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Angus Dodds  
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25 May 2018

Dear Mr Dodds

**APPLICATION FOR CONSENT UNDER S36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER S57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR THE MILLTOWN AIRFIELD SOLAR PV AT MILLTOWN, BETWEEN LHANBRYDE AND LOSSIEMOUTH, IN THE MORAY COUNCIL PLANNING AUTHORITY AREA.**

**Application**

I refer to the application made by Elgin Energy EsCo Limited, a company incorporated under the Companies Acts with company number 071764034 and having its registered office at TWP Accounting Llp, The Old Rectory, Church Street, Weybridge, Surrey, KT13 8DE ("the Company") dated 26 July 2017 for consent under Section 36 of the Electricity Act 1989 ("the Electricity Act") for the construction and operation for 30 years of the Milltown Airfield Solar PV electricity generating station at Milltown Airfield, between Lhanbryde and Lossiemouth, Moray.

The application is for the construction and operation of a solar powered generating station with approximately 200,000 solar PV modules totalling more than 50 MW of installed capacity. **This letter contains the Scottish Ministers' decision to grant consent for the development as more particularly described in Annex 1.**

**Planning Permission**

In terms of section 57(2) of the Town and Country Planning (Scotland) Act 1997 ("the 1997 Act") Scottish Ministers may on granting consent under section 36 of the Electricity Act 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.**

## **Consultation**

Under paragraph 2(1) of Schedule 8 to the Electricity Act 1989, Ministers are required to consult the relevant Planning Authority. In addition, officials consulted other organisations likely to have an interest in the proposed development by reason of their respective environmental responsibilities.

In accordance with the statutory requirements, the application was subject to wide-ranging statutory and non-statutory consultation.

## **Moray Council**

Moray Council did not object to the proposed solar PV. The Planning Authority assessed the proposed development against the Moray Development Plan 2015. They concluded that subject to conditions the proposed development would comply with the Council's development plan policies and that no material considerations have been found to warrant a refusal of the application.

## **Scottish Natural Heritage (SNH)**

SNH commented that the development site at Milltown Airfield does not lie within or adjacent to any site designated nationally or internationally for natural heritage interests. However, there may be connectivity with Loch Spynie Special Protection Area (SPA) & Ramsar site and the Moray and Nairn Coast SPA & Ramsar site due to the use of the site by greylag and/or pink footed geese which are interests of these protected areas.

SNH agreed that the site offers limited potential for breeding birds, however advise that any works taking place during the bird breeding season should take account of the potential for breeding birds on site. For example, vegetation should be cleared out with the bird breeding season or the area should be thoroughly checked for any signs of breeding birds of all species, not just waders – to include nests in the process of being built – prior to any vegetation clearance or other works which may disturb breeding birds. SNH requirements are addressed by condition 20 of this consent and deemed planning permission, attached at annex 2.

## **Scottish Environment Protection Agency (SEPA)**

SEPA commented that the development site lies part within the medium likelihood (0.5% annual probability or 1 in 200 year) flood extent of the SEPA Flood Maps and may therefore be at a medium to high risk of flooding. SEPA agree that by raising the solar panels it would also likely have the benefit of not altering any existing flood pathways or increasing flood risk elsewhere. SEPA requested a condition relating to decommissioning plan, this had been addressed by condition 15 of this consent and deemed planning permission, attached at annex 2.

## **Forestry Commission Scotland (FCS)**

FCS had no comment to make on the proposed development.

## **Historic Environment Scotland (HES)**

HES did not object to the proposed development and commented that they are content the proposals will have no significant impacts upon the scheduled monument Spynie Palace and the category A listed building Innes House.

### **Ministry of Defence (MOD)**

The MOD stated that they have no safeguarding objections to the proposed development.

### **Royal Society for the Protection of Birds (RSPB)**

RSPB did not object to the proposed development and commented that two to three pairs of Curlew were found during the bird survey, therefore they would welcome habitat management in the surrounding area. They went on to request that the proposed development be conditioned for a Breeding Bird Protection Plan should include details of how the destruction of Skylark nests will be avoided.

### **Scottish Water**

Commented that there is a strategic main running along the western boundary of the site along the route of the proposed fence. They request that the developer confirms the position of the main and ensures that the deer fence and cameras are sufficiently clear of this asset.

### **Transport Scotland**

No objection to the proposed development because the number of vehicle movements during construction is unlikely to impact on the trunk road network.

### **Civil Aviation Authority (CAA)**

The CAA were consulted upon the application and no response was received.

### **Fisheries Management Scotland**

Consulted upon the application and no response was received.

