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Our ref: ECU00000728

07 June 2021

Dear Mr Wilson

CONSENT UNDER S36 OF THE ELECTRICITY ACT 1989 AND A DIRECTION UNDER S57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 THAT PLANNING PERMISSION IS DEEMED TO BE GRANTED FOR THE CONSTRUCTION AND OPERATION OF THE RED JOHN PUMPED STORAGE HYDRO SCHEME LOCATED WITHIN THE HIGHLAND COUNCIL PLANNING AUTHORITY AREA.

Application

I refer to the application (“the Application”) made on 15 November 2018 by AECOM Infrastructure & Environment UK Limited (“AECOM”) on behalf of Intelligent Land Investments (ILI) (Highlands PSH) Ltd (“the Company”) for consent under section 36 of the Electricity Act 1989 (“the Act”) for the construction and operation the Red John Pumped Storage Hydro Scheme (“the proposed Development”).

The Company is incorporated under the Companies Acts (Registered Number: SC581757), its registered address being The Shires, 33 Bothwell Road, Hamilton, ML3 0AS.

This letter contains the Scottish Ministers’ decision to grant, subject to conditions, section 36 consent for the Development as more particularly described at Annex 1.

Planning Permission

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

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

Background

The proposed Development is a pumped storage hydro facility with a storage capacity of approximately 2800 megawatts hours and approximately 450 megawatts of installed electricity generation capacity. It is located approximately 14 kilometres south west of Inverness within the Highland Council planning authority area.

The proposed Development will draw water from Loch Ness into underground tunnels to pumps that pump water uphill to a new 'Headpond' (upper reservoir) created by the construction of a landscaped embankment between Loch Ashie and Loch Duntelchaig. Here the water will be stored as potential energy until the demand for electricity requires it to be released back down through tunnels to an underground Power Cavern which converts the movement of the water back into electricity. The water will then return to Loch Ness through a partially submerged inlet/outlet structure.

Consultation, EIA Regulations and other environmental considerations

Under Schedule 8 to the Act, and the Electricity (Applications for Consent) Regulations 1990 ("the Consents Regulations") made under the Act, the relevant planning authority is required to be notified in respect of a section 36 consent application. Notification was given to Highland Council (the "Planning Authority") as the relevant planning authority. In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the EIA Regulations") the Company submitted an Environmental Impact Assessment report ("the EIA report") in support of the Application describing the proposed Development and giving an analysis of its environmental effects.

In addition, to comply with the EIA Regulations, the Scottish Ministers were required to consult the relevant Planning Authority, the Scottish Environment Protection Agency ("SEPA"), Historic Environment Scotland ("HES") and Scottish Natural Heritage ("SNH") who are now known under their operating name NatureScot.

Other parties likely to be concerned by the proposed Development by reason of their specific environmental responsibilities were also consulted.

In accordance with requirements of both the Consents Regulations and the EIA Regulations, advertisement of the Application was made in the Edinburgh Gazette, the national press and in newspapers circulated in the local communities affected by the proposed Development. As well as providing information about the Company and the proposed Development, the advertisements advised those who wished to make representations where the EIA report was available to view. This included the

Company's application website and where in the public domain it had been placed. Advice on where to and by what date representations were to be submitted was also provided.

On 17 April 2019 Additional Information was submitted (*Further Environmental Information April 2019*) to the Scottish Ministers relating to Landscape & Visual, Architectural treatments of Headpond buildings, a review of Headpond alternatives, a review of how best to deal with material required to be excavated and the provision of an updated mitigation register (*EIA report Volume 5, Appendix 17.1: Mitigation Register*). In accordance with Regulation 20 of the EIA Regulations details pertaining to the Additional Information were published in the local press and in the Edinburgh Gazette. Information regarding where the Additional Information could be viewed and how and when representations could be submitted was also provided in the advertisements.

On 03 October 2019 further Additional Information (*Supplementary Environment Information October 2019*) was submitted to the Scottish Ministers, this time relating to traffic and transport, landscape and visual impacts and proposed conditions. As with the Additional Information submitted in April 2019, all actions required under Regulation 20 of the EIA Regulations were carried out.

The Scottish Ministers are satisfied that the EIA report and all the Additional Information have been produced in accordance with the EIA Regulations.

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

Under paragraph 3(2) of Schedule 9 to the Act the Scottish Ministers must have regard to the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna and geological and physiological features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest. Under paragraph 3(3) the Scottish Ministers must avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

The aforementioned matters which the Scottish Ministers must have regard to have been addressed in the EIA report submitted by the Company.

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

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

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

In their response to the Scottish Ministers SEPA stated that they expect the proposed Development to be capable of being authorised under the Water Environment (Controlled Activities) (Scotland) Regulations 2011.

Consultation Responses

Statutory consultees

The Highland Council objected to the proposed Development on the grounds that it is contrary to the Highland Wide Local Development Plan in respect of the visual impact it will have on the landscape character of the surrounding area especially the north side of Loch Ness and the A82. The wider impact on the Loch Ness and Duntelchaig Special Landscape Area, particularly in relation to the construction and remediation stages, was also cited as grounds for objection.

SEPA did not object to the proposed Development subject to a range of conditions being applied to any consent granted. These were:

- within the context of the Allt a'Mhinistereir burn, specifics relating to where improvement works to the existing track should take place and what those works should be;
- to avoid direct impacts on GWDTE, the finalised design of all permanent and temporary compound areas should be agreed with the planning authority in consultation with SEPA;
- if such a diversion is deemed necessary, the finalised details of the Allt a Chruinachd burn diversion to be agreed in consultation with SEPA;
- the final design of all new watercourse crossings be discussed and agreed with SEPA;
- a management plan for monitoring the groundwater levels at the Kindrummond borehole during the low pressure tunnel and power chamber construction, unless information is provided to the planning authority in consultation with SEPA that demonstrates that it is not required;
- a management plan regarding the use excavated material on site to be agreed with the planning authority and with SEPA;
- a Peat Management Plan;
- a finalised Landscape and Ecological Management Plan to be agreed with the planning authority in consultation with SEPA;
- a management plan relating to the treatment of surface water; and
- a management plan relating to the disposal of forest waste.

The Scottish Ministers are satisfied that SEPA's requirements have been considered in full through the inquiry process and appropriately worded conditions have been imposed on the planning permission (annex 2) which secure the matters set out by SEPA in their response.

NatureScot did not object to the proposed Development subject to mitigation measures listed in the EIA report being incorporated by way of conditions. Specifically, the mitigation measures as detailed in:

- Chapter 6 Terrestrial Ecology (table 6.12);
- Chapter 7 Aquatic Ecology (table 7.6);
- Chapter 8 Ornithology (table 8.9).

The mitigation measures referenced above are embedded into *Volume 5 Appendix 17.1 Mitigation* Register of the EIA report and built into the Construction and Environmental Management Plan.

The Scottish Ministers have imposed appropriately worded conditions, to secure the mitigation measures detailed in the EIA report and Additional Information, which address the requirements of NatureScot.

HES advised that as it does not raise “*historic environment issues of national significance*” they do not object to the proposed Development.

Internal Scottish Government Advisors

AM Geomorphology Ltd were engaged by the Scottish Ministers to assess the Peat Landslide Hazard Risk Assessment (“PLHRA”) presented by the Company in the EIA report. Apart from minor revisions to the PLHRA being recommended, no other action was required or recommended.

Marine Scotland did not object but they did raise concerns regarding possible disturbance or injury to fish during the construction phase of the proposed Development and thereafter during its operation and recommended that there be appropriate conditions applied if consent is granted.

The Scottish Ministers are satisfied that the mitigation measures set out in the EIA report and conditions imposed on the planning permission avoid disturbance and injury to fish through the construction phase.

Scottish Forestry did not object to the proposed Development subject to conditions relating to a Forestry Plan, Compensatory Planting Plan, and a Tree Protection Plan.

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

Transport Scotland did not object subject to there being conditions applicable to abnormal loads on the trunk road network prior to the commencement of deliveries to the site and thereafter, during deliveries to the site.

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

Non-statutory consultees

Dores and Essich Community Council did not object subject to there being conditions for:

- a traffic management plan during construction;
- a noise, dust and vibration mitigation scheme;
- a plan, including screening, relating to the visual impact of structures at the headpond and waterside;
- an agreement covering community benefit and community investment.

Although agreement may have been reached between the Company and Dores and Essich Community Council with regards to community benefit and community investment, this is not a material consideration for the Scottish Ministers and consequently cannot be conditioned. However, the Scottish Ministers have imposed appropriately worded conditions which address the other requirements of Dores and Essich Community Council.

Mountaineering Scotland did not object to the proposed Development but concerns regarding the exclusion of climbers with regard to noise and vibration impacts were raised.

Ness Salmon Fishery Board initially objected on the grounds of the potential impact the proposed Development would have on the ability of fish (in particular salmon) to negotiate Ness Weir but following discussions and an agreement with the Company that a Fish Passage Assessment including a smolt tracking survey be carried out, the objection was withdrawn.

RSPB Scotland did not object to the proposed Development subject to there being conditions for a Habitat Management Plan and a Species Protection Plan

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

Scottish Canals did not object to the proposed Development so long as they are provided with reassurance that their navigation duty will not be affected by the during either the construction or operational phases.

Scottish Water did not object to the proposed Development but they raised concerns regarding a potential reduction in water levels in the public water catchments of Loch Ashie and Loch Duntelchaig. Concerns regarding invasive non-native species migrating to Loch Ashie were also raised. Scottish Water requested that they be notified in advance of any works commencing on site and expects further involvement at the more detailed design and construction stages.

The Scottish Ministers have imposed appropriately worded conditions which address the concerns of Scottish Water.

ScotWays objected to the proposed Development for reasons relating to detrimental impacts on access to public access routes.

The Scottish Ministers have imposed an appropriately worded condition regarding Access Management which addresses the basis of the objection from ScotWays.

SSE Renewables on behalf of **SSE Generation Limited**, initially objected on the grounds of possible impacts on their Foyers Pumped Storage Hydro Scheme also located in Loch Ness and on the operation of the Dochfour Weir which regulates the flow of water into the River Ness. This objection was subsequently withdrawn following an agreement being reached between SSE Generation Limited and ILI (Highlands PSH) Limited in respect of a number of matters including the use of and the maintenance of the Dochfour Gates and in respect of water levels at which the proposed Development can and cannot operate.

Stratherrick and Foyers Community Council objected to the proposed Development unless there was a condition for a comprehensive traffic management plan.

The Scottish Ministers have imposed an appropriately worded condition which addresses the requirements of Stratherrick and Foyers Community Council.

Strathnairn Community Council objected to the proposed Development for reasons related to the local road, the B851, being unsuitable for heavy construction traffic and the impacts that the introduction of such traffic would have on local and school access routes. Another reason for objecting was the possibility of polluted groundwater entering Loch Ness from the proposed Development's headpond.

The Scottish Ministers have imposed appropriately worded conditions which address the concerns raised by Strathnairn Community Council.

The following consultees responded advising that they have no objection to the proposed Development:

- BT;
- Canoe Scotland;
- Crown Estate Scotland;
- Glenurquhart Community Council;
- Highlands and Islands Airport Limited;
- Joint Radio Company;
- NATS Safeguarding;
- Visit Scotland.

The following consultees did not submit a response to the Scottish Ministers;

- Civil Aviation Authority;
- Defence Infrastructure Organisation;
- Fisheries Management Scotland;
- Inverness West Community Council;
- John Muir Trust;
- Nuclear Regulator;
- Scottish Wild Land Group;
- Scottish Wildlife Trust.

A summary of all consultation responses received regarding the proposed Development are set out in pages 11 – 13 of the PLI Report.

Full details of all the consultation responses received by the Scottish Ministers are available on the Energy Consents website at www.energyconsents.scot

Public Representations

The Scottish Ministers received five public representations, three objecting and two in support. The Scottish Ministers note the concerns raised in relation to: economic viability; environmental and ecological impacts despite mitigation measures; flood risk to residential properties in the locality; flood risk to human lives; construction noise and vibration; and impacts on cultural heritage.

The representations in support of the proposed Development cited its contribution to the Scottish Government's targets for de-carbonising electricity generation and its contribution to balancing variability of supply of electricity from renewable technologies.

The Scottish Ministers are aware the concerns related to flood risk but are satisfied that such risks have been fully assessed and appropriate conclusions have been made and appropriate action plans will be implemented with regards to public safety and property. The Scottish Ministers are also aware of that there may be negative environmental and ecological impacts associated with a development of this nature and size. The Scottish Ministers are satisfied however that the Company has sought, where it is possible to do so, to avoid or mitigate adverse impacts. The schedule of mitigation and conditions imposed will ensure that impacts are mitigated against as far as it is possible to do so. The Scottish Ministers are also satisfied that the application of conditions and mitigation will address construction noise and vibration and impacts on cultural heritage.

A full list of the issues raised in the representations are listed in page 14 of the PLI Report.

Public Local Inquiry ("PLI")

In accordance with paragraph 2(2) of Schedule 8 to the Act, where the relevant planning authority objects to an application and that objection is not withdrawn, the Scottish Ministers shall cause a PLI 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. As set out above, the Planning Authority, the Highland Council, objected and did not withdraw that objection. The Scottish Ministers did not consider it possible to accede to the application by way of applying conditions to give effect to the Planning Authority's objection, and consequently, caused a PLI to be held.

Due to circumstances associated with the Covid-19 pandemic it was agreed to by the main parties that no in-person meetings or sessions would take place. A virtual pre-examination meeting was held on 19 May 2020. On 3, 4 and 5 August 2020 the Reporter carried out unaccompanied site inspections. Virtual hearing sessions were held on 24, 27 and 28 August 2020. Closing submissions were subsequently exchanged in writing, the final one (on behalf of the Company) being lodged on 29 September 2020.

The PLI report was received by the Scottish Ministers on 26 February 2021.

The PLI Report

In each chapter of the PLI Report, the Reporter summarised the arguments for each party, taking account of the precognitions, hearing statements, the discussion at the Inquiry and hearing sessions and the closing submissions. The Reporter also took into account the environmental information included in the EIA report, and the Additional Information (*Further Environmental Information April 2019 and Supplementary Environment Information October 2019*) submitted, the written

representations and all of the other information supplied for the Inquiry and hearing sessions.

The chapters of the PLI report provide the following:

Chapter 1 Background;

Chapter 2 Legislative & Policy context;

Chapter 3 Generating capacity and net benefits;

Chapter 4 Landscape and visual impact;

Chapter 5 Other Matters:

- Geology and ground conditions;
- Natural heritage – terrestrial ecology, aquatic ecology, ornithology;
- Flood risk and water resources;
- Water environment;
- Forestry;
- Archaeology and cultural heritage;
- Socio-economics, tourism and recreation;
- Traffic and transport;
- Noise and vibration;
- Reporter's conclusions on other matters;

Chapter 6 Proposed conditions;

Chapter 7 Conclusions and recommendations.

The Reporter's recommendation to the Scottish Ministers is that consent should be granted under section 36 of the Electricity Act 1989.

Considerations of the Scottish Ministers

The Scottish Ministers have assessed the environmental impacts of the proposed Development and taken the environmental information in the EIA report, the Additional Information, the representations, consultation responses including those from the Highland Council, SEPA, HES and NatureScot, and the PLI report into consideration in reaching their decision.

The Scottish Ministers have had regard to the matters set out in Schedule 9 of the Electricity Act 1989 in respect of the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna and geological and physiological features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest. The Scottish Ministers shall avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

SEPA's advice has been considered as required by section 36(5A) with due regard given to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003. SEPA have no objection to the proposed Development. In their response to the Scottish Ministers they direct the Company to the Regulations section of the SEPA website for advice on regulatory requirements and good practice advice. In their consultation response SEPA stated that they expect the proposed Development to be capable of being authorised under the Water Environment (Controlled Activities)(Scotland) Regulations 2011. In January 2020 SEPA confirmed to the Scottish Ministers that such an authorisation had been granted to the Company on 13 September 2019.

On 25 February 2019 the Company applied to the Scottish Ministers for authorisation to abstract water from within the catchment area of Loch Ness for the purposes of construction and operation of the proposed Development. After due consideration the Scottish Ministers granted such authorisation to the Company. This is covered in full in a separate decision letter relating specifically to that authorisation.

The Scottish Ministers consider that there is sufficient information to be satisfied that the Company has had regard to the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna, and geological and physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest and further that it has done what it reasonably can to mitigate the effects of the proposed Development on its surrounding environment.

The Scottish Ministers are also satisfied that the proposed Development would not have any adverse effect on fisheries or to stock of fish in any waters.

Conservation of Habitats and Species Regulations

The Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”) require the Scottish Ministers to consider whether the proposed Development would be likely to have a significant effect on a European site or European offshore marine site (either alone or in combination with other plans or projects), as defined in the Habitats Regulations, and if the proposed Development is directly connected with or necessary to the management of the site.

As a consequence of their proximity to the proposed Development the following European sites were assessed in the EIA report (Habitats Regulations Appraisal: Statement to Inform Appropriate Assessment – “HRA Statement”) in accordance with the Habitats Regulations:

- Loch Ashie Special Protected Area (“SPA”);
- Loch Ruthven Special Area of Conservation (“SAC”), SPA and Ramsar site;
- River Moriston SAC;
- Urquhart Bay Wood SAC;
- Ness Woods SAC; and
- North Inverness Lochs SPA.

The Scottish Ministers agree with the conclusions outlined in HRA Statement that the proposed Development has the potential to have a significant effect on the qualifying interests of both the Loch Ashie SPA and the River Moriston SAC.

In compliance with the Conservation of Habitats and Species regulations, the Scottish Ministers are required to undertake an Appropriate Assessment in respect of each of the aforementioned sites.

The Scottish Ministers can confirm that the relevant Appropriate Assessments have been carried out (see Annexes 9 and 10). The environmental information to inform the appraisal was presented in the EIA report which accompanied the Application. The appropriate assessments have therefore been produced using information already advertised in accordance with the EIA regulations. The conclusion of the Scottish Ministers, is that subject to the mitigation measures identified in the HRA statements, secured through embedded mitigation and the imposition of conditions attached to the

planning permission at Annex 2, the proposed Development will not adversely affect the integrity of the qualifying interests of Loch Ashie SPA or River Moriston SAC.

Main Determining Issues

In Chapter 7, page 72, paragraph 7.4 of the PLI Report the Reporter sets out the following as being the main determining issues:

- The loss of ancient woodland and long-established woodland of plantation origin;
- Landscape and visual impact;
- the benefits of the proposed Development, including how it could help provide flexibility and resilience to the electricity network and power supplies; and
- the degree to which the proposed Development accords with national planning policy, the local development plan and other relevant guidance.

Having considered the Application, the EIA report, the Additional Information, responses from consultees and third parties, the PLI Report and Scottish Government policies, the Scottish Ministers agree with the Reporter regarding what the main determining issues are but would add the following to that list:

- Flood Risk and Water Resources;
- Traffic and transport; and
- Noise and vibration.

Assessment of the Determining Issues

The loss of ancient woodland and long-established woodland of plantation origin

Loss of ancient woodland and long-established woodland of plantation origin was considered at the PLI hearing and the issues raised and their consideration are detailed in Chapter 5, page 57 – page 59 of the Report. It is noted by the Scottish Ministers that Scottish Forestry, a Scottish Government agency responsible for forestry policy, support and regulation, who is an internal advisor to the Scottish Ministers on such matters, has no objection to the proposed Development. In their consultation response it was stated that Scottish Forestry “*welcomes the commitment to enhance native woodland through the removal of invasive species and controlling browsing pressure, and to enhancing juniper habitat and improving the appearance of the woodland in the landscape*” (Chapter 5, page 57, paragraph 5.81 of the PLI Report) and that the “*commitment to compensate for woodland loss of 89.6 ha is welcomed*”. (Chapter 5, page 57, paragraph 5.82 of the PLI Report).

In her overall conclusions regarding the loss of ancient woodland and long-established woodland of plantation the Reporter stated “*With regard to terrestrial ecology and biodiversity, there would be significant adverse effects with the loss of ancient woodland and long-established woodland of plantation origin. These effects are considered unavoidable and permanent. While there is no substitute for such woodland, beneficial effects are expected from the subsequent restocking plan which would result in an overall expansion of mixed native woodland and improved management*” (Chapter 7, page 73, paragraph 7.10).

The Scottish Ministers have taken account of the Reporter's considerations and subsequent conclusions regarding the loss of ancient woodland and long-established woodland of plantation and adopt them for the purpose of their own decision. Scottish Ministers agree that there is no substitute for the loss of ancient woodland, which in this case is unavoidable and permanent, however Scottish Ministers note that a substantial proportion (92.75%) of ancient woodland would remain within the site boundary and improved management would alter the species combination to provide a decrease in mixed, commercial woodlands of 293 ha but an overall increase in native woodlands of 281 ha allowing the longer term benefits to balance the loss as a consequence of the proposed Development.

