



Rothes III Application Under S36C Electricity Act 1989

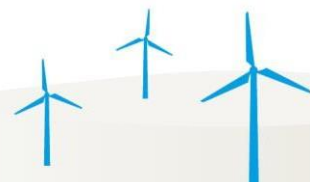
Planning and Environmental Report

July 2024

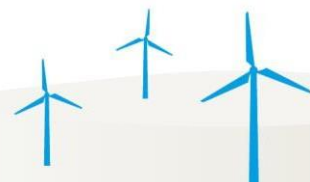


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1. Introduction

Rothes III Limited (the “Developer”) (a wholly owned subsidiary company of Fred.Olsen Renewables Ltd) was granted consent (the “Consent”) on the 21st October 2022 by Scottish Ministers, under section 36 of the Electricity Act 1989, to construct and operate Rothes III Wind Farm. The consent is for 28 wind turbines, consisting of 3 turbines of a maximum tip height of 149.9 metres, 8 turbines of a maximum tip height of 200m, and 17 turbines of a maximum tip height of 225 metres (the “Consented Development”).

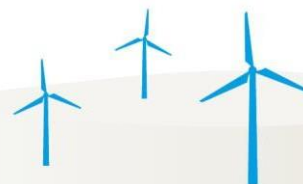
The application site is located approximately 4 kilometres to the west of Rothes village and just over 2.5 kilometres north of the village of Archiestown in Moray. The operational Rothes I and II wind farms are located immediately northwest of the Proposed Development site. Rothes I became operational in 2005, and comprises of 22 turbines, with each turbine having a maximum tip height of 100 metres. Rothes II became operational in 2013 and comprises of 18 turbines (15 with a maximum tip height of 125 metres and 3 with a maximum tip height of 110 metres). The Proposed Development site includes the northern and eastern slopes of Carn na Calliche Hill, land surrounding Mannocho Hill, Hill of Stob, Cairn Cattoch and Hunt Hill. The Development is considered an extension to the operational Rothes I and II wind farms.

The site is currently utilised for commercial forestry with open hillside with rough grazing extending to approximately 1,397 hectares. A Public Right of Way (PROW) runs north-south from Upper Knockando towards Birnie, dissecting the site (known as the Mannocho Road). Part of the Burn of Rothes/Mannocho Road core path is located within the proposed sites northeastern boundary. Access for construction traffic would follow the same route as used for the existing Rothes I and II windfarms. This route travels from the A941, then onto the minor roads by Gedloch and Bardonside, before utilising Mannocho Road. During operation, the proposed Development would also be accessed via the existing Rothes I and Rothes II wind farm entrance on the C13E public road to the west of the proposed Development between Dallas and Upper Knockando.

Scottish Ministers also directed that, under Section 57 (2) of the Town & Country Planning Act (Scotland) 1997, planning permission was deemed to be granted. The Original Consented Development and all associated documents can be found at <https://www.energyconsents.scot/ApplicationDetails.aspx?cr=ECU00000474>. A full copy of the decision is included in Appendix 3.

Where appropriate, the relevant chapters of the EIAR and AI have been considered as part of the assessment of the potential changes of the proposed tip height extension.

This application requests that the Consent is varied under Section 36C of the Electricity Act 1989; that the Scottish Ministers make directions under s57 (2ZA) (a) and (b) to vary the direction for the description of the existing planning permission deemed to be granted by virtue of a direction under Subsection (2) as specified in this application and set out below; and, to vary the conditions subject to which the planning



permission was deemed to be granted as specified in this application and set out below.

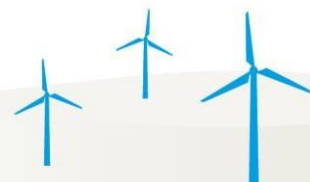
The application seeks to vary the Annex 1 description of the Consent and Deemed Planning Permission, Annex 2 and Annex 3.

It is proposed that the Consent is varied to enable the increase in the tip height of the 3 turbines, numbered 9, 13 and 14 from a maximum tip height of 149.9 m to a maximum tip height of 200m, a total tip height increase of 50.1m for the 3 aforementioned turbines. The increase in tip height is in respect of three of 28 turbines and equates to an overall increase of only 10.7% of the 28 consented turbines.

There is no proposed change to the consented layout, however the turbine heights are referenced in the approved Annex 3 drawings. There is no proposed change to the implementation period which would be 5 years from the date of the issue of a consent to the Proposed Variation.

A revised Site plan which identifies the different heights of each turbine within Rothes III Wind Farm is submitted as part of this application to replace the approved plans in Annex 3 of the Consent and Deemed Planning Permission should the request for the variation be granted.

The revised drawing is: 8298-DRW-DES-0001-Site 1.2-Site Layout-v2.0 and is included with this application as Figure 1.2 at Appendix 5.



2 Design and Access

2.1. Need for Amendment

The economic climate for onshore windfarms has changed considerably since the Rothes III project was designed. In addition, the cost of materials and construction has significantly increased in the last few years, such that the efficiency of all windfarms must be maximised to ensure they remain economically viable to developers.

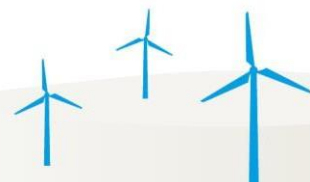
Wind turbine technology is continually evolving, with more productive and efficient designs becoming available to the market at the same time as the removal of smaller and less efficient designs. The Original Consented Scheme was first designed and scoped in 2014, it was subsequently redesigned and submitted in February 2019, with the Public Inquiry (PI) held in September 2020. The PI report was issued to Scottish Ministers in February 2022 with the decision issued in October 2022. In the intervening years from first submission until present day, turbine technology and their availability has evolved significantly. As part of the turbine procurement process, a review of the turbines currently available on the market and more detailed discussions with turbine suppliers was undertaken. It became evident that it would not be economically effective to procure, build, and operate the three smaller turbines. In response to this, the proposed increases to the 3 aforementioned wind turbines tip height, from 149.9m to 200m, will facilitate the scheme in maximising its energy yield potential and improve the overall efficiency of the site. The increased tip height will also allow a greater choice and increased flexibility in the turbine procurement process. These benefits ensure the viability of the Consented Development and increase its contribution to the Scottish Government's 2030 Net Zero targets.

The turbines proposed to be varied have been assessed using models which provide a suitable envelope for the Environmental Impact Assessment where dimensions are required, including Noise, LVIA, Ecology and Ornithology. The turbines that will be installed at 200m will be the same model installed for all turbines up to 200m.

2.2 Generating Capacity

The primary reason for this application, which seeks an increase in height to 3 of the 28 approved wind turbines, is to ensure that the site energy generation potential is maximised. As it currently stands, without the increase in the 3 turbines tip height, it may not be feasible or commercially viable to build out these three turbines. This would result in only 25 of the 28 turbines being built, significantly reducing the generating capacity of the Proposed Development over its lifetime, alongside not fully utilising nor maximising the sites potential. The increase in tip height will also enable the potential increase in installed capacity of the wind farm, through the use of wind turbines that have a greater generating capacity.

In the decision letter Scottish Ministers concluded:

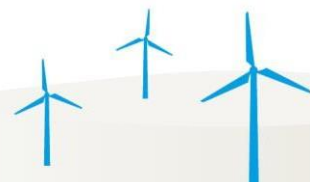


The seriousness of climate change, its potential effects and the need to cut carbon dioxide emissions, remain a priority for the Scottish Ministers. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (the “2019 Act”) sets a target for Scotland to be carbon-neutral, meaning net-zero CO₂, by 2045 at the latest. Additionally, the 2019 Act sets out two interim targets to reduce emissions by 75% by 2030 and by 90% by 2040.

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

The Scottish Ministers acknowledge that the proposed Development will have significant adverse landscape and visual effects (including some on views from houses), however the Scottish Ministers find that these negative impacts on the natural environment are acceptable in the context of the net economic benefits and significant renewable energy benefits, in support of climate change mitigation, that would arise if the proposed Development were deployed. As set out above the Scottish Ministers have also considered whether or not a better balance could be struck by consenting the proposed alternative Development but find that that, overall, the proposed Development represents the most efficient use of the site.

In line with this decision, the increase in tip height of the three turbines will enable the development to ensure that it delivers the most efficient use of the site.



3 Proposed Variation

This Section 36C application seeks to vary the consent granted under Section 36 Consent and the Deemed Planning Consent under s57(2) of the Town and Country Planning Act 1997 by the Scottish Ministers on the 21st of October 2022 for the construction and operation of Rothes III Wind Farm in the Moray Council Planning Authority Area. The application is to vary the Annex 1 Description of Development and for appropriate variations to Annex 2 and Annex 3 as set out below, to increase the tip height of 3 no turbines from 149.9m to 200m. This application to allow a 50.1m tip height extension only impacts 3 of the 28 consented turbines of Rothes III Wind Farm.

Scottish Ministers are therefore invited to allow the Proposed Variation and direct that deemed planning permission is varied under s57 (2ZA) (a) and (b) to vary the direction for the description of the existing planning permission deemed to be granted by virtue of a direction under s57 (2) as specified in this application and set out below; and, to vary the conditions subject to which the planning permission was deemed to be granted. .

The Site Location Plan is attached at Appendix 1.

3.1 Proposed Variations

A complete revised Annex 1 and 2 is included at Appendix 5.

Annex 1

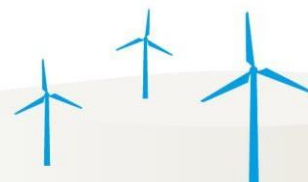
The Proposed Variations to Annex 1, which includes the description of development for the s36 Consent and the Deemed Planning Permission are identified in red below:

Annex 1 Part 1: Description of development

The wind powered electricity generating station known as Rothes III with a generating capacity exceeding 50MW, as depicted in Figure 1.2 ~~of the EIA Report~~ (attached at Annex 3 – Part 1), subject to the exclusion of the Excluded Development described in Part 2 of this Annex.

The principal components of the wind farm and ancillary development comprise:

- 28 turbines, turbines numbered ~~9, 13 and 14 will have a maximum tip height of 149.9 metres~~, turbines numbered 1, 2, 3, 4, 5, 6, 7, ~~9~~, 13, 14 and 29 will have a maximum tip height of 200 metres and turbines numbered 8, 10, 11, 12, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28 which will have a



maximum tip height of 225 metres and their foundations and associated crane hard standing areas;

- External transformer housing;
- Site tracks;
- Crane pads;
- Two substations;
- Underground electricity cables;
- Temporary construction and storage compounds;
- Up to six temporary borrow pits; and
- Associated works/infrastructure.

Part 2- Excluded Development

The following exclusions are made from this consent:

- 1 turbine, numbered 15, (as depicted on Figure 1.2 ~~of the EIA Report~~ (attached at Annex 3 – Part 1));
- Any access tracks associated with the turbine numbered 15; and
- Any crane hard standing areas associated with the turbine numbered 15

Annex 2 part 1 - Section 36 consent conditions

There are no variations proposed in respect of Annex 2 Part 1.

Annex 2 part 2 – Deemed planning permission conditions

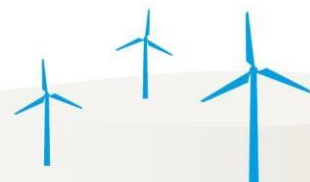
The proposed amendments to Annex 2 are identified in red below:-

12. Micrositing

(1) The turbines shall be erected and the site tracks and other infrastructure constructed in the positions indicated in Figure 1.2 (~~attached at Annex 3~~) ~~of the EIA Report~~ save that the location of any turbine, track or associated infrastructure may be varied from the indicated position without further recourse to the planning authority by up to 50 metres, subject to the following restrictions:-

(a) No development shall take place until a finalised post-consent layout is approved in writing by the planning authority in consultation with SEPA, having regard to minimising the Proposed Development's impact on peat. The approved layout may be varied with the consent of the planning authority in consultation with SEPA;

(b) No development shall take place within 50 metres of any water course with the exception of any watercourse crossings;



(c) The advice of the Ecological Clerk of Works has been sought before any such variation is made;

(2) Furthermore, the position of Substation 2 may be varied to the position shown on **At Figure 1.2** (attached at Annex 3 – Part 2) or within 50 m of that position.

Reason: *to control environmental impacts while taking account of local ground conditions and to ensure the impact on peat is minimised such that the release of its embodied carbon is kept to a minimum.*

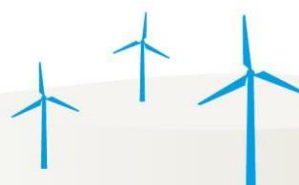
Annex 3 Part 1 and 2

The legend included within Annex 3 Part 1 and 2 plans reference the height of the turbines and is proposed to be amended to ensure that the Annex 1 description corresponds to the approved plans in Annex 3.

The Consent would remain unchanged except as specified above, with the existing conditions still applying to the development and securing the necessary safeguards and mitigation for the Proposed Development as assessed throughout the application and decision.

Restoration works, decommissioning and restoration of the site, at the end of the operational life of the Consented Development, are addressed by the conditions imposed by the Consent, and will not change as a consequence of the Proposed Variation.

For the avoidance of doubt, there are no changes necessary to the proposed mitigation measures secured by condition in relation to the Consented Development.



4 Screening

This application is made without prior screening and without an EIA report. It has been prepared in accordance with the guidance contained in the “Energy consents: applications for variation of section 36 consents guidance” Published 20 May 2019 (“the Guidance”).

The Proposed Variation has been considered against the criteria contained in Schedule 3 of the EIA Regulations. The environmental impacts of the Proposed Variation are described in this Planning and Environmental Report and there have found to be no additional significant impacts, cumulative impacts or increase in degree of impact that is significant over and above those found in respect of the Consented Development.

Scottish Ministers are therefore required to adopt a screening opinion under Regulation 10 of the Regulations (see Appendix 9). The information submitted to support this application is provided in accordance with Regulation 8 (2) of the Regulations but should Scottish Ministers find that there is information that remains to be provided, the applicant will provide such information on receipt of the notice required to be given under Regulation 10 (3).

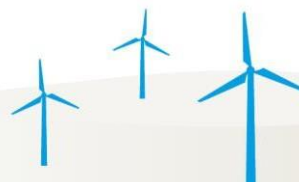
4.1 Information submitted required to accompany this Application

In terms of the EIA Regulations, “EIA development” means development which is either (a) Schedule 1 development; or (b) Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location. Schedule 2 to the EIA Regulations provides, at Part 2:

“Any change to or extension (including a change in the manner or period of operation) of development of a description listed in schedule 1 or in paragraph 1 of this schedule where that development is already authorised, executed, or in the process of being executed, and the change or extension may have significant adverse effects on the environment.”

If a development is a change to or an extension of a development described in Paragraph 1 of Schedule 2 (in this case a generating station), it falls to be considered under Paragraph 2 of Schedule 2. As shown by the information provided to support this application, there are found to be no additional significant impacts arising from the Proposed Variation. As such the Proposed Variation does not constitute Schedule 2 development and, it is submitted can be found that it is not therefore EIA development.

This application and Planning and Environmental Report and the accompanying appendices address the impacts particularly in terms of paragraph 33 of the Guidance “*in determining whether there would be significant adverse effects,*



consideration needs to be given both to the effects of the change itself, and to the overall or cumulative impact of the proposed variation”.

The information provided together with this application demonstrates that the Proposed Variation will not have a likely significant effect on the factors specified in Regulation 4(3) of the regulations over and above those assessed and found to be acceptable for the Consented Development.

4.2 Scope of assessment

For the purposes of this assessment the baseline is considered to be the existing Consented Development and the assessment therefore only considers the impacts arising as a result of the proposed 50.1m tip height extension to 3no consented turbines, number T9, T13 and T14.

As there is no change to the layout from the Consented Development, the Proposed Development will not result in any additional residues, emissions or waste. But will, by increasing the Consented Development’s contributions to renewable energy generation, contribute to a greater reduction in carbon emissions.

In addition, as there are no proposed changes in layout to the Consented Development there will be no additional effect on natural resources including soils, land, water and biodiversity.

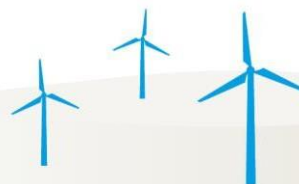
4.3 Assessment of potential effects in relation to EIA regulations

Section 5 considers the potential effects of the Proposed Variation in relation to the EIA Regulations and the Guidance.

An assessment has been undertaken of all the key environmental receptors and impacts and this is described in section 5. The environmental impacts of the Proposed Variation are considered independently and against Paragraph 33a-f of the Guidance, as set out in detail in Appendix 9.

Appendix 9 sets out the assessments against the screening criteria under the EIA Regulations.

An assessment has been undertaken of all the key environmental receptors and impacts and it has concluded that there will be no intensification of the effects of the Proposed Variation to those already assessed. The Landscape, Noise, Cultural Heritage, Ornithology and Ecology Assessments submitted with this application demonstrate that there are no additional significant effects or intensification of the effects created by the Proposed Variation. These assessments have been undertaken by qualified professionals and the CV’s of those undertaking the accompanying reports are set out in Appendix 11.



As there is no change to the layout from the Consented Development, the Proposed Development will not result in any additional residues, emissions or waste. But will, by increasing the Consented Development's contributions to renewable energy generation, contribute to a greater reduction in carbon emissions.

There are no proposed changes in layout to the Consented Development there will be no additional effect on natural resources including soils, land, water and biodiversity.

In line with the Guidance "and in particular Paragraphs 32 and 33 the Proposed Variation does not constitute EIA development because there would not be significant adverse effects, either from the effects of the change itself, or the overall cumulative impact of the Proposed Variation as required under Para, 32.

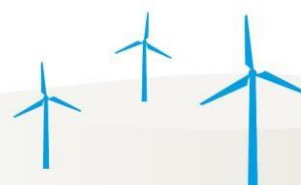
Nor is the Proposed Variation when considered together with its effect on the environmental impacts of the development as a whole, or with other cumulative impacts, found likely to have significant environmental effects.

The assessments of the environmental impacts of the Tip Height variation have concluded that the intensification of existing environmental effects would be so small as to be clearly insubstantial. There is no introduction of any new significant effects, as set out in Para 33 c. Nor does it "*intensify an existing significant effect an EIA would also be required*". As such the Proposed Variation is not considered to be Schedule 2 development and the Proposed Development is therefore not EIA Development, a finding which is consistent with Para 33b, c and d of the Guidance.

This application and supporting report invite the Scottish Ministers to find that the Proposed Development is not EIA Development and accordingly adopt a screening opinion to this effect under Regulation 10 (2).

The accompanying appendices and Section 5 assess in detail the potential environmental impacts from the Proposed Variation and are clear in their conclusion that the additional impacts generated from the Proposed Variation and considered as a whole and cumulatively.

It is considered that the Proposed Development will not require a change to the survey or assessment methodologies applied or results and findings of significance reached for the Consented scheme. It is submitted that there is no impact identified which would support any change to the findings of the Scottish Ministers as stated in the Consent.



5 Environmental Effects

An assessment by competent experts has been undertaken to identify the environmental effects likely to arise as a result of the Proposed Variation and identify whether these may be significant.

Schedule 9 of the Electricity Act 1989 sets out those aspects that must be considered by Scottish Ministers for the preservation of amenity and fisheries. Under Paragraph 3(2) (a). Paragraph 3 (1) Part (a) addresses the "...desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest". Part (b) of the same paragraph also addresses what reasonably can be done "... to mitigate any effect which the Proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects".

This Report and associated appendices provide the necessary environmental information to allow Scottish Ministers to carry out their duties under Schedule 9.

5.1 Assessed Development

The Proposal for assessment comprises the amendment to the Consented Development – namely a 50.1m tip height increase of the 3 no 149.9m turbines located on Carn na Cailliche, known as turbines 9, 13 and 14.

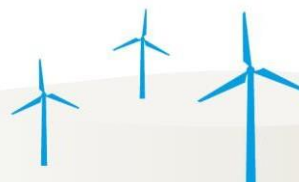
The Consented Development, and hence this Proposal, is located in an extensive area of commercial forestry plantation and open hill with rough grazing, it is also surrounded by a number of other operational and consented wind farms. The location of the Consented Development is free from designations and the Decision Letter of the Consented Development confirms this location's suitability for wind energy development. The principle of wind farm development at this location is not in question as a result of this variation.

It has been found that the Proposal does not significantly or materially change findings of significance reached in the S36 ES, Supplementary Information and Additional Information 2019, submitted in support of the Consented Development.

There will be no change to the layout or foundations from the Consented Development, the Proposal will not result in any additional residues, emissions or waste. It will however, by ensuring the Consented Development's contributions to renewable energy generation, contribute to a greater reduction in carbon emissions and add to the positive socio-economic benefits arising from the development.

5.2 Landscape and Visual Assessment

A Landscape and Visual assessment was undertaken by Pegasus Planning ("Pegasus") for the Consented Development (Chapter 8 of the EIAR) and Pegasus has assessed the impacts of this Proposed Variation.



The baseline for this assessment is the Consented Development of 28no turbines, ranging from 149.9m to 230m tip height (as set out in Section 3). The Consented Development was found to have significant LVIA impacts but these were deemed acceptable by the Scottish Ministers on page 11 of the Decision letter.

The decision letter addresses the key landscape considerations concluding

“The Scottish Ministers are satisfied that the significant adverse landscape and visual impacts, the proposed Development would have, are acceptable in the context of the net economic benefits and significant renewable energy benefits, in support of climate change mitigation, that would arise if the proposed Development were deployed.”

The Scottish Ministers accept and agree with the Reporters’ conclusions regarding the significance and extent of the landscape and visual effects of the proposed Development on Cairngorms National Park. The Scottish Ministers are satisfied that the impacts are acceptable and have adopted them for the purpose of their own decision.

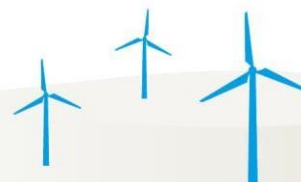
In relation to Visual Effects on Residential Properties *“The Scottish Ministers are satisfied that the impacts are acceptable and have adopted them for the purpose of their own decision.”*

The potential landscape and visual effects of the Proposal have been considered in detail against those assessed for the Consented Development in Appendix 2. The key conclusions of the assessment are set out below.

Since the LVIA was undertaken the two candidate Special Landscape Areas (SLAs), the ‘Spey Valley SLA’ and the ‘Ben Rinnes SLA’ have replaced the Spey Valley AGLV. The LVIA assessed the effects upon the candidate SLAs. In addition, the Moray Wind Energy Landscape Capacity Study (2017), which was current at the time of the LVIA, has been superseded by the Moray Wind Energy Landscape Sensitivity Study (May 2023). The Landscape Sensitivity Study, whilst adopting a different methodology to that of the former capacity study, performs the same function and Pegasus’ view is that the Landscape Sensitivity Study would not have altered the conclusions of the LVIA and neither does it alter the effects of the Proposal against the effect of the Consented Development.

The assessment has identified those landscapes and visual receptors where significant effects may have been borderline in the LVIA of the Consented Development or by the Reporters and whereby, the Proposal could bring about a further change which could elevate those previously not significant effects, to become significant. The assessment has also considered the degree to which the Proposal could further increase or intensify an existing significant effect.

There are no instances where the Proposal would alter the effects which were assessed within the LVIA or by the Reporters, the conclusions of which were adopted



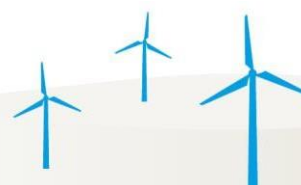
by Scottish Ministers. Whilst there could be potential for the Proposal to be seen, there are no instances where this would increase the previously assessed magnitude of change. Accordingly, the Proposal would not give rise to any new significant effects and nor would it increase or intensify the previously identified significant effects of the Consented Development to a material degree.

There are occasional locations which may have visibility of the Proposal that would not have previously seen the Consented Development, as shown in purple on the ZTV (Figure 2.2). However, overall, the additional areas of new potential visibility are limited. Where these occur, potential visibility will comprise the upper sections of the turbine blades (up to 50.1 m of up to three turbines) and which would be a very small, if at all noticeable, element within the middle-distant or distant views.

The increased tip height of the three turbines may be visible in addition to other turbines of the Consented Development for some receptors, as shown within the comparison wirelines at Figures 2.6a to 2.24b. However, in the context of the wider array, which includes turbines of the same height and taller, this change would not be at odds with the appearance of the wider array, nor that of the existing Rothes I and II turbines, or the undulating landscape upon which they are seen.

There are no residential properties located in areas where there is new theoretical visibility. A review the relationship with the nearest residential properties concludes that whilst there may be some properties from where the Proposal could add some additional theoretical visibility of the upper parts of turbines 9, 13 and 14, their position within the array places them behind other turbines and the Proposal would not result in a material change to their appearance within the context of the Consented Development. It is often the case however, that the view towards the site from properties are in any event, indirect, or additional screening exists within the intervening landscape. There would be no change to the judgement of effects that was previously identified in the LVIA or by Reporters and Scottish Ministers.

Pegasus have reviewed the changes which would occur from the Proposal and considered whether the overall balance and composition of the turbine layout remains one which corresponds to good design principles and key sensitivities including the visual relationship with existing wind development and with Càrn na Cailliche hill and the Spey Valley SLA. This review demonstrated that the increase in height of 50.1 m of three of the 28 turbines of the Consented Development would not result in any negative change to the overall design of the scheme. Turbines 9, 13 and 14 will continue to be seen to be behind the horizon in views towards Càrn na Cailliche and Hunt Hill and woodlands within the Spey valley will continue to provide some screening to many views.



In accordance with Paragraphs 33a and 33b of the Guidance (explained in detail in Section 4 and attached in full at Appendix 9) the variation should not be considered Schedule 2 on the basis of Landscape and Visual effects as the assessments concludes that variation is unlikely to have any significant environmental effects or that the intensification of existing environmental effects would be so small as to be clearly insubstantial.

In addition, in considering the guidance set out in 33d:

“If the proposed variation is likely to intensify an existing significant effect an EIA would also be required in order to provide decision-makers with information on the nature of that intensified significant effect. In other words, in this situation it would not be appropriate to say that because an effect was and still will be significant there is no need to provide further information describing what that new effect will be. The nature of the intensified significant effect will be different, and this may be material to determination of the variation application. The approach would not, therefore, just be about entirely new significant effects, or even whether the level of significance would necessarily change (e.g. from ‘moderate’ to ‘high’).”

The assessment finds that the impacts of the changes in tip height do not intensify the landscape and visual effects already considered in the IR and the DL to a material degree.

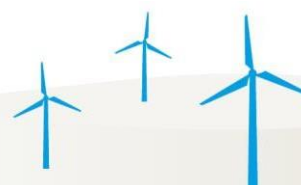
5.3 Ornithology

An assessment has been undertaken by Avian Consultants to assess any potential impacts from the proposed tip height increase, the full report is included at Appendix 7.

In terms of the consented development Ornithology was considered by the Reporters and Scottish Ministers in their decision letter who concluded that

“The Scottish Ministers have taken account the EIA Report, responses from consultees and third parties, the 2019 AI, the March 2020 SI, the April 2020 SI, the PI Report alongside the Reporters’ considerations and subsequent conclusions. The Scottish Ministers accept and agree with the Reporters’ conclusions regarding the impacts of the proposed Development on capercaillie as a qualifying interest of both the Darnaway and Lethen Forest and Anagach Woods SPAs and are satisfied that the measures proposed to manage the habitats within the proposed Development site in favour of capercaillie are sufficient to ensure that there would be no adverse effect upon the integrity of Darnaway and Lethen Forest SPA or Anagach Woods SPA.”

The assessment considered a varied envelope of potential new turbine models up to 200m for T9, T13 and T14 locations, the lowest rotor sweep would be 37m AGL, and so no new flights are drawn into the Collision Risk Zone (CRZ) by the proposed dimension change. Additionally, the swept area would no longer include any of the



flights in Height Band 2 (18-32m). As such, re-running the Collision Risk Assessment (CRA) has found that there would be a reduction in collision risk estimates for Important Ornithological Features (IOFs). In view of this, the CRA carried out previously is highly precautionary, and it is considered that there is no route to a change in significance of predicted effects from non-significant to significant due to the proposed change to turbine specification.

There is over 20 years of assessment and survey work and there is no evidence of broad-scale changes to habitats present, or to local populations of bird species, such rendering the baseline used for assessment invalid. As such it is considered that baseline results recorded previously are likely to remain representative of conditions at the site, and so to be a sufficiently robust basis for updated assessment of impacts in the context of the proposed minor change to scheme design. The reader is referred to Appendix 7 for further information on this topic.

5.4 Ecology

An assessment has been undertaken by Avian Consultants to assess any potential impacts from the proposed tip height increase upon Ecology, the full report is included at Appendix 7.

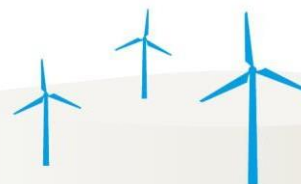
In terms of the consented development ecology was considered by the Reporter and Scottish Ministers in their decision letter who concluded that:

“The Scottish Ministers conclude, following advice from NatureScot, and in view of the conservation objectives of the River Spey SAC that, subject to mitigation measures proposed in the EIA Report (chapter 6 – Ecology, paragraphs 6.11.24 to 6.11.35) the proposed Development will not adversely affect the integrity of the site.”