### **Representations from Other Organisations**

#### **Public Representations**

One public representation was received for the proposal, an objection. The reasons given for the objection relate to the views from a nearby residential property and how they will be obscured by hedges, trees and solar panels. A residential visual amenity appraisal has been submitted in support of the application which assesses the effects on the surrounding properties. The appraisal identifies the effect is substantial in year one, however mitigation planting is proposed which will reduce the effect within five years and is secured by condition. Other matters regarding a proposed housing application with the local authority and the potential sale of the property were raised in the representation. These are not material considerations to the proposed development and therefore are not assessed.

#### **Public Local Inquiry**

As Moray Council did not object to the proposed development subject to conditions being put in place prior to Commencement of Development, there is no statutory obligation to hold a

Public Local Inquiry (“PLI”). Scottish Ministers have considered fully and carefully the application, Section 36 Statement, supporting documents, and all relevant responses from consultees and third party representations. They have taken all material considerations into account. They acknowledge that there are no significant issues which have not been adequately considered and have sufficient information to be able to make an informed decision on the application without the need for a PLI.

## **Environmental Matters**

In accordance with paragraph 3 of Schedule 9 to the Electricity Act the Scottish Ministers have 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. Ministers have also had regard to the extent to which the Company has complied with its duty to do what it can to mitigate the effects of the Development and are satisfied that the Company has done what they reasonably can to mitigate any effect that the proposals would have on these matters.

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

- obtain SEPA’s 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’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.

## **The Scottish Ministers’ Considerations**

The Scottish Ministers, having taken account of all relevant information, consider that the proposal is supported by national policies which promote the principle of solar PV and that the location is appropriate.

Scottish Ministers are satisfied that any adverse environmental effects can be mitigated by conditions or that their impacts would be limited and outweighed by the benefits of renewable energy generation and contribution to electricity grid decarbonisation required by the Scottish Government’s policies to tackle climate change.

## **Habitats Regulations**

SNH advised the proposed development does not lie within or adjacent to any site designated nationally or internationally for natural heritage interests. However, SNH advised there may be connectivity with Loch Spynie Special Protection Area (SPA) & Ramsar site and the Moray and Nairn Coast SPA & Ramsar site due to the use of the site by greylag and/or pink footed geese which are interests of these protected areas.

The ecological appraisal report includes information on the use of the site and surrounds by geese. SNH agree that the site offers sub-optimal habitat which will not be a key foraging area for geese and that construction activities are unlikely to disturb any geese using the surrounding area. As a result, SNH do not consider that there are likely to be significant environmental effects on protected areas as a result of this proposal.

Ministers agree with SNH that there would be no likely adverse environmental effects on protected areas as a result of the development.

## **Main Determinative Issues**

Ministers, having taken account of all relevant information, consider that the main determinative issues are:

- the extent to which the development accords with and is supported by Scottish Government policy and the terms of the development plan;
- the effects of the development on the environment described in the supporting environmental information
- the estimated contribution made by the development to reducing CO2 emissions, and;
- the renewable energy benefits of the proposed development.

### Scottish Government Policy Context

The National Planning Framework 3 (NPF3) sets out the Scottish Government's commitment to establishing Scotland as a leading location for the development of renewable energy technology and the long term vision for the development of Scotland. NPF3 is the spatial expression of the Scottish Government's Economic Strategy and has a focus on supporting sustainable economic growth which respects the quality of the environment, place and life in Scotland, and the transition to a low carbon economy. The framework sets out strategic outcomes aimed at supporting the vision – a successful, sustainable place, a low carbon place, a natural, resilient place and a connected place. Officials conclude the development would support the vision and aims of National Planning Policy Framework 3 to make Scotland 'a low carbon place' by capitalising on solar resource for electricity generation.

The Scottish Planning Policy 2014 (SPP) introduces a presumption in favour of development that contributes to sustainable development. Paragraph 29 of SPP sets out that policies and decisions should be guided by certain principles, including: giving due weight to net economic benefit; supporting delivery of infrastructure, including energy, and; protecting natural heritage, including landscape and the wider environment. SPP also states that the planning system should support the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity.

The Scottish Government Renewable Electricity Output Calculator (22 February 2017 version) published at <http://www.gov.scot/Topics/Statistics/Browse/Business/Energy/onlinetools/ElecCalc> estimates that a typical 50MW solar PV will save 17,900 tonnes of CO2 per annum over grid mix of electricity generation, with annual generation equivalent to the annual demand of 10,538 households in Scotland.

Scottish Ministers conclude the development would make a significant contribution towards meeting greenhouse gas emission and renewable electricity targets, as well as the diversification of energy supplies. In considering all of the aspects together, Scottish Ministers conclude that overall the development is supported by the SPP.

