

**DATE: DECEMBER 2023**

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**STATEMENT OF REASONS**

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**SSE GENERATION LIMITED**

in respect of

**THE STRATHY SOUTH WIND FARM  
COMPULSORY PURCHASE ORDER 2023**

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## 1. EXECUTIVE SUMMARY

- 1.1 This Statement of Reasons (**this Statement**) has been prepared by SSE Generation Limited (**SSE Generation**) to explain the reasons and justification for making the Strathy South Wind Farm Compulsory Purchase Order 2023 (**the Order**).
- 1.2 The Order is made under the provisions of the Electricity Act 1989 (**the 1989 Act**) and the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (**the 1947 Act**).
- 1.3 The Order is required to facilitate the construction, operation, repowering, repair, replacement, extension and decommissioning of the Strathy South Wind Farm in Sutherland (**the Wind Farm**). Consent for the Wind Farm in terms of section 36 of the 1989 Act was issued by the Scottish Ministers on 27 April 2018 and was varied in terms of section 36C of the 1989 Act on 24 November 2021.
- 1.4 The Order is required to acquire the land necessary to permit the road transport of large, indivisible turbine components from Scrabster Harbour to the Wind Farm site. Transport vehicles will require to over-run the land and turbine components will require to oversail the land. Trees on some areas of land will require to be lopped or removed to permit the passage of the turbine components.
- 1.5 The Order, if confirmed by the Scottish Ministers, will permit SSE Generation to acquire the land for the purpose of transporting turbine components for the purpose of constructing, operating, repairing, repowering, replacing, extending and decommissioning the Wind Farm.
- 1.6 SSE Generation has carefully considered whether it can exercise its compulsory purchase powers to acquire rights in the land rather than acquiring the land. As set out in Section 5 of this Statement, it is not possible to acquire the necessary rights through acquisition of servitude rights. However, should the Order be confirmed and the land compulsorily acquired, SSE Generation commits to offer to re-convey the land to the party from whom it was compulsorily acquired subject to constitution of a lease providing SSE Generation with the necessary rights. In effect, and if re-conveyed, this would result in a similar lease situation as if the relevant landowner had accepted SSE Generation's offer to voluntarily acquire lease rights in the land.
- 1.7 There is a compelling case in the public interest for confirmation of the Order as a means of enabling the development of the Wind Farm which, having a total generating capacity of up to 196 megawatts (**MW**), will make a substantial contribution to the achievement of the Scottish Government's carbon reduction and renewable energy targets and the transition to a net-zero society.

## 2. INTRODUCTION

- 2.1 This Statement is prepared on behalf of SSE Generation in relation to the making of a compulsory purchase order entitled the "Strathy South Wind Farm Compulsory Purchase Order 2023". This Statement has been prepared in accordance with Scottish Government Guidance contained in Planning Circular 6/2011: Compulsory Purchase Orders (**the Circular**). This Statement sets out the background to, the purpose of, and the justification for making the Order.
- 2.2 A copy of the Order as made by SSE Generation, including the Order Maps showing the plots of land to be acquired, can viewed at the locations noted in Section 14.
- 2.3 SSE Generation is part of SSE Renewables, the renewables arm of the SSE plc group. SSE plc is a FTSE-100 company, formed in 1998 from the merger of Scottish Hydro-Electric plc and Southern Electric plc. The company is headquartered in Perth and employs around 12,000 people.

Core activities include electricity generation, transmission, distribution and supply, gas storage, distribution and supply, the operation of a telecoms network and utility contracting. SSE Renewables is a leading developer, owner and operator of renewable energy projects and assets across the UK and Ireland with a portfolio of around 4GW of operational offshore wind, onshore wind and hydro sites.

- 2.4 SSE Generation is the holder of an electricity generation licence (**the Generation Licence**) granted pursuant to section 6(1)(c) of the 1989 Act. The Generation Licence came into force on 28 September 2001. The Generation Licence is provided as **Document 1**.
- 2.5 SSE Generation has made the Order for the purpose of enabling the construction, operation, repowering, repair, replacement, extension and decommissioning of the Strathy South Wind Farm in Sutherland. Construction and operation of the Wind Farm generating station is consented by the Scottish Ministers in terms of a consent under section 36 of the 1989 Act issued on 27 April 2018 and varied on 24 November 2021. The Wind Farm is described more fully in section 3. Specifically, SSE Generation has made the Order for the purpose of securing the acquisition of plots of land adjacent to the adopted road to provide for areas of over-run and/or oversail necessary to permit the road transport of abnormal indivisible loads from Scrabster Harbour to the Wind Farm site. The Order is necessary to acquire the plots of land detailed in the Order and described in this Statement.
- 2.6 In this Statement, the plots of land included in the Order are referred to as the “Order Land”. The plots are outlined in red and shaded pink on the Order Maps (numbered Maps 1 to 58 forming part of the Order).
- 2.7 In determining whether the use of compulsory purchase powers is justified, SSE Generation has had regard to Scottish Government guidance contained in the Circular. The overriding test described in the Circular is that compulsory purchase powers should be used only where “*the public benefit in the proposed scheme clearly outweighs the private rights of the owners*”.
- 2.8 This Statement sets out SSE Generation’s justification for seeking the compulsory purchase powers within the Order. This Statement demonstrates that the public benefit from enabling the construction and operation of Wind Farm outweighs the interference with the private rights affected. As such, there is a compelling case in the public interest for the compulsory acquisition of the land included within the Order.
- 2.9 The remainder of this Statement is structured as follows:
  - 2.9.1 **Section 3** sets out the statutory basis for the Order and why the acquisition of land under the Order falls within the scope of SSE Generation’s statutory powers of compulsory acquisition;
  - 2.9.2 **Section 4** describes the Wind Farm and the background to the making of the Order;
  - 2.9.3 **Section 5** describes the Order Land and sets out why this is a proportionate use of SSE Generations powers of compulsory acquisition;
  - 2.9.4 **Section 6** describes the need for and proposed use of the plots within the Order Land;
  - 2.9.5 **Section 7** describes SSE Generation’s consideration of alternatives to the Order;
  - 2.9.6 **Section 8** describes SSE Generation’s engagement with affected landowners and other parties;
  - 2.9.7 **Section 9** sets out the needs case and policy background relevant to the Order;

- 2.9.8 **Section 10** describes the funding of the Wind Farm;
  - 2.9.9 **Section 11** describes the timetable and barriers to implementation of the Order;
  - 2.9.10 **Section 12** describes related orders and applications;
  - 2.9.11 **Section 13** explains the relationship between the Order and the Human Rights Act 1998;
  - 2.9.12 **Section 14** provides additional information on publicity and notification of the Order;
  - 2.9.13 **Section 15** submits that the Order should be confirmed; and
  - 2.9.14 **Appendix 1** lists documents referred to in this Statement.
- 2.10 The Order will be submitted to the Scottish Ministers as confirming authority.

### 3. **ENABLING POWER**

#### *Relevant statutory power*

- 3.1 The Order is made pursuant to section 10 and Schedule 3 of the 1989 Act.

- 3.2 Sub-sections 10(1) and (2) of the 1989 Act provide (emphasis added):

*“(1) Subject to subsection (2) below, **Schedule 3 to this Act** (which provides for the compulsory acquisition of land) and Schedule 4 to this Act (which confers other powers and makes other provision) **shall have effect** -*

*(a) in relation to the holder of a transmission licence; and*

*(b) to the extent that his licence so provides, in relation to an electricity distributor or any other licence holder;*

*and references in those Schedules to a licence holder shall be construed accordingly.*

*(2) Where any provision of either of the Schedules mentioned in subsection (1) above is applied to a licence holder by his licence, it shall have effect subject to such restrictions, exceptions and conditions as may be included in the licence for the purpose of qualifying that provision as so applied or any power or right conferred by or under it.”*

- 3.3 Schedule 3 of the 1989 Act provides, *inter alia*:

*“1. -*

*(1) Subject to paragraph 2 below, the [Scottish Ministers] may authorise a licence holder to purchase compulsorily any land required for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on.*

*(2) In this paragraph and paragraph 2 below “land” includes any right over land (other than, in Scotland, a right to abstract, divert and use water); and the power of the [Scottish Ministers] under this paragraph includes power to authorise the acquisition of rights over land by creating new rights as well as acquiring existing ones.”*

- 3.4 Section 10 and Schedule 3 of the 1989 Act are provided as **Document 2**.

#### **Generation Licence Condition**

- 3.5 The Generation Licence is granted subject to Standard Condition 14 which provides:

**“Condition 14. Compulsory Acquisition of Land etc.**

*1. This condition shall have effect and come into operation for the purpose of this licence on and from 1 May 2007.*

*2. The powers and rights conferred by or under the provisions of Schedule 3 to the Act (Compulsory Acquisition of Land etc. by Licence Holders) shall have effect in relation to the licensee to enable the licensee to carry on the activities authorised by this licence and which relate to:*

*(a) the construction or extension of a generating station;*

*(b) the operation of a generating station; and/or*

*(c) the installation, inspection, maintenance, adjustment, repair, alteration, replacement or removal of electric lines, and electrical plant associated with them, and any structures for housing or coverings such lines or plant, connecting a generating station with:*

*(i) the national electricity transmission system; or*

*(ii) a distribution system,*

*including, for the avoidance of doubt, whether these activities in sub-paragraph (c) are to be carried out by the licensee or another licence holder.*

*3. In paragraph 2 above:*

*(a) the references to “generating station” are to an electricity generating station which:*

*(ii) has, or will have when its construction or extension is completed, a capacity of not less than 50 megawatts or such other capacity as may be specified in relation thereto by order of the Secretary of State under section 36(3) of the Act;*

*(iii) is, or will be when its extension or construction is completed, operated by or for the licensee;*

*(b) “extension” in relation to a generating station includes the use by the person operating the station of any land (wherever situated) for a purpose directly related to the generation of electricity by that station”.*

- 3.6 The Generation Licence is provided as **Document 1** and the Standard Conditions as **Document 3**.

#### ***Application to the Order***

- 3.7 Section 10 of the 1989 Act provides that the compulsory purchase powers in Schedule 3 to the 1989 Act have effect in relation to an electricity licence holder to the extent that the licence so provides. SSE Generation is the holder of the Generating Licence. The Generating Licence is not subject to any restriction, exception or condition that qualifies any provision in Schedule 3 of the 1989 Act.
- 3.8 Standard Condition 14 of the Generation Licence provides that the powers under Schedule 3 to the 1989 Act have effect to enable SSE Generation to *carry on the activities authorised by the Generation Licence which relate to the construction and operation of a generating station*. SSE Generation is authorised by virtue of the Generation Licence to generate electricity. The Wind Farm is an electricity generating station consented under section 36 of the 1989 Act with a capacity exceeding 50 megawatts (MW).
- 3.9 Schedule 3 provides the statutory power to compulsorily acquire land.
- 3.10 Therefore, the land to be acquired pursuant to the Order is required to enable the generation of electricity, as authorised by the Generation Licence, and relates to the construction and operation of the Wind Farm as a generating station with a capacity exceeding 50MW.

- 3.11 The Order is made by SSE Generation under the appropriate statutory power and is within the scope of the compulsory purchase powers in the 1989 Act.

#### 4. THE WIND FARM

##### *The Wind Farm*

- 4.1 The Order relates to the construction, operation, repowering, repair, replacement, extension and decommissioning of the Strathy South Wind Farm. The Wind Farm is located approximately 15 kilometres south of Strathy village and 35 kilometres south-west of Thurso in Sutherland in the Highland Council area. A map showing the location of the Wind Farm is provided as **Document 4**.
- 4.2 The Wind Farm is consented by the Scottish Ministers in terms of section 36 of the 1989 Act and section 57(2) of the Town and Country Planning (Scotland) Act 1997. Consent for the Wind Farm was issued to SSE Generation on 27 April 2018 (**the Original Consent**). The Original Consent consented a wind farm of 39 wind turbines, with a hub height of 83 metres, maximum tip height of 135 metres and maximum rotor diameter of 104 metres, with associated infrastructure, all as described in the Original Consent decision-notice.
- 4.3 A copy of the Original Consent decision-notice is provided as **Document 5**.
- 4.4 On 27 August 2020, SSE Renewables Services Ltd, on behalf of SSE Generation, applied to vary the Original Consent in terms of an application under section 36C of the 1989 Act. The application was accompanied by an Environmental Impact Assessment Report (**the EIAR**) and was subject to extensive consultation in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) and the Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 (as amended).
- 4.5 Consent to the variation (and deemed planning permission) was issued by the Scottish Ministers on 24 November 2021 (**the Varied Consent**). The Varied Consent consents a wind farm of 35 wind turbines<sup>1</sup>, with a hub height of 119 metres, maximum tip height of up to 200 metres, and maximum rotor diameter of up to 162 metres, with associated infrastructure, all as described in the Varied Consent decision-notice.
- 4.6 A copy of the Varied Consent decision-notice is provided as **Document 6**.
- 4.7 The Varied Consent consents fewer but larger turbines with a commensurate increase in the generation of renewable energy. The Wind Farm will have a total generating capacity of up to 196MW, an increase of approximately 63.4MW over the 132.6MW generating capacity consented under the Original Consent.
- 4.8 SSE Generation intends to implement the Varied Consent to construct and operate the Wind Farm.
- ##### *Transport of abnormal indivisible loads*
- 4.9 Construction of the Wind Farm requires the transport of abnormal indivisible loads from the port of entry to the Wind Farm site. The port of entry will be Scrabster Harbour on Thurso Bay, approximately 50 kilometres from the Wind Farm site. Abnormal loads will be unloaded from ships and transported by road to the Wind Farm site.

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<sup>1</sup> Four turbines in the section 36C application as submitted were removed prior to determination of the application.

- 4.10 The approved abnormal load access route is shown on Figure 8.2.1 of the EIAR (**Document 7**). From Scrabster Harbour, vehicles will travel south along the A9 trunk road to its junction with the A836 local road, then west along the A836 for approximately 30 kilometres, before turning south onto the existing Strathy North Wind Farm access road leading to the Wind Farm site.
- 4.11 Abnormal loads will include indivisible turbine components such as turbine tower sections and blades. The structural integrity of such components, and the wind turbine as a whole, requires that these components are manufactured and transported to the Wind Farm site as single, indivisible units. The longest of these components will be 79.5 metres. Road transport of these components requires specialist vehicles.
- 4.12 The application for the Varied Consent included an Abnormal Load Access Study (**the ALAS**) prepared by SSE Generation's transport consultants, Mott MacDonald. On the basis of site inspections and swept path analysis, the ALAS identified that there would be a number of "pinch point" locations where the physical extent and/or the geometry of the adopted road could not accommodate the transport of abnormal indivisible loads entirely within the boundary of the adopted road. This would result in vehicle over-run onto third party land and/or the oversailing of third party land. Consequently, without the over-run and oversail of third party land SSE Generation will be unable to transport the turbine components to the Wind Farm site. Construction of the Wind Farm will not be possible.
- 4.13 Subsequent to the grant of the Varied Consent, SSE Generation has undertaken further site inspections, topographic surveys, swept path analysis and a trial delivery run in order to further assess and refine the areas of land required for over-run and/or oversail.
- 4.14 Use of the relevant land is also required to permit transport of turbine components:
- 4.14.1 in the event that a technical failure requires the removal and replacement of one or more turbines during the operational life of the Wind Farm. Condition 5 of the deemed planning permission attaching to the Varied Consent requires that any commissioned turbine which fails to supply electricity on a commercial basis for a continuous period of six months must, if so directed by the Council, be dismantled and removed from the Wind Farm site. If fifty percent or more of the turbines fail to supply electricity on a commercial basis for a continuous period of 12 months then the Council must be notified and may direct that the Wind Farm be decommissioned. It is therefore necessary to retain the ability to use the land to permit the removal or replacement of turbines, whether voluntarily or as directed by the Council;
  - 4.14.2 in the event that the Wind Farm was repowered or extended with replacement or additional turbines at some future time (and subject to obtaining the necessary consents); and
  - 4.14.3 during the decommissioning of the Wind Farm at the end of its consented operational life. Condition 1 of the deemed planning permission attaching to the Varied Consent requires that upon expiration of a period of 55 years from the Date of First Commissioning, the turbines must be decommissioned and removed from the Wind Farm site in accordance with a Decommissioning and Restoration Plan to be approved by the Council pursuant to Condition 3 of the deemed planning permission.
- 4.15 The legal right to use the Order Land for over-run and oversail is therefore necessary throughout the operational life of the Wind Farm and during the decommissioning period, although the exercise of such a right will be confined to relatively short and intermittent periods during this time.



## 5. LAND TO BE ACQUIRED

- 5.1 The Order, if confirmed, authorises the acquisition of ownership of the plots of Order Land.
- 5.2 SSE Generation is aware that the compulsory purchase power in Schedule 3 of the 1989 Act permits an acquiring authority to acquire rights in land, and that this includes the creation of new rights in land. SSE Generation is further aware that compulsory purchase powers should be exercised in a proportionate manner and an acquiring authority should consider whether a lesser right may be acquired as an alternative to the acquisition of ownership.
- 5.3 SSE Generation has carefully considered whether servitude rights of over-run and oversail (and necessary ancillary rights) in the Order Land could be acquired through the exercise of its compulsory purchase powers. SSE Generation has taken legal advice on this matter, including advice from Senior Counsel and a Professor of Scots law specialising in property law. Legal advice has confirmed that it would not be competent to acquire servitude rights in the Order Land. In particular, the constitution and registration of a servitude right requires both a burdened property and a benefited property that directly benefits from the servitude and is in the ownership of the acquiring authority. It would not be competent to acquire servitude rights for the benefit of land owned by a party other than the acquiring authority. In this instance, and in common with virtually all wind farm developments in Scotland, SSE Generation leases rather than owns the Wind Farm site.
- 5.4 In the absence of voluntary acquisition of the necessary rights by means of leases granted by landowners, SSE Generation must therefore compulsorily acquire ownership of the Order Land. As set out in Sections 6 and 9 of this Statement, the public benefit in the Wind Farm clearly outweighs the interference with the private rights of the affected parties and justifies the acquisition of the Order Land.
- 5.5 Notwithstanding the need to acquire the land, SSE Generation is committed to minimising any interference with the private rights of the affected landowners. As described in paragraphs 4.12 to 4.15, the legal right to use the Order Land is required throughout the construction, operational and decommissioning periods of the Wind Farm. However, actual use of the Order Land for the transport of turbine components will be intermittent and of temporary duration:
- 5.5.1 The total Wind Farm construction period will be approximately 22 months. This period encompasses *inter alia* enabling works on the Wind Farm site, construction of access tracks and preparation of turbine foundation and hardstanding areas. Delivery of indivisible turbine components will take place within a shorter period, estimated at 7 months. Delivery of general construction materials to the Wind Farm site, including the delivery of materials in heavy goods vehicles, will not require oversail or over-run the Order Land;
- 5.5.2 The actual number of specialist vehicle movements for the delivery of indivisible turbine components is estimated to be in the order of 317 vehicle movements<sup>2</sup> during the construction period;
- 5.5.3 The actual over-run and/or oversail of individual plots of the Order Land will be of a short duration as the specialist delivery vehicles and their loads pass along the route. The delivery vehicles will be subject to the detailed procedures to be approved under conditions 12 (Abnormal Loads), 13 (Turbine Delivery) and 14 (Traffic Impact Plan) of the Varied Consent and will be accompanied by a police escort; and

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<sup>2</sup> Based on 353 specialist vehicle movements required for the 39 turbines indicated in the application for the Varied Consent.

- 5.5.4 Following construction of the Wind Farm, use of the Order Land would be intermittent and temporary in duration. A small number of specialist vehicle movements would be required to remove and replace a redundant turbine. The decommissioning phase would be likely to require a similar number of specialist vehicle movements as during the construction phase.
- 5.6 Consequently, SSE Generation has no desire to permanently retain ownership of the Order Land, subject always to the necessary rights having been constituted in the Order Land. Should the Order be confirmed and the Order Land compulsorily acquired, SSE Generation commits to offer to reconvey the plots of Order Land to the party from whom it was compulsorily acquired (where such a party is known) subject to the successful constitution of lease rights necessary to permit the ongoing use of the relevant plot for the purposes set out in the Order.
- 5.7 It is anticipated that this would be done through an offer to reconvey the relevant plot to the party from whom it was compulsorily acquired subject to the granting of a lease by the original landowner as a condition of the reconveyance of the compulsorily acquired land. If the terms of the offer to reconvey the land were accepted by the former landowner, the land would be reconveyed subject to the granting of lease rights. SSE Generation would therefore use the Order Land for the purposes set out in the Order pursuant to either its ownership rights or a subsequent lease containing the necessary rights.
- 5.8 It should be noted that where a licence holder has acquired land by virtue of its compulsory purchase powers, the disposal of that land or of any interest in or right over it requires the consent of the Gas and Electricity Markets Authority (**GEMA**)<sup>3</sup>. The reconveyance of compulsorily acquired land would therefore be subject to a requirement to obtain GEMA consent.
- 5.9 The lease rights would be similar to those contained within the leases which SSE Generation has sought to acquire through voluntary agreements. In effect, should the former landowner accept an offer to reconvey the relevant plot, this would put the landowner in a similar position as if a lease had been voluntarily granted.
- 5.10 SSE Generation is committed to minimising disruption to affected parties. Any required accommodation works, for example the erection of relocated fencing to contain livestock should a wall or fence be removed, will be discussed with the relevant parties and undertaken by SSE Generation or at SSE Generation's cost. On completion of turbine delivery, the Order Land will be restored. It is not anticipated that any over-run areas of hardstanding would be retained beyond the period of turbine delivery or would become a part of the adopted road.
- 5.11 Acquisition of the Order Land is required to permit delivery of turbine components to the Wind Farm site. The Order is a proportionate use of SSE Generation's powers of compulsory acquisition.

## **6. NEED FOR AND PROPOSED USE OF PLOTS**

- 6.1 This section provides a summary of the need for and proposed use of the individual plots of Order Land. It provides details of the size, location and current use of each plot and why the plot is required.
- 6.2 The Order Land is located adjacent to main arterial roads A9 and A836 to be used for transport of the indivisible turbine components. The majority of plots included within the Order Land are open ground or grazing land. There are no buildings on the Order Land.

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<sup>3</sup> Electricity Act 1989, Schedule 3, paragraph 4

- 6.3 Some woodland within the Order Land is subject to a Tree Preservation Order. SSE Generation has undertaken specialist tree surveys to identify trees that will require to be lopped or, in a small number of cases, removed and has engaged with landowners and the Council's tree preservation officer.

#### ***Oversail***

- 6.4 Turbine components being transported by road require to pass (or "sail") over plots of land which are outside the boundary of the adopted road. The requirement for oversail arises from the dimensions of the indivisible turbine components and the geometry of the relevant section of the road.
- 6.5 The physical extent of the land required for oversail has been determined through swept path analysis, site visits and a trial delivery run undertaken over parts of the route. The plots of Order Land are the minimum size required for the safe and efficient transport of turbine components.

#### ***Over-run***

- 6.6 Delivery vehicles will require to run into and across plots of land which are outside the boundary of the adopted road. The requirement for over-run arises from the length of the specialist delivery vehicles and the geometry of the relevant section of the road.
- 6.7 The physical extent of the land required for over-run has been determined through swept path analysis, site visits and a trial delivery run. The plots are the minimum size required for the safe and efficient transport of turbine components.

#### ***Tree Works***

- 6.8 It will be necessary to de-limb tree branches and remove a number of trees which would interfere with the oversail of turbine components. A proportion of these trees are located within an area covered by a Tree Protection Order (**TPO**). The extent of the TPO area is shown on **Document 8**.
- 6.9 SSE Generation has undertaken specialist tree surveys, engaged with landowners in respect of licences to carry out tree works and engaged with the Council's Tree Officer.
- 6.10 In relation to trees along the delivery route and outwith the TPO area, SSE Generation is liaising with landowners to agree necessary tree works. Should SSE Generation be unable to agree the tree works with a relevant landowner, and should it be necessary, the Council has indicated that it would be willing to exercise its statutory powers under Section 91 of the Roads (Scotland) Act 1984 (**the 1984 Act**) to require works to trees which are obstructing the passage of delivery vehicles. Consequently, these trees are not included within the Order Land.
- 6.11 Within the TPO area, the expert tree survey confirms that a number of trees will have to be de-limbed in order to permit the passage of the turbine components. In a small number of cases, the tree survey confirms that specific trees will require to be completely removed as they will interfere with the oversail of the turbine components. The Council has indicated that it will not exercise its powers under the 1984 Act to lop or remove trees without the consent of the relevant landowner. SSE Generation is liaising with landowners to secure their consent to the necessary tree works. However, in these cases, and to ensure that it is able to consent and undertake the necessary tree works (subject to obtaining TPO consent) it is necessary to acquire the land upon which the relevant trees are located and a safe working area around the relevant trees.
- 6.12 All tree works within the TPO area will be subject to a TPO consent from the Council. All tree works will be undertaken by a suitably qualified professional.

6.13 In summary the Order Land comprises:

Plot	Size	Current Use	Ownership	Need for the Plot
1a	1.24 sqm	Grazing	Adrian John Nelson Brunner and Christine Anne Hughes or Brunner	Oversail
1b	8.56 sqm	Grazing	Adrian John Nelson Brunner and Christine Anne Hughes or Brunner	Oversail
2a	4.67 sqm	Decorative Advertising Area	Morven Holdings Limited	Oversail
3a	7197.68 sqm	Existing turning area	Renewable Energy Systems Limited	Over-run
3b	216.56 sqm	Existing turning area	Renewable Energy Systems Limited	Over-run
3c	89.89 sqm	Existing turning area	Renewable Energy Systems Limited	Over-run
3d	134.61 sqm	Existing turning area	Renewable Energy Systems Limited	Over-run
3e	123.44 sqm	Existing turning area	Renewable Energy Systems Limited	Over-run
4a	708.78 sqm	Existing turning area/grazing	SLA Property Company Limited	Oversail & Over-run
5a	29.04 sqm	Farmland/agricultural	Derek Martin Oag, Gary Calder Oag, Evan William Oag, Mary Anne Oag partners and trustees for the firm of Messrs W&A Oag	Oversail
5b	85.61 sqm	Farmland/agricultural	Derek Martin Oag, Gary Calder Oag, Evan William Oag, Mary Anne Oag partners and trustees for the firm of Messrs W&A Oag	Oversail
6a	0.53 sqm	Embankment	Peter Oag	Oversail

7a	1336.12 sqm	Woodland area within the TPO	Robert David Meiklejohn	Tree Works
10a	2228.96 sqm	Woodland area within the TPO	Andrew Charles Chadwick	Tree Works
10b	613.34 sqm	Woodland area within the TPO	Andrew Charles Chadwick	Tree Works
13a	185.89 sqm	Woodland area within the TPO	Forss House Fishings Bare Trust	Tree Works
13b	459.26 sqm	Woodland area within the TPO	Forss House Fishings Bare Trust	Tree Works
13c	53.72 sqm	Woodland area within the TPO	Forss House Fishings Bare Trust	Tree Works
14a	2072.94 sqm	Woodland area within the TPO	NCJH Property Limited	Oversail & Tree Works
15a	845.85 sqm	Woodland area within the TPO	Ian Paul Richards and Sabine Clarke Richards as partners and trustees for the Firm of Forss House	Oversail & Tree Works
16a	505.93 sqm	Woodland area within the TPO	Ian Paul Richards and Sabine Clarke Richards as partners and trustees for the Firm of Forss House Forss Limited	Oversail & Tree Works
16b	142.71 sqm	Access road	Ian Paul Richards and Sabine Clarke Richards as partners and trustees for the Firm of Forss House Forss Limited	Oversail & Tree Works
17a	501.14 sqm	Woodland area within the TPO and access road	Dawn Alderson Forss Limited Martin Edward Fleet and Mairi Fleet Mark Robert Kerr and Gillian Lesley Kerr Sheila Margaret Fleet	Over-run & Tree Works

18a	50.54 sqm	Woodland area within the TPO	Highland Historic Buildings Trust	Tree Works
18b	70.29 sqm	Woodland area within the TPO	Highland Historic Buildings Trust	Over-run & Tree Works
20a	4.87 square metres	Garden amenity area	Wilma Bain	Oversail
20b	26.40 sqm	Garden amenity area	Wilma Bain	Oversail
20c	10.82 sqm	Grazing	Wilma Bain	Oversail
21a	99.52 sqm	Farmland/agricultural	Wilma Bain	Oversail
21b	133.70 sqm	Grazing	Wilma Bain	Oversail
23a	18.65 sqm	Embankment	Jamie Mackintosh Macdonald and Marie Elaine Macdonald	Oversail
24a	15.53 sqm	Burn	Unknown	Oversail
25a	0.58 sqm	Embankment	Unknown	Oversail
26a	0.88 sqm	Burn	Unknown	Oversail
27a	16.92 sqm	Burn	Unknown	Oversail
28a	1.17 sqm	Burn	Unknown	Oversail
29a	200.92 sqm	Grazing	Iain Keith	Oversail
29b	598.88 sqm	Grazing/parking area	Iain Keith	Over-run
29c	279.46 sqm	Grazing/parking area	Iain Keith	Over-run
30a	10.20 sqm	Embankment	Reay Farms Limited	Oversail
30b	88.31 sqm	Embankment	Reay Farms Limited	Oversail & Over-run
30c	217.67 sqm	Grazing	Reay Farms Limited	Over-run
30d	3.47 sqm	Embankment	Reay Farms Limited	Oversail
30e	37.72 sqm	Woodland	Reay Farms Limited	Oversail
30f	52.99 sqm	Grazing	Reay Farms Limited	Oversail
31a	6.46 sqm	Grazing	Reay Farms Limited	Oversail

31b	44.48 sqm	Grazing	Reay Farms Limited	Oversail
32a	0.08 sqm	Amenity	Patricia Muir Mackay	Oversail
33a	102.28 sqm	Grazing	Jessie Margaret Murray or Gall	Oversail
33b	20.36 sqm	Grazing	Jessie Margaret Murray or Gall	Oversail
34a	44.57 sqm	Grazing	The Highland Council	Over-run
35a	111.97 sqm	Embankment/grazing	Charles William Sutherland and Isabella Sutherland	Oversail
36a	41.12 sqm	Grazing	Morag Ann Mackay	Oversail
36b	65.80 sqm	Grazing	Morag Ann Mackay	Oversail
36c	169.59 sqm	Grazing	Morag Ann Mackay	Oversail
36d	4.27 sqm	Grazing	Morag Ann Mackay	Oversail
36e	143.59 sqm	Grazing	Morag Ann Mackay	Oversail & Over-run
37a	290.88 sqm	Open ground/grazing	The Highland Council	Oversail & Over-run

### *Special Category Land and Other Special Considerations*

- 6.14 The Scottish Ministers, as roads authority, have an interest in Plot 2a. By virtue of section 122 of the Scotland Act 1998, it is considered that the Scottish Ministers' interest in these plots constitutes a Crown interest in the land. The Order does not seek to extinguish any existing rights in the land and is not considered that acquisition of the plot will interfere in any way with the Scottish Ministers' interest in the plot.
- 6.15 The Crown Estate Commissioners, in respect of a right to carry utility infrastructure, have an interest in Plot 2a. The Order does not seek to extinguish any existing rights in the land and is not considered that acquisition of the plot will interfere in any way with the Crown interest in the plot.
- 6.16 In relation to other plots:
- 6.16.1 The Highland Council owns Plots 34a and 37a and has an interest in Plots 1a and 1b (in respect of a wayleave to lay down and maintain water pipes). There are no special procedures applicable to land owned by a local authority or in which a local authority has an interest. The Order does not seek to extinguish any existing rights in Plots 1a and 1b and it is not considered that acquisition of the plots will interfere in any way with the Council's interest in the plot.

6.16.2 The Order does not seek to acquire any land owned by another licence holder under the 1989 Act or in which a licence holder has an interest. It is noted that:

- (a) Renewable Energy Systems Limited is the owner of Plots 3a, 3b, 3c, 3d and 3e;
- (b) Limekiln Extension Limited has an interest in Plots 3a, 3b, 3c, 3d and 3e in respect of a standard security granted by the landowner;
- (c) RWE Renewables UK Onshore Wind Limited has an interest in Plots 3a, 3b, 3c, 3d and 3e in respect of a standard security granted by the landowner;
- (d) Renewable Developments LLP has an interest in Plots 29a, 29b and 29c in respect of a standard security granted by the landowner;
- (e) Muirden Energy LLP has an interest in Plots 31a and 31b in respect of a standard security granted by the landowner; and
- (f) Kirkton Wind Farm Limited has an interest in Plot 37a in respect of a standard security granted by the landowner.

6.16.3 None of these entities is a licence holder under the 1989 Act and consequently GEMA consent to the acquisition of land owned by a licence holder or in which a licence holder has an interest is not required. However, SSE Generation recognises that other renewables developers may require to use these plots for the purposes of transporting turbine components and may have entered into lease options with the current landowner, as reflected in the grant of standard securities. SSE Generation undertakes to cooperate with these developers to ensure that SSE Generation's acquisition and use of the plots does not adversely impact on other renewables developments. In particular, SSE Generation, during any period of ownership of the relevant plots, is content to grant lease rights to other renewables developers on reasonable commercial terms.

6.17 Plot 17a includes an area of access road to five properties necessary for over-run. Plots 5b, 10a, 16b and 33a also include areas of access into adjacent fields and woodland. In the absence of voluntary agreement for lease of these area and in the event of compulsory purchase of any these plots, SSE Generation undertakes to offer to put in place, for no consideration, a servitude right of access to retained properties burdening the acquired land and benefitting the retained properties. This would ensure a continued right of access.

6.18 The Order Land does not include land belonging to the National Trust for Scotland, land forming part of a common or open space or land being, or being the site of, an ancient monument or other object of archaeological interest. Plot 5b is part of the Thurso Skyline which is designated as a core path by the Highland Council under the Land Reform (Scotland) Act 2003. SSE Generation considers the Thurso Skyline to be a public right of way and therefore Plot 5b forms part of this public right of way. Section 3 of the 1947 Act provides the Scottish Ministers with powers to grant an order extinguishing the public right of way. However, in the present case, SSE Generation do not consider that an order to extinguish the public right of way is required as SSE Generation will only require to oversail Plot 5b and the public right of way will subsist. No such order is therefore requested. SSE considers that the confirmation of the Order in relation to Plot 5b will not affect the Thurso Skyline core path.

