



E: EconsentsAdmin@gov.scot

Carl Crompton
Earba Limited
c/o Gilkes Energy
By email only to:
carl.crompton@gilkesenergy.com

28 March 2025

Dear Carl Crompton,

CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR THE CONSTRUCTION AND OPERATION OF AN ELECTRICITY GENERATING STATION, KNOWN AS EARBA PUMPED STORAGE HYDRO SCHEME, COMPRISING A HYDRO ELECTRIC POWER STATION AND DAMS WITH PUMPING EQUIPMENT AND OTHER ANCILLARY DEVELOPMENT ON LAND NEAR LOCHAN NA H-EARBA, HIGHLAND

Application

1. I refer to an application ("the Application") made on 8 March 2024 under section 36 of the Electricity Act 1989 ("the Electricity Act") by Gilkes Energy Limited on behalf of Earba Limited ("the Company"), a company incorporated under the Companies Act with company number 14386618, and having its registered office at Canal Head North, Kendal, United Kingdom, LA9 7BZ. The application is for consent to construct and operate an electricity generating station known as "Earba Pumped Storage Hydro Scheme" comprising dams, impoundment of water, turbines, generators, pumping equipment and associated infrastructure ("the proposed Development"). The proposed Development would have a capacity of approximately 1,800 megawatts (MW) and would be situated near Lochan na h-Earba within the River Spean catchment, upstream of Loch Laggan in the planning authority area of Highland Council.

2. **This letter contains the Scottish Ministers' decision to grant section 36 consent for Earba Pumped Storage Hydro Scheme as more particularly described at Annex 1.**

Planning Permission

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



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

Background

5. The proposed Development is located within the Ardverikie Estate to the south of Loch Laggan. The Site is located approximately midway between Newtonmore and Spean Bridge within the Highland Council administrative boundary. The Site is located to the southwest of the Cairngorm National Park boundary approximately 3.5km distant at its closest point within a remote, sparsely populated area. The A86 runs to the north of the Site adjacent to Loch Laggan. The Site is located within the Ben Alder, Laggan and Glen Bancher Special Landscape Area (SLA) and the Rannoch, Nevis, Mamores and Alder Wild Land Area (WLA). Creag Meagaidh Special Area of Conservation (SAC) and Creag Meagaidh Special Protection Area (SPA) are located to the north of the Site, approximately 0.29 km away at the closest point. Ben Alder and Aonach Beag SAC is located to the southeast of the Site, approximately 0.3km from the Site at the closest point.

6. The proposed Development would have an installed generating capacity of 1800 MW and would operate by transferring water between a lower reservoir, Lochan na h-Earba (Loch Earba) and an upper reservoir, Loch a' Bhealaich Leamhain (Loch Leamhain). The maximum water level of these existing lochs would be raised by constructing dams to increase their natural storage capacity. The reservoirs would be connected by an underground waterway system including up to three headrace tunnels. There would also be surge shafts and a powerhouse. Access tracks, temporary construction facilities and borrow pits would also be required. The proposed Development includes areas of ecological compensation and enhancement such as peatland restoration, deer control areas and woodland planting.

7. The proposed Development would have a storage capacity of up to 40 gigawatt hours (GWh) and could provide 22 hours of electricity generation at full output (1800 MW).

8. The Company requested an EIA Scoping Opinion on the proposed generating station on 31 January 2023. The Scottish Ministers' Scoping Opinion was issued on 27 April 2023.

The proposed Development

9. The key elements of the proposed Development are:

- Construction of the Leamhain Dam and Upper Reservoir;
- Construction of the Shuas and Shios Dams and Lower (Earba) Reservoir;
- An underground waterway system and associated structures;
- A powerhouse and indoor electrical switchyard;
- Two aqueducts, referred to as the Pitridh and Shuas Aqueducts;
- A new junction off the A86 and bridge over the River Spean / Moy Channel;
- Access tracks and footpaths for construction, operation and emergency access;
- Temporary construction facilities and borrow pits; and
- Areas of ecological compensation and enhancement, comprising
 - Proposals for peatland restoration extending to 600 hectares (ha);
 - A deer enclosure area (see Appendix 8.6 for explanation) extending to approximately 1,500ha which would be fenced off from deer to provide areas of regeneration and encourage the restoration of native woodland;

- A deer control area outwith the deer enclosure area extending to approximately 11,390ha within which the objective would be to reduce deer density from the current 13.2 deer/km² to 8 deer/km², representing a 39% reduction in deer numbers; and
- An increased in woodland planting within the Ardverkie Estate from 111ha to 172ha, an increase of over 60%.

10. The proposed Development is intended to provide electricity for export to the grid from energy stored in reservoirs pumped with water from electricity previously imported from the grid. This type of energy storage can harness electricity generation that might otherwise be curtailed due to grid constraints and exports it back to the grid at times where there are no constraints, with the added value that it can store or generate for a significantly longer duration than other storage technologies.

Consultation

11. Under paragraph 2(1) of Schedule 8 to the Electricity Act, and the Electricity (Application for Consent) Regulations 1990 (“the Consents Regulations”) made under the Electricity Act, the relevant planning authority is required to be notified in respect of a section 36 consent application and notice of the Application was served on Highland Council.

12. In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the EIA Regulations”), on 8 March 2024 the Company submitted an Environmental Impact Assessment Report (“the EIA report”) describing the proposed Development and providing an analysis of its environmental effects.

13. In accordance with requirements of the Consents Regulations and the EIA Regulations, a notice of the proposed Development was published on the Company’s website and advertised in the local and national press and the Edinburgh Gazette. The Application was made available in the public domain, and the opportunity given for those wishing to make representations to do so.

14. In addition, to comply with the EIA Regulations, the Scottish Ministers are required to consult the Planning Authority, as well as NatureScot, Scottish Environment Protection Agency, and Historic Environment Scotland. A wide range of other relevant organisations were also notified and consulted when the Application consultation was initiated in March 2024.

Conservation of Habitats and Species Regulations 2017

15. The Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”) require Scottish Ministers to consider whether the proposed Development would be likely to have a significant effect on a European site, as defined in the Habitats Regulations, and if the development is directly connected with or necessary to the management of the European site. The proposed Development is located where there is a potential effect on the Ben Alder and Aonach Beag SAC and Ben Alder SPA. Consequently, Scottish Ministers are required to consider the effect of the proposed Development on the two European sites (Ben Alder and Aonach Beag SAC and Ben Alder SPA) by carrying out a Habitats Regulations Appraisal (“HRA”) for each one.

16. Under the HRAs of the Ben Alder and Aonach Beag SAC and Ben Alder SPA and in view of the conservation objectives for the relevant qualifying interests of each, appropriate

assessments concluded that the proposed Development will not adversely affect the integrity of the Ben Alder and Aonach Beag SAC or Ben Alder SPA.

Consultation responses

17. Objections were received from a number of consultees while others did not notify an objection.

18. The Planning Authority, Highland Council, did not object. They said they were satisfied that environmental effects of the proposed Development can be addressed by way of mitigation. Highland Council stated:

“The application can be supported in the context of the Council’s Development Plan, and in particular, NPF4 Policy 1 – Tackling the Climate and Nature Crises, Policy 3 – Biodiversity and Policy 11 – Energy, as well as HwLDP Policy 67 – Renewable Energy, with there being underlying support for pumped storage hydro development within NPF4. All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations. The proposal can be considered to benefit from in principle support, with the extent of landscape and visual effects as well as all other construction impacts being outweighed by the contribution the Development would make toward tackling climate change.”

19. Highland Council recommends conditions on notifications of key events, commencement of development, assignation, implementation in accordance with approved plans, site investigation works and site enabling works, finalisation of design, elevations and site formation levels, construction management, traffic management, watercourse crossings, sustainable urban drainage systems, flood mitigation, the upgrading of sections of the A889 trunk road and A86 trunk road between the A9 trunk road and site access which Highland Council considers are substandard, excavated material, recreational access, public art, operational management, noise, private water supplies, peat management, habitat management, ecological surveys, biodiversity management, appointment of environmental clerk of works, species protection, biosecurity, fence marking, GIS data provision, tree protection and compensatory planting, lighting, reporting on socio-economic benefits delivered, decommissioning restoration and aftercare, financial guarantees, community liaison, and appointment of a planning monitoring officer.

20. The Highland Council also took the opportunity to use its consultation response to urge the Scottish Government to take steps to make the provision of community benefit obligatory for this type of renewable energy development. This is a general policy matter not relevant to the planning grounds of the consideration of the Application.

