

Agenda Item	<b>9</b>
Report No	<b>HC/28/25</b>

# The Highland Council

**Committee:** Highland Council

**Date:** 18 September 2025

**Report Title:** Skye Reinforcement Project - Update

**Report By:** Assistant Chief Executive – Corporate

## **1 Purpose/Executive Summary**

- 1.1 The purpose of this report is to provide the Council with a planning and legal update following the grant of energy consent and deemed planning permission by the Scottish Ministers for the Skye Reinforcement Project on 9 June 2025. This decision was reported to, and noted by, both the North Planning Applications Committee and the South Planning Applications Committee.
- 1.2 The Chief Executive subsequently asked to seek a legal opinion on the merit of pursuing a judicial review of the Scottish Ministers' decision. This was on the basis that the Scottish Ministers proceeded to determine the application without a public local inquiry (PLI).
- 1.3 The Council lodged an objection to the application on 15 November 2023 after being consulted by the Energy Consents Unit on further environmental information which had been submitted by the applicant in respect of the application. The decision of the Council reversed its earlier unanimous decision not to lodge an objection, subject to certain criteria being met. The further environmental information did not impact on these criteria.
- 1.4 Counsels' Opinion was obtained by Chief Officer – Legal and Corporate Governance and is summarised within this report for Council to note. Whilst it highlights errors within the Scottish Ministers' decision, Counsel conclude there are no grounds for judicial review which would have reasonable prospects of success.
- 1.5 In light of Counsels' Opinion, and the concerns which have been raised by Elected Members on behalf of their constituents regarding the decision of the Scottish Ministers, Officers have further reviewed the terms of the correspondence between the Energy Consents Unit and the Council's planning service. This review considered the timescale for responding to the further environmental information and the lack of response to the Council's timeous request for an extension to allow this information to be properly reported to the joint meeting of the North and South Planning Applications Committee.

- 1.6 Whilst this does not amount to a ground for judicial review, Officers recommend that there is merit in addressing these matters directly with Scottish Ministers given the importance of ensuring public confidence is upheld in the decision-making process.

## **2. Recommendations**

- 2.1 The Council is invited to:

- 2.1.1 Note that there are no grounds for judicial review which would have reasonable prospects of success.
- 2.1.2 Agree that the Assistant Chief Executive – Place writes to Scottish Ministers, following consultation with Chief Officer – Legal and Corporate Governance and the Convener, to highlight the Council's concerns with the inaccuracies within the decision and to the lack of response which was forthcoming from the Energy Consents Unit in respect of the Council's request for an extension to report the further environmental information to the joint planning applications committee.
- 2.1.3 Note that the Scheme of Delegation was amended by Council at its meeting on 27 March 2025 ([Item 9](#)) to enable Officers to lodge holding objections with the Energy Consents Unit, following consultation with the Chair and Vice Chair of the relevant Planning Applications Committee which helps to minimise, as far as possible, the risk of this issue arising again in the future.

## **3 Implications**

- 3.1 **Resource** – There are no resource implications arising as a consequence of this report.
- 3.2 **Legal** – There are no legal implications arising as a consequence of this report.
- 3.3 **Community (Equality, Poverty, Rural and Island)**: there are no direct community implications arising as a consequence of this report.
- 3.4 **Climate Change / Carbon Clever**: there are no direct implications arising as a consequence of this report.
- 3.5 **Risk** - Pursuing judicial review proceedings involves significant financial risk, including costs for legal representation and Court of Session agents. In unsuccessful petitions, the Council would be liable for the other party's legal expenses. Costs can escalate due to extended proceedings, additional evidence requirements, or unforeseen complexities. Additionally, judicial review cases often attract media and public attention, posing a reputational risk if perceived as unnecessary or a misuse of public funds.
- 3.6 **Health and Safety** (risks arising from changes to plant, equipment, process, or people): there are no direct health and safety implications arising from this report.
- 3.7 **Gaelic** - there are no direct Gaelic implications arising as a consequence of this report.

## 4 Impacts

- 4.1 In Highland, all policies, strategies or service changes are subject to an integrated screening for impact for Equalities, Poverty and Human Rights, Children's Rights and Wellbeing, Climate Change, Islands and Mainland Rural Communities, and Data Protection. Where identified as required, a full impact assessment will be undertaken.
- 4.2 Considering impacts is a core part of the decision-making process and needs to inform the decision-making process. When taking any decision, the Council must give due regard to the findings of any assessment.
- 4.3 An Integrated Impact Assessment screening has been undertaken, and the conclusions have been subject to the relevant Manager Review and Approval. The screening process has concluded that there are no impacts identified. A summary of these conclusions is provided below.

### Integrated Impact Assessment Conclusion of Screening Equality

Equality	No impact
Socio-economic	No impact
Human Rights	No impact
Children's Rights and Well-being	No impact
Island and Mainland Rural	No impact
Climate Change	No impact
Data Rights	No impact

## 5 Background

- 5.1 An application for the Skye Reinforcement Line was submitted by Scottish Hydro Electric Transmission PLC to Scottish Ministers on 20 September 2022 under section 37 of the Electricity Act 1989. The Council was consulted on the application by Scottish Ministers via the Energy Consents Unit (ECU) on 5 October 2022. A deadline of 12 April 2023 was agreed between the Council, the Applicant, and the ECU for the Council to respond to the consultation.
- 5.2 On 22 March 2023, a Report of Handling on the application was presented by the Planning Service to a special joint meeting the North and South Planning Applications Committees ([Item 4](#)). As detailed in the Report of Handling, the Officer recommendation was that the Council raise no objection to the application.
- 5.3 The Joint Committee unanimously agreed with the Officer recommendation that no objection to the application be raised. This was subject to:
- the progression of Section 3a (preferred alignment) only;
  - the conclusion of a legal agreement as set out in Section 8 of the Report of Handling; and
  - the matters set out in the Report of Handling being secured through finalised conditions and reasons.
- 5.4 Officers responded to Scottish Ministers on that basis on 11 April 2023 noting that the Council wished to raise no objection.

- 5.5 Following this, on 4 August 2023, the Council was consulted by the ECU on Additional Information (AI2). This information was provided by the Applicant primarily for the benefit of other external consultees to help inform their response to the application; pertinently NatureScot who had raised an objection. The Council did not request any of the AI2 in order to inform its response to the ECU.
- 5.6 The Council was given until 4 September 2023 to respond to the AI2 or make a request for an extension. This accords with the 30-day consultation period prescribed by Regulations. Officers wrote to the ECU and the Applicant on 21 August 2023 to advise of their intention to report the additional information (AI2) to a joint meeting of the North and South Planning Applications Committees. This meeting was planned for 8 November 2023. It was expected that a further response would thereafter be issued by Officers to the ECU by 15 November 2023 and an extension was sought until then. Officers did not receive a response from the Applicant or the ECU to this email.
- 5.7 In the continued absence of a response from either the ECU or the Applicant to this correspondence, an interim consultation response was submitted to the ECU by Officers on 4 September 2023 advising again of the anticipated timescales set out above for reporting the AI2 to the Joint Committee. Receipt of this email was acknowledged by the ECU but not the Applicant. At that time, Officers also advised an interim response that the Council maintained its previously reported position on the application (as submitted, prior to the AI2 being received) as set out in its consultation response of 11 April 2023.
- 5.8 At the time of providing that response to the ECU the Council's Scheme of Delegation did not enable any objection to be raised at Officer level, with any formal decision on an energy consent application being required by the relevant planning applications committee, or joint committee. On 8 November 2023, the joint North and South Planning Applications Committee considered the AI2 ([Item 4](#)). On a vote, it resolved to reverse its original position on the application.
- 5.9 The Committee determined that it would raise an objection for the following reason:
- *The application is not supported by Policies 4 and 11 of National Planning Framework 4 because NatureScot's objection has not been resolved due to the impacts of the development on the designated sites – the Kinloch and Kyleakin Hills Special Area of Conservation and the West Inverness-shire Lochs Special Protection Area.*
- 5.10 On 15 November 2023, Officers wrote to the ECU to confirm the revised position and lodged an objection to the application.
- 5.11 The Council received notification of the Scottish Ministers' decision to grant consent on 9 June 2025 (**Appendix 2**). This decision was reported to the North Planning Applications Committee on 11 June 2025, and to the South Planning Applications Committee on 18 June 2025. Both Committees formally noted the decision that had been made.

## **6 Counsels' Opinion**

- 6.1 As concerns have been raised that Scottish Ministers determined the application without holding a public local inquiry (PLI), Counsel were instructed to review the terms of the decision and give the Council their Opinion as to whether there were grounds for judicial review. Joint Opinion was sought from Alasdair Burnet KC and Kenneth Young, Advocate, of Terra Firma Chambers. The terms of the Opinion are summarised below.
- 6.2 Counsel have been unable to identify any potential ground of challenge that would have a reasonable chance of success on a judicial review of the decision of Scottish Ministers. The decision of Scottish Ministers not to hold a public local inquiry was not wholly unreasonable in the circumstances. The decision itself does not contain any errors, or potential errors, of law that would lead to a successful judicial review.
- 6.3 The relevant provisions of the Electricity Act 1989 and the Electricity (Application for Consent) Regulations 1990 apply to the application for the Skye Reinforcement Project, and they set out the basis in law in which a public local inquiry would have been required to have been held. In this case the time period was on receipt of an objection from the planning authority made within 2 months of the date of the application for energy consent being made, unless that timescale was extended. The Council lodged a timeous consultation response in terms of these statutory provisions.
- 6.4 The timescales relating to the submission of environmental impact assessment reports and associated additional information are set out in the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017. These Regulations provide for a period of not less than 30 days for representations to be made on additional information. The ECU's guidance provides that 30 days is to be given to the planning authority where it has formally responded to the initial application. This is the position here.
- 6.5 The relevant paragraphs of the Scottish Ministers' decision are paragraphs 28 – 31. There is, however, no mention in the decision to the interim response issued by the Council to the ECU on 4 September 2023, nor the earlier request for an extension to the 30-day time period, which was not responded to.
- 6.6 There are also references in the decision to the Council's objection being lodged outwith the agreed extended period for a response to the consultation (that date being 12 April 2023). On the face of it, Scottish Ministers appear to have based their decision not to hold a public local inquiry relative to the agreed extension date, 12 April 2023. However, in the context of the Council's objection being lodged in response to the consultation on the AI2, Counsel are of the view that Scottish Ministers could not reasonably have expected the Council to object by 12 April 2023 in response to information it was only consulted on 4 August 2023. On that basis there is an error in the decision notice.
- 6.7 However, notwithstanding this error, the decision reached by Scottish Ministers not to hold a public local inquiry is correct in principle because the Council's objection was lodged outwith the 30-day timeframe set out in the 2017 Regulations. Nevertheless, the Energy Consents Unit sought a response from the Council on the AI2 by 4 September 2023 or a request for an extension to that date. The Council, in seeking an extension timeously, should have received a response to that request to confirm that an extension was not being granted, but it did not. It is not the Council's position that it should have an indefinite period of time to respond to consultations on additional information but that the Council's prevailing administrative and governance processes

should be taken into account, as well as the need to have time to properly review, consult, and assess environmental information being submitted as part of energy consent applications.

- 6.8 Without confirmation that an extension had been granted, Counsel conclude that it is very difficult for the Council to argue that there was any statutory requirement for Scottish Ministers to hold a public local inquiry.
- 6.9 The decision of Scottish Ministers took account of the Council's objection and the representations that were received by it in respect of the application. It considers National Planning Framework 4 which was the basis of the Council's objection, specifically policies 4 and 11. As such Counsel did not find the decision of Scottish Ministers irrational, nor did it contain any issues or potential errors of law which would give rise to a realistic chance of success in judicial review proceedings.
- 6.10 Concerns have been raised about a perceived delay in convening a joint meeting of the North and South Planning Applications Committees. The earliest possible date for this meeting was identified, taking into account internal consultation and assessment of the AI2, and Elected Member and Council Chamber availability. This committee date and a request for an extension was relayed to the ECU and the Applicant on 21 August 2023 in line with the terms of the consultation documentation.
- 6.11 At that time Officers had no authority under the Scheme of Delegation to lodge holding objections on energy consent applications. This has since been rectified with the introduction of an officer delegation involving consultation with the Chair and Vice Chair of the relevant Planning Applications Committee. Given the known complexities involved in organising special committee meetings it would not have been possible for Officers to review, consult, assess, and report on the AI2, and convene a meeting within the 30-day consultation period required by the ECU for this application.

## **7. Next Steps**

- 7.1 Counsels' Opinion is that there were no grounds to judicially review the decision of Scottish Ministers. This accords with the advice previously offered by Officers and as such no petition for judicial review has been lodged in the Court of Session.
- 7.2 However, Counsel identified errors in the decision relating to chronology which Officers recommend should be addressed with Scottish Ministers. The decision does not acknowledge that a request for an extension was issued by the Council ahead of the 4 September 2023 deadline, nor does it mention the interim response submitted by the Council on 4 September 2023 prior to the AI2 being reported to the Joint Committee on 8 November 2023.
- 7.3 The decision also erroneously refers to the 12 April 2023 deadline being the deadline for which an objection by the Council should have been made in order for there to have been a public local inquiry. Whilst these errors do not affect the overall decision and would not be the cause of a successful judicial review, Officers suggest that they write to Scottish Ministers on behalf of the Council to address these errors and concerns with them directly.