#### ***Unknown Ownership***

6.19 The Order includes five plots where ownership is unknown despite enquiry (Plots 24a, 25a, 26a, 27a and 28a). Notice of the making of the Order will be affixed in relation to these plots.



## 7. CONSIDERATION OF ALTERNATIVES

- 7.1 SSE Generation has considered alternatives to the compulsory acquisition of the Order Land. SSE Generation has sought to acquire the necessary rights through the negotiation of voluntary agreements with landowners. SSE Generation has also considered whether there are any alternative abnormal load access routes from the port of entry to the Wind Farm site and which would avoid or reduce the need for compulsory acquisition. SSE Generation has assessed the relevant pinch points along abnormal load access routes in order to minimise the size of plots and avoid or minimise impacts.

### *Voluntary acquisition*

- 7.2 The Circular advises that, where practicable, the acquiring authority should try to acquire necessary rights by means of voluntary acquisition before making a compulsory purchase order. SSE Generation has pursued a strategy of engagement with landowners and has sought to acquire the necessary rights through voluntary agreement. Further details of engagement and progress with negotiations are provided in Section 8.
- 7.3 However, the Circular recognises that it may be impossible or impracticable to acquire all interests by agreement within the project timeframe or at a reasonable cost and there is little to be gained in prolonging unproductive negotiations if the acquiring authority is prepared to make a compulsory purchase order. The Circular further recognises that there may be advantages in making a compulsory purchase order in parallel with continuing negotiations to purchase by agreement. SSE Generation will continue to seek voluntary acquisition in parallel with the Order process.

### *Acquisition of Lesser Rights*

- 7.4 As explained in Section 5 of this Statement, SSE Generation has carefully considered whether it would be possible to acquire rights short of ownership and has taken legal advice from Senior Counsel and a Professor of law specialising in Scottish property law. Legal advice has confirmed that it would not be competent to acquire servitude rights in the Order Land.

### *Alternative transport routes*

- 7.5 The Wind Farm site is established in the Varied Consent and the availability of alternative transport routes is extremely constrained. SSE Generation has considered whether there is some better alternative route, or part route, which would enable the delivery of abnormal indivisible loads to the Wind Farm site without the need for acquisition of the Order Land.
- 7.6 Scrabster Harbour is the closest harbour with quays and laydown facilities capable of accommodating the vessels required to ship the indivisible turbines components. It should be noted that use of an alternative and more distant port, such as Wick or Invergordon, would still necessitate road transport along the A836 road *in addition to* transport along other roads.
- 7.7 As shown on **Document 7** and in the document Alternative Route Plan: Scrabster to Isauld (the **Alternative Route Plan**) (**Document 9**), the approved abnormal load access route is along the A9 and A836 between Scrabster Harbour and the entrance to the Strathy North Wind Farm access road to the east of Strathy Village. An alternative has been considered along part of the route, between the A836 road (near to Thurso Baptist Church) and Isauld, indicated as a red dashed line on the Key Plan of the Alternative Route Plan. A drive through and preliminary desk study review of available aerial imagery was undertaken to establish the potential suitability of this route in terms of road widths, road geometry and/or any constraints which could result in requirements

for oversail, accommodation works and/or road widening, either to existing roads or on third party land.

- 7.8 The assessment identified approximately 4 kilometres of existing single-track road between Newlands of Giese and the A836 road (near to Thurso Baptist Church). It was determined that significant engineering works would be required to this section of road in the form of widening on both sides of the road with placement of suitable structural fill to ensure adequate bearing capacity could be achieved to accommodate the abnormal vehicles and associated loadings.
- 7.9 Additionally, several constrained corners were identified along the route which would be likely to require significant engineering works to accommodate the abnormal load vehicles. New road construction would be required on third party land and new bridge structures would be required to cross existing watercourses. Examples of constraint areas identified along the route are as follows:
- 7.9.1 **Document 9 (Sheet 001 of 003)** illustrates indicatively a potential re-route requiring new road/track construction and new bridge crossing within third party land, near to Isauld, to facilitate movement onto the route;
- 7.9.2 **Document 9 (Sheet 002 of 003)** illustrates indicatively two potential re-routing options requiring new road/track construction and new bridge crossing within third party land, near to Viewfield, to facilitate movement along the route; and
- 7.9.3 **Document 9 (Sheet 003 of 003)** illustrates indicatively three potential re-routing options requiring new road/track construction and new bridge crossing within third party land, near to Newlands of Giese, to facilitate movement along the route.
- 7.10 SSE Generation's assessment is that the limitations imposed by 4 kilometres of single track road and the additional identified constraints mean that this is not a realistic alternative route. Use of the route would require the acquisition of more third party land and the construction of new roads and bridge structures at substantial additional cost and with associated disruption to landowners. It is likely that the route would still require the exercise of compulsory acquisition powers.
- 7.11 Consequently, it is not possible to identify a better alternative abnormal load access route.

***Pinch-point consideration***

- 7.12 Constraint points along the extent of the abnormal load access route were identified initially through computerised Swept Path Analysis simulation (the **SPA**). The SPA informed where works are required to the existing adopted road and where over-run or oversail of third party land is required. These requirements are typically dictated by the road extent and geometry, topography and existing structural infrastructure and features.
- 7.13 Where the road geometry permitted some flexibility, further assessment was undertaken to establish where it could be possible to remove or minimise the over-run or oversail required:
- 7.13.1 **Bridge of Forss:** The initial SPA established that due to the existing road geometry, extents of oversail and over-run would be required on the north side of the road with oversail also occurring on the south side of the road and encroaching into private garden ground. Further analysis concluded that by increasing the oversail and over-run extents to the north side of the bend would eliminate the oversail into the garden ground on the south side of the road where there is an immediate drop in level from the road into a residential garden.

- 7.13.2 **Bridge of Isauld:** Following the receipt of topographical survey data, the refined SPA established that oversail would occur to both the east and west sides of the existing road and bridge structure to accommodate the movement of turbine components. It was also found that a large area to the south of the tight bend would be required to facilitate earthwork operations and road widening construction to facilitate the movement of the turbine blade components. Due to the existing road geometry, it was deemed that limited alternatives were possible to reduce the extents of the required road widening. An alternative was however considered and trialled to remove the oversail requirements on the west side of the existing road and particularly the oversail occurring over the west side of the bridge parapets, caused by the extents of the largest tower sections. This alternative showed that maintaining the tower vehicle line over the bridge structure straighter for longer before turning into the bend would eliminate the oversail on the west side. However, it would considerably increase the over-run extents on the south side of the bend by at least 10 metres. It was therefore deemed that the scale of the additional engineering earthworks involved to create this larger over-run area was disproportionate to that of the oversail extents to the west which would be required without this additional over-run area being implemented.

### ***Plots***

- 7.14 The extent of the Order Land is the minimum required to permit the delivery of indivisible turbine components from the port of entry to the Wind Farm site. As described above, SSE Generation undertook an initial assessment of the proposed turbine delivery route through a computerised SPA. The purpose of the SPA was to establish whether delivery of turbine components could be accommodated within the extent of the existing adopted road network and, if not, to identify any points along the route requiring over-run or oversail into third party land.
- 7.15 Following the initial assessment, topographical surveys were commissioned at each point of interest to establish any discrepancies in the OS mapping used within the initial SPA and to provide greater accuracy of key features including road widths, centre lines and levels, pavements, watercourses, paved and unpaved areas, entrances to adjacent buildings and other features such as trees, street furniture, ditches, vegetation or any other elements which should be considered within the assessment. On receipt of the topographical survey data, further SPA was carried out to refine the over-run and oversail along the route.
- 7.16 A trial run was also carried out to simulate as far as possible the delivery of the turbine blade component along the proposed route using a similar vehicle and rigid length set-up to that considered in the SPA. The purpose of this trial run was to verify the findings of the refined SPA and to establish if any additional land-take was required for oversail, accommodation works or over-run areas.
- 7.17 The extent of the individual plots of Order Land has been informed by the SPA, topographical surveys and the trial run and is considered to be the minimum area required.
- 7.18 Having regard to voluntary acquisition, alternative transport routes, assessment of pinch point alternatives and the extent of the plots of Order Land, there are no reasonable alternatives to the compulsory acquisition of the Order Land.

## **8. ENGAGEMENT WITH AFFECTED PARTIES**

- 8.1 The Circular advises that, where practicable, the acquiring authority should pursue voluntary acquisition before making a compulsory purchase order. In accordance with the Circular, SSE

Generation has attempted to acquire the required rights through voluntary negotiation with landowners and other interested parties, by means of options to lease.

8.2 SSE Generation has employed a comprehensive land strategy, including:

- 8.2.1 A land referencing exercise to identify landowners and other parties with an interest in the Order Land;
- 8.2.2 Identification of the extent of the adopted road;
- 8.2.3 Engagement with landowners and/or their agents; and
- 8.2.4 Issuing of Heads of Terms for the lease or licence of necessary rights.