Landscape and Visual Effects

The embankment of the headpond would be the part of the proposed Development which would give rise to landscape and visual impacts. There would be impacts during the construction phase which will be approximately six years and there will be impacts after the construction has been completed. With regards to the construction phase the Reporter states in the PLI Report (Chapter 4, page 45, paragraph 4.94) "*the scheme is large scale and extensive and the overall effects over this period would be significant*".

At the PLI there was full discussion and consideration of landscape and visual effects of the proposed Development on two landscape character types – Broad Steep-sided Glen and Flat Moorland Plateau with Woodland. Full consideration was also given to impacts on the following:

- views from the village of Dores;
- Ach-na-Sidhe Bed and Breakfast near the village of Dores;
- views from Creag nan Clag, a large crag (407 metres) popular with climbers at the southwest end of Loch Duntelchaig (approximately 5 kilometres east of Loch Ness);
- views from properties at Midtown and West Town above Loch Duntelchaig to the east of the proposed Development;
- Abriachan, a village situated high above the western shore of Loch Ness;
- Lochend, a settlement that lies at the start of the Caledonian Canal, at the head of Loch Ness;
- Caisteal an Dunriachaidh, the remains of a small fort, probably dating to the Iron Age sited on a rocky ridge, rising from Ashie Moor between Loch Ness and Loch Duntelchaig;
- the Trail of the Seven Lochs;
- views of the Great Glen Way;
- views from crafts on Loch Ness;
- views from Urquhart Castle;
- views from a layby on the A82 often used by tourists to view the landscape; and
- views of the proposed Development of road users.

Landscape and visual effects and objections raised by the Highland Council and interested parties are considered by the Reporter in Chapter 4 of the PLI Report (page 29 – page 45). Cumulative landscape and visual impacts were also fully discussed at the PLI and subsequently given full consideration by the Reporter.

Landscape impacts

With regards to landscape impacts, the Reporter concluded that although there would be *“a sense of activity disrupting the landscape”* during the construction phase and early years of operation, this would reduce over time (Chapter 4, page 39, paragraph 4.63). In relation to the Broad Steep-sided Glen Landscape Character Type, the Reporter concluded that impacts *“would reduce and by year 15, with the establishment of the new native woodland the overall character of the landscape would be considerably rebalanced”* (Chapter 4 page 39, paragraph 4.64). With regards to impacts on the Flat Moorland Plateau with Woodland Landscape Character Type the Reporter concluded that although *“the scale of activity associated with the development’s construction, the forestry clearance operations, and the introduction of the embankment, inlet/outlet structure and component parts, would be a noticeable addition and have a moderate adverse and significant effect”* the character of the this Landscape Character Type would not be permanently altered. (Chapter 4, page 40, paragraph 4.66)

The Reporter’s overall conclusion regarding adverse effects on the landscape was that they would *“not be long term and mostly represent a temporary effect on a small portion of the overall landscape character. These effects would diminish as the development integrates into the landscape”*. (Chapter 4, page 45, paragraph 4.98)

Visual impacts

The consideration of the proposed Development’s visual impacts are laid out in Chapter 4, pages 40 – 44, paragraph 4.67 to 4.87 of the PLI Report. At paragraph 4.69 the Reporter states *“The visibility of the proposed Development varies given its dispersed nature and position on the edge of and above the Great Glen, and is mainly contained by higher ground to within 5 km and across and along Loch Ness. The scale and extent of visual impact experienced from settlements and from individual residential properties would vary based on their proximity and orientation to the development site. During the construction phase, this is more likely to affect the area of Abriachan on the west side of Loch Ness and the properties in close proximity to the development site”*. At paragraph 4.68 the Reporter states *“modifications of the embankment slope create changes in landform height which, combined with the proposed native woodland planting, would assist in integrating the headpond with the landscape”*. At paragraph 4.74 the Reporter states *“Once operational, it would only be the remaining structures of the tailpond and jetty which would be visible. This would result in a small change to the overall composition of views across the loch”*.

The Reporter’s overall conclusion regarding adverse visual effects was that *“Long term visual effects would affect those viewpoints closest to the development (Viewpoints 1 and 11). This to be expected with any project of this scale which cannot be completely hidden in the landscape despite the mitigation and enhancement measures which have been designed. However, I agree that the residual effects would be very limited and localised”*. (Chapter 4, page 45, paragraph 4.99)

It is noted by the Scottish Ministers that parties objecting to the proposed Development on the basis of adverse visual impacts stated at the PLI that such impacts could be reduced by the implementation of appropriate conditions. For example, appropriate landscaping and screening especially in relation to the headpond and tailpond structures. As well as such conditions being applied, embedded mitigation will also

ensure that appropriate action such as a woodland restructuring plan to increase the proportion of native woodland through large areas of new planting and enhancement measures to existing areas and softening of edges will be taken to reduce adverse visual impacts.

In addition to taking account of the position taken by parties regarding what would be acceptable as means to reducing adverse visual impacts and noting that appropriate conditions will be applied and embedded mitigation carried out to ensure that, the Scottish Ministers have also taken account of the the Reporter's considerations and subsequent conclusions regarding landscape and visual impacts and agree with them and adopt them for the purpose of their own decision.

Cumulative landscape and visual impacts

In the EIA report (Volume 2, Chapter 11: Landscape and Visual) three schemes were identified as possibly having potential cumulative landscape and visual impacts. These were:

- Coire Glas Pumped Storage Hydro Scheme;
- A 15 metres high EE telecommunications tower;
- An new underground water main.

It was concluded in the EIA report that, in combination with the proposed Development, none of these schemes would result in or contribute to cumulative landscape and visual impacts.

In its consultation response the Highland Council added the following schemes to the above schemes:

- 45 new homes on the south side of Inverness B862;
- Ness Castle (Phase 2) 137 homes off the B862.

It is noted by the Scottish Ministers that the Highland Council did not object to the proposed Development for reasons of cumulative landscape and visual impacts. It is also noted by the Scottish Ministers that in **Statement of Agreed Matters** (Chapter 4, paragraph 4.6, page 30), it is stated "*Of the cumulative developments originally agreed between the council, SNH and the applicant there are no cumulative landscape and visual effects of any consequence*".

Further, despite the above, cumulative landscape and visual impacts were raised by the Council's Landscape Witness as matter to be determined but it is noted by the Scottish Ministers that no other consultee raised this a basis for objection and that the overall conclusion of the Reporter was that the introduction of proposed Development would not "*substantially alter*" the current situation. (Chapter 4, page 44, paragraph 4.90)

The Scottish Ministers have taken account of the Reporter's considerations and subsequent conclusions regarding cumulative landscape and visual impacts and adopt them for the purpose of their own decision.

The benefits of the proposed Development, including how it could help provide flexibility and resilience to the electricity network and power supplies

The seriousness of climate change, its potential effects and the need to cut carbon dioxide emissions, remain a priority for the Scottish Ministers. The Climate Change (Scotland) Act 2009, passed by the Scottish Parliament in 2009, sets out the targets for reducing greenhouse gas emissions as an interim 42% reduction target for 2020 and an 80% reduction target for 2050. On 25 September 2019, the Scottish Parliament passed the Climate Change (Emissions Reduction Targets) (Scotland) Bill, setting the target for Scotland to be carbon-neutral, meaning net-zero CO², by 2045 at the latest. Additionally the Bill set out two interim targets to reduce emissions by 75% by 2030 and by 90% by 2040.

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

The proposed Development would *"provide a means to manage more intermittent electricity generation from renewable energy technology sources which is likely to be an increasing requirement in the future"* (Reporter's conclusions Page 4, PLI Report) thereby providing valuable support towards meeting greenhouse gas emission and renewable electricity targets.

The proposed Development will be able to store a maximum of 2800 MWh of energy at any one time and an installed (maximum) electrical generation capacity of 450 MW. It will have the ability to react quickly to demands for electricity, starting up almost immediately. Although pumped storage hydro is not a renewable technology it can complement renewables thereby contributing to ensuring that demand for electricity is constantly balanced and the system has stability. It would contribute greatly to reducing issues related to variability of supply caused by a network reliant on renewable technologies. As such, it is still consistent with the Scottish Government's policy on the promotion of renewable energy and its target date for net-zero emissions of all greenhouse gases by 2045.

It is noted by the Scottish Ministers that the Highland Council and the Company agreed at PLI that *"Pumped storage hydro schemes improve Scotland's energy security and make the electricity network more resilient to interruptions to supply"*. (Chapter 1, page 16, paragraph 1.53 of the PLI Report). It is also noted by the Scottish Ministers that *"National Grid has identified that there is a high priority for flexibility services in Scotland due to network congestion and stability concerns. They have conducted a full network capacity study and confirm that the requested capacity of 450 MW is available with a formal offer to connect in October 2026"*. (Chapter 3, page 26, paragraph 3.10 of the PLI Report)

In her conclusion the Reporter states *"I am in no doubt that the proposed Development has a role to play in contributing to decarbonisation and electricity system security. It would be able to provide large amounts of flexible storage capacity that would help in balancing the grid network and make it more resilient. This would also help reduce the overall costs to consumers. The future prospects are for a high expected demand for storage capacity and there is support in Scottish Government policy for the*

development of such schemes". (Chapter 3, page 27, paragraph 3.22 of the PLI Report)

The Scottish Ministers are of the opinion that by ensuring stability of supply, the proposed Development will make a valuable contribution to the Scottish Government achieving its climate change related targets. and.

It is noted by the Scottish Ministers that with regards to "*carbon savings*", the Company stated that "*the carbon emissions from the construction and operation of the proposed Development will be outweighed by the huge carbon savings from its primary operations and from its existence on the electricity network over its working lifetime*". (Chapter 3, page 26, paragraph 3.15 of the PLI Report), which was agreed to by the Reporter when she concluded "*there are likely to be substantial carbon savings overall from the proposed Development which would outweigh the carbon costs*". (Chapter 3, page 28, paragraph 3.23)

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

Degree to which the proposed Development accords with national planning policy, the local development plan and other relevant guidance.

Scotland's Third National Planning Framework ("NPF3") is the spatial expression of the Scottish Government's economic strategy. It brings together plans and strategies across sectors to provide a coherent vision of how Scotland should evolve over the next 20 to 30 years. It establishes the Scottish Government's commitment to establishing Scotland as a leading location for the proposed development of renewable energy technology. In Scotland there has been significant progress towards low carbon objectives whilst continuing to protect our special places from significant adverse impacts.

NPF3, the local development plan and other relevant policy and guidance considered by the Reporter is laid out in Chapter 2, page 18 – page 23, paragraph 2.10 – paragraph 2.38 of the PLI Report. The Scottish Ministers note that at the PLI it was agreed by all parties that "*there is considerable policy support for the type of development proposed at both national and local level subject to consideration of the impacts of the proposal itself*" (Chapter 2, page 22, paragraph 2.36 of the PLI Report).

As set out at paragraph 2.11 of the PLI Report, in their statement of agreed matters, the Planning Authority and the Company "*agree the most relevant sections of NPF3 concern the vision for future development in Scotland (page 1), the spatial priorities for change: Inverness and the Inner Moray Firth city region (page 20), and the Statement of Need and Description for Pumped Hydroelectric Storage (page 73)*".

NPF3 further recognises energy as one of the three key economic sectors in Inverness with Inverness described as the Highlands fastest growing city in Scotland. It also aims to focus new low carbon and renewable technologies in rural areas.

Pumped storage hydro is identified as a national development in NPF3 and it recognises that increasing the capacity of pumped storage hydroelectricity can complement the Scottish Government's ambitions for more renewable energy

capacity. It establishes the need for such development at new sites to support the security and diversity of energy supply and to support the reduction of carbon emissions.

The Scottish Ministers are satisfied that the proposed Development will make a positive contribution to the need for such development identified in NPF3.

Scottish Planning Policy 2014 (“SPP”) sets out national planning policies which reflect Scottish Government Ministers’ priorities for the operation of the planning system and for proposed development and use of land. Its vision for a low carbon place emphasises the role of planning in the transformational change necessary to meet emissions reduction targets and influence climate change (paragraph 19). SPP sets out the principle that the planning system should support the transformational change to a low carbon economy, consistent with national objectives and targets. The planning system should help to reduce emissions from new infrastructure by enabling development at appropriate locations that contributes to efficient energy supply and storage, and electricity from non-renewable sources where greenhouse gases can be significantly reduced.

Paragraph 156 of SPP refers to energy storage developments as being amongst the national priorities for energy infrastructure improvement. Alongside generation, transmission and distribution networks, such developments should address cross-boundary issues and be supported through strategic development plans to support the transition to a low carbon economy.

Paragraphs 167 and 168 reiterate that energy storage developments as being national priorities due to their ability to support the development of renewable energy and maintain the stability of the electricity network.

An overarching principle of SPP is that the planning system should support and enable development that balances the costs and benefits over the longer term. The aim is to achieve the correct development in the right place, it is not to allow development at any cost. This means that decisions and policies should be guided by certain principles including, among others, giving due weight to net economic benefit; supporting the delivery of infrastructure; supporting climate change mitigation and protecting natural heritage.

The Scottish Ministers agree that the proposed Development supports the overarching principle of SPP. It will have adverse effects on the environment, some being short term and some, such as visual impacts, being long term. Its location has been chosen because the topography of Loch Ness provides suitable conditions for such development. Additionally, the proposed Development has the potential to provide important balancing services to meet present and future needs, supporting the increased deployment of renewable energy and displacement of fossil fuel technologies. The proposed Development would be in a position to provide a rapid response to increased demand, and to absorb electricity generated when demand is low, supporting the ability of intermittent renewable energy sources to meet Scotland’s electricity requirements, and providing the stability required to support the Scottish Energy Strategy.

Policy 67 of the Highland Wide Local Development Plan relates to renewable energy and applicable criteria for proposed developments include net economic impact,

contribution to renewable energy targets, cumulative impacts, residential amenity impacts, landscape and visual impacts, effects on natural heritage, impacts on the historic environment, traffic impacts, and opportunities for energy storage. It is noted by the Scottish Ministers that parties at the PLI agreed *“The criteria set out in paragraph 169 of SPP are generally reflected within Policy 67 of the local development plan”* and that *“it is not for the project to meet all of the criteria but it should not be significantly detrimental overall, and that each proposal has to be assessed on a case by case basis. The relative merits of the proposal, including its impact on the local economy must be considered against its overall effects to determine whether on balance, the proposal would be acceptable”*. (Chapter 2, page 22, paragraph 2.37 of the PLI Report)

Paragraph 218 of SPP refers to Scottish Government’s Control of Woodland Policy. This includes a presumption in favour of protecting woodland with removal only permitted where it would achieve significant and clearly defined additional public benefits. Compensatory planting is required in these instances (see **The loss of ancient woodland and long-established woodland of plantation origin** above). The Scottish Ministers are satisfied that the criteria set out in paragraph 218 of SPP in respect of woodland removal have been met.

With regards to the policy context more generally, the Scottish Ministers are satisfied that the proposed Development is supported by both national and local planning policies. In her overall conclusion the Reporter states *“I consider the adverse effects of the development are outweighed by the need for this PSH scheme, which can be suitably accommodated within the landscape and would deliver economic and environmental benefits to the area. On balance I consider the proposed Development to be acceptable overall, and in conformity with national planning policy and the local development plan”*. (Chapter 7, page 74, paragraph 7.18 of the PLI Report).

The Scottish Ministers are satisfied, having taken account of the Reporter’s considerations and subsequent conclusions, that the proposed Development accords with national planning policy, the local development plan and other relevant guidance.

Flood risk and water resources

Full consideration was given to Flood risk and water resources and objections and concerns raised by Dores and Essich Community Council and other interested parties. (Chapter 5 of the PLI Report, page 53 – page 56).

It is noted by the Scottish Ministers that the proposed Development will come under the jurisdiction of the Reservoirs (Scotland) Act 2011 which requires it to be registered with SEPA who will then have a number of powers including enforcement. As such, the proposed Development would have to comply with strict standards including there being a requirement for ongoing monitoring and inspection while the proposed Development is being constructed and thereafter whilst in operation. This would be carried through a system of inspections, reports and certificates being overseen by an appropriately qualified Engineer from a panel approved by the Scottish Ministers.

A concern regarding seismic activity not having being considered within the context of assessing flood risk was raised by an Objector. In response to this the Company stated *“Detailed analysis of the flood risk to the development as well as the impact of the development on flood risk to others was undertaken, and this includes a review of*

seismic risk. The FRA includes detailed modelling of the flood risk and the impact of the development during extreme events and its operation". (Chapter 5, page 54, paragraph 5.59)

In her overall conclusions, the Reporter states that the Scottish Ministers "*may wish to seek their own advice regarding seismic activity and/or consider the need for any legal agreement to ensure that the applicant has public indemnity insurance in place*". (Chapter 5, pages 68 & 69, paragraph 5.160) With regards to "*seismic activity*", it is noted by the Scottish Ministers that both the Highland Council and SEPA have no objections to the proposed Development based on flood risk and have not raised any concerns about or made reference to any lack of assessment of "*seismic activity*".

With regards to 'ensuring' that "*the applicant has public indemnity insurance in place*" the Scottish Ministers can confirm that the Company has Public Liability Insurance cover in place.

In her overall conclusion regarding flood risk, the Reporter also stated that "*With the implementation of suitable mitigation, the scheme would not result in any significant adverse effects in relation to flood risk*". In addition to this, it is noted by the Scottish Ministers that the Highland Council's Flood Risk Management Team and SEPA had no objections to the proposed Development relating to flood risk subject to the application of conditions. The Scottish Ministers have imposed such conditions and "*suitable mitigation*" will be implemented. On that basis, the Scottish Ministers have taken account of the Reporter's considerations and subsequent conclusions regarding Flood risk and water resources and adopt them for the purpose of their own decision.

Traffic and transport

The increase in traffic and the nature of the type of traffic (i.e. heavy goods vehicles and abnormal loads) and the impacts on local communities and road users were common grounds for objection amongst community councils and other interested parties. This is fully considered in Chapter 5. page 61 – page 65, paragraph 5.111 – paragraph 5.133 of the PLI Report.

It is noted by the Scottish Ministers that the Reporter, in her conclusion, stated that as a result of appropriate conditions and legal agreements "*the main areas of concern on traffic and transport have been resolved*". (Chapter 5, page 69, paragraph 5.167).

The Scottish Ministers have taken account of the Reporter's considerations and subsequent conclusions regarding Traffic and Transport and adopt them for the purpose of their own decision.

Noise and vibration

Concerns relating to noise and vibration, especially during the construction phase, were raised by community councils and other interested parties. This is fully considered in Chapter 5, page 65 – page 67, paragraph 5.134 – paragraph 5.150 of the PLI Report.

It is noted by the Scottish Ministers that various community councils and interested parties stated at the PLI that their noise and vibration related concerns would be resolved if appropriately worded conditions were applied to any consent granted. It is

also noted by the Scottish Ministers that in her conclusion, the Reporter stated “*Noise and vibration impacts would be subject to a number of conditions and control measures on the development*” thereby confirming that to be the case.

The Scottish Ministers agree that the conditions imposed will give effect to the concerns raised. The Scottish Ministers have taken account of the Reporter’s considerations and subsequent conclusions regarding noise and vibration and adopt them for the purpose of their own decision.

The Scottish Ministers’ conclusions

Reasoned conclusions on the environment

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

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

Reasoned conclusions on acceptability of the proposed Development and the Scottish Ministers’ Determination

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

The proposed Development is not a renewable energy development but it will contribute greatly to reducing issues related to variability of supply caused by a network reliant on renewable technologies and help ensure that demand for electricity is constantly balanced and the system has stability. Economic benefits to the Scottish economy are anticipated alongside short and longer term benefits to the Highland Council planning authority area in and around where it is to be located.

Hydro power is a very flexible method of electricity generation due to its ability to rapidly start and stop without constraint. Pumped storage plants add to this the ability to consume and store large quantities of energy, making them the most flexible of all electricity generation technologies. Pumped storage is a mature energy storage technology which can be deployed on a large scale.

The proposed Development will give greater flexibility to the National Grid by facilitating the matching of demand and assist the Scottish Government attain its commitment to increase the proportion of electricity generated using renewable resources. The proposed Development would be ideally placed to store excess energy

ready for use during periods of higher demand or less supply. It could therefore be used by the network operator to ensure that more energy from renewable developments that do not have the ability to match supply with demand can be accommodated on the transmission network.

The Scottish Ministers acknowledge that there will be some localised landscape and visual impacts, especially during construction, but are satisfied, that overall, the proposed Development is appropriately sited and designed and that the landscape and visual impacts which remain are acceptable in the context of the benefits that the proposed Development will bring.

The Scottish Ministers are satisfied that other environmental issues can be appropriately addressed by the mitigation measures set out in the EIA report and Additional Information and secured by relevant conditions attached to the consent and planning permission deemed to be granted by the Scottish Ministers.

For the above stated reasons, the Scottish Ministers agree with the Reporter's recommendation that section 36 consent should be granted for the construction and operation of the Red John Pumped Storage Hydro Scheme and that a direction deeming planning permission to be granted should be given for it.

Subject to the conditions set out in **Annex 2 part 1** of this decision letter, the Scottish Ministers **grant consent** under section 36 of the Electricity Act 1989 for the construction and operation of the Red John Pumped Storage Hydro Scheme in the Highland Council area as described in Annex 1.