For all species of bats a minimum 50m distance between treetops and blade tips is required. The assessment provided in Appendix 7 has assumed a tree height of 30m. The buffer required for either of the 200m to tip candidate turbines considered for this site is either 87.75m or 97.26m. The buffer provided for the Consented Scheme at the locations of Ts 9,13 and 14 which are subject to the Proposed Variation is 101.05 m. There is no change to this buffer proposed as part of this application and therefore there remains an exceedance in the buffer provision as described in Appendix 7.

There is no evidence of notable changes to habitats present, or any indications changes may be expected to have occurred in local populations of bat species, such to render the baseline used for assessment invalid. As such it is considered that baseline results recorded previously are likely to remain representative of conditions at the site, and so to be a sufficiently robust basis for updated assessment of impacts in the context of the proposed minor change to scheme design.

The assessment of changes of effects of the proposed tip height extension over and above those assessed for the Consented Development has concluded that the predicted collision risk to Important Ecological Feature's (IEFs) and residual



significance for all IEF's is considered to remain not significant as set out in Appendix 7.

The Ornithological and Ecological Appraisal has been considered against the Guidance for variations, in particular paragraph 33. The findings conclude that the Proposed Variation will not lead to an increased environmental impact either alone or as part of the development as a whole, such to increase significance of effects from not significant to significant. Any intensification of existing environmental effects has been found to be so small as to be insubstantial nor would they lead to intensification of the effects to a level where they become significant or introduce any new significant effects. There are no existing significant effects, and no non-significant effects would be intensified to a level where they would become significant as such the Proposed Development is considered Non-EIA development.

5.5 Aviation Safety

The Consented Scheme considered Aviation Safety and the provision of a reduced lighting scheme was addressed by evidence provided to the Public Inquiry which expanded and updated the proposed reduced lighting scheme agreed for the Consented Development.

Following the detailed assessment Scottish Ministers concluded in their decision letter that:

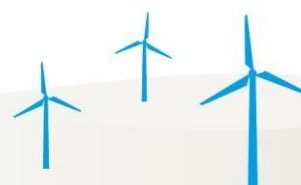
“Subject to conditions, would have no significant adverse effect on aviation or defence interests, road traffic or adjacent trunk roads.”

The Ministers also attached conditions to the consent to ensure appropriate mitigation is controlled, Condition 5 (radar mitigation) and 6 (Aviation Lighting) and 21 (Aviation Safety).

A further Aviation assessment has been undertaken to assess any potential impacts or changes required for the proposed tip height extension over and above the existing lighting scheme and radar mitigation. The re-design of the lighting scheme has been undertaken by Malcom Spaven of Aviatica, who has been involved with extensive discussions over aviation in the Moray area for a number of years, the assessment is set out in Appendix 10.

The assessment undertaken by Mr. Spaven, concludes that the proposed re-design of the Rothes III Development, involving the raising of the blade tip heights of Turbines 9, 13 and 14 to 200m agl, will not lead to any regulatory or aviation safeguarding policy requirement to revise the wind farm lighting scheme approved by the CAA on 20 August 2020.

The provision of radar mitigation and visible lighting is addressed by conditions 5 and 6 of the Annex 2 part 1 - Section 36 consent conditions. There are no changes proposed to either of these conditions.



5.6 Traffic and Transport

The consented application considered the impacts upon Traffic and Transport in. This concluded that no significant effects would arise from the construction traffic and abnormal loads. The consented route utilises the route used for the existing Developments of Rothes I and Rothes II. Further to this the Consented Development sought to reuse existing tracks to reduce the need for new tracks.

The proposed tip height will not increase the schemes overall maximum tip height, and the Traffic Assessment carried out in respect of the Consented Scheme considered 200m to tip height and turbines greater than this. The Proposed Variation does not include any turbine component that has not been assessed. As such it is possible to confirm that the delivery of the components for turbines up to 200m to tip has already been assessed as achievable, no additional vehicle movements would be required and there will be no additional effects.

Conditions 14 and 15 of the approved consent secure the mitigation for any potential impacts upon road safety and traffic flow as a result of Construction Traffic and Abnormal Load Access. There are no significant changes to the impacts of the variation upon traffic and transport and conditions 14 and 15 these conditions remain appropriate.

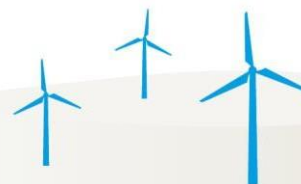
Paragraphs 6.62 to 6.64 of the Inquiry Report (Appendix 4) contain the findings of the Reporters on this topic, with which the Scottish Ministers agreed.

5.7 Noise and Shadow Flicker

The impacts of Noise and Shadow Flicker were considered as part of the assessment of the consented scheme and by the Reporter. It was noted that the intention to protect amenity could be ensured through a monitoring condition when considering the potential noise impacts and that the individual and cumulative noise levels would not exceed the 38 dB LA90 at any property, ensuring that there would be no significant effects. The reported considered noise in detail in paragraphs 6.75 to 6.83 of the report, with the key conclusion set out below:

“6.75 The EIAR assessed the effects of the original proposal. It assessed nearby properties to determine whether for any immissions would be greater than 28 dB LA90, a level 10 dB below the noise limit for existing turbines at the existing Rothes II windfarm. It found that at eight of the nearest properties, the predicted noise immissions would exceed 28 dB LA90. However, the cumulative effect, assessed with existing and consented windfarms, was not predicted to exceed the limit of 38 dB LA90 at any property. Consequently the effects were not found to be significant.”

A further noise assessment has been undertaken to assess the potential impact of the tip height increase of the 3 no turbines. The full assessment and noise contour plan is included in Appendix 6. The noise assessment shows that the predicted operational noise levels are below the limits set out in the consented decision letter, meaning the



Proposed Variation can operate within the noise limits applied to the consented development. *When the predicted levels for the tip height change are compared to those presented in the original EIAR (para 13.5.1 to 13.5.18), then all of the properties are predicted to have a Predictive noise level below the consented noise limits..* Table 6 in Appendix 6 demonstrates this and confirms that the conditions imposed on the Consented Development remain appropriate and the proposed variation is able to meet the limits set out in Condition 22

In terms of AM, this has not been considered specifically in this report, but the paragraphs discussing AM in the original EIA (13.3.20-13.3.23) are still relevant in this scenario. The main conclusion of which is that most wind farms operate without significant AM, but it can be controlled, if necessary,, by a suitably worded planning condition. As such, Note 4 in the Guidance Notes of the decision notice would still apply (as per paragraph 2.4 of Appendix 6).

The noise assessment as contained in Appendix 6 concludes that noise levels of the Proposed Variation will meet the noise limits set out in Decision letter for the Consented Development. Therefore the Proposed Variation will not have any significant environmental effects above the Consent Development or that the intensification of existing environmental effects would be so small as to be clearly insubstantial in line with the Guidance for variations in paragraph 33.

The Consent includes a noise condition, Condition 22. This sets out in detail the limits to be applied to the Development. The condition sets out a monitoring procedure, complaints procedure, including for amplitude modification and specifies the noise limits for the nearest receptors, set out in Tables 1 and 2 in Condition 22. Guidance Notes for Noise are also included as part of the Consent. There is no proposal to amend this condition as it has been shown in Appendix 6 that the development as varied can operate within the specified limits.

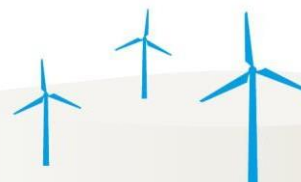
In regard to Shadow Flicker Chapter 14.9 of the EIAR concluded that:

“14.9.1 Standard guidance states that shadow flicker occurs within ten rotor diameters of the turbine, and that effects only occur within 130 degrees either side of north relative to the turbines. Beyond these limits it is considered that potential impacts associated with shadow flicker will not be significant.

14.9.2 As there are currently no residential properties identified within 10 rotor diameters of the nearest turbines there is no need to undertake an assessment within this EIAR.”

The Reporter assessed shadow flicker in paragraphs 7.14 to 7.16, concluding *“We do not consider problematic shadow flicker is likely to arise in such circumstances. Consequently, we find a condition in the form sought by the council would not be necessary.”*

As the locations of the turbines are to remain as consented even with the proposed increase in height of the three specified turbines, the distance to the nearest receptors



will still be beyond the required separation distance for the potential impacts of shadow flicker. This meaning that no additional assessment is required, as there will be no change to the consented baseline position.

5.8 Hydrology and Geology

The impacts upon Hydrology and Geology were considered as part of the consented development this concluded that subject to the measures set out in the Construction Environment management Plan the potential effects from the development during construction or operation would be minor and was not significant in EIA terms for hydrology, hydrogeology and geology.

The Reporter assessed hydrology in paragraphs 6.3-6.5, concluding that: *“Subject to these measures, the EIAR found that there would be no significant effect on geology, hydrogeology or hydrology.”*

Flooding was considered by the reporter in paragraphs 6.20 -6.21 concluding that *“with an appropriate drainage design that would mimic natural flow volumes and patterns as far as possible and with appropriately sized and designed water crossings, the residual cumulative flood risk would represent a negligible/minor effect and would not be significant.”*

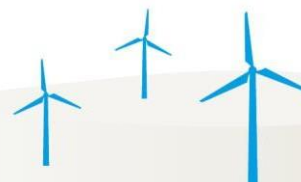
The Proposed Variation to tip height will not generate any changes to the impacts upon Hydrology and Geology, as no changes are necessary to the groundworks or foundations. As such there will be no changes in the impacts or intensification of the Proposed Variation upon these environmental receptors. The reporter considered the cumulative impact of the consented development and concluded that there would not be a significant cumulative impact on downstream flooding (para 6.21)

Conditions 13 (Construction Management Plan) and 16 (appointment of an ECoW) of the Consented Scheme will ensure that appropriate environmental and ecological safeguards are put in place during construction and monitored throughout. These conditions remain relevant and are not proposed to be amended as part of this application.

5.9 Peat and Carbon Rich Soils

At paragraph 6.14, the Reporters found that subject to the imposition of the conditions as proposed and the removal of Turbine 15 to avoid deep peat, it was found that the Consented Development would not have a significant effect on deep peat and the conclusions of the Reporters on the likely significant effects were adopted by the Scottish Ministers (pg 24 of the Decision Letter).

The internal site infrastructure is to remain as consented, noting that turbine 15 has not been consented. The description of development included at Annex 1 of the Consent for the Consented Development (as set out showing proposed amendments in Appendix 5) remains unchanged in this respect and there is found to be no material change to the impacts upon Peat from the Proposed Variation. The residual impacts will remain non-significant and will not intensify the impacts of the consented

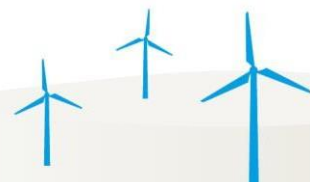


development upon peat. This was not considered a main determining issues by Ministers as set out in page 13 of the Decision Letter.

The Proposed Variation will have the potential to increase in the carbon savings of the Consented Development. The Scottish Ministers were satisfied that the Consented Development would provide carbon savings *“of an order that weighs in favour of the Proposed Development”* (pg 18 of the DL) which are already deemed acceptable and weigh in favour of the development.

The Scottish Ministers found (at page 18 of the DL) *“The carbon payback figures for the proposed Development have been presented in the EIA Report (Technical Appendix 10-5) using the approved Scottish Government carbon calculator. In overall terms the proposed Development, if built, would be expected to have a payback period of 2.3 years if it replaces the fossil fuel mix, 1.2 years if it replaces coal-fired and 3.8 years if it replaces a grid mix of electricity generation.....”*

The Proposed Variation does not make any change to the layout or infrastructure provision as included in the Consented Development. The proposed mitigation measures and control over development secured under the conditions imposed as part of the Consented Development remain in place. The only changes proposed to the conditions imposed are set out in section 3 above. In particular, Conditions 12 (Micrositing) and 13 (Construction Environmental Management Plan) are not proposed to be changed and will continue to ensure the appropriate mitigation measures are delivered and the final location of all infrastructure is approved prior to commencement of development. If permitted the additional generating capacity of the three larger turbines will further improve the Carbon Balance of the overall project, through a small but meaningful increased installed generating capacity.



5.10 Forestry

The impacts upon Forestry were considered for the Consented Development and by the Reporter as part of the inquiry report. The report accounted for the fact that the development mainly lies in an area of existing commercial forestry and open hillside with rough grazing. The existing commercial forestry and the impacts that the Proposed Development would have upon forestry was reviewed. It was concluded that compensatory planting of native woodland would ensure that there was no significant adverse effect upon forestry.

The reporter concluded *“We find that neither the original proposal nor the alternative proposal would have a significant adverse effect in respect of forestry.”*

There are no proposed changes to the previously assessed Forestry impacts, due to the fact that the three turbines which are to be increased in height are located on the slopes of Carn na Calliche Hill which is open hill and rough grazing. The consented scheme considers all impacts upon forestry and there will be no changes or intensification to these impacts.

It is not proposed to amend Condition 19 which secures the provision of compensatory planting will remain if the Proposed Variation is consented.

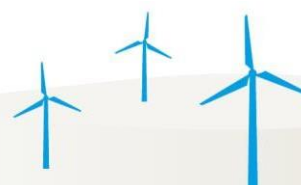
5.11 Cultural Heritage and Archaeology

The consented application considered the impacts upon Cultural Heritage and Archaeology. It was concluded for the Consented Development that no designated assets lie within the proposed construction footprint and it lies in an area of low archaeological potential. There is no direct impact upon any Scheduled Monument and effects on the setting of Scheduled Monuments and Listed Buildings were found not to be significant. Three assets of local heritage importance were identified within the site and measures are secured by condition to protect these archaeological resources.

The Reporter concluded *“Subject to this proposed mitigation, we find that the proposed development would not have a significant effect on cultural heritage assets.”*

A review of the previously assessed Cultural Heritage assets identified potential visibility from 18 previously un-assessed Heritage Assets. These assets were identified using the updated Zone of Theoretical Visibility (ZTV) which considers the increase in tip height for Turbines 9, 13 and 14. A settings assessment was undertaken alongside a review of the Magnitude of Impact of the proposed tip height extension to confirm the Significance of the proposed Effect of the tip height extension upon the previously un-assessed Heritage Assets.

The assessment concluded that there would be a Negligible Magnitude of Impact and a Negligible Significance of Effect as a result of the Proposed tip height extension on all assets. It further concluded that there would be no additional



significant cumulative effects nor intensification of effects arising from the Proposed Development on all assets.