21. BT did not object with respect to BT’s current and planned radio network.

22. Cairngorms National Park Authority did not object and concluded that the proposed development will not introduce any adverse effects on the Special Landscape Qualities and Landscape Character of the National Park.

23. Historic Environment Scotland (HES) did not object.

24. The John Muir Trust (JMT) objected. A number of reasons were given, including irreparable damage to a unique wild place through impacts which would diminish the perception of wildness, loss of terrestrial habitats including priority peatland, loss of spawning areas for arctic charr and brown trout, and a lack of confidence in the calculation of carbon emissions or the enforcement of planning conditions.

25. Laggan Community Council said they were providing a Scoping Opinion but were opposed to the proposed Development in its current form. They said they needed information on the substation that would be required to service the grid connection, adding that Bear Scotland need to provide details on traffic flows on the A86. They also stated they were concerned about the effect a construction workers camp, housing up to 500 people for 5 years, would have on the community – such as noise, traffic and environmental damage which they do not consider could be fully mitigated.

26. Mountaineering Scotland did not object. They said their members had some significant concerns about intrusion into a large area of wild land, along with some recognition of the benefits of energy storage. They also said that continued recreational access to climbing crags and to the round of Munro summits is very important, both during and after construction. They also commented that regular reports from the Ecological Clerks of Works on the Construction Method Statements that come under the umbrella Construction Environmental Management Document should be digitally available for public scrutiny during the active span of the construction phase. Some of Mountaineering Scotland's comments were addressed to the Planning Authority rather than Scottish Ministers – in particular, comments on the landscape and visual impacts. They were concerned about the extent of deer fencing, commenting that deer fences will require self-closing gates and stiles with dog flaps to allow for recreational access.

27. NATS Safeguarding did not object.

28. NatureScot object unless the proposed Development is made subject to certain conditions. They stated the proposed Development will result in significant adverse effects on three qualities of Rannoch-Nevis-Mamores-Alder Wild Land Area 14 due to the siting and scale of the proposal. They considered that there must be planning conditions requiring a fully developed Biodiversity Enhancement Plan and a fully developed and detailed Restoration Plan, along with a Peatland Restoration Plan and if these were not included, they would object to the proposed Development.

29. Perth and Kinross Council, as a neighbouring planning authority, did not object.

30. RSPB Scotland did not object. They strongly recommended further survey work is carried out for Merlin and Peregrine prior to determination. In addition, they stated that were consent to be granted, the mitigation measures outlined within the Eagle Protection Plan should be secured through a suitably worded condition, which requires the submission and approval of a detailed plan prior to commencement of development. They also urge that a Black Grouse Species Protection Plan is in place to prevent disturbance to this species. They also recommended mitigation and compensation measures in line with NatureScot's recommendations.

31. Scottish Water did not object.

32. The Scottish Wild Land Group objected. They stated the impacts on wild land of national importance would not be justified.

33. The Scottish Environment Protection Agency (SEPA) did not object. SEPA recommended planning conditions in relation to water crossings, groundwater abstraction and borrow pits, earthworks material management, peat management, and pollution prevention and environmental management.

34. Spean Bridge, Roy Bridge and Achnacarry Community Council raised concerns about the proposal in relation to matters including wild land, ecology, construction impacts and the use of the road network.

35. The following bodies were consulted but no response was received: Badenoch Broadband CIC, British Horse Society, Civil Aviation Authority, Crown Estate Scotland, Defence Infrastructure Organisation, Fisheries Management Scotland, Joint Radio Company, Lochaber District Salmon Fisheries Board, Lochaber Fisheries Trust, Newtonmore Community Council, Scottish Canoe Association, Scottish Wildlife Trust, Scotways, Dalwhinnie Community Council, Visit Scotland.

Scottish Government Internal Advisors

36. Scottish Forestry advised that the proposed compensatory planting mitigation for woodland removal was acceptable. They also asked that consideration be given to a condition in relation to restocking and compensatory planting prior to the felling of any trees.

37. Transport Scotland is satisfied with the submitted EIAR and has no objection to the proposed Development in terms of environmental impacts on the trunk road network. They recommend planning conditions in relation to the access to the trunk road network, abnormal loads and accommodation measures / temporary traffic control measures, wheel cleaning, and a construction traffic management plan. Transport Scotland also provided advisory notes setting out requirements relating to works within the trunk road boundary.

External Advisors to Scottish Government

38. The Scottish Government's peat landslide hazard risk advisor (Ironsides Farrar) was engaged by the Scottish Ministers to assess the Peat Landslide Hazard Risk Assessment ("PLHRA") presented by the Company. It is considered that the PLHRA is sufficiently robust.

Representations

39. Objections were received from members of the public on grounds of:

- Negative impact on the landscape which would make a highly scenic area become industrial
- Recreational assets for walking, cycling, climbing, camping, kayaking and canoeing would be lost
- Loss of sandy beaches
- Incompatible with wild land qualities of Wild Land Area 14
- Negative effects on ecology and biodiversity
- Inadequate transport infrastructure to support construction traffic
- Loss of woodland
- Insufficient information on lichens
- Damage to or loss of important habitats and the species which depend on them
- No need for the development

- Economic risks of failure too high
- Alternative sites would be better (Loch Lochy, Loch Ness, Loch Lomond)

Regulatory Requirements

40. With regard to paragraph 2(2) of Schedule 8 to the Electricity Act and regulation 8 of the Consents Regulations, if a planning authority makes an objection within the timescale given by regulation 8 (1) and that objection is not withdrawn, the Scottish Ministers must cause a Public Inquiry to be held unless the Scottish Ministers propose to accede to the application subject to such modifications or conditions as will give effect to the objection of the planning authority. Following the consultation in this instance, the Planning Authority has no objection to the consent of the proposed Development, therefore a Public Inquiry is not a statutory requirement.

41. Paragraph 3 of Schedule 8 provides that where the Scottish Ministers are not, by virtue of paragraph 2(2), to cause a Public Inquiry to be held, but objections or copies of objections have been sent to the Scottish Ministers, the Scottish Ministers must consider those objections together with all other material considerations with a view to determining whether a Public Inquiry should be held with respect to the application and, if they think it appropriate to do so, they must cause a Public Inquiry to be held.

42. The Scottish Ministers have considered all objections to the proposed Development and having taken all material considerations into account, are content that there is sufficient information to be able to make an informed decision on the Application and that they can weigh all the conflicting issues without holding a Public Inquiry.

43. Schedule 9, paragraph 3 sub-paragraph 1 of the Electricity Act obliges the Company, being a license holder, to:

- (a) have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and
- (b) do what they reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

44. The Scottish Ministers had regard to the desirability of the matters mentioned in (a) above and consider that there is sufficient information to allow them to be satisfied that the Company has complied with their duties under (b) above.

45. Scottish Ministers are satisfied that Scottish Ministers and the Company have met the requirement in Schedule 9, paragraph 3 sub-paragraph 3 of the Electricity Act that they shall avoid, so far as possible, causing injuries to fisheries or to the stock of fish in any waters.

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

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

47. SEPA's advice has been obtained and considered as required by section 36(5A) with due regard given to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003. SEPA have no objection to the proposed Development. SEPA stated that they expect the proposed Development to be capable of being authorised under the Water Environment (Controlled Activities) (Scotland) Regulations 2011.

48. Scottish Ministers have had regard to the above factors from Schedules 8 and 9 of the Electricity Act and have considered the Application, responses from consultees and representations from third parties and find that the effects of the proposed Development on these environmental factors are acceptable. Mitigation measures are proposed to further reduce these potential effects.

49. All consultation and publicity requirements required by Schedule 8 to the Electricity Act, the Consents Regulations and the EIA Regulations have been undertaken. Scottish Ministers are satisfied the general public as well as statutory and other consultees have been afforded the opportunity to consider and make representation on the proposed Development. The Scottish Ministers 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, EIA report, representations, consultation responses including those from the Planning Authority, NatureScot, SEPA, and HES into consideration in reaching their decision.

The Local Development Plan

50. The overall conclusion of the Planning Authority was that:

- The Application can be supported in the context of the Council's Development Plan, and in particular, NPF4 Policy 1 – Tackling the Climate and Nature Crises, Policy 3 – Biodiversity and Policy 11 – Energy, as well as HwLDP Policy 67 – Renewable Energy, with there being underlying support for pumped storage hydro development within NPF4. All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations. The proposal can be considered to benefit from in principle support, with the extent of landscape and visual effects as well as all other construction impacts being outweighed by the contribution the development would make toward tackling climate change. The proposed development also contains proposals for substantial habitat management and restoration measures, which could, if appropriately conditioned, lead to peatland, forestry and biodiversity enhancement throughout the site and wider estate.