Designation: Assistant Chief Executive - Corporate

Date: 1 September 2025

Author: Arlene Gibbs, Principal Solicitor (Planning)

Background Papers:

Appendices: Appendix 1 – Integrated Impact Assessment

Appendix 2 – Decision of Scottish Ministers, dated 9 June 2025

# Integrated Impact Assessment Screening

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## About proposal

**What does this proposal relate to?** legal update

**Proposal name:** Skye Reinforcement Project - Update

**High level summary of the proposal:** Scottish Ministers granted energy consent for the Skye Reinforcement Project. Legal advice was sought as to whether there would be grounds to judicially review this decision. The report to Council explains that there are no such grounds.

**Who may be affected by the proposal?** no-one will be directly affected by the proposal

**Start date of proposal:** 01/07/2025

**End date of proposal:** 18/09/2025

**Does this proposal result in a change or impact to one or more Council service?** No

**Does this relate to an existing proposal?** No

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## Author details

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**Service:** Corporate

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## Responsible officer details

**Name:** Stewart Fraser

**Job title:** Chief Officer-Legal and Corporate Governance

**Email address:** Stewart.Fraser@highland.gov.uk

**Sign off date:** 2025-08-29

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## Equalities, poverty, and human rights

**Protected characteristics**



Select what impact the proposal will have on the following protected characteristics:

**Sex:** No impact

**Age:** No impact

**Disability:** No impact

**Religion or belief:** No impact

**Race:** No impact

**Sexual orientation:** No impact

**Gender reassignment:** No impact

**Pregnancy and maternity:** No impact

**Marriage and civil partnership:** No impact

**Protected characteristics impact details:** the report sets out a legal update only

## **Poverty and socio-economic**

What impact is the proposal likely to have on the following?

**Prospects and opportunities:** No impact

**Places:** No impact

**Financial:** No impact

**Poverty and socio-economic impact details:** the report sets out a legal update only

## **Human rights**

**Which of the below human rights will be affected by this proposal?** No human rights will be affected

**What impact do you consider this proposal to have on the human rights of people?** No impact

**Human rights impact details:** the report sets out a legal update only

## **Equalities, poverty and human rights screening assessment**

**What impact do you think there will be to equalities, poverty and human rights?** No impact

**Is a Full Impact Assessment required?** No

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## **Children's rights and wellbeing**

**What likely impact will the proposal have on children and young people?** there will be no

impact, direct or indirect as the report contains a legal update only

**Which of the below children's rights will be affected by the proposal?**No children's rights will be affected

**Explain how the children's rights selected above will be affected:**there will be no impact, direct or indirect as the report contains a legal update only

## **Children's rights and wellbeing screening assessment**

**What impact do you think there will be to children's rights and wellbeing?**No impact

**Is a Full Impact Assessment required?** No

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## **Data protection**

**Will your proposal involve processing personal data?** No

## **Data protection screening assessment**

**What change will there be to the way personal data is processed?**No personal data will be processed

**Is a Full Impact Assessment required?** No

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## **Island and mainland rural communities**

**Does your proposal impact island and mainland rural communities?**No

## **Island and mainland rural communities screening assessment**

**What impact do you think there will be to island and mainland rural communities?**No difference

**Is a Full Impact Assessment required?** No

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## **Climate change**

**Does the proposal involve activities that could impact on greenhouse gas emissions (CO2e)?** No

**Does the proposal have the potential to affect the environment, wildlife or biodiversity?** No

**Does the proposal have the potential to influence resilience to extreme weather or changing climate?** No

**Provide information regarding your selection above:** there will be no impact, direct or indirect as the report contains a legal update only

## **Climate change screening assessment**

**Have you identified potential impact for any of the areas above or marked any as not known? No**

**Is a Full Impact Assessment required? No**

Energy and Climate Change Directorate  
Energy Consents Unit



Scottish Government  
Riaghaltas na h-Alba  
gov.scot

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Ms Joanne Nicolson  
Lead Consents & Environment Manager  
Scottish Hydro Electric Transmission plc  
10 Henderson Road  
Inverness  
IV1 1SN

9 June 2025

Our ref: ECU00003395

Your ref: LT000091\_s37\_application

Dear Ms Nicolson,

**APPLICATION FOR CONSENT UNDER SECTION 37 OF THE ELECTRICITY ACT 1989 AND DIRECTION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 TO INSTALL AND KEEP INSTALLED THE SKYE REINFORCEMENT PROJECT, LOCATED WITHIN THE PLANNING AUTHORITY AREA OF THE HIGHLAND COUNCIL**

**Application**

1. I refer to the application ("Application") made on 15 September 2022 under section 37 of the Electricity Act 1989 ("the Electricity Act") by Scottish Hydro Electric Transmission plc ("the Company"), a company incorporated under the Companies Acts with company number SC213461, and having its registered office at Inveralmond House, 200 Dunkeld Road, Perth, PH1 3AQ, to install and keep installed:
  - A 132kV double circuit steel structure overhead transmission line, approximately 110km in length, between Fort Augustus substation and Edinbane substation;
  - A 132kV single circuit trident H wood pole overhead transmission line, approximately 27km in length, between Edinbane substation and Ardmore substation; and
  - A temporary diversion of the existing 132kV overhead transmission line at Inchlaggan for approximately 750 metres,
2. The project encapsulates development ancillary to the overhead line including, but not limited to, installation of new 132kV underground cable, construction of cable sealing end compounds, formation of access tracks, upgrade of existing, or creation of new bellmouths at public road access points, tree felling and vegetation clearance. The project also includes the dismantling and removal of the existing 132kV overhead transmission line between Fort Augustus substation and Ardmore substation following installation of the new overhead lines.

3. This electricity transmission project is called the Skye Reinforcement Project and hereafter is referred to as the “proposed Development”.
4. The proposed Development is entirely within the Highland Council area.
5. **This letter contains the Scottish Ministers’ decision to grant section 37 consent for the proposed Development as described at Annex 1.**

### **Planning Permission**

6. In terms of section 57(2) of the Town and Country Planning (Scotland) Act 1997 the Scottish Ministers, may on granting consent under section 37 of the Electricity Act direct that planning permission is deemed to be granted in respect of the overhead line and any ancillary development to which the consent relates.
7. **This letter contains the Scottish Ministers’ direction that planning permission is deemed to be granted.**

### **Background**

8. The existing 132 kV overhead line (“OHL”) from Fort Augustus to Ardmore on the Isle of Skye is the sole connection from the mainland electricity transmission system to Skye and the Western Isles. Recent studies undertaken by the Company into the condition of the existing OHL have confirmed that the OHL between Quoich Tee Switching Station (near Kingie) and Ardmore Substation requires to be rebuilt in order to ensure security of supply.
9. The site covers a length of 160km from Ardmore on the Isle of Skye to Fort Augustus. It broadly follows the alignment of the 132kV OHL to be replaced. The land along the replacement line comprises predominantly moorland, and includes remote and mountainous landscapes of national importance, with the line also intersecting internationally and nationally important designated sites for natural heritage conservation.
10. During its studies of identifying route options, the Company concluded that it would also, as part of the Application, seek consent for an Alternative Alignment within the section of the proposed Development between Broadford and Kyle Rhea (also called Section 3). This Alternative Alignment would follow the same alignment as the Proposed Alignment from Broadford Substation to the minor road to Glen Arroch. At this point, the Proposed Alignment would continue eastwards following a similar course to the existing OHL around the headland to the existing crossing towers at Kyle Rhea, whereas the Alternative Alignment would follow the minor road through Glen Arroch and Kylerhea Glen. Prior to reaching the settlement at Kylerhea, the Alternative Alignment is routed in a northerly direction via the lower slopes of Beinn Bhuidie and through commercial forestry to the existing crossing towers at Kyle Rhea. The total length of the Alternative Alignment would be approximately 20.8 km in length, whereas the Proposed Alignment in Section 3 would be 20 km.
11. The Company’s decision to include both options within the Application was due to both the Proposed Alignment, and the Alternative Alignment, crossing the Kinloch and Kyleakin Hills Special Area of Conservation (“SAC”). This is a European site for nature, and its designation as such means the Scottish Ministers have duties to consider, as

the competent authority under the Conservation of Habitats and Species Regulations 2017, prior to making a decision on whether the proposed Development should receive consent. Part of these considerations is whether feasible alternatives exist.

12. **Consent is granted by the Scottish Ministers for the Proposed Alignment only. Consent is withheld for the Alternative Alignment.**
13. As well as the Application, the Company submitted to the Scottish Ministers on 21 February 2023 Additional Information regarding the case for derogations, peat probing, additional visualisations, and a clarification of the EIA Volume 2, Chapter 9 – Forestry. Then, on 1 August 2023, the Company submitted further Additional Information regarding a Compensation Plan, a Compensation Strategy, a Peat Landslide and Hazard Risk Assessment, a Technical Note to NatureScot, and an update to Annex E of the Shadow HRA for Kinloch and Kyleakin Hills SAC.

### **Legislation**

14. Under paragraph 2(1) of Schedule 8 to the Electricity Act, the relevant Planning Authority, in this case The Highland Council, is required to be notified in respect of a section 37 consent application.
15. In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the EIA Regulations”), the Company submitted an EIA Report dated September 2022 in support of the Application describing the proposed Development and giving an analysis of its environmental effects. The proposed Development falls within Schedule 1 of the EIA Regulations as it meets the criteria of the paragraph 4 of Schedule 1, and therefore an EIA Report is mandatory.
16. In addition, to comply with the EIA Regulations, Scottish Ministers are required to consult the Planning Authority, as well as Scottish Natural Heritage, acting under its operating name NatureScot, the Scottish Environment Protection Agency (“SEPA”) and Historic Environment Scotland (“HES”) as well as other public bodies that are likely to be concerned by the proposed Development by reason of their specific environmental responsibilities.
17. In accordance with requirements of both the Electricity (Applications for Consent) Regulations 1990 (the “Consents Regulations”) and the EIA Regulations, a notice of the proposed Development was published on the Company’s website and advertised in local and national press. The Application was made available in the public domain, and the opportunity given for those wishing to make representations to do so.
18. The Company submitted two rounds of Additional Information. In accordance with regulation 20(2) of the EIA regulations, notices were published and an opportunity provided members of the public wishing to make a representation. Both submissions of Additional Information were made available for comment to those consulted by the Scottish Ministers.
19. The Scottish Ministers have had regard to the requirements regarding publicity and consultation laid down in the Consents Regulations and the EIA Regulations and are satisfied the general public, as well as statutory and other consultees, have been

afforded the opportunity to consider and make representations on the proposed Development.

20. In terms of Schedule 8 paragraph 6 of the Electricity Act 1989, where an application for consent under section 37 of the Act states that all necessary wayleaves have not been agreed with owners and occupiers of the land proposed to be crossed by the electric line, the Scottish Ministers may either:
  - give notice to the applicant that they do not intend to proceed with the application until they are satisfied, with respect to all the land over which wayleaves have not been agreed, that the applicant has applied to the Scottish Ministers for consent under paragraph 6 (acquisition of wayleaves) of Schedule 4 to the Act; or
  - grant consent subject to the condition (either in respect of the whole of the line or in respect of any part of it specified in the consent) that the work is not to proceed until the Scottish Ministers have given their permission.
21. The Company has confirmed that it has secured all the required landowner/tenant consents associated with the proposed Development. There are no outstanding land rights matters that may give rise to statutory process.
22. The Scottish Ministers have had regard to the matters set out in Schedule 9 of the Electricity 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.
23. The Scottish Ministers are satisfied that the EIA Report has been produced in accordance with the EIA Regulations. Scottish Ministers have assessed the environmental impacts of the proposed Development and taken the environmental information, being the Application and both submissions of Additional Information, EIA Report, consultation responses including those from NatureScot, SEPA, HES and the Planning Authority into consideration in reaching their decision.
24. The Scottish Ministers consider there is sufficient information to be satisfied 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.
25. The Scottish Ministers are satisfied 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.
26. The Scottish Ministers are satisfied the Company has avoided, so far as possible, causing injury to fisheries or to stock of fish in any waters.