5.12 Major Accidents and Disasters

The impacts upon Health and Safety were considered for the Consented Development. It was concluded that the Consented Development would not present a significant safety risk to public health. The Proposed Variation will not alter the impacts upon Health and Safety as such it is concluded that the variation, like the Consented Development, will not pose a significant risk.

The Consented Development, and therefore the Proposed Variation, is not located within an area prone to disasters and the likelihood of such an event is extremely rare. Therefore, it is concluded that no significant increase in risk would arise as a result of the Proposed Variation.

Considerations of Population and Human Health (including Safety) have been assessed within the supporting documentation to the Consented Development and considered acceptable in the relevant consent. The Proposed Variation does not change these findings. The usual serious incident condition is imposed.

5.13 Socio Economic Benefits

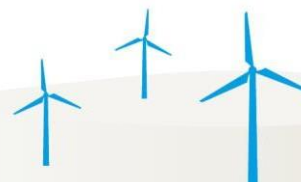
The Socio-Economic Benefits of the scheme were presented in evidence to the inquiry for the Consented Development. The Reporters found that the development would have a net benefit to the economy and employment during the various phases of development and the Scottish Ministers considered *“that the proposed development, if deployed would create net economic benefits”* (pg 23 Decision Letter at Appendix 3).

The Proposed Variation is proposed to allow all of the consented turbines to be built out, ensuring deployment of the Consented Development and maximising the economic benefits of the site. The Proposed Variation has the potential to lead to an increase in the installed capacity enabling more power to be generated making a greater contribution to energy generation. This is anticipated to lead to an increase contribution via rates and also an increase in Community Benefit fund which is based upon generating capacity. As such there is a potential from the Proposed Variation to increase the local and community socio-economic benefits of the wind farm.

5.14 Public Access to Land

Public Access to Land was considered for the Consented Development and by Scottish Ministers and it was concluded that mitigation measures were required to reduce any impacts, particularly during the construction period, but there were no significant effects identified from the Consented Development.

There are no changes proposed to the previously assessed access arrangements, as such the Proposed Variation to the tip height will not create any additional impacts.



Condition 23 (Access Plan) ensures the protection and enhancement of the access through the site and remains applicable to the Proposed Variation. This condition is not proposed to be varied.

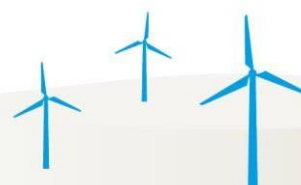
5.15 Assessment Summary

This section summarises the findings of the environmental assessments included with this application in the Appendices and attached to this Report. The assessments have used the consented scheme as the baseline and assessed the potential additional effects, cumulative effects and intensification of effects generated by the proposed tip height increase of 50.1m to turbines 9, 13 and 14. The assessments were informed by the criteria set out in Schedule 9 of the Electricity Act 1989 and in considered whether there were likely to be significant effects on the environment caused by the Proposed Development.

The environmental assessments of the proposed tip height increase have concluded that the height increase will not harm the preservation of amenity and fisheries. Natural beauty and the conservation of flora, fauna and geological or physiological features have been considered and it is concluded that there will be no more than a negligible impact upon these from the proposed height increase. The height increase will not cause more than an insubstantial impact over that already assessed and found to be acceptable for the Consented Development.

The criteria set out in Paragraphs 33a and 33b of the Guidance (explained in in Section 4 and set out in detail in Appendix 9) has been considered against the assessed impacts of the Proposed Development. Accordingly, it is the position of the Applicant that the Proposed Development does not fall to be considered as a Schedule 2 development on the basis that the assessments each conclude that this development is unlikely to have any significant environmental effects or that the intensification of existing environmental effects would be so small as to be clearly insubstantial in accordance with the Guidance.

There are no changes to the mitigation measures to be approved and implemented as part of the Consented Development.



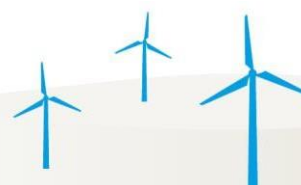
6 Consultation Statement

ECU -The Energy Consents Unit has been consulted on the Proposed S36C Variation via a pre-application meeting. A discussion was held regarding the intention to submit an application and the proposed timescales for doing so. Views expressed by the ECU have been taken on board by the applicant and reflected in this application. A subsequent meeting was held to discuss Regulation 10 and the guidance in relation to EIA and the proposed timeframe for submission.

Moray Council - The council have been written to and offered the opportunity to discuss the scheme in advance and also to agree their requirements for electronic and hard copies of the application. The council acknowledged the email and requested one full hard copy.

Community Council- The Community Councils and associations of Speyside, Heldon, Rothes and Aberlour have been informed of the Proposed Variation to the existing consent and no comments were raised at this stage.

Publication and service of notice of application – the application will be published and served in accordance with the requirements of Regulation 4 of the Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013/304.



7 Policy Assessment

7.1 Introduction

This policy assessment will focus on the Energy Climate Change and Planning policy which has been updated or replaced following the issuing of the Scottish Ministers Decision. The Scottish Ministers considered the application for the Consented Development against the policies which were pertinent to the development before the Oct 2022 decision was issued.

Section 5 of this statement addresses the potential for any **additional impacts** of the Proposal over and above those considered in respect of the Consented Development. The Applicant does not hold a licence or exemption under the Electricity Act 1989 and therefore the duties imposed by Schedule 9 do not apply to it. However, the information provided to support this application is sufficient to allow the Scottish Ministers, as decision maker, to carry out their duty under Schedule 9, Paragraph 3 (2) (a) to:-

“have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest”

The information also allows Scottish Ministers to consider the extent to which the Applicant has done what they reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects as far as is appropriate for the Proposed Development.

This Policy Assessment will address the Planning and Energy Policies which are material to this Application.

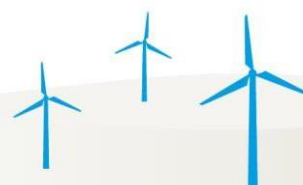
7.2 Climate Change and Renewable Energy Policies

In addition to policies that were considered as part of the Original Consented Development the following additional energy and climate change policies have come into force since the decision of October 2022 and the issuing of the Reporters report in February 2022.

It is relevant to note that the Proposed Variation to the Consented Development will ensure that the full capacity of the site can be realised ensuring the maximum generation of electricity from a renewable resource which, compared to fossil fuel based generating methods, will reduce the amount of carbon dioxide from long-term carbon stores being emitted into the atmosphere

COP 26 The Glasgow Climate Pact

One outcome of this UN climate change conference held in Glasgow during November 2021 was a commitment by 190 countries including the UK to replace coal and other fossil fuels with cleaner alternatives:



“We need to phase down the use of all fossil fuels across the energy sector. At COP26, 34 countries and 5 public finance institutions committed to end direct public support (c.\$24 billion annually) for the international unabated fossil fuel energy sector by the end of 2022. This is a huge leap forward and will free these funds and many more in the private sector for deployment in renewable energy”.

The Proposed Variation would further contribute towards the above goal. To replace coal and other fossil fuels with cleaner alternatives.

COP 27 - 2022

COP 27, whilst focussing on the loss fund, also reiterated its support for renewable energy, the key takeaways from the conference are set out below.

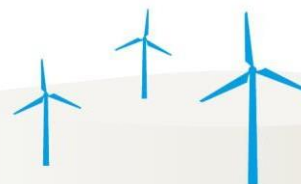
“On 20 November, the 27th Conference of the Parties to the United Nations Framework Convention on Climate Change (COP27), that took place in the Egyptian coastal city of Sharm el-Sheikh, concluded with a historic decision to establish and operationalize a loss and damage fund.

Renewable Energy

The science is clear: to avoid the worst impacts of climate change, emissions need to be reduced by almost half by 2030 and reach net-zero by 2050. Fossil fuels still account for more than 80 percent of global energy production, but cleaner sources of energy are gaining ground. About 29 percent of electricity currently comes from renewable sources.

Five reasons why renewable energy is better:

- 1) **Renewable energy sources are all around us.** *The International Renewable Energy Agency (IRENA) estimates that 90 percent of the world’s electricity can and should come from renewable energy by 2050.*
- 2) **Renewable energy is cheaper.** *The cost of electricity from solar power fell by 85 percent between 2010 and 2020. Costs of onshore and offshore wind energy fell by 56 percent and 48 percent respectively. Although solar and wind power costs are expected to remain higher in 2022 and 2023 than pre-pandemic levels due to general elevated commodity and freight prices, their competitiveness actually improves due to much sharper increases in gas and coal prices, says the International Energy Agency (IEA).*
- 3) **Renewable energy is healthier.** *The unhealthy levels of fine particulate matter and nitrogen dioxide originate mainly from the burning of fossil fuels. In 2018, air pollution from fossil fuels caused \$2.9 trillion in health and economic costs, about \$8 billion a day. Switching to clean sources of energy, such as wind and solar, thus helps address not only climate change but also air pollution and health.*
- 4) **Renewable energy creates jobs.** *An estimated 14 million new jobs would be created in clean energy, resulting in a net gain of 9 million jobs. In addition, energy-related industries would require a further 16 million workers, for instance to take on new roles in manufacturing of electric vehicles and hyper-efficient appliances or in innovative technologies such as hydrogen.*



- 5) **Renewable energy makes economic sense.** *About \$7 trillion was spent on subsidizing the fossil fuel industry in 2022. In comparison, about \$4 trillion a year needs to be invested in renewable energy until 2030. The reduction of pollution and climate impacts alone could save the world up to \$4.2 trillion per year by 2030. Moreover, efficient, reliable renewable technologies can create a system less prone to market shocks and improve resilience and energy security by diversifying power supply options'*

The Proposed Development and the Proposed Variation is supported by the key takeaways relating to renewable energy at COP27. Especially through the creation of jobs via Renewable Energy which was assessed by the Original Consent Scheme as making a considerable contribution to job creation and the economy as a whole. The Proposal will also ensure the delivery of further renewable energy by 2030, aiding the reduction of carbon and target of Net Zero.

COP 28 – 2023

COP 28 was held in the United Arab Emirates from the 30 Nov – 12 Dec. It concluded with:

“COP28 closed today with an agreement that signals the “beginning of the end” of the fossil fuel era by laying the ground for a swift, just and equitable transition, underpinned by deep emissions cuts and scaled-up finance.

In a demonstration of global solidarity, negotiators from nearly 200 Parties came together in Dubai with a decision on the world’s first ‘global stocktake’ to ratchet up climate action before the end of the decade – with the overarching aim to keep the global temperature limit of 1.5°C within reach.

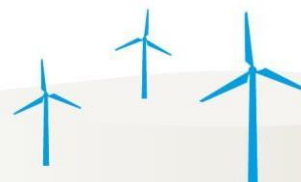
“Whilst we didn’t turn the page on the fossil fuel era in Dubai, this outcome is the beginning of the end,” said UN Climate Change Executive Secretary Simon Stiell in his closing speech. “Now all governments and businesses need to turn these pledges into real-economy outcomes, without delay.”

The Press release following the end of the conference stated:

“UN Climate Change News, 13 December 2023 – The United Nations Climate Change Conference (COP28) closed today with an agreement that signals the “beginning of the end” of the fossil fuel era by laying the ground for a swift, just and equitable transition, underpinned by deep emissions cuts and scaled-up finance.

In a demonstration of global solidarity, negotiators from nearly 200 Parties came together in Dubai with a decision on the world’s first ‘global stocktake’ to ratchet up climate action before the end of the decade – with the overarching aim to keep the global temperature limit of 1.5°C within reach.

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his closing speech. “Now all governments and businesses need to turn these pledges into real-economy outcomes, without delay.”

The global stocktake is considered the central outcome of COP28 – as it contains every element that was under negotiation and can now be used by countries to develop stronger climate action plans due by 2025.

The stocktake recognizes the science that indicates global greenhouse gas emissions need to be cut 43% by 2030, compared to 2019 levels, to limit global warming to 1.5°C. But it notes Parties are off track when it comes to meeting their Paris Agreement goals.

The stocktake calls on Parties to take actions towards achieving, at a global scale, a tripling of renewable energy capacity and doubling energy efficiency improvements by 2030. The list also includes accelerating efforts towards the phase-down of unabated coal power, phasing out inefficient fossil fuel subsidies, and other measures that drive the transition away from fossil fuels in energy systems, in a just, orderly and equitable manner, with developed countries continuing to take the lead.

In the short-term, Parties are encouraged to come forward with ambitious, economy-wide emission reduction targets, covering all greenhouse gases, sectors and categories and aligned with the 1.5°C limit in their next round of climate action plans (known as nationally determined contributions) by 2025.”

COP28 calls for a tripling of renewable energy capacity, to help phase out coal power and transition away from fossil fuels. The Proposed Variation is supported by the agreements of COP28 in that it seeks to maximise renewable energy capacity and will provide a valuable contribution to the transition away from fossil fuels.

British Energy Security Strategy - April 2022

The strategy sets out how the UK can move towards a sustainable and internal energy supply, based upon a Ten-point plan.

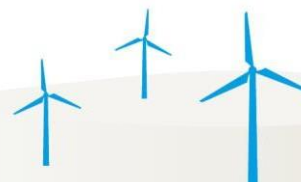
The key policies within the Strategy are Contained within the Renewables Section which states:

Renewables

Accelerating the transition from fossil fuels depends critically on how quickly we can roll out new renewables. Our ‘Ten point plan for a green industrial revolution’ has already put the UK at the forefront of many renewable technologies, delivering £40 billion of private investment in under 2 years. By the end of 2023 we are set to increase our capacity by a further 15%. But now we must go further and faster, building on our global leadership in offshore wind.

Onshore wind

Onshore wind is one of the cheapest forms of renewable power. The UK already has over 14GW of onshore wind, with a strong pipeline of future projects in Scotland. We



will improve national network infrastructure and, in England, support a number of new projects with strong local backing.

The government is serious about delivering cheaper, cleaner, more secure power, so we need to consider all options. That is why we included onshore wind in the latest Contracts for Difference auction round and will include it in future rounds.

In Scotland, which has its own planning system, we will work with the Scottish Government to ensure communities and landscape issues are considered for future projects.

In Wales, we will support the work underway by the Welsh Government, Ofgem, and networks to improve grid connections.

In the more densely populated England, the government recognises the range of views on onshore wind. Our plans will prioritise putting local communities in control. We will not introduce wholesale changes to current planning regulations for onshore wind but will consult this year on developing local partnerships for a limited number of supportive communities who wish to host new onshore wind infrastructure in return for benefits, including lower energy bills. The consultation will consider how clear support can be demonstrated by local communities, local authorities and MPs.

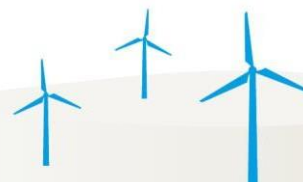
We will also look at arrangements to support the repowering of existing onshore wind sites when they require updating or replacement. With advances in technology this process can enhance capacity and provide new opportunities for communities to benefit.