The consent hereby granted will last for a period of 125 years from the date of Commissioning of the Development. Written confirmation of the date of Commissioning of the Development shall be provided to the Scottish Ministers and the Planning Authority not later than one calendar month after the event.

Subject to the conditions set out in **Annex 2 part 2**, the Scottish Ministers direct that **planning permission be deemed to be granted** under section 57(2) of the Town and Country Planning (Scotland) Act 1997 in respect of the Development for which has been granted section 36 consent in the paragraphs above.

Section 58(1) of the Town and Country Planning (Scotland) Act 1997 provides that planning permission lapses if development has not begun within a period of 3 years. Section 58(2) of that Act enables Ministers to direct that a longer period is allowed before planning permission lapses. Scottish Government policy is that due to the constraints, scale and complexity of constructing such developments, and the timescales associated with grid connection, a 5 year time scale for the commencement of the development is typically appropriate.

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

In accordance with the 2017 Regulations, the Company must publicise this determination on a website maintained for the purpose of making information publicly available, in the Edinburgh Gazette and in a newspaper circulating in the locality in which the land to which the Application relates is situated.

Copies of this letter have been sent to the public bodies consulted on the application including the planning authority, NatureScot, SEPA and Historic Environment Scotland. This letter has also been published on the Scottish Government Energy Consents website at <http://www.energyconsents.scot>.

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

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

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

Yours sincerely

REDACTED

William Black
Head of Consents
A member of the staff of the Scottish Ministers

The following annexes are attached::

- Annex 1 – Description of the Development;
- Annex 2 – Conditions;
 - Part 1 conditions attached to section 36 consent;
 - Part 2 conditions attached to deemed planning permission;
- Annex 3 – Site Location Plan;
- Annex 4 – Development Site;
- Annex 5 – Development Layout;
- Annex 6 – Below Ground Infrastructure Layout;
- Annex 7 – Above Ground Infrastructure Layout;
- Annex 8 – CAR licence;
- Annex 9 – HRA: Loch Ashie SPA;
- Annex 10 – HRA: Rover Moriston SAC.

Description of the Development

The Development is a pumped storage hydro facility. It is located approximately 14 kilometres south west of Inverness within the Highland Council planning authority area

The principal components of the Development comprise,:

1. Headpond

The upper reservoir;

2. Embankment

The structure which encircles the headpond designed to retain the water therein;

3. Tailpond

The lower reservoir;

4. Tailpond Inlet/Outlet Structure (permanent)

Where the waterways enter the Tailpond. Comprised of a partially submerged structure constructed into Loch Ness with wave walls, screening and cleaning system;

5. A jetty (permanent)

Constructed into Loch Ness to be used for accessing the Inlet / Outlet Structure during operation for maintenance.

6. Cofferdam (temporary)

A water-tight, temporary structure that will encircle the area required for Tailpond works;

7. A jetty (temporary)

This will be built constructed out into Loch Ness to facilitate the building of the Cofferdam.

8. Compounds (4)

Areas for equipment and material storage, access to the Waterways and Tunnels, site office and welfare facilities.

9. Battery Houses;

10. Substation;

11. Access tracks;

12. Security fencing;

13. Borrow pits;

14. Conveyor belt (temporary)

To be used to transport material generated from the underground excavation of the Waterways and other tunnelling works up to the Headpond area to be used as Embankment fill.

15. Surge Tanks;

Underground safety features that accommodate changes in pressure along the Waterways;

16. Power Cavern

Will contain the mechanical and electrical equipment for generating electricity;

17. Tunnels

For access and construction/emergency access during operational phase from Compound 1 to the Power Cavern;

18. Underground power station and waterway System

A series of underground intakes, chambers and tunnels carrying water will connect the upper and lower reservoirs, through the underground power station

All as more detailed in the description in the EIA report, Volume 2, Chapter 2: Project & Site Description (sections 2.3 – 2.10)

Conditions Attached to Section 36 Consent

1. Commencement of development

- (1) The Commencement of development shall be no later than six (6) years from the date of this consent, or in substitution, such other period as the Scottish Ministers may direct in writing.
- (2) Written confirmation of the intended date of Commencement of development shall be provided to the Planning Authority and the Scottish Ministers no later than one calendar month before that date.

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

2. Non-assignment

- (1) This consent shall not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignment, with or without conditions.
- (2) The Company shall notify the Planning Authority and the Scottish Ministers in writing of the name of the assignee, principal named contact and contact details within fourteen days of the consent being assigned.

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

3. Serious incident reporting

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

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

Conditions Attached to Deemed Planning Permission

4. Implementation in accordance with approved plans and requirements of this consent

The Development shall be carried out in accordance with the plans and details set out in the Application, Environmental Impact Assessment Report, dated November 2018; Further Environmental Information (“FEI”) (including the submitted Schedule of Mitigation (EIA report Volume 5, Appendix 17.1: Mitigation Register) and any amendments made to this through the Further Environmental Information) dated May 2019; and Supplementary Information (including the submitted Schedule of Mitigation and any amendments made to this through the Further Environmental Information), dated October 2019, and in compliance with the following conditions.

Reason: *To identify the approved terms of the development consent and the need for additional approvals.*

5. Site investigation works

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 investigation works and enabling works and shall be submitted a minimum of 3 months in advance of the proposed date of commencement of any site investigation works.

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

6. Site enabling works

- (1) No development shall commence on the Site unless and until a programme of site enabling works, detailing the extent of the site enabling works as set out in Section 2.13 of the Environmental Impact Assessment Report, the area over which the works will take place and timings of such works (the ‘Site Enabling Works Programme’) has been submitted to and approved in writing by the Planning Authority, in consultation with SEPA and NatureScot. The Site Enabling Works Programme must as a minimum provide for the following:
 - (a) The full-time employment of a suitably qualified and experienced Ecological Clerk of Works, or equivalent, for the project, with specific responsibility for environmental management and the authority to take action when required, including stopping operations and implementing mitigation measures;
 - (b) The employment of a Planning Monitoring Officer, to discharge and to monitor compliance with this condition, including provision of a quarterly compliance report to the Council;
 - (c) A programme for environmental auditing and monitoring in and around the Site, before and during the Site Enabling Works, to include the establishment of an environmental checklist, to monitor and input into the

- planning of construction activities and ensure implementation of all environmental mitigation measures;
- (d) A site specific statement outlining drainage and sediment management for all areas that will be subject to enabling works and measures to limit above ground construction activities during periods of high rainfall, including weather forecasting and actions to be taken in advance of adverse forecasts;
 - (e) Working arrangements, including a programme for the phasing of operations, and particularly the movement of plant, materials and rock into, across and out of the site to minimise, so far as reasonably possible, impact on communities or businesses adjacent to or in close proximity to the Site. Such arrangements shall be set out having regard to road improvements and the route report required by Condition 18;
 - (f) Waste Management and Pollution Controls including contingency plans in case of pollution incidents;
 - (g) A programme of work for the evaluation, preservation and recording of any archaeological and historic features affected by the Development, including a timetable for investigation, all in accordance with the Highland Council Standards for Archaeological Work, which must be submitted for the written approval of the Planning Authority. The approved programme must be implemented in accordance with the agreed timetable for investigation unless otherwise agreed in writing with the Planning Authority;
 - (h) Details for the delivery, storage, loading and unloading of plant and materials to be used in constructing the Development, with particular regard for the deployment of HGVs and any abnormal loads;
 - (i) Measures to control the emission of dust and dirt during construction;
 - (j) Provision of welfare facilities on site during construction and the means of disposal of foul drainage;
 - (k) Measures to protect all existing public water, private water and drainage arrangements, with suitable back up arrangements in case of any disruption to these provisions from Site Enabling Works;
 - (l) An Access Management Plan to maintain public access and promote the general safety of walkers, cyclists, fishing and game stalking parties, canoeists and other marine users out-with the principal construction areas and access roads serving the Development during the Site Enabling Works. A key principle to be advanced within the Plan is to minimise restrictions on public access to important recreational facilities including the Great Glen Way and local hilltops;
 - (m) Wheel washing facilities to prevent vehicles associated with the Site Enabling Works from depositing mud or dirt on the public road network when leaving the Site; and,
 - (n) Lighting for Site Enabling Works which will minimise illumination, glare or light spillage outwith the site boundary.

(2) All Site Enabling Works must be carried out in accordance with the approved Site Enabling Works Programme unless otherwise agreed in writing with the Planning Authority.

Reason: *To ensure that all Site Enabling Works are carried out in a manner that minimises their impact on amenity and the environment, and that the mitigation measures contained in the EIA Report accompanying the application are fully implemented.*

7. Design details

(1) No development other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above shall commence until the final design details for the following elements of the development have been submitted to, and agreed in writing by, the Planning Authority:

- (a) Embankment and upper reservoir, including intakes and spillway;
- (b) Tunnel portals and vent shafts;
- (c) Cavern power station, substation and welfare facilities;
- (d) Tail race;
- (e) Temporary and permanent jetty and supporting quayside infrastructure on Loch Ness;
- (f) All above ground facilities including loch side structures, administration buildings, temporary buildings and associated external infrastructure and parking areas materials used for all permanent structures shall comprise natural rough-cut stone and natural slate as standard;
- (g) All roads, access tracks and water-crossings serving the Development including details on amendments to core paths and local forestry tracks. For the avoidance of doubt all tracks are to be shown in the proposed construction width and the operational width which should be the minimum size required for safe operation of the proposed development and be finished in a recessive dark coloured surface material;
- (h) The section of the C0164 public road to be realigned;
- (i) Borrow pits;
- (j) Site establishment areas;
- (k) Site compounds and work camps, inclusive of any and all landscaping designed to screen the work camp and details of surfacing which shall be a dark and recessive colour. For Compound 1 the details shall show details of all uses of the compound, with the final size being kept to a minimum and be no larger at any point in the development than shown on Figure 2.19 of EIAR Volume 3 dated November 2018 of the Environmental Impact Assessment Report;
- (l) All site boundary treatments and external lighting provisions. This shall include details of all directional and security lighting, required for the operation of the site. For the avoidance of doubt any and all lighting shall be dimmable and/or able to be switched off; and,
- (m) 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;

(2) 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 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.*

8. Peat management

- (1) No development other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above shall commence until a site-specific Soil and Peat Management Plan and a Materials Management Plan which includes detail of how disruption to peatland will be minimised has been submitted to, and agreed in writing by, the Planning Authority. For the avoidance of doubt the Peat Management Plan shall include:
- (a) Finalised details of any temporary peat storage areas which are outwith the footprint of the headpond.
 - (b) Finalised details of the peat re-use proposals between the embankments including finalised detailed layout and construction plans.
 - (c) Finalised proposal for peat disturbance within the inundation areas. This shall demonstrate that peat disturbance has been minimised as much as possible.
 - (d) Details shall include a geotechnical risk register which shall include detail on the ground risks associated with peat excavation, storage and reinstatement and mitigation measures proposed to minimise risks identified to the environment and site personnel.
- (2) For the avoidance of doubt any landscape embankments should not be built of peat, however peat could be used to dress the surface on lower slopes, if measures are taken to ensure that it is hydrological conductivity with the water table and stays wet. Thereafter all work must be carried out in accordance with the approved Plan.

Reason: *To ensure that the construction minimises in so far as reasonably practicable its impact on the local peat resource and in the interest of the safety of the environment and personnel.*

9. Programme of archaeological works

- (1) No development other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above shall commence until a programme of work for the evaluation, preservation and recording of any archaeological and historic features affected by the Development, including a timetable for investigation, all in accordance with The Highland Council Standards for Archaeological Work, has been submitted to, and agreed in writing by, the Planning Authority.
- (2) The approved programme shall be implemented in accordance with the agreed timetable for investigation. For the avoidance of doubt, a methodology statement, and detail on plan shall be provided on the relocation of any assets including Cathair Fhionn in consultation with the local community Gaelic group.

Reason: *In order to preserve the archaeological and historical interest of the Site and to ensure that the cultural heritage of the area is not significantly detrimentally impacted and in accordance with the mitigation outlined in in the submitted Further Environmental Information should archaeological investigation find that there are remains of Cathair Fhionn which is of local historic interest.*

10. Construction and Environmental Management Plan

- (1) No development other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above shall commence until a finalised Construction and Environmental Management Plan (CEMP) has been submitted to, and agreed in writing by, the Planning Authority. The CEMP shall as a minimum provide for the following:
- (a) An updated Schedule of Mitigation and processes to control changes from the agreed Schedule of Mitigation programme for environmental auditing and monitoring in and around the Site, before and during construction and for 18 months after the development and all onsite mitigation works and post construction restoration works are completed, the date of which shall be notified to the planning authority, to include the establishment of an environmental checklist, to monitor and input into the planning of construction activities and ensure implementation of all environmental mitigation measures;
 - (b) Production of an environmental and ecological constraints plan highlighting all environmental buffers within the Development site, micro-siting restrictions for all track developments across the site and any agreed exceptions agreed with the planning authority in consultation with SEPA, NatureScot and other relevant bodies;
 - (c) Details of all pre construction surveys of wildlife and plants, together with appropriate mitigation measures for all protected species to ensure all contractors are made aware of the possible presence of and the required mitigation and the laws for protected species;
 - (d) A site-specific statement outlining drainage and sediment management for all construction areas and measures to limit above ground construction activities during periods of high rainfall, including weather forecasting and actions to be taken in advance of adverse forecasts;
 - (e) Working arrangements, including a programme for the phasing of operations, and particularly the movement of plant, materials and rock into, across and out of the site to minimise, so far as reasonably possible, impact on communities or businesses adjacent to or in close proximity to the Site;
 - (f) Waste Management and Pollution Controls including contingency plans in case of pollution incidents;
 - (g) A construction stage Landscape Management Plan which shall include detail on the phased delivery of restoration of the application site throughout each phase of the development;
 - (h) A Dust Management Plan;
 - (i) Provision of welfare facilities on site during construction and the means of disposal of foul drainage;
 - (j) Measures to protect all existing public water, private water and drainage arrangements, with suitable back up arrangements in case of any disruption to these provisions from construction activity;
 - (k) Full details of all external lighting to be used within the site and/or along its boundaries and/or access this shall include full details of the location, type, angle of direction and wattage of each light which shall be so positioned and angled to prevent any direct illumination, glare, light spillage or skyglow outwith the site boundary. All security lighting shall be movement activated;
 - (l) Post construction Site Restoration Plan to include full details of any and all landscaping, reduction in track sizes to the minimum width required for safe operation of the site, borrow pit restoration and removal of any and

- all temporary structures placed on the site for the purposes of construction;
and
- (m) Full details of the removal and shredding of tree stumps and brash from the site.

(2) All works must be carried out in accordance with the approved CEMP.

Reason: *To ensure the impacts of construction are well understood by all parties involved with the construction of the project and that best practices are deployed to mitigate the expected impacts of the Development on the local environment both generally and with regard to specific resources or features.*

11. Loch Ashie and River Moriston Mitigation Plan

No development, other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above, shall commence until a Loch Ashie and River Moriston Mitigation Plan, detailing processes to implement and audit the specific mitigation measures (as set out in the EIA report Volume 5, Appendix 17.1: Mitigation Register) required to mitigate effects on the Loch Ashie SPA and the River Moriston SAC, has been submitted and approved in writing by the Planning Authority in consultation with NatureScot and SEPA.

Reason: *To ensure that the mitigation measures, required to ensure there are no impacts on the integrity of the Loch Ashie SPA and the River Moriston SAC, are undertaken.*

12. Habitat Management Plan

- (1) No development other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above shall commence until a Habitat Management Plan has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot and RSPB Scotland. The Habitat Management Plan shall set out proposed habitat management of the application site during the period of construction, operation, and any aftercare of the site.
- (2) The approved habitat management plan will include provision for regular monitoring and review, with the first review to be undertaken on the first-year anniversary of final commissioning of the project and every 5 years thereafter, to consider whether amendments are needed to better meet the Habitat Management 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 NatureScot and SEPA.
- (3) Unless otherwise agreed in advance in writing with the Planning Authority, the approved Habitat Management Plan shall be implemented in full.

Reason: *In order to ensure that impacts on protected species, ecological and ornithological interests are satisfactorily mitigated.*

13. Ecological Clerk of Works

- (1) No development other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above shall commence until an independent Ecological Clerk of Works (“ECoW”) has been appointed, such appointment to be approved in writing by the Planning Authority. The terms of appointment shall:
- (a) Impose a duty to monitor compliance with the ecological, ornithological and hydrological commitments provided in the Environmental Impact Assessment Report entitled Environmental Statement dated November 2018 and Further Environmental Information dated May 2019 lodged in support of the application and detail agreed in any subsequently approved Construction Environmental Management Plan, Peat Management Plan, Habitat Management Plan, Landscape and Ecological Management Plan, Species Protection Plan, Bird Protection Plan, Water Quality Management Plan and other plans approved in terms of the conditions of this permission (“the ECoW Works”);
 - (b) Impose a duty to monitor compliance with the Loch Ashie and River Moriston Mitigation Plan set out in Condition 11 in respect of protecting the integrity of Loch Ashie SPA and River Moriston SAC;
 - (c) Require the ECoW to report to the nominated construction project manager any incidences of non-compliance with the ECoW Works at the earliest practical opportunity and stop the job where any breach has been identified until the time that it has been reviewed by the construction project manager;
 - (d) Require the ECoW to submit a monthly report to the Planning Authority summarising works undertaken on the site; and
 - (e) Require the ECoW to report to the appropriate statutory body, and the Planning Authority, any incidences of non-compliance with the ECoW Works at the earliest practical opportunity.
- (2) The ECoW shall be appointed on the approved terms throughout the period from Commencement of development, throughout any period of construction activity, during any period of post construction restoration works approved as part of the Construction Method Statement and during the establishment of the Habitat Management Plan.

Reason: *To protect ecological interests and the integrity of Loch Ashie SPA and River Moriston SAC.*

14. Borrow pits

- (1) No development other than site investigation works and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above shall commence until a site specific scheme for the working and restoration of each borrow pit forming part of the Development has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. The scheme shall include:
- (a) A detailed prioritisation plan for all borrow pits on site;
 - (b) A detailed working method statement based on site survey information and ground investigations;
 - (c) Details of the handling of any overburden (including peat, soil and rock);

- (d) Drainage, including measures to prevent surrounding areas of peatland, water dependant sensitive habitats and Ground Water Dependant Terrestrial Ecosystems (GWDTE) from drying out;
- (e) A programme of implementation of the works described in the scheme; and
- (f) Full details of the reinstatement, restoration and aftercare of the borrow pit(s) at the end of the construction period, to include topographic surveys of pre-construction profiles, and details of topographical surveys to be undertaken of the restored borrow pit profiles.

(2) The approved scheme shall thereafter be implemented in full.

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

15. Traffic management

No development other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to, and agreed in writing by, the Planning Authority. The CTMP, which shall be implemented as approved during all period of construction and decommissioning, must include:

- (a) A description of all measures to be implemented by the developer in order to manage traffic during the construction phase (incl. routing strategies), with any additional or temporary signage and traffic control undertaken by a quality assured traffic management consultant.
- (b) The identification and delivery of agreed upgrades to the public road network to ensure they are to a standard capable of accommodating construction related traffic (including the formation or improvement of any junctions leading from the site to the public road) to the satisfaction of The Highland Council and Transport Scotland, including:
 - (i) An initial route assessment report for abnormal loads and construction traffic, including swept path analysis and details of the movement of any street furniture, any traffic management measures and any upgrades and mitigations measures as necessary;
 - (ii) A videoed trial run to confirm the ability of the local road network to cater for abnormal indivisible load deliveries. Eight weeks' notice of this trial run must be made to the local Roads Authority who must be in attendance;
 - (iii) No deliveries by abnormal indivisible loads shall take place until a final assessment of the capacity of existing bridges and structures along the abnormal indivisible load delivery route is carried out and submitted to and approved by the Planning Authority and full engineering details and drawings of any works required to such structures to accommodate the passage of abnormal indivisible loads have been submitted to and approved by the planning authority, thereafter the approved works shall be completed prior to the abnormal indivisible load deliveries to the site.

