	<p>The application site is not within the SAC boundary but sits as an island surrounded by it. Nevertheless, the Scottish Ministers have assessed whether development could impact on its qualifying interests. NatureScot advised that only blanket bog and wet heath habitats were considered due to their location in relation to the proposed varied Development. Marsh saxifrage was not present.</p> <p>In relation to borrow pits and larger hardstandings, NatureScot advised that any additional peatland habitat loss is negligible and located within the conifer forest and consequently, there is no effect on the SAC due to their locations.</p> <p>The potential for significant effects has been identified as due to the potential for loss of, or disturbance to qualifying habitats of the SAC through upgrading of the Common Access. In addition to these, the proposed varied Development's application includes the use of the Yellow Bog track. The use of this section of track was previously excluded from construction use of the Consented Scheme. This track will now be widened and impacts from this activity was also identified as potentially affecting qualifying habitats of the SAC.</p> <p>NatureScot, in relation to the upgrading of the Yellow Bog track, concluded that because all the upgrading works would be contained within the non-qualifying habitat either side of the existing track and would be completed from the track's running tracks, with an Ecological Clerk of Works ("ECoW") on site, all the SAC conservation objectives can be met.</p>

	Appraisal	
6	Identify the relevant conservation objectives to consider for Caithness and Sutherland Peatlands SAC	<p>Annex I habitats</p> <p>To avoid deterioration of the qualifying habitats thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features.</p> <p>To ensure for the qualifying habitats that the following are maintained in the long term:</p> <ul style="list-style-type: none"> • Extent of the habitats on site • Distribution of the habitats within site • Structure and function of the habitats • Processes supporting the habitats • Distribution of typical species of the habitats • Viability of typical species as components of the habitats • No significant disturbance of typical species of the habitats <p>The size and location of the infrastructure of the proposed varied Development is unlikely to have a significant effect on otter as they are able to disperse to other areas of suitable habitat in the local area and consequently, Annex II species will not be considered further.</p>
7	Can it be ascertained that the proposal/plan will not adversely affect the integrity of the Caithness and Sutherland Peatlands SAC	<p>The proposed varied Development is not located within the SAC but development would take place on land adjacent to it, which may be hydrologically connected to it. NatureScot concluded the integrity of the SAC would not be adversely affected by effects from the construction and operation of the proposed varied Development providing that best practice is adopted throughout the construction and operational phases and that all appropriate mitigation measures are implemented and conditions adhered to.</p> <p>The Scottish Ministers agree and adopt NatureScot's conclusion.</p>

8	Consider whether mitigation measures or conditions can be adopted to avoid impacts on site integrity	Mitigation measures and conditions can be adopted to manage construction and activity on the development site. This will include a Construction and Environmental Management Plan, (requiring a Working Methods Statement for cable laying and plans for the removal, storage and reuse of spoil heaps), the appointment of an ECoW, a Habitat Management Plan and a Deer Management Plan, all to be approved by NatureScot prior to construction.
	Conclusion	
9	Can adverse impacts on site integrity be avoided ?	Yes. Adverse impacts on the integrity of the Caithness and Sutherland Peatlands Special Area of Conservation can be avoided subject to implementation of such conditions as indicated.