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Dear Sir or Madam

CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR THE CONSTRUCTION AND OPERATION OF WINDY STANDARD III WIND FARM, LOCATED AT CARSPHAIRN FOREST, WITHIN THE PLANNING AUTHORITY AREA OF DUMFRIES AND GALLOWAY.

Application

I refer to the application made on 6 December 2016 (the "Application") under section 36 of the Electricity Act 1989 ("the Act") made by Natural Power on behalf of Brockloch Rig III, a company incorporated under the Companies Act with company number SC295868 and having its registered office at C/o Harper Macleod LLP, The Ca'd'oro, Glasgow, G1 3PE ("the Company"), for the construction and operation of a wind powered electricity generating station comprising 20 wind turbines, consisting of 8 turbines of a maximum height from base to tip not exceeding 125 metres and 12 turbines of an overall height from base to tip not exceeding 177.5 metres ("the proposed Development").

This letter contains the Scottish Ministers' decision to grant section 36 consent for the development as more particularly described at Annex 1.

Planning Permission

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

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

Background

On 6 December 2016, the Company submitted an application to construct and operate Windy Standard III wind farm. The Application proposed 20 wind turbines, consisting of 8 turbines of a maximum height from base to tip not exceeding 125 metres and 12 turbines of an overall height from base to tip not exceeding 177.5 metres, and a total installed capacity of around 67.2 MW. In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 ("the 2000 Regulations") an Environmental Statement, comprising of four volumes and including an updated volume (cumulative LVIA) called "an addendum" ("ES") describing the proposed development and giving an analysis of its environmental effects was submitted.

Consultation

In accordance with statutory requirements, a notice of the proposed Development was published on the Company's website and the Application was advertised in the local and national press. The Application was placed in the public domain, and the opportunity given for those wishing to make representations to do so. The 2000 Regulations have subsequently (with effect from 16 May 2017) been replaced by the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (the "2017 Regulations"). The 2017 Regulations now apply to this Application subject to certain modifications. These modifications, among other things, provide that where the 2017 Regulations refer to an "EIA Report" this includes an "Environmental Statement" prepared under the 2000 Regulations.

Under paragraph 2(1) of Schedule 8 of the Electricity Act and the 2000 Regulations, the relevant planning authority is required to be notified and consulted in respect of a Section 36 consent application. In terms of the 2000 Regulations, notifications and consultations were sent to Dumfries and Galloway Council as the relevant planning authority (the "PA"), as well as Scottish Natural Heritage, acting under its operating name NatureScot (NatureScot), the Scottish Environmental Protection Agency ("SEPA") and Historic Environment Scotland ("HES"), as well as other persons that are likely to be concerned by the proposed Development by reason of their specific environmental responsibilities.

Summary of the Consultation Responses

Statutory Consultees

Dumfries and Galloway Council (the Planning Authority) objected to the proposed Development. They advised the proposal would be contrary to Local Development Plan Policy IN2 for the following reasons:

- a) the proposal would give rise to unacceptable adverse cumulative visual impact and landscape impact and would contribute to the creation of a wind farm landscape character in the locality;
- b) the proposal would be a departure from the revised Dumfries and Galloway Windfarm Landscape Capacity Study (DGWLCS) guidance relative to the Very Large typology turbines; and
- c) the proposed Development would have an unduly adverse impact on the setting of and key views from Cairnsmore of Carsphairn, an important landmark hill within the region.

SEPA initially objected due to lack of information in respect of waste management issues with peat, borrow pit specifications, forestry waste and pollution risks to the water environment. The Company provided clarifications requested by SEPA allowing them to withdraw their objection, subject to planning conditions being attached to any consent granted. The Scottish Ministers have imposed appropriately worded conditions relating to the submission and agreement of a Construction Environmental Management Plan (CEMP) and a requirement for an Ecological Clerk of Works.

NatureScot did not object, however some concerns were raised regarding cumulative effects from popular key summits, including from Cairnsmore of Carsphairn and the Merrick. NatureScot also recommended that the applicant provides clarifications in regard to aviation lighting requirements and the effects on birds and the nearby Dark Sky Park. To aid their appraisal of the effects, NatureScot agreed with the applicant that several existing daytime photos from key viewpoints would be manipulated with computer software to add the proposed lighting. In response to the clarifications provided, NatureScot recommended the consideration of radar activated lighting mitigation for the proposal due to the significant landscape and visual effects as the area has very little lighting in the baseline and the possible effects on birds.

The Scottish Ministers, having considered the response from NatureScot, as well as the consideration given to aviation lighting effects on the landscape by the Reporters at chapter 3 of the PLI Report in addition to the conclusions drawn by the Reporters in respect of the effects of aviation lighting on birds at paragraph 5.36 of the PLI Report, are satisfied that the lighting proposed by the Company would be acceptable. Nevertheless the condition recommended by the Reporters, and imposed by Scottish Ministers, requires the final detail of aviation lighting to be submitted at a later date in order to take advantage of the best available technology in the future.

HES did not object, however commented that there would be impacts on the setting of the scheduled monument 'the King's Cairn'. Up to three wind farms would lie within views to the east of the scheduled monument over the Water of Deugh and toward the valley of the Shalloch Burn. HES does not consider that the impact reaches the threshold where national issues would be raised.

Internal Scottish Government Advisors

Marine Scotland recommends site characterisation surveys are undertaken both within and downstream of the proposed Development area to assess the presence

and abundance of fish species within the Water of Deugh. They also consider that their advice on water quality monitoring is consulted and full details regarding proposed water quality monitoring programmes should be outlined.

The Scottish Ministers have imposed appropriately worded conditions which address the requirements of Marine Scotland.

Transport Scotland did not object to the proposed Development. They consider it acceptable that the Traffic Management Plan will detail the selected route for abnormal loads. However, they requested that a swept path analysis is undertaken to identify any mitigation measures to deal with abnormal load movements. They highlighted that the level of traffic generation during construction does not trigger the need for further assessment. They requested two conditions dealing with the route of abnormal loads and relating to traffic control measures, should be attached to the consent.

The Scottish Ministers have imposed appropriately worded conditions which address the requirements of Transport Scotland.

Scottish Forestry (formally Forestry Commission Scotland) is broadly content with the methodology and approach used within the ES and largely agrees with the conclusions. However, they requested clarification that the woodland loss identified in the ES (28.87 ha) will be compensated for with appropriate planting.

The Scottish Ministers have imposed a condition, recommended by the Reporters, which gives effect to the requirements of Scottish Forestry.

Advisors to Scottish Government

AM Geomorphology identified a number of minor revisions and points of clarification in relation to data sources, assessment and methods used in respect of the peat landslide hazard risk assessment. Having received further clarification from the applicant, A M Geomorphology confirms that all matters have been addressed.

Other Consultees

BT does not object to the proposed Development. The proposed Development should not cause interference to BT's current and presently planned radio network.

Carsphairn Community Council objected to the proposed Development on the basis of the responses received to a survey conducted by the community council to the residents of Carsphairn. 21 people were against the proposal with 4 people in favour. Those in support of the proposal consider it seems sensible to extend existing site further and for the community to benefit as much as possible. Those who raised objections key concerns were in relation to landscape & visual impact, cumulative concerns and tourism impacts.

Civil Aviation Authority (CAA) advises that the site should be checked to confirm whether it falls within the range of an aerodrome. They also recommend that Emergency Service Helicopter Support Units should be consulted. CAA requires that all structures of 91.4 metres or more be charted on aeronautical charts and reported

to the Defence Geographic Centre. For structures of 150 metres or more, there is a legal requirement to fit suitable lights to the turbines in accordance with the Air Navigation Order (ANO) 2016.

Defence Infrastructure Organisation request that the turbines should be fitted with MOD accredited aviation safety lighting given their potential to create a physical obstruction to air traffic movements and cause interference to Air Traffic Control and Air Defence radar installations. They also wish to be consulted and notified of the progression of planning applications and submissions relating to this proposal to verify that it will not adversely affect defence interests.

The Scottish Ministers have imposed appropriately worded aviation conditions to give effect to the requirements of Defence Infrastructure Organisation and the Civil Aviation Authority.