***Land referencing***

8.3 A comprehensive land referencing exercise has been carried out by Millar and Bryce Limited (**M&B**) on behalf of SSE Generation. M&B were supplied with plans detailing relevant constraint areas between Scrabster Harbour and the entrance to the Wind Farm site. Searches were carried out in respect of the Order Land and adjacent land in the following registers:

- 8.3.1 The General Register of Sasines for the Counties of Caithness and Sutherland;
- 8.3.2 The Land Register of Scotland;
- 8.3.3 Books of Council and Session (where appropriate);
- 8.3.4 Local Authority Road status; and
- 8.3.5 Coal Holdings Register.

8.4 M&B undertook searches of the Land Register and General Register of Sasines to identify search sheet numbers applicable to each plot. Search sheets were examined to identify current proprietors and tenants (where a lease has been recorded) and other interests for each plot. M&B examined all relative deeds to establish a property description and the extent of the title. M&B carried out an examination of the Computerised Presentment Book and the Land Register Application Record.

8.5 Where no Individual Title could be identified in either the Land Register or the General Register of Sasines, M&B supplied reference to the Estate Title from which adjoining plots derived and consulted Published Inland Revenue Survey Maps and Field Books (1910-1915).

8.6 Searches were made in the M&B exclusive in-house Companies office database and through Companies House to confirm the names and Registered Office of companies or where the companies appeared to have changed their names.

8.7 SSE Generation supplied the results of the initial SPA and the refined SPA allowing M&B to prepare the plot areas on the Order Maps. M&B also prepared plot descriptions and descriptions of owners, lessees and other parties with and interest in the land for the First Schedule of the Order.

8.8 In accordance with the Council's specification of adopted roads, the adopted road will extend to boundary fences or walls or in open ground to a distance of 3 metres from the edge of the surfaced carriageway or passing place, or to the top of the slope in cutting or the bottom of slope in embankment, whichever distance is greatest.

8.9 In total, 58 individual plot plans and 14 location plans have been prepared for the Order.

***Engagement with landowners***

- 8.10 Engagement with affected landowners commenced in July 2020. Information was provided to landowners in relation to proposed land agreements along the turbine delivery route and negotiations have continued with landowners on a voluntary basis. At that time, the Wind Farm was consented under the Original Consent.
- 8.11 The Varied Consent was approved in November 2021, with a consequent increase in the size of turbine components. This resulted in an increase in the number of constraint points along the turbine delivery route. Further SPA, computer aided design modelling and on-site topographical surveys were undertaken between December 2021 and March 2023. In combination with land referencing work, 58 areas of privately owned land are identified to be required to facilitate the safe delivery of turbine components to the Wind Farm site.
- 8.12 Engagement with all known additional landowners commenced from May 2022 as the detailed engineering case was developed. Introductory letters were issued to landowners detailing the Wind Farm project. Where possible, in person meetings have been held on site.
- 8.13 From September 2022, all known landowners with an interest in Order Land along the turbine delivery route were issued with Heads of Terms (and accompanying plans) for entering into an Option to Lease agreement.
- 8.14 The proposed Option to Lease agreements provide for vacant possession in favour of SSE Generation over a small area, with pertinent rights of access for oversail and/or overrun as necessary. The proposed agreement expressly provides that SSE Generation's rights over the plots are non-exclusive, allowing landowners to grant rights of access for additional third parties if required.
- 8.15 As of November 2023, Heads of Terms for an Option to Lease agreement have been agreed with 11 different landowners. These landowners remain in the Order as Heads of Terms are personal to the current landowner, and so could be impacted by a change in land ownership. Negotiations actively continue in respect of the remaining landowners.
- 8.16 Five plots of unknown ownership (Plots 24a, 25a, 26a, 27a and 28a) are likely to require confirmation through the Order.
- 8.17 SSE Generation will continue to negotiate with landowners in parallel with the compulsory acquisition process. It remains SSE Generation's preference that the necessary rights are acquired through voluntary agreement and it is anticipated that further options to lease will be agreed following the making of the Order.
- 8.18 However, as a large capital project of substantial public benefit, the Wind Farm requires to meet significant milestones as part of the project programme. The Order will ensure that the necessary rights are obtained within a reasonable timescale.
- 8.19 SSE Generation's approach to voluntary negotiation and compulsory acquisition is in accordance with the Circular.

#### ***Roads Authorities***

- 8.20 SSE Generation has engaged with The Highland Council as local roads authority.
- 8.21 SSE Generation and Council conducted a joint drive through of the turbine delivery route on 20 July 2022.

## 9. PUBLIC BENEFIT AND POLICY SUPPORT

- 9.1 SSE Generation has considered both the public benefit of the Wind Farm development facilitated by the Order and the interests of the parties affected by the Order. While there will be interference with the private rights of a number of parties, this is outweighed by the ongoing public benefit which the development would bring. SSE Generation is satisfied that there is a compelling case for the Order in the public interest. Those affected by the Order may be entitled to compensation under the Land Compensation (Scotland) Act 1963 and the Land Compensation (Scotland) Act 1973.
- 9.2 The Order is required to acquire land necessary to construct, operate, repower, repair, replace, extend and decommission the Wind Farm. It must be highlighted that the Wind Farm is already consented by the Scottish Ministers in terms of the Varied Consent. In making these consenting decisions the Scottish Ministers carefully considered the public benefits arising from the Wind Farm. Strong policy support for the Wind Farm, the generation of renewable energy and the contribution towards statutory emissions reduction targets is already established in the Scottish Ministers' consenting decisions.
- 9.3 The Original Consent was subject to a public local inquiry (**PLI**) process, with the Reporter submitting a report and recommendation for the grant of consent to the Scottish Ministers. The decision letter confirms that the Scottish Ministers considered fully and carefully the application, Environmental Statement (as amended), the PLI report, and all relevant consultation responses from consultees and third party representations. On 27 April 2018, having considered these issues, the Scottish Ministers granted the Original Consent.
- 9.4 On 27 August 2020, SSE Generation applied to vary in the Original Consent in terms of section 36C of the 1989 Act. As described in section 4, the application<sup>4</sup> was to increase hub height 119 metres, maximum tip height to 200 metres, and maximum rotor diameter to 162 metres, with a commensurate increase to a total generating capacity of approximately 196 MW (an increase of approximately 63.4 MW).
- 9.5 The public benefits of the Wind Farm are detailed in the application for the Varied Consent and confirmed in the Varied Consent decision letter:
- 9.5.1 The Wind Farm will make a valuable contribution to the achievement of UK and Scottish Government renewable energy and emissions reduction targets, through the generation of up to approximately 196MW of clean energy. The Wind Farm has estimated CO<sub>2</sub> emissions savings of 347,684 tCO<sub>2</sub>/year when compared to fossil fuel mix of electricity generation; and
- 9.5.2 The Wind Farm will make a valuable economic and employment contribution nationally and locally, generating an estimated £89.9 million GVA and 1,350 job years of employment in Scotland during the construction phase (£29.4 million GVA and 427 job years of employment within Highland region) and an estimated £7 million GVA and 101 job years of employment in Scotland during the operational phase (£3.9 million GVA and 53 job years of employment within Highland region), as well as contributing to public finances through the payment of non-domestic rates.
- 9.6 The increased turbine size consented through the Varied Consent substantially contributes to the scale of public benefits, through increasing the capacity of the Wind Farm by approximately 63.4MW.

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<sup>4</sup> Other variations to the consented Wind Farm (not relevant to the Order) are fully described in **Document 7**.

- 9.7 The Scottish Ministers' decision to grant the Varied Consent considered material planning and energy policies and confirms that<sup>5</sup>:
- 9.7.1 the seriousness of climate change, its potential effects and the need to cut carbon dioxide emissions remain priorities of the Scottish Ministers;
  - 9.7.2 the (then) Scottish Energy Strategy (**SES**) and the Onshore Wind Policy Statement (**OWPS**) provided 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. These policy documents reaffirmed the vital role for onshore wind in meeting Scotland's energy targets;
  - 9.7.3 the (then) National Planning Framework 3 (**NPF3**) *inter alia* set out the need for a strategy to reduce reliance on fossil fuels and emphasised 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. NPF3 set out that onshore wind will continue to make a significant contribution to the diversification of energy supplies;
  - 9.7.4 the (then) Scottish Planning Policy (**SPP**) *inter alia* set out that policies and decisions should be guided by 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. 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;
  - 9.7.5 the Scottish Government's renewable energy and climate change targets, energy policies and planning policies were all material considerations in assessing the Wind Farm. NPF3, SPP and the OWPS made it clear that renewable energy deployment remains a priority of the Scottish Government and that significant weight should be afforded in favour of the Wind Farm;
  - 9.7.6 the Scottish Ministers were satisfied that the Wind Farm consented under the Varied Consent would make a larger contribution to the achievement of Scottish Government targets for increasing the generation of electricity from renewable sources;
  - 9.7.7 the Scottish Ministers were satisfied that deploying larger and more efficient turbines and permitting the operation of the Wind Farm for a longer period would provide considerable carbon savings and these savings would be of an order that weighed in favour of the Wind Farm;
  - 9.7.8 the Scottish Ministers considered that any adverse effects as a result of the Wind Farm would be acceptable in the context of the benefits that the Wind Farm will bring in terms of net economic benefit and contributing to renewable energy and climate change targets, while protecting the natural environment; and
  - 9.7.9 taking everything into account, the Scottish Ministers were content that the Wind Farm is supported by Scottish Government policies.