### **Conservation of Habitats and Species Regulations**

27. The principal legislation in Scotland to implement the Habitats Directive (Council Directive 92/43/EEC of 21 May 1992) was The Conservation (Natural Habitats, &c.) Regulations 1994 (“the 1994 Regulations”). The 1994 Regulations set out legal requirements to be followed in relation to projects that may affect SACs. However, the 1994 Regulations are superseded in relation to certain functions of the Scottish Ministers in relation to reserved matters, including applications for consent under section 37 of the Electricity Act 1989 and deemed planning permission under section 57(2) of the Town and Country Planning (Scotland) Act 1997. In these cases (which include the proposed Development) the Conservation of Habitats and Species Regulations 2017 (“the 2017 Regulations”)

### **Public Inquiry**

28. In accordance with paragraph 2(2) of Schedule 8 of the Electricity Act and regulation 8 of the Consents Regulations, where the relevant Planning Authority objects to an application within 2 months of the date of the application (or such longer period as may be agreed in writing by the Planning Authority with both the Scottish Ministers and the Company) the Scottish Ministers shall cause a public inquiry to be held unless the objection is withdrawn, or consent is to be granted subject to such modifications or conditions as will give effect to the objection of the Planning Authority.
29. The Planning Authority was consulted on the Application on 5 October 2022 and was granted an extension in accordance with regulation 8 on the Consents Regulations which extended the period within which the Planning Authority were to respond until 12 April 2023 (no further extension was agreed beyond this date). Additional Information in support of the Application was then received by the Scottish Ministers on 21 February 2023, and the Planning Authority were consulted on 23 February 2023. The Planning Authority then responded, within the agreed time period, on 11 April 2023 raising no objection. Subsequently, a second round of Additional Information was received on 1 August 2023, and a request was sent to the Planning Authority for comments on 4 August 2023. The Planning Authority responded to this request on 15 November 2023 now objecting to the proposed Development.
30. This objection was however received outside the extended period agreed between the Company, the Planning Authority and the Scottish Ministers (which ended on 12 April 2023). The Scottish Ministers therefore, in terms of the Consents Regulations may disregard that objection for the purposes of the duty under paragraph 2(2) of Schedule 8 of the Electricity Act to cause a public inquiry to be held.
31. The Scottish Ministers are of the view that they have all the information required to make an informed decision on the Application without the need for a public inquiry, and therefore disregard the objection for the purposes of paragraph 2(2) of Schedule 8 of the Electricity Act, and, in accordance with paragraph 3(2) of that Schedule, having considered those objections together with all other material considerations, including consultation responses and representations received, have determined that it is not appropriate to hold a public inquiry in this instance.

### **Consultation Responses**



32. A summary of the consultation responses is provided below, and the full responses are available on the Energy Consents Unit website [www.energyconsents.scot](http://www.energyconsents.scot)
33. **The Highland Council (“THC”)** object to the proposed Development and state it is not supported by Policies 4 and 11 of National Planning Framework 4 (“NPF4”) because NatureScot’s objection was not resolved due to the impacts of the proposed Development on the Kinloch and Kyleakin Hills SAC and the West Inverness-shire Lochs Special Protection Area (“SPA”). The Planning Authority noted NatureScot considered there to be significant adverse effects on some of the qualifying features leading to a likely adverse effect on site integrity.
34. THC on their initial consultation response dated 11 April 2023 did not object to the proposed Development following their Planning Committee meeting on 22 March 2023 subject to the Company’s Proposed Alignment being consented and not the Alternative Alignment, the conclusion of legal agreements, and the inclusion of its recommended conditions.
35. THC stated the considerations for the proposed Development were the Development Plan and other planning policy, energy and economic benefit, construction impacts, roads, transport and access, water, drainage and peat, natural heritage including ornithology, design landscape and visual impact, built and cultural heritage and any other material considerations. It assessed the application against relevant policies which included NPF4, Highland Wide Local Development Plan 2012, West Highland and Islands Local Development Plan 2019 (“WHILDLP”) and the Inner Moray Firth Local Development Plan (“IMFLDP”)
36. THC recognised the proposed Development is required to replace existing, ageing infrastructure at the end of its operational life, and to provide additional capacity on the transmission network for renewable energy generation.
37. THC identified likely adverse effects caused by construction traffic and disruption as well as some adverse economic impact which may occur on tourism. THC noted the proposed Development is anticipated to be constructed over a period of approximately 36 months, and a further 7 months required for the removal of the existing infrastructure (being based on work being carried out 7 days per week). It raised concerns regarding residential amenity and impact on local communities and has suggested a condition to limit construction hours.
38. THC raised concerns surrounding the impact on local public roads with relatively large increases in HGV traffic during the construction phase which, without additional mitigation measures secured by condition, could lead to significant adverse impacts on residential amenity, fear/intimidation caused by passing traffic, severance, driver delay and accident/road safety issues.
39. THC suggested a Construction Environmental Management Document be secured by condition to mitigate against potential sources of pollution and stated any proposed infrastructure located within areas of flood risk will require a detailed construction method statement.
40. THC noted a Habitat Management Plan has been proposed; however, it commented no biodiversity metric had been submitted to demonstrate an overall enhancement

across the area of the proposed Development which brought the Application into conflict with both the IMFLDP and NPF4.

41. THC acknowledged the proposed Development has been designed to minimise impacts on important habitats, peatlands and protected species as far as practical, but overlaps with the Kinloch and Kyleakin Hills SAC and SSSI. It also noted the proposed Development passes through areas listed on the Ancient Woodland Inventory and protected species are likely to be within the area.
42. THC stated the proposed Development sits across several Landscape Character Types where adverse landscape effects are predicted, and which are more sensitive to this type of development.
43. THC were generally content with the Company's visual assessment except for the Alternative Alignment where it identified additional significant adverse effects. THC had considerable concern for the route of the Alternative Alignment, including the human impact, and did not support this. It believed the decision between the Proposed Alignment and the Alternative Alignment was critical to any determination, and that the landscape and visual impacts associated with the Alternative Alignment are avoidable should the Proposed Alignment be consented. It emphasised the Alternative Alignment follows the ferry tourist route where significant adverse long-term impact and disruption would occur for its users, and there would be a requirement to install a new permanent access track which would traverse the hillside below the road at Bealach Udal which would be of concern. It further highlighted the Alternative Alignment would cut across above the settlement of Kyle Rhea and adverse landscape and visual impacts during the long-term operation phase of the proposed Development would occur.
44. THC considered in its original consultation response that with the removal of the Alternative Alignment, the proposal would accord with the principles and policies within the Development Plan and acceptable in all other applicable material considerations.
45. However, after the Company's second round of Additional Information, and following a Planning Committee meeting on 8 November 2023, THC provided an objection to the proposed Development on 15 November 2023.
46. At this time, THC also noted there had been an updated Peat Landslide Hazard Risk Assessment, technical note on collision risk to common scoter, and had itself amended previously suggested conditions.
47. Scottish Ministers have attached conditions within Annex 2, which give effect to THC's recommendations on conditions.
48. **NatureScot** advised the proposed Development was likely to have a significant effect on the conservation objectives for the Kinloch and Kyleakin SAC, the West Inverness-shire Lochs Special Protection Area SPA, the Cuillins SPA, and for the Proposed Alignment only, the Lochs Duich, Long and Alsh Reefs SAC. As such, NatureScot advised the Scottish Ministers, as the competent authority, to carry out appropriate assessments in view of the sites' conservation objectives for each of these sites qualifying interests.

49. In relation to the Sligachan Peatlands SAC, the Mointeach nan Lochain Dubha SAC and the the Lochs Duich, Long and Alsh Reefs SAC (for the Alternative Alignment only) NatureScot advised that it was unlikely the proposed Development would have a significant effect on any qualifying interests either directly or indirectly and no appropriate assessments were required.
50. Regarding Sites of Special Scientific Interest (“SSSIs”), NatureScot objected to the proposed Development due to its impacts on the Kinloch and Kyeakin Hills SSSI (due to the interests of the SSSI largely overlapping with those of the SAC). NatureScot also advised the proposed Development passes through a number of geology sites (An Cleirach SSSI, Druim Iosal SSSI and Quoich Spillway SSSI) but their features are unlikely to be affected.
51. NatureScot’s advice on landscape and visual impacts focussed on the likely impacts to National Scenic Areas (“NSAs”) and Wild Land Areas. Regarding the Knoydart NSA, NatureScot advised there will be significant adverse effects on the Special Landscape Qualities of the NSA. However, NatureScot considered there was good potential to further reduce impacts and suggested to the Scottish Ministers that additional mitigation measures should be secured.
52. NatureScot also advised the proposed Development would result in a short term (up to 10 years) significant adverse effects on the Special Landscape Qualities of the Cuillin Hills NSA and supported the mitigation set out by the Company in the EIA Report.
53. NatureScot also commented on the impacts regarding priority peatland habitats, wider countryside birds and protected species. On peatland habitats, NatureScot considered that given the areas of blanket bog affected a substantial area of peatland restoration would be required to compensate for the loss and recommended that a total area of compensatory peatland restoration should be in the order of 10 times that the area lost from the proposed Development. On wider countryside birds, NatureScot welcomed the Company’s proposal to provide a Species Protection Plan for breeding birds and recommended that the Plan show appropriate mitigation. NatureScot also noted the EIA Report indicated that protected species licenses may be required.
54. The Scottish Ministers have considered the issues of concern raised by NatureScot, have taken into account those issues, and imposed conditions at Annex 2 which give effect to some of its concerns.
55. **Historic Environment Scotland (“HES”)** raised no objection, advising there was sufficient information in the EIA Report to allow a view on the proposed Development to be made. HES concluded that the proposed Development would not raise issues of national interest for its historical environment remit.
56. **SEPA** raised no objection, and recommended conditions are applied to secure a Peat Management Plan, a Habitat Management Plan, and an Ecological Clerk of Works.
57. Scottish Ministers have attached conditions within Annex 2, which gives effect to SEPA’s recommendations.

58. **Royal Society of the Protection of Birds (“RSPB”)** raised serious concerns regarding the proposed Development and suggested further mitigation be considered to avoid adverse impacts on species of highest conservation concern. In particular, the RSPB raised concerns around the section of line between Edinbane to North of Sligachan where there is potential collision risk to White-tailed eagles, Golden Eagle, raptors and Curlew. Undergrounding would be the RSPBs preferred mitigation; however, bird deflectors should be required as a minimum.
59. The RSPB also said it had serious concerns regarding other sections of the proposed Development such as Kylerhea to Loch Cuaich, and Loch Cuaich to Invergarry, with potential risk of collision to Common Scoters and Black-throated Diver. Again, the RSPB recommended undergrounding certain sections, and at the very least would strongly recommend bird deflectors on certain stretches. Regarding power line diverters, the RSPB did suggest it had concerns whether these will be effective in adverse weather and nocturnal conditions when the birds’ perception of the diverter objects will be poor. The Scottish Ministers have considered the issues of concern raised by the RSPB and have taken into account those considerations and imposed conditions at Annex 2 which give effect to some of the concerns of the RSPB.
60. **Kylerhea Community Forum (“KCF”)** raised an objection to the Alternative Alignment of the proposed OHL (through Kylerhea township and along the road over Bealach na Udal and Glen Arroch) and advised it was strongly in favour of the Proposed Alignment. KCF advised that the Alternative Alignment would result in permanent environmental, social, cultural and economic harm.
61. **Kyleakin and Kylerhea Community Council (“KKCC”)** also raised concerns in relation to the Alternative Alignment, highlighting impacts on the local community, including landscape and visual impacts, private water supplies, and public health. KKCC advised that it fully supports the Proposed Alignment, and requested the Scottish Ministers approve this route in favour of the Alternative Alignment.
62. **Glenelg and Arnisdale Community Council** also raised an objection to the Alternative Alignment.
63. A condition has been included within Annex 2 which requires the establishment of a Community Liaison Group, to be set up in collaboration with the Planning Authority and affected local community groups, to ensure that local communities are kept informed of, and given opportunities to comment on, progress of the proposed Development.
64. **Scottish Water (“SW”)** raised no objection and requested the Company notify SW three months in advance of any construction works to enable SW to be aware of activities in the catchment area, and to determine if a site meeting would be appropriate and beneficial.
65. Appropriate wording addressing SW’s request has been included within a condition requiring a Construction Environment Management Document, to be agreed prior to commencement of development, at Annex 2.
66. **The Woodland Trust** objected to the proposed Development due to, in its view, unacceptable adverse impacts on a number of areas of ancient woodland. A condition

has been included within Annex 2, requiring that a compensatory planting plan is agreed prior to commencement of development.