### Local Development Plan Context

Moray Council assessed the proposed development against the Moray Development Plan (2015) policies, and found the proposal to be in accordance. Scottish Ministers agree with the conclusion of the planning authority.

### Landscape and Visual Impacts

The overall effects of the Development on landscape and visual amenity are limited to a very small geographical area and a small number of visual receptors will be affected. Mitigation measures include hedge and tree planting enhancements at the western edge of the Development where the nearest residential properties are located and where people frequently drive past on the B9103.

The landscape enhancement measures will combine with the measures proposed in the separate Ecological Report that accompanies the Supporting Statement to benefit the landscape by creating a diversity of habitats and enhancing connectivity with existing green infrastructure.

### Cultural Heritage Impacts

Historic Environment Scotland (HES) commented that they are content to agree with the setting appraisal that no significant impacts will arise from the Development. Moray Council had no objections to the Development but requested a condition for the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Aberdeenshire Council Archaeology Service on behalf of the Planning Authority, during any ground breaking and development work.

### **Other Environmental Considerations**

Taking into account all of the Environmental Information including all consultation responses, Scottish Ministers consider there are no other significant adverse impacts arising from the proposed development.

### **Conclusion**

Having regard to all the environmental information, Scottish Ministers conclude that the development is supported by the Scottish Planning Policy; and that any localised landscape and visual impacts are outweighed by the renewable energy, climate change and economic benefits of the proposal, subject to the conditions set out in this letter.

The Scottish Ministers are satisfied that any other environmental issues can be appropriately addressed by way of mitigation.

### **Duration of planning permission**

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 Ministers consider that due to the scale and complexity of constructing such developments and the variables around connections feeding into the transmission and distribution network, a 5 year time scale for the commencement of development would be appropriate in this case.

## **The Scottish Ministers' Determination**

Subject to the conditions set out in **Part 1 of Annex 2**, Scottish Ministers **grant consent** under section 36 of the Electricity Act 1989 for the construction and operation of the Milltown Airfield electricity generating station for a period of 30 years in Moray Council area (as described in **Annex 1**).

Subject to the conditions set out in **Part 2 of Annex 2**, Scottish Ministers direct that **planning permission is deemed to be granted** under section 57(2) of the Town and Country Planning (Scotland) Act 1997 in respect of the development described in **Annex 1**.

The consent hereby granted shall expire after a period of 30 years from the earlier of i) the date of Final Commissioning of the solar PV panels forming part of the development hereby permitted; or ii) the date falling 6 months after electricity is generated from the first of the solar PV panels hereby permitted.

The Scottish Ministers 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 5 years from the date of this direction unless the Development is begun before the expiration of that period.

Copies of this letter and the consent have been sent to the Planning Authority. This letter has also been published on the Scottish Government Energy Consents website.

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

<http://www.scotcourts.gov.uk/rules-and-practice/rules-of-court/court-of-session-rules>

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

Your sincerely

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

## **ANNEX 1**

### **DESCRIPTION OF THE DEVELOPMENT**

The Development is a solar-powered electricity generating station known as Milltown Airfield Solar PV, located at Milltown, between Lhanbryde and Lossiemouth, within the Moray Council Planning Authority Area, all as specified in the application and accompanying Section 36 Statement supporting documentation submitted on 26 July 2017.

The principal components of the Solar PV array and ancillary development comprise:

- Approximately 200,000 solar PV modules;
- Primary substation;
- Up to 50 PV inverter substations;
- Internal access tracks;
- 31 pole mounted CCTV cameras;
- 2.45 metres in height Deer fence;
- Underground cabling



## ANNEX 2

The consent granted in accordance with section 36 of the Electricity Act 1989 and the direction that planning permission is deemed to be granted under section 57 of the Town and Country Planning (Scotland) Act 1997 are subject to the following conditions:

### PART 1

#### Conditions attached to the section 36 consent

##### 1. Notification of Date of First Commissioning

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

(2) Written confirmation of the date of Final Commissioning shall be submitted in writing to the Council, as Planning Authority within one calendar month after that date.

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

##### 2. Commencement of Development

(1) Development shall be commenced no later than 5 years for the date of this consent, or in substitution such period as the Scottish Ministers may hereafter direct in writing.

(2) Written confirmation of the intended date of Commencement of Development shall be provided to both the Planning Authority and the Scottish Ministers as soon as is practicable after deciding on such a date.

**Reason:** *To avoid uncertainty and ensure that 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.*

##### 3. Non-assignment of consent

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

(2) The Company shall notify the Planning Authority and Scottish Ministers in writing of the name of the assignee, principal named contact and contact details within 14 days of the consent being assigned.