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<sup>5</sup> See Document 7

- 9.8 The Scottish Ministers' decision also confirms that the (then) draft National Planning Framework 4<sup>6</sup> (**NPF4**) did not reduce policy support for the Wind Farm but, being a consultative draft, had been afforded limited weight (see paragraphs 9.15 and 9.16 below).
- 9.9 The Wind Farm is consented under the 1989 Act rather than the planning system. However, relevant policies in the Highland-Wide Local Development Plan (**HwLDP**) were assessed as a material consideration in the Scottish Ministers' decision to grant the Varied Consent and deemed planning permission. The decision confirmed that The Highland Council advised that the Wind Farm accords with relevant principles and policies in the HwLDP<sup>7</sup>.
- 9.10 The application for the Varied Consent was accompanied by the ALAS. The ALAS identified that there would be pinch point constraints along the turbine delivery route, accommodation works may be required, and that acquisition of rights over third party would be required to permit the transport of abnormal indivisible loads. It was therefore apparent, as part of the Varied Consent application, that accommodation works and the acquisition of associated rights were necessary to enable implementation of the Varied Consent and construction of the Wind Farm. The Scottish Ministers, as the consenting authority under the 1989 Act, were aware of this when granting the Varied Consent.

***Energy and Planning Policy since grant of the Varied Consent***

- 9.11 Policy support for the Wind Farm and the consequent public benefits are expressly confirmed in the Scottish Ministers' decision to grant the Varied Consent for the Wind Farm. The Varied Consent was issued in November 2021, remains extant and is intended to be implemented within the necessary time period. Indeed, the purpose of the Order is to realise these public benefits through implementation of the Varied Consent and construction of the Wind Farm.
- 9.12 However, SSE Generation has also considered updated energy and planning policy statements published in the period between approval of the Varied Consent application and the making of the Order. In summary:

***Statutory targets***

- 9.13 The Scottish Government's statutory emissions reduction targets remain as established in the Climate Change (Scotland) Act 2009 as amended by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019. The target is to achieve net zero greenhouse gas emissions Scotland by 2045, with challenging interim targets – a 75% reduction by 2030 and 90% by 2040, when compared with a 1990 baseline.
- 9.14 In December 2022, the Climate Change Committee (**CCC**) published two reports in relation to climate change and emissions reduction targets in Scotland (**Documents 10 and 11**). The reports conclude that the most recent Scottish Greenhouse Gas Emissions statistics (June 2022) show a 58.7% reduction in emissions against the baseline figure and that the 2020 interim target was achieved. However, the CCC confirmed that the fall in emissions in 2020 was largely due to travel restrictions during the Covid-19 pandemic, without which it is unlikely the target would have been met. The annual targets in the 2020s will be much harder to achieve as emissions rebound. The reports confirm the scale of the challenge in meeting the 2030 statutory target and the

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<sup>6</sup> As published on 21 November 2021 and now superseded by the revised NPF4 placed before the Scottish Parliament on 10 November 2022.

<sup>7</sup> This assessment was subject to (i) the imposition of conditions and (ii) the removal of four turbines from the application for the Varied Consent. As noted in paragraph 4.5, the four turbines were removed and the Wind Farm will comprise 35 rather than 39 turbines.



requirement for rapid reductions in greenhouse gasses, with delivery of renewable energy generation, remaining an important component of the transition to net zero.

#### ***National Planning Framework 4***

9.15 National Planning Framework 4 (**NPF4**) (**Document 12**) was published on 13 February 2023. NPF4 replaces NPF3 and SPP and forms part of statutory development plans.

9.16 In summary:

9.16.1 NPF4 places the global Climate Emergency, the urgent need to reduce greenhouses gasses and the transition to net zero at the centre of planning policy. It confirms that a large and rapid increase in electricity generation from renewable sources will be essential for Scotland to meet its net zero emissions targets;

9.16.2 Policy 1 provides that when considering development proposals significant weight will be given to the global climate and nature crises; the policy intent being to encourage, promote and facilitate developments that address the global climate emergency and nature crisis;

9.16.3 Policy 11 provides strong policy support for renewable, low-carbon and zero emissions technologies, including wind farms; the policy intent being to encourage, promote and facilitate all forms of renewable energy development onshore and offshore; and

9.16.4 Developments designated as National Developments will include onshore renewable electricity generation exceeding 50 megawatts capacity. The Wind Farm will exceed this National Development threshold by up to 146MW.

#### ***Onshore Wind Policy Statement 2022***

9.17 The Scottish Government published the Onshore Wind Policy Statement 2022 (**Revised OWPS**) in December 2022 (**Document 13**). The Revised OWPS emphasises that onshore wind will play a crucial role in delivering Scotland's legally binding climate change targets and establishes a new Scottish Government ambition for the deployment of a minimum installed capacity of 20GW of onshore wind in Scotland by 2030 (the current installed capacity being approximately 8.7GW).

9.18 The Revised OWPS also recognises the delivery of larger turbine components and the need to oversail private land at pinch points on turbine delivery routes as an increasingly pressing potential constraint on the deployment of new onshore wind developments<sup>8</sup>.

#### ***Public benefit and private rights***

9.19 The overriding test contained in the guidance is that compulsory purchase powers should be used only where "*the public benefit in the proposed scheme clearly outweighs the private rights of the owners*".

9.20 In this case, construction and operation of the Wind Farm will result in very substantial public benefits though the generation of up to approximately 196MW capacity of renewable energy and the resultant contributions towards reducing greenhouse gas emissions and increased energy security. The Wind Farm will make a significant contribution towards Scotland's efforts to combat climate change and address the Climate Emergency. The public benefits of the Wind Farm and the support afforded by energy and planning policy are confirmed in the Scottish Ministers' decision to grant the Varied Consent. In the period since the grant of the Varied Consent the imperative for the urgent delivery of large scale renewables projects and the policy support for

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<sup>8</sup> See **Document 13** at Section 7.1

such development has only increased. The 2020s are recognised as a crucial decade in combatting climate change and its environmental, social and economic consequences.

- 9.21 SSE Generation recognises that the Order will affect the private interests of the affected parties though acquiring the Order Land. However:
- 9.21.1 the land to be acquired is limited to the land necessary to permit the delivery of indivisible turbine components to the Wind Farm;
  - 9.21.2 the Order Land generally comprises relatively small areas of land at the periphery of properties where they adjoin the adopted road. No buildings are present on the Order Land;
  - 9.21.3 in practice, use of the Order Land will involve the preparatory works necessary to permit the over-sail and/or over-run of the relevant plots (for example, removal of vegetation or obstacles or installation of some areas of hardstanding) and the subsequent over-sail and/or over-run of the plots for short periods as the delivery vehicles pass along the road;
  - 9.21.4 use of the Order Land during the construction period will be confined to that part of the construction period in which indivisible turbines components are being delivered, estimated to be approximately 7 months, with the potential for future intermittent exercise should turbines be replaced or decommissioned;
  - 9.21.5 under Condition 12 of the deemed planning permission, the delivery of abnormal loads will be subject to an approved traffic management plan; and
  - 9.21.6 lopping or removal of trees will be minimised and subject to the supervision of a professional arboriculturist.
- 9.22 Additionally, as described in Section 5, SSE Generation commits to offer to reconvey the plots of Order Land to the party from whom it was compulsorily acquired (where such a party is known) subject to the agreement of terms and the successful constitution of lease rights necessary to permit the ongoing use of the relevant plot for the purposes set out in the Order. This is subject to the obtaining of GEMA consent and the previous ownership of the plot being known.
- 9.23 As noted at paragraph 6.17 above, Plot 17a includes an area of access road to five properties necessary for over-run. Plots 5b, 10a, 16b and 33a also include areas of access into adjacent fields and woodland. In relation to the area of access road within Plots 5b, 10a, 16b, 17a and 33a, SSE Generation undertakes to offer to put in place, for no consideration, a servitude right of access to ensure a continued right of access. This would be pending any agreement on reconveyance of the land to the original landowners and would remain in place if such agreement could not be reached.
- 9.24 The public benefits of the Wind Farm clearly outweigh the private rights that will be affected. The Order is a proportionate use of SSE Generation's compulsory purchase powers. There is a compelling case in the public interest for confirmation of the Order.

