



Energy Consents Unit
5 Atlantic Quay
150 Broomielaw
Glasgow
G2 8LU
FAO: Carlyne Paton

Our Ref 48801788.1\NCH001.001434

8 December 2021

To whom it may concern,

CARRAIG GHEAL WIND FARM, ARGYLL & BUTE, APPLICATION FOR VARIATION UNDER SECTION 36C OF THE ELECTRICITY ACT 1989

Introduction

GreenPower (Carraig Gheal) Limited (the "**Applicant**") requests a variation under Section 36C of the Electricity Act 1989 (the "**1989 Act**") of the Section 36 Consent for Carraig Gheal Wind Farm ("**Carraig Gheal**"), on the terms detailed below. This application under Section 36C is hereinafter referred to as the "**Variation Application**".

The Section 36 Consent

The existing Section 36 Consent for Carraig Gheal (the "**S36 Consent**") and the associated deemed planning permission were granted to the Applicant in terms of the decision letter issued by the Scottish Ministers dated 13 June 2008. The Applicant is defined as the "Company" in the decision letter.

In accordance with the requirement of Regulation 3(1)(d)(iii) of the Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 (the "**2013 Regulations**"), copies of the S36 Consent and the decision letter from the Scottish Ministers are enclosed.

The Applicant remains the owner of Carraig Gheal and is entitled to the benefit of the S36 Consent. The Applicant is therefore entitled to make the Variation Application.

The Proposed Development (as Varied)

Carraig Gheal is situated approximately 8km west of Kilchrenan on the north-west side of Loch Awe in Argyll and Bute. The location of Carraig Gheal is identified on the Site Plan (Drawing No. 2686_04_03948_v01) enclosed.

Carraig Gheal is an operational wind farm, having completed commissioning and commenced commercial operation on 28th October 2013 (the "**Final Commissioning of the Development**").

Condition 5.1 of the S36 Consent currently provides that the consent to operate Carraig Gheal will expire 25 years after the date of Final Commissioning of the Development. The Variation Application seeks only to amend condition 5.1 of the S36 Consent to extend the duration of the operational lifespan from 25 years (current) to 40 years (proposed), from the date of Final Commissioning of the Development.

Pinsent Masons LLP

141 Bothwell Street Glasgow G2 7EQ United Kingdom

T +44 (0)141 567 8400 F +44 (0)141 567 8401 DX 135 - Glasgow

Pinsent Masons LLP is a limited liability partnership, registered in England and Wales (registered number: OC333653) authorised and regulated by the Solicitors Regulation Authority and the appropriate jurisdictions in which it operates. Reference to "Pinsent Masons" is to Pinsent Masons LLP and/or one or more of the affiliated entities that practise under the name "Pinsent Masons" as the context requires. The word "partner", used in relation to the LLP, refers to a member or an employee or consultant of the LLP or any affiliated firm, with equivalent standing. A list of members of Pinsent Masons, those non-members who are designated as partners, and non-member partners in affiliated entities, is available for inspection at our offices or at www.pinsentmasons.com
For a full list of the jurisdictions where we operate, see www.pinsentmasons.com



It is important to note there are no changes proposed to the site boundary, the physical layout of Carraig Gheal or to any other conditions which control the manner of operation of Carraig Gheal. No consequential changes to any conditions are proposed or required in consequence of the proposed variation to condition 5.1.

In particular, the deemed planning permission is not itself subject to a planning condition which provides for expiry after a fixed period of 25 years. The planning conditions relating to decommissioning of Carraig Gheal (conditions 6.23 and 6.24) are triggered by the expiry of the S36 Consent pursuant to condition 5.1. As such, it is not necessary to vary any element of the deemed planning permission and a direction under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 is not required.

A draft of the proposed variations to the terms of condition 5.1 of the S36 Consent is provided in **Appendix 1**, shown as tracked changes.

In accordance with Regulation 3(1)(c) of the 2013 Regulations, the reasons for seeking a variation to the S36 consent are stated in the Supporting Statement that accompanies this Variation Application. In short, the extension to the operational life of Carraig Gheal would contribute to an increase in the energy yield over the life of the wind farm and secure the continued provision of a renewable source of energy for a further 15 years.

Environmental Impact Assessment (EIA)

The Applicant has considered the need for EIA under the terms of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (the “**2017 EIA Regulations**”). Drawing on advice from a competent expert, RPS, it is concluded that the proposed variation would not be likely to give rise to any new or different significant effects on the environment. As such, no EIA Report is provided with the Variation Application.

Variation Application Publicity and Advertising

A copy of the Variation Application will be served on Argyll & Bute Council and on the owners of the site, Fernoch Limited, in accordance with Regulations 4(2)(b) and (d) respectively of the 2013 Regulations.

This Variation Application will be advertised in accordance with the 2013 Regulations, as follows:

- The Oban Times (2 successive weeks; scheduled to be 6th and 13th January 2021)
- The Edinburgh gazette (1 week; either 6th or 13th January 2021) and
- The Herald (1 week; as above)

A copy of the advert is enclosed with this letter (see **Appendix 2**).