51. Scottish Ministers agree with the conclusion of the Planning Authority and have included planning conditions similar to those recommended by the Planning Authority which they consider necessary.

52. Scottish Ministers note the Planning Authority recommends a condition to improve sections of the A889 and A86 trunk roads however the trunk roads authority, Transport Scotland, makes no such recommendation. Given that the Planning Authority is not the authority for trunk roads, and there is no indication from Transport Scotland that the Company should be required to upgrade the trunk roads, Scottish Ministers do not accept the Planning Authority's recommendation.

53. Scottish Ministers do not consider the planning condition on socio-economic benefit recommended by the Planning Authority to be a condition necessary to mitigate the environmental effects of the proposed Development which meets the six tests of planning circular 4/1998.

Determining issues

54. Long duration energy storage facilitates a significant contribution to renewable energy generation targets and greenhouse gas emissions reduction targets, by alleviating grid constraints, avoiding curtailment and increasing the productivity of renewable generators elsewhere on the grid. This is a significant factor weighing in favour of the proposed Development.

55. The proposed Development is a pumped storage hydro generating station with other associated ancillary infrastructure. The electrical export capacity of the proposed Development will be approximately 1800 MW. The proposed Development would be operational for a period of up to 125 years.

56. Having considered the Application, responses from consultees and third parties and Scottish Government policies, Scottish Ministers consider that the determining issues are the balance between the impacts of the proposed Development on the surrounding area and its benefits, and the extent to which the proposed Development is supported by Scottish Government policy.

Impacts and benefits of the proposed Development

57. Scottish Ministers agree there would be significant landscape and visual impacts including impacts on Wild Land Area (WLA) 14 Rannoch-Nevis- Mamores-Alder, an area valued for its perception of wildness. There would be impacts on hydrology due to the construction of dams and the movement of water between reservoirs. There would be impacts on habitats, species and ecology including peat disturbance and management, woodland removal and compensation and impacts on invertebrates, mammals, reptiles and birds are likely. There would be impacts on roads arising from construction traffic. Recreational activities including access for walking would be impacted. There would be noise, vibration and dust impacts during construction and ongoing noise from operation. There is a potential for impacts on private water supplies.

58. The benefits of the proposed Development are energy storage and provision of services needed to ensure a secure electricity system, with economic benefits. The move to a net zero electricity system necessitates the delivery of a greater amount of electricity generation from renewable energy, including from sources such as wind and solar which are variable and non-dispatchable. Energy storage such as the proposed Development provides will be vital in that context to ensuring the balance between supply and demand, to ensuring security of supply, and to reducing the curtailment of renewable generators under grid constraints which would otherwise result in a loss of valuable renewable generation. Secure and stable energy supply is a fundamental need of a prosperous economy. As well as the potential economic benefit to local and national businesses during construction, the proposed Development would provide further benefit to the economy through its contribution to underpinning energy security and flexibility.

The Scottish Government Policy Context

Scottish Energy Strategy: The future of energy in Scotland (“the Energy Strategy”) Draft Scottish Energy Strategy and Just Transition Plan 2023

Economic Benefits

59. The Company estimates that for the construction period, the net employment in Person Years Employment (PYE) and gross value added (GVA) at Highland and Scottish level, before taking account of displacement and multiplier effects, to be as follows:

- Highland: 553 PYE, total GVA £49,907,144
- Scotland: 1134 PYE, total GVA £85,173,606.

60. The Company estimates that for the operational period, the net employment in Full-Time Equivalent (FTE) and GVA at Highland and Scottish level, before taking account of displacement and multiplier effects, to be as follows:

- Highland: 24 FTE, total GVA £986,832
- Scotland: 24 FTE, total GVA £986,832

61. When displacement and multiplier effects are taken into account the estimates are increased.

62. Whilst the overall net economic benefits are estimations, the Scottish Ministers are satisfied the proposed Development has the potential for significant positive net economic benefits for the local community, the Highlands and Scotland.

Energy Benefits

63. Scottish Ministers have considered the role the proposed Development can play in relation to the generation of electricity from low carbon energy storage, with its capacity of approximately 1800 MW from long duration energy storage. 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”.

64. The generation of electricity from water which has been pumped and stored is not in itself a renewable source of energy; Scottish Ministers do however regard the proposed Development as essential infrastructure which will support renewable meeting renewable energy targets. The proposed Development, through provision of energy storage, adds 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. Scottish Ministers conclude that the proposed Development is supported by the Energy Strategy.

65. The Draft Scottish Energy Strategy and Just Transition Plan 2023 signals that strong support from the Scottish Government for energy storage remains.

Climate Change Plan

66. The Climate Change Plan sets out the Scottish Government’s pathway to achieve the ambitious targets set by the Climate Change (Scotland) Act 2009, as amended by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019, and the commitment to end

Scotland's contribution to climate change by 2045. Scotland's renewable electricity generation has grown rapidly over the last twenty years, and a large contribution to achieving the commitment set out in the plan will be made by the increased decarbonisation of our electricity system.

67. The Climate Change Plan notes that in further decarbonising our electricity system, we also need to address the substantial challenges of maintaining security of supply and a resilient electricity system. It adds that operating a zero carbon electricity system will mean finding new ways to provide a range of technical services and qualities currently provided by fossil fuel and nuclear generation. Pumped storage hydro is one technology which helps achieve these goals. Scottish Ministers therefore conclude that the proposed Development is supported by the Climate Change Plan.

National Planning Framework 4

68. National Planning Framework 4 (NPF4) 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 Renewable Electricity Generation and Transmission Infrastructure, of which this development is an example, is established therein.

69. Part 2 sets out National Planning Policy. NPF4 should be read as a whole, and the weight given to the policies therein 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 energy generation, storage, and new and replacement transmission and distribution infrastructure. Pumped storage hydro development such as the proposed Development is supported.

70. The energy policy sets out the matters that are to be addressed in the design and mitigation of a Development. Scottish Ministers consider that the design of the project, and proposed mitigation either embedded or to be achieved by planning conditions, satisfactorily address its impacts as have been addressed in this decision, and as are relevant to the proposed Development. In considering these impacts, significant weight is to be placed on the contribution of the proposed Development to renewable energy generation targets and on greenhouse gas emissions reduction targets. The proposed Development will store and supply a considerable amount of electricity per year, and act as an enabling technology for harnessing more renewable generation and will thus support renewable meeting renewable energy targets.

71. In its role balancing supply and demand across the electricity system, National Grid ESO must keep the system within defined operating limits. Traditionally, these services were often provided by thermal generators such as gas-fired power stations. As we transition to a net zero energy system and reduce our dependence on fossil fuel generation, renewables and other zero-carbon technologies, including energy storage, will need to provide all the services needed to ensure a secure electricity system. Pumped storage hydro provides a means to store the electricity generated from the wind, solar etc at times when electricity generation outstrips demand or when the capacity of a constrained electricity grid is insufficient to supply the generated electricity to consumers. On this basis pumped storage makes an indirect but significant contribution to renewable energy generation targets and greenhouse gas emissions

reduction targets, by increasing the productivity of renewable generators elsewhere on the grid. This is a significant factor weighing in favour of the proposed Development.

72. The Application also finds support from NPF4 in that it demonstrates the proposed Development will provide direct and indirect local and regional economic benefits. All forms of renewable, low-carbon and zero emission technologies for electricity generation are essential infrastructure.

73. Scottish Ministers consider the decommissioning and site restoration at the end of the proposed Development's life should be controlled by planning condition and have included condition 48 and 49 in this respect. Scottish Ministers have also introduced a requirement for a financial bond to ensure sufficient funds are available to decommission and restore the Site. Scottish Ministers consider that, if the proposed Development becomes redundant before the end of the full operational period which it is allowed, the requirement for decommissioning and site restoration should come into effect at the time the proposed Development is found to be redundant.

74. The proposed Development includes measures to mitigate effects on biodiversity as well as to enhance biodiversity which also gains support from NPF4. Scottish Ministers consider that there has been careful planning and design of the proposed Development, bearing in mind that suitable alternative sites for large scale pumped storage hydro are limited.

75. Scottish Ministers have considered the impacts on soils and found that the proposed Development has been designed and will be constructed in accordance with the mitigation hierarchy by first avoiding and then minimising the amount of disturbance to soils on undeveloped land; and in a manner that protects soil from damage including from compaction and erosion, and that minimises soil sealing. The Application provided a detailed site specific assessment of peatland and the proposed Development is considered to be essential infrastructure and there is a specific locational need and no other suitable site. There are measures which will see significant restoration of peat habitats.