Galloway Fisheries Trust require mitigation measures to be installed in relation to tracks in order to protect watercourses from silt, run-off, aggregate ingress and pollution. Tracks and drainage channels should also be monitored periodically during the operational phase with all works to be overseen by the Ecological Clerk of Works (ECoW). Adequately sized buffers to be left around water courses. Fish surveys should be carried out to help inform the CEMP. As outlined above for Marine Scotland and SEPA, the Scottish Ministers have imposed appropriately worded conditions which will also address the issues raised by Galloway Fisheries Trust.

East Ayrshire Council initially objected on the grounds that the number of turbines proposed to be greater than 150 metres high have the potential to have an adverse landscape and visual impact. The cumulative impact on landscape character, impact on tourism and on the setting of Loch Doon was raised. The key concern was the impact of the proposed aviation lighting on Loch Doon and the Galloway Forest Dark Sky Park and the lack of information concerning these impacts. The council also raised concerns that the proposed Development could have an extensive impact on the public road network and requires the applicant to enter into separate legal agreements under Section 96 of the Roads (Scotland) Act 1984 and Section 69 of the Local Government (Scotland) Act 1973 in order to recover any expenses of maintenance incurred by the councils. Following further clarification provided by the applicant, East Ayrshire Council removed their objection relating to aviation lighting.

Glasgow Prestwick Airport initially objected on the grounds that some of the turbines may be visible to the Primary Surveillance Radar and would therefore display as clutter on the radar displays and that their published instrument flight procedures (“IFPs”) may be impacted by the proposed Development. On 17 March 2021 both objections were withdrawn subject to the imposition of conditions on the section 36 consent requiring the Company to implement a radar mitigation scheme and an IFP scheme (if found to be necessary).

John Muir Trust objects on the grounds that the excessively tall proposed structures would be significantly higher than any other wind turbines in Dumfries and Galloway and are inappropriate to the landscape of the area. They will have a detrimental impact on the peat on site and will have a negative socio economic impact. The Scottish

Ministers can confirm that the impacts on peat and socio economics have been fully taken into consideration before granting consent.

National Air Traffic Services (NATS) has no safeguarding objection to the proposal and no impact is anticipated on NATs Radar, navigation aids or radio communications infrastructure.

RSPB Scotland agrees with the findings of the ES that due to the low level of activity recorded through ornithological survey work that the risk to avian species from the proposed Development is not significant. However, they recommend that habitat enhancement is considered for black grouse as long as this could be achieved at a distance of at least 500 metres from the location of the turbines. Regarding deep peat habitat, they advise that micro-siting of certain turbines is considered in order to minimise impact.

The Scottish Ministers have imposed an appropriately worded micro-siting condition which takes account of the environment. The Scottish Ministers agree with the Reporters' conclusions at Para 5.26 of the PLI report and do not consider it necessary to impose a requirement for habitat enhancement.

Scottish Water indicates that the proposed turbines and infrastructure are located within the boundary for the Carsfad reservoir catchment therefore water quality and quantity should be protected and Scottish Water notified of any pollution incidents. Scottish Ministers have included these requirements in the Condition imposed for a Construction and Environmental Management Plan (CEMP)

Visit Scotland suggests that full consideration be given to the Scottish Government's 2008 research on the impact of wind farms on tourism and a tourism impact statement be provided.

The following bodies had no comments or did not respond:

Association of Salmon Fishery Board, Balmaclellan, Crown Estate Scotland, Dalmellington Community Council, Dalry Community Council, Dumfries and Galloway Bat Group, Dumfries and Galloway Raptor Study Group, Glasgow Airport, Joint Radio Company, Mountaineering Council, New Cumnock Community Council, OFCOM, Red Squirrels in South Scotland, Scotland's Garden and Landscape Heritage, Scottish Wild Land Group, Scottish Wildlife Trust, Nuclear Safety Directorate and British Horse Society.

A summary of the consultation responses regarding the proposed Development are set out in Chapter 1.9 – 1.28 of the Public Local Inquiry Report and have been taken into account in the determination of the proposed Development.

Full details of the consultation responses are available on the Energy Consents website at www.energyconsents.scot

Summary of Public Representations

In response to the public consultation, no letters of support or objection were received.

Public Local Inquiry (“PLI”)

Dumfries and Galloway Council lodged an objection outwith the agreed time limit therefore Scottish Ministers are not required to hold a public inquiry by virtue of paragraph 2(2) of schedule 8 of the Electricity Act. However paragraph 3(2), of the same schedule, provides that where the Scottish Ministers are not required by virtue of paragraph 2(2) to cause a public inquiry to be held, but objections have been sent to the Scottish Ministers, then the Ministers are to consider those objections, together with all other material considerations, with a view to determining whether a public inquiry should be held with respect to the application and, if they think it appropriate to do so, cause a public inquiry to be held. The Scottish Ministers, having considered the out of time objection from Dumfries and Galloway, considered that it was appropriate that a public inquiry was held.

The inquiry sessions were held on 3 and 4 December 2018 and the hearing sessions took place on 3 and 5 December 2018. Closing submissions were exchanged in writing, with the final closing submission (on behalf of the applicant) being lodged on 18 January 2019.

Following the inquiry, the Reporters allowed parties to lodge further written submissions to map the up-to-date cumulative wind farm position, to comment on the Pencloe Wind Farm decision (at the request of the applicant), and to reach agreement on conditional matters dealing with access tracks and noise. Further written submissions relating to recent policy matters were also permitted.

Unaccompanied inspections of the appeal site, its surroundings and locations referred to in evidence during August and September 2018 and on 6 December 2018. An accompanied site inspection took place on 3 September 2018.

The PLI Report was received by the Scottish Ministers on 23 December 2019.

The Scottish Ministers Considerations

Environmental Matters

The Scottish Ministers have had regard to the matters set out in Schedule 9 of the Act in respect of the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna and geological and physiological features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest. The Scottish Ministers shall avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

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

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

SEPA's advice has been considered as required by section 36(5A) with due regard given to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003. SEPA have no objection to the proposed Development.

The Scottish Ministers are satisfied that the ES has been produced in accordance with the 2000 Regulations. The Scottish Ministers have assessed the environmental impacts of the proposed Development and taken the environmental information (ES, representations, consultation responses including those from NatureScot, SEPA, HES and the PA) into consideration in reaching their decision.

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

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

Under paragraph 3(3) of Schedule 9 of the 1989 Act, Scottish Ministers shall avoid, so far as possible, causing injury to fisheries or to stock of fish in any waters. The Scottish Ministers are satisfied that this is the case and more generally that the requirements of paragraph 3 have been met.

The Scottish Ministers have had regard to the requirements regarding publicity and consultation laid down in the Consents Regulations and the 2000 Regulations and are satisfied the general public as well as statutory and other consultees have been afforded the opportunity to consider and make representation on the proposed Development.

The Scottish Ministers have considered fully and carefully the application, including the Environmental Statement, consultation responses, the findings, conclusions and recommendation of the PLI report and all other material information and, are satisfied that the environmental impacts of the proposed Development have been assessed and have taken the environmental information into account when reaching their decision.

Main Determining Issues

Having considered the Application, the ES, responses from consultees parties, the PLI Report and Scottish Government policies, the Scottish Ministers agree with the Reporters (as set out at paragraph 8.6 of the PLI Report) that the main determining issues are:

- the landscape and visual impact of the development, including impacts from aviation lighting;
- the benefits of the development, including its renewable energy generation, greenhouse gas emissions savings and net economic impact; and

- the degree to which it would be in conformity with national planning policy, the local development plan and other relevant guidance.

PLI Report

In each chapter of the PLI Report, the Reporters summarised the arguments for each party, taking account of the precognitions, hearing statements, hearing sessions, the discussion at the Inquiry and the closing submissions. The Reporters also took into account the environmental information included in the ES, the written representations and all of the other information supplied for the Inquiry and hearing sessions. The chapters of the PLI Report provide the following:

Chapter 1 – Background, consultations and representations

Chapter 2 – Legislative and policy context

Chapter 3 – Landscape and visual effects including aviation lighting

Chapter 4 – Socio-economic and tourism

Chapter 5 – Other matters comprising of:

- Ecology
- Ornithology
- Cultural heritage
- Hydrology, geology and hydrogeology
- Peat and carbon rich soils
- Noise and shadow flicker
- Forestry
- Aviation radar and communications
- Roads and traffic

Chapter 6 – Suggested conditions

Chapter 7 – Policy assessment of the proposal

Chapter 8 – Conclusions and recommendations

The Reporters' recommendation to the Scottish Ministers is that consent is granted under Section 36 of the Electricity Act 1989 and direct that planning permission is deemed to be granted, and that conditions proposed by the Reporters are attached.