- (c) A risk assessment for the transportation of abnormal loads to site during daylight hours and hours of darkness.
- (d) Details for the delivery, storage, loading and unloading of plant and materials to be used in constructing the Development, with particular regard for the deployment of HGVs and any abnormal loads.
- (e) A contingency plan prepared by the abnormal load haulier. The plan shall be adopted only after consultation and agreement with the Police and the respective roads authorities. It shall include measures to deal with any haulage incidents that may result in public roads becoming temporarily closed or restricted.
- (f) A procedure for the regular monitoring of road conditions and the implementation of any remedial works required during construction period.
- (g) A detailed protocol for the delivery of abnormal loads/vehicles, prepared in consultation and agreement with interested parties. The protocol shall identify any requirement for convoy working and/or escorting of vehicles and include arrangements to provide advance notice of abnormal load movements in the local media. Temporary signage, in the form of demountable signs or similar approved, shall be established, when required, to alert road users and local residents of expected abnormal load movements. All such movements on Council maintained roads shall take place out with peak times on the network, including school travel times, and shall avoid local community events.
- (h) Details of appropriate traffic management which shall be established and maintained at the site access for the duration of the construction period. Full details shall be submitted for the prior approval of The Highland Council, as roads authority.
- (i) Wheel washing measures to ensure water and debris are prevented from discharging from the site onto the public road.
- (j) Measures to ensure that construction traffic adheres to agreed routes.
- (k) A concluded agreement in accordance with Section 96 of the Roads (Scotland) Act 1984 under which the developer is responsible for the repair of any damage to the local road network that can reasonably be attributed to construction related traffic. As part of this agreement, pre-start and post construction road condition surveys must be carried out by the developer, to the satisfaction of the Roads Authority. It will also require the submission of an appropriate financial bond acceptable to the Council in respect of the risk of any road reconstruction works.
- (l) A plan detailing sensitive locations along the proposed routes including in front of primary schools.
- (m) A scheme for mitigating any and all cumulative construction traffic impacts of this scheme with any other large-scale construction project which will utilise the same elements of the local road network and path network as the approved Development. This shall include, but not be limited to, consideration of the cumulative traffic impact of the proposed new underground water main scheme from Dores to Loch Ashie.

Reason: *To maintain safety for road traffic and the traffic moving to and from the Development, and to ensure that the transportation of abnormal loads will not have any detrimental effect on the road network.*

16. Workforce management

- (1) No development other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above shall commence until a Workforce Access Management Plan has been submitted to and approved in writing by the Planning Authority. The Plan shall include:
 - (a) all the measures that will be implemented and all steps taken to reduce the impact of construction traffic from cars and light goods vehicles on the local road network by the workforce when travelling to and from the Development site;
 - (b) the delivery of a 250 space park and ride facility and associated infrastructure and bus service to be located at Stadium Drive, Inverness, or any other location agreed by the Planning Authority; and
 - (c) details of any other measure to be utilised to require the workforce to utilise communal transport options.
- (2) The Workforce Management Plan shall be reviewed on an annual basis on the anniversary of Commencement of development and each anniversary thereafter until the completion of the construction and post construction site restoration. Any modifications to the Workforce Management Plan shall be submitted to an approved in writing by the Planning Authority.
- (3) The approved Workforce Management Plan and all mitigation included therein shall be implemented prior to the Commencement of development, and shall remain in operation from commencement of development until completion of the post construction site restoration.

Reason: *In order to secure the developers commitment to utilise a park and ride to minimise the number of workers and contractors travelling to and from the site in private vehicles.*

17. Delivery and abnormal loads

- (1) No development other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above shall commence until a scheme which details the delivery mechanism of construction materials, Development components, plant and machinery via the canal and road network is submitted to, and approved in writing by, the Planning Authority, in consultation with Scottish Canals. For the avoidance of doubt this shall include:
 - (a) Confirmation that the tunnel boring machine shall be delivered via the canal network;
 - (b) Details of the delivery schedule and delivery mechanism for all construction materials, Development components plant and other machinery ensuring the use of the local road network is minimised and the use of the canal is maximised;
 - (c) Details on the delivery of any mitigation required to enable delivery via the canal;
 - (d) An agreement between the Company, their contractor and Scottish Canals ensuring the navigational use of the canal for recreation is not adversely affected by the delivery schedule.

- (2) The outcome of all necessary technical investigations, consultations and agreements secured by the applicable stakeholders to secure the above.

Reason: *To maintain safety for road traffic and the traffic moving to and from the Development via the canal network, and to ensure that the transportation of abnormal loads will not have any detrimental effect on the road network or canal network.*

18. Road improvements

- (1) No development other than site investigation and enabling works as defined by the scheme to be submitted and approved in Conditions 5 and 6 above shall commence until a Road Improvement Plan including physical road improvements has been submitted to, and agreed in writing by, the Planning Authority. This shall include the delivery of:
- (a) improvements to section of the B851 and B862 which the local roads authority determine are physically incapable of safely serving the predicated construction traffic, in addition to base traffic. In these sections the improvements shall include but not necessarily limited to:
 - (i) Twin Track Widening in open road sections;
 - (ii) Village Improvement Schemes within the villages, in keeping with the South Loch Ness Road Improvement Strategy.
 - (b) any additional mitigation identified in the Construction Traffic Management Plan once implemented, and through feedback gained from the Community Liaison Group.
 - (c) a signed Section 48 agreement under the Roads (Scotland) Act 1984 which sets out the funding mechanism and the scope of works carried out by each party.
- (2) The agreed road improvements shall be implemented and operational prior to any construction works or development commencing on the Development site other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above.

Reason: *In order to secure a proportionate level of road improvements to safeguard the local road network and local communities due to the increased numbers of HGV and workers traffic which will be generated and the ability of the network to cope with the increased vehicular movements.*

19. Construction traffic

For the avoidance of doubt the C1076, C1068, B861 and U1084 shall at no time be utilised for construction access purposes for the Development and all construction related traffic should be prevented from utilising these routes except where approved routes are blocked and the works are required in relation to health and safety of the site.

Reason: *To ensure that construction traffic will not have any detrimental effect on the road and in the interest of road safety.*

20. Signage for abnormal loads

During the delivery period of abnormal loads any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed must be undertaken by a recognised traffic management consultant, to be approved by Transport Scotland before delivery commences.

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

21. Abnormal roads route

Prior to commencement of deliveries to the site, the proposed route for any abnormal loads on the trunk road network must be approved by the trunk roads authority. Any accommodation measures required including the removal of street furniture, junction widening and traffic management must also be approved in writing.

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.*

22. Road condition surveys

No development other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above shall commence until a scheme for the regular monitoring of road conditions inclusive of a strategy and commitment to undertake any remedial works required as a result of the development to the local road network during the construction period has been submitted to and approved in writing by the Planning Authority. Thereafter the approved scheme shall be implemented prior to Commencement of development other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above and remain in force until the completion of the post-construction restoration works.

Reason: *To ensure that the current road condition is surveyed prior to development commencing in order the Roads Authority can secure any remediation to damage which may occur as a result of the intensified use of the existing road geometry during the construction period.*

23. Road condition remediation agreement

No development shall commence until a concluded agreement in accordance with Section 96 of the Roads (Scotland) Act 1984 under which the Company is responsible for the repair of any damage to the local road network that can reasonably be attributed to construction related traffic. As part of this agreement, pre-start and post-construction road condition surveys must be carried out by the Company, to the satisfaction of the Roads Authority. It will also require the submission of an appropriate financial bond acceptable to the Council in respect of the risk of any road reconstruction works.

Reason: *To ensure that the current road condition is surveyed prior to development commencing in order the Roads Authority can secure any remediation to damage which may occur as a result of the intensified use of the existing road geometry.*

24. Public access

- (1) No development other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above shall commence until an Access Management Plan has been submitted to, and agreed in writing by, the Planning Authority. The plan should ensure that public access is retained across the entire application site during construction; and provided during the operational phase of the Development. For the avoidance of doubt an updated Access Management Plan shall include:
 - (a) Detail on design, materials and drainage features as set out in the Lowland Path Construction guide and Upland Path Construction Standards. For the avoidance of doubt this shall include detail on the base, sub-base and surface material which will require to be processed on-site and used to reinstate paths and tracks to the stated and recognised standards; and,
 - (b) Detail on plan of the construction of all paths and drainage features as well as the reinstatement and upgrading of existing paths and tracks.
- (2) The agreed plan shall thereafter be implemented at a timescale to be agreed with the Planning Authority.

Reason: *To ensure that the Development is adequately connected with existing and proposed pedestrian and cycle routes and to accord with the Land Reform (Scotland) Act 2003.*

25. Community liaison

- (1) No development, other than the site investigation works approved in Condition 5 above shall commence until a scheme for the establishment and management of a Community Liaison Group (“CLG”) has been submitted to, and agreed in writing by, the Planning Authority. The purpose of the CLG shall be to discuss the progress of both the construction of the Development and in the first two years of operation. The CLG shall sustain an open invitation to representatives of Dores and Essich Community Council, Stratherrick and Foyers Community Council, Strathnairn Community Council, Inverness West Community Council and Holm Community Council; Elected Members of the Highland Council representing the Aird and Loch Ness Ward; and residents within 5km of the Development site.
- (2) The agreed plan shall thereafter be implemented, including a general timetable to ensure meetings are held in advance of critical periods of construction activity or on a reasonably regular basis to facilitate purposeful community engagement.

Reason: *To provide for effective community consultation on the development and operation of the substation in its early years.*

26. Noise during construction

- (1) A Noise Management Plan, including details of the timing and methodology of any blasting associated with the Development, outlining steps to be taken to reasonably minimise all principal sources of noise, and vibration activities that are likely to be audible beyond the Site boundary is to be submitted to, and agreed in writing by, the Planning Authority. The Noise Management Plan shall also include measures for community liaison to advise on the timing and duration of blasting activities. This shall identify locations at the property currently known as Ach-na-Sidhe, and on the north side of Loch Ness at Abriachan and Lochend for the placement of noise monitoring equipment throughout the construction period. Noise arising from construction works associated with this Development shall not exceed the following limits as calculated or measured at the curtilage of any noise sensitive property:
 - (a) Monday to Friday 8am to 6pm 55dB, LAeq 1 hour;
 - (b) Monday to Friday 6pm to 10pm, 45dB LAeq 1 hour;
 - (c) Saturdays 8am to 1pm, 55dB LAeq 1 hour;
 - (d) Saturdays 1 pm to 6pm, 45dB LAeq 1 hour;
 - (e) Out-with the above times, noise from construction related activities shall not exceed 35dB LAeq 1 hour;
 - (f) Noise levels from the construction of baffle mounds may exceed 55dB LAeq 1 hour but not 70dB LAeq 1 hour for up to 8 weeks in any year.
- (2) Construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the curtilage of any noise sensitive property should not take place at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended) unless otherwise agreed in writing by the Planning Authority.

Reason: *In order to limit the duration and frequency of noise from construction related activities in the interest of community and residential amenity.*

27. Vibration limits – duration and frequency

- (1) The peak particle velocity generated by construction activities shall not exceed 5mm per second as measured at any dwelling or other sensitive property. This applies to all operations other than blasting. For blasting, it is expected that the best practicable measures will be employed to minimise the impact of noise and vibration.
- (2) For activities where vibration is perceptible at any sensitive property, the hours of operation shall be as follows:
 - (a) Monday to Friday 8am to 6pm;
 - (b) Saturdays 8am to 1pm.
- (3) At all other times and including Easter and Christmas/New Year bank and public holidays; operations for which vibration is perceptible within any noise sensitive property are not permitted.

Reason: *In order to limit the duration and frequency of vibration from construction related activities in the interest of community and residential amenity.*

28. Noise during operation

- (1) All plant, machinery and equipment associated with this Development shall be so installed, maintained and operated such that the following standards are met:
 - (a) Between 2300 hrs and 0700 hrs, any associated operating noise must not exceed NR 20 when measured or calculated within the bedroom of any noise sensitive premises with windows open for ventilation purposes.
 - (b) Between 0700 hrs and 2300 hrs the operating noise Rating level must not exceed the Background noise level by more than 5dB(A) including any characteristics penalty.
- (2) Terms and measurements to be in accordance with BS4142: 2014 Methods for Rating Industrial & Commercial Sound.

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

29. Vibration limits

- (1) Vibration arising from construction works associated with this Development shall not exceed the following limits as measured or calculated at any noise sensitive property in accordance with BS 5228-2:2009+A1:2014 Code of practice for noise and vibration control on construction and open sites – Part 2: Vibration
 - (a) Monday to Friday from 8am to 6pm the peak particle velocity shall not exceed 5 mm·s⁻¹;
 - (b) Saturdays from 8am to 1pm the peak particle velocity shall not exceed 5 mm·s⁻¹;
 - (c) Out-with the above times, the peak particle velocity shall not exceed 0.3 mm·s⁻¹.
- (2) The above limits apply to all construction activities other than blasting. For blasting, it is expected that the best practicable measures will be employed to minimise the impact of noise and vibration.

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

30. Vibration - during operation

During operation of the Development the vibration dose value generated by this Development shall not exceed 0.1 m·s^{-1.75} as measured or calculated in accordance with BS 6472-2-2008 Part 1 Vibration sources other than blasting. Unless there is a clear difference between night time and day time operational activities this standard shall apply to both periods.

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

31. Private water supplies

No development other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above shall commence

until a method statement has been submitted to and approved in writing by the Planning Authority, detailing all mitigation measures to be delivered to secure the quality, quantity and continuity of water supplies to properties which are served by private water supplies at the date of this consent and which may be affected by the Development. The method statement shall include water quality sampling methods and shall specify abstraction points. The approved method statement shall thereafter be implemented in full.

Reason: *To maintain a secure and adequate quality water supply to all properties with private water supplies which may be affected by the Development.*

32. Compound areas

- (1) No development other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above shall commence until detail on the final design of all permanent and temporary compound areas has been submitted to, and agreed in writing by, the Planning Authority. For the avoidance of doubt this shall include:
 - (a) Detail on plan of a buffer of at least 10m between the top of the banks of all watercourse and excavation works;
 - (b) Demonstration on plan that areas of flood risk are avoided;
 - (c) Detail on the location and design of surface water drainage to be in line with SUDs principles as per CIRIA SUDs Manual C753;
 - (d) Demonstration that all surface water from new areas of hardstanding on site shall be collected, treated and discharged at the pre-development greenfield rate; and,
 - (e) The final layout of compound 1 shall be amended to avoid direct impacts on a M6 flush and minimise the impacts on the W4c wet woodland.
- (2) For the avoidance of doubt the final layout of compound 4 shall be amended to avoid direct impacts on an area of M23a and direct impacts on an M6 Flush. The development shall thereafter progress in accordance with the approved details.

Reason: *In order to allow the Planning Authority and SEPA to consider the matters in further detail as no information has been submitted and in order to minimise flood risk and detrimental impact on GWDTEs.*

33. Allt a Chruinachd burn

- (1) No development other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above shall commence until full details of the Allt a Chruinachd burn diversion has been submitted to, and agreed in writing by, the Planning Authority. For the avoidance of doubt the detail shall include:
 - (a) photographs of the burn in its current position;
 - (b) plans showing the proposed diversion and;
 - (c) proposed protective buffers to be put around the burn to protect it from surrounding engineering works.

- (2) For the avoidance of doubt the agreed details shall have been implemented at the burn prior to any other works commencing on site.

Reason: *In order to allow the Planning Authority and SEPA to consider the matter in further detail as no detail has been submitted.*

34. Materials management

- (1) No development other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above shall commence until a Material Management Plan has been submitted to, and agreed in writing by, the Planning Authority in consultation with SEPA. Detail should include:
- (a) Volume of material to be used;
 - (b) The manner in which it is to be used;
 - (c) Justification for the need for works.
- (2) For the avoidance of doubt there shall be no long-term storage of material on site and material should only be stored temporarily within the identified construction areas or within the head pond area and no material shall be used out with the head pond and landscape embankment without the prior written agreement of the Planning Authority.

Reason: *In order to ensure that all spoil and material is appropriately managed.*

35. Landscape and Ecological Management Plan

No development other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above shall commence until a Landscape and Ecological Management Plan (LEMP) has been submitted to, and agreed in writing by, the Planning Authority in consultation with NatureScot and SEPA. The approved plan will be reviewed and updated by the Developer to reflect ground condition surveys undertaken. For the avoidance of doubt the plan shall be updated to include:

- (a) Proposals for the enhancement of existing GWDTE habitats;
- (b) Demonstration of how new woodland planting follows SEPA's 'Practical guide for Forest Managements to assess and protect GWDTE when preparing woodland creation proposals' and how this protects existing GWDTE habitats;
- (c) Plans for a programme of invasive non-native species removal from the area and;
- (d) Any other environmental improvements that can be delivered to offset impacts.

Reason: *In order to allow the Planning Authority and SEPA to consider the matter in further detail in the interest of the water and natural environment.*

36. Forest Plan

- (1) No development other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above shall

commence, until a Forest Plan has been submitted to and approved by the Planning Authority, in consultation with Scottish Forestry. The Forest Plan shall follow the principles set out in the Forestry section of the EIA Report, and shall include woodland management proposals for the existing woodlands, and confirmation of the timing of restock planting of 82.8 hectares, to be temporarily removed in order to accommodate the construction phase of the Development and include a mixture of native woodland and commercial forestry.

- (2) The Plan shall be implemented in full during the first planting season following the completion of the Development or as otherwise agreed in writing by the Planning Authority, but in any case, prior to first commissioning of the pumped storage hydro scheme.

Reason: *To protect Scotland's woodland resource in accordance with the Scottish Government's policy on Control of Woodland Removal.*

37. Compensatory Planting Plan

- (1) No development other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above shall commence until a Compensatory Planting Plan has been submitted to and, following consultation with Scottish Forestry, approved in writing by the Planning Authority. The Compensatory Planting Plan must provide for compensatory planting of no less than 89.6 ha to replace existing forest areas that are to be permanently removed to accommodate the Development's permanent infrastructure, and must include as a minimum:
- (a) Full details of the proposed planting within the application site, including:
 - (i) the location of any and all area(s) to be planted;
 - (ii) the species composition and planting densities;
 - (iii) the landowners and occupiers of the land to be planted;
 - (iv) copies of the land agreements in place with the relevant landowner(s) which allow delivery of the compensatory planting.
 - (b) If the compensatory planting will not take place wholly within the application site, the following details require to be submitted and approved in writing by the Planning Authority in consultation with Scottish Forestry:
 - (i) the location of any and all alternative area(s) to be planted;
 - (ii) the species composition and planting densities;
 - (iii) the landowners and occupiers of the land to be planted;
 - (iv) copies of the land agreements in place with the relevant landowner(s) which allow delivery of the compensatory planting.
 - (c) Detail of the associated timescales for implementing the compensatory planting including any phasing;
 - (d) Detail of any statutory consents required to carry out the compensatory planting;
 - (e) Proposals for the maintenance, for a minimum period of 10 years, and the establishment of the compensatory planting, including the frequency of checks, suitable triggers for any necessary replacement planting (including timing of the aforementioned planting), fencing, ground preparation and drainage;

- (f) Proposals for reporting to the Planning Authority and Scottish Forestry on compliance with the timescale for obtaining the necessary consents and thereafter implementation of the compensatory planting scheme.

- (2) The approved Compensatory Planting Plan shall be implemented during the first planting season following Commencement of development, unless otherwise agreed in writing by the Planning Authority after consultation with Scottish Forestry.

Reason: *To protect Scotland's woodland resource, in accordance with the Scottish Government's policy on the Control of Woodland Removal.*

38. Tree Protection Plan

Prior to any site excavation or groundworks, a Tree Protection Plan, in accordance with BS5837: 2012 (Trees in Relation to Design, Demolition and Construction), shall be submitted to, and agreed in writing by, the Planning Authority. All retained trees are to be protected against construction damage using protective barriers located beyond the Root Protection Area. Barriers are to remain in place throughout the construction period and must not be moved or removed without the prior written agreement of the Planning Authority.

Reason: To ensure the protection of retained trees during construction and thereafter

39. Landscape management

- (1) No development shall commence other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above until a suitably qualified landscape consultant has been appointed, such appointment to be approved in writing by the Planning Authority. The terms of appointment shall:
 - (a) Impose a duty to monitor compliance with all approved landscape plans; and
 - (b) Landscape Management Plan;
 - (c) Submission of certificated of compliance for each stage of delivery of the landscape management plan;
 - (d) Require the landscape consultant to report to the nominated construction project manager any incidences of non-compliance with the approved landscape at the earliest practical opportunity and stop the job where any breach has been identified until the time that it has been reviewed by the construction project manager; and
- (2) The Landscape Architect shall be appointed on the approved terms from Commencement of development other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above, throughout any period of construction activity, during any period of post construction restoration works approved as part of any approved site restoration and implementation of any landscape management plans.

Reason: *To ensure that the whole site including headpond embankment and compounds are landscaped as agreed, and where applicable restored to the agreed standard in the interest of visual amenity with the designated landscape.*

40. Water levels

For the avoidance of doubt, the scheme shall not generate electricity through Hydro Power when the water level in Loch Ness is at, or above 17.6m AOD.

Reason: *In order to ensure that the Development will not have an impact on downstream water levels during high flow events.*

41. Decommissioning and Restoration Plan

- (1) No development shall commence other than site investigation and enabling works as defined by the schemes to be submitted and approved in Conditions 5 and 6 above until a Decommissioning and Restoration Plan (DRP) for the Site has been submitted to, and approved in writing by, the Planning Authority to be implemented if:
- (i) following a meaningful start to the Development, construction progress pauses for a period of time in excess of 12 months;
 - (ii) following first export of electricity, a period of 3 years of no export of electricity from the site; or
 - (iii) the site is no longer in use for energy storage.