76. The proposed Development includes woodland removal and compensatory planting. Scottish Ministers recognise that a small area of woodland to be removed is included in the Ancient Woodland Inventory (AWI) however this has been considered in the context of the major positive effect for woodland from compensatory planting and biodiversity enhancement. Scottish Ministers also noted that the trees within the AWI area which will be lost are by and large in poor, or at best moderate to poor, condition.

77. Scotland's energy policies and planning policies are material considerations in determining applications. NPF4 and the Energy Strategy make it clear that low carbon technology deployment and energy storage remain priorities of the Scottish Government. This is a matter which should be afforded significant weight in favour of the proposed Development.

78. Scottish Ministers acknowledge that the proposed Development would result in some significant landscape and visual impacts, some traffic impacts at the construction and decommissioning stages, and that the positive impact from biodiversity mitigation may not amount to a substantial enhancement of biodiversity. These impacts are considered acceptable in the context of the benefits that the proposed Development will bring in terms of net economic benefit, contributing energy storage. Scottish Ministers consider that the proposed Development is supported by NPF4 when read as a whole and receives strong support under the Energy Strategy.

Conclusions

Reasoned Conclusions on the Environment

79. The Scottish Ministers are satisfied that the EIA Report has been produced in accordance with EIA Regulations and that the procedures regarding publicity and consultation laid down in those Regulations have been followed.

80. Having considered the EIA Report as well as representations from consultative bodies including the Planning Authority, HES, SEPA and NatureScot and other material information, the Scottish Ministers are satisfied the environmental impacts of the proposed Development have been assessed and have taken the environmental information into account when reaching their decision.

81. Taking into account the above assessment, subject to conditions to secure environmental mitigation, the Scottish Ministers consider the environmental effects of the proposed Development are mostly overcome with the exception of some significant, localised landscape effects and some significant visual effects (including cumulative) on wild land and visual amenity which are on balance considered acceptable.

82. The Scottish Ministers are satisfied that this reasoned conclusion is up to date.

Acceptability of the proposed Development

83. In weighing up the support for the proposed Development against its environmental impacts, in the context of the Scotland's climate change targets and ambitions, energy policies and planning policies, the Scottish Ministers have taken account of the responses from all consultees and representations from members of the public. The Scottish Ministers, in making their determination on the Application, have balanced the considerations set out in the foregoing sections of this letter, decided what weight is to be given to each, and reached a view as to where the balance of benefit lies.

84. Scottish Ministers have considered the Planning Authority's comments on support for the proposed Development subject to suitable planning controls and taken all material considerations into account. Scottish Ministers consider the proposed Development will support the resilience of the electricity network through the electricity it generates and the additional technical services it can provide to the electricity system operator. It will contribute to sustainable development, providing for greater and more efficient use of renewable energy generation in the electricity system, and in this regard, it will contribute to greenhouse gas emissions reduction targets. A project of this scale delivers a very significant national benefit in terms of energy weighing heavily in favour of consent.

85. Scottish Ministers agree there would be impacts on landscape in an area valued highly for its scenery and used by local communities and tourists for walking, cycling, climbing, camping, angling, horse riding, kayaking and canoeing. Visual impacts would arise from the physical infrastructure of the Development and also from the drawdown scarring around the reservoir perimeters. The significance of the impact on recreational activities is considered to be relatively minor and an Access Management Plan will at least partially mitigate the impacts on recreational access. Scottish Ministers consider the residual effects are acceptable.

86. Scottish Ministers agree that there will be significant impacts on habitats and ecology. They have considered the responses on these grounds from consultees including RSPB

Scotland and representations from Buglife Scotland and members of the public. It is also noted the Scottish Ministers statutory advisor on these matters, NatureScot, does not object subject to suitable planning controls in place to ensure mitigation is satisfactory. Scottish Ministers have attached the greater weight to the position of their statutory advisor that impacts on the natural heritage can be overcome through mitigation and the biodiversity enhancement included in the Application. Scottish Forestry did not advise Scottish Ministers to reject the proposal, and Scottish Ministers conclude the impacts on Forestry (including loss of some trees in the Ancient Woodland Inventory in poor to moderate condition) are acceptable when viewed alongside the mitigation provided by compensatory planting and associated biodiversity enhancement. Scottish Ministers note that the matter of any need for specialist information on lichens was considered not warranted by the Planning Authority and they consider that sufficient information on lichens has been included through ecological surveys of vegetation.

87. The Scottish Ministers in making their determination on the Application, have balanced all relevant considerations, decided what weight is to be given to each and reached a view as to where the balance of benefit lies. On balance, it is considered that the impacts of the proposed Development are acceptable in the context of its benefits, and that the Development is supported by relevant planning and energy policies.

The Scottish Ministers' Determination

88. Subject to the conditions set out in **Part 1 of Annex 2**, the Scottish Ministers **grant consent** under section 36 of the Electricity Act for the construction and operation of the proposed Development (as more particularly described in **Annex 1**).

89. The consent hereby granted will last for a period of 125 years from the Date of Final Commissioning.

90. Subject to the conditions set out in **Part 2 of Annex 2**, the Scottish Ministers **direct that planning permission is 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**.

91. 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.

92. Section 58(1)(b) of that Act enables the Scottish Ministers to specify that a longer period is allowed before planning permission will lapse. The Scottish Ministers consider that due to the constraints, scale, and complexity of constructing such Developments, a 7-year time scale for the commencement of development is appropriate in this case.

93. 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 7 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 7 years beginning with 28 March 2025 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 Town and Country Planning (Scotland) Act 1997.

94. Copies of this letter have been sent to the public bodies consulted on the application. This letter has also been published on the Scottish Government Energy Consents website at <https://www.energyconsents.scot>.

95. The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine Applications for consent. The rules relating to the judicial review process can be found on the website of the Scottish Courts: <https://www.scotcourts.gov.uk/media/gnobz45e/chapter-58-judicial-review.pdf>.

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

Yours faithfully

pp Paul Smith

MARK CHRISTIE

A member of the staff of the Scottish Government

ANNEX 1

DESCRIPTION OF DEVELOPMENT

The Development comprises the construction and operation of an electricity generating station and ancillary development known as Earba Pumped Storage Hydro Scheme.

The principal components of the Development are:

- The Leamhain Dam and Upper Reservoir
- The Shuas and Shios Dams and Lower (Earba) Reservoir
- The Underground Waterway System and Associated Structures
- The Powerhouse and Substation
- The Pitridh and Shuas Aqueducts
- A new junction off the A86 and bridge over the River Spean / Moy Channel
- Access Tracks and Footpaths
- Temporary Construction Facilities and Borrow Pits
- Areas of Habitat Compensation and Enhancement

All as more particularly described in the Application.

ANNEX 2

CONDITIONS

Part 1 - Conditions applying to the section 36 consent

1. Commencement of Development

- (1) The Development shall be commenced no later than seven years from 28 March 2025, or such other period as the Scottish Ministers may approve in writing.
- (2) Written confirmation of the intended Date of Commencement of Development shall be provided to the Scottish Ministers and the Planning Authority as soon as is practicable after deciding on such a date and in any event no later than one calendar month prior to the Commencement of Development.

Reason: *To 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. Notification of Date of First Commissioning and Final Commissioning

- (1) Written confirmation of the Date of First Commissioning shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that date.
- (2) Written confirmation of the Date of Final Commissioning shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that date.

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

3. Non-assignment

- (1) This consent shall not be assigned, alienated or transferred without the prior written authorisation of the Scottish Ministers.
- (2) In the event that the assignment is authorised, the Company shall notify the Planning Authority and Scottish Ministers in writing of the principal named contact at the assignee and contact details within fourteen days of the consent being assigned.

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

4. Serious incident reporting

- (1) In the event of any serious breach of health and safety or environmental obligations relating to the Development causing harm to the environment (including harm to humans) 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 Scottish Ministers informed of any such incidents which may be in the public interest.*



Part 2 - Conditions applying to the deemed planning permission

5. Implementation In Accordance With Approved Plans And Requirements Of This Consent

- (1) Except as otherwise required by the terms of the section 36 consent and deemed planning permission, the Development shall be undertaken in accordance with the Application:
 - (a) including the approved drawings;
 - (b) the Environmental Impact Assessment Report (“the EIAR”); and
 - (c) other documentation lodged in support of the Application.
- (2) There shall be no deviation from the detail provided within those documents unless approved in writing by the Planning Authority in consultation with Scottish Ministers.

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

6. Site Investigation Works

- (1) The Site Investigation Works shall not commence until a detailed scheme of all site investigation works (including off-site and on-site works) has been submitted to and approved in writing by the Planning Authority. This shall include a timetable for all Site Investigation Works and Site Enabling Works and shall be submitted a minimum of 1 month in advance of the proposed date of commencement of any Site Investigation Works.