Assessment of the Determining Issues

Landscape and Visual Impacts

The assessments and the Reporters' conclusions are detailed in Chapter 3 of the PLI Report.

In the assessment of landscape and visual impact of the proposed Development, the Reporters have taken into account matters including relevant landscape designations, landscape character types (LCTs), landscape and visual effects and cumulative landscape and visual effects. The Reporters concluded significant effects on landscape character and visual effects would be mostly limited to the site and its immediate surroundings.

The effects would not change the intrinsic characteristics of the relevant LCTs studied. Given that effects would be localised, or only visible in distant views as contributing to the existing turbine assemblage, it is not considered that the proposals would have a significant effect on the Galloway Hills Regional Scenic Area, the East Ayrshire Sensitive Landscape Area, South Lanarkshire Special Landscape Area, Craigengillan Garden and Designed Landscape or the Merrick Wild Land Area.

Significant visual effects would be mostly localised and from particular limited locations. There would be no significant effects from settlements or individual residential properties. There would be no significant adverse effects for travellers using local transport routes. Cumulative visual effects would be experienced from certain walking routes and summits. The Reporters, however found that the proposed development would be seen as a constituent part of the complex of wind farms present and consented in this area.

Effects of Aviation Lighting

The applicant submitted clarifications in regard to aviation lighting requirements and effects on birds and the Dark Sky Park. The visualisations were based on daytime photography provided within the ES being manipulated to resemble night time views. The visuals therefore do not contain existing artificial lighting sources and cannot demonstrate the light intensity of which varies when viewed from different angles and in different climatic conditions.

The applicant therefore offered interested parties the opportunity to view a test example of the light source at the existing Windy Standard development. The light was placed on turbine 16, as it was comparable to that of turbine 12 at the Meaul Hill cluster of the proposed Development. The Reporters visited the site on two consecutive occasions to view the test light from the road at Viewpoint 10 (Loch Doon) and Viewpoint 12 (Forest Drive). The visits took place in early December 2018 on clear nights with no low cloud cover, therefore the Reporters did not experience any 'halo' or 'blinking' effect caused by moving turbine blades. Officials from the Energy Consents Unit also visited the site and are in agreement with the Reporters that the test light adequately demonstrated the potential effect on the night sky from these locations.

There is an accepted low level of ornithological activity in the area, however the site does not support important populations of bird species, the Reporters concluded that any individual mortality of birds as a result of the proposed lighting would not have an impact upon the populations of the relevant species, and hence would not have unacceptable effects.

In order to meet CAA requirements and ensure that appropriate lighting is provided on the proposed Meaul Hill turbines, the Reporters have suggested a planning condition which has been imposed by the Scottish Ministers in Annex 2 of this determination.

The Scottish Ministers have taken account of the Reporters' overall conclusions on the landscape and visual effects, cumulative effects and aviation lighting effects of the

proposed Development, and are content to adopt them for the purpose of their own decision.

Renewable Energy Produced and Contribution to Targets and Carbon Payback

NPF3 is clear that planning must facilitate the transition to a low carbon economy, and help to deliver the aims of the Scottish Government's Report on Proposals and Policies. Our spatial strategy facilitates the development of generation technologies that will help to reduce greenhouse gas emissions from the energy sector. Scotland has significant renewable energy resources, both onshore and offshore.

Policy Principles set out in SPP state that the planning system should:

- Support the transformational change to a low carbon economy, consistent with national objectives and targets, including deriving;
 - 30% of overall energy demand from renewable sources by 2020;
 - 11% of heat demand from renewable sources by 2020; and
 - the equivalent of 100% of electricity demand from renewable sources by 2020.
- Support the development of a diverse range of electricity generation from renewable energy technologies, including the expansion of renewable energy generation capacity and the development of heat networks.

The proposed Development makes a significant contribution towards meeting greenhouse gas emission and renewable electricity targets. The proposed Development will have a generating capacity of up to 67.5 MW based on current technology. The deployment of this amount of renewable energy produced in Scotland is entirely consistent with the Scottish Government's policy on the promotion of renewable energy and its target date for net-zero emissions of all greenhouse gases by 2045.

Carbon Payback

The carbon payback for the proposed Development has been presented in the ES using the approved carbon calculator. In overall terms the proposed Development if built would be expected to have a payback period of 1.7 years if it replaces the grid-mix of electricity generation, 0.8 years if it replaces coal and 1.1 if it replaces the fossil-fuel mix.

Whilst noting the limitations of any such calculations, the online carbon calculator provides the best available means by which carbon calculations can be provided in a consistent and comparable format.

The Scottish Ministers agree with the Reporters, as set out at paragraph 7.41, that the balance of advantage in terms of climate change mitigation lies with the development proposal and 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.

Economic Benefits

The Reporters set out their considerations and conclusions on the socio-economic and tourism impacts of the proposed Development at Chapter 4 of the PLI Report.

Scottish Planning Policy 2014 (SPP) advises that proposals for energy infrastructure developments should always take account of spatial frameworks for wind farms where these are relevant. Considerations will vary relative to the scale of the proposal and area characteristics but are likely to include, as well as a number of other considerations, net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.

The transition to a low carbon economy is an opportunity for Scotland to take advantage of our natural resources to grow low carbon industries and create jobs.

The ES sets out a number of socio-economic benefits of the proposed Development:

- A capital expenditure estimated at £83 million resulting in direct and indirect economic effects;
- During the construction phase, creation of an anticipated 163 jobs at the Scottish level, contributing £9.45 million in Gross Value Added (GVA), and 36 jobs and £2.11 million at the Dumfries and Galloway level;
- During the operation phase, creation of an anticipated 12 jobs and £1.17 million in GVA at the Scottish level and five jobs and £520 k in GVA at the Dumfries and Galloway level;

The economic benefits of the proposed Development are set out in the ES in terms of employment and GVA generation. The Reporters accept that these are under-estimates of the total economic effects and that there would likely also be wider benefits, particularly in terms of supporting local business through the supply chain.

Whilst it is difficult to precisely quantify overall net economic benefits, given direct and indirect effects and timescales, The Scottish Ministers are satisfied the proposed Development has the potential for positive net economic benefits both to the local community and Dumfries and Galloway more generally.

Figures in the ES in relation to the local tourism industry demonstrate that there are relatively few tourism businesses within the immediate area of the proposed Development. Based on the evidence presented from the BiGGAR, 2017 report, that wind farms do not have an adverse effect on tourism and that turbines are already a feature of the local landscape, consequently the Scottish Ministers consider that the proposed Development would not have a significant adverse impact on socio-economics, tourism or recreation.

Policy Support

Chapter 2 of the PLI Report sets out the policy context against which the proposed Development should be considered and Chapter 7 of the PLI Report sets out the Reporters' consideration and assessment of the proposed Development in the context of relevant national climate change and energy policy, national planning policy and other relevant local planning policy and guidance.

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

The aforementioned NPF3 sets out Scottish Government's commitment to establishing Scotland as a leading location for the development of renewable energy technology. In Scotland there has been significant progress towards low carbon objectives whilst continuing to protect our special places from significant adverse impacts.

SPP contains guidance in respect of the granting of consent for wind farm development and is to be read and applied as a whole. It sets out overarching principal policies to be applied to all development and subject policies which set out guidance in respect of development management. An overarching principle of SPP is that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits over the longer term. The aim is to achieve the correct development in the right place; it is not to allow development at any cost. This means that decisions and policies should be guided by certain principles including, among others, giving due weight to net economic benefit; supporting the delivery of infrastructure; supporting climate change mitigation and protecting natural heritage. At Chapters 3, 4, 5, 6 of the PLI Report the Reporters have taken account of the proposed Development against the provisions of SPP.