The Proposed Development is already consistent with the Strategy, in that it has potential to deliver cheaper and cleaner power. However, the Proposed Variation will further increase the capacity in line with the final paragraph of the policy that states “*With advances in technology this process can enhance capacity and provide new opportunities for communities to benefit.*”

This variation application is proposed due to the advances in technology since the Original Consented Scheme was proposed and consented. The relatively minor variation in terms of the overall 28 turbine scheme will ensure that the output of the project is maximised and the opportunities for communities to benefit without the need to introduce a greater number of turbines nor significantly increase the impacts arising from the Consented Development.

Onshore Wind: Policy Statement (OWPS) – December 2022

Produced by Scottish Ministers as an update to the previous OWPS, the revised statement “*Sets out our ambition to deploy 20GW of onshore wind by 2030, as well as details on the formation of an onshore wind sector deal*”.



The statement aims to accelerate the transition to a net zero society, to speed up the delivery of net zero seeing Scotland as a frontrunner on onshore wind which is a cheap and reliable low carbon technology.

Chapter 1: Ambitions and Aspirations set out the current and future deployment ambitions and stated:

“1.1. Current Deployment

1.1.1. *The Scottish Government has had a long-standing target to generate the equivalent of 100% of gross Scottish electricity consumption* from renewable sources by 2020, with figures showing that Scotland reached 98.8% in 2020.*

1.1.2. *We must now go further and faster than before. We expect the next decade to see a substantial increase in demand for electricity to support net zero delivery across all sectors, including heat, transport and industrial processes.*

1.1.3. *National Grid’s Future Energy Scenarios project that Scotland’s peak demand for electricity will at least double within the next two decades. This will require a substantial increase in installed capacity across all renewable technologies.*

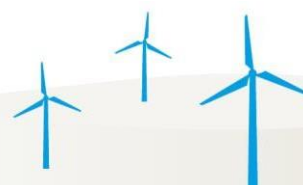
1.1.4. *Scotland hosts the majority of operational onshore wind capacity in the UK, and our aim is to maintain the supportive policy and regulatory framework which will enable us to increase that deployment.*

1.1.5. *As of June 2022, the UK has 14.6 GW of installed onshore wind, with 8.7 GW of this in Scotland. Onshore wind generated 17.2 GWh of electricity in 2021. Scotland additionally (as of June 2022) has as much as 11.3 GW of onshore wind currently in the pipeline, spread over 217 potential projects:*

Status	GW
In Planning/Consenting Process	5.53**
Awaiting Construction	4.56**
Under Construction	1.17

1.2. Deployment Ambition to 2030 - 1.2.1. *Our Climate Change Plan Update noted the need to develop 11- 16 GW of renewable capacity through to 2032. This is consistent with RenewableUK’s recently published ‘Onshore Wind Industry Prospectus’, which sets out the need for Scotland to develop an additional 12 GW of onshore wind, meaning a total of 20.4 GW installed capacity, by 2030.*

1.2.2. *The Climate Change Committee (CCC) has developed four exploratory scenarios for emissions to 2050. These estimate that, in every scenario, the UK will require a total of 25-30 GW of installed onshore wind capacity by 2050 to meet government targets - which would mean doubling the current UK installed capacity.*



1.2.3. *The amount of capacity ultimately developed will continue to depend on a range of factors, which are covered in this document. These will also be considered alongside:*

- *the development of other generating technologies and innovations; and,*
- *the decarbonisation pathways and demand growth across other sectors such as heat, transport and industry.*

1.3. Our 20 GW Ambition - 1.3.1. *Our Programme for Government 2022/2023 committed the Scottish Government to publishing this final Onshore Wind Policy Statement and a Vision for Onshore Wind in Scotland, enabling up to 12 GW of onshore wind to be developed. It is vital to send a strong signal and set a clear expectation on what we believe onshore wind capacity will contribute in the coming years.*

1.3.2. *In line with this commitment, and reflecting the natural life cycles of existing windfarms, this statement sets a new ambition for the deployment of onshore wind in Scotland:*

A minimum installed capacity of 20 GW of onshore wind in Scotland by 2030.

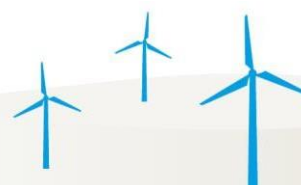
1.3.3. *This ambition will help support the rapid decarbonisation of our energy system, and the sectors which depend upon it, as well as aligning with a just transition to net zero whilst other technologies reach maturity.*

1.4. Legislative Context –

1.4.1. *The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (the Act) was passed by Scottish Parliament in September 2019. The Act commits Scotland to achieving net zero greenhouse gas emissions by 2045 at the latest, and also sets two interim targets to reduce emissions by 75% by 2030 and by 90% by 2040.*

Chapter 1 sets out the Scottish Governments clear and ambitious targets. The Proposal is compliant with these ambitions and the increase in height ensure that the site's generation capacity is maximised.

Chapter 2: Delivering on our Ambition for Onshore Wind in Scotland, sets out the collaborative approach required to deliver the ambitions climate change targets. It also sets out the strategic leadership of the Onshore Wind Group in Scotland. It goes on to set out the scope of the Sector Deal, which was subsequently adopted in September 2023 and is considered in its entirety below.



Chapter 3: Environmental Considerations: Achieving Balance and Maximising Benefits, sets out the opportunities for the use of land and the delivery of affordable and low carbon energy. It states:

3.2.3. We are aware of the varying demands on land in Scotland and that a balance must be struck to best serve our net zero ambitions. Our Land Use Strategy, published in March 2021 stated:

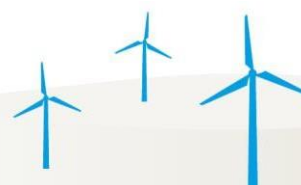
"Our land contributes to climate change mitigation in many ways. Scotland has a long and positive history of harnessing renewable energy and our capacity to generate it will need to be increased to meet our net zero targets. Our energy will continue to be provided by a wide and diverse range of renewable technologies, including onshore wind. We will need to continue to develop wind farms, in the right places, and also look to the extension and replacement of existing sites. As set out in our Onshore Wind Policy Statement, in order to achieve this developers and communities will need to work together to ensure that projects strike the right balance between environmental impacts, local support, benefit, and – where possible – economic benefits for communities, for example through community ownership or other means... "

3.2.4. As Scotland moves towards a net zero economy there will need to be significant land use change from current uses to forestry and peatland restoration. This needs to happen alongside ensuring space for other essential activities such as food production, renewable energy generation, including onshore wind, and the protection and enhancement of habitats and biodiversity.

The Proposed Development will not affect the balance of land uses across the site beyond the levels which have already been considered acceptable. The emphasis placed on achieving this balance in the revised OWPS nevertheless provides continued support for ensuring these outcomes are deliverable.

3.3. Peat and Carbon-Rich Soils - *3.3.1. Scotland has over 2 million hectares of peatland, equating to approximately one third of its land area, and our peatlands are of national and global significance. In good condition, peatlands provide multiple benefits: capturing and storing carbon, supporting nature, reducing flood risk, cleaning the water that feeds burns and lochs, and providing places for leisure that can support health and wellbeing. However, around 75% of our peatlands are degraded through drainage, extraction, overgrazing, burning, afforestation and development.*

The Reporter found that the impact upon peat and the proposed mitigations and risk assessments were acceptable once Turbine 15 was deleted, no changes will occur to the impact upon peat from the increase in tip height.



3.5. Biodiversity

3.5.1. Securing positive effects for biodiversity is one of six statutory outcomes for our fourth National Planning Framework (NPF4). Delivering both our emissions reduction targets and our wider national priorities for the environment and land use will require us to conserve and enhance biodiversity, protect and restore habitats and species populations while generating enough green electricity to support our economy and the decarbonisation of currently carbon-intensive sectors. Delivering these outcomes will support the achievement of our net zero and nature ambitions.

The consented scheme includes a substantial habitat improvement plan which will enhance the local peatland habitat and connectivity for capercaillie. This is discussed in Appendix 7 and is conditioned in the existing consent. The Proposed Development will deliver that biodiversity enhancement under Condition 17 which will continue to be imposed under the varied consent.

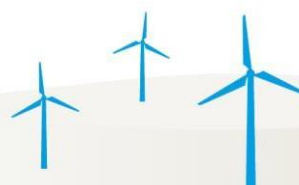
Chapter 4: Benefits to Local Communities and Financial Mechanism sets out the Community and Shared Ownership commitments for Onshore wind. The Development includes a community benefit scheme which is based upon the capacity of the Wind Farm, as such the maximisation of installed capacity and the building out of all 28 turbines will maximise the benefit potential for the Local Community.

Chapter 5 Onshore Wind and Benefits to Scotland, sets out the economic, employment and supply chain benefits of onshore wind. The Proposal is compliant with this as discussed in the Original Consented Scheme it will deliver economic and employment opportunities.

Chapter 6: Onshore Wind and Aviation Considerations, sets out that interrelationship between aviation and wind turbines, this was considered and approved with conditions as part of the Original Consented Scheme. The Proposal will not affect the approved hub height lighting scheme as discussed in section 4.5.

Chapter 7: Onshore Wind and Technical Considerations, sets out the delivery of turbines and other technical issues. An appropriate assessment has been undertaken on these considerations part of the Original Consented Scheme and the revised Proposal which concludes that these issues do not cause constraints for the Proposal, ensuring its compliance. Further to this there are conditions attached to the existing consent to ensure the Development does not result in negative impacts.

Whilst the Final version of the OWPS has yet to be published it nevertheless provides a strong indication of the Scottish Government's continuing commitment to meet its ambitious targets for climate change and renewable energy generation through the deployment of onshore wind. Further comment on progress towards these targets is provided under the Climate Change Committee's Report from March 2024 which itself is considered elsewhere in this Planning and Environmental Report. Overall therefore it remains the applicant's view that the Proposed Variation continues to sit comfortably



alongside these ambitions and can claim considerable support from the intentions and direction of this important policy statement.

Powering up Britain: Energy Security Plan - March 2023

The plan identifies how the UK can readdress its energy policy and is complemented by the Net Zero Growth Plan.

This Plan sets out the steps the Government is taking to ensure the UK is more energy independent, secure and resilient.

Energy security necessarily entails the smooth transition to abundant, low-carbon energy. If we do not decarbonise, we will be less energy secure. We want our energy to be cheap, clean and British.

We will build on our ambitions set out in the British Energy Security Strategy and the Net Zero Strategy for increasing the overall share of domestic energy production and reducing energy demand. We will move towards energy independence by aiming for a doubling of Britain's electricity generation capacity by the late 2030s, and we remain absolutely committed to maximising the vital production of UK oil and gas as the North Sea basin declines.

In terms of onshore wind, the plan states:

Onshore Wind

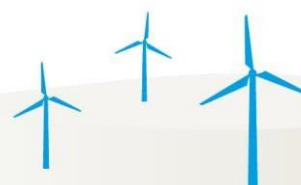
With over 14 gigawatts currently deployed in the UK, low-cost onshore wind is an important part of the energy mix, accounting for around a quarter of installed renewable capacity. Contracts for Difference Allocation Round 4 secured almost 1.5 gigawatts of onshore wind power, including 900 megawatts of mainland projects. In 2022, the Government confirmed that it would continue to support onshore wind through annual Contracts for Difference auctions.

The above plan is supportive of onshore wind, recognising its important low-cost contribution to the energy mix within the UK. The Proposal will ensure the timely delivery and maximisation of a windfarm already approved and deemed acceptable. The approval of the variation will ensure that the windfarm can deliver its full potential ensuring it can be built out to its full capacity.

Scottish Energy Strategy and Just Transition Draft Plan – 2023

The Scottish Energy Strategy and Just Transition Draft Plan was unveiled in January 2023 for consultation and “set out the Scottish Governments vision for an energy system that delivers affordable, resilient and clean energy supplies.”

“To realise our climate change ambitions, we need to transform the way Scotland generates, transports and uses energy. We must seize the huge opportunity this presents and deliver maximum benefits to Scotland's people, workers, communities and economy from our vast renewable energy resource. The draft Energy Strategy



and Just Transition Plan sets out the scale of that opportunity and provides clarity on how Scotland will prepare for a just energy transition. The draft Energy Strategy and Just Transition Plan sets a vision for Scotland's energy system to 2045 and a route map of ambitions and actions that, coupled with detailed sectoral plans and the forthcoming Climate Change Plan, will guide decision-making and policy support over the course of this decade.”

Our vision is that by 2045 Scotland will have a flourishing, climate friendly energy system that delivers affordable, resilient and clean energy supplies for Scotland's households, communities and business. This will deliver maximum benefit for Scotland, enabling us to achieve our wider climate and environmental ambitions, drive the development of a wellbeing economy and deliver a just transition for our workers, businesses, communities and regions.”

The ambition is to deliver an additional 20 GW of low-cost renewable energy by 2030, which includes 12GW of onshore wind.

The Draft Strategy states the following with regards to Onshore Wind:

“In the Onshore Wind Policy Statement, published in December 2022, we set an ambition for a further 12 GW of onshore wind by 2030, increasing from 8.78 GW as of June 2022 to 20 GW by 2030, more than double our existing capacity. Our draft Strategy and Plan restates our ambition and provides clear positions on community benefit and shared ownership, including how communities can benefit from repowering of existing sites. The Onshore Wind Policy Statement sets out how we will work with industry to deliver an Onshore Wind Sector Deal in 2023, to ensure we maximise deployment and the economic opportunities that flow from it.”

The proposed tip height extension will ensure that the deployment of technology onsite is maximised ensuring the most efficient use of land and maximising the potential energy contribution of the Development in line with the proposed strategy.

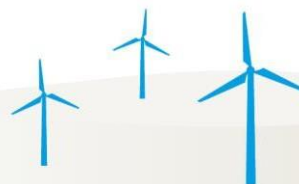
Strategy and Policy Statement for Energy Policy in Great Britain: consultation – May 2023

The UK Government is looking to produce a comprehensive strategy and policy statement for energy policy that complements existing Papers including: Energy White Paper (2020), Ten Point Plan for a Green Industrial Revolution (2020), Net Zero Strategy (2021), British Energy Security Strategy (2022), Energy Security Plan (2023) and Net Zero Growth Plan (2023). The consultation period ended on the 2nd of August 2023 and is currently under review.

The three strategic objectives identified for the energy policy are:

Enabling Clean Energy and Net Zero Infrastructure

Driving the net zero transition to increase and diversify the supply of energy; the transition to net zero compatible alternatives from unabated natural gas is planned and operated in a coherent way; network infrastructure delivered at pace and scale to



handle increased capacity as electrification grows; competitive and effective markets; regulation which facilitates the anticipatory investment required in clean technology and infrastructure; and seize the economic opportunities of the net zero transition, boosting growth and innovation in green industries.