### Internal consultee responses

67. **Scottish Forestry (“SF”)** raised no objection and advised that a compensatory planting plan should be agreed prior to commencement of development.
68. A condition has been included within Annex 2, requiring the provision of such a compensatory planting plan, to be agreed with the Scottish Ministers prior to commencement of development.
69. **Transport Scotland (“TS”)** raised no objection in terms of impacts on the trunk road network. TS suggested that conditions should be attached to any consent, requiring the preparation and agreement of a Construction Traffic Management Plan, and details of any proposed alterations to the trunk road network to be submitted and approved prior to commencement of development.
70. Scottish Ministers have attached a condition within Annex 2, which gives effect to Transport Scotland’s recommendations.
71. **Ironside Farrar** - advisors to Scottish Ministers on Peat Landslide Hazard Risk Assessment (“PLHRA”) – provided advice relative to the Company’s PLHRA for the proposed Development.
72. Ironside Farrar considered there were sections of the OHL route that traverse class 1 and class 2 peat which had not been probed, and consequently these areas will require probing pre-construction and the PLHRA developed with the results.
73. Ironside Farrar also queried the Company’s single mitigation measure of ‘localised’ excavation considered for all risk areas along the route. The Company therefore provided further mitigation measures relating to peat storage, drainage, and monitoring during and post works. The Company also committed to providing further updates to the PLHRA as part of the proposed Development’s detailed design stage.
74. Scottish Ministers have attached a condition within Annex 2, which gives effect to Ironside Farrar’s recommendations regarding further probing.
75. Other consultees that provided no objection are as follows: Joint Radio Company, NATS Safeguarding, BT, Defence Infrastructure Organisation/MoD, Highlands and Islands Airports Limited, Mountaineering Scotland, Fisheries Management Scotland, Skye and Lochalsh Rivers Trust, Marine Scotland, ScotWays and Forestry and Land Scotland.
76. Consultees who did not respond to the consultation are as follows: British Horse Society, Broadford and Strath Community Council, Civil Aviation Authority – Airspace, Crown Estate Scotland, Dunvegan Community Council, Fort Augustus and Glenmoriston Community Council, Glengarry Community Council, John Muir Trust, Ness District Salmon Fishery Board, Office of Nuclear Regulation, Portree Community Council, Sconser Community Council, Scottish Wild Land Group, Struan Community

## **Representations**

77. Representations made to Scottish Ministers in respect of the proposed Development are available to review in full on the Energy Consents Unit website at: [www.energyconsents.scot](http://www.energyconsents.scot).
78. There were 255 representations received objecting to the proposed Development. Key issues raised in the objections included the following:
- The Proposed Alignment is more acceptable than the Alternative Alignment;
  - The need for the proposed Development has not adequately been demonstrated. Skye generates more energy than it uses, as such there will be no benefit to the local community from the reinforcement;
  - Concern due process has not been followed as the line is required in anticipation of future wind farm developments;
  - New capacity will be monopolised by wind farms with no scope for micro generation, with profits going to foreign organisations rather than the local community;
  - Restriction on options for future local development;
  - Proximity of the new line to residential properties;
  - Constructing an OHL rather than undergrounding the cables;
  - Visual impact of the proposed Development; cumulative visual impact when considered with anticipated wind farm applications, disproportionate in comparison to other areas of Scotland;
  - Impact on the local economy and tourism, leading to job losses and potential business closure;
  - Impact on historic Skye Ferry due to disruption to service during construction, possibly leading to closure;
  - Impact on the environment, including wildlife, local flora, habitats, pollution, watercourses;
  - Disturbance and damage to peat and blanket bog;
  - Impact on local water supply including contamination;
  - Impact on Crofting arable land and disruption to livestock management during construction phase;
  - Impacts on local infrastructure including traffic disruption and damage to existing roads that are already overburdened;
  - Transportation of building materials will be damaging for the environment;
  - Noise and light pollution during both construction and operation phases;
  - Impact on human wellbeing and the community including loss of sense of place/way of life, wind farm syndrome and micro plastic contamination;
  - Disturbance and loss of archaeological and cultural heritage, including listed buildings and the ancient drove road and its boundaries and bridges;
  - Application does not contain enough information on compensatory planting, biodiversity net gain and habitat restoration;

- Insufficient mitigation fails to meet the requirements of NPF4;
- Visualisations not clearly showing where pylons will be placed and how large they are, also missing details such as houses, access roads, bell-mouths and common grazings;
- Planning Authority response provided before all community comments were received;
- Application is being considered in isolation when it should form part of a public inquiry considering all proposed windfarms and OHLs together;
- Concerns that statutory consultee responses are lacking in evidence and out with their responsibilities;
- The Scottish Government renewables strategy lacks coherence, and it cannot be evidenced that the Habitats Regulations should be set aside due to national priorities.

79. Objections raised with reference to the impact on property values or financial community benefit as a result of the proposed Development are not material considerations. As such, these matters raised in objection have not been considered by the Scottish Ministers in the determination of the Application.

80. Key issues raised in support of the proposed Development included the following:

- The Proposed Alignment will not adversely affect communities or businesses in the area;
- Community Interest Company will continue to support local economies and businesses will continue trading and expand if the Proposed Alignment is adopted;
- Current line nearing the end of its working life;
- Improved supply reliability;
- Increased capacity leading to community benefits through community led renewable energy schemes;
- Limited visual impact of the Proposed Alignment;
- Existing and consented renewable energy projects require improved infrastructure to run efficiently;
- New and skilled local jobs at risk if planned projects abandoned due to lack of sufficient infrastructure.

81. The Scottish Ministers are satisfied that the matters raised in the objections to this Application have been appropriately assessed and considered in the determination of the proposed Development.

## **The Scottish Ministers Considerations**

### **Main determining Issues**

82. Having considered the Application, the EIA Report, both rounds of Additional Information, responses from consultees, and Scottish Government policies, Ministers consider that the main determining issues are:

- The environmental impacts of the proposed Development including the impact on the Kinloch and Kyleakin Hills SAC;
- The landscape and visual effects;
- The consideration of alternatives, including the Alternative Alignment;
- The extent to which the proposed Development accords with, and is supported by Scottish Government policies; and
- Security of electricity supply to Skye and the Western Isles and the contribution the proposed Development will make to realising the wider benefits of renewable electricity generation connection to the National Grid.

83. These issues are considered in turn below.

### **Assessment of the Determining Issues**

#### **Environmental Matters**

84. Included in the assessment of environmental matters, the Scottish Ministers have considered the impact on site integrity of the Kinloch and Kyleakin Hills SAC; landscape and visual effects, effects on woodland; ornithology; cultural heritage and archaeology; hydrology, hydrogeology, and soils; socioeconomics including tourism; and traffic and transport.

#### **Kinloch and Kyleakin Hills SAC**

85. The Appropriate Assessment (“AA”) for the proposed Development was unable to conclude beyond reasonable scientific doubt that there would be no adverse effect on four of the qualifying features of the Kinloch and Kyleakin Hills SAC. These features are blanket bogs, European dry heaths, wet heathland and cross-leaved heath, and Western acidic oak woodland. The AA concluded there would be no likely significant effect on two other qualifying features, Alpine and subalpine heaths and mixed woodland on base-rich soils associated with rocky slopes.
86. A separate AA reached a conclusion regarding otter within the Kinloch and Kyleakin Hills SAC. This concluded that there would be no adverse effects on site integrity for the otter qualifying feature of the SAC.
87. Given the AA identified adverse effects at the site, the Scottish Ministers, as the competent authority, can only agree to the proposed Development if the requirements of the derogation provisions as contained in the 2017 regulations are met (the derogation provisions are set out at Regulations 64 and 68) and the Scottish Ministers have considered the proposed Development against the requirements of these provisions.
88. Regulation 64 of the 2017 Regulations states that the competent authority may agree to a project if: firstly, it is satisfied that there are no alternative solutions; secondly, the project must be carried out for imperative reasons of overriding public interest (“IROPI”), notwithstanding a negative assessment of the implications for a European site. Thirdly, section 68 of the 2017 Regulations further requires that where a project is agreed to in accordance with regulation 64 of the 2017 Regulations, notwithstanding a negative assessment of the implications for a European site, the Scottish Ministers shall secure that any necessary compensatory measures are taken to ensure that the



overall coherence of the UK site network is protected. These three derogation tests have been considered by the Scottish Ministers sequentially, and each one satisfied.

89. The Scottish Ministers' considerations in respect of each of these tests, which were assessed in the following sequential order:

- alternative solutions to the proposed Development have been considered;
- consideration has been given to whether there are IROPI justifying the proposed Development proceeding; and
- compensatory measures put forward by the Company to ensure the protection of the overall coherence of the network have been considered.

are contained in the full assessment of the proposed Development under the 2017 Regulations contained within Annex 5 "Scottish Ministers' Consideration of the case for a derogation under the Conservation (Natural Habitats, &c.) Regulations 1994 and the Conservation of Habitats and Species Regulations 2017".

90. In summary, the Scottish Ministers considered the information on alternatives submitted by the Company in the context of the appropriate and primary objectives of the proposed Development, and are of the view that there are no less damaging alternatives to the proposed Development that would satisfy the objectives, and be technically, legally and financially viable (the consideration of the Alternative Alignment as an alternative is considered below). The Scottish Ministers therefore conclude that alternative solutions are not available. The Scottish Ministers are also satisfied that there are IROPI for the proposed Development to proceed, subject to adequate compensatory measures being implemented. In arriving at this decision, the Scottish Ministers have considered how the proposed Development provides a public benefit which is essential and urgent, and which has been assessed to outweigh the harm to the integrity of the designated sites.
91. Regarding the compensatory measures put forward by the Company in its Compensation Plan, the Scottish Ministers consider this Plan proposes suitable areas and measures to create, restore or improve the condition of sufficient qualifying habitat to compensate for the SAC habitat losses incurred by the project.
92. To ensure compensatory measures are implemented and demonstrated to be effective before the commencement of construction works, the Scottish Ministers have attached a condition within Annex 2.

#### Landscape and visual effects

93. In consideration of landscape and visual effects, the Scottish Ministers have reviewed the EIA Report, both sets of Additional Information, the consultation responses, and representations.
94. The Scottish Ministers are satisfied and content with the information contained within Volume 2 Chapter 3 of the EIA Report for the Landscape Visual Impact Assessment ("LVIA") and the responses from both the Planning Authority and NatureScot. The Company's LVIA states that the majority of landscape and visual effects arising from the proposed Development would be not significant. There would be some localised significant adverse landscape, visual and cumulative effects resulting from the

proposed Development during construction, and a small and very localised number of significant adverse effects during the operation of the proposed Development. Longer term effects would be focussed within areas where the proposed Development would involve the replacement of the wood pole OHL with a steel lattice tower OHL. This would form a more prominent feature within the landscape, through the section from Edinbane to North of Sligachan and parts of the section between North of Sligachan to Broadford, and between Loch Quoich to Invergarry. The use of an underground cable connection, replacing an existing wood pole OHL through the remainder of North of Sligachan to Broadford and all between Invergarry to Fort Augustus, and localised realignment between Ardmore to Edinbane, would lead to some limited localised beneficial effects.

95. Although the Scottish Ministers broadly agree with the LVIA conclusions, successfully minimising the long-term effects of access tracks will rely on the quality of restoration put in place. Even with high quality restoration, there will still be long term significant adverse effects on the Special Landscape Qualities of the Knoydart NSA as a result of new and upgraded access tracks.
96. The Scottish Ministers have taken all the environmental information into account and agree the proposal would have significant landscape, visual and cumulative effects both positive and adverse.

### Forestry

97. Impacts on Forestry are assessed within Volume 2 Chapter 9 of the Company's EIA Report. Due to the requirement to create an operating corridor for the construction and safe operation of the OHL, including the creation of access tracks, the proposed Development is predicted to result in the direct loss of 100 ha of commercial woodland, 11 ha of ancient woodland, and 7 ha of semi-natural woodland. There will also be the potential indirect (secondary) effect of woodland removal outside of the operating corridor (predicted to be 82 ha) (under separate felling licences obtained by landowners and not under the control of the Company).
98. The Scottish Ministers have taken all the environmental information into account and agree the proposed Development would have an impact on woodland which can be mitigated by way of condition.

### Ornithology

99. NatureScot advised the proposed Development may have an adverse impact on the West Inverness-shire Lochs SPA, given the collision risk to common scoters and therefore requested further information on the implications of the increased height of the proposed Development, and the efficacy of line marking in reducing the potential collision risk for common scoters which may fly at night. The Company provided this information which allowed NatureScot to comment that in relation to collision risk to common scoters, available information suggested the probability of flights across the proposed Development's line in low/poor light, or at night, appeared to be very small. In NatureScot's view therefore, the potential for collision with the OHL is therefore small and would be further reduced by the deployment of appropriate bird flight diverters on the earth wire. Regarding the collision risk to black-throated divers from the proposed Development, NatureScot considered the use of bird flight diverters

would also reduce the collision risk to an acceptable level. Furthermore, by undertaking construction and dismantling works (including access) within 750m of the SPA outside the breeding season, or implementing an appropriate Breeding Bird Protection Plan, the risk of disturbance to both common scoters and black-throated divers could be mitigated.

100. Due to NatureScot's advice being that the proposed Development would likely have a significant effect on the West Inverness-shire Lochs SPA's populations of common scoters and black throated divers, the Scottish Ministers, as competent authority, were required to undertake an appropriate assessment in view of the site's conservation objectives. NatureScot also advised the proposed Development would likely have a significant effect on the Cuillins SPA's population of golden eagles and as such an appropriate assessment was also required in view of the site's conservation objectives.
101. There is unlikely to be significant effects on existing bird populations resulting from habitat loss from the construction of the proposed Development, nor from cumulative effects with existing and planned developments in the region.
102. RSPB Scotland confirmed its preference for the Proposed Alignment due to concerns surrounding the Alternative Alignment and its potential for serious collision risk for white tailed eagle, and potentially golden eagle. The RSPB also strongly recommended bird diverters for certain sections of the OHL.
103. The Scottish Ministers have taken all the environmental information into account and agree the proposed Development would have an impact on ornithological interests which can be mitigated by way of suitable condition attached within Annex 2.