Reason: *To ensure the final details of the Site Enabling Works and Site Investigation Works have regard for rural setting of the Site and the potential impact of such works on the infrastructure of the area.*

7. Site Enabling Works

- (1) The Site Enabling Works shall not commence until a detailed scheme of all Site Enabling Works (including off-site and on-site works) has been submitted to and approved in writing by the Planning Authority. This shall include a timetable for all enabling works and shall be submitted a minimum of 1 month in advance of the proposed date of commencement of any Site Enabling Works.

Reason: *To ensure the final details of the Site Enabling Works have regard for the rural setting of the Development Site and the potential impact of such works on the infrastructure of the area.*

8. Commencement of Development

- (1) The development must be commenced not later than the expiration of seven years beginning with 28 March 2025.
- (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 comply with section 58 of the Town and Country Planning (Scotland) Act 1997.

9. Finalised Design

- (1) No phase of the Development shall commence unless and until the final design details for that specific element of the Development have been submitted to, and agreed in writing by, the Planning Authority, in consultation with NatureScot and SEPA:
 - Leamhain Dam and upper reservoir, including inlet and outlet structures, upper control works, isolation gates and isolation gate house, spillway, dam bottom outlet control, valve house and any associated landscaping and/or planting;
 - Shuas Dam, including Shuas aqueduct and any associated landscaping and/or planting;
 - Shios Dam, including spillway, valve structure and any associated landscaping and/or planting;
 - Powerhouse, including gate shafts, switchyard, tailrace inlet and outlet structures, lower control works, isolation gates, welfare facilities and any associated landscaping and/or planting;
 - Tailrace, tunnel portals and surge shafts;
 - All above ground facilities including site compounds, worker accommodation, administration buildings, recreational facilities, any other associated external infrastructure, parking areas and any associated landscaping and/or planting;
 - All roads, access tracks, water-crossings and footpaths to serve each phase of the Development;
 - Borrow pits;
 - Promontories on Lochan na h-Earba;
 - Site establishment areas to serve each phase of the Development;
 - All site boundary treatments and external lighting provisions;
 - All mitigation measures to be implemented in association with the project as set out in the Environmental Impact Assessment Report, or as amended by the above plans or agreed with statutory consultees prior to determination and not specified in this consent; All work shall thereafter be carried out in accordance with the approved design details.

Reason: *To ensure the final design details of the Development have regard for the rural setting of the Development Site within a Wild Land Area and Special Landscape Area and the commitment to high quality design as set out in the Environmental Impact Assessment Report and the Further Environmental Information Report.*

10. Elevations, Site Formation Levels and Finishes

- (1) No development shall commence on each phase noted for condition 9 Finalised Design until elevation, and cross section drawings of the proposed above ground infrastructure, have been submitted to and approved in writing by the Planning Authority. These details shall include:
 - i) The external materials, colours and finishes of all external structures and site fencing with a non-reflective finish to be specified throughout;
 - ii) any raised areas of hardstanding to support all onsite infrastructure; and
- (2) 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 Company's safety systems and law under other legislation; and
- (3) Thereafter, the Development shall be built out in accordance with these approved details and, with reference to part (1) above, the external structures shall be maintained in the approved colour, free from rust or discolouration until such time as the Development is decommissioned.

Reason: *In the interest of visual amenity.*

11. Construction Environment Management Document

- (1) No later than three months prior to the Commencement of the Development, a Construction Environment Management Document (CEMD) shall be submitted for the written approval of the Planning Authority, in consultation with SEPA, NatureScot, Environmental Health and any 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 Environmental Impact Assessment Report (EIAR), within the EIAR Supplementary Environmental Information (SEI), 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;
 - ii) Mitigation measures to protect the ecological resources on site, including biodiversity protection zones, location and timing of works;

- iii) Pollution Prevention and Control;
 - iv) Dust Management, covering demolition and construction activity, including vehicle movements;
 - v) Construction Noise and Vibration (refer to condition 12);
 - vi) Construction Method Statements;
 - vii) Temporary Site Lighting;
 - viii) Site Waste Management;
 - ix) Surface and Ground Water Management, including: drainage and sediment management measures from all construction areas including access tracks; drainage by SUDS to accommodate the 1 in 200 plus an allowance for climate change; mechanisms to ensure that construction will not take place during periods of high flow or high rainfall; and a programme of water quality monitoring;
 - x) Surface Water Quality Monitoring Programme implemented by the Principal Contractor and overseen by an ACoW (Aquatic Clerk of Works) or suitably experienced ECoW;
 - xi) Peat Management Plan (refer to condition 33);
 - xii) Soil Management, with details of soil placement and measures to utilise the soils' existing seed base in the finalised landscaping plan;
 - xiii) Public and Private Water Supply Protection Measures, including a programme of water quality monitoring;
 - xiv) Emergency Response Plans;
 - xv) Timetable for post construction restoration/reinstatement of the temporary working areas and construction compound;
 - xvi) Phasing plans for the construction; and
 - xvii) Other relevant environmental management as may be relevant to the Development.
- (2) A statement of responsibility to 'stop the job/activity' if a breach of mitigation or legislation occurs; and
- (3) Methods for monitoring, auditing, reporting, and the communication of environmental management on site and with the Planning Authority and other relevant parties.

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

12. Construction Noise and Vibration Management Plan

- (1) There shall be no Commencement of Development unless and until a finalised Construction Noise and Vibration Management Plan has been submitted to and approved in writing by the Planning Authority.

Reason: *In the interest of safeguarding community and residential amenity.*

13. Blasting Method Statement

- (1) Prior to any blasting activities within the Development, the Company shall submit, for the approval of the Planning Authority, a Blasting Method Statement which describes how the best practicable means for minimising the impact of blasting on sensitive receptors.

Reason: *In the interest of safeguarding community and residential amenity.*

14. Dust Mitigation

- (1) There shall be no Commencement of Development unless and until details of a dust mitigation scheme designed to protect neighbouring properties from dust arising from the Development have been submitted to and approved in writing by the Planning Authority.

Reason: *In the interest of safeguarding community and residential amenity.*

15. Construction Traffic Management Plan

- (1) No later than three months prior to commencement of deliveries to site except those associated with Site Investigation Works and Site Enabling Works, a Construction Traffic Management Plan must be submitted to and approved by Transport Scotland. This should include estimates of the construction traffic movements, likely routing to and from the site and details of any large or abnormal loads. Forecast HGV movements using the trunk road junctions should be explicitly identified.

Reason: *To minimise interference and maintain the safety and free flow of traffic on the Trunk Road as a result of the traffic moving to and from the Development.*

16. Trunk Road Access

- (1) The proposed means of access to the trunk road should be submitted for approval by the Planning Authority in consultation with Transport Scotland as trunk road authority.

Reason: *To minimise interference with the safety and free flow of the traffic on the trunk road.*

17. Abnormal Loads

- (1) No later one month prior to commencement of abnormal load movements, the proposed route for any abnormal loads on the trunk road network must be submitted to and approved by the Planning Authority, in consultation with Transport Scotland as the trunk roads authority.

Reason: *To minimise interference and maintain the safety and free flow of traffic on the Trunk Road as a result of the traffic moving to and from the Development.*

18. Accommodation of Abnormal Loads

- (1) No later than one month prior to the movement of any abnormal load, any accommodation measures required on the trunk road network, including the removal of street furniture, junction widening and traffic management must be approved and implemented to the satisfaction of the Planning Authority, in consultation with Transport Scotland.

Reason: *To minimise interference and maintain the safety and free flow of traffic on the Trunk Road as a result of the traffic moving to and from the Development.*

19. Temporary Traffic Measures

- (1) Prior to the movement of any components and/or construction materials, any additional signing or temporary traffic control measures deemed necessary on the trunk road network due to the size or length of any loads being transported must be undertaken by a recognised QA traffic management consultant, to be approved by Transport Scotland.

Reason: *To ensure that the transportation of any components/materials will not have any detrimental effect on the road and structures along the route.*

20. Wheel Cleaning

- (1) Prior to the Commencement of Development, vehicle wheel cleansing facilities shall be installed and brought into operation on the site, the design and siting of which shall be subject to the prior approval of the Planning Authority in consultation with Transport Scotland.

Reason: *To ensure that material from the site is not deposited on the trunk road to the detriment of road safety.*

21. Watercourse Crossings

- (1) Watercourse crossings WX02, WX06, WX07, WX09, WX11, WX14 shall be single span bridges demonstrated to be designed to accommodate the 1 in 200 year flood event, including an allowance for climate change, unless otherwise agreed by the Planning Authority in consultation with SEPA.