The DRP shall include the following:

- (a) A scheme for the restoration of the site to be completed within 18 months of the end of the periods set out in scenarios (i), (ii) or (iii) above. This shall take account of best practice in restoration prevailing at the time and measures that site specific conditions, identified during construction of the site, and subsequent operation and monitoring of the Development are given due consideration. A copy shall be submitted to the Planning Authority for its written approval, in consultation with NatureScot and SEPA;
 - (b) Detail on the phased delivery of restoration of the application site throughout each phase of development;
 - (c) Justification for retention of any relevant elements of the Development;
 - (d) Full details of any and all landscaping, reduction in track sizes to the minimum width required for safe operation of the site, borrow pit restoration and removal of any and all temporary structures placed on the site for the purposes of construction;
 - (e) The treatment of disturbed ground surfaces;
 - (f) Environmental management provisions; and
 - (g) A traffic management plan to address any traffic impact issues during the decommissioning period.
- (2) This Condition shall not apply if the delay in development is out with the Company's control or as a consequence of any emergency or requirement of statutory bodies. In these instances the Planning Authority shall be informed of the construction or operational shutdowns, reasons for the shut downs and timescales for shut downs within 3 months of the shutdown. The DRP shall be implemented as approved.

Reason: *To ensure that all redundant aspects of infrastructure and associated development are removed from site should the Development not progress following a meaningful start to the development; in the interests of safety, amenity and environmental protection.*

42. Financial provision for site restoration

- (1) No development shall commence other than site investigation as defined by the scheme to be submitted and approved in Condition 5 above until:
 - (i) Full details of a guarantee, bond or other financial provision to be put in place to cover the site restoration measures approved under Condition 41 of this permission have been submitted to, and approved in writing by, the planning authority. For the avoidance of doubt the bond must be able to be called upon by The Highland Council; and
 - (ii) Confirmation has been submitted in writing to the Planning Authority by a suitably qualified independent professional that the amount of financial provision proposed under part (i) above is sufficient to meet the full estimated costs of all Site restoration, remediation and incidental work, as well as associated professional costs; and
 - (iii) The guarantee, bond or other financial provision approved under parts (i) and (ii) above is issued to the Planning Authority.

- (2) Thereafter, the Company, Operator, and Leaseholder and/or Landowner, shall:
 - (i) Ensure that the guarantee, bond or other financial provision is maintained throughout the duration of the Section 36 Consent; and
 - (ii) Review the guarantee, bond or other financial provision every five years after the Commencement of development and every five years thereafter until such time as the construction of the Development is complete and the Site restored.

- (3) Each review shall be:
 - (a) conducted by a suitably qualified independent professional; and
 - (b) submitted to the Planning Authority within three months of each five-year period ending; and
 - (c) approved in writing by the planning authority without amendment or, as the case may be, approved in writing by the Planning Authority following amendment to their reasonable satisfaction.

- (4) Where a review approved under part (c) above recommends that the amount of the guarantee, bond or other financial provision should be altered (be that an increase or decrease) or the framework governing the bond, guarantee or other financial provision requires to be amended, the Company, Operator, and Leaseholder and/or Landowner shall do so within one month of receiving that written approval, or within such another timescale as may be agreed in writing by the planning authority.

Reason: *To ensure financial security for the cost of the restoration of the site to the satisfaction of the Planning Authority.*

Definitions:

"**The Application**" means the application submitted on 15 November 2018;

"**Bank Holiday as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended)**" means:

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

"**Commencement of development**" means the date on which development shall be taken as begun in accordance with section 27 of the Town and Country Planning (Scotland) Act 1997

"**the Company**" means Intelligent Land Investments (ILI) (Highlands PSH) Ltd or such other person for the time being entitled to the benefit of the consent under section 36 of the Electricity Act 1989.

"**development**" means the implementation of the consent and deemed planning permission by the carrying out of a material operation within the meaning of section 27 of the Town and Country Planning (Scotland) Act 1997.

"**The Development**" means the Development described in Annex 1.

"**HES**" means Historic Environment Scotland.

NatureScot was formerly known as Scottish National Heritage ("SNH").

"**Public Holiday**" means Easter Monday and the third Monday in September.

"**SEPA**" means Scottish Environment Protection Agency.

"**Site enabling works**" means (i) exploratory or preparatory works or surveys required for the purpose of satisfying or discharging any pre-commencement obligations under the section 36 conditions or the planning conditions and (ii) the provision of temporary or permanent facilities required to mitigate the related to construction of the proposed Development and those that are necessary for the aforementioned (i) above.

"**Site investigation works**" means any works or surveys required for the purpose of satisfying or discharging any pre-commencement obligations under the section 36 conditions or the planning conditions.

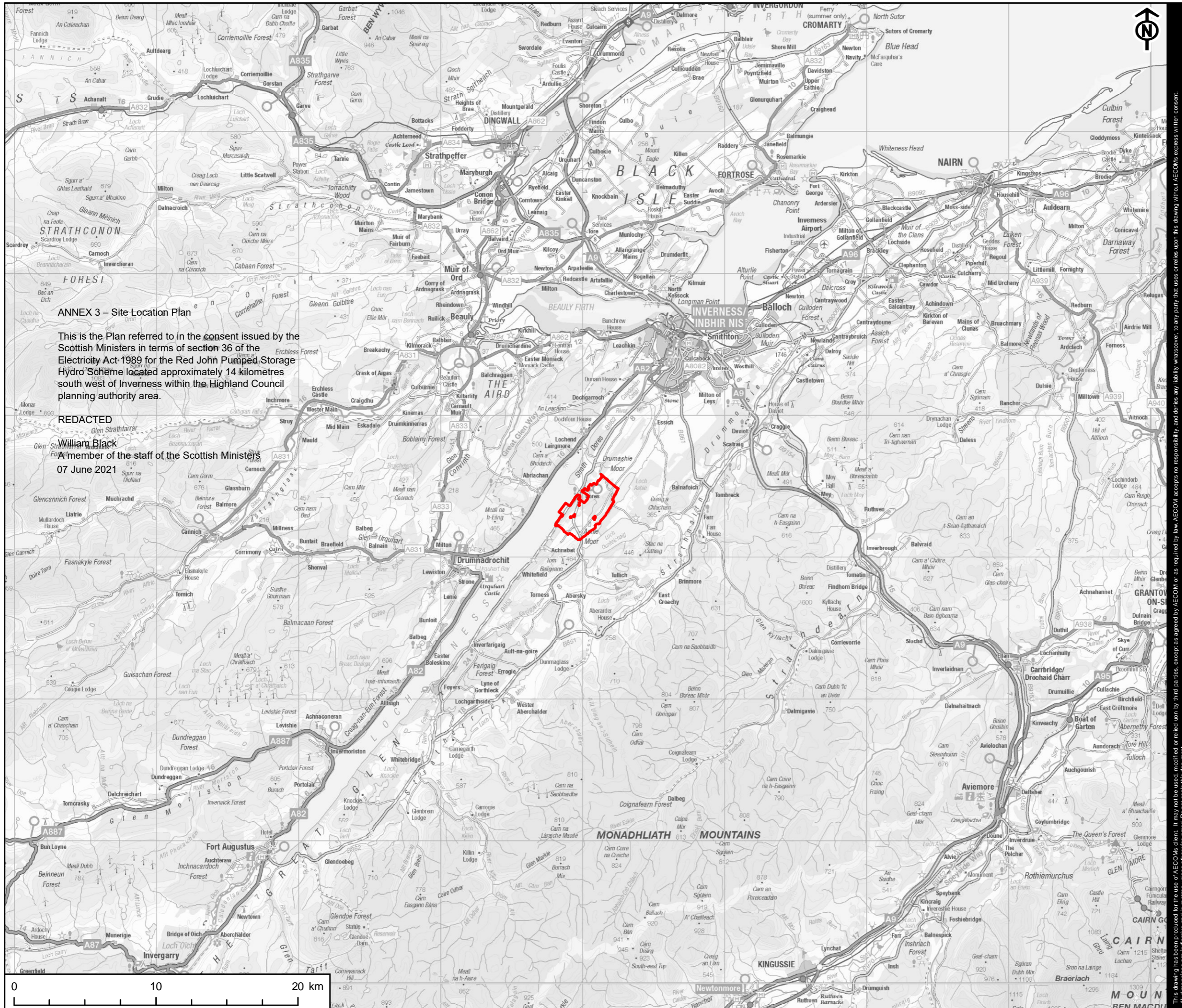
"**SNH**" means Scottish Natural Heritage (now known as NatureScot).

PROJECT
RED JOHN PUMPED STORAGE HYDRO

CLIENT
ILI (Highlands PSH) Ltd.

KEY
Development Site boundary

Project Management Initials: CA Designer: LC Checked: SY Approved: CS



ANNEX 3 – Site Location Plan

This is the Plan referred to in the consent issued by the Scottish Ministers in terms of section 36 of the Electricity Act 1989 for the Red John Pumped Storage Hydro Scheme located approximately 14 kilometres south west of Inverness within the Highland Council planning authority area.

REDACTED

William Black
A member of the staff of the Scottish Ministers
07 June 2021

TITLE
FIGURE 1.1
SITE LOCATION PLAN

REFERENCE
RJ_181030_EIA_1.1_v2

SHEET NUMBER
1 of 1

DATE
30/10/18

Scale @ A3 1:250,000

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PROJECT
RED JOHN PUMPED STORAGE HYDRO

CLIENT
ILI (Highlands PSH) Ltd.

KEY

- Development Site boundary
- Excluded from Development Site boundary

TITLE
FIGURE 1.2
THE PROPOSED DEVELOPMENT SITE

REFERENCE
RJ_181030_EIA_1.2_v2

SHEET NUMBER
1 of 1

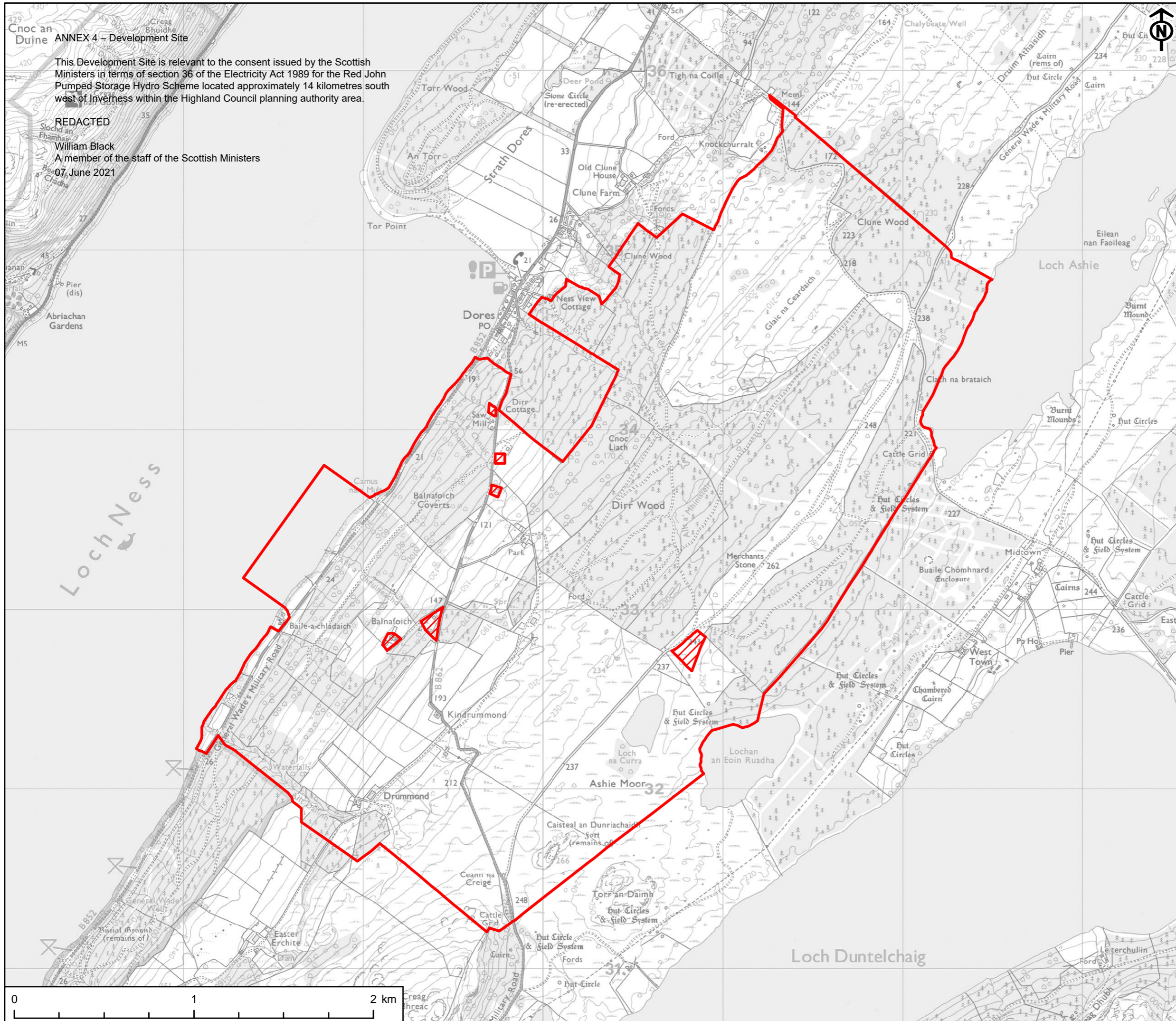
DATE
30/10/18

Project Management Initials: CA Designer: LC Checked: SY Approved: CS

ANNEX 4 – Development Site

This Development Site is relevant to the consent issued by the Scottish Ministers in terms of section 36 of the Electricity Act 1989 for the Red John Pumped Storage Hydro Scheme located approximately 14 kilometres south west of Inverness within the Highland Council planning authority area.

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William Black
A member of the staff of the Scottish Ministers
07 June 2021



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PROJECT
RED JOHN PUMPED STORAGE HYDRO

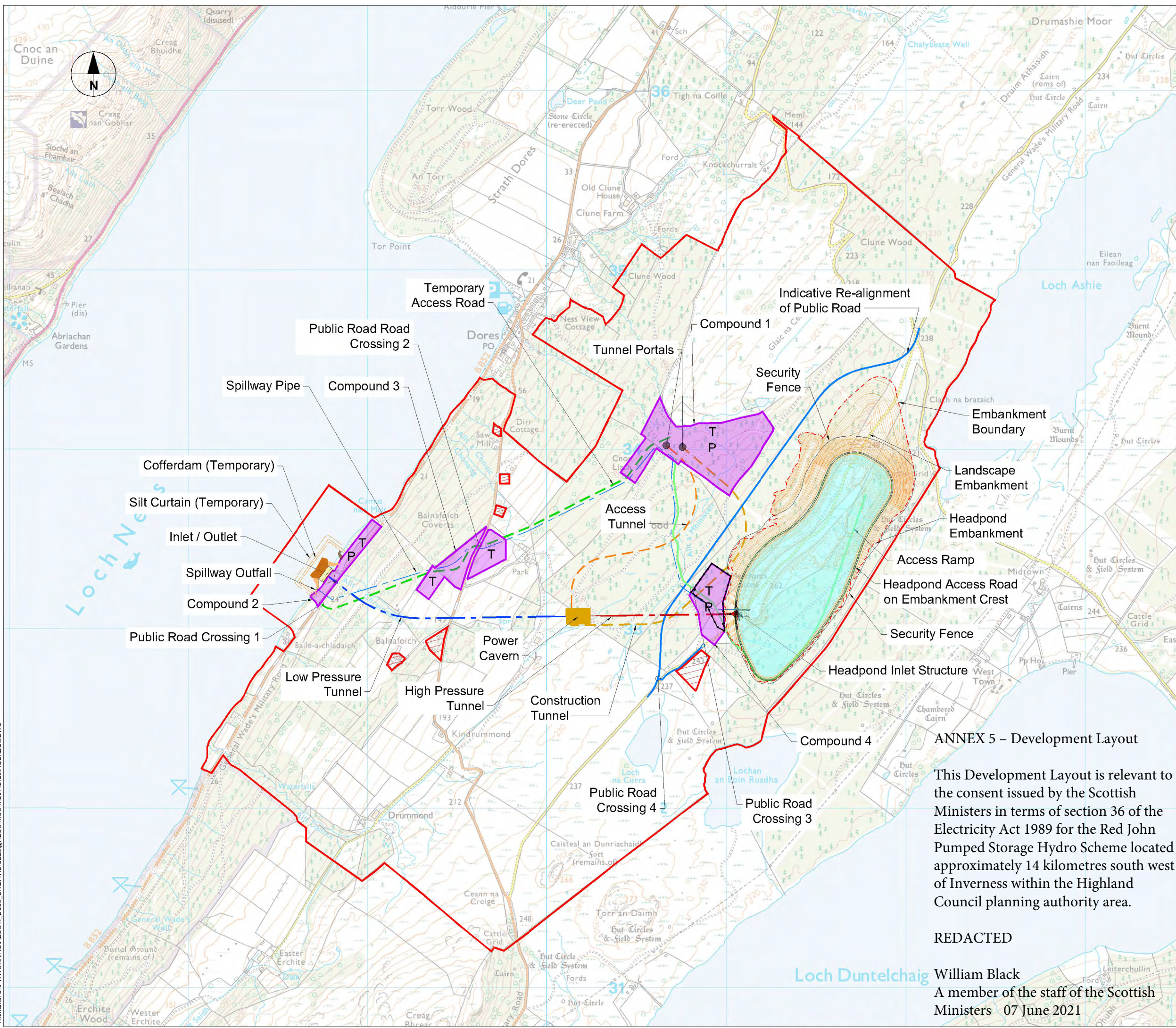
CLIENT
ILI (Highlands PSH) Ltd.

KEY

- Development Site Boundary
- Public Road - Permanent Realignment
- Access Road - Permanent
- - - Access Road - Temporary
- - - Access Tunnel
- - - Construction Tunnel
- - - High Pressure Tunnel
- - - Low Pressure Tunnel
- Tunnel Access Portal
- Power Cavern (Underground)
- - - Spillway Pipeline (Underground)
- T/P Temporary Construction or Permanent Compounds
- Area Excluded From Development Site Boundary

Project Management Initials: CA Designer:AW Checked:DL Approved:CA

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- NOTES**
1. All dimensions are indicative and in metres unless otherwise noted. Do not scale.
 2. All levels in metres and reduced to ordnance datum unless otherwise noted.

ANNEX 5 – Development Layout

This Development Layout is relevant to the consent issued by the Scottish Ministers in terms of section 36 of the Electricity Act 1989 for the Red John Pumped Storage Hydro Scheme located approximately 14 kilometres south west of Inverness within the Highland Council planning authority area.

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William Black
A member of the staff of the Scottish Ministers
07 June 2021

TITLE
FIGURE 2.3
THE DEVELOPMENT LAYOUT

REFERENCE
RJ_181004_EIA2.3_v1

SHEET NUMBER 1 of 1
DATE 04/10/18

PROJECT
 RED JOHN PUMPED STORAGE HYDRO
CLIENT
 ILI (Highlands PSH) Ltd.
KEY

- Development Site Boundary
- Access Tunnel
- Construction Tunnel
- - - High Pressure Tunnel
- - - Low Pressure Tunnel
- Power Cavern (Underground)
- Spillway (Underground)
- Area Excluded From Development Site Boundary

NOTES

1. All dimensions are indicative and in metres unless otherwise noted. Do not scale.
2. All levels in metres and reduced to ordnance datum unless otherwise noted.