#### Cultural heritage and Archaeology

104. Impacts on cultural heritage were assessed by the Company in Volume 2 Chapter 8 of the EIA Report. In its assessment, the Company identified and evaluated any cultural heritage interests present within an Inner Study Area covering the site of the proposed Development and associated access tracks, through the examination of desk-based resources and walk-over field survey. It is also identified and evaluated heritage assets within an Outer Study Area extending up to 2.5 km around the proposed Development. For the purposes of the EIA Report, these assets comprised scheduled monuments, listed buildings and a conservation area, in respect of which their settings could be affected.
105. The EIA Report identified there would be no significant adverse impacts on designated assets (monuments and buildings) as a result of the proposed Development. Mitigation measures were recommended for undesignated assets that aim to reduce predicted adverse impacts. These included marking-out and avoidance with buffers, micro-siting, additional investigation and recording.
106. Historic Environment Scotland confirmed the proposed Development does not raise issues of national interest for the historic environment, and it agreed with the conclusions of the EIA Report

107. The Scottish Ministers have taken all the environmental information into account and consider the proposed Development would not have a significant impact on cultural heritage and archaeology. Any other impacts can be mitigated by way of condition.

#### Hydrology, Hydrogeology, and Soils

108. Hydrology, hydrogeology and soils were assessed by the Company in Volume 2 Chapters 6 and 7 of the EIA Report. To protect the water environment, the Company have outlined a number of measures including the adoption of sustainable drainage principles and measures to mitigate against effects of potential chemical contamination, sediment release and changes in supplies to Ground Water Dependent Terrestrial Ecosystems. Any proposed infrastructure located within areas at flood risk will require the principal contractor to prepare a detailed Construction Method Statement. This will ensure no new permanent features which are sensitive to flooding are located within the floodplain. Additionally, any watercourse crossings within the proposed Development will be regulated under SEPA's Controlled Activities Regulations (CAR) regime and will be designed to allow continuous flow. A detailed drainage strategy will also be developed.
109. In terms of maintaining drinking water quality, some water sources lie close to, or downstream of, the proposed Development. The Company will therefore use mitigation such as micro-siting, and good practice techniques that prevent pollution of surface water and which maintain the integrity of the distribution pipework. These will be required to safeguard these private water supplies.
110. The Company, prior to development commencing, will provide a Peatland Management Plan for each section of the proposed Development or subsequent phase of works. In some areas of deep peat, probing has not yet been undertaken. In these specific locations, the Company will provide details of further probing and provide an assessment of likelihood, and where relevant, a calculation of consequence and risk of peat slide. The Company will also demonstrate how post consent layout modifications will further minimise peat disturbance.
111. The Scottish Ministers have taken all the environmental information into account and consider the proposed Development would not have a significant impact on Hydrology, Hydrogeology, and Soils. Any impacts can be mitigated by way of condition.

#### Socio-economics and Tourism

112. The Company estimate that the proposed Development will result in a cost of approximately £488 million. Within the EIA Report, the Company estimated the potential employment benefits of the proposed Development in Person Year Employment ("PYE") (PYE is used due to contracts being for fixed lengths). The estimated benefit of the proposed Development across the construction and dismantling period i.e. three years construction and seven months dismantling, show a total of 638 PYEs over this period. Given the origin of these jobs, displacement and multiplier effect, this would result in 167 PYEs in the Highlands, and 431 PYEs at the Scottish level. This equates to a Gross Added Value impact of £10.4 million to the Highlands, and £27.4 million at the Scottish level over the construction period.

113. Tourism is a key contributor to the local economy with pre-pandemic visitor numbers to Skye and Raasay being around 650,000 in 2019. Despite Skye's popularity, the main routes affected by the proposed Development, including the A87, are not 'promoted' tourist routes. The Company's EIA Report outlined there are no notable visitor attractions located in close proximity to the proposed Development, and similarly, a review of core paths, rights of way and hill tracks/mountain routes has shown these are largely unaffected.

#### Traffic and Transport

114. Traffic and transport impacts were considered by the Company in Volume 2 Chapter 10 of its EIA Report. The Company assessed the proposed Development would lead to a temporary increase in traffic volume on the road network within the study areas during the construction phase. Traffic volumes would then fall considerably outside the peak period of construction. The Company also confirmed there will be no requirement for any abnormal load movements. The potential cumulative impact of other major developments taking place, including consented wind farms on Skye was considered. Such developments are however assumed to be reliant upon the construction and operation of the proposed Development and are therefore considered by the Company unlikely to be built out at the same time. Specific mitigation measures that will be incorporated by the Company include:
- Use of helicopters for delivery of materials (Section 0 and part of Section 3a);
  - A site worker transport plan to move the workforce to and from the site;
  - Maximising site working days and hours during daylight;
  - Routing to avoid use of the B885 wherever possible;
  - Project website construction updates and local newsletters;
  - 20mph speed limits through local villages / towns; and
  - 15mph speed limits on access tracks / private roads.
115. The Planning Authority commented that the extent of local public roads impacted will be significant. It suggested there will be significant lengths of the public road network that will experience relatively large increases in construction traffic. However, sufficient confidence can be taken from the level of detail and assessment provided by the Company and the Company committing to undertaking a series of advanced road improvements to ensure that the traffic and transportation impacts of the development can be suitably managed.
116. Transport Scotland to have confirmed there would be no capacity constraints on their affected network.
117. The Scottish Ministers have taken all the environmental information into account and consider the proposed Development will have an impact on traffic and transport in the area; however, any impacts can be mitigated by way of condition.

#### The Consideration of Alternatives including the Alternative Alignment

118. The Company identified and assessed a number of alternatives to the proposed Development:
- Do nothing;

- Smaller scale of development;
- Different technology;
- NeSTS (alternative type of steel structure support);
- Subsea cables;
- Underground cables;
- Different routes or alignments; and
- Different construction methodology.

119. The Scottish Ministers have considered the information on alternatives submitted by the Company in the context of the appropriate and primary objectives of the proposed Development and are of the view that there are no less damaging alternatives to the proposed Development that would satisfy its primary objectives, and be technically, legally, and financially viable. The Scottish Ministers therefore conclude that alternative solutions are not available. Further information on the consideration of alternatives can be found in the 'Scottish Ministers' Consideration of the case for a derogation under the Conservation (Natural Habitats, &c.) Regulations 1994 and the Conservation of Habitats and Species Regulations 2017'.
120. Comparing the Company's Proposed Alignment and the Alternative Alignment impacts on the Kinloch and Kyleakin SAC, the Alternative Alignment would have a reduced effect on the SAC, impacting 14.42 ha of qualifying habitat during construction, as opposed to 16.73 ha for the Proposed Alignment (or 0.27% of the site rather than 0.32%).
121. The Alternative Alignment would however follow a well-travelled tourist route, including the seasonal ferry crossing of Kyle Rhea, bringing the OHL and associated infrastructure down through Glen Arroch to within the immediate vicinity of the community of Kylerhea. Consequently, the Planning Authority considered the human impacts of developing the Alternative Alignment were a concern. The Alternative Alignment route would have significant adverse landscape character impacts, as well as significantly adverse visual impacts which would be experienced by residents and the wider community on both sides of Kyle Rhea, including from the Glenelg where main views from this settlement and its waterfront would be directly towards the Alternative Alignment. This routing would also require the removal of a further 10.5 ha of woodland which would draw more attention to the presence of the line in the landscape.
122. The Planning Authority also suggested the existing road which traversed down Glen Arroch is unsuitable in its current form to facilitate the level of construction traffic proposed to support the Alternative Alignment. Its extensive use during construction of the Alternative Alignment would likely cause significant disruption to ferry services for a prolonged period.
123. In terms of ornithological impacts resulting from the Alternative Alignment, the results of baseline surveys have identified high white-tailed eagle flight activity around Kyle Rhea. The majority of white-tailed eagle activity within this area is to the south of the existing OHL crossing tower at Kyle Rhea. Therefore, the frequency of flight activity in proximity to the Alternative Alignment is considered to be significant and is likely to give rise to an increase in collision effects to those already presented by the existing OHL. RSPB Scotland commented that the Alternative Alignment route through

Kylerhea and Glen Arroch would result in a serious collision risk for White-Tailed Eagle, in particular, but also potentially for Golden Eagle.

124. The Alternative Alignment would have a very small, reduced impact on the Kinloch and Kyleakin SAC, however, the Scottish Ministers have taken into account the wider social (human), economic and other environmental implications and have determined that the Company's Proposed Alignment is the preferable option.

## **The Scottish Government Policy Context**

### **National Planning Framework 4**

125. NPF 4 sets out Scottish Ministers' policies and proposals for the development and use of land. It plays a key role in supporting the delivery of Scotland's national outcomes and the United Nations Sustainable Development Goals. Part 1 of NPF4 sets out a Spatial Strategy for Scotland to 2045 and identifies developments of national importance to help deliver that strategy. The need for Strategic Electricity Transmission Infrastructure, of which this development is an example, is established therein.
126. Part 2 sets out National Planning Policy. NPF4 should be read as a whole, and the weight given to its policies decided on a case-by-case basis. The greatest weight in consideration of the proposed Development on the context of NPF4 is afforded to Energy policy. The policy establishes an intent to encourage, promote and facilitate all forms of renewable energy development onshore and offshore. This description includes new and replacement transmission and distribution infrastructure. The desired outcome is the expansion of renewable, low carbon and zero emissions technologies. The proposed Development will facilitate the transmission of electricity across Scotland and the islands and improve security of supply for the residents of Skye and the Western Isles. The proposed Development has sought to mitigate impacts on the environment as far as is reasonably possible.
127. The Scottish Ministers conclude that the proposed Development is supported by NPF4 when read as a whole.

### **Area Local Development Plans**

#### **Highland wide Local Development Plan**

128. The Highland wide Local Development Plan supports the broad principle of energy development. Policy 69 specifically highlights the "Council will have regard to their level of strategic significance in transmitting electricity from areas of generation to areas of consumption." "It will support proposals which are assessed as not having unacceptable impact on the environment including natural, built and cultural heritage features." Where development is assessed as not having unacceptable significant impact on the environment, then the proposal would accord with the Development Plan.

## **Energy Strategy and draft Energy Strategy and Just Transition Plan**

129. Scottish Ministers have placed significant weight on the benefits of the proposal in terms of the replacement of the end-of-life electricity infrastructure and security of supply, as well as its provision of a significant contribution to national renewable energy targets, reducing emissions and addressing the global climate emergency.
130. The Energy Strategy states that “Scotland should have the capacity, the connections, the flexibility and resilience necessary to maintain secure and reliable supplies of energy to all of our homes and businesses as our energy transition takes place”. It adds that “Scotland needs a balanced and secure electricity supply. That means a system and a range of technologies which provide sufficient generation and interconnection to meet demand. It means an electricity network which is resilient and sufficiently secure against any fluctuations or interruptions to supply”.
131. The proposed Development will provide the resilience necessary to maintain secure and reliable supplies of energy to homes and businesses as our energy transition takes place. Scottish Ministers conclude that the proposed Development is supported by the Energy Strategy. The draft Scottish Energy Strategy and Just Transition Plan 2023 signals that strong support from the Scottish Government for upgraded transmission infrastructure remains.

## **Security of electricity supply to Skye and the Western isles and the contribution the proposed Development will make to realising the wider benefits of renewable electricity generation connection to the National Grid**

132. The existing OHL is the sole connection from the mainland electricity transmission system to Skye and the Western Isles. The existing OHL, having been constructed over a period mostly from the late 1970's through to the late 1980's, is approaching the end of its economic and operational life. The Company's assessment of the condition of the transmission asset components within the geographical sections between Quoich to Ardmore was carried out to identify the need for remedial works as part of developing an asset intervention strategy. The studies identified deterioration on wood poles in the trident wood pole section between Broadford and Ardmore, and loss of galvanisation and extensive surface corrosion in the more exposed areas between Quoich to Broadford in which steel lattice towers are used as the support structures. As a result, the poles and towers themselves, as well as fittings, earth-wires and phase conductors, require upgrade or replacement throughout most of the existing single 132 kV circuit to maintain security of supply to over 32,000 homes and businesses on Skye and the Western Isles.
133. The area served by the existing OHL contains opportunity for new renewable generation projects but lacks available additional transmission capacity to connect them to the National Grid. The Company is already contracted to provide an additional 472 MW of generation on the Skye circuit by 2027, with a further 289 MW in the connection application process.

## **The Scottish Ministers' Conclusions**

### **Reasoned Conclusions on the Environment**



134. The Scottish Ministers concluded it could not be ascertained that the proposed Development would not adversely affect the integrity of the Kinloch and Kyleakin SAC. As the competent authority, the Scottish Ministers can therefore only agree to the proposed Development if the requirements of the derogation provisions in the 2017 Regulations are met. The Scottish Ministers have considered the proposed Development against the requirements of these provisions and determine that consent can be granted for the proposed Development.
135. It is also the opinion of the Scottish Ministers that there will be significant landscape, visual and cumulative effects and other residual environmental effects in relation to the proposed Development.
136. Mitigation measures are proposed within the EIA Report, and the Scottish Ministers have secured these by conditions attached to this consent and deemed planning permission. The Scottish Ministers conclusion is that the benefits of the proposal outweigh the adverse effects it would have. The Scottish Ministers are satisfied having regard to current knowledge and methods of assessment that this reasoned conclusion is up to date.

