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Dear Sir

**Consultation – ‘Planning for Onshore Wind Energy’
Infinergy Limited**

On behalf of my client Infinergy Limited, I am pleased to submit this consultation response to the Council’s draft ‘Planning for Onshore Wind Energy’ and the related ‘Cumulative Landscape and Visual Assessment of Wind Energy in Caithness’ document, which the Council issued for formal consultation in late 2014 and which closes for responses on 7 January 2015. JLL has reviewed the document and has a number of observations and comments on it which are set out in this letter.

The document has two parts. In terms of the first part entitled ‘Planning for Onshore Wind Energy’ we make the following comments:-

- The question is posed as to what considerations should be taken into account when identifying the strategic capacity for wind farms and areas with the greatest potential for wind development, apart from the matters identified in Table 1 of SPP with regard to Spatial Framework preparation. SPP at paragraph 162 highlights that both strategic and local development Planning Authorities should work together to identify the strategic capacity for wind farms and areas with the greatest potential. In this regard you should also be aware that the Scottish Government issued in December 2014 a document entitled ‘Onshore Wind Some Questions Answered’ and this sets out the role of Landscape Capacity Assessments. It highlights that landscape capacity does not form part of Spatial Frameworks for the wind energy developments as defined in SPP, however they can be supportive studies relevant to development management and for planning policy related to natural heritage and the landscape. The Scottish Government document also cross refers to SPP paragraph 169 (bullets 4 and 6) which refer to cumulative impacts highlighting that Planning Authorities should be clear about likely cumulative impacts arising, recognising that in some areas the cumulative impact of existing and consenting energy development may limited the capacity for further development. It should also be noted that the Scottish Government document states that it “*encourages dialogue with SNH and use of their*



landscape capacity toolkit when preparing landscape capacity studies". The document also makes reference to the SNH documents on the topic of 'Siting and Design Guidance'. Therefore, apart from the matters identified in Table 1 of SPP, the Government is clear in its recent guidance that there is role for Landscape Capacity Studies and the Government has identified some sources of information available to assist with policy development on these issues.

- It also needs to be acknowledged that the purpose of national planning policy in seeking that Local Planning Authorities prepare Spatial Frameworks for onshore wind development is in recognition of Scottish and UK national uncapped targets for the reduction of greenhouse gas emissions and the generation of electricity from renewable sources. In this context the capacity for further wind energy development needs to take into account the national targets position for the generation of renewable electricity and the substantial shortfall of installed capacity that still exists at the Scottish and UK levels, and against a backdrop of no lessening in Government support for further deployment of this land use. In this regard landscape 'capacity' cannot be considered in isolation from policy requirements. Furthermore, if too much weight is placed on landscape considerations with no reference to other constraints, it may be that the severity of other constraints, including grid availability may severely limit development. In short, landscape capacity cannot be properly defined without reference to what has to be planned for. This matter needs to be taken into account in future capacity exercises.
- Part 1 of the Council's consultation document also poses the question as to what criteria should be considered in deciding all applications for wind farms of different scales including extensions and re-powering. It is surprising that this question is posed as in the Council consultation document, page 2 sets out the full criteria drawn from paragraph 169 of SPP in terms of development management that the Government state "are likely to include". There is reference to some 19 criteria. You will be aware that the Scottish Government has already consulted on a draft SPP and in relation to this specific matter of the criteria to be taken into account in the consideration of wind energy development. The Council's consultation document is not clear in explaining why the Council considers there is need to widen the list of criteria beyond that already set out in SPP and as noted which has already been the subject of consultation at a Scotland wide level. It is considered that the list of criteria set out in SPP is comprehensive and captures all the matters that are likely to be relevant in considering commercial scale wind energy developments. Furthermore, if additional matters are material in any given case then they would be considered under normal management practice. It would not be appropriate for Council's Supplementary Guidance to require onerous additional assessments for development proposals beyond that which would be proportionate and consistent with national planning policy and guidance.

The remaining parts of the first part of the consultation document provide a very high level description of national planning policy and its relationship to the Council's local policy framework and it is not considered necessary to comment on the remaining content.

The final point however, relates to the statement that the Council intends to carry out consultation “during 2015” on its Highland Wide Local Development Plan and the Onshore Interim Supplementary Guidance (including its Spatial Framework) . Such additional consultation is welcome and it would be helpful to have as much notice as possible of the intended consultation period / dates.

With regard to the second part of the consultation document entitled ‘Cumulative Landscape and Visual Assessment of Wind Energy in Caithness’ (“CLVA”) we have a number of comments as follows:-

- In terms of the proposed use of the CLVA, the statement in the consultation document that the CLVA is a strategic study and that the consultant’s recommendations are not a substitute for landscape and visual impact assessment and cumulative assessment for individual wind farm proposals is welcome. This is an important principle that is acknowledged and one which should be carried forward into any public version of the document and related draft Supplementary Guidance.
- The statement in the consultation document that the CLVA will not form policy or guidance, but will inform policy and guidance and that the Council “*may also refer to the CLVA as a material consideration when we are dealing with individual proposals for wind energy developments, if we consider it is relevant to do so*” is important. Given the intention to use the document in this way it is surprising that the description of the methodology followed for the CLVA is restricted to only three short bullet points on page 3 of the consultation document. It is recommended that if the Council is to follow an approach of preparing CLVA documents for other parts of the Highland region which are subject to commercial wind farm development pressure, then a greater degree of public consultation on methodology should be carried out. This would ensure that the outcome of such studies enjoy a strong foundation of support and that they are acknowledged to be robust and would therefore carry more weight in planning determinations than they would otherwise would do.
- In the section entitled ‘LUC’s recommendations’ it sets out that these included “*in order to limit cumulative landscape and visual impacts there are some areas where wind energy development should be generally discouraged and other areas where there is more likely to be potential.....*” (underlining added). The overall objective in such studies should not be “to limit” cumulative landscape and visual impacts. As set out in the Scottish Government’s recent advice (referred to above) this makes reference to setting aims or objectives “*to define how areas could be developed out in order to keep within an acceptable level of cumulative change within the life time of the plan*” as well as informing strategic and local planning policies or Supplementary Guidance. This is an important distinction between seeking to limit impacts and on the other hand (which in our view would be more appropriate) setting the framework in order to further develop areas out within acceptable levels of cumulative change. These are matters which should be addressed and clarified in emerging Supplementary Guidance, keeping in mind the SPP



requirement that such considerations “*should not be used to constrain the Spatial Framework, but can be used to assist decision making at development management stage*”.

- The consultation document makes the point that the CLVA did not take account of other planning issues that the Council will take into consideration, for example of the impact of noise arising from wind farms or the impact on birds. A further matter which would merit consideration alongside cumulative issues would be grid capacity. It should be noted at paragraph 165 of SPP makes it clear that grid capacity should not be used as a reason to constrain areas identified for wind farm development, or decisions or individual applications for wind farms. However, national policy does not embargo the consideration of grid capacity and availability as a reason for placing planning merit on spatial areas.

I trust the above points are clear but if you require clarification on any matter or require further information please do not hesitate to contact me directly.

Yours faithfully,
For JLL



David C Bell
Director
Planning and Development

cc. Mr Nick Sage, Infinergy Limited