TITLE

FIGURE 2.5
 THE DEVELOPMENT LAYOUT
 BELOW GROUND

REFERENCE

RJ_181004_EIA2.5_v1

SHEET NUMBER

1 of 1

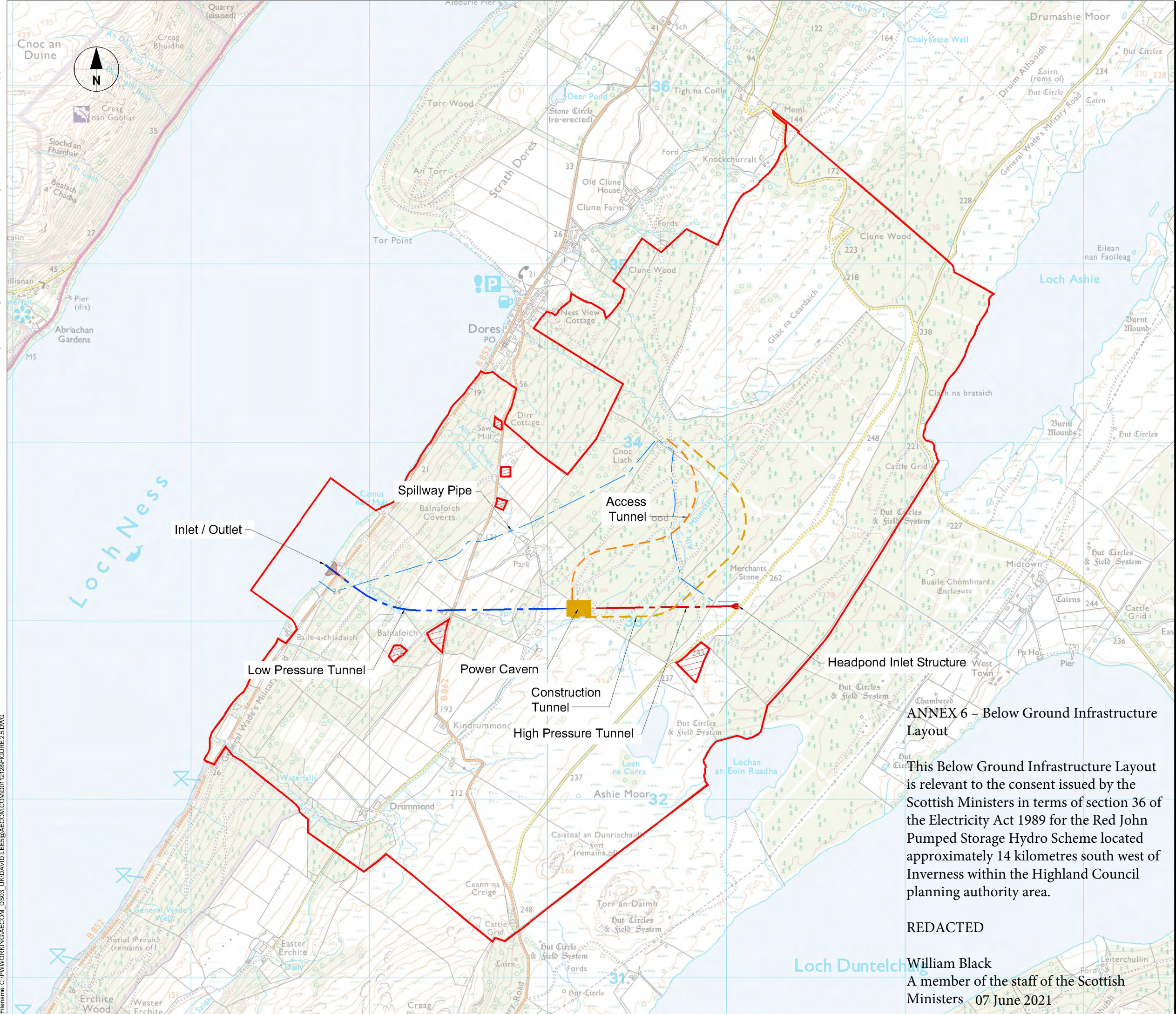
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ANNEX 6 – Below Ground Infrastructure Layout

This Below Ground Infrastructure Layout is relevant to the consent issued by the Scottish Ministers in terms of section 36 of the Electricity Act 1989 for the Red John Pumped Storage Hydro Scheme located approximately 14 kilometres south west of Inverness within the Highland Council planning authority area.

REDACTED

William Black
 A member of the staff of the Scottish
 Ministers 07 June 2021

PROJECT
 RED JOHN PUMPED STORAGE HYDRO
CLIENT
 ILI (Highlands PSH) Ltd.
KEY

- Development Site Boundary
- Public Road - Permanent Realignment
- Access Road - Permanent
- - - Access Road - Temporary
- Headpond & Water Surface
- Tunnel Access Portal
- Temporary Construction or Permanent Compounds
- Area Excluded From Development Site Boundary

NOTES

1. All dimensions are indicative and in metres unless otherwise noted. Do not scale.
2. All levels in metres and reduced to ordnance datum unless otherwise noted.

TITLE
 FIGURE 2.4
 THE DEVELOPMENT LAYOUT
 ABOVE GROUND

REFERENCE
 RJ_181004_EIA2.4_v1

SHEET NUMBER 1 of 1
DATE 04/10/18

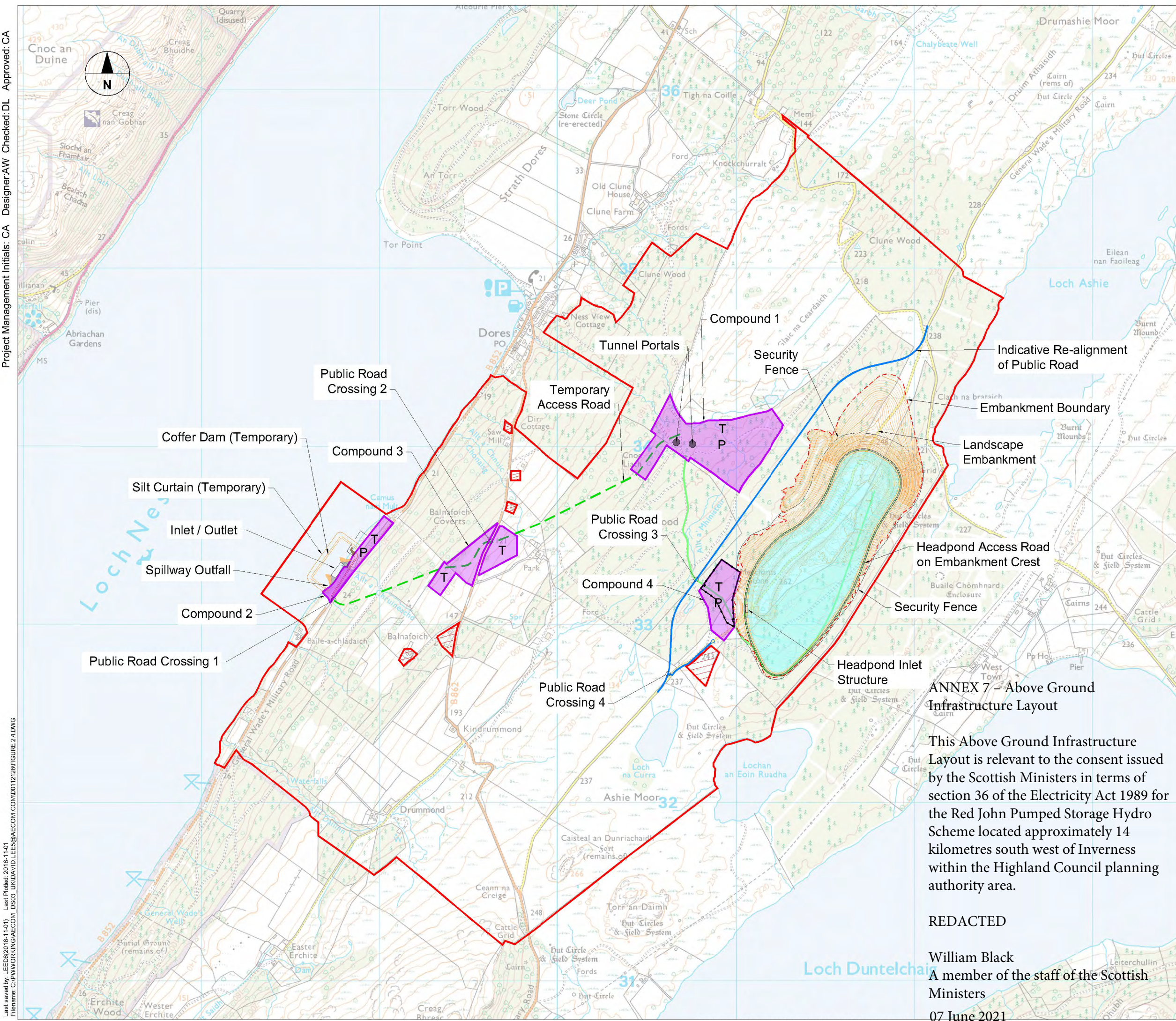
ANNEX 7 - Above Ground Infrastructure Layout

This Above Ground Infrastructure Layout is relevant to the consent issued by the Scottish Ministers in terms of section 36 of the Electricity Act 1989 for the Red John Pumped Storage Hydro Scheme located approximately 14 kilometres south west of Inverness within the Highland Council planning authority area.

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William Black
 A member of the staff of the Scottish Ministers

07 June 2021



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Scottish Environment
Protection Agency

Buidheann Dion
Àrainneachd na h-Alba

Our Ref: CAR/L/1176082

Your Ref:

16 SEP 2019

ILI (Highlands PSH) Limited
The Shires
33 Bothwell Road
Hamilton
ML3 0AS

FAO: Company Secretary

13 September 2019

Dear Sirs

WATER ENVIRONMENT (CONTROLLED ACTIVITIES) (SCOTLAND) REGULATIONS 2011 ("THE REGULATIONS")

LETTER ISSUING AUTHORISATION

APPLICATION ID: CAR/L/1176082

APPLICANT: ILI (HIGHLANDS PSH) LIMITED

LOCATION: RED JOHN PUMPED HYDRO SCHEME, LOCH NESS, DORES, INVERNESS

Thank you for your application which we received on 19 December 2018. We have considered the application and decided to grant an authorisation subject to conditions with reference number CAR/L/1176082. The conditions are set out in the schedules attached to the authorisation. Failure to comply with any of these conditions is an offence under the Regulations.

There is a right of appeal against the terms or conditions of the enclosed authorisation. Notice of any appeal including a statement of the grounds of appeal must be given in writing to the Scottish Ministers within three months of the date of the enclosed authorisation. A copy of the appeal should also be forwarded to SEPA. The bringing of an appeal will not suspend the operation of the said condition or conditions. Appeals should be sent to:

**Planning and Environmental Appeals Division, 4 The Courtyard, Callendar Business Park,
Callendar Road, Falkirk, FK1 1XR**

Tel: 0300 244 6668, Fax: 0131 244 8990

Email: DPEA@gov.scot

If you have any questions regarding this letter please contact Ross Hall at SEPA's Western Isles Office, 2 James Square, James Street, Stornoway, Isle of Lewis, HS1 2QN or telephone 01851 706477.

Yours faithfully

REDACTED

Paul Griffiths
Unit Manager
Hebrides & Central Highland Team



Chairman
Bob Downes

SEPA Dingwall Office

Graesser House, Fodderty Way,
Dingwall Business Park, Dingwall IV15 9XB

16 SEP 2019

Reference number: CAR/L/1176082

**SCOTTISH ENVIRONMENT PROTECTION AGENCY
WATER ENVIRONMENT AND WATER SERVICES (SCOTLAND) ACT 2003
WATER ENVIRONMENT (CONTROLLED ACTIVITIES) (SCOTLAND)
REGULATIONS 2011 ("THE REGULATIONS")
WATER USE LICENCE**

Licence Number: CAR/L/1176082
Responsible Person: ILI (Highlands PSH) Limited
Site or Location of Activity/Activities Red John Pumped Hydro Scheme
Loch Ness
Dores
Inverness

The Scottish Environment Protection Agency, in accordance with regulations 8 and 15 of the Regulations, hereby authorises the carrying on of the controlled activity or activities set out in Schedule 1 of this licence, at or near or in connection with the site or location set out above, subject to the requirements of the Regulations and to the conditions contained in the schedules attached to and forming part of this licence.

The person responsible for securing compliance with this licence and its conditions ("the responsible person") shall be ILI (Highlands PSH) Limited, company registration number SC581757, having its registered office at The Shires, 33 Bothwell Road, Hamilton, ML3 0AS.

This licence and its conditions shall, except where otherwise provided in any of those conditions, take effect on the date of signing.

REDACTED

Signed:

Date: 13.09.19

Authorised to sign on behalf of the
Scottish Environment Protection Agency

Right of Appeal

You are entitled to appeal to the Scottish Ministers, within three months of the date of this licence, if you have been granted a form of authorisation which is different from the form of authorisation which you believe ought to have been granted (under regulation 50(b) of the Regulations) or against any condition or conditions of this licence (under regulation 50(c) of the Regulations). The bringing of an appeal against a condition will not have the effect of suspending the operation of the condition. The procedures for the making of an appeal are set out in Schedule 9 of the Regulations.

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CONTENTS

INTERPRETATION OF TERMS.....	2
SCHEDULE 1. CONTROLLED ACTIVITIES.....	4
1.1. Specification of the Authorised Activities.....	4
1.2. Purpose of the Authorised Activities.....	4
SCHEDULE 2. GENERAL CONDITIONS	5
2.1. Responsible person	5
2.2. Commencement of the Authorised Activities.....	5
2.3. Environmental harm.....	5
2.4. Incidents	5
2.5. Maintenance of monitoring and measuring equipment.....	5
2.6. Records	6
2.7. Notifications	6
2.8. Reports and submissions.....	6
2.9. Plant and Equipment Control	7
2.10. Abnormal operating conditions.....	8
SCHEDULE 3. GENERAL CONDITIONS APPLYING TO ANY ABSTRACTION LISTED IN TABLE 1.1	10
3.1. Operation of the Authorised Abstractions.....	10
3.2. Monitoring plan	10
3.3. Installation and maintenance of measuring and monitoring equipment	10
3.4. Design and construction of abstraction facilities.....	11
3.5. Rates of abstraction.....	11
3.6. Limitations on abstraction	11
3.7. Return of abstracted water.....	12
3.8. Fish screens	13
SCHEDULE 4. CONDITIONS APPLYING TO SEDIMENT MANAGEMENT	14
4.1. Sediment Management.....	14

INTERPRETATION OF TERMS

For the purposes of this licence, and unless the context requires otherwise, the following definitions shall apply:

Generic

“the Act” means the Water Environment and Water Services (Scotland) Act 2003;

“controlled activity” means an activity to which the Regulations apply, in accordance with regulation 3(1) of the Regulations;

“incident” means:

- any accident which has had or could have an adverse impact on the water environment; or
- any malfunction, breakdown or failure of plant or techniques which has had or could have an adverse impact on the water environment; or
- any event, such as force majeure or action taken to save human life or limb, which results, or is likely to result, in a breach of any condition of this licence;

“pollution”, in relation to the water environment, means the direct or indirect introduction, as a result of human activity, of substances or heat into the water environment, or any part of it, which may give rise to any harm, and “harm” shall have the same meaning as in the Act;

“responsible person” means the person who is responsible for securing compliance with the terms of this licence and has been identified as such by SEPA in accordance with regulation 8(6) of the Regulations, and in this context ‘person’ includes a body corporate, limited liability partnership and Scottish partnership;

“the Regulations” means the Water Environment (Controlled Activities) (Scotland) Regulations 2011;

“SEPA” means the Scottish Environment Protection Agency;

“SEPA officer” means a person authorised by SEPA under regulation 31(4) of the Regulations or, pursuant to paragraph 6(c) of Schedule 10 of the Regulations, under regulation 27(4) of the Water Environment (Controlled Activities) (Scotland) Regulations 2005;

“the water environment” means all surface water, groundwater and wetlands; and “surface water”, “groundwater” and “wetlands” shall have the same meanings as in the Act;

“body of inland surface water” means a body of surface water which is also inland water; and “body of surface water” and “inland water” shall have the same meanings as in the Act;

“watercourse” shall have the same meaning as in the Act;

Abstraction

“abstraction” means the doing of anything whereby any water is removed or diverted by mechanical means, pipe or any engineering structure or works from any part of the water environment, whether temporarily or permanently, including anything whereby the water is so removed or diverted for the purpose of being transferred to another part of the water environment, and includes –

- the construction or extension of any well, borehole, water intake or other work by which water may be abstracted, and
- the installation or modification of any machinery or apparatus by which additional quantities of water may be abstracted by means of a well, borehole, water intake or other work;

Any reference to a numbered Condition, numbered Paragraph, group of Conditions, group of Paragraphs, Schedule, Table, Appendix or Figure or is a reference to the condition, paragraph, group of conditions, group of paragraphs, schedule, table, appendix or figure bearing that number in this licence.

Except where specified otherwise in this licence:

- “day” means any period of 24 consecutive hours,
- “week” means any period of 7 consecutive days,
- “month” means a calendar month,
- “quarter” means a calendar quarter,
- “year” means any period of 12 consecutive months;

and any derived words (e.g. “monthly”, “quarterly”) shall be interpreted accordingly.

Except where specified otherwise in this licence, any reference to an enactment or statutory instrument includes a reference to it as amended (whether before or after the date of this licence) and to any other enactment, which may, after the date of this licence, directly or indirectly replace it, with or without amendment.

SCHEDULE 1. CONTROLLED ACTIVITIES

1.1. Specification of the Authorised Activities

- 1.1.1. This licence authorises the controlled activities set out in the first column of Table 1.1 below that are carried on at the national grid reference (NGR) given in the second column of that table.
- 1.1.2. The location of the activities are referred to throughout this licence by the name or reference given for it in the fourth column of Table 1.1 below.
- 1.1.3. The activities specified above ("the Authorised Activities") are authorised subject to the general conditions contained in Schedule 2.
- 1.1.4. The Authorised Activities are authorised subject also to the particular conditions contained in the numbered schedule or schedules of conditions given for it in the fifth column of Table 1.1 below.

1.2. Purpose of the Authorised Activities

- 1.2.1. The Authorised Activities are for the primary purpose of pumped storage hydro electricity generation.

Table 1.1: Authorised Activities

Controlled Activity	NGR	Affected Waters	Name/Reference	Applicable Schedule(s) of Conditions
Abstraction	NH 5877 3332	Loch Ness	Red John Pumped Hydro Scheme, Abstraction from Loch Ness Loc. 565753	Schedules 3 and 4
Return of Abstracted Water	NH 5877 3332	Loch Ness	Red John Pumped Hydro Scheme, Recharge to Loch Ness Loc. 565754	Schedules 3 and 4

SCHEDULE 2. GENERAL CONDITIONS

2.1. Responsible person

- 2.1.1. The responsible person to whom this licence is issued shall secure compliance with the conditions contained within it.

2.2. Commencement of the Authorised Activities

- 2.2.1. No construction works authorised by this licence shall be commenced until SEPA has approved the required design drawings and method statement for that works in terms of Conditions 3.4.1 and 3.4.2.
- 2.2.2. Commissioning of any Authorised Activity shall, if necessary, be carried out over a period and in a manner agreed in writing with SEPA.

2.3. Environmental harm

- 2.3.1. Other than as specifically permitted or limited by any condition of this licence, none of the Authorised Activities shall have a significant adverse impact on, or cause pollution of, the water environment.

2.4. Incidents

- 2.4.1. In the event of an incident, SEPA shall be **notified** without delay and in any case by the next working day after identification of the incident, such notification to include:
- (a) the time and duration of the incident,
 - (b) a description of the cause of the incident,
 - (c) any effect on the environment as a result of the incident and
 - (d) any measures taken to minimise or mitigate the effect and prevent a recurrence.
- 2.4.2. Where requested by SEPA, a written **report** shall be made following any incident, containing such further information as SEPA reasonably requires.

2.5. Maintenance of monitoring and measuring equipment

- 2.5.1. All monitoring and measuring equipment required by this licence or used to demonstrate compliance with this licence shall be maintained in accordance with the manufacturers' instructions and/or to any relevant current certification standard, and in all cases so as to ensure that the equipment is in good working order at all times.
- 2.5.2. All such equipment shall be calibrated and tested regularly and in accordance with the manufacturer's recommendations and/or to any relevant current certification standard.
- 2.5.3. Evidence of such calibration and testing shall be recorded.

2.6. Records

- 2.6.1. A copy of this licence and, subject to Condition 2.6.2 below, of every record made in compliance with a condition of this licence shall be:
- (a) kept on site or at another location agreed with SEPA in writing, such that they are readily accessible for examination by all relevant persons, and
 - (b) made available to a SEPA officer on request.
- 2.6.2. Unless otherwise specified in a condition of this licence, every such record shall be:
- (a) preserved for not less than five years from the date of its being made; and
 - (b) kept as set out in Condition 2.6.1 for not less than one year from the date of its being made and thereafter at a location previously **notified** to SEPA in writing, if that location is not the site or other location agreed as above.
- 2.6.3. All such records shall be legible, and any amendment made to any record shall be made in such a way as to leave the original entry clear and legible, with the reason for each amendment explained in the said record.

2.7. Notifications

- 2.7.1. Where any condition of this licence requires SEPA to be **notified**, the notification shall be made using the contact details for notifications given in the explanatory notes attached to this licence, unless the condition in question requires otherwise.

2.8. Reports and submissions

- 2.8.1. Where any condition of this licence, as specified in the second column of Table 2.1 below, requires information to be **reported** or **submitted**, the following shall apply:
- (a) The report or submission shall be forwarded to SEPA at the address for reports given in the explanatory notes attached to this licence, unless otherwise agreed in writing with SEPA.
 - (b) The report or submission shall be in a format agreed with SEPA or, failing such agreement, in a format specified by SEPA.
 - (c) The report or submission shall be forwarded by the date(s) or within the period or at the frequency specified in the third column of Table 2.1 below, as applicable.
 - (d) Where applicable, the first such report shall be due on the date specified in the fourth column of that table.
 - (e) The report or submission shall include the reference number of this licence and the name of the responsible person.