### **Acceptability of the proposed Development**

137. Scotland faces a real challenge in building an electricity grid which will allow Scotland to harvest and export its vast resources of clean energy. The Scottish Ministers recognise that to achieve the dual aims of maintaining a resilient electricity network for businesses and consumers and enabling renewable ambitions to be realised, the need for grid reinforcement is greater than ever. The installation, and the keeping installed, of the proposed OHL would allow the Company to comply with its statutory duty to develop and maintain an efficient, coordinated, and economical system of electricity distribution and deliver a major electricity transmission system reinforcement.
138. Scotland's energy policies and planning policies are all material considerations when weighing up the proposed Development. NPF4 makes it clear that low carbon energy deployment, maintaining security of electricity supply, and electricity system resilience remain a priority of the Scottish Government. These are matters which should be afforded significant weight in favour of the proposed Development. The Scottish Ministers conclude, for the reasons set out above, that the proposed Development is supported by Scottish Government policies.
139. The Scottish Ministers have taken into account the Application, the EIA Report as well as consultee responses and representations and consider that the effects of the proposed Development are acceptable, subject to the implementation of mitigation measures which are secured as conditions at Annex 2.

### **The Scottish Ministers' Determination**

140. Subject to the conditions set out in **Annex 2 - Part 1**, the Scottish Ministers **grant consent** under section 37 of the Electricity Act 1989 to install and keep installed above ground the overhead electric line (as described in **Annex 1**).

141. Subject to the conditions set out in **Annex 2 - Part 2**, the Scottish Ministers direct that **planning permission be deemed to be granted** under section 57(2) of the Town and Country Planning (Scotland) Act 1997 in respect of the Development described in **Annex 1**.
142. The consent may, at any time after the expiry of a period of three months from the date of the consent, be varied or revoked by the Scottish Ministers under section 37 (3)(b) of the Act.

### **Section 37 consent and expiry of Planning Permission**

143. The consent hereby granted will last for a period of 50 years from the earlier of:
- i) The date of final energisation of electric lines consented forming part of the Development; or
  - ii) The date falling two years from the date of commencement of development.
144. 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.
145. Section 58(1)(a) of the Town and Country Planning (Scotland) Act 1997 requires where planning permission is deemed to be granted, that it must be granted subject to a condition that the permission will expire if has not begun within a period of 3 years. Section 58(1)(b) of that Act enables the Scottish Ministers to specify that a longer period is allowed before planning permission will lapse. Scottish Government policy is that due to the constraints, scale, and complexity of constructing such developments, a 5-year time scale for the commencement of development is appropriate.
146. The Scottish Ministers consider that 3 years is not to apply with regard to the planning permission granted above, and that planning permission is to lapse on the expiry of a period of 5 years from the date of this direction, unless the development to which the permission relates is begun before the expiry of that period. A condition has been imposed stating that development must be begun within 5 years beginning with the date on which the permission is deemed to be granted and if development has not begun at the expiration of that period, the planning permission will lapse in terms of section 58(3) of the 1997 Act.
147. In accordance with the EIA Regulations, the Company must publicise notice of this determination and how a copy of this decision letter may be inspected on the application website, in the Edinburgh Gazette and a newspaper circulating in the locality in which the land to which the application relates is situated.
148. Copies of this letter have been sent to the public bodies consulted on the Application including the Planning Authority, NatureScot, SEPA and Historic Environment Scotland. This letter has also been published on the Scottish Government Energy Consents website at [www.energyconsents.scot](http://www.energyconsents.scot).
149. 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:

150. [chapter-58-judicial-review.pdf \(scotcourts.gov.uk\)](https://www.scotcourts.gov.uk/chapter-58-judicial-review.pdf)
151. Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

Yours faithfully

*Mark Christie*

**Mark Christie**

**A member of the staff of the Scottish Ministers**

Annex 1 – Description of Development  
Annex 2 – Section 37 and Deemed Planning Conditions  
Annex 3 – Site Layout Plan  
Annex 4 – Habitats Regulations Appraisals  
Annex 5 – Derogation Case

## **ANNEX 1**

### **Part 1**

#### **Description of Development**

The proposed Development comprises:

- A 132kV overhead transmission line, approximately 110km in length, between Fort Augustus substation and Edinbane substation;
- A 132kV overhead transmission line, approximately 27km in length, between Edinbane substation and Ardmore substation; and
- A temporary diversion of the existing 132kV overhead transmission line at Inchlaggan.

Ancillary works for the construction and maintenance of the OHL, include:

- The installation of approximately 24km of new double circuit 132kV underground cable;
- The construction of cable sealing end compounds to facilitate the transition between the OHL and sections of underground cable, including permanent access to these compounds;
- The formation of access tracks (permanent, temporary and upgrades to existing tracks) and the installation of bridges and culverts to facilitate access;
- The upgrade of existing, or creation of new, bellmouths at public road access points;
- Establishment of temporary measures to protect road and water crossings (e.g. scaffolding)
- Working areas around infrastructure to facilitate construction;
- Tree felling and vegetation clearance to facilitate construction and operation of the proposed Development, to comply with the Electricity Safety, Quality and Continuity Regulations 2002;
- Foundation works required at the existing crossing and anchor towers at Kyle Rhea that are to be utilised as part of the proposed Development; and
- Dismantling of the existing 132kV OHL following completion and commissioning of the proposed Development.

As more particularly described in the Application made to the Scottish Ministers by the Company on 15 September 2022 and the accompanying EIA Report, both rounds of Additional Information, and as shown on the Approved Plans comprising Annex 3 of the decision letter.

Consent is withheld for the Company's Alternative Alignment.

## **ANNEX 2**

### **Part 1**

#### **Conditions Attached to Section 37 Consent**

##### **1. Commencement of Development**

(1) The Commencement of Development shall be no later than five 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 the Scottish Ministers no later than one calendar month before that date.

**Reason:** *To avoid uncertainty and ensure that the consent is implemented within a reasonable period and to allow the Planning Authority and Scottish Ministers to monitor compliance with obligations attached to this consent and deemed planning permission as appropriate.*

##### **2. Non-assignment**

(1) This consent shall not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignment, with or without conditions.

(2) The Company shall notify the Planning Authority and Scottish Ministers in writing of the name of the assignee, principal named contact and contact details within fourteen days of the consent being assigned.

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

##### **3. 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 written notification of the nature and timing of the incident shall be submitted to the Scottish Ministers within twenty-four hours of the incident occurring, including confirmation of remedial measures taken and/or to be taken to rectify the breach.

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

#### **4. Notification of Date of Final Energisation**

Written confirmation of the Date of Final Energisation 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 record when energisation of the line has taken place and comply with other conditions.*

#### **5. Woodland Planting Strategy**

No development shall commence unless and until a Woodland Planting Strategy has been submitted to and approved in writing by the Scottish Ministers, in consultation with the Planning Authority.

The Woodland Planting Strategy shall set out an approach for the replanting of trees felled by the Company as a result of the Development, to be carried out in The Highland Council Planning Authority Area.

The approved Woodland Planting Strategy (or as the case may be, an approved amended Woodland Planting Strategy) shall thereafter be implemented as approved and maintained as such for the lifetime of this consent, unless otherwise approved in writing by the Scottish Ministers in consultation with the Planning Authority.

**Reason:** *To address the impacts of woodland felling associated with the Development.*

#### **6. Securing of Compensatory Measures**

No later than six months prior to the Commencement of Development within the Kinloch and Kyleakin Hills SAC, the Company must submit a SAC Habitat Compensation Plan in writing to the Scottish Ministers for their written approval.

The SAC Habitat Compensation Plan must be in accordance with the Skye Reinforcement Project Kinloch and Kyleakin Hills SAC Compensation Plan submitted by the Company to the Scottish Ministers dated 27 July 2023, unless otherwise agreed in writing by the Scottish Ministers. It must demonstrate that the compensatory measures will compensate for any adverse effects on Blanket bogs; European dry heaths; Wet heathland and cross-leaved heath; and Western acidic oak woodland, as identified in the Appropriate Assessment for the Development. The SAC Habitat Compensation Plan must include the following:

- a) Confirmation of the exact amounts of SAC habitat that will be affected to set the baseline for what compensation measures need to achieve;
- b) Timetable of implementation and maintenance of the compensatory measures;
- c) The location of the compensatory measures;
- d) A description of the characteristics and methods of the proposed compensatory measures;
- e) The predicted outcomes of each compensatory measure, including timescales of when those outcomes will be achieved;
- f) Details of monitoring and reporting of the effectiveness of the compensatory measures including —

- i) survey methods;
- ii) survey programmes;
- iii) success criteria;
- iv) timescales for monitoring reports to be submitted to the Scottish Ministers;
- v) reporting of meeting success criteria, and
- vi) measures to adapt, and where necessary increase, compensatory measures and the criteria used to trigger any adaptation of compensatory measures as a result of the above monitoring.

The Company must implement the measures set out in the approved SAC Habitat Compensation Plan in accordance with the timescales detailed in the SAC Habitat Compensation Plan.

Any requests for amendments to the approved SAC Habitat Compensation Plan must be submitted, in writing, to the Scottish Ministers for their written approval.

The Company must make such alterations to the approved SAC Habitat Compensation Plan as directed by the Scottish Ministers and submit the updated SAC Habitat Compensation Plan to the Scottish Ministers for approval within such a period as directed in writing by the Scottish Ministers.

The SAC Habitat Compensation Plan must include reportable milestones of the progress of the compensatory measures which will be agreed by the Scottish Ministers in consultation with NatureScot. The Company must then, within one month, notify the Scottish Ministers and NatureScot in writing of the completion of each of the agreed milestones set out in the SAC Habitat Compensation Plan.

**Reason:** *To ensure the coherence of the UK site network is secured.*

## Part 2

### **Conditions Attached to Deemed Planning Permission**

7. The Commencement of the Development shall be no later than five years from the date of this consent, or in substitution, such other period as the Scottish Ministers may hereafter direct in writing. Written confirmation of the intended date of Commencement of Development shall be provided to the Planning Authority and the Scottish Ministers no later than one calendar month before that date.

**Reason:** To comply with section 58 of the Town and Country Planning (Scotland) Act 1997.

### **8. Accordance with the Provisions of the Application**

(1) The Development shall be constructed and operated in accordance with the provisions of the Application, the Environmental Impact Assessment Report ("EIAR") and Additional Information ("AI"), except in so far as amended by the terms of this consent. All overhead line ("OHL") wood poles, steel lattice towers, cable sealing end compounds and new construction access roads (temporary and permanent) shall be constructed in the locations shown in Figures V1-3.1 (A through to Z) and V1-3.1 (AA through to QQ) of the 2022 EIAR. The Development may however be adjusted within the following Limits of Deviation ("LOD")

- a) Overhead line – 40m horizontal LOD either side of the proposed alignment and 3m vertical LOD above or below the proposed tower or pole height;
- b) Underground cable - 40m horizontal LOD either side of the proposed alignment;
- c) Cable Sealing End (CSE) compound – 40m horizontal LOD from the proposed location; and
- d) Access tracks – 25m horizontal LOD either side of the proposed alignment, or as otherwise agreed with the Planning Authority in order to provide safe access to infrastructure that has moved utilising a-c above.

And subject to the following LOD variations, as per Chapter 3, Table V1-3-1 of the 2022 EIAR:

LOD Variation	Section / Area	LOD Variation	Reason
1	Section 0: DA159 to DA168	Reduced to 10 m on western side and extended up to 120 m on eastern side of wood pole alignment.	To ensure sufficient flexibility to avoid interference with Beinn na Mointeach radio station.
2	Section 1: Track within vicinity of Glenmore River and Abhainn an Acha-Leathain	Shift of track LoD to west.	To allow micro-siting of tracks to maintain a suitable buffer between the rivers and track construction, except at crossing points.