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

##### 4. Serious incident reporting

(1) In the event of any breach of health and safety or environmental obligations relating to the Development during the period of this consent, the Company will provide written notification of the nature and timing of the incident to the Scottish Ministers, including

confirmation of remedial measures taken and/ or to be taken to rectify the breach, within 24 hours of the incident occurring.

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

## **PART 2**

### **Conditions attached to deemed planning permission**

#### **1. Landscape enhancement measures**

(1) The landscaping inclusive of enhanced grassland must be carried out as detailed within Chapter 5 Landscape Enhancement Measures and Figure 6 Landscape Proposals of the “Elgin Energy, Milltown Airfield Solar PV Array Landscape and Visual Impact Appraisal May 2017” no later than the first planting season following commencement of the development unless otherwise agreed in writing with the Planning Authority

**Reason:** *In order to ensure the timeous provision of the necessary and beneficial landscaping so as to improve the visual appearance of the development and to mitigate any glint and glare effect on surrounding property and roads.*

#### **2. Landscape Maintenance**

(1) Any of the landscape enhancement measures approved under condition 1, which within a period of 5 years from planting die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and spacing unless the Council, as Planning Authority gives written consent to any variation of this condition and during and after the specified period all landscaping details shall be maintained.

**Reason:** *In order to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development of the amenity, appearance, character and quality of the development and the surrounding area.*

#### **3. Photographic Survey**

(1) No demolition of any buildings or structures shall take place prior to a photographic survey being undertaken by the developer and approved by the Planning Authority.

(2) All elevations, both external and internal (where it is safe to access the building), together with the setting of the building, and any unusual feature/s, shall be photographed and clearly annotated on a plan.

(3) Photographs, which should be digital files (jpeg, tiff, pdf) submitted by email, on CD or via online file sharing services, shall be clearly marked with place name for identification, national grid reference and planning reference and deposited with the Archaeology Service for addition into the local Sites and Monuments Record.

**Reason:** *To ensure a historic record is kept of any structures/buildings to be down taken.*

#### **4. Archaeological Standing Buildings Survey**

(1) No development shall commence unless and until a programme to secure the implementation of a Level 1 archaeological standing building survey of the extant structures has been submitted to , and approved by the Planning Authority, using the scope set out by the Aberdeenshire Council Archaeology Service. Thereafter the approved programme shall be implemented.

(2) The programme of archaeological works shall include measures to be taken to protect and preserve any features of archaeological interest in situ and the recording of and recovery of archaeological features which cannot be protected or preserved.) The name of the archaeological organisation retained by the developer shall be given to the Planning Authority and to the Aberdeenshire Archaeology Service in writing not less than 14 days before the survey commences.

(3) Copies of the resulting survey shall be deposited in the National Record of the Historic Environment and in the local Sites and Monuments Record upon completion.

*Reason: To ensure the protection or recording of archaeological features on the site.*

## **5. Archaeological Watching Brief**

(1) The developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Aberdeenshire Council Archaeology Service on behalf of the Planning Authority, during any ground breaking and development work.

(2) The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record and recover items of interest and finds.

(3) The watching brief shall be prepared in accordance with the terms of reference set out by Aberdeenshire Council Archaeology Service.

(4) The name of the archaeological organisation retained by the developer shall be given to the Planning Authority and to the Aberdeenshire Council Archaeology Service in writing not less than 14 days before development commences.

*Reason: To record items of archaeological interest.*

## **6. Action Provision**

(1) No development shall commence until details of the following have been submitted to and approved in writing by the Planning Authority in consultation with the Roads Authority:

- a) A drawing (1:500 minimum) showing the proposed permanent access arrangements for the proposed access onto the B9103. Details to include any security/gating arrangements, swept path analysis for inbound and outbound HGV movements, access widening and drainage
- b) Details (Plan 1:500 minimum) of proposed parking and laydown areas within the site to demonstrate that adequate parking provision has been made for the construction phase and provision for the turning of all vehicles within the site.

*Reason: To ensure that acceptable access provision is in place to serve the Development.*

## 7. Access and Visibility

(1) Prior to the commencement of any other works on site, a visibility splay of 4.5 metres by 215 metres as shown on drawing SK001 Rev A dated 10th October 2017 shall be provided at the access onto the public road, clear of any obstruction above 0.6m in height (measured from the level of the carriageway). Thereafter the visibility splay shall be maintained for the lifetime of the development and any planting or hedging must be maintained at least 1 metre back from the line of the visibility splay.

