

Our ref: LEEM/ESM/298420  
Your ref: RR/LRB/CASE 007

Roderick D Burns  
Clerk to the Moray Local Review Body  
The Moray Council  
DX 520666  
Elgin

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|-------------------------|---------|-------|-----------|
| <b>CENTRAL SERVICES</b> |         |       |           |
| 17 MAY 2010             |         |       |           |
| CTTEE                   | ESTATES | LEGAL | PERSONNEL |
| COMMENTS                |         |       |           |

14 May 2010

Dear Sirs

**Mr Clive Streeter**

**Request for Review: Planning Application 09/00247/FUL – Planning Permission for the Erection of 2 800KW Wind Turbines at Myreton, Crossroads, Keith**

We refer to your letter of 30 April 2010, addressed to Seren Energy, to which we have been asked to respond in terms of a Legal Submission. A separate response will be sent to you by Seren Energy, on behalf of Mr Streeter. Both documents should be taken account.

We note that Moray Council Local Review Body has approved the Scottish Planning Policy and the Council's Policy Interpretation for Wind Turbine Developments (approved 6 April 2010) as material considerations. It is our understanding that you seek views on the impact which these documents would have on our client's application. We would make the following comments:

1. Section 17 of the Planning etc (Scotland) Act 2006 amended the Town & Country Planning (Scotland) Act 1997 by the insertion of Section 43A and 43B, therefore the relevant primary legislation should properly be cited as Section 43B(2) of the Town & Country Planning (Scotland) Act 1997.
2. The letter from the Moray Council Local Review Body dated 30 April 2010 does not accord with Regulation 15 (2) (a) of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 which provides that "notice ...is to (a) set out the matters on which such further representations or information is requested". The letter is unclear and confusing and did not enable the applicant to know which parts of the Scottish Planning Policy ("SPP") the MCLRb have approved as requiring to be taken into account in determining the Review. The letter of 30 April 2010 refers to the "Renewable Energy" section of the SPP and states that a copy is enclosed with the letter. However, the relevant enclosure is specifically headed "copy of paragraph 182 to 186 of 2010 Scottish Planning Policy", yet only includes copies of paragraphs 182 to 185. As a consequence the applicant was not certain as to which paragraphs of the SPP a response was required.
3. Insofar as the question of the impact of the SPP is concerned, as stated in the previous legal submission, it is our view that entire content of the Scottish Planning Policy (insofar as relevant

to the circumstances of the particular application under review) is a material consideration. Therefore, not only is the entire Renewable Energy Section of the SPP a material consideration to be taken account in determining the Review, but other sections which are material considerations include: the Introduction (paragraphs 1 to 7), Development Plans (paragraphs 10 to 18) and Outcomes (paragraph 255 to 257) which full account should be paid in the determination of the Review.

Yours faithfully



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Copies (by e-mail only) to:

Appointed Officer, Environmental Services Dept., Moray Council  
Environmental Health Manager, Environmental Services Dept, Moray Council  
Transportation Manager per Mr R Gerring, Direct Services, Environmental Services Dept, Moray Council  
Contaminated Land, Environmental Health, Environmental Services Dept., Moray Council  
Regional Archaeologist, Aberdeenshire Council  
Development Plans, Development Services, Environmental Services Dept., Moray Council  
Graeme Gill, Scottish and Southern Energy  
Scottish Natural Heritage  
Ms Clare Pritchett, Scottish Environment Protection Agency  
National Air Traffic Systems Limited, NERL Safeguarding  
Dr Ian Francis, Area Manager, RSPB Scotland  
Ministry of Defence Safeguarding & Byelaws Section  
Strathisla Community Council  
Ofcom, Wind Farm Enquiries