3	Section 1: Within vicinity of CSE Compound (BE32 to BE34)	Up to 50 m either side of OHL on approach to CSE Compound, in addition to the CSE compound LoD	To allow for tie in of OHL towers with CSE compound.
4	Section 2: Within vicinity of Abhainn Torra-mhichaig	Shift of LoD to west	To maintain a buffer of 10 m between underground cabling works and the Abhainn Torra-mhichaig, apart from at crossing points.
5	Section 2: Within vicinity of CSE Compound (BE29 to BE31)	Up to 50m either side of OHL on approach to CSE Compound, in addition to the CSE compound LoD	To allow for tie in of OHL towers with CSE compound.
6	Section 2: Between BE19 and BE20.	Up to 180 m at widest point.	Following existing access track, LoD widens in this location due to terrain and potential for micro-siting.
7	Section 2: Track to BE17	Restricted on eastern side	To exclude the Allt Strollamus from the new temporary track LoD.
8	Section 3: Track between BF20 and BF21.	Restricted on southern side at SAC boundary.	To avoid works within the Mointeach nan Lochain Dubha SAC.
9	Section 3: Track between BF57 to BF62.	Up to 80 m (40 m to either side).	Widened to allow for further micrositing in an area with difficult terrain.
10	Section 3: BF59 to BF60	Up to 60 m on southern side of OHL alignment	Widened by up to 60 m on southern side of alignment to allow for further micrositing in an area with difficult terrain.
11	Section 3: BF77 to BF79	Up to 100 m either side	To allow for works within the vicinity of anchor and crossing towers, including wiring requirements.
12	Section 4: BF80 to BF81	Up to 100 m either side	To allow for works within the vicinity of anchor and crossing towers, including wiring requirements.
13	Section 4: Track to BF81	Up to 50 m on east side	To allow greater flexibility at this access point.
14	Section 4: BF102	Up to 50m on east side	To allow flexibility in tower position

15	Section 4: Track within vicinity of Glenmore River	Restricted on northern side.	To exclude the river from the track LoD.
16	Section 4: Track from Balavoulin to BF106	Up to 40 m either side	To allow flexibility in micro-siting track due to difficult terrain.
17	Section 4: Track within vicinity of Abhainn a' Ghlinne Bhig and Srath a' Chomair	Restricted on riverbank side of track.	To restrict access works to one side of the rivers, except at crossing points.
18	Section 4: Track between BF134 and BF145	Up to 100 m wide	To allow flexibility in micro-siting track due to difficult terrain.
19	Section 4: Track within vicinity of Gleann dubhlochain	Restricted on riverbank side of track.	To restrict access works to one side of the river, except at crossing points.
20	Section 4: Track between BF166 and BF169	Restricted on southern side of track.	To maintain a 10 m buffer between the Lochan Torr a' Choit and track upgrading works and restrict works to one side of the Allt a' Choire Reidh, except at the crossing point.
21	Section 4: Construction access within vicinity of Loch Coire Shubh	Restricted on southern side.	To exclude the loch from the track LoD.
22	Section 5: BF261 to BF264	Up to 100 m either side of OHL	To allow for micro-siting and tie in of OHL towers within vicinity of proposed Quoich Tee Switching Station.
23	Section 5: BF284 to BF288	Up to 125 m wide.	To accommodate a temporary diversion to the existing OHL during construction works.
24	Section 5: Track to BF332	Up to 80 m wide	To allow flexibility in upgrading track either side of fence line.
25	Section 6: Within vicinity of Doire Mor	Up to 120 m	To allow for flexibility in siting cable route to minimise effects on blanket bog and deeper areas of peat.
26	Section 6: Within vicinity of Doire Daraich	Up to 130 m	To allow for flexibility in siting cable route to minimise effects on blanket bog and deeper areas of peat.

27	Section 6: On approach to Fort Augustus Substation	Up to 200 m	To ensure flexibility on cable entry into Fort Augustus Substation.
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- (2) At least three months prior to the Commencement of Development, finalised details of the proposed access track routing and form within the LOD, shall be submitted for the prior written approval of the Planning Authority, in consultation with the relevant area Access Officer and the Community Liaison Group(s), with the agreed details to be reflected in the Recreational Access Management Plan(s) for the site.
- (3) No later than one month after the Date of Final Energisation, the Company must submit a finalised site plan to the Planning Authorities, copied to Scottish Ministers, showing the final position of the overhead line, all towers, access tracks, and associated infrastructure forming part of the Development. The plan must also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the approval from the Environmental Clerk of Works ("ECoW") or Planning Authority, as applicable.

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

## 9. Elevations and Site Formation Levels

(1) No development shall commence unless and until location, elevation, and cross section drawings of the proposed above ground infrastructure (within and for each Development section (Section 0,1,2,3,4,5,6)), including site boundary treatments and scheme of landscaping, have been submitted to and approved in writing by the Planning Authority.

These details shall include:

- (a) The external materials, colours and finishes of all external structures, including above ground cable joint boxes and site fencing such as for sealing end compounds, with a non-reflective finish to be specified throughout (note that no further details of the wood pole, steel lattice tower supporting structures or access tracks require to be provided);
- (b) any raised areas of hardstanding to support all onsite infrastructure, such as raised above ground foundations or platforms; and
- (c) No element of the Development shall have any text, sign or logo displayed on any external surface of the facility, save those required by the applicant's safety systems and law under other legislation.

(2) Thereafter, the Development shall be built out in accordance with these approved details and, with reference to part (a) above, the site shall be maintained in the approved colour, free from rust, staining or discolouration until such time as the Development is decommissioned.

**Reason:** *In the interest of visual amenity.*

## 10. Construction Environment Management Document

No later than three months prior to the Commencement of Development, a Construction Environment Management Document ("CEMD") shall be submitted for the written approval of the Planning Authority, in consultation with SEPA, NatureScot and other consultees as appropriate. The Development shall then proceed in accordance with the approved CEMD unless otherwise agreed in writing by the Planning Authority. The CEMD shall include details of:

a) An updated Schedule of Mitigation ("SM") as it relates to construction highlighting mitigation set out within each chapter of the EIAR, within the EIAR AI, and the conditions of this consent;

b) Processes to control / action changes from the agreed SM;

c) Construction Environmental Management Plans ("CEMPs") for the construction phase, covering:

i. Habitat and Species Protection; to include but not limited to:

- A site-specific Species Protection Plan ("SPP") for otters covering construction of the new overhead line and associated infrastructure, removal of the existing overhead line and associated access is to be agreed with the Planning Authority, in consultation with NatureScot, in advance of works commencing;
- Construction and dismantling works (including access) within 750 metres of the West Inverness-shire Lochs SPA being avoided during the black-throated divers breeding season (1 April to 31 August). If this is not possible, a Breeding Bird Protection Plan for Black-throated divers (West Inverness-shire Lochs SPA) must be agreed by the Planning Authority, in consultation with NatureScot;
- A Bird Protection Plan for Common Scoter must be agreed by the Planning Authority in consultation with NatureScot;
- Details of the site-specific drainage, silt and pollution prevention measures that would be in place during the construction of the underground cable section to the east of Loch Lundie must be agreed by the Planning Authority, in consultation with NatureScot;
- Where possible, construction and dismantling works (including access) should be avoided between towers BE11 and BE15 during the breeding season (1 February to 31 August). If this is not possible, specific mitigation for this area is to be agreed with the Planning Authority in consultation with NatureScot;
- For all other areas within the Cuillins SPA, if works (construction or dismantling) are proposed between 1 February and 31 August, a suitably qualified ornithologist must confirm there are no golden eagle breeding sites within disturbance distance of the works.

ii) Pollution Prevention and Control, with works to be carried out in line with the requirements outlined in EIAR Appendix V1-3.5, Appendix V1-3.6 and Appendix V1-3.7.

iii) An Invasive Non-Native Species protocol;

iv) Construction Noise and Vibration;

v) Temporary Site Lighting;

vi) Site Waste Management;

vii) Surface and Ground Water Management, including: drainage and sediment management measures from all construction areas including access tracks; further construction design details for access tracks running parallel within 20m of a watercourse; permanent watercourse crossing works to follow the designs outlined in EIAR Appendix V2-6.2; mechanisms to ensure that construction will not take place during periods of high flow or high rainfall; a programme of water quality monitoring; and bespoke risk assessment for groundwater supply sites identified as high risk (PWS0.5, PWS0.15, PWS2.8, PWS3.1, PWS3.5, PWS3.8 and PWS5.16) in line with SEPA guidance (currently LUPS-GU31); along with further investigation for abstraction locations identified within the EIAR as either unconfirmed or where there are locations where information is missing;

viii) Peatland Management Plan for each section of the Development or subsequent phase of works. Each Plan should provide quantitative information on acrotelmic, catotelmic and amorphous peat disturbance and reuse. In areas of deep peat where probing has not yet been undertaken, details of further probing in these areas, and an assessment of likelihood, and where relevant, a calculation of consequence and risk of peat slide must be undertaken prior to work within those specific locations. The Peatland Management Plan requires to demonstrate how post consent layout modifications will further minimise peat disturbance, informed by further peat probing work. Permanent tracks are to be shown to avoid areas of deepest peat and use methods such as floating construction to minimise peat excavation. Any substantial temporary peat storage should also be quantified and outlined. It requires to incorporate the findings and mitigation measures set out within the applicant's Peat Landslide Hazard and Risk Assessment, Revision 3, or any subsequent revision to this document, and shall incorporate further site-specific construction plans for peat;

ix) Soil Management, with details of soil placement and measures to utilise the soils' existing seed base in the finalised construction phase restoration plans;

x) Public and Private Water Supply Protection Measures, including a programme of water quality monitoring;

xi) Emergency Response Plans;

xii) Phasing Plans for construction and removal of the existing OHL; and

xiii) Other relevant environmental management information as may be relevant to the development.

d) A statement of responsibility to 'stop the job/activity' if a breach or potential breach of mitigation or legislation occurs; and methods for monitoring, auditing, reporting and the communication of environmental management on site and with the applicant, Planning Authority and other relevant parties.

- e) Details of Contractor Environmental Management Team and Responsibilities, to include:
- i) Undertaking a further pre-construction breeding bird and protected species site walkover survey in advance of any works or development within any specific area or section;
  - ii) updating and implementing Species Protection Plans;
  - ii) implementing a Breeding Bird Protection Plan, detailing where works are planned within the breeding season and securing the use of bird deflector markers on Sections of the overhead line deemed to be of higher collision risk as set out in the EIA Report and advised by NatureScot.

**Reason:** *To ensure protection of surrounding environmental interests and general amenity.*

## **11. Kinloch and Kyleakin SAC Construction Environmental Management Plan**

(1) No later than three months prior to the Commencement of the Development, a separate Kinloch and Kyleakin CEMP shall be submitted for the written approval of the Planning Authority, in consultation with NatureScot and other consultees as appropriate. The Development shall then proceed in accordance with the approved Kinloch and Kyleakin CEMP unless otherwise agreed in writing by the Planning Authority. The Kinloch and Kyleakin CEMP shall include details of:

- a) A detailed site-specific Construction Method statement for the SAC.
- b) full details of the mitigation that would be in place to minimise impacts (including but not necessarily limited to the measures set out in Section 10 of the Shadow HRA and Appendix V1-3.6 Schedule of Mitigation Measures of the EIAR).
- c) where micro siting may be required within the Limits of Deviation, a commitment that micro siting should not result in the movement of infrastructure into habitats of greater value than the currently assessed locations.
- d) details of ancillary works within the SAC such as road improvements, etc.

(2) Prior to the start of restoration works, a final site-specific Site Restoration Plan for the SAC is to be agreed with the Planning Authority in consultation with NatureScot, including full details of the reinstatement and restoration measures proposed. This must include (but not be limited to) appropriate track restoration measures where narrowing of new permanent and upgraded existing access tracks are proposed.

(3) A final site-specific Operational Wayleave Maintenance Plan for the SAC to be agreed with the Planning Authority in consultation with NatureScot.

(4) Prior to the start of dismantling of the existing line, a final site-specific Dismantling Plan for the Existing Overhead Line within the SAC to be agreed with the Planning Authority in consultation with NatureScot.

(5) All work must be carried out according to the recommendations in Section 1.7 (Recommendations and Mitigation) of Appendix V2-4.6: Kinloch and Kyleakin Hills SAC/SSSI Bryophyte and Lichen Survey Report and Para 4.8.3 of the EIAR Vol 2 Ch4 - Ecology.

**Reason:** *To ensure protection of environmental interests within the Kinloch and Kyleakin SAC.*

## **12. Construction Traffic Management Plan**

(1) No later than three months prior to the Commencement of the Development, finalised Construction Traffic Management Plans (“CTMPs”) for affected routes on the public road network, must be submitted for the prior written approval of the Planning Authority, in consultation with Transport Scotland and the relevant Community Liaison Group(s). The CTMPs shall detail:

- a) A Construction Phase Plan including a timetable for all routes intended for construction access, with:
  - i) Provision of an updated cumulative assessment to take account of all other consented major development projects and their associated construction impacts on the road network; and
  - ii) A finalised site access strategy required for Section 1 of the development which restricts access to the site from Portree via the B885 and provides further justification for any use of the southern section of the B885.
- b) A schedule of advanced Road Mitigation Works to be undertaken on the public road network, with all identified mitigation works to be completed on each defined route prior to it being used by construction traffic associated with the development. This schedule shall include, but not limited to, areas of road widening, any proposed alterations to the trunk road, road strengthening, provision of improved and new passing places, and junction improvements. Such works will also include suitable drainage measures, improved road geometry, measures to protect the public road and the provision and maintenance of appropriate visibility splays.
- c) Details of: construction vehicle trip rates; measures to avoid school opening and closing times; limit construction traffic speeds; utilise local materials (e.g. aggregate); alternative means of transport with the use of helicopters to deliver construction materials for Section 0 and Section 3 of the line; avoid convoying of construction vehicles; mark vehicles with unique project identifiers; a site worker transport plan to move the workforce to and from the site; road sweeping and wheel washing arrangements; access and egress arrangements for any heavy goods vehicles; and a local signage scheme.
- d) The scheduling of pre and post construction road condition surveys, and a programme and methodology for any repairs as a consequence of any damage caused by construction traffic, with provision of a wear and tear agreement under Section 96 of the Roads (Scotland) Act 1984.
- e) Contact details for a community traffic liaison officer for the developer whom will be responsible for: providing the Community Liaison Group(s) with information relating to

the arrangements for the delivery of all road and construction traffic mitigation measures required for the development; and to provide regular project updates on the applicant's website and in local newsletters.