Scottish Ministers note that the Reporters considered SPP 2014 prior to it being updated December 2020.

Scottish Government's Energy Strategy and Onshore Wind Policy Statement (OWPS) sets out targets for the increase in the supply of renewable energy. The OWPS in particular reaffirms the vital role for onshore wind in meeting Scotland's energy targets. The statement sets out the Scottish Government's position for the ongoing need for more onshore wind development in locations across Scotland where it can be accommodated. There is also clear support in principle for extending existing sites by making best use of the potential at existing sites.

Compatibility with Local Development Plan and Supplementary Guidance

The Dumfries and Galloway Local Development Plan 2014 and Part 1 Wind Energy Development: Development Management Considerations Supplementary Guidance

2017 were the relevant statutory plans at the time of application and hearing. Since the hearing was conducted, the council have adopted the Dumfries and Galloway Council Local Development Plan 2 (LDP2) and updated their supplementary guidance.

The Reporters concluded that the proposed Development would comply with the recently adopted LDP2 and draft guidance on wind energy development.

The Scottish Ministers agree with the Reporters that 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' Conclusions

Reasoned Conclusions on the Environment

The Scottish Ministers have fully considered the Application, including the ES, clarifications, consultation responses, the findings, conclusions and recommendation of the PLI report and all other material information and, are satisfied that the environmental impacts of the proposed Development have been assessed and have taken the environmental information into account when reaching their decision.

The Scottish Ministers are satisfied, having regard to current knowledge and methods of assessment, that this reasoned conclusion addresses the likely significant effects of the proposed Development on the environment. Ministers are satisfied that this reasoned conclusion is up to date.

Conclusions on Acceptability of the Proposed Development

The proposed Development is sited in an area with an already established use as a wind farm and, if built, will contribute to renewable energy targets and towards reducing greenhouse emissions. Economic benefits to the Scottish economy are anticipated alongside short and longer term benefits to the Dumfries and Galloway planning authority area. The Scottish Ministers acknowledge that there will be some significant localised landscape and visual impacts however Ministers are satisfied, that overall, the proposed Development is appropriately sited and designed. The landscape and visual impacts which remain are acceptable in the context of the benefits that the proposed Development will bring. The Scottish Ministers are satisfied that the other environmental issues will be appropriately addressed by the mitigation measures set out in the ES and secured by relevant conditions attached to the planning permission deemed to be granted by the Scottish Ministers.

Scottish Ministers, taking account of the update to SPP in December 2020, consider that on balance the proposed development is sustainable development for the reasons as set out above.

Duration of Deemed Planning Permission

Section 58(1) of the Town and Country Planning (Scotland) Act 1997 provides that planning permission lapses if development has not begun within a period of 3 years.

Section 58(2) of that Act enables Ministers to direct that a longer period is allowed before planning permission lapses.

The Scottish Ministers consider that due to the constraints, scale and complexity of constructing such developments and the timeframes associated with the commissioning of grid infrastructure to connect them, a 5 year time scale for the Commencement of Development is typically appropriate.

As a consequence of the potential delays the Covid 19 pandemic may have on predicted construction timescales the Scottish Ministers consider it is reasonable to add an additional year to typical timescales. The Scottish Ministers therefore direct that section 58(1) of the Town and Country Planning (Scotland) Act 1997 is not to apply with regard to that planning permission and that planning permission is to lapse on the expiry of a period of 6 years from the date of this direction if there has been no development within that period.

The Scottish Ministers' Determination

The Scottish Ministers have considered fully the Reporters' findings and reasoned conclusions and adopt them for the purposes of their own decision.

The Scottish Ministers agree with the Reporters' recommendation that section 36 consent should be granted for the construction and operation of the Windy Standard III Wind Farm, and that a direction deeming planning permission to be granted should be given for the Development.

Subject to the conditions set out in **Part 1 of Annex 2**, the Scottish Ministers **grant consent** under section 36 of the Electricity Act 1989 for construction and operation of the Windy Standard III Wind Farm electricity generating station in the Dumfries and Galloway Council area (**as described in Annex 1**).

Subject to the conditions set out in **Part 2 of Annex 2**, the Scottish Ministers direct under section 57(2) of the Town and Country Planning (Scotland) act 1997 that **planning permission be deemed to be granted** in respect of the development described in **Annex 1**.

Section 36 consent and expiry of Planning Permission

The consent hereby granted will last for a period of 35 years from the earlier of:

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

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

In accordance with the EIA Regulations, the Company must publicise this determination on a website maintained for the purpose of making information publicly available and in the Edinburgh Gazette and a newspaper circulating in the locality in which the land to which the application relates is situated.

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

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

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

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

Yours sincerely

REDACTED

William Black
Head of Energy Consents
A member of the staff of the Scottish Government

ANNEX 1

Description of Development

The Development comprises a wind powered electricity generating station known as Windy Standard III with a generating capacity exceeding 50 MW, located within Carsphairn Forest, approximately 6.5 km north of Carsphairn village, in Dumfries and Galloway.

All as more particularly shown on plan reference ES Volume 3 Figure 3.6 (Site Layout) and the planning application map appended to this decision letter (Annex 3) and as specified in the Application submitted on 9 December 2016 including the ES, and the ES Addendum which accompanied it. The main components of the wind farm and related ancillary developments of the wind farm will comprise;

- **20** wind turbines consisting of 8 turbines of a maximum height from base to tip not exceeding 125m and 12 turbines of an overall height from base to tip not exceeding 177.5m;
- forestry felling;
- external transformer housing;
- widening of existing public road junction;
- site tracks;
- crane pads;
- foundations;
- underground electricity cabling;
- two permanent anemometer masts;
- extension of use of consented operations;
- extension of use of the control building;
- extension of use of the temporary construction/storage compounds;
- four Borrow pits;
- on-site concrete batching plant;
- associated works/infrastructure; and
- health and safety sign posting.

ANNEX 2

Part One

Conditions attached to the Section 36 consent

The consent granted in accordance with section 36 of the Electricity Act 1989 is subject to the following conditions:

1. Notification of Date of Final Commissioning

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

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

2. Commencement of Development

(1) The Commencement of the Development shall be no later than six years from the date of this consent, or in substitution, such other period as the Scottish Ministers may hereafter direct in writing.

(2) Written confirmation of the intended date of Commencement of Development shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month before that date.

***Reason:** To avoid uncertainty and to ensure that consent is implemented within a reasonable period.*

3. Non-assignment

(1) The applicant shall not be permitted to assign this consent without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignment of the consent (with or without conditions) or refuse assignment as they may, at their own discretion, see fit. The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure.

(2) The applicant shall notify the local Planning Authority in writing of the name of the assignee, principal named contact and contact details within 14 days of written confirmation from the Scottish Ministers of an assignment having been granted.

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

4. Serious Incident Reporting

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

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

5. Aviation Radar

(1) No blade shall be fitted to any of the Relevant Turbines forming part of the development and no such turbine shall operate, save as provided for and in accordance with the Testing Protocol, unless and until such time as the Scottish Ministers receive confirmation from the Airport Operator that:

- (a) all measures required by the Radar Mitigation Scheme prior to operation of any turbine have been implemented; and
- (b) the Civil Aviation Authority has evidenced its approval to the Airport Operator that the Radar Mitigation Scheme is acceptable mitigation for the development and has been satisfactorily implemented by the Airport Operator.

(2) No Relevant Turbine shall operate other than in accordance with the terms of the Radar Mitigation Scheme.

Reason: *In the interests of aviation safety.*

6. Aviation - Instrument flight Procedures

No turbine tower of any turbine may be erected, unless and until such time as the Scottish Ministers receive confirmation from the Airport Operator in writing that none of the turbines have an impact on the instrument flight procedures of Glasgow Prestwick Airport, or alternatively that:

- (a) an IFP Scheme has been approved by the Airport Operator;
- (b) the Civil Aviation Authority has evidenced its approval to the Airport Operator of the IFP Scheme (if such approval is required); and
- (c) the IFP Scheme is accepted by NATS AIS for implementation through the AIRAC Cycle (or any successor publication) (where applicable) and is available for use by aircraft.

Reason: *In the interests of aviation safety.*

*Definitions for the purposes of **Conditions 5 and 6** above:*

"Airport Operator" means Glasgow Prestwick Airport Limited or any successor as holder of a licence under the Commission Regulation (EU) No. 139/2014 (or any successor regulation) from the Civil Aviation Authority to operate Glasgow Prestwick Airport.

"IFP Scheme" means a scheme to address the potential impact of the turbines on the instrument flight procedures of Glasgow Prestwick Airport.

"Radar Mitigation Scheme" means such services and resources including equipment, software, procedural or technological measures and technical and professional services, as the Airport Operator identifies as necessary and sufficient to prevent the operation of the development or of any turbines forming part of the development impacting adversely on radar performance or on the performance of other navigational aids at Glasgow Prestwick Airport or on maintaining safe and efficient air traffic control services or procedures or airspace and which the Airport Operator is willing and able to implement and maintain for the lifetime of the development or for such shorter period as may be agreed in consultation with the Airport Operator as necessary to mitigate any such adverse impact.

"Relevant Turbine" means those turbines identified as T4, T13, T17, T19 as shown indicatively on the plan at figure 1.2 of the Windy Standard III Environmental Statement (appended at Annex 3) and whose co-ordinates are more particularly specified within table 4.1 of the Windy Standard III Environmental Statement.

"Testing Protocol" means the protocol to control the operation of any turbine or turbines forming part of the development for the purposes of testing of the Radar Mitigation Scheme.

ANNEX 2 - Part Two

Conditions attached to Deemed Planning Permission

7. Implementation in accordance with approved plans and requirements of the section 36 consent

Except as otherwise required by the terms of this consent and deemed planning permission, the Development shall be undertaken in accordance with the Application (including the approved drawings) and the Environmental Statement (ES) submitted 6th December 2016 in support of the application.

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

8. Design and operation of wind turbines

- (1) There shall be no Commencement of Development unless and until full details of the proposed wind turbines, any anemometry masts and all associated apparatus have been submitted to and approved in writing by the Planning Authority. The turbines shall be consistent with the candidate turbine or range assessed in the environmental statement, in terms of their dimensions from base to tip.
- (2) The Development shall be constructed and operated in accordance with the approved details and maintained in the approved colour, until such time as the wind farm is decommissioned.
- (3) All wind turbine blades shall rotate in the same direction.
- (4) No part of the Development shall display any name, logo, sign or other advertisement unless otherwise approved in advance in writing by the Planning Authority or required by law.

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

9. Other buildings and facilities

There shall be no Commencement of Development unless and until details of the external appearance, dimensions, and surface materials of the substation building, associated compounds, any construction compound boundary fencing, external lighting and parking areas have been submitted to and approved in writing by the Planning Authority. The approved details shall be implemented.

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

10. Micro-siting

- (1) All wind turbines, buildings, anemometry masts, areas of hardstanding and tracks shall be constructed in the location shown on plan reference Figure 3.6 (Final Layout). Wind turbines, buildings, anemometry masts, areas of hardstanding and tracks may be adjusted by micro-siting within the site. However, unless otherwise approved in advance in writing by the Planning Authority (in consultation with SEPA and NatureScot), micro-siting within the site subject to the following restrictions:
- (a) No wind turbine foundation shall be positioned higher, when measured in metres Above Ordinance Datum (Newlyn), than the position shown on plan reference ES Volume 3 Figure 3.6 (Final Layout) and as noted at Table 4.1 of Volume 2: Main Report;
 - (b) No wind turbine, building, mast or hardstanding shall be moved more than 50m from the position shown on the original approved plans;
 - (c) No access track shall be moved more than 10m from the position shown on the original approved plans (but up to 50m where required to account for any realignment necessary to connect to micro-sited turbines and crane pads);
 - (d) All micro-siting permissible under this condition must be approved in advance in writing by the Environmental Clerk of Works (ECoW).
- (2) No later than one month after the date of First Commissioning, an updated site plan shall be submitted to the Planning Authority showing the final position of all wind turbines, masts, anemometry, areas of hardstanding, tracks and associated infrastructure forming part of the Development. The plan should also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW or Planning Authority's approval, as applicable.

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

11. Borrow Pits

There shall be no Commencement of Development unless and until a scheme for the working of the borrow pit forming part of the Development has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. The scheme shall include:

- (a) a detailed working method statement;
- (b) details of the handling of any overburden (including peat, soil and rock);
- (c) drainage details, including measures to prevent surround areas of peatland water dependent sensitive habitats and Ground Water Dependent Terrestrial Ecosystems (GWDTE) from drying out;
- (d) a programme of implementation of the works described in the scheme;
- (e) full details of the reinstatement, restoration and aftercare of the borrow pit at the end of the construction period; and
- (f) analytical testing of stone.

The approved scheme shall thereafter be implemented in full.

Reason: *To ensure that excavation of materials from the borrow pits is carried out in a manner that minimises the impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Statement accompanying the application, or as otherwise agreed, are fully implemented. To secure the restoration of borrow pits at the end of the construction period.*

12. Planning Monitoring Officer

There shall be no Commencement of Development unless and until the Planning Authority has approved in writing the terms of appointment by the Company of an independent and suitably qualified environmental consultant as a Planning Monitoring Officer (PMO) to assist the Planning Authority in the monitoring of compliance with conditions attached to this deemed planning permission during the period from Commencement of Development to completion of post-construction restoration works.

Reason: *To enable the Development to be suitably monitored to ensure compliance with the consent issued.*

13. Black Grouse

Pre-construction surveys for bird species should be carried out, in the appropriate season, as proposed in the Environmental Statement (8.5.20). These surveys should include (but not necessarily be limited to) surveys for black grouse and their leks. During construction a 750m buffer should be applied around any identified black grouse lek(s). No construction activity shall be allowed within these buffer areas (including vehicle movements along tracks) before 9am in the months of April and May.

Reason: *To avoid causing disturbance to lekking (displaying) birds during the sensitive breeding season.*

14. Ecological Clerk of Works

(1) There shall be no Commencement of Development unless and until the Planning Authority has approved in writing the terms of appointment by the Company of an independent and suitably qualified Ecological Clerk of Works (ECoW) in consultation with NatureScot and SEPA as necessary. The terms of appointment shall:

- (a) Impose a duty to monitor compliance with the ecological and hydrological commitments set out in the Environmental Statement and any other information lodged in support of the application, the Construction and Environmental Management Plan approved under condition 15 and any other plans approved under condition 15;

- (b) Require the ECoW to report to the Company's nominated construction project manager any incidences of non-compliance with the ECoW works at the earliest practical opportunity;
 - (c) Require the ECoW to submit a monthly report to the Planning Authority summarising works undertaken on site; and
 - (d) Require the ECoW to report to the Planning Authority any incidences of non-compliance with the ECoW Works at the earliest practical opportunity.
- (2) The ECoW shall be appointed on the approved terms throughout the period from Commencement of Development, throughout any period of construction activity and during any period of post construction restoration works approved in terms of condition 15.
- (3) No later than 18 months prior to decommissioning of the Development or the expiration of this consent (whichever is the earlier), the Company shall submit details of the terms of appointment by the Company of an independent ECoW throughout the decommissioning, restoration and aftercare phases of the Development to the Planning Authority for approval in consultation with NatureScot and SEPA. The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the Development.