Reason: *To ensure that all watercourse crossings are free from flood risk and do not exacerbate flood risk elsewhere.*

22. Sustainable Urban Drainage Systems

- (1) There shall be no Commencement of Development unless and until full details of all surface water drainage provision within the Site (which should accord with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Second Edition, or any superseding

guidance prevailing at the time) have been submitted to, and approved in writing by, the Planning Authority. Thereafter, only the approved details shall be implemented and all surface water drainage provision shall be completed prior to the Date of Final Commissioning.

Reason: *To ensure that surface water drainage is provided timeously and complies with the principles of SUDS; in order to protect the water environment.*

23. Stop Generating/Curtailment

- (1) Prior to the Development becoming operational details of the finalised stop generating/curtailment level shall be submitted to and confirmed by the Planning Authority, in consultation with SEPA and Flood Risk Management Team.

Reason: *To ensure that flood mitigation measures are provided.*

24. Borrow Pits

- (1) All borrow pits shall be worked and restored in line with the details outlined in the Mass Balance Strategy (Appendix 2.4) and Borrow Pit Plans (EIAR Volume 2 Figure 2.2.1, Figure 2.2.2, Figure 2.2.3, Figure 2.2.4 and Figure 2.2.5) unless otherwise agreed in writing in advance with the Planning Authority.

Reason: *To ensure that excavation of materials from the borrow pit(s) is carried out in a manner that minimises the impact and to secure the restoration of borrow pit(s) at the end of the construction period.*

25. Excavated Material

- (1) Should there be a requirement to excavate material on site not already outlined in the Mass Balance Strategy (Appendix 2.4) and Borrow Pit Plans (EIAR Volume 2 Figure 2.2.1, Figure 2.2.2, Figure 2.2.3, Figure 2.2.4 and Figure 2.2.5) further details should be provided and information on the volume of material to be used, the manner it is to be used and a justification for the need for the works. For the avoidance of doubt there should be no long-term storage of material on site and material should only be temporarily stored within the identified construction areas unless agreed with the Planning Authority in consultation with SEPA.

Reason: *To ensure that excavation of materials from the borrow pit(s) is carried out in an appropriate manner.*

26. Recreational Access Management Plan

- (1) There shall be no Commencement of Development unless and until a finalised Recreational Access Management Plan (RAMP) has been submitted to, and agreed in writing by, the Planning Authority. 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, and thereafter enhance public access during the operation of the

Development. This shall include delivering net improvements to the accessibility of access paths on completion of the Development. The plan as agreed shall be implemented in full, unless otherwise approved in writing by the Planning Authority.

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

27. Mountain Paths

- (1) There shall be no Commencement of Development unless and until Red (Specification) Surveys for all mountain paths, have been submitted and agreed in writing by, the Planning Authority. Details shall be submitted 2 months in advance of any proposed start to allow for site visits if required.

Reason: *To comply with the Council's statutory duty to uphold access rights all mountain paths.*

28. Public Art

- (1) A scheme for the inclusion of public art within the Development and/or outwith the Development, including types and locations of artworks and the management, maintenance thereof, and a timescale for implementation shall be submitted to the Planning Authority prior to the Date of Final Commissioning. The approved scheme shall be implemented in accordance with the timescales contained in the approved scheme and maintained throughout the lifetime of the Development until the Date of Final Generation.

Reason: *In the interests of amenity.*

29. Operational Management Plan

- (1) There shall be no energisation of the Development unless and until a site Operational Management Plan has been submitted to, and approved in writing by the Planning Authority in consultation with SEPA. This plan shall detail:
 - a) An updated Schedule of Mitigation (SM) as it relates to the operational phase of the Development highlighting mitigation set out within each chapter of the Environmental Impact Assessment Report (EIAR), within the EIAR Supplementary Environmental Information (SEI), and the conditions of this consent; Processes to control / action changes from the agreed SM; and
 - b) Landscape management and drainage maintenance.
- (2) Thereafter, the OMP shall be implemented in accordance with the approved details from the Date of First Commissioning until the Date of Final Generation, unless otherwise agreed in writing by the Planning Authority.

Reason: *In the interest of environmental amenity, pollution prevention, maintaining water quality, and provision of adequate staff parking and staff charging facilities.*

30. Operational Noise

- (1) All plant, machinery and equipment associated with the Development shall be so installed, maintained and operated such that the following standards are met:
 1. Noise arising from the Development, when measured and/or calculated as an LZeq, 5min, in the 100Hz one third octave frequency band must not exceed 30 dB, at the curtilage of any noise sensitive premises.
 2. The Rating Level of noise arising from the Development, as determined in accordance with BS4142:2014+A1:2019 Methods for Rating and Assessing Industrial and Commercial Sound shall not exceed 27dB(A) at the curtilage of any noise sensitive receptor.

Reason: *In the interest of safeguarding community and residential amenity.*

31. Private Water Supplies

- (1) There shall be no Commencement of Development, including Site Enabling Works, unless and until an updated private water supplies risk assessment has been submitted to, and approved in writing by, the Planning Authority which includes the following:
 1. A summary of mitigation/control measures to minimise contamination or disruption of any supply.
 2. Confirmation of the location of the supply source for PWS03 Torgulbin.
 3. Details of the finalised monitoring protocol and intervention strategy
 4. For the avoidance of doubt the risk assessment must include the supply serving the Ardverikie Estate

Reason: *In the interest of environmental amenity, pollution prevention and maintaining water quality.*

32. Private Water Supply Appraisal

- (1) There shall be no Commencement of Development unless and until an appraisal to demonstrate that private water supplies will be safeguarded by the Development with full details of assessment and monitoring of private water supply PWS03 Torgulbin has been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA. This shall include:
 - I. A qualitative and/or quantitative risk assessment which considers impacts on groundwater flow and quality following SEPA's LUPS-GU31 guidance note.
 - II. Site specific mitigation measures and proposals for monitoring following SEPA's LUPS-GU31 guidance note.
 - III. Contingency measures should there be pollution or interruption of supply.
- (2) This appraisal shall be carried out by an appropriately qualified person(s) and shall also specify the means by which a water supply shall be provided and thereafter maintained to properties obtaining their water supply from PWS03 Torgulbin.

Reason: *In the interest of environmental amenity, pollution prevention and maintaining water quality*

33. Peat Management Plan

- (1) There shall be no Commencement of Development unless and until a Peat Management Plan (PMP) has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. The PMP shall draw upon the Peat Landslide Hazard Risk Assessment and Peat Management Plan submitted with the Application, consider the findings of any additional ground investigations carried out prior to the Commencement of Development and include a management / reinstatement scheme for all peat areas within the Site, including:
 - i. Details and plans for all peat and soil stripping and excavation and the storage and proposed use and replacement of peat, topsoil and subsoil; and
 - ii. A method statement setting out the measures to protect peat during excavation, storage, handling and reuse.
- (2) The PMP shall take due consideration of the mineral and slope stability of the site identified in the Peat Landslide Hazard Risk Assessment and shall have regard to the drainage implications of soil movement and storage.
- (3) The PMP shall be implemented as approved unless otherwise agreed in writing in advance with the Planning Authority in consultation with SEPA and Scottish Ministers.

Reason: *To ensure that a plan is in place to deal with the storage and reuse of peat within the Site, including peat stability and slide risk.*

34. Habitat Management Plan

- (1) No later than three months prior to the Commencement of the Development, a finalised habitat management plan (HMP), shall be submitted to and approved in writing by the Planning Authority, in consultation with SEPA.
- (2) The HMP shall set out proposed habitat management of the Site during the period of construction and operation of the Site.
- (3) 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, with this including the delivery of improvement to good quality of at least 600ha 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).

- (4) The HMP shall include post construction measures for the most sensitive habitats, peatland restoration proposals, provide enhancement of Annex 1 habitats, habitats for protected species and birds.
- (5) 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.
- (6) Unless otherwise approved in advance in writing with the Planning Authority, the approved HMP shall be implemented in full.
- (7) GIS Shapefiles must be supplied of the compensation and enhancement areas to the Planning Authority prior to the commencement of works.

Reason: *In the interests of the protection of the habitats identified in the EIAR.*

35. Pre-Construction Ecological Survey

- (1) A pre-construction survey (except for Site Investigation Works) is required to be undertaken not more than 3 months prior to works commencing on each phase noted for condition 9 Finalised Design and a report of the survey has been submitted to, and approved in writing by, the Planning Authority. The survey shall cover both the Site and an appropriate buffer from the boundary of the Site and the report of survey shall include mitigation measures where any impact, or potential impact, on protected species or their habitat has been identified. Development and work shall progress in accordance with any mitigation measures contained within the approved report of survey and the timescales contain therein.