Table 2.1: Summary of Reporting and Submission Requirements

Summary of information to be reported/submitted	Licence Condition	Date by / period within / frequency at which to be reported/submitted	Date first report due
Incident follow-up	2.4.2	Within 14 days of SEPA's request	N/A
Monitoring plan	3.2.2	Prior to commencement of any abstraction	N/A
Abstraction monitoring data, as specified in the Approved Monitoring Plan	3.2.3	Annually, by 31 January for previous calendar year	As specified in the Approved Monitoring Plan
Drawings	3.4.1	No less than 2 months prior to the proposed date of commencement and if any change proposed.	N/A
Method Statement	3.4.2	No less than 1 month prior to the proposed date of commencement and if any change proposed.	N/A
Sediment Management Plan	4.1.1	No less than 1 month prior to the proposed date of commencement and if any change proposed.	N/A

2.9. Plant and Equipment Control

- 2.9.1. Any vehicle, plant or other equipment used in connection with the Authorised Activities shall only be operated in surface water or wetlands where it is impracticable for it to be operated on dry land.
- 2.9.2. Any such vehicle, plant or other equipment used in or near any surface water or wetland shall be maintained and/or bunded so as to prevent spillage of any oil, fuel or other matter liable to cause pollution of the water environment.
- 2.9.3. The refuelling and/or washing of any such vehicle, plant or other equipment shall be undertaken at least 10 metres from any surface water, wetland or any groundwater abstraction point, and water from such washing shall be prevented from entering any surface water, wetland or groundwater abstraction point.
- 2.9.4. Any such vehicle, plant or other equipment shall not be operated in surface water if there is a reasonable likelihood that, within 50 metres of such an operation, there are freshwater pearl mussels.
- 2.9.5. Any static plant or equipment used temporarily within 10 metres of any surface water or wetland shall be positioned on a suitably sized and maintained impervious drip tray with a capacity equal to 110% of the capacity of the fuel tank which is supplying the said plant or equipment.

2.10. Abnormal operating conditions

2.10.1 Subject to Conditions 2.10.2 and 2.10.3, where the responsible person considers it necessary to deviate from normal operation to a degree that is likely to cause a breach of any condition of this licence, such deviation may be permitted on request, subject to SEPA's written approval, provided that:

- (a) all practicable steps are taken to prevent any adverse impact on the water environment caused by the said deviation;
- (b) all practicable steps are taken as soon as reasonably practicable to remediate any significant impacts on the water environment as a result of the said deviation;
- (c) the request is made in writing to SEPA, including details of:
 - (i) any such proposed deviation and its expected duration;
 - (ii) the justification for it (by reference to Condition 2.10.2);
 - (iii) the condition or conditions of this licence (by reference to their numbers) likely to be breached as a result of it; and
 - (iv) its expected effects on the water environment;as soon as reasonably practicable, and in any event not less than two weeks before it is proposed to begin, using the contact details specified in the explanatory notes attached to this licence;
- (d) a report is sent to SEPA following any such deviation, including details of:
 - (i) the start time and actual duration of the deviation;
 - (ii) any alterations to flows or plant operation during the deviation; and
 - (iii) any measures taken to minimise or mitigate any adverse impact on the water environment caused by the deviation;and;
- (e) where and to the extent requested by SEPA, a follow-up report is made following any such deviation.

2.10.2 Any deviation under Condition 2.10.1 shall only be permitted:

- (a) in order to facilitate detailed monitoring of the flow regime or plant operation authorised by this licence for the purpose of assessing the effectiveness of any mitigation measure; or
- (b) in order to facilitate any time-limited trial of alternative flow regimes or plant operations for the purpose of informing a possible review of operational practice or of the conditions of this licence with the aim of improving the water environment; or

- (c) in order to facilitate safe access to any of the waters affected by any of the Authorised Activities by persons undertaking a time-limited survey or surveys of populations of fish or other species with the aim of improving the water environment; or
- (d) in order to facilitate safe access to any plant or structures used in connection with any of the Authorised Activities or to any waters affected by any of the Authorised Activities by persons undertaking maintenance of any of those plant or structures; or
- (e) for any other reason, to be agreed in writing with SEPA at or before the time of the written request required under Condition 2.10.1(c) above, such reason to be connected with either the safe and efficient operation of the Authorised Activities or with making improvements to the water environment.

2.10.3 Where a series of such deviations is proposed, a single request may be made to SEPA in terms of Condition 2.10.1(c) above prior to the first deviation in the series, detailing in addition the proposed number of such alterations in the series and the overall period within which the series is expected to be completed, and a single report may be made to SEPA in terms of Condition 2.10.1(d) above following the last deviation in the series, detailing in addition the actual number of such alterations in the series and the overall period within which the series was actually completed.

Licence Number: CAR/L-1176082

SCHEDULE 3. GENERAL CONDITIONS APPLYING TO ANY ABSTRACTION LISTED IN TABLE 1.1

3.1. Operation of the Authorised Abstractions

- 3.1.1. The construction and/or operation of the abstraction listed in Table 1.1 above (“the Authorised Abstraction”) shall be carried on in accordance with the operating practice submitted with the application for this licence, unless that would involve a breach of any condition of this licence, in which case the licence condition shall take precedence.
- 3.1.2. Any changes to the submitted operating practice shall be **notified** to SEPA before implementation.

3.2. Monitoring plan

- 3.2.1. Prior to the commencement of any abstraction, a plan for monitoring the operation of the Authorised Abstraction(s) shall be **submitted** to SEPA for approval.
- 3.2.2. The said monitoring plan shall include proposals on the monitoring locations, equipment, methods and data-recording procedures to be used to demonstrate compliance with all conditions relating to flow management in Schedule 4, as well as proposed dates for installation and commissioning of the proposed equipment and for the first reporting of abstraction and/or impounding works monitoring data.
- 3.2.3. Each Authorised Abstraction shall be monitored in accordance with the Approved Monitoring Plan, and the resulting data shall be recorded in accordance with the Approved Monitoring Plan and reported to SEPA in accordance with Condition 2.8.1.
- 3.2.4. For the avoidance of doubt, where no water has been abstracted for any period, that information must be reported to SEPA [as a nil return] in accordance with Condition 2.8.1.
- 3.2.5. Following adjustment, if necessary, and approval by SEPA of the said monitoring plan, it shall be implemented, and shall be revised periodically, at SEPA’s request only, and re-submitted to SEPA for approval.

3.3. Installation and maintenance of measuring and monitoring equipment

- 3.3.1. Measuring and monitoring equipment shall be installed and commissioned as specified in the most recent monitoring plan approved in accordance with Condition 3.2.5 (“the Approved Monitoring Plan”), by the respective dates for installation and commissioning set out in the said plan.
- 3.3.2. The responsible person shall **notify** SEPA when the measuring and monitoring equipment has been successfully commissioned.

3.4. Design and construction of abstraction facilities

- 3.4.1. No less than 2 months prior to the proposed date of commencement of construction of any structure by which water may be abstracted from the water environment (an "intake") as specified in Table 1.1, a set of design drawings shall be submitted to SEPA for approval, at the address given for notifications in the explanatory notes attached to this licence, detailing the design of each said works.
- 3.4.2. No less than 1 month prior to the proposed date of commencement of construction of any intake, as specified in Table 1.1, a method statement shall be submitted to SEPA for approval, at the address given for notifications in the explanatory notes attached to this licence, detailing the method of construction of each said works.
- 3.4.3. Following adjustment, if necessary, and written approval by SEPA of each said set of design drawings and method statement, construction of each intake shall be carried out in accordance with the approved design drawings and method statement.
- 3.4.4. No changes shall be made to any approved design drawings or method statement without SEPA's prior written approval.
- 3.4.5. Significant construction works within the water environment shall not take place between 1 October and 31 May in any year.

3.5. Rates of abstraction

- 3.5.1. Each Authorised Abstraction shall be carried on so as not to exceed either the rate or the daily volume given for that abstraction in the third and fourth columns, respectively, of Table 3.1.

Table 3.1 Rates of abstraction

NGR	Name/Reference	Maximum rate (m ³ /second)	Maximum daily volume (m ³ /day)
NH 5877 3332	Red John Pumped Hydro Scheme, Abstraction from Loch Ness Loc. 565753	170	9,800,000

3.6. Limitations on abstraction

- 3.6.1. For each intake specified in Table 3.2, no water shall be abstracted whenever, during the period in any year given for that intake in the third column of that table, the loch level is at or below the level given for that intake in the fourth column of that table.

Table 3.2 No Abstraction Requirements

NGR	Name/Reference	Period	Loch Ness Level (m AOD)
NH 5877 3332	Red John Pumped Hydro Scheme, Abstraction from Loch Ness Loc. 565753	All year	≤15.33

3.7. Return of abstracted water

3.7.1. Each Authorised return of abstracted water shall be carried on so as not to exceed either the rate or the daily volume given for that abstraction return in the third and fourth columns, respectively, of Table 3.3.

Table 3.3 Rates of abstraction return

NGR	Name/Reference	Maximum rate (m ³ /second)	Maximum daily volume (m ³ /day)
NH 5877 3332	Red John Pumped Hydro Scheme, Recharge to Loch Ness Loc. 565754	250	9,800,000

- 3.7.2. All abstracted water shall be returned to the water environment at the location specified for such returns in Table 1.1.
- 3.7.3. The return of abstracted water shall not cause significant visible impact on surface waters due to the presence of oil.
- 3.7.4. The return of abstracted water shall not cause significant scouring of the bed or banks of the loch.
- 3.7.5. For each intake specified in Table 3.4, no water shall be discharged whenever, during the period in any year given for that recharge in the third column of that table, the loch level is at or above the level given for that recharge in the fourth column of that table.

Table 3.4 No Abstraction Return Requirements

NGR	Name/Reference	Period	Loch Ness Level (m AOD)
NH 5877 3332	Red John Pumped Hydro Scheme, Recharge to Loch Ness Loc. 565754	All Year	≥17.1*

*This loch level has been calculated to equate to a flow of 600m³/s in the River Ness downstream of the Dochfour Weir.

3.8. Fish screens

- 3.8.1. Fish screens effective for preventing the passage of salmon, sea trout and char shall be provided at each location specified in the first and second columns of Table 3.5 for the period in any year given for that location in the third column of that table.

Table 3.5 Fish screens

NGR	Name/Reference	Period
NH 5877 3332	Red John Pumped Hydro Scheme, Abstraction from Loch Ness Loc. 565753	All year

SCHEDULE 4. CONDITIONS APPLYING TO SEDIMENT MANAGEMENT

4.1. Sediment Management

- 4.1.1. No less than 1 month prior to the proposed date of commencement of construction of any intake, as specified in Table 1.1, a Sediment Management Plan shall be submitted to SEPA for approval, at the address given for notifications in the explanatory notes attached to this licence.
- 4.1.2. No changes shall be made to the Sediment Management Plan without SEPA's prior written approval.

EXPLANATORY NOTES

(These explanatory notes do not form part of the licence)

1. THE WATER FRAMEWORK DIRECTIVE

The Water Framework Directive (WFD) is a wide-ranging piece of European environmental legislation which became law in Scotland at the end of 2003 through the Water Environment and Water Services (Scotland) Act 2003 and in April 2006 through the Water Environment (Controlled Activities) (Scotland) Regulations 2005. In March 2011, the Water Environment (Controlled Activities) (Scotland) Regulations 2005 were replaced with the Water Environment (Controlled Activities)(Scotland) Regulations 2011 ("the Regulations", also known as CAR).

The WFD establishes a legal framework for the protection, improvement and sustainable use of the water environment across Europe by requiring member states to:

- Prevent deterioration and enhance status of aquatic ecosystems, including groundwater;
- Promote sustainable water use;
- Reduce pollution; and
- Contribute to the mitigation of floods and droughts.

The Regulations set out the regulatory framework for achieving some of the aims of the WFD in Scotland, through a regime for authorising "controlled activities", e.g. point source discharges, abstractions, impoundments and engineering activities. They provide for three levels of authorisation, dependent on the risks associated with a controlled activity. A licence is the highest level of authorisation.

Having differing levels of authorisation allows for proportionate and cost-effective controls, so that environmental protection can be achieved whilst minimising the regulatory burden.

2. WATER EFFICIENCY

Regulation 5 of the Regulations imposes a general duty to use water efficiently:

"It is the duty of any person carrying out a controlled activity authorised under these Regulations to take all reasonable steps to secure efficient and sustainable water use."

For example, water efficiency could be the management of the total quantity of water abstracted from a source of supply using measures to minimise wastage, optimise use and reduce consumption.

The means of achieving this can be varied but may include good housekeeping, management systems and procedures, reusing and recycling water and the redesign of operations.

Water audits are the first step to using water efficiently. Water audits develop an understanding of the water system, enable detection of leakages and areas of water wastage and are a means of identifying opportunities for reduced water use.

3. APPEALS

If you are aggrieved by any of the conditions of the licence or the level of authorisation, you may appeal to the Scottish Ministers. Further information on your right of appeal and the

appeals procedure is contained in regulations 50 to 53 and Schedule 9 of the Regulations.

Formal notice of appeal under regulation 50(b) or (c) is to be given within three months of the date that the licence is issued. Paragraph 2 of Schedule 9 lists the documents that the appellant has to submit to the Scottish Ministers.

4. SUBSISTENCE CHARGES

An annual subsistence charge may be payable in respect of the licence in terms of the current Water Environment (Controlled Activities) Fees and Charges (Scotland) Scheme, copies of which are available from SEPA. Where a subsistence charge is payable, an invoice will be sent to you.

The charging scheme provides that it is a condition of every authorisation that the fees and charges prescribed in the scheme are paid in accordance with the scheme. Failure to pay such charges may therefore constitute an offence.

5. GENERAL STATUTORY REQUIREMENTS

A licence under the Regulations does not disapply any other statutory requirements applicable to the licence holder or his/her operations, such as any need to obtain planning permission or a building warrant, or any responsibilities under legislation for health, safety and welfare in the workplace.

6. CONTACT DETAILS FOR NOTIFICATIONS

The contact address and telephone number for notifications in terms of Condition 2.7.1 of the licence is as follows:

Scottish Environment Protection Agency
Graesser House
Fodderty Way
Dingwall
IV15 9XB

During office hours

Tel No: 01349 862021

Out of office hours and public holidays

Tel No: 0800 80 70 60

7. ADDRESS FOR REPORTS AND SUBMISSIONS

The contact address for all information to be reported or submitted in terms of Condition 2.8.1 of the licence is as follows:

The Registry
Scottish Environment Protection Agency
Graesser House
Fodderty Way
Dingwall
IV15 9XB
registrydingwall@sepa.org.uk

8. SEPA REVIEW AND VARIATION OF CONDITIONS

The conditions of the licence will be periodically reviewed by SEPA and may be varied under regulation 22 of the Regulations as a result of that review.

9. OPERATOR-INITIATED VARIATION OF CONDITIONS

The responsible person may apply to SEPA under regulation 24 for a variation of the conditions of the licence.

10. TRANSFER OF AUTHORISATION

A responsible person may apply to transfer the licence to another person under regulation 25 by making a joint application with the other person.

11. SURRENDER OF AUTHORISATION

Where the controlled activities authorised by the licence have ceased, or it is intended that the controlled activities will cease, the responsible person may apply to SEPA to surrender the licence under regulation 27.

12. SUSPENSION AND REVOCATION OF AUTHORISATION

SEPA may at any time suspend or revoke an authorisation (in whole or in part) by serving a notice on the responsible person under regulation 29.

13. ENFORCEMENT NOTICES

Where SEPA is of the opinion that an activity

- a) has contravened, is contravening or is likely to contravene any condition of the licence or
- b) has caused, is causing or is likely to cause significant adverse impacts on the water environment or
- c) has caused, is causing or is likely to cause a direct or indirect discharge into groundwater of any hazardous substance (as determined pursuant to Schedule 2 of the Regulations) or any other pollutant

SEPA may serve an enforcement notice on the responsible person under regulation 32.

This notice will specify the steps to be taken by the responsible person which SEPA considers to be necessary or appropriate to prevent, mitigate or remedy the contravention, the impact on the environment or the discharge into groundwater.

14. OFFENCES

It is an offence to carry on, or cause or permit others to carry on, any controlled activity except insofar as it is authorised under the Regulations and carried on in accordance with that authorisation.

It is an offence to fail to comply with or contravene, or cause or permit others to fail to comply with or contravene, a water use licence, including any condition imposed.

It is an offence to fail to comply with, or cause or permit others to fail to comply with, the requirements of an enforcement notice.

It is an offence to intentionally make, or cause or permit others to make, a false entry in any record required to be kept under a condition of an authorisation.

Further details on these and other offences and on penalties liable to be imposed upon conviction for an offence are provided in regulation 44 of the Regulations.

Directors, managers and other individuals within a company may be held personally liable for offences under the Regulations.

All personnel who are responsible for fulfilling any condition of the licence should be made aware of these facts.

Please note that your licence authorises you to carry out the activity or activities outlined in your application to SEPA in accordance with the licence and its conditions. Be aware, however, that any activity outwith the terms of the licence is prohibited under regulation 4 of the Regulations. Should you undertake any activity which does not conform to the terms of your licence, you may be subject to criminal proceedings in accordance with regulation 44(1)(a) and/or (d) of the Regulations. This prohibition encompasses any activity which is liable to cause pollution of the water environment. Section 20 of the Water Environment and Water Services (Scotland) Act 2003 includes definitions of "pollution" and "water environment".

The statutory definition of pollution, as set out in that section, is as follows:-

"Pollution", in relation to the water environment, means the direct or indirect introduction, as a result of human activity, of substances or heat into the water environment, or any part of it, which may give rise to any harm, and "harm" means –

- a) harm to the health of human beings or other living organisms,*
- b) harm to the quality of the water environment, including-*
 - i) harm to the water environment taken as a whole,*
 - ii) other impairment of or interference with, the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems,*
- c) offence to the senses of human beings,*
- d) damage to property, or*
- e) impairment of, or interference with, amenities or other legitimate uses of the water environment.'*

ANNEX 9 – Habitats Regulations Appraisal

APPLICATION FOR CONSENT UNDER S36 OF THE ELECTRICITY ACT 1989 AND DIRECTION UNDER S57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 THAT PLANNING PERMISSION IS DEEMED TO BE GRANTED FOR THE CONSTRUCTION AND OPERATION OF THE RED JOHN PUMPED STORAGE HYDRO SCHEME LOCATED WITHIN THE HIGHLAND COUNCIL PLANNING AUTHORITY AREA.

Scottish Government: Energy & Climate Change Directorate

Habitats Regulations Appraisal of the Implications of the proposed Red John Pumped Storage Hydro Scheme on the Loch Ashie Special Protection Area (SPA).

May 2021

The following appraisal has been prepared by the Scottish Ministers as the Competent Authority for the above proposed Development.

	Description	
1	Brief description of the proposed Development	<p>On 15 November 2018 AECOM Infrastructure & Environment UK Limited, on behalf of Intelligent Land Investments (ILI) (Highlands PSH) Ltd (“the Company), submitted an application for consent under section 36 of the Electricity Act 1989 (“the Act”) for the construction and operation the Red John Pumped Storage Hydro Scheme (“the proposed Development”).</p> <p>The proposed Development is a pumped storage hydro facility with a storage capacity of approximately 2800 megawatts hours and approximately 400 megawatts of installed electricity generation capacity. It is located approximately 14 kilometres south west of Inverness within the Highland Council planning authority area.</p> <p>The proposed Development will draw water from Loch Ness into underground tunnels to pumps that pump water uphill to a new ‘Headpond’ (upper reservoir) created by the construction of a landscaped embankment between Loch Ashie and Loch Duntelchaig. Here the water will be stored as potential energy until the demand for electricity requires it to be released back down through tunnels to an underground Power Cavern which converts the movement of the water back into electricity. The water will then return to Loch Ness through a partially submerged inlet/outlet structure.</p>

		<p>The proposed Development would comprise;</p> <ol style="list-style-type: none">1. <u>Headpond</u> <p>The upper reservoir;</p> <ol style="list-style-type: none">2. <u>Embankment</u> <p>The structure which encircles the headpond designed to retain the water in therein;</p> <ol style="list-style-type: none">3. <u>Tailpond</u> <p>The lower reservoir (situated in Loch Ness);</p> <ol style="list-style-type: none">4. <u>Tailpond Inlet/Outlet Structure (permanent)</u> <p>Where the waterways enter the Tailpond. Comprised of a partially submerged structure constructed into Loch Ness with wave walls, screening and cleaning system;</p> <ol style="list-style-type: none">5. <u>A jetty (permanent)</u> <p>Constructed into Loch Ness to be used for accessing the Inlet / Outlet Structure during operation for maintenance.</p> <ol style="list-style-type: none">6. <u>Cofferdam (temporary)</u> <p>A water-tight, temporary structure that will encircle the area required for Tailpond works;</p> <ol style="list-style-type: none">7. <u>A jetty (temporary)</u> <p>This will be built constructed out into Loch Ness to facilitate the building of the Cofferdam.</p> <ol style="list-style-type: none">8. <u>Compounds (4)</u> <p>Areas for equipment and material storage, access to the Waterways and Tunnels, site office and welfare facilities.</p>
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		<p>9. <u>Battery Houses;</u> 10. <u>Substation;</u> 11. <u>Access tracks;</u> 12. <u>Security fencing;</u> 13. <u>Borrow pits;</u></p> <p>14. <u>Conveyor belt (temporary)</u></p> <p>To be used to transport material generated from the underground excavation of the Waterways and other tunnelling works up to the Headpond area to be used as Embankment fill.</p> <p>15. <u>Surge Tanks;</u></p> <p>Underground safety features that accommodate changes in pressure along the Waterways;</p> <p>16. <u>Power Cavern</u></p> <p>Will contain the mechanical and electrical equipment for generating electricity;</p> <p>17. <u>Tunnels</u></p> <p>For access and construction/emergency access during operational phase from Compound 1 to the Power Cavern;</p> <p>18. <u>Underground power station and waterway System</u></p> <p>A series of underground intakes, chambers and tunnels carrying water will connect the upper and lower reservoirs, through the underground power station</p>
2	Brief description of the designated Natura site	Loch Ashie SPA is a large, open, mesotrophic loch located south-east of the Great Glen within Inverness-shire, Highland Region. Most of the shore is stony and exposed with only small pockets of emergent vegetation. Where the shore is more sheltered, small beds of bottle sedge <i>Carex rostrata</i> have developed. The loch also contains a small island.