**Reason:** *To ensure acceptable Access and Visibility in the interests of road safety for the proposed development and other road users.*

## 8. Construction Traffic Management Plan

(1) No development shall commence on site until a Construction Traffic Management Plan has been submitted to and approved in writing by the Planning Authority in consultation with the Roads Authority. The Construction Traffic Management Plan shall include the following information:

- a) Duration of works;
- b) Construction programme;
- c) Number of vehicle movements (i.e. materials, plant, staff, components);
- d) Anticipated schedule for delivery of materials and plant;
- e) Full details of any temporary construction access (Plan 1:500) including access, gates, traffic management;
- f) Measures to be put in place to prevent material being deposited on the public road;
- g) Measures to be put in place to safeguard the movements of pedestrians;
- h) Traffic management measures to be put in place during works including any specific instructions to drivers; and
- i) Parking provision, loading and unloading areas for construction traffic.
- j) A joint condition survey (MC and Contractor) covering all routes (to be agreed once contractor and construction traffic routes confirmed).
- k) Confirmation that either a S96 Agreement between the developer and the Roads Authority is in place or written confirmation from the Roads Authority that no S96 Agreement is required.

(2) Thereafter, the development shall be implemented in accordance with the approved details.

**Reason:** *To ensure that all construction operations are carried out in a manner that minimises the their impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Statement accompanying the application, or as otherwise agreed, are fully implemented*

## 9. Safety and Free Flow of Traffic

(1) No development shall commence on site until measures have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority to ensure that no water or loose material shall drain or be carried onto the public footpath/carriageway for the life-time of the development. Thereafter the measures approved shall be implemented.

*Reason: To ensure the safety and free flow of traffic on the public road and access to the site by minimising the road safety impact from extraneous material and surface water in the vicinity of the new access.*

## **10. Construction Phase Surface Water Management Plan**

(1) No development shall commence unless and until a Construction Phase Surface Water Management Plan must be submitted to and approved by the Moray Council as Planning Authority (in consultation with the Moray Council Flood Risk Management Team). The construction must thereafter be carried out in accordance with the approved management plan.

*Reason: In order to ensure that surface water flood issue during the construction phase can be fully considered and controlled.*

## **11. Decommissioning and Restoration Plan (DRP)**

(1) No development shall commence until a draft Decommissioning and Restoration Plan (DRP) for the site has been submitted to, and approved in writing by the Council, as Planning Authority in consultation with SNH and SEPA. Thereafter:

- a) no later than 3 years prior to the decommissioning of the development, the draft DRP shall be reviewed by the Solar Farm Operator and a copy submitted to the Council, as Planning Authority for their written approval
- b) no later than 12 months prior to the decommissioning of the development, a detailed DRP, based upon the principles of the approved draft DRP, shall be submitted to, and approved in writing by, the Council as Planning Authority and thereafter, the detailed DRP shall be implemented in accordance with the approved details.

(2) The DRP shall include the removal of all above-ground elements of the development, the treatment of ground surfaces, management and timing of the works, environmental management provisions and a traffic management plan to address any traffic impact issues during the decommissioning period.

*Reason: To ensure that the decommissioning of the development and restoration of the site are carried out in an appropriate and environmentally acceptable manner.*

## **12. Design and Operation of Solar PV Array**

(1) No development shall commence until details have been submitted to and approved by the Council, as Planning Authority regarding:

- a) the make, model, design and power rating of the solar panels to be used together with evidence to confirm that the energy generation capacity (output) of the development;
- b) the arrangement and layout of all solar panels to be installed; and
- c) the design specifications and external material finishes and colour of the substation and inverter stations. Both the substation and inverter stations shall be finished in green or other similar recessive colour and shall have a mat, non-reflective, finish.

(2) All details shall be in accordance with the details shown on approved drawing WSP-0091-GA-600-ST-221 Site Layout plan. The development shall be implemented in accordance with the approved details.

**Reason:** *Details of the matters specified are lacking from the submission and to ensure an acceptable form of development in landscape, visual and environmental impacts.*

### **13. Financial Guarantee**

(1) No development shall commence until details have been submitted to and approved in writing by the Council, as Planning Authority regarding evidence of a bond or other similar financial provision to be put in place to cover all decommissioning and site restoration costs on the expiry of the permission or where all solar arrays cease to be required, whichever is the sooner. The required bond or equivalent shall:

- a) Be based on the approved draft DRP (as required by condition 11); and
- b) Include documentary evidence to demonstrate that the amount of the bond or financial provision is sufficient to meet the full estimated costs of decommissioning, including dismantling, removal, disposal, site restoration, remediation and all other incidental works and professional costs; and
- c) Include details to ensure that the proposed financial arrangements will be maintained and be subject to periodic review throughout the lifetime of the development. The review period shall not be less than 5 yearly intervals from commencement of the development, or such other period as may be agreed in writing with the Planning Authority and the findings of the review shall be submitted to and approved by the Planning Authority.