Ensuring Energy Security and Protecting Consumers

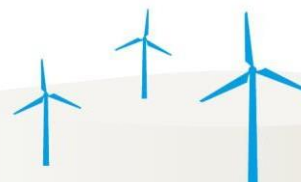
An energy system which is secure and resilient, including from supply shocks and external changes in the international environment; and energy wholesale markets that are competitive, transparent, and liquid. An energy system that provides protection for consumers, with Ofgem using the full range of levers at its disposal including its compliance and enforcement powers; and a retail energy market that works better for consumers.

Ensuring the Energy System is fit for the Future

Energy market design that enables Great Britain to strengthen energy security and meet our decarbonisation targets; delivers the most cost-effective system for consumers; and supports government's ambition for Britain to have among the lowest wholesale electricity prices in Europe by 2035 and drive economic growth in the longer term. Coordinated national and local electricity markets which are open to all technologies of all sizes and unlock the full benefits of low carbon flexibility to best meet our net zero targets; economic and efficient digital infrastructure which enables a smart, digital and secure energy system; and effective governance of the energy system during the transition to net zero.

The Proposed Development would make a positive contribution towards all the three objectives listed above, especially in terms of enabling clean energy and net zero infrastructure where the Governments priorities are:

- *“Network infrastructure is reliable, resilient, sustainable and appropriately connected to other markets.*
- *Electricity network infrastructure is delivered at scale and pace, ahead of need, to meet the demands of a decarbonised energy system as electrification grows, while controlling system costs by facilitating a smart, flexible and digitalised energy system.*
- *Driving the net zero transition by achieving government targets for renewable and low carbon deployment, innovation and uptake of clean technologies, and providing opportunities to increase energy efficiency.*
- *The transition to net zero alternatives from natural gas is planned and operated in a coherent way, with consideration to security of supply and costs for consumers, enabling necessary investment and promoting the move to the most cost-effective low carbon options wherever possible.*
- *Competitive and effective markets and regulation that facilitate the anticipatory investment required in innovation, clean technologies, and infrastructure to meet government's net zero targets while ensuring an appropriate balance between economic, environmental, and social costs, and addressing undue barriers to entry, growth and innovation.*



- *Ensuring the benefits of investment in clean energy and net zero infrastructure are felt across the UK, from emissions reduction to economic development and job creation”.*

The Proposed Variation would further contribute to all the above objectives as well as helping ensure more flexibility, security, and resilience within the energy system ensuring that it is compatible with the above Policy Statement.

Onshore Wind Sector Deal for Scotland – September 2023

The foreword for the Deal clearly sets out the ambitions from all parties involved with the delivery of onshore wind:

“We are delighted to introduce this onshore wind sector deal which sets the ambition for the next phase of onshore wind delivery in Scotland. As we stand on the threshold of a pivotal era in the energy transition, this sector deal crystallises our dedication to work together to harness the proven potential of onshore wind to shape a cleaner, more prosperous future for the nation.

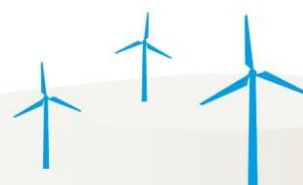
Scotland's rich wind resources, technical expertise and commitment to tackling climate change have paved the way for a journey toward a greener energy landscape. This deal encapsulates the collective vision to harness the power of the wind to drive economic growth, create high quality jobs, reduce carbon emissions and ultimately benefit the communities of Scotland.

This document demonstrates many commitments across many stakeholders, with essential themes that should be recognised and celebrated. By fostering collaboration between the Scottish Government, industry and local communities, we can ensure that this endeavour is not just about harnessing the wind but also about nurturing sustainable growth. This is a moment of convergence, where sustainable development aligns with economic prosperity.

As we embrace the possibilities of this sector deal we acknowledge the challenges that lie ahead. Balancing the needs of energy production with environmental stewardship demands diligence and continuous innovation. This deal charts a course that safeguards our natural heritage while delivering clean, affordable energy to power our lives and industries.

Crucially, this deal emphasises inclusivity and equity ensuring that the benefits of our onshore wind revolution are shared by all.

In a period where the sector has continued to deliver low cost electricity but also seen increasing costs and reduced revenues, the sector is proudly committed to working even more closely with local communities, engaging them in decision-making processes and delivering tangible benefits that improve lives and livelihoods. Our commitment to nurturing talent and fostering a culture of innovation will maintain Scotland's position at the forefront of the global renewable energy revolution, setting an example for the world to follow.



The Government is committed to working with developers and stakeholders, understanding the operational barriers to delivering onshore wind projects and setting out processes to help reduce them. We also commit to speeding up consenting decisions, working with planning authorities and statutory consultees to increase skills and resources, as well as streamlining approaches.

Jointly, we will work together on ensuring a balance is struck between onshore wind and the impacts on land use and the environment. We will collaborate to enable information to be collected and shared for monitoring and evidence purposes, and we jointly want to capitalise on the unique opportunity for Scotland to become a world leader in decommissioning, remanufacturing and recycling of onshore wind assets. We want to thank everyone for the commitment they have made in negotiating this document. Although this is an agreement between the onshore wind industry and Government it was 2 through collaboration and a willingness to engage from all parties that we have reached this historic agreement.

The sector deal is more than just a document; it is a testament to our determination, a celebration of our potential, and a promise to future generations. Let us work together to usher in an era where innovation, sustainability, and prosperity converge, as we power Scotland's greener future through the boundless energy of onshore wind."

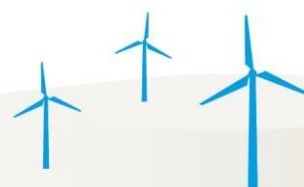
The deal sets out how all the stakeholders and the legislative and regulatory framework can be utilised to their full potential focussing upon collaboration and collective action to deliver Onshore wind. The deal is supportive of the Proposal as it supports the delivery and enhancement of Onshore Wind.

The Sector Deal is a significant indicator of the continuing and growing level of commitment from Government to meet its climate and renewable energy targets from the deployment of onshore wind in Scotland. By ensuring the deliverability and maximising the potential of an already consented project, the application is considered to be in line with the intentions and ambitions of the Sector Deal.

The Energy Act 2023 - 26th October 2023

An Act to make provision about energy production and security and the regulation of the energy market, including provision about the licensing of carbon dioxide transport and storage; about commercial arrangements for carbon capture and storage and for hydrogen production and transportation; about new technology, including low-carbon heat schemes and hydrogen grid trials; about the Independent System Operator and Planner; about gas and electricity industry codes; about financial support for persons carrying on energy-intensive activities; about heat networks; about energy smart appliances and load control; about the energy performance of premises; about energy savings opportunity schemes; about the resilience of the core fuel sector; about offshore energy production, including environmental protection, licensing and decommissioning; about the civil nuclear sector, including the Civil Nuclear Constabulary and pensions; and for connected purposes.

In Chapter 1 of the Act, under Licensing of Activities the Act sets out the key acts for achieving Net zero targets:



(8) The targets referred to in subsection [\(6\)\(b\)](#) are—

(a) the net-zero emissions target, as defined in section A1(1) of the [Climate Change \(Scotland\) Act 2009 \(asp 12\)](#);

(b) the interim targets, as defined in section 2 of that Act;

(c) a target in, or set under, section 1 or 2 of the Climate Change Act (Northern Ireland) 2022;

(d) a target in, or set under, section 29 or 30 of the [Environment \(Wales\) Act 2016 \(anaw 3\)](#).

The recently approved Act, which was given Royal Assent on the 23rd October 2023 sets out the legal framework for the production and transfer of energy and emissions targets as well as the control and licensing of generation.

Progress in Reducing Emissions in Scotland- 2023 Report to Parliament (20 March 2024).

The Climate Change Committee published its latest report in March 2024 with the opening statement of the report highlighting that:

“The Scottish Government is failing to achieve Scotland’s ambitious climate goals.”

It goes on elsewhere to suggest that: *“The Climate Change Committee no longer believes that the Scottish Government will meet its statutory 2030 goal to reduce emissions by 75%.”*

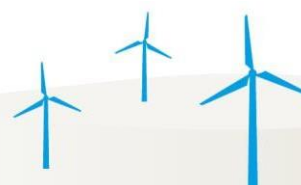
Whilst targets overall have been missed the Report does highlight that *“The only sectors to reduce emissions in 2021 were electricity supply and industry.”*

Under the banner of Electricity Supply it goes on to note:

“The Scottish Government aims to develop 8–11 GW of offshore wind capacity and 20 GW of onshore wind capacity, both by 2030. Offshore wind capacity in Scotland grew in the past year, putting it on track compared to the 2030 target. The growth in onshore wind capacity has slowed, however, and it is slightly off track to deliver its 2030 target, which will require operational capacity to more than double.”

And in taking this forward and seeking to address these failings signals:

“The Scottish Government consulted on its draft Energy Strategy in January 2023, which included its ambition to deliver more than 20 GW of additional renewable generation capacity by 2030. The final plan due this year should include a delivery plan and the Scottish Government should work with the UK Government on practical



measures to ensure both the Scottish targets and the UK-wide objective of a decarbonised electricity system by 2035 are achieved.”

In Planning terms, the publication of NPF4 and its positive approach to implementing and facilitating the Scottish Governments net zero targets and ambitions is noted positively throughout the Report. In particular when assessing progress on energy supply the report notes:

NPF4 is a key lever for considering major infrastructure and aims to encourage, promote, and facilitate all forms of renewable energy development onshore and offshore.

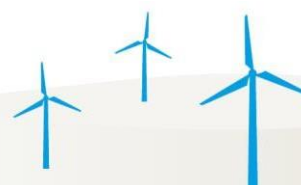
In the same vein the collaborative approach and commitment shown by Scottish Government to work with the renewables industry in Scotland to meet its targets was specifically identified as an area where progress had been achieved:

“The Scottish Government agreed the Onshore Wind Sector Deal with industry to deliver on the ESJTP ambition to install 20 GW of onshore wind capacity by 2030.”

Therefore whilst the findings of the Report draw attention to the Government’s overall failure to meet its own ambitious targets, progress has been made in those elements most relevant to this application, notably planning policy and energy supply. What is also obvious is that despite relative successes in these sectors, there is still a long way to go to meet targets and an increase in effort is required to get these back on track. The Proposed Development provides a positive opportunity to contribute further to addressing this situation.

Climate Change Summary

The Climate Change policies and legislation which have emerged since the decision on Rothes III and further cement the UK and Scottish Government’s ambitions and strategies for reaching Net Zero. The strategies and policies focus on the implementation of the Scottish and UK Energy Strategies and seek a UK based energy supply chain which is primarily focussed on renewable energy. Onshore wind in Scotland makes up an important part of reaching these goals, especially its ability to be installed and implemented in the early years of the Net Zero road map. Whilst the CCCs March 2024 report highlights how the deployment rate of onshore wind has slowed and is off target for 2030 delivery Onshore wind is also identified as one of the more low-cost low-carbon technologies and is an area where progress towards targets has and still can be made. The policies also support the maximisation of energy production and seek ambitious targets and the 2024 Report highlights the level of effort now needed to meet these. The Proposed Variation at Rothes III will make an additional contribution towards reaching the country’s net zero goals and will maximise the potential output of the project, ensuring that the low-carbon energy targets of the approved scheme are delivered. Moreover, granting this tip height increase will secure a more viable project which will be capable of being built out and will make a



substantial contribution to the now even more pressing and potentially out of reach 2030 targets.

7.3 National Planning Framework 4 (NPF4)

Following the determination of the Consented Development NPF4 (National Planning Framework 4) was adopted on the 13 February 2023. NPF4 is the National spatial strategy for Scotland. It sets out the spatial principles, regional priorities, national developments and national planning policy. It should be read as a whole and replaces NPF3 and Scottish Planning Policy. More importantly NPF4 also now legally forms part of the Development plan and from the perspective of assessing the planning elements of this Proposal forms a more recent expression of policy than the LDP. NPF4 is the primary Planning policy framework for the development of infrastructure across Scotland. Where conflict occurs between NPF4 and LDP, the later of the two will prevail. In this case NPF4 is the later. The adoption of NPF4 is now a key change in Planning policy in Scotland and is part of the Statutory Development Plan. In respect of applications under s36, NPF4 has considerable weight but the duty to make decisions in accordance with the Development Plan under s25 of the Town and Country Planning Act 1997 does not arise (William Grant & Sons Ltd [2012] CSOH 98).

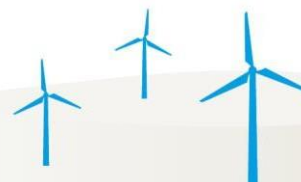
NPF4 encapsulates the direction provided by Scottish Governments Energy and Climate change polices. More importantly it sets out how this strategic direction should be implemented through the planning system in Scotland.

One of the principal intentions of NPF4 is to set out how planning and development will help to achieve a net zero, sustainable Scotland by 2045, as well as aiding the delivery of the UN Sustainable Development Goals (SDG's). Alongside this is the Scottish Governments twin goal to address the global nature crisis. NPF4 sets out the strategic vision for the future and development of Scotland, it involved some major decisions about how Scotland will develop and its ambitions for tackling Climate Change, with significant investment in infrastructure and how Net Zero can be achieved and work.

In **Part 1**, the NPF4 highlights how the '*world is facing unprecedented challenges*' particularly in relation to climate change and the growing nature crisis. The Proposed Development provides a meaningful contribution to both emergencies as well as helping to power a more sustainable economic future.

The NPF4 goes on to set out six spatial principles, including but not limited to a '*Just transition*' and '*Rural revitalisation*' both of which provide encouragement for this type of development. By applying these principles, the national spatial strategy seeks to *support sustainable, liveable and productive places*.

- **Sustainable places**, where we reduce emissions, restore and better connect biodiversity
- **Liveable places**, where we can all live better, healthier lives; and
- **Productive places**, where we have a greener, fairer and more inclusive wellbeing economy.



Sustainable Places

Under the heading of **Sustainable places** the NPF highlights:

“Our climate is changing, with increasing rainfall, extreme weather events and higher temperatures that will intensify in the coming years. This will increase flood risk, water scarcity, environmental change, coastal erosion, impact on forestry and agriculture, and generate risks to health, food security and safety. Impacts will not be equal and communities who already face disadvantage will be particularly affected.

Scotland’s high quality environment, and the natural capital it supports, underpin our approach to tackling climate change and the economy and is fundamental to our health and wellbeing. It provides the essentials we all need to survive, including clean air water and food.

However, the health of the planet’s ecosystems is declining faster than at any point in human history and our natural environment is facing significant challenges, including ongoing loss of biodiversity. Since the 1990s alone, wildlife populations in Scotland have declined, on average, by around a quarter. This threatens the capacity of the natural environment to provide the services we all rely on, and reduces our resilience to the impacts of climate change.

Scotland’ Climate Change Plan, backed by legislation, has set out approach to achieving net zero emissions by 2045, and we must make significant progress towards this by 2030 including reducing car kilometres travelled by 20% by reducing the need to travel and promoting more sustainable transport.....

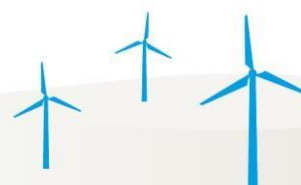
... Scotland’s Energy Strategy will set a new agenda for the energy sector in anticipation of continuing innovation and investment. The interplay between land and sea will be critical, given the scale of offshore renewable energy resources. Our Infrastructure Investment Plan and National Transport Strategy are clear that we must work with our existing infrastructure assets first, before investing in additional assets.

Scotland’s Environment Strategy sets out the Scottish Government’s vision for tackling the twin climate and nature crises. Building on this, a new Scottish Biodiversity Strategy will set targets.....”

This Part of NPF4 clearly sets out Scotland’s ambitions for Net Zero and places importance upon energy strategy and the importance of the environment and biodiversity. As highlighted in section 7.2 the Proposal is aligned with and therefore supported by Scotland’s Energy Strategy and the need to create sustainable and productive places. The Proposal will ensure the contribution of the Development is maximised delivering towards the target of Net Zero.

National Spatial Strategy

Under the heading of the **National spatial strategy** the NPF highlights:



“Scotland’s future places will be net zero, nature-positive places that are designed to reduce emissions and adapt to the impacts of climate change, whilst protecting, recovering and restoring our environment.

Meeting our climate ambition will require a rapid transformation across all sectors of our economy and society. This means ensuring the right development happens in the right place.

Every decision on our future development must contribute to making Scotland a more sustainable place. We will encourage low and zero carbon design and energy efficiency, development that is accessible by sustainable travel, and expansion of renewable energy generation. It is also crucial that we build resilience to the future impacts of climate change including water resources and assets and development on our coasts. Our places will also need to evolve to help us cope with changing temperatures.

*Our commitment to a **just transition**, means that our journey to a net zero society and nature recovery must involve, and be fair to, everyone. We will grow a circular economy and make best use of embodied carbon by **conserving and recycling assets**, including by encouraging sustainable design and the wise use of resources.*

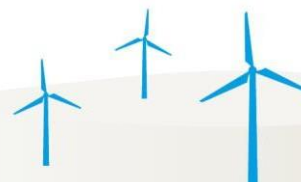
To respond to the global biodiversity crisis, nature recovery must be at the heart of future places. We will secure positive effects for biodiversity, create and strengthen nature networks and invest in nature-based solutions to benefit natural capital and contribute to net zero. We will use our land wisely including through a renewed focus on reusing vacant and derelict land to help limit the new land that we build on. We will protect and enhance our historic environment and safeguard our shared heritage for future generations. We will also work together to ensure that development onshore aligns with national, sectoral and regional marine plans”.

The Proposed Development is aligned with this key theme of the NPF4, in that “every decision on future development must contribute to making Scotland a more sustainable place”. As the Proposal will maximise the generating capacity of the scheme whilst securing biodiversity enhancements it is fully compliant with both of these goals. The decision to apply for the tip height extension was primarily based upon ensuring that the Development maximises its contribution to making Scotland a sustainable place and ensuring that that the Development releases its potential in full, without any significant additional impacts. Thus, making sure the Development delivers and maximises its contribution to making Scotland a sustainable place.

National Developments

As one of its six **National developments** aimed at supporting the delivery of sustainable places the NPF4 provides explicit support for developments, subject to site specific considerations:

- **“Strategic Renewable Electricity Generation and Transmission Infrastructure** supports electricity generation and associated grid infrastructure throughout Scotland, providing employment and opportunities for



community benefit, helping to reduce emissions and improve security of supply”.

On page 16 under the heading of **Productive Places** the NPF4 highlights that **Rural revitalisation** can be achieved by distributing development, investment and infrastructure and enabling rural development. Whilst also recognising energy as a key sector in this transition.

The Proposal is strongly supported by the above policy, as it ensures the maximum delivery of renewable generation without the need for additional turbines, ensuring that the development utilises the land to the best of its ability.

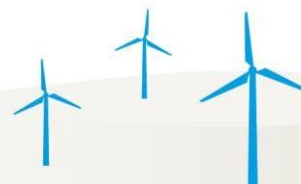
Part 2 of NPF4 sets out the Policies. Under Part 2 renewable energy development is strongly promoted and supported:

Policy 1 (Tackling the climate and nature crises) clearly sets out the weight that should be given to the climate and nature crises, *“When considering all development proposals significant weight will be given to the global climate and nature crises.”* The Policy intent sets out *“To encourage, promote and facilitate development that addresses the global climate emergency and nature crisis”*. The Policy Outcomes are: *Zero carbon, nature positive places*. It is fully supportive of the Proposal as it will ensure generation is maximised from the already consented scheme ensuring that it maximises the reduction in emissions and adapts the scheme to future climate change.

Policy 2 (Climate mitigation and adaptation). *Policy Intent: To encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change. Policy Outcomes: Emissions from development are minimised; and Our places are more resilient to climate change impacts.* The Proposed Development comprises a low carbon technology, which will not only reduce carbon emissions but in doing so make our places more resilient to the impacts of climate change.

Policy 3 (Biodiversity) seeks to protect and reverse biodiversity loss and requires that development proposals contribute to the enhancement of biodiversity, including the restoration of degraded habitats. The habitat enhancements proposed as part of the Consented Development are entirely consistent with this important policy objective and secure the implementation of habitat enhancement measures in respect of local and regional populations of capercaillie and woodland grouse. The measures include future management provision.

The Proposed Development has been found to have no impact on the environmental interests over and above those assessed for the Consented Development and the biodiversity measures secured in respect of it are not to be changed in any way. As discussed in Section 4 of Appendix 7, the Outline Habitat Management Plan is extensive and ambitious and will deliver biodiversity enhancement measures. The comparisons between Policy 3 and the OHMP at Table 5 in Section 4 of Appendix 7 demonstrates compliance with Policy 3.

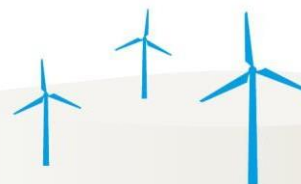


Policy 4 (Natural Places) sets out the important considerations that developments need to undertake in relation to the natural environment, especially in relation to designated Landscape and Ecological/Ornithological sites. It sets out the balance between the level of harm that should be considered and the benefits of the development ensuring that projects fully consider the overall balance of schemes. The consented scheme has already assessed any direct or indirect impacts on areas of natural heritage value, the landscape and the environment and found that on balance the development is acceptable. This application and statement has assessed the Proposed Variation against the Consented Development and concluded that it will not create any significant additional effects over the consented scheme, therefore ensuring its compliance with Policy 4.

Policy 5 (Soils) sets out the strong requirements for development to consider and recognise the importance of Scotland's Carbon-rich soils. The policy sets out the high threshold for ensuring the protection of soil, prime agricultural land and peatland. The Proposal considers in paragraph 4.9 the impacts of the variation upon peatlands and soils is in compliance with Policy 5. The Inquiry Report and Decision concluded that the Consented Development would not have a significant effect on peat (Paragraph 6.14 of the IR) and Scottish Ministers agreed (pg 20 of the DL). As no changes are proposed to the groundworks or excavations there will be no change to the previously assessed impacts upon Peat, ensuring that the Proposed Variation is compliant with Policy 5. Reference is particularly made to Policy 5 (c) ii, and that the Proposed Variation further optimises the contribution of the Consented Development to greenhouse gas emission reduction targets. In addition to this the measures included in the Outline Habitat management plan (See Appendix 7) seek to the restoration of peatland habitat.

Policy 6 (Forestry, woodland and trees) sets out the support for woodlands, particularly for those developments that can enhance them. It also sets out the criteria for the loss of woodland and places a high value on ancient and native woodlands. Forestry is discussed in Section 5.10 of the Report. There are no proposed changes to Forestry and the effects on Forestry as previously assessed remain appropriate. The IR (at 6.44 to 6.50) found, which the DL accepts, subject to the proposed compensatory planting (secured by Condition 19), there would not be a significant adverse effect on forestry. Further to this the proposed Outline Habitat Management Plan, including providing suitable woodland planting to support capercaillie and facilitate movement of this species both within the Site and beyond, will build and support nature networks. The Proposal is therefore compliant with Policy 6.

Policy 7 (Historic assets and places) sets out the policy framework for the protection and enhancement the historic environments. The assessment of impacts on heritage assets found that there would be no direct or indirect significant effects on heritage assets apart from assets of local heritage importance on site which would require to be fenced off during construction. This protection is secured under Condition 13 (y) and as there is no change to the layout, this remains appropriate. Indirect impacts have been reconsidered due to the amended ZTV (Fig 1-3 in the accompanying Cultural Heritage Assessment) for the Proposed Development. It was found that there



were either low negligible effects or no visibility. Therefore the Proposed Development is compliant with Policy 7.

In terms of the Proposed Development the most directly relevant part of the NPF4 is **Policy 11 (Energy)** which states:

“a) Development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported. These include:

i) Wind farms including repowering, extending, expanding and extending the life of existing wind farms;

c) Development proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.....

e) In addition, project design and mitigation will demonstrate how the following impacts are addressed:

i) impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker;

ii) significant landscape and visual impacts, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable;.....

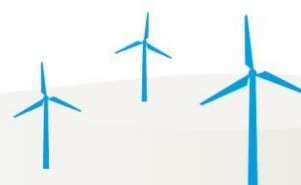
In considering these impacts, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets.....

f) Consents for development proposals may be time-limited. Areas identified for wind farms are, however, expected to be suitable for use in perpetuity”.

Under Part a and c, the proposed tip height extension is supported as it ensures the maximisation of the net economic and socio-economic benefits. The Proposal can be considered an extension and expansion of the existing consent, in that it ensures the maximum generation potential of the scheme, ultimately fully enabling the contribution of the proposed Development to meeting climate change targets.

Under part e i and ii, section 5 of this statement has assessed any new impacts that may occur from the increased tip height, with no change identified in noise or shadow flicker. A detailed landscaped assessment has been undertaken which clearly identifies that the visual and landscape effects of the increase in tip height will not be significant and will not cause an intensification of significance. In addition the findings set out in Section 5 review all elements set out in part e of policy 11, and concludes that there will be no significant change above the consented baseline for aviation, roads, the historic environment, telecoms, hydrology, flood risk, biodiversity, forests and that the Proposed tip height is in full accordance with this policy.

As set out in this statement the Proposed Tip height increase does not materially change or increase the impacts of the Consented Wind Farm upon the environment.



The Proposal has significant support from the most relevant policy of NPF4, Policy 11. As it is clear that the Proposed Variation (alongside the Consented Development) would generate electricity from renewables and support the expansion of renewable energy developments, through the maximisation of generation.

The Proposal complies with **Policy 12** (Zero Waste) with regards to the reuse of existing infrastructure in that it would utilise the existing accesses, haul roads and other shared resources and infrastructure from Rothes I and Rothes II.

Policy 22 (Flood risk and Water Management) sets out the need to strengthen resilience to flood risk and ensuring water resources are used efficiently and sustainably. The Proposal is compliant with the policy as it does not increase or impact upon flood risk or impact upon the existing water resources.

In terms of Health and Safety the Proposal is compliant with **Policy 23** (Health and Safety) by continuing to avoid significantly adverse potential air and noise impacts to the nearest receptors. Once operational there will be no additional noise or air impacts resulting from the Proposal which are not controlled by the existing planning conditions.

Policy 25 (Community wealth building) sets out how developments that create local jobs etc are supported. The Original Consented Scheme the economic and job creation benefits of the Proposed Development. By ensuring the delivery of the maximum potential of the development and its generating capacity, the Proposed Variation will ensure the full delivery of community investment ensuring that it is supported by Policy 25.

The Proposal is compliant with **Policy 29** (Rural Development) as it comprises of rural economic activity which is sustainable and diverse from the existing forestry use.

Part 3, Annexes sets out the nature and procedure of NPF4, including the delivery of the UN Sustainable Development Goals. The Proposal supports SDGs 7, 8, 9, 11, 12, and 13, with particular contribution to Goals number 7 and 13.

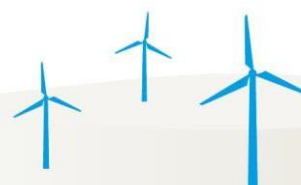
Annex 3 continues to set out:

NPF4 is required by law to contribute to 6 outcomes:

.....

- *Meeting any targets relating to the **reduction of emissions** of greenhouse gases, and*
- *Securing positive effects for **biodiversity**.*

Having established that the Proposal has support from the most relevant principles and policies of NPF4 it is concluded that it provides an extremely strong basis for approving this s36C Application. This is also relevant for this application since NPF4 provides the most up to date element of the statutory Development Plan and should



be afforded weight over the Local Development Plan where there is incompatibility. The Chief Planner's letter published on 8 February 2023 outlined that in the event of any incompatibility between a provision of NPF4 and a provision of an LDP, whichever of them is the later in date is to prevail (1997 Act, section 24(3)). Provisions that are contradictory or in conflict would be likely to be considered incompatible.

7.4 Local Planning Policies

The application for the Consented Development was considered in the context of the Moray 2020 adopted Local Development Plan (LDP) and it was concluded that the Development was compliant with policy.

The Scottish Ministers concluded in their decision letter that:

“The relevant development plan policies for the proposed Development are contained in the Moray Local Development Plan (“the Moray LDP”) and its relevant associated supplementary guidance.”

With regards to the policy context more generally, the Scottish Ministers have taken account of the Reporters' considerations at Chapter 8 of the PI Report, and agree the proposed Development is supported by both national and local planning policies, and adopt this reasoning for the purposes of their own decision.

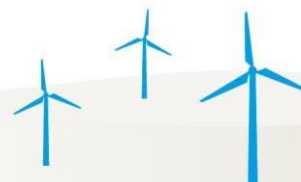
“The Scottish Ministers are satisfied that although the proposed Development will have significant adverse landscape and visual effects and some significant adverse effects on views from houses, these do not overall outweigh the benefits of the proposed Development.”

The PLI Report considered the LDP in greater detail and sets out the primary conclusions in Paras 2.198 – 2.204, the reporter did clearly set out that:

“Status of the development plan -2.14 Parties agreed that in an application under section 36 of the Electricity Act 1989, the development plan does not have primacy in consideration of the application, but carries weight in the decision-making process.”