Reason: *To ensure that the Site and its environs are surveyed, and the Development does not have an adverse impact on protected species or habitat.*

36. Pre-construction Raptor Survey

- (1) A pre-construction raptor survey must be undertaken of the Site and the recommended disturbance distances as specified by NatureScot guidance. The results of this survey must be used to inform Species Protection Plans.

Reason: *To provide a robust baseline for raptors to inform mitigation required.*

37. Biodiversity Enhancement and Management Plan (BEMP)

- (1) There shall be no Commencement of Development unless and until a final Biodiversity Enhancement and Management Plan (BEMP) has been submitted to and approved in writing by the Planning Authority.

- (2) The BEMP shall provide evidence to demonstrate that it will meet or exceed the mitigation biodiversity measures described in the EIAR. The BEMP shall set out proposed habitat management of the Site including all mitigation and compensation measures, and the enhancement measures described in the Application, during the period of construction and operation, and shall detail the long term management regimes of the compensation and enhancement measures required of the site. The compensation and enhancement measures must be managed throughout the lifetime of the Development until the Date of Final Generation.
- (3) The BEMP shall include provision for regular monitoring and review to be undertaken against the BEMP objectives and measures for securing amendments or additions to the BEMP in the event that the BEMP objectives are not being met.
- (4) Unless and until otherwise agreed in advance in writing with the Planning Authority, the approved BEMP (as amended from time to time with written approval of the Planning Authority) shall be implemented in full.

Reason: *In the interests of protecting ecological features and to ensure that the Development provides the biodiversity enhancement measures proposed in the Application.*

38. Environmental Clerk of Works (EnvCoW)

- (1) An Environmental Clerk of Works (EnvCoW) will incorporate the roles of an Ecological Clerk of Works (ECoW).
- (2) There shall be no Commencement of Development unless and until the terms of appointment of an independent Environmental Clerk of Works (EnvCoW) by the Company have been submitted to, and approved in writing by, the Planning Authority. This must include a EnvCoW schedule, detailing when the EnvCoW shall be present on site. For the avoidance of doubt, the EnvCoW shall be appointed as a minimum for the period from the Commencement of Development to the Date of Final Commissioning and their remit shall, in addition to any functions approved in writing by the Planning Authority, include (but not be limited to):
 - a) Impose a duty to monitor compliance with the environmental commitments provided in the EIA Report as well as the following (the EnvCoW works):
 - i. the Pre-Construction Ecological Survey under condition 35;
 - ii. the Construction Environmental Management Document under condition 11;
 - iii. the Peat Management Plan under condition 33;
 - iv. the Habitat Management Plan under condition 34.
 - v. Full details regarding the transfer of Arctic Char should be submitted to and approved by the Planning Authority, in consultation with SEPA and NatureScot.
 - b) Providing training to the Company and contractors on their responsibilities to ensure that work is carried out in strict accordance with environmental protection requirements;

- c) Require the EnvCoW to report to the nominated construction project manager any incidences of non-compliance with the EnvCoW works at the earliest practical opportunity;
 - d) Require the EnvCoW to report to the Planning Authority any incidences of non-compliance with the EnvCoW Works at the earliest practical opportunity;
 - e) Maintains a Register of all inspections and audits, to include an inventory of all measures on the site, their effectiveness, as well as any advice provided;
 - f) Require the EnvCoW to report to the Planning Authority monthly, with a concise summary of the actions on site;
 - g) Require a statement that the EnvCoW shall be engaged by the Planning Authority but funded by the Company.
- (3) The EnvCoW shall be appointed on the approved terms throughout the period from Commencement of Development to completion of construction works and post-construction site reinstatement works.

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

39. Species Protection Plans

- (1) There shall be no Commencement of Development unless and until all required Species Protection Plans have been agreed in writing by the Planning Authority.

Reason: *To ensure the protection of species present on site during construction and operation of the Development.*

40. Biosecurity Plan

- (1) There shall be no Commencement of Development unless and until a biosecurity plan has been submitted to, and approved in writing by, the Planning Authority.

Reason: *To prevent the introduction of invasive species within the Site and prevent the spread of invasive species within the Site.*

41. Nesting Birds

- (1) A nesting bird survey shall be made, not more than 48 hours prior to the Commencement of Development if this coincides within the main bird breeding season (March - August inclusive) and throughout the breeding bird season if new areas are being developed or there has been a break in construction.

Reason: *To ensure all nesting birds are protected.*

42. Fence Marking

- (1) During the construction stage and the first 30 years of operation the deer exclusion zone fences shall undergo three-monthly fence inspections for bird strikes/collisions and if any are recorded then mitigation such as fence marking shall be implemented in consultation with the Planning Authority. The Collision surveys should be undertaken alongside the three-monthly fence inspections for bird species. These surveys must be reported to the Planning Authority within the required monitoring reports.

Reason: *To reduce potential impacts to black grouse.*

43. Data

- (1) GIS Shapefiles must be supplied of the compensation and enhancement areas to the Planning Authority prior to the commencement of works.

Reason: *To allow the compensation and enhancement areas to be mapped.*

44. Tree Protection Plan

- (1) No development, site excavation or groundwork shall commence on each phase noted for condition 9 Finalised Design until Tree Protection Plans in accordance with BS 5837:2012 (Trees in Relation to Design, Demolition and Construction) are submitted to and subsequently approved in writing by the Planning Authority. Thereafter, all retained trees will be protected against construction damage using protective barriers located as per the approved Tree Protection Plans. These barriers shall remain in place throughout the construction period and must not be moved or removed during the construction period without the prior written approval of the Planning Authority.

Reason: *To ensure the protection of retained trees, which are important amenity assets, both during construction and thereafter.*

45. Arboricultural Consultant

- (1) Prior to the Commencement of Development a suitably qualified Arboricultural consultant must be employed by the Company to ensure that the approved Tree Protection Plans are implemented to the agreed standard. Stages requiring supervision are to be set out in a Supervision Statement for the written agreement of the Planning Authority and certificates of compliance for each stage are to be submitted for approval.

Reason: *To ensure the protection of retained trees throughout the construction period.*

46. Compensatory Planting

- (1) There shall be no Commencement of Development unless and until a detailed scheme of Compensatory Planting (including future maintenance) has been submitted to, and approved in writing by, the Planning Authority. All planting shall be implemented in full prior to the Date of First Commissioning, or as otherwise agreed with the Planning Authority. The planting shall be maintained thereafter in accordance with the approved scheme, until established to the full satisfaction of the Planning Authority.

Reason: *To provide adequate compensatory planting for woodland removal.*

47. Lighting

- (1) Prior to the Date of First Commissioning, details of any external lighting, or any externally visible internal building lighting, shall be submitted to and approved in writing with the Planning Authority. The lighting shall thereafter be constructed and maintained in accordance with the approved details unless otherwise agreed in writing with the Planning Authority.

Reason: *In the interests of visual amenity, to minimise light pollution and to ensure the Development does not have an adverse impact on nocturnal animals.*

48. Decommissioning, Restoration and Aftercare Strategy

- (1) There shall be no Commencement of Development unless and until a Decommissioning, Restoration, and Aftercare Strategy has been submitted to, and approved in writing by, the Planning Authority. The strategy shall outline measures for the decommissioning of the Development along with the restoration and aftercare of the Site, and shall include proposals for the removal of individual components of the Development as well as the treatment of ground surfaces, and the management and timing of the works and environmental management provisions which shall include, but not be limited to, the following:
 - a) site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
 - b) details of measures to be taken to prevent loose or deleterious material being deposited on the road network, including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
 - c) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
 - d) details of measures for soil storage and management;
 - e) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
 - f) temporary site illumination;
 - g) management and timing of the works; and

- h) a traffic management plan to address any traffic impact issues during the decommissioning period.

Reason: *To ensure the decommissioning and removal of the Development, along with the site's restoration in an appropriate and environmentally responsible manner in the interests of safety, amenity, and environmental protection.*

49. Decommissioning, Restoration and Aftercare Plan

- (1) In the event that, following the Date of Final Commissioning, the development is no longer operational for a period of 3 years, or the Company advises the Planning Authority that the development is no longer going to be operated, whichever is earliest, a detailed Decommissioning, Restoration and Aftercare Plan, (DRAP) based upon the principles of the approved Decommissioning, Restoration and Aftercare Strategy, shall be submitted for the written approval of the Planning Authority in consultation with SEPA. The detailed DRAP shall provide updated and detailed proposals, in accordance with relevant guidance at that time, for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall include (but is not limited to):
 - a) site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
 - b) details of measures to be taken to prevent loose or deleterious material being deposited on the road network, including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
 - c) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
 - d) details of measures for soil storage and management;
 - e) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
 - f) temporary site illumination;
 - g) management and timing of the works; and
 - h) a traffic management plan to address any traffic impact issues during the decommissioning period.
- (2) The Development shall be decommissioned, the site restored and aftercare undertaken in accordance with the approved DRAP.