## **10. FUNDING POSITION**

- 10.1 The Wind Farm has been costed and the likely costs of constructing the Wind Farm (including construction, acquisition of interests in land and payment of compensation in accordance with the Order) is approximately £250 million. SSE Generation, part of the SSE plc group, has a strong financial position and track record of delivery of projects. Available funding will meet the capital expenditure and the potential compensation claims as a result of the Order.

- 10.2 Scottish Ministers can be satisfied that were the Order confirmed, the acquiring authority would have access to sufficient funds to pay compensation to the affected parties.

## **11. TIMETABLE / PROGRAMME**

- 11.1 SSE Generation's intention is to commence construction of the Wind Farm in February 2026, with the Wind Farm becoming operational in August 2027. Grid connection is in April 2027. It is necessary to progress the compulsory acquisition process to facilitate delivery of the Wind Farm within this timeframe and in case negotiations for voluntary acquisition are unsuccessful. SSE Generation will continue to actively seek conclusion of voluntary agreements in relation to the Order Land.

## **12. RELATED ORDERS OR APPLICATIONS**

- 12.1 Consent for works to trees subject to the TPO is required in terms of the 1997 Act. SSE Generation has engaged with the Council's tree preservation officer in relation to required tree works. The Council has indicated that the grant of a TPO consent would be subject to the requirement for an area of compensatory tree planting close to the TPO area. SSE Generation is content to accept such a requirement and is actively engaging with relevant landowners to identify appropriate land and secure necessary land rights.
- 12.2 In addition, any works required within the boundary of the adopted road will be subject to consents under the Roads (Scotland) Act 1984. Any works outside the boundary of the adopted road may require planning permission under the 1997 Act.
- 12.3 Applications will be submitted to The Highland Council at the appropriate time. SSE Generation has no reason to believe that the consents will not be obtained or that the requirement for such consents would be a barrier to implementation of the Order.
- 12.4 It is not considered that there will be any requirement for a joint inquiry in relation to the Order and any other application for consent.

## **13. HUMAN RIGHTS**

- 13.1 The making and confirmation of a compulsory purchase order requires that there is a compelling case in the public interest. Various rights under the European Convention on Human Rights (**ECHR**) may be engaged in the process of making and considering a compulsory purchase order, including those under Articles 6, 8 and Article 1 of the First Protocol. SSE Generation recognises that acquisition of the Order Land could potentially interfere with the human rights of those with an interest in the land affected, particularly rights under Article 1 of the First Protocol to the ECHR. As such, SSE Generation recognises that the Order should be necessary and proportionate and that the purposes for which the Order is made must be sufficient to justify this interference with human rights.
- 13.2 The European Court of Human Rights has recognised in the context of Article 1 of the First Protocol that "*regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole*", i.e. compulsory purchase must be proportionate and in pursuing the public interest the objective to be achieved in making the Order must outweigh the interference with any private rights. Both public and private interests are to be taken into account in the exercise of the acquiring authority's powers and duties. Similarly, any interference with Article 8 rights must be "*necessary in a democratic society*", i.e. proportionate.

- 13.3 As described in Section 9, in making the Order SSE Generation has carefully considered the balance to be struck between individual rights and the wider public interest. Interference with Convention rights, to the extent that there is any, is considered to be justified in order to facilitate the Wind Farm and realise the public benefits arising.

***Entitlement to a Fair and Public Hearing***

- 13.4 Such rights require a fair and public hearing in the determination of a person's several and political rights (ECHR, Article 6). This includes property rights and can include opportunities to be heard in a consultation process. The statutory procedures, taken with the right to object and the availability of statutory challenge, satisfy the requirements of Article 6.

***Rights to Respect for Private and Family Life and Home***

- 13.5 Such rights may be restricted if the infringement is in accordance with the law, has a legitimate aim and is fair and proportionate in the public interest (ECHR, Article 8). It is considered that such interferences as may occur as a result of the Order are in accordance with the law, pursue a legitimate aim and are proportionate having regard to the public interest in the project referred to in this statement.

***Peaceful Enjoyment of Possessions (including Property)***

- 13.6 Article 1 of the First Protocol does not impair the right to enforce such laws as the State considers necessary to control the use of property in accordance with general interest. It is considered that the Order strikes a fair balance between the public interest in the implementation of the Wind Farm and those private rights which will be affected by the Order. Compensation will be available to those who can prove they have a legitimate claim arising from the exercise of compulsory purchase powers.
- 13.7 SSE Generation has sought to minimise interference with the rights of those with an interest in the land subject to the Order. The Order Land is the minimum required for the purposes in the Order. No residential or other buildings are present on the Order Land.
- 13.8 The public benefits of construction and operation of the Wind Farm outweigh the private rights affected, the Order is necessary and proportionate, and there is a compelling case in the public interest for the exercise of the powers of compulsory acquisition included within the Order.

**14. PUBLICITY, OBJECTION PERIOD AND FURTHER INFORMATION**

- 14.1 SSE Generation will publicise the Order in accordance with the statutory publicity requirements. Local newspaper notices of the making of the Order and the statutory notices served on landowners and other parties with an interest in the Order Land will provide details of where the Order and supporting documents may be viewed and the period during which objections may be submitted to the confirming authority.
- 14.2 The Order documents will be available for inspection at three deposit locations:
- 14.2.1 Thurso Library, Davidson's Lane, Thurso, KW14 7AF;
  - 14.2.2 Reay Village Hall, Reay, Caithness KW14 7RG; and
  - 14.2.3 West End Stores & Melvich Post Office , Portskerra Road, Melvich, Thurso, KW14 7YL.
- 14.3 The deposit locations, and their opening hours, are identified in the public advertisement and statutory notices.

- 14.4 Electronic copies of the Order, the Maps and the acquiring authority's Statement of Reasons can also be viewed at [www.sserenewables.com/strathysouth](http://www.sserenewables.com/strathysouth).
- 14.5 A list of documents referred to in this Statement is set out in Appendix 1 to this Statement.
- 14.6 SSE Generation reserves the right to add to this list of documents in the event of a public inquiry into the Order.
- 14.7 SSE Generation is conscious that the Order is made prior to the Festive period. Consequently, the objection period, as notified in statutory notices has been extended from the minimum 21 days to a period of 6 weeks ending on 17 January 2024.

## **15. CONCLUSION**

- 15.1 The Generation Licence authorises SSE Generation to compulsorily acquire land to enable it to construct and operate the Wind Farm.
- 15.2 Schedule 3 to the 1989 Act provides that the Scottish Ministers may authorise SSE Generation to compulsorily purchase land required for any purpose connected with the carrying on of the activities authorised by the Generation Licence. The land to be acquired pursuant to the Order is required for the purposes connected with the carrying on of the activities which SSE Generation is authorised to carry on by the Generation Licence.
- 15.3 Construction and operation of the Wind Farm requires the delivery of large indivisible turbine components to the Wind Farm site.
- 15.4 SSE Generation's approach to the acquisition of the Order Land follows a proportionate approach in the use of its powers of compulsory acquisition.
- 15.5 The public benefits of the Wind Farm outweigh the private rights affected. The construction and operation of the Wind Farm is in the public interest and is fully supported by Scottish and UK energy and planning policy. The public benefits of the Wind Farm are evidenced by the Scottish Minister's grant of the Varied Consent.
- 15.6 There are no impediments to the implementation of the Order.
- 15.7 There is a compelling case in the public interest for the exercise of the powers of compulsory acquisition included within the Order. The Scottish Ministers should confirm the Order.

**APPENDIX 1**  
**LIST OF DOCUMENTS**

- Document 1:** SSE Generation Limited's Generation Licence
- Document 2:** Section 10 and Schedule 3 to the Electricity Act 1989
- Document 3:** Ofgem's Standard Licence Conditions
- Document 4:** Location Map of Strathy South Wind Farm
- Document 5:** Section 36 Consent and deemed planning permission decision-notice for Strathy South Wind Farm dated 27 April 2018
- Document 6:** Section 36C Consent and deemed planning permission decision-notice for Strathy South Wind Farm as varied on 24 November 2021
- Document 7:** Abnormal Load Access Route
- Document 8:** Map showing extent of Tree Protection Order area
- Document 9:** Alternative Route Plan: Scrabster to Isauld
- Document 10:** Climate Change Committee, Progress in reducing emissions in Scotland: 2022 Report to Parliament, December 2022
- Document 11:** Climate Change Committee, Scottish emissions targets: first five-yearly review, December 2022
- Document 12:** National Planning Framework 4 (February 2023)
- Document 13:** Onshore Wind Policy Statement 2022 (December 2022)



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