The 2020 Moray Local Development is the current LDP and is material to this application, with the previous assessments of the Consented Development remaining proportionate.

As stated by Ministers the key policy considered for the Consented Development was Policy DP9 – Renewable Energy, this policy remains a consideration for the Proposed Variation, based upon the baseline of the Consented Development. With this report assessing the potential changes that could occur from the proposed variation against policy. DP9 sets out the full set of considerations to be accounted for stating :



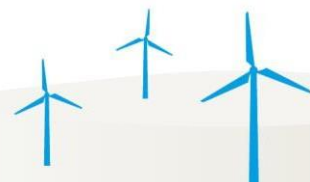
DP9 RENEWABLE ENERGY

a) All Renewable Energy Proposals

All renewable energy proposals will be considered favourably where they meet the following criteria:

- i) They are compliant with policies to safeguard and enhance the built and natural environment;
- ii) They do not result in the permanent loss or permanent damage of prime agricultural land;
- iii) They avoid or address any unacceptable significant adverse impacts including:
 - Landscape and visual impacts.
 - Noise impacts.
 - Air quality impacts.
 - Electromagnetic disturbance.
 - Impact on water environment.
 - Impact on carbon rich soils and peat land hydrology.
 - Impact on woodland and forestry interests.
 - Traffic impact -mitigation during both construction and operation.
 - Ecological Impact.
 - Impact on tourism and recreational interests.

In addition to the above criteria, detailed assessment of impact will include consideration of the extent to which the proposal contributes to renewable energy generation targets, its effect on greenhouse gas emissions and net economic impact, including socio-economic benefits such as employment.



b) Onshore wind turbines

In addition to the assessment of the impacts outlined in part a) above, the following considerations will apply:

i) The Spatial Framework

Areas of Significant Protection (Map 2): where the Council will apply significant protection and proposals may be appropriate in circumstances where any significant effects on the qualities of these areas can be substantially overcome by siting, design and other mitigation.

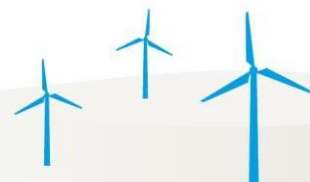
Areas with Potential (Map 1): where proposals are likely to be acceptable subject to Detailed Consideration.

ii) Detailed Consideration

The proposal will be determined through site specific consideration of the following on which further guidance will be set out in supplementary guidance and as informed by the landscape capacity study:

Landscape and visual impact:

- the landscape is capable of accommodating the development without unacceptable significant adverse impact on landscape character or visual amenity.
- the proposal is appropriate to the scale and character of its setting, respects the main features of the site and the wider environment and addresses the potential for mitigation.



Cumulative impact

- unacceptable significant adverse impact from two or more wind energy developments and the potential for mitigation is addressed.

Impact on local communities

- the proposal addresses unacceptable significant adverse impact on communities and local amenity including the impacts of noise, shadow flicker, visual dominance and the potential for associated mitigation.

Other

- the proposal addresses unacceptable significant adverse impacts arising from the location within an area subject to potential aviation and defence constraints including flight paths and aircraft radar.
- the proposal avoids or adequately resolves other impacts including on the natural and historic environment, cultural heritage, biodiversity, forest and woodlands and tourism and recreational interests - core paths, visitor centres, tourist trails and key scenic routes.
- the proposal addresses any physical site constraints and appropriate provision for decommissioning and restoration.

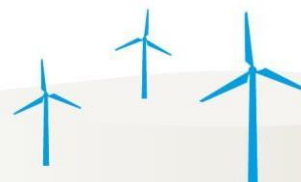
iii) Extensions and Repowering of Existing Wind Farms

The proposal will be determined through assessment of the details of the proposal against Part a) and Parts b) (i) and (ii) above. Detailed assessment of impact will include consideration of the extent to which:

- the proposal, for extensions, impacts on the existing wind farm(s) setting and the ability to sit in the landscape on its own should the existing wind farm be decommissioned before the extension.
- the proposal, for repowering, makes use of existing infrastructure and resources, where possible, and limits the need for additional footprint.

The policy states the need to “*avoid or address any unacceptable significant adverse impacts including landscape and visual impacts*”. The Original Consent Scheme considered these elements and considered that although there were adverse impacts upon the landscape that overall, the Development was deemed acceptable. The increase in tip height will not create any further significant impacts or an intensification of the impacts already consented, with consideration given to the key viewpoints and individual dwellings as agreed for the consented scheme. This has been assessed in detail in the Landscape Assessment at Appendix 2 and summarised in Section 5. Further to this the tip height extension could be considered under section iii) Extensions and that the tip height increase will reduce the need for additional footprints. As such the Proposed Variation remains compliant with policy DP9 and as such the LDP.

Policy EP3 deals with protection of SLAs and landscape character, the Proposed Variation does not create any intensification or additional impacts upon the SLAs and landscape character than those previously assessed by the Original Consented Scheme (as considered in detail in Appendix 2, 4.1, 4.3 and 5.1) as such there are no further considerations under this policy. Scottish Ministers concluded that



“notwithstanding the location of the turbines on Carn na Cailliche “is designed sufficiently to reflect the relevant landscape character assessment, and so to accord with Moray LDP policy EP3.”

The LVIA assessment concluded that: Turbines 9, 13 and 14 will continue to be seen to be behind the horizon in views towards Càrn na Cailliche and Hunt Hill and woodlands within the Spey valley will continue to provide some screening to many views

In terms of policy PP3, Conditions 14 and 15 regarding transport and access remain relevant to the Proposed Variation and will ensure no negative impact from the Development upon this policy.

A number of other policies including PP2 – Economic Strategy and DP5 – Rural Business, DP1 – Development Principles were considered as part of the consent and found that the Proposal accords with the Development Plan overall.

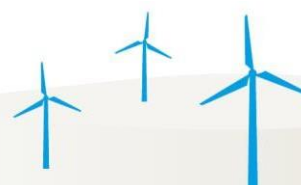
The Development was found to be acceptable in terms of these policies. The Proposed Variation to increase the tip height does not alter the overall findings or impacts upon these policies as such they are not considered in further detail.

The reporter and Scottish Ministers were clear that Consented Development was acceptable in terms of the 2020 LDP which is the current LDP. The Proposed tip height increase does not materially change the acceptability of the Development in terms of the LDP and the previous conclusions. The variation also now benefits from the additional support provided by the adopted NPF4 which provides a more recent iteration of the Development Plan and therefore takes precedence over the LDP. In all cases the variation is considered to have support from the Development Plan.

Following the consent for the 28 turbines at Rothes III, Moray Council adopted a new Wind Energy Planning Guidance in May 2023, which replaces the previously considered Moray Onshore Wind Energy Guidance (MOWE) and Moray Wind Energy Landscape Capacity Study (MWELCS).

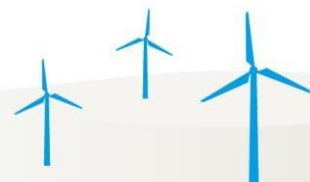
*“The **Moray Wind Energy Landscape Sensitivity Study (LSS)** helps inform site selection for wind turbines and provides strategic information to assist in the assessment of relative landscape and visual sensitivity to certain forms of development proposals. The findings are strategic and indicative and are not a substitute for detailed Landscape and Visual Impact Assessments (LVIA).*

The LSS supersedes the Moray Onshore Wind Energy (MOWE) Non-Statutory Guidance 2020 and the Moray Wind Energy Landscape Capacity Study (LCS) 2017 and is a material consideration in the determination of planning applications and to inform responses to Section 36 consultations.” The landscape and visual assessment, Appendix 2 section 5.5 considers the Proposed Variation against the now current MWELSS. The MWELSS adopts a methodology which is in alignment with the NatureScot Landscape Sensitivity Assessment guidance (2022) and also the 2019 updates which were made to the NatureScot landscape character classifications. The



Moray Wind Energy Landscape Sensitivity Study (MWELSS) utilises Assessment Units that are based upon the NatureScot 2019 online landscape character classifications. The proposal, continues to be “*designed sufficiently to reflect the relevant landscape character assessment*”. The conclusions of the Reporters, which were adopted by Scottish Ministers, that the Consented Development is in accord with Moray LDP policy EP3 are considered within the Planning Statement.

As clearly stated by Moray Council “*National Planning Framework 4 (NPF4) was adopted and published on 13 February 2023 and is the national spatial strategy for Scotland, incorporating spatial principles, regional priorities, national developments and national planning policy. Alongside the [Moray Local Development Plan 2020](#), NPF4 forms part of the Development Plan for Moray.*” Where there is conflict between the LDP and NPF4, that latter of the two, in this case NPF4 takes precedence over the LDP.



8 Summary and Conclusion

The Proposed Variation is sought to the existing approval for the 28 turbine scheme known as Rothes III to enable the three shortest turbines to be built out alongside the other 25 turbines. The increase in the tip height of the 3no turbines will enable the increase in the potential installed capacity of the Development, as the additional tip height will allow installation of the 3 turbines with a greater generating capacity.

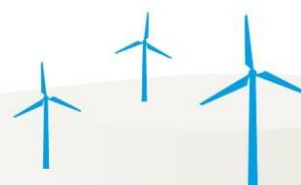
The increase in the maximum blade tip height of 3no turbines of the Consented Development from 149.9 to 200m is found to be not significant in terms of the overall scale and design of the consented scheme. The Proposed Development will allow greater scope for turbine procurement and increased generating capacity with no significant environmental impacts, intensification of impact or cumulative impact over and above those found to be acceptable in respect of the consented scheme. The renewable energy generation and socio-economic benefits derived from the Proposed Development are described in section 5.13 of this Planning and Environmental Statement.

The impacts of the Consented Development were found to be acceptable by Scottish Ministers in their decision letter, as such it is only the changes that occur above the consented scheme, namely the 50.1m tip height increase which has been considered in details part of this application. Ministers concluded that:

“The Scottish Ministers acknowledge that the proposed Development will have significant adverse landscape and visual effects (including some on views from houses), however the Scottish Ministers find that these negative impacts on the natural environment are acceptable in the context of the net economic benefits and significant renewable energy benefits, in support of climate change mitigation, that would arise if the proposed Development were deployed. As set out above the Scottish Ministers have also considered whether or not a better balance could be struck by consenting the proposed alternative Development but find that that, overall, the proposed Development represents the most efficient use of the site.”

The potential effects of the Proposed Variation have been assessed as part of this application by competent experts most of whom worked on the application for the Consented Development. These assessments are summarised in this supporting Statement and included in detail as appendices to it. The assessments have found that the Proposed Development would have no significant environmental impacts, intensification of impact or cumulative impact over and above those found to be acceptable in respect of the consented scheme and is in accordance with the Guidance.

The conditions attached to the existing consent remain appropriate except for minor updates which refer to the site layout plan attached to the Consent at Annex 3 and as described above. The Proposed Development therefore requires the amendment of the description of Development contained in Annex 1 to refer to the amended layout figures at Annex 3, minor changes to Annex 2 Part 2 Conditions (specifically Condition



12 – Micrositing and the reference plan), and an amendment to the legend on the Annex 3 plans.

The Proposed Variation would allow the Development to make an enhanced contribution towards the Scottish Governments Net Zero target by 2045 and help further address domestic energy supply and security issues, and provide additional low carbon renewable alternative to fossil fuels in order to address the climate change crisis. It is not anticipated that the implementation of the consent will be postponed as a consequence of this application and the grid connection date remains as Autumn 2027.

NPF4, the Scottish Energy Strategy, the Onshore Wind Policy Statement (December 2022) and the Sector Deal which have all emerged since the decision to approve was made in 2022 are clear that renewable energy projects, and onshore wind in particular are a priority for the Scottish Government and as such should be considered with significant weight in favour of the Proposed Variation.

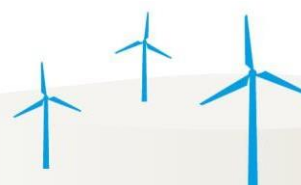
These recent additions to Climate Change and energy policy have been assessed in detail in section 7.2. These strongly support the Development of low carbon energy supplies and recognised the significant contribution that onshore wind can make to the early and cheap delivery of energy on the road to Net Zero in 2045. Energy policy also notes the importance of maximising resources and the importance of expansion and repowering of existing wind farms.

In terms of Schedule 9 of the Electricity Act 1989, the environmental assessment in section 5 and appendices within this statement has found that the Proposed height increase will not harm the preservation of amenity and fisheries. Natural beauty and the conservation of flora, fauna and geological or physiological features have been considered and it is concluded that there will be no or a negligible impact upon these interests. The height increase will not impact protected sites, buildings and objects of architectural, historic or archaeological interest.

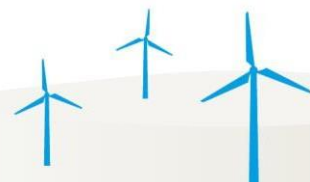
There will be no change to the requirement for the submission of and implementation of the habitat management plan which will deliver biodiversity enhancement measures, compensatory planting, a programme of archaeological works and all other measures secured by condition as imposed under the Consent.

NPF4 enhances the policy commitment by Scottish Government to address the climate and nature crises. The Proposal would generate additional electricity from renewable energy, support the expansion of renewable energy developments and deliver on the both the climate and nature crises and has strong policy support from Policy 11.

NPF4 supports the planning and delivery of sustainable places, liveable places and productive places, and the planning system supports economically, environmental and socially sustainable places by enabling development that balances the costs and benefits over the longer term.



The Proposed Development is fully in accordance with all relevant Energy Policy , NPF4 in its entirety , it has also been assessed as acceptable in regard to the Moray LDP.. The information provided with this application allows the Scottish Ministers to carry out their statutory duties under Schedule 9 of the Electricity Act 1989. It is therefore respectfully submitted that this Application should be approved.



9 Appendices

Appendix 1 – Site Location Plan

Appendix 2A – Landscape Assessment

Appendix 2B – Figures and Wirelines

Appendix 2C – Landscape Appendices

Appendix 3 – The Consent

Appendix 4 – PLI Report for Consented Development

Appendix 5 – Full Proposed amended Annex 1 and 2 part 2 and Annex 3 amended plan

Appendix 6 – Noise Assessment and Contour Plan

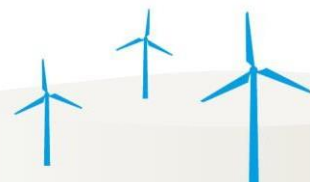
Appendix 7 – Ornithology and Ecology

Appendix 8 - Cultural Heritage

Appendix 9 – The Requirements of Regulation 10 of the Electricity Works (Environmental Impact Assessment) Regulations 2017 (“the Regulations”)

Appendix 10 – Aviation

Appendix 11 – Consultant CVs





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