Reason: *To ensure that should the Development no longer be required an appropriate mechanism is in place for decommissioning of the development.*

50. Community Liaison Group

- (1) There shall be no Commencement of Development unless and until a community liaison group is established by the Company, in collaboration with the Planning Authority and affected local Community Councils.
- (2) The group 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 to keep under review the timing of the delivery of abnormal loads and performance of the Construction Traffic Management Plan.
- (3) This should also ensure that local events and tourist seasons are considered and appropriate measures to co-ordinate deliveries and work with these and any other major / national projects in the area to ensure no conflict between construction traffic and the increased traffic generated by such events / seasons / developments.
- (4) The liaison group, or element of any combined liaison group relating to the Development, shall 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.*

51. Planning Monitoring Officer

- (1) There shall be no Commencement of Development unless and until the Planning Authority has approved in writing the terms of appointment by the Company of 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.
- (2) The PMO shall 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.*

52. Low Flying

- (1) Prior to the Commencement of Development the Company shall confirm to the Planning Authority that a Notice to Airmen (NOTAM) has been submitted to and confirmed by the Civil Aviation Authority (CAA) for the duration of the construction and operational period; and that provision has been made for the accurate charting of the topography that would result from the Development.

Reason: *To ensure safety of low flying operations in the area.*

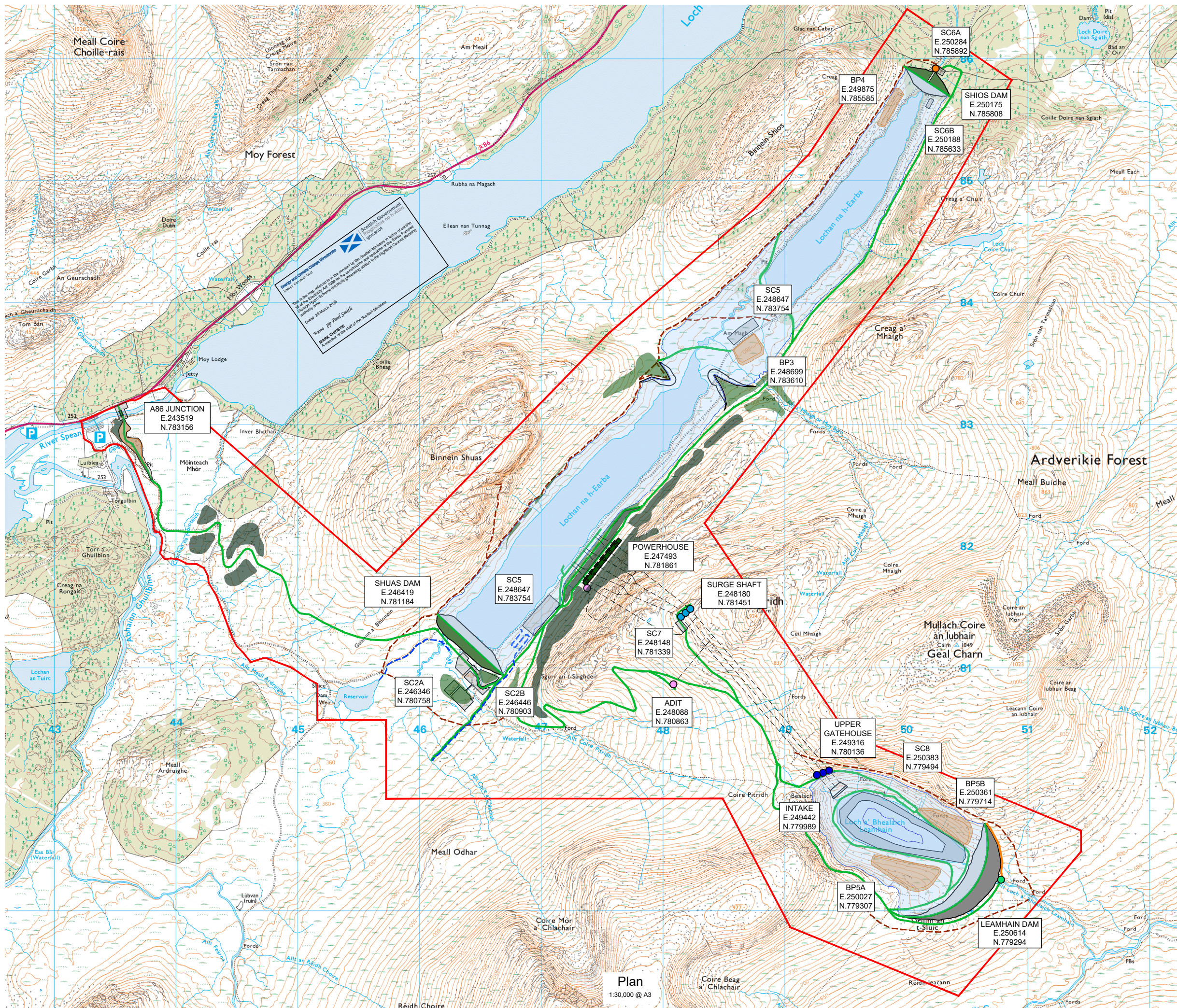


DEFINITIONS

“Application”	Means the application submitted by the Company on 8 March 2024 and its supporting documents, including any documentation submitted thereafter by the Company or its appointed agents to the Scottish Ministers, up until the date of this letter.
“Commencement of Development”	Means the implementation of the consent and deemed planning permission by carrying out a material operation within the meaning of section 27 of the Town and Country Planning (Scotland) Act 1997 excluding Site Investigation Works and Site Enabling Works.
“the Company”	Means Earba Limited, a company incorporated under the Companies Act with company number 14386618, and having its registered office at Canal Head North, Kendal, United Kingdom, LA9 7BZ.
“Date of First Commissioning”	Means the earlier of (i) the first date on which the Development exports electricity via its connection to the electricity network; or (ii) the date falling 72 months from the date of Commencement of Development.
“Date of Final Commissioning”	Means the earlier of (i) the date on which the Development first exports electricity via its connection to the electricity network on a commercial basis; or (ii) the date falling 72 months from the date of Commencement of Development.
“Date of Final Generation”	Means the date by which the Development is required to cease generation on a permanent basis.
“the Development”	Means the development described in Annex 1. (For the avoidance of doubt, this includes the ancillary development described in Annex 1.)
“Planning Authority”	Means Highland Council.
“Site”	Means the area of land outlined in red enclosing the Development in the drawing in Annex 3.
“Site Enabling Works”	Means all roads, access tracks, water-crossings and footpaths serving the Development.
“Site Investigation Works”	Means any works or surveys required to both finalise the design of the Development and to satisfy or discharge any pre-commencement obligations under either the section 36 conditions or the deemed planning conditions.



North



Plan

1:30,000 @ A3

ANNEX 3

LEGEND

- Planning Boundary
- Inundation
- Dam
- Intake
- Surge Shaft
- Adit
- Shios Valve House and Fish Pool
- Leamhain Upper Gate House
- Leamhain Lower Valve House
- Tunnel
- Powerhouse
- Borrow Pit
- Compound
- Promontories
- Aqueduct / Diversion Channel
- Access Bridge
- PSH Track
- Estate Track / Footpath
- Leamhain Dam Spillway
- Loch a' Bhealaich Leamhain Proposed to be Drawn Down to +612m During Construction
- New Tree Planting - Riparian Mix
- New Tree Planting - Upland Mix

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0 500m 1000m

P1	26.01.24	MH	PRELIMINARY	DT	GMCG
REV	DATE	DRAWN	NOTES	CHK'D	APP'D

FESTIVAL HOUSE
177 WEST GEORGE STREET
GLASGOW
G2 2LB
UNITED KINGDOM
T: 01539 720 028
E: info@gilkesenergy.com
W: www.gilkesenergy.com

CLIENT

A GILKES ENERGY COMPANY

PROJECT

PROPOSED
EARBA PSH

TITLE

SCHEME ARRANGEMENT
WITH COORDINATES
FIGURE 1.1

SIZE	SCALE AT A3	STATUS
A3	1:30,000	PRELIMINARY
DRAWING NUMBER	REVISION	
EAR/GEL/004	P1	