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

15. Construction Environmental Management Plan

- (1) There shall be no Commencement of Development unless and until a Construction and Environmental Management Plan (CEMP) detailing the matters set out in this condition with information on their timetabling, has been submitted to (at least 6 weeks in advance of works commencing) and approved in writing by the Planning Authority in consultation with NatureScot, SEPA and Scottish Water. The CEMP shall include (but shall not be limited to):
- (a) a site waste management plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;
 - (b) details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
 - (c) a felling and tree management plan, which includes details of the handling, storage and disposal of forestry waste;
 - (d) details of borrow pit excavation and restoration, including analytical testing of stone to ensure its suitability;
 - (e) a dust management plan;

- (f) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- (g) a pollution prevention and control method statement, including arrangements for the storage of oil and fuel on the site;
- (h) soil storage and management;
- (i) a peat management plan, which incorporates the measures set out in Section A.10.6 of Technical Appendix 10.1 to the Environmental Statement;
- (j) a species protection plan based on surveys for protected species (including birds) carried out no longer than 8 months prior to submission of the plan;
- (k) a drainage management strategy, demonstrating how all surface and waste water arising during and after development will be managed and prevented from polluting any watercourses or sources;
- (l) sewage disposal and treatment;
- (m) temporary site illumination;
- (n) the construction of the access into the site and the creation and maintenance of associated visibility splays;
- (o) the method of construction of the crane pads;
- (p) the method of construction of the turbine foundations;
- (q) the method of working cable trenches;
- (r) the method of construction and erection of the wind turbines and meteorological masts;
- (s) details of watercourse crossings;
- (t) post-construction restoration / reinstatement of the working areas not required during the operation of the Development, including construction access tracks, borrow pits, construction compound and other construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation;
- (u) a wetland ecosystems (Ground Water Dependent Terrestrial Systems) survey and mitigation plan;
- (v) pre-construction surveys for protected species and the development of any required mitigation, to be agreed with NatureScot;
- (w) an integrated water quality, macroinvertebrate and fish population monitoring programme. This should include a baseline electro-fishing and water quality survey which shall be carried out at such locations as are agreed in writing with the planning authority in consultation with the Galloway Fisheries Trust, SEPA and Scottish Water, to determine the presence of any migratory fish and the water quality of watercourses. Electro-fishing check surveys shall be undertaken at those same locations throughout the construction and operation stages at agreed intervals. The results of the surveys shall be submitted to the planning authority. Should migratory fish or water quality be likely to be adversely affected by the proposed works, mitigation measures to avoid those adverse impacts shall be submitted for the written approval of the planning authority and implemented thereafter.
- (x) during the archaeological walkover survey, the marking on operational maps the historical marker cairns on Waterhead Hill to avoid the chance of accidental damage and the provision of a toolbox talk and documentation about how to

recognise archaeological features, who to notify and how to proceed in the event of unexpected archaeological remains.

- (y) a Construction Noise Management Plan (CNMP) which includes an assessment of noise from the proposed construction activities (including, amongst other things, noise created during night time hours (23:00 – 07:00) as a result of operations, construction and or deliveries at the site, the selection of plant used with reference to noise created by the plant, and noise created by bleeping type warning devices on the plant), details of noise mitigation measures where required and includes a site complaint investigation procedure
 - (z) a protocol for the measurement and assessment of ground borne vibration from blast activities;
 - (aa) measures for the protection of Drinking Water Protected Areas and private water supplies, including notification requirements in respect of pollution incidents, to be agreed in advance with Scottish Water; and,
 - (bb) an existing track condition report which shall identify the lengths of existing track and the condition of them. It shall include the details of works required to bring the identified tracks to a standard which is consistent with that of the new access tracks under (b) of this condition to include the details of siltration run off and the maintenance of them during the construction and post construction works of the proposed development.
- (2) The Development shall be implemented thereafter in accordance with the approved CEMP unless otherwise approved in advance in writing by the Planning Authority in consultation with NatureScot, SEPA and Scottish Water.

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

16. Construction Hours

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

Reason: *In the interests of local amenity.*

17. Traffic Management

- (1) There shall be no Commencement of Development unless and until a Traffic Management (and enabling works) Plan has been submitted to and approved in writing by the Planning Authority. The Traffic Management Plan shall include:
 - (a) the routing of all traffic associated with the Development on the local road network;
 - (b) the method of construction for the overrun areas and how the existing public road network will be stabilised adjacent to the overrun areas;
 - (c) measures to ensure that the specified routes are adhered to, including monitoring procedures;
 - (d) details of all signage and lining arrangements to be put in place;
 - (e) provisions for emergency vehicle access;
 - (f) identification of a nominated person to whom any road safety issues can be referred; and
 - (g) a plan for access by vehicles carrying abnormal loads, including the number and timing of deliveries, the length, width, axle configuration of all extraordinary traffic accessing the site.
- (2) The approved Traffic Management (and enabling works) Plan shall thereafter be implemented in full, unless otherwise agreed in advance in writing with the Planning Authority.

Reason: *In the interests of road safety and to ensure that abnormal loads access the site in a safe manner.*

18. Transport of Abnormal Loads

- (1) Prior to commencement of deliveries to site, the proposed route for any abnormal loads on the trunk road network must be approved by the trunk roads authority prior to the movement of any abnormal load. Any accommodation measures required including the removal of street furniture, junction widening, traffic management must similarly be approved.
- (2) During the delivery period of the wind turbine construction materials any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed must be undertaken by a recognised QA traffic management consultant, to be approved by Transport Scotland before delivery commences.

Reason: *To minimise interference and maintain the safety and free flow of traffic on the Trunk Road as a result of the traffic moving to and from the development. To ensure that the transportation will not have any detrimental effect on the road and structures along the route.*

19. Programme of Archaeological Works

- (1) There shall be no Commencement of Development until the Planning Authority has approved the terms of a programme of archaeological works to be observed during construction of the Development, to include measures to be taken to protect and preserve any features of archaeological interest in situ and the recording and recovery of archaeological features which cannot be so preserved.
- (2) The approved scheme of archaeological works shall thereafter be implemented in full.

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

20. Replanting of Forestry

Prior to Commencement of Development a scheme to compensate for the removal of up to 28.87 hectares of existing woodland ("the Scheme") shall be submitted to the Planning Authority and thereafter the Scheme shall be implemented as approved in writing by the Planning Authority in consultation with Scottish Forestry

Reason: *To secure replanting to mitigate against effects of deforestation arising from the Development.*

21. Television Reception

- (1) There shall be no Commencement of Development until a Television Reception Mitigation Plan has been submitted to, and approved in writing by, the Planning Authority. The Television Reception Mitigation Plan shall provide for a baseline television reception survey to be carried out prior to the installation of any turbine forming part of the Development, the results of which shall be submitted to the Planning Authority.
- (2) The approved Television Reception Mitigation Plan shall thereafter be implemented in full.
- (3) Any claim by any individual person regarding television picture loss or interference at their house, business premises or other building, made during the period from installation of any turbine forming part of the Development to the date falling twelve months after the date of Final Commissioning, shall be investigated by a qualified engineer appointed by the windfarm operator and the results shall be submitted to the Planning Authority. Should any impairment to the television signal be attributable to the Development, the Company shall remedy such impairment so that the standard of reception at the affected property is equivalent to the baseline television reception.

Reason: *To ensure local television services are sustained during the construction and operation of this development.*

22. Redundant Turbines

- (1) If one or more turbine fails to generate electricity for a continuous period of 12 months, then unless otherwise agreed in writing by the Planning Authority, the Company shall, no later than 14 days after the date of expiry of the 12 month period, submit a scheme to the Planning Authority for its written approval setting out how the relevant turbine(s) and associated infrastructure will be removed from the site and the ground restored including a timetable for its full implementation.
- (2) The scheme shall have regard to the decommissioning, restoration and aftercare method statement approved under condition 26. The approved scheme shall be implemented in accordance with the approved timetable.

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

23. Aviation Information

Prior to the Commencement of Development, the Company shall provide the Planning Authority, Ministry of Defence, Defence Geographic Centre and NATS with the following information:

- (a) the date of the expected commencement of each stage of construction;
- (b) the height above ground level of the tallest structure forming part of the Development;
- (c) the maximum extension height of any construction equipment; and
- (d) the position of the turbines and masts in latitude and longitude.

Reason: *In the interests of aviation safety.*

24. Aviation Lighting – Waterhead Hill

- (1) Prior to the erection of the first wind turbine the Company shall submit a scheme for aviation lighting for the Development to the Planning Authority for written approval. The scheme shall include details of infra-red aviation lighting to be applied. No lighting other than that described in the scheme may be applied at the site, other than as required by law.
- (2) No turbines shall be erected on site until the scheme has been approved in writing. The Development shall thereafter be operated fully in accordance with the approved scheme.