Section 4(2)(a) of 2013 Regulations states that the Applicant must publish on a website (i) a summary of the variation application (ii) a copy of the application (iii) the S36 Consent and (iv) any environmental statement prepared in relation to the proposed development. This information will therefore be published on the following website: <http://www.carraighealwindfarm.co.uk/>

Summary & Next Steps

The documentation submitted with the Variation Application therefore comprises:

- This application letter and appendices 1 and 2 (including draft of the proposed variation – see Appendix 1)
- A Site Plan



- A copy of the original S36 Consent and Decision Letter
- Supporting Statement, including the reason why the variation is requested
- Ornithological Report by RPS

We look forward to your acknowledgement in early course that the Variation Application has been accepted for determination.

Please do not hesitate to contact me should you have any queries or if you require any additional information to determine the Variation Application. Otherwise, the Applicant requests that the Scottish Ministers grant the Variation Application, on the terms requested, as soon as practicable.

Yours sincerely,

REDACTED

Partner
Pinsent Masons LLP

cc. Argyll & Bute Council

Appendix 1: Draft Variation to the S36 Consent

Appendix 2: Advert

Enclosures:

Site Plan (Drawing No. 2686_04_03948_v01)

Copy of the S36 Consent and Scottish Ministers' Decision Letter

Ornithological Report by RPS

Supporting Statement

Environmental Statement (2004) and Environmental Statement Amendment (2005)



APPENDIX 1

Draft Variation to the S36 Consent

Current text of Condition 5.1
<i>5.1 The consent is for a period from the date of this consent until the date occurring 25 years after the date of the Final Commissioning of the Development. Written confirmation of the date of Final Commissioning of the Development shall be provided by the Company to the Planning Authority, National Air Traffic Services and to Scottish Ministers no later than 1 calendar month after that event.</i>
Proposed varied text of Condition 5.1
<i>5.1 The consent is for a period from the date of this consent until the date occurring 40 years after the date of the Final Commissioning of the Development. Written confirmation of the date of Final Commissioning of the Development shall be provided by the Company to the Planning Authority, National Air Traffic Services and to Scottish Ministers no later than 1 calendar month after that event.</i>



APPENDIX 2: DRAFT ADVERT

GREEN POWER (CARRAIG GHEAL) LIMITED

ELECTRICITY ACT 1989 (SECTION 36C) THE ELECTRICITY GENERATING STATIONS (APPLICATIONS FOR VARIATION OF CONSENT) (SCOTLAND) REGULATIONS 2013

Notice is hereby given that GreenPower (Carraig Gheal) Limited, company number SC245115, with its registered office at The E-Centre, Cooperage Way, Alloa, Clackmannanshire, Scotland, FK10 3LP has applied to the Scottish Ministers to vary the Section 36 consent to construct and operate the Carraig Gheal Wind Farm at Fernoch Farm, near Kilchrenan in Argyll and Bute (central grid reference 197022E 720568N) consented on 13 June 2008 by Scottish Ministers (“the Variation Application”).

The Variation Application seeks to extend the duration of the operational life of the wind farm from 25 years (current) to 40 years (proposed). No other changes are proposed.

A summary of the Variation Application, a copy of the Variation Application, a link to the original Section 36 consent decision letter and the environmental reports prepared in relation to the proposed varied development can be found at the following websites: <http://www.carraigghéalwindfarm.co.uk/> or at www.energyconsents.scot.

In line with The Electricity Works (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020, the Variation Application is not currently available at any physical locations for inspection. However, copies of the Variation Application may be obtained from GreenPower (Carraig Gheal) Limited (telephone 01259 272158 or by email enquiries@greenpowerinternational.com) at a charge of £50 for a full hard copy. CD copies or electronic formats are available at a cost of £25.

Any representations to the application may be submitted via the Energy Consents Unit website at www.energyconsents.scot/Register.aspx or by email to the Scottish Government, Energy Consents Unit mailbox at representations@gov.scot or alternatively by post to the Scottish Government, Energy Consents Unit, 4th Floor, 5 Atlantic Quay, 150 Broomielaw, Glasgow G2 8LU, identifying the proposal and specifying the grounds for representation.

Any representations should be submitted not later than 11 February 2022 although Ministers may consider representations received after this date.

Written or emailed representations should be dated, clearly stating the name (in block capitals), full return email and postal address of those making representations. Only representations sent by email to the address stipulated will receive acknowledgement.

Where Scottish Ministers decide to exercise their discretion to do so, Scottish Ministers may cause a Public Local Inquiry (PLI) to be held. Following receipt of all views and representations, Scottish Ministers will determine the variation application in one of two ways:



1. Make such variations to the consent as appear to the Scottish Ministers to be appropriate; or
2. Refuse the variation application, in whole or in part.

General Data Protection Regulations

The Scottish Government Energy Consents Unit processes applications under the Electricity Act 1989. To support transparency in decision making, the Scottish Government publishes representations online at www.energyconsents.scot. A privacy notice is published on the help page at www.energyconsents.scot. This explains how the Energy Consents Unit processes your personal information and includes contact details for any enquiries or complaints regarding how your personal data is handled.