		<p>Loch Ashie SPA is located approximately 145 metres to the north east of the proposed Development. Its boundary is coincident with the Loch Ashie Site of Special Scientific Interest.</p> <p>Loch Ashie is designated as a SPA by regularly supporting a population of European importance of the Annex 1 species, namely, Slavonian Grebe (<i>Podiceps auritus</i>), with an autumn gathering of up to 60 individuals (up to 15 % of the Great British population) making it the most important known moult site in Scotland.</p> <p>Breeding Slavonian Grebe are not a designated feature of Loch Ashie SPA.</p>
3	Conservation objectives for Loch Ashie SPA	<p>The conservation objectives of Loch Ashie SPA for the qualifying species are:</p> <p>To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and</p> <p>To ensure for the qualifying species that the following are maintained in the long term:</p> <ul style="list-style-type: none"> • Population of the species as a viable component of the site; • Distribution of the species within site; • Distribution and extent of habitats supporting the species; • Structure, function and supporting processes of habitats supporting the species; • No significant disturbance of the species.
	Screening	
4	Is the proposed Development directly connected with, or necessary to, conservation management of the Natura site?	The proposed Development is not directly connected with, or necessary to, the conservation management of Loch Ashie SPA, therefore, further consideration is needed.

5	Is the operation likely to have a significant effect on the site's qualifying interests, either alone or in combination, with other plans or projects?	<p>Construction activities of the proposed Development, including decommissioning works, have the potential to disturb moulting Slavonian Grebe via noise and vibration and visual disturbance.</p> <p>Literature suggests that Slavonian Grebe may be disturbed at distances of 150-300 metres. The nearest infrastructure of the proposed Development will be approximately 100 metres from Loch Ashie SPA and so disturbance from construction may have an impact on the integrity of the designation. This could especially be the case with regards to blasting work to be carried out on an almost daily basis during excavation of the Headpond. During the autumn when birds gather to moult, blasting could lead to significant disturbance of Slavonian Grebe which could result in a Likely Significant Effect.</p> <p>The proposed Development is partially located in the Loch Ashie catchment and adjacent to the Loch Duntelchaig catchment. The proposed Headpond will be located partially within the Loch Ashie catchment. As a result any rainfall on that part of the catchment will fall into the Headpond. The Headpond is discharged into Loch Ness, thus resulting in a reduction in water entering Loch Ashie. Thus, this part of the Loch Ashie catchment will be lost.</p> <p>There is also the risk operational transfer of Invasive Non-Native Species between the Ness and Nairn catchments due to the proposed Development. Of particular concern was the potential to spread of the flatworm <i>Phagocata woodworthi</i>, the crustacean <i>Crangonyx pseudogracilis</i> and the macrophyte <i>Elodea Nuttallii</i> into Loch Ashie. Depending on the invasive species transferred, there is the potential for these to affect the moulting habitats used by the Slavonian grebe and foods which they rely upon during moulting.</p> <p>Consequently, impacts on the designated feature of moulting Slavonian Grebe need to be assessed.</p>
	Appraisal	
6	Identify the relevant conservation objectives to consider for Loch Ashie SPA	The conservation objectives to consider are those that relate to the qualifying interests that may be significantly affected by the proposed Development.

		All of the above conservation objectives at 3 above are relevant for the qualifying interests of Slavonian Grebe.
7	Can it be ascertained that the proposed Development/plan will not adversely affect the integrity of Loch Ashie SPA	Yes
8	Consider whether mitigation measures or conditions to be adopted to avoid impacts on site integrity	<p>The following assessment is based on information provided in the Statement to Inform an Appropriate Assessment document submitted as part of the EIA report which formed the application of 15 November 2018.</p> <p>The main risks to the conservation objectives Loch Ashie SPA from the proposed Development would be</p> <ul style="list-style-type: none"> • <u>noise and vibration and visual disturbance.</u> <p>There would be very little or no visual disturbance. With regards to noise, research indicates that at noise levels in excess of 84 dB(A) there is a flight response in waterfowl, while at levels below 55 dB there is no effect. These two thresholds therefore define the two extremes. Noise levels associated with construction are estimated to be 57Db which could cause a 'heads up' reaction in Slovenian Grebe but be generally ignored. At worst, some individual birds may move away from the noise but they would do so whilst remaining in the SPA.</p> <p>To remove any risk associated with noise and vibration the Company will ensure that blasting within the Headpond area will not be permitted during the Slavonian grebe moulting period, which will be taken as 15 August – 31 October each year, thus avoiding the impact from occurring. With this avoidance measure in place, it can be considered that the Development will not have an adverse effect on integrity of the Slavonian grebe at Loch Ashie SPA as a result of disturbance from the construction phase of the proposed Development.</p> <ul style="list-style-type: none"> • <u>Water Quantity</u> <p>Reduced flow in the Big Burn catchment as a result of the proposed Development could affect water supply to Loch Ashie. Scottish Water already has capital funding in place to implement resilience measures. The proposed resilience measures</p>

being implemented by Scottish Water to allow raw water to be pumped from Loch Ness to Water Treatment Works (WTW) (located just to the north of Loch Ashie) address any shortfall from the Loch Ashie and Loch Duntelchaig sources. The new Scottish Water pumping arrangement will pump water to Drumashie WTW that serves Inverness, so less water is abstracted from Loch Ashie. As a by-product of the reduced abstraction rates from Loch Ashie by Scottish Water the reduced quantities of water flowing into Loch Ashie due to the loss of some of the catchment will be negated. In addition, due to the small size of Big Burn it is not anticipated that the reduction in Big Burn's (and thus Loch Ashie's) catchment will affect water levels within Loch Ashie and shore line exposure is not predicted (Chapter 10: Water Environment). Therefore the loss of catchment of the Big Burn and Loch Ashie is unlikely to have an adverse effect on integrity of Loch Ashie SPA. Additionally, embedded mitigation measures within the proposed Development such as the incorporation of SuDs features and attenuation ponds will prevent flash floods from occurring. As such it is considered that water quantity will not have an adverse effect on the integrity of the European site.

- Invasive Non-Native Species (INNS)

A Construction Environmental Management Plan (CEMP) and specific Biosecurity Management Plan (BMP) will be finalised and will set out the methods and procedures that will be implemented by the Construction Contractor to minimise the environmental impact, including potential effects on aquatic habitats and due to INNS. Mitigation has been built into the design, and will be detailed in the BMP, to prevent the transport of INNS into other areas and to prevent the upstream transport of these species.

The risk of cross-catchment contamination during Headpond construction, for example by the spread of INNS, will be minimised by the distance of approximately 100 m from Loch Ashie, and the incorporation of temporary SuDs and attenuation features in the intervening land.

Material excavated or dredged from Loch Ness must be retained in the immediate area, i.e. stockpiled on the loch shoreline, to prevent the spread of INNS, including Nuttall's waterweed and *Crangonyx pseudogracilis*, which are known to be present in Loch Ness.

	<p>An Aquatic ECoW will supervise all excavation and dredging works in Loch Ness to check for the presence of INNS and ensure that appropriate biosecurity measures, as detailed in the BMP, are implemented.</p> <p>Biosecurity measures should be implemented throughout the development, following 'Check, Clean, Dry' principles. These measures will include, but are not limited to:</p> <ul style="list-style-type: none"> - Vigilance for the presence of INNS, including pre-commencement surveys, supervision and monitoring by the ECoW; - Vehicle washing facilities, including washing plant and vehicles before transferring between this and different construction sites; - Disinfection of Plant, PPE and materials after works in aquatic habitats, especially in Loch Ness where INNS are known to be present; - Ensuring where possible that materials are retained in the habitats where they originated, especially where INNS are known to be present, i.e. Loch Ness; - Drying facilities should be provided for equipment and PPE – some INNS can live, or seeds remain viable, in moist conditions for long periods; - Avoid the transfer of water between aquatic habitats on site. <p>Further to this future monitoring for INNS will be undertaken as follows:</p> <ul style="list-style-type: none"> - Annual monitoring surveys for the presence of INNS, to be combined with surveys for terrestrial INNS, in watercourses within the Site and assessed as receptors in relation to INNS including Loch Ashie. Due to the potential for INNS to be transferred to the Headpond and therefore provide a new transfer pathway in close proximity to Loch Ashie and other aquatic receptors, the Headpond and these receptors will be monitored for INNS for a period of five years. - Regular monitoring of the Inlet/Outlet on the shore of Loch Ness will be carried out to ensure the integrity of the Screen and assess any potential impacts in relation to fish, in particular migratory salmon and other species due to the potential for distraction and entrapment / impingement. - Where permanent culverts are installed in watercourse crossings, these will be monitored to ensure that there are no lasting effects on fish passage, especially in the event that
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		<p>brown trout or other protected/notable species are shown to be present in pre-commencement fish surveys.</p> <p>With the implementation of the above measures it can be concluded that the Development will not result in an adverse effect on integrity of Loch Ashie as a result of INNS during the construction phase.</p> <p>During the operational phase of the proposed Development, whilst the closed-loop system and Inlet screen will minimise the potential for transfer of aquatic INNS through the site, there remains the potential for plant fragments and macroinvertebrates to be transferred to the Headpond from Loch Ness the consequence being that there could be a pathway for INNS transferring from the Headpond to nearby waterbodies and watercourses such as Loch Ashie. To remove such risk, future monitoring for INNS will be undertaken as follows:</p> <ul style="list-style-type: none"> - Annual monitoring surveys for the presence of INNS, to be combined with surveys for terrestrial INNS, in watercourses within the Site and assessed as receptors in relation to INNS including Loch Ashie. Due to the potential for INNS to be transferred to the Headpond and therefore provide a new transfer pathway in close proximity to Loch Ashie and other aquatic receptors, the Headpond and these receptors will be monitored for INNS for a period of five years. - Regular monitoring of the Inlet / Outlet on the shore of Loch Ness will be carried out to ensure the integrity of the Screen and assess any potential impacts in relation to fish, in particular migratory salmon and other species due to the potential for distraction and entrapment / impingement. - Where permanent culverts are installed in watercourse crossings, these will be monitored to ensure that there are no lasting effects on fish passage, especially in the event that brown trout or other protected / notable species are shown to be present in pre-commencement fish surveys. <p>With the implementation of the above measures it can be concluded that the Development will not result in an adverse effect on integrity of Loch Ashie as a result of INNS during the operation phase.</p>
	Conclusion	

9	Can adverse impacts on site integrity be avoided?	<p>Provided that the embedded mitigation listed in the Company's Mitigation Register (EIA report Volume 5, Appendix 17.1) is implemented and the Register kept updated, it will ensure that the integrity of Loch Ashie SPA is not adversely affected.</p> <p>The requirement for any consent granted by the Scottish Ministers to include, but not be limited to, a Construction Environmental Management and the appointment of an Environmental Clerk of Works will ensure that impacts on site integrity are avoided.</p>
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ANNEX 10 – Habitats Regulations Appraisal

APPLICATION FOR CONSENT UNDER S36 OF THE ELECTRICITY ACT 1989 AND DIRECTION UNDER S57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 THAT PLANNING PERMISSION IS DEEMED TO BE GRANTED FOR THE CONSTRUCTION AND OPERATION OF THE RED JOHN PUMPED STORAGE HYDRO SCHEME LOCATED WITHIN THE HIGHLAND COUNCIL PLANNING AUTHORITY AREA.

Scottish Government: Energy & Climate Change Directorate

Habitats Regulations Appraisal of the Implications of the proposed Red John Pumped Storage Hydro Scheme on the River Moriston Special Area of Conservation (SAC).

May 2021

The following appraisal has been prepared by the Scottish Ministers as the Competent Authority for the above proposed Development.

	Description	
1	Brief description of the proposed Development	<p>On 15 November 2018 AECOM Infrastructure & Environment UK Limited, on behalf of Intelligent Land Investments (ILI) (Highlands PSH) Ltd (“the Company”), submitted an application for consent under section 36 of the Electricity Act 1989 (“the Act”) for the construction and operation the Red John Pumped Storage Hydro Scheme (“the proposed Development”).</p> <p>The proposed Development is a pumped storage hydro facility with a storage capacity of approximately 2800 megawatts hours and approximately 400 megawatts of installed electricity generation capacity. It is located approximately 14 kilometres south west of Inverness within the Highland Council planning authority area.</p> <p>The proposed Development will draw water from Loch Ness into underground tunnels to pumps that pump water uphill to a new ‘Headpond’ (upper reservoir) created by the construction of a landscaped embankment between Loch Ashie and Loch Duntelchaig. Here the water will be stored as potential energy until the demand for electricity requires it</p>

to be released back down through tunnels to an underground Power Cavern which converts the movement of the water back into electricity. The water will then return to Loch Ness through a partially submerged inlet/outlet structure.

The proposed Development would comprise;

1. Headpond

The upper reservoir;

2. Embankment

The structure which encircles the headpond designed to retain the water in therein;

3. Tailpond

The lower reservoir (situated in Loch Ness);

4. Tailpond Inlet/Outlet Structure (permanent)

Where the waterways enter the Tailpond. Comprised of a partially submerged structure constructed into Loch Ness with wave walls, screening and cleaning system;

5. A jetty (permanent)

Constructed into Loch Ness to be used for accessing the Inlet / Outlet Structure during operation for maintenance.

6. Cofferdam (temporary)

A water-tight, temporary structure that will encircle the area required for Tailpond works;

7. A jetty (temporary)

		<p>This will be built constructed out into Loch Ness to facilitate the building of the Cofferdam.</p> <p>8. <u>Compounds (4)</u></p> <p>Areas for equipment and material storage, access to the Waterways and Tunnels, site office and welfare facilities.</p> <p>9. <u>Battery Houses;</u> 10. <u>Substation;</u> 11. <u>Access tracks;</u> 12. <u>Security fencing;</u> 13. <u>Borrow pits;</u></p> <p>14. <u>Conveyor belt (temporary)</u></p> <p>To be used to transport material generated from the underground excavation of the Waterways and other tunnelling works up to the Headpond area to be used as Embankment fill.</p> <p>15. <u>Surge Tanks;</u></p> <p>Underground safety features that accommodate changes in pressure along the Waterways;</p> <p>16. <u>Power Cavern</u></p> <p>Will contain the mechanical and electrical equipment for generating electricity;</p> <p>17. <u>Tunnels</u></p> <p>For access and construction/emergency access during operational phase from Compound 1 to the Power Cavern;</p> <p>18. <u>Underground power station and waterway System</u></p>
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		A series of underground intakes, chambers and tunnels carrying water will connect the upper and lower reservoirs, through the underground power station
2	Brief description of the designated Natura site	<p>The River Moriston is designated as an SAC for the following qualifying features:</p> <ul style="list-style-type: none"> • Atlantic salmon, and • Freshwater pearl mussel. <p>The River Moriston SAC is located 22 km south-west from the proposed Development. It includes a diverse aquatic habitat of standing water, running water, bogs, marshes, water fringed vegetation, fens, heath, scrub, maquis and garrigue, phygrana, broad-leaved deciduous and coniferous woodland.. The River Moriston flows into the northern side of Loch Ness and supports a functional freshwater pearl mussel population.</p>
3	Conservation objectives for the River Moriston SAC .	<p>1) To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and</p> <p>2) To ensure for the qualifying species that the following are maintained in the long term:</p> <ul style="list-style-type: none"> - Population of the species, including range of genetic types for salmon, as a viable component of the site; - Distribution of the species within site; - Distribution and extent of habitats supporting the species; - Structure, function and supporting processes of habitats supporting the species - No significant disturbance of the species; - Distribution and viability of freshwater pearl mussel host species; - Structure, function and supporting processes of habitats supporting freshwater pearl mussel host species.

	Screening	
4	Is the proposed Development directly connected with, or necessary to, conservation management of the Natura site?	The proposed Development is not directly connected with, or necessary to, conservation management of the River Moriston SAC and therefore further consideration is needed.
5	Is the operation likely to have a significant effect on the qualifying interest of River Moriston SAC either alone or in combination, with other plans or projects?	<p>Whilst the River Moriston is located 22 km from the proposed Development, due to the designated feature (Atlantic salmon) and other salmonids using Loch Ness (development works will take place at Loch Ness) for migration between the river for spawning and the seas there is potential for linking impact pathways.</p> <p>Due to the distances involved it is not considered that the proposed Development has any realistic linking impact pathways directly to freshwater pearl mussel as they are not present within Loch Ness.</p> <p>From July to May/June the following year the larval phase of the mussel (the glochidia) attach themselves to gills of juvenile salmonid. The juvenile salmonids stay within the River Moriston during this time. As such it is the potential effect of the proposed Development to affect the number of adult salmonids that reach the River Moriston SAC for spawning (and thus produce juvenile salmonids), that is the relevant linking impact pathway to the proposed Development. As a result, Loch Ness is an essential component of the catchment of the River Moriston in providing a migratory route for salmonid turn upon which freshwater pearl mussel depend..</p> <p>Atlantic salmon and freshwater pearl mussel are sensitive to disturbance, siltation and changes in water quality. Atlantic salmon are sensitive to hydrological change and it can influence their life-cycle at different phases, such as foraging behaviour, upstream migration, spawning activity and downstream migration of smolts. Atlantic salmon require good water quality, good clarity and well oxygenated water.</p> <p>There is the potential for disturbance, pollution (eg from fuel spills) and the release of sediment into water courses, from construction works (including blasting) and water course crossings. This would occur mainly during construction, and to occur to a much lesser extent during operation of the proposed Development (eg over the proposed Development's operational lifetime)</p>

		<p>Sediment entering the watercourses will have temporary impacts on water quality, and long term impacts on Atlantic salmon and fresh water pearl mussel habitat (smothering them). Other pollution (eg fuel spills) will have a varying longevity depending on the type and amount spilt, at best case temporarily affecting water quality, at worst case poisoning habitat long term.</p> <p>Therefore there will be a likely significant effect on the qualifying interests from the construction, operation (and decommissioning) of the proposed Development.</p> <p>The proposed Development could therefore, on its own, have a significant effect on the River Moriston SAC.</p>
	Appraisal	
6	Identify the relevant conservation objectives to consider for the River Moriston SAC	<p>The conservation objectives to consider are those that relate to the qualifying interests that may be significantly affected by the proposed Development.</p> <p>All of the above conservation objectives at 3 above are relevant for the qualifying interests of freshwater pearl mussel and Atlantic salmon.</p>
7	Can it be ascertained that the proposed Development/plan will not adversely affect the integrity of the River Moriston SAC	YES
8	Consider whether mitigation measures or conditions to be adopted to avoid impacts on site integrity	<p>As part of the build design and to accord with the CAR authorisation a silt curtain or equivalent will be installed prior to the Cofferdam being installed and the construction of the Temporary Jetty This will entrap sediment stemming from the Development that may reach Loch Ness during construction as a result of run-off.</p> <p>To minimise the effects of noise from piling on fish, 'soft start', i.e. the gradual beginning to piling works will be implemented to deter fish from the immediate area where physical injury may occur.</p>

		<p>Works in Loch Ness will be carried out under the supervision of an Aquatic Ecological Clerk of Works.</p> <p>With the implementation of soft start piling, the restricted timing of piling, and works being supervised by an Aquatic Ecological Clerk of Works it is considered that the Development will not result in an adverse effect on in the integrity on the migratory fish of the SAC via this impact pathway alone.</p>
	Conclusion	
9	Can impacts on site integrity be avoided	<p>It is an offence to pollute a waterbody. In Scotland the relevant legislation is the Controlled Activity Regulations (CAR). In September 2019 SEPA issued authorisation under CAR to the Company. There conditions attached to such an authorisation which ensure protection of aquatic and water environment.</p> <p>Provided that the conditions associated with the CAR authorisation and the embedded mitigation listed in the Company's Mitigation Register (EIA report Volume 5, Appendix 17.1) is implemented and the Register kept updated, it will ensure that the integrity of the River Moriston SAC is not adversely affected.</p> <p>The requirement for any consent granted by the Scottish Ministers to include, but not be limited to, a Construction Environmental Management, the appointment of an Environmental Clerk of Works, Water Quality Management Plan and Waste Management and Pollution Controls will ensure that impacts on site integrity are avoided.</p>