Reason: *In the interests of aviation safety.*

25. Aviation Lighting – Meaul Hill

No turbines within the Meaul Hill Cluster shall be erected until a scheme for aviation lighting has been submitted to and approved by the Planning Authority, in consultation with the Civil Aviation Authority. The scheme shall thereafter be implemented as approved.

Reason: *In the interests of aviation safety.*

26. Decommissioning, Restoration and Aftercare

- (1) The Development will be decommissioned and will cease to generate electricity by no later than the date falling 35 years from the date of Final Commissioning. The total period for restoration of the Site in accordance with this condition shall not exceed three years after the date of decommissioning without prior written approval of the Scottish Ministers in consultation with the Planning Authority.
- (2) There shall be no Commencement of Development unless and until a decommissioning, restoration and aftercare method statement has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot and SEPA. The method statement shall include measures for the decommissioning of the Development, restoration and aftercare of the site and will include, without limitation, proposals for the removal of the above ground elements of the Development, the treatment of ground surfaces, the management and timing of the works and environmental management provisions.
- (3) No later than three years prior to decommissioning of the Development or the expiration of this consent (whichever is the earlier) a detailed decommissioning, restoration and aftercare method statement, based upon the principles of the approved decommissioning, restoration and aftercare method statement, shall be submitted to the Planning Authority for written approval in consultation with NatureScot and SEPA. The detailed decommissioning, restoration and aftercare method statement will provide updated and detailed proposals for the removal of above ground elements of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions. It should include (but shall not be limited to):
 - (a) a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
 - (b) details of the formation of new features required to facilitate the decommissioning and restoration including but not limited to: the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
 - (c) a dust management plan;

- (d) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
 - (e) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
 - (f) soil storage and management;
 - (g) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
 - (h) sewage disposal and treatment;
 - (i) temporary site illumination;
 - (j) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
 - (k) details of watercourse crossings;
 - (l) a species protection plan based on surveys for protected species (including birds) carried out no longer than 18 months prior to submission of the plan).
- (4) The Development shall be decommissioned, site restored and aftercare thereafter undertaken in accordance with the detailed decommissioning, restoration and aftercare method statement as approved, unless otherwise agreed in writing in advance with the Planning Authority in consultation with NatureScot and SEPA.

Reason: *To ensure the decommissioning and removal of the Development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.*

27. Financial Guarantee

- (1) There shall be no Commencement of Development until the Company has delivered a bond or other form of financial guarantee, in terms acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations as contained in the decommissioning, restoration and aftercare method statement, to the Planning Authority. The financial guarantee shall thereafter be maintained in favour of the Planning Authority until the date of completion of all restoration and aftercare obligations.
- (2) The value of the financial guarantee shall be determined by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations contained in the decommissioning, restoration and aftercare method statement. The value of the

financial guarantee shall be reviewed by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with restoration and aftercare obligations and best practice prevailing at the time of each review.

Reason: *To ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the Company.*

28. Site Inspection Strategy

(1) Prior to the Date of Final Commissioning, the Company must submit a draft Site Inspection Strategy (SIS), for the written approval of the Planning Authority. This shall set out details for the provision of site inspections and accompanying Site Inspection Reports (SIR) to be carried out at 25 and 30 years of operation from the Date of Final Commissioning. At least one month in advance of submitting the SIR, the scope of content shall be agreed with the Planning Authority. The SIR shall include, but not be limited to:

(a) Requirements to demonstrate that the infrastructure of the Development is still fit for purpose and operating in accordance with conditions 8 and 29; and

(b) An engineering report which details the condition of tracks, turbine foundations and the wind turbine generators and sets out the requirements and the programme for the implementation for any remedial measures which may be required.

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

Reason: *To ensure the condition of the infrastructure associated with the Development is compliant with the ES, condition 8 and condition 29 and is to ensure the Development is being monitored at regular intervals throughout its operation*

29. Noise

(1) The rating level of noise immission from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speeds set out in or derived from Tables 1 and 2 attached to these conditions.

(2) At Moor Cottage only, the rating level of noise immissions from the combined effects of the wind turbines hereby permitted, operating in conjunction with the consented or operational turbines of Windy Standard I and II Wind Farms (APP 02/N/2/0001) and South Kyle Wind Farm (APP 13/0001/S36) (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes shall not exceed the values for the relevant integer wind speed set out in Tables 3 and 4 attached to these conditions. Following complaint, in the event that the level of noise immissions (including the application of any tonal

penalty) exceeds the values in Tables 3 and 4, the operator of Windy Standard III Wind Farm shall undertake appropriate mitigation to reduce turbine noise immissions such that the limits in Tables 3 and 4 are met, or such that noise from the turbines hereby permitted (including the application of any tonal penalty) meets the levels set out in Tables 5 and 6, and:

- (a) Prior to the operation of the wind turbines, the wind farm operator shall submit to the Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Planning Authority.
- (b) Within 21 days from receipt of a written request of the Planning Authority, following a complaint to it alleging noise disturbance at a dwelling, the wind farm operator shall, at its expense, employ an independent consultant approved by the Planning Authority to assess the level of noise immission from the wind farm at the complainant's property (or a suitable alternative location agreed in writing with the Planning Authority) in accordance with the procedures described in the attached Guidance Notes. The written request from the Planning Authority shall set out at least the date, time and location that the complaint relates to. Within 14 days of receipt of the written request of the Planning Authority made under this paragraph (B), the wind farm operator shall provide the information relevant to the complaint logged in accordance with paragraph (H) to the Planning Authority in the format set out in Guidance Note 1(e).
- (c) Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not identified by name or location in the Tables attached to these conditions, the wind farm operator shall submit to the Planning Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The submission of the proposed noise limits to the Planning Authority shall include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise immission resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's dwelling.
- (d) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm operator shall submit to the Planning Authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Where the proposed measurement location is close to the wind turbines, rather than at the complainant's property (to improve the signal to noise ratio), then the

operator's submission shall include a method to determine compliance with the limits at the complainant's property based on the noise levels measured at the agreed location (the Alternative Method). Details of the Alternative Method together with any associated guidance notes deemed necessary, shall be submitted to and agreed in writing by the Planning Authority prior to the commencement of any measurements. Measurements to assess compliance with the noise limits set out in the Tables attached to these conditions or approved by the Planning Authority pursuant to paragraph (C) of this condition shall be undertaken at the measurement location approved in writing by the Planning Authority.

- (e) Prior to the submission of the independent consultant's assessment of the rating level of noise immission pursuant to paragraph (F) of this condition, the wind farm operator shall submit to the Planning Authority for written approval a proposed assessment protocol setting out the following:
- (i) the range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immission.
 - (ii) a reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.

The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request of the Planning Authority under paragraph (B), and such others as the independent consultant considers necessary to fully assess the noise at the complainant's property. The assessment of the rating level of noise immission shall be undertaken in accordance with the assessment protocol approved in writing by the Planning Authority and the attached Guidance Notes.

- (f) The wind farm operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immission undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Planning Authority made under paragraph (B) of this condition unless the time limit is extended in writing by the Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immission.
- (g) Where a further assessment of the rating level of noise immission from the wind farm is required pursuant to Guidance Note 4(c) of the attached Guidance Notes, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (F) above unless the time limit for the submission of the further assessment has been extended in writing by the Planning Authority.

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

Note: For the purposes of this condition, a “dwelling” is a building within Use Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 which lawfully exists or had planning permission at the date of this consent.