(2) Thereafter, the development shall not commence until written evidence has been provided to the Council, as Planning Authority to confirm that the approved bond or financial provision arrangement has been put in place.

**Reason:** *To ensure that sufficient funds are available to address the expected full costs of decommissioning and re-instatement and restoration of the site.*

### **14. Decommissioning**

(1) Upon the expiration of a period of 30 years from the Date of Final Commissioning, the solar panels shall be decommissioned and removed from the site, with all decommissioning and restoration works undertaken in accordance with the terms of condition 11 of this permission.

(2) Written confirmation of the Date of Final Commissioning shall be submitted in writing to the Council, as Planning Authority within one month of the said date.

**Reason:** *To ensure the decommissioning and removal of the Development in an appropriate and acceptable manner in the interests of safety, amenity and environmental.*

### **15. Noise**

(1) The rating level of noise emitted from the proposed development shall not exceed the existing background sound level by more than 5dB.

(2) The noise levels shall be determined at the nearest noise sensitive premises. Measurements and assessments shall be made to BS 4142:2024 Method for rating and assessing industrial and commercial sound.

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

## **16. Breeding Birds**

(1) A breeding bird protection plan (BBPP) must be prepared, and submitted to, and approved by the Moray Council prior to works commencing on site. In addition to the BBPP, a walk over survey (to check for breeding birds) must be undertaken between 1st April and 31st July prior to the commencement of any works related to the development within the same time period (1st April to 31st July) and submitted to the Planning Authority. The development shall thereafter be developed in accordance with the approved plan

**Reason:** To ensure an up to date survey of nesting birds and mechanism for their protection is place prior to construction activity on site.

**Definitions:**

**“The application”** means the application submitted by the Company on 26 July 2017;

**“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 the person for the time being entitled to the benefit of the consent under section 36 of the Electricity Act 1989, such person at the date of the consent being Elgin Energy EsCo Limited incorporated under the Companies Acts (Company number 071764034) and having its registered office at Twp Accounting Llp, The Old Rectory, Church Street, Weybridge, Surrey, KT13 8DE;

**“Decommissioning”** means the date on which all the solar PV apparatus have been permanently decommissioned and removed from the Site and the Site has been restored in accordance with the conditions contained in the planning permission.

**“The Development”** means the Milltown Airfield solar powered electricity generating station and associated infrastructure at the Milltown Airfield, between Lhanbryde and Lossiemouth, as described in Annex 1;

**“Final Commissioning”** means the earlier of (a) the date on which electricity is exported to the grid on a commercial basis from the last of solar panels forming part of the development erected in accordance with this consent; or (b) the date 6 months after the date of First Commissioning, unless a longer period is agreed in writing in advance by the Planning Authority;

**“First Commissioning”** means the date on which electricity is first exported to the grid on a commercial basis from any of the solar PV panels forming part of the development.



of a Milltown Airfield Solar powered electricity generating station at Milltown

Signed

NIKKI ANDERSON

## NOTES:

ARRANGEMENT OF PANELS SHOWN IS BASED ON THE FOLLOWING DATA:

1. TYPICAL PANEL SIZE = 1500mm x 1600mm.
2. PANEL TYPICAL INCLINATION = 25 DEGREES TO HORIZONTAL.
3. MODULE LENGTH = TYPICAL 12m Run With 0.2m GAPS SUPPORTED ON FOUR POSTS/FRAMES.
4. FOR CLEAR HOLES DESIGNERS TO PLACE PANELS REFER TO SECTION 1.
5. PANELS AT LATEST POINT SET AT 0.5m ABOVE GROUND LEVEL, INCREASING TO 2.0m APPROXIMATELY MAXIMUM.
6. PANELS NOT LOCATED WHERE LAND GRADIENT EXCEEDS 1 IN 5 (1:5) OR WHERE DUE TO TOPOGRAPHY.
7. MINIMUM 50mm THICK BUTTER ALUMINUM TO ALL BOUNDARIES.
8. ACCESS ROADS TO CONSIST OF CLAY/CLAY AND MATERIAL MIXED REPAIRS (IE AREAS OF SOFT SPOTS, FIRM, FINEST AND EXISTING TO BE COMPLETED. ONLY FURNISHING MATERIAL TO BE USED).
9. FOR EXIST AND TYPE OF SCHEDULING REQUIRED REFER TO UNDERGROUND AND VISUAL ASSESSMENT REPORT FOR PROPOSALS.
10. ALL OTHERS ARE HERE AND THERE TO BE DECIDED.
11. MANAGE AND LOCATION OF MATERIAL ELABORATIONS SUBJECT TO PANEL DESIGN.
12. LOCATION OF SECURITY FENCE SUBJECT TO PANEL DESIGN.

[illegible]

PRELIMINARY



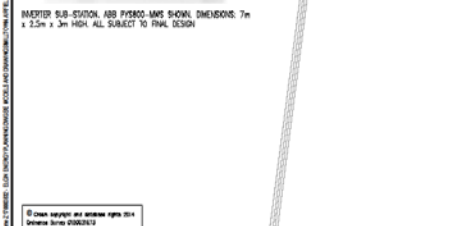
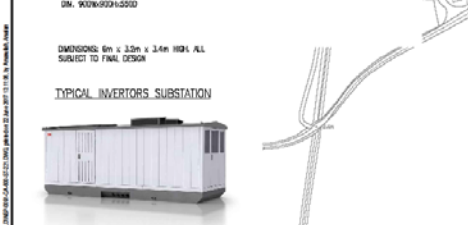
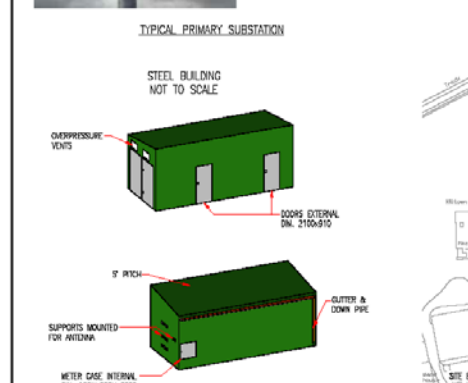
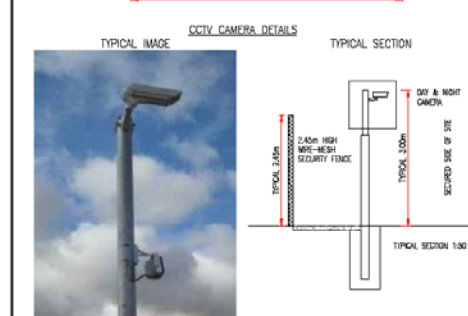
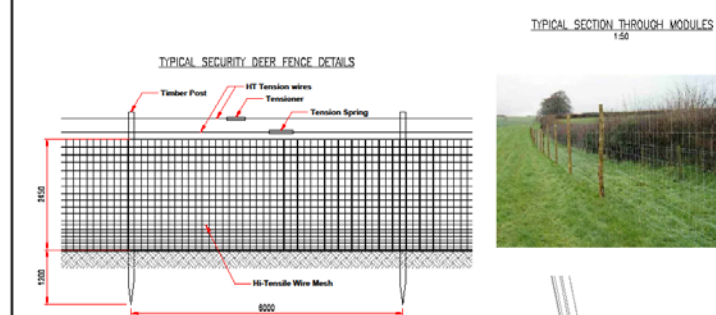
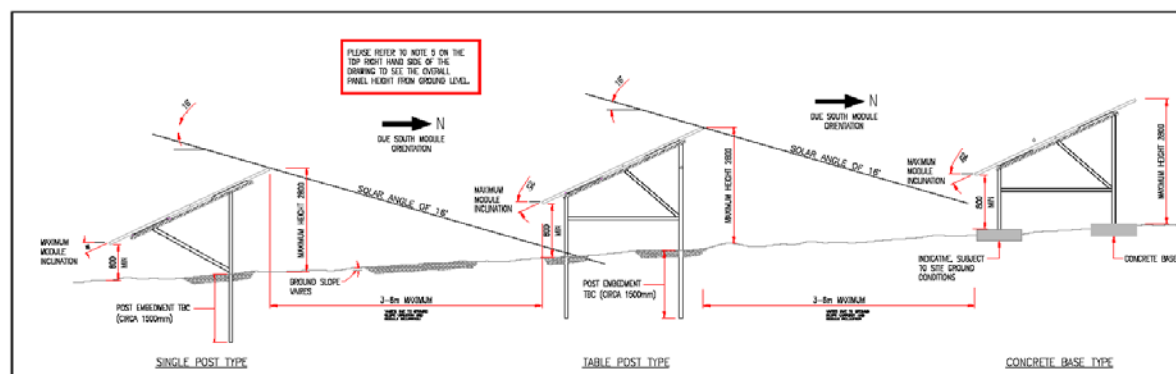
ELGIN ENERGY

MILLTOWN AIRFIELD  
SOLAR PV

### PROPOSED SOLAR SITE LAYOUT

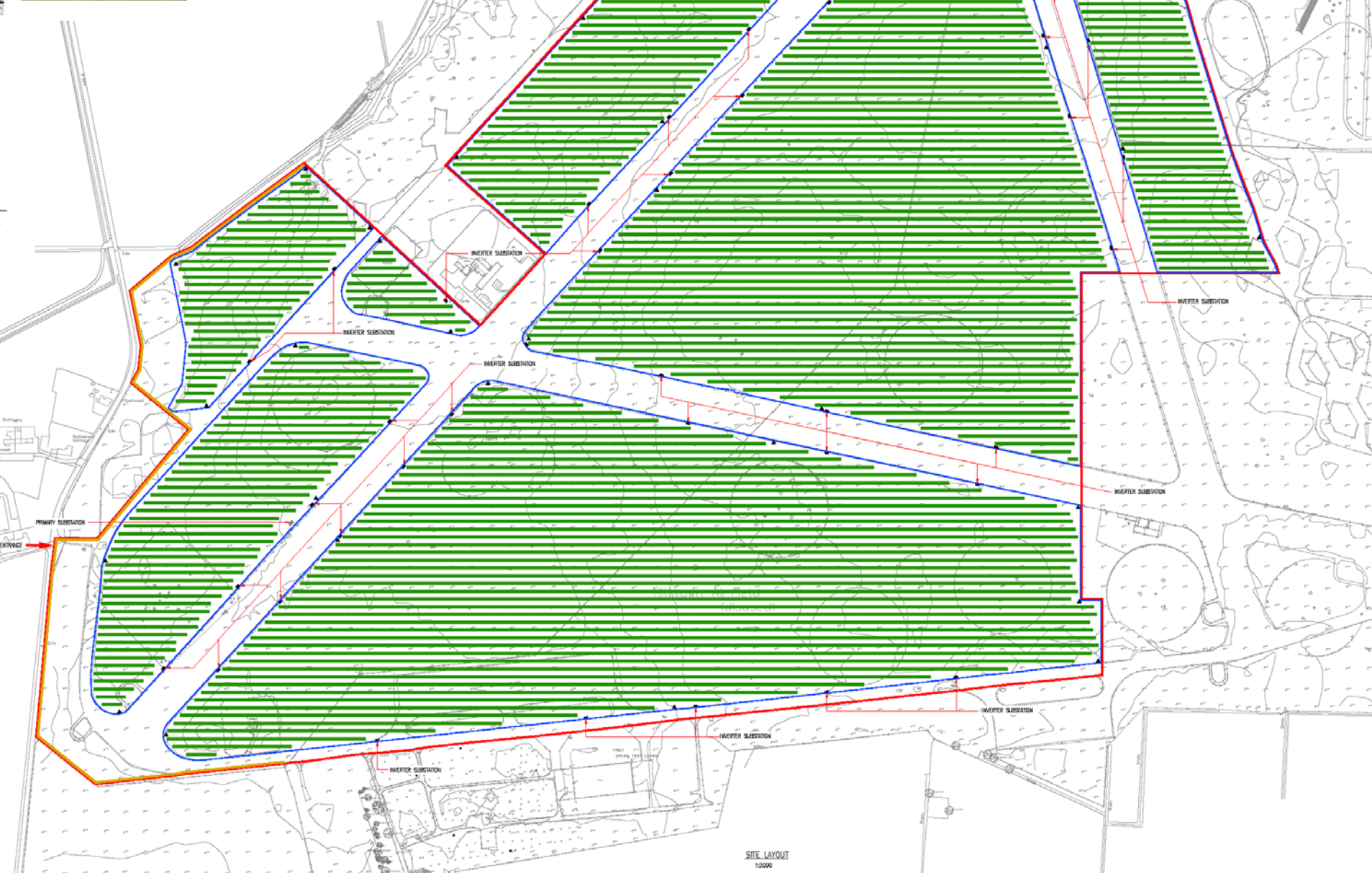
ISSUED BY:	AS SHOWN	DESIGNED:	MAS	APPROVED:	MAS
PROJECT NO:	70000032	DESIGNED:	MAS	DATE:	06 MAY 2014
ISSUED TO:					REV:
WSP-0091-GA-600-ST-221					11

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**TYPICAL HIGH TENSILE FIXED KNOT PENCING**

1. 2.5M HIGH PRESSURE TREATED TIMBER POSTS AT 9M CENTRES
2. HIGH TENSILE GALVANISED WIRE TO BS EN 10223 AND BS EN 10244.
3. 20 NO. HORIZONTAL LINES, 2.5MM WIRE, SPACING VARIES BETWEEN 75MM AND 175MM.
4. VERTICAL LINES, 2.5 WIRE AT 150MM CENTRES.
5. HIGH TENSILE TENSION WIRE TO TOP FITTED WITH TENSIONER AND TENSION SPRING.



SITE LAYOUT  
1:2000