**Reason:** *To ensure road safety and that transportation will not have any detrimental effect on the road and structures along the route and to minimise interference with the safety and free flow of the traffic on the local and trunk roads and to minimise adverse impacts on residents and local businesses in the area.*

### **13. Notification to Scottish Water**

Written confirmation of the intended date of Commencement of Development shall be provided to Scottish Water at [protectdwsources@scottishwater.co.uk](mailto:protectdwsources@scottishwater.co.uk) no later than three calendar months before that date.

**Reason:** *To enable Scottish Water to be aware of activities in the catchment and to determine if a site meeting would be appropriate and beneficial.*

### **14. Construction Phase Landscaping and Restoration Method Statement**

No development shall commence unless and until a construction phase Landscaping and Restoration Method Statement ("LRMS") has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot. The LRMS shall be based on the proposals outlined in the EIAR Schedule of Mitigation and Outline Site Restoration Plan; setting out restoration / reinstatement provisions for any temporary disturbed ground not required for the ongoing operation of the development, including: access tracks (specifically the narrowing of spine road tracks and adoption of green running routes), and all other temporary construction areas for which this consent applies. The LRMS shall include: details of the appointment of a suitably qualified and experienced Landscape Clerk of Works to monitor and oversee the site works at regular intervals in key locations; as well as plan review provision during the construction period, with any amendments requiring the prior written approval of the Planning Authority in consultation with NatureScot. The approved LRMS shall be implemented in full within 24 months of final energisation.

**Reason:** *To ensure the restoration of the site following construction to limit the environmental impacts of the development.*

### **15. Environmental Clerk of Works**

No development shall commence unless and until the Planning Authority has approved in writing the terms of appointment by the Company of an independent Environmental Clerk of Works ("ECoW"). The terms of appointment shall:

- a) Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the Environmental Impact Assessment Report, Supplementary Environmental Information and Construction and Environmental Management Document (CEMD) and other plans approved. Impose a duty to oversee



- site construction tree protection; and to monitor compliance with all pollution prevention measures including water quality monitoring ("the ECoW Works");
- b) Require the ECoW to report to the applicant'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 report every three months to the Planning Authority and Planning Monitoring Officer, or monthly at the further written request of the Planning Authority, summarising progress with the development and environmental works undertaken on site;
  - d) Provide the ECoW with the ability to stop the job / activities being undertaken within the development site when ecological interests dictate and / or when a breach or potential breach of environmental legislation occurs to allow for a briefing of the concern to the applicant's nominated construction project manager; and
  - e) Require the ECoW to report to the Planning Authority any instances of significant non-compliance with the ECoW Works at the earliest practical opportunity.

The ECoW shall be appointed on the approved terms throughout the period from pre-construction survey work ahead of the Commencement of Development, throughout any period of construction activity, ground reinstatement and landscaping as well as for any post site completion monitoring requirements.

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

## **16. Operational Noise**

Noise arising from the operation of the overhead lines, and cable sealing end compounds hereby permitted, when measured and/or calculated as an Leq, 5min, in the 100Hz one third octave frequency band must not exceed 30 dB at noise-sensitive premises\*.

\*Note: For the purposes of this condition, "noise-sensitive premises" includes, but is not necessarily limited to, any building, structure or other existing or consented development the lawful use of which a) falls within Classes 7 (Hotels & Hostels), 8 (Residential Institutions) or 9 (Houses) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended), or b) is as a flat, static residential caravan.

**Reason:** *In the interest of residential amenity.*

## **17. Construction Noise Management Plan**

Unless otherwise agreed through an approved Noise Management Plan, operations, during construction of the Development, for which noise is audible at the curtilage of any noise-sensitive properties\*, shall only be permitted between:

- i. 0800 hours and 1900 hours Monday to Friday, and
- ii. 0800 hours and 1300 hours on Saturdays.

Prior to the Commencement of the Development, the Company shall submit, for the written approval of the Planning Authority's Environmental Health Service, a Noise Management

Plan. For the purposes of the Noise Management Plan, where it is proposed to undertake work, which is audible at the curtilage of any noise-sensitive properties, out with the hours Mon-Fri 8am to 7pm; Sat 8am to 1pm, or on recognised Bank Holidays in Scotland, the Planning Authority's written approval of the Noise Management Plan is subject to prior consultation with the Community Liaison Groups.

Where noise levels during the above periods are likely to exceed 75dB(A) for short term works or 55dB(A) for long term works. Both measurements to be taken as a 1hr LAeq at the curtilage of any noise sensitive receptor. (Generally, long term work is taken to be more than 6 months).

The Construction Noise Management Plan should be carried out in accordance with BS 5228-1:2009 "Code of practice for noise and vibration control on construction and open sites – Part 1: Noise" with details of mitigation measures. Thereafter the development shall progress in accordance with the approved Construction Noise Management Plan and all approved mitigation measures shall be in place prior to the commencement of operations or as otherwise may be agreed in writing by the Planning Authority.

\*Note: For the purposes of this condition, "noise-sensitive premises" includes, but is not necessarily limited to, any building, structure or other existing or consented development the lawful use of which a) falls within Classes 7 (Hotels & Hostels), 8 (Residential Institutions) or 9 (Houses) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended), or b) is as a flat, static residential caravan.

**Reason:** *In the interest of residential amenity.*

## **18. Air Quality Management Plan**

Prior to the Commencement of the Development, the Company must submit, for the written approval of the Planning Authority, details of a dust mitigation scheme (in the form of an Air Quality Management Plan) designed to protect neighbouring properties from dust arising from this project.

Thereafter the Development shall progress in accordance with the approved dust suppression scheme (in the form of an Air Quality Management Plan) and all approved mitigation measures shall be in place prior to the commencement of operations, or as otherwise may be agreed in writing by the Planning Authority.

**Reason:** *In the interest of residential amenity.*

## **19. Recreational Access Management Plan**

No development shall commence on any individual section of the development unless and until an updated Recreational Access Management Plan (RAMP) covering that location, has been submitted to, and agreed in writing by, the Planning Authority, in consultation with the Council's Access Officer and any affected Community Liaison Groups. The updated plan should look to maintain public access during construction of the Development, as far as it is

practicable and safe to do so. The RAMP as agreed shall be implemented in full for the period of construction unless otherwise approved in writing with the Planning Authority.

**Reason:** *In the interests of maintain public access rights and pedestrian safety.*

## **20. Habitat Management Plans**

(1) Not later than two years following the Commencement of the Development, for each Development section (Section 0,1,2,3,4,5,6), a finalised Habitat Management Plan ("HMP") shall be submitted to and approved in writing by the Planning Authority, in consultation with SEPA and NatureScot. The HMP shall set out proposed habitat management of the site and associated landholdings during the period of construction and operation of the site.

(2) The HMP shall include information on how and where any disturbed peat that cannot be used in site reinstatement will be used for peat restoration. This should include (a) location plan of the proposed peatland re-use/restoration area, clearly showing size of individual areas where peat re-use is proposed and total area to be restored, (the area restored must be to the improvement to good quality of at least 377ha of peatland) (b) evidence, in the form of photographs, aerial imagery, or surveys to demonstrate that the area identified is appropriate for peat re-use and is capable of supporting carbon sequestration and (c) basic calculations which demonstrate that the proposal will make use of all excavated material (this information could alternatively be included in the Peat Management Plan).

(3) The HMP shall include post construction and existing OHL removal restoration measures in accordance with the dismantling plan Appendix V1-3.8 of the EIA Report and Section 10 of the Shadow HRA, for the most sensitive habitats, peatland restoration proposals, provide enhancement of Annex 1 habitats, habitats for protected species and mitigation measures for birds.

(4) The approved HMP will include provision for regular monitoring and review to be undertaken to consider whether amendments are needed to better meet the habitat plan objectives. In particular, the approved habitat management plan will be updated to reflect ground condition surveys undertaken following construction and prior to the date of Final Commissioning and submitted to the Planning Authority for written approval, in consultation with SEPA and NatureScot.

(5) The approved HMP shall be implemented in full.

**Reason:** *In the interests of the protection of the habitats and species identified in the EIAR and EIAR Additional Information.*

## **21. Archaeology**

No development (including site clearance) shall commence within and for each development section (Sections 0,1,2,3,4,5,6 as described in EIAR Volume 2: Chapter 2) until a programme of work for the survey, evaluation, preservation and recording of any archaeological and historic features affected by the proposed development/work, including a timetable for

investigation, has been submitted to, and approved in writing by, the Planning Authority. The approved programme shall be implemented in accordance with the agreed timetable for investigation.

**Reason:** *To protect the archaeological and historic interest of the site.*

## **22. Aviation**

No development shall commence until the following information has been sent to UK DVOF and Powerlines at the Defence Geographic Centre:

- a) Proposed location of the Development;
- b) Date of commencement of construction;
- c) Date of completion of construction;
- d) The height above ground level of the tallest structure;
- e) The maximum extension height of any construction equipment; and
- f) Details of any aviation warning lighting fitted to the structure(s)\*.

Post micro-siting of infrastructure undertaken during construction, no later than one month after the date of final commissioning of the development, updated details showing the final position of the overhead line supporting infrastructure must be submitted.

\*Note: No visible aviation lighting on any overhead line or supporting structures are hereby permitted.

**Reason:** *In the interest of aviation safety and visual amenity.*

## **23. Community Liaison Groups**

No development shall commence unless and until a Community Liaison Group ("CLG"), or a series of groups for each section of the line, are established by the Company, in consultation with the Planning Authority and affected local Community Councils.

The CLG shall act as a forum for the community to be kept informed of project progress and, in particular, should allow advanced dialogue on the provision of all transport related mitigation measures and performance of the Construction Traffic Management Plan.

The CLG must ensure that local events and tourist seasons are considered, and appropriate measures to co-ordinate deliveries and work with these and any other major projects in the area to minimise conflict between construction traffic and the increased traffic generated by such events / seasons / developments.

The CLG, or element of any combined CLG relating to the Development, must be maintained until the construction of the Development and all site infrastructure becomes fully operational.

**Reason:** *To assist project implementation, ensuring community dialogue and the delivery of appropriate mitigation measures for example to minimise potential hazards to road users, including pedestrians, travelling on the road networks.*

## **24. Planning Monitoring Officer**

No development shall commence unless and until the Planning Authority has approved in writing the terms of appointment by the Company of a suitably qualified environmental specialist to assist the Planning Authority in monitoring compliance with the planning permission and conditions attached to this consent. The terms of Planning Monitoring Officer (“PMO”) appointment shall:

- a) Impose a duty to monitor compliance with the planning permission and conditions attached to this consent;
- b) Require the PMO to submit a report at least every three months to the Planning Authority, or monthly at the further written request of the Planning Authority, summarising works undertaken on site; and
- c) Require the PMO to report to the Planning Authority any incidences of non-compliance with the planning permission and conditions attached to this consent at the earliest practical opportunity.

The PMO must be appointed on the approved terms throughout the period from the 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*

## **Definitions**

### **In this consent and deemed planning permission: -**

**“Approved Plans”** means the plans included in the Environmental Impact Assessment Report submitted with the Application.

**“the Application”** means the application submitted by the Company on 15 September 2022, the EIA Report, Additional Information submitted on 21 February 2023, Additional Information submitted on 1 August 2023, and any other environmental information submitted by the Company in support of the Application.

**“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 (as amended).

**“the Company”** means Scottish Hydro Electric Transmission plc), a company incorporated under the Companies Act (Registered company number SC213461) having its registered office at Inveralmond House, 200 Dunkeld Road, Perth, PH1 3AQ, or such other person who from time to time may lawfully have the benefit of this consent.

**“Date of Final Energisation”** means the earlier of (i) the date on which all electric lines consented forming part of the Development transfer energy via the grid network; or (ii) the date falling four years from the date of Commencement of Development.

**“the proposed Development”** means the development as described in Annex 1 authorised by this section 37 consent and deemed planning permission.

**“public holidays”** means all public holidays, be they set out in statute. Public holidays are determined by local planning authorities and can differ between areas.

**“HES”** means Historic Environment Scotland.

**“Planning Authority Area”** means the boundary of Argyll and Bute Area.

**“SEPA”** means Scottish Environmental Protection Agency.

**“NatureScot”** means Scottish Natural Heritage, now operating as NatureScot.

**“the Planning Authority”** means The Highland Council, within whose boundary the proposed Development is situated.