Table 1 – Between 07:00 and 23:00 – Noise Level dB LA90,10-minute

Location (easting, northing grid coordinates)	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
Waterhead (254530, 599230)	30	30	30	30	30	30	30	30	30	30	30	30
Knockengoroch (255533, 597111)	40	40	40	40	40	39.1	38.6	38.3	38.3	38.3	38.3	38.3
Netherbow (255465, 597861)	40	40	40	40	39.5	38.6	37.4	36.9	36.9	36.9	36.9	36.9
Brownhill (255900, 602600)	35	35	35	35	35	35	35	35	35	35	35	35

Table 2 – Between 23:00 and 07:00 – Noise Level dB LA90,10-minute

Location (easting, northing grid coordinates)	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
Waterhead (254530, 599230)	33	33	33	33	33	33	33	33	33	33	33	33
Knockengoroch (255533, 597111)	43	43	43	43	43	43	42.4	42.3	42.3	42.3	42.3	42.3

Netherbow (255465, 597861)	43	43	43	43	43	42.3	41.9	41.7	41.7	41.7	41.7	41.7
Brownhill (255900, 602600)	35	35	35	35	35	35	35	35	35	35	35	35

Table 3 – Between 07:00 and 23:00 – Noise Level dB LA90,10-minute

Location (easting, northing grid coordinates)	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
Moor Cottage (256963, 603528)	45	45	45	45	45	45	45	45	45	45	45	45

Table 4 – Between 23:00 and 07:00 – Noise Level dB LA90,10-minute

Location (easting, northing grid coordinates)	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
Moor Cottage (256963, 603528)	45	45	45	45	45	45	45	45	45	45	45	45

Table 5 – Between 07:00 and 23:00 – Noise Level dB LA90,10-minute

Location (easting, northing grid coordinates)	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
Moor Cottage (256963, 603528)	35	35	35	35	35	35	35	35	35	35	35	35

Table 6 – Between 23:00 and 07:00 – Noise Level dB LA90,10-minute

Location (easting, northing grid coordinates)	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
Moor Cottage (256963, 603528)	35	35	35	35	35	35	35	35	35	35	35	35

Note to Tables 1 - 6: The geographical coordinates references set out in these tables are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

The standardised wind speed at 10 metres height within the site refers to wind speed at 10 metres height derived from those measured at hub height, calculated in accordance with the method given in the Guidance Notes.

Note to Tables 5 and 6: The noise limits detailed in Tables 5 and 6 assume that South Kyle Wind Farm is built and operated in accordance with its consent (APP 13/0001/S36). The noise limits detailed in Tables 5 and 6 can be recalculated, if necessary, to consider any consented variations to that consent. Any update to the noise limits shall be submitted to, and approved in writing by, the Planning Authority.

The development shall operate in accordance with the limits contained in this condition unless the Planning Authority gives its written consent to an updated set of noise limits, in which case the updated noise limits shall apply.

Reason to protect nearby residents from undue noise and disturbance. To ensure that noise limits are not exceeded and to enable prompt investigation of complaints.

Guidance Notes for Noise Condition

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immission from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Note 3 with any necessary correction for residual background noise levels in accordance with Note 4. Reference to ETSU-R-97 refers to the publication entitled “The Assessment and Rating of Noise from Wind Farms” (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI).

Note 1

- (a) Values of the LA90,10-minute noise statistic should be measured at the complainant’s property (or an approved alternative representative location), using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1

quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated before and after each set of measurements, using a calibrator meeting BS EN 60945:2003 “Electroacoustics – sound calibrators” Class 1 with PTB Type Approval (or the equivalent UK adopted standard in force at the time of the measurements) and the results shall be recorded. Measurements shall be undertaken in such a manner to enable a tonal penalty to be calculated and applied in accordance with Guidance Note 3.

- (b) The microphone shall be mounted at 1.2 - 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Planning Authority, and placed outside the complainant’s dwelling. Measurements should be made in “free field” conditions. To achieve this, the microphone shall be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.
- (c) The LA90,10-minute measurements should be synchronised with measurements of the 10-minute arithmetic mean wind speed and wind direction data and with operational data logged in accordance with Guidance Note 1(d) and rain data logged in accordance with Note 1(f).
- (d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second (m/s) and arithmetic mean wind direction in degrees from north in each successive 10-minute period in a manner to be agreed in writing with the planning authority. Each 10 minute arithmetic average mean wind speed data as measured or calculated at turbine hub height shall be ‘standardised’ to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Note 2(b), such correlation to be undertaken in the manner described in Note 2(c). All 10-minute periods shall commence on the hour and in 10-minute increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary.
- (e) Data provided to the Planning Authority in accordance with paragraphs (E) (F) (G) and (H) of the noise condition shall be provided in comma separated values in electronic format with the exception of data collected to assess tonal noise (if required) which shall be provided in a format to be agreed in writing with the Planning Authority.

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

Note 2

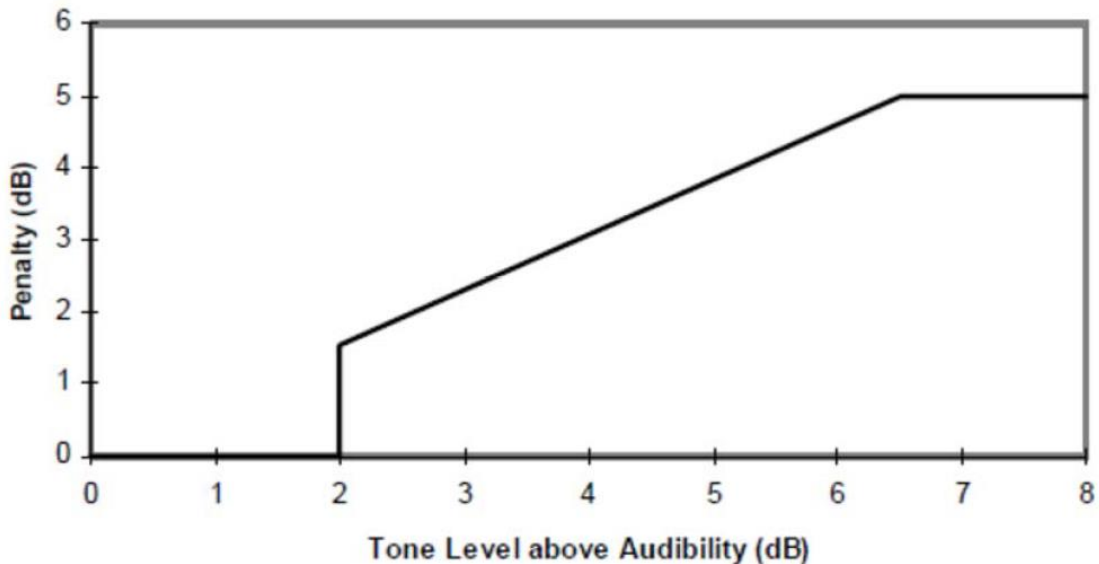
- (a) The noise measurements should be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b).
- (b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the Planning Authority under paragraph (E) of the noise condition but excluding any periods of rainfall measured in accordance with Note 1(f).
- (c) Values of the LA90,10-minute noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed for those data points considered valid in accordance with Note 2(b) shall be plotted on an XY chart with noise level on the Y-axis and wind speed on the X-axis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) shall be fitted to the data points to define the wind farm noise level at each integer speed.

Note 3

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

value of the “best fit” line fitted to values within $\pm 0.5\text{m/s}$ of each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.

- (f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.



Note 4

- (a) If a tonal penalty is to be applied in accordance with Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Note 2 and the penalty for tonal noise as derived in accordance with Note 3 at each integer wind speed within the range set out in the approved assessment protocol under paragraph (E) of the noise condition.
- (b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Note 2.
- (c) If the rating level at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Planning Authority for a complainant’s dwelling in accordance with paragraph (C) of the noise condition then no further action is necessary. In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant’s dwelling approved in accordance with paragraph (C) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

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

- (i) Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range set out in the approved noise assessment protocol under paragraph (E) of this condition.
- (ii) The wind farm noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:

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

- (iii) The rating level shall be re-calculated by adding the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.
- (iv) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note (iii) above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with paragraph (C) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with paragraph (C) of the noise condition then the development fails to comply with the conditions.

Definitions

“The Application” means the application submitted by the Company on 6 December 2016.

“Bank Holiday” means;

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

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

“Company” means Brockloch Rig III Ltd, company registration number SC295868 and registered address C/o Harper Macleod LLP, The Ca'd'oro, Glasgow, G1 3PE or such other person for the time being entitled to the benefit of the consent under section 36 of the Electricity Act 1989.

“Development” means Windy Standard III Wind Farm authorised by this consent and deemed planning permission.

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

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

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

“HES” means Historic Environment Scotland

“Meaul Hill Cluster” means the turbines identified in ES Figure 3.6 as 177.5 m tip height.

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

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

“SEPA” means the Scottish Environmental Protection Agency

