

Perth and Kinross Council
Development Management Committee – 19 March 2014
Report of Handling by Development Quality Manager

Installation of a run-of-river hydroelectric scheme and associated works at River
Braan Hydro Scheme, Trochry

Ref. No: 13/01698/FLL
Ward No: 4– Highland

Summary

This report recommends approval of the application for the installation of a run-of-river hydroelectric scheme and associated works as the development is considered to comply with the relevant provisions of the Development Plan.

BACKGROUND AND DESCRIPTION

- 1 The application site is located on the River Braan around Rumbling Bridge between Trochry and Dunkeld. The site is surrounded by areas of farmland and commercial forestry in the valley between Creag an Eunaich and Torchuaig Hill.
- 2 The proposed hydroelectric scheme is a run-of-river hydroelectric where the headworks at the upstream end provide minimal water storage, and the output from the turbine and the flow allowed to pass through the weir, is related to the prevailing flow of the river. As such, the proposed scheme would only operate when there is sufficient water available in the river.
- 3 The proposed intake on the River Braan is approximately 300m upstream of the Rumbling Bridge. It will comprise a 35-40m wide weir across the river. The type of weir proposed is adjustable in height and will be controlled to maintain water levels upstream to facilitate abstraction without adversely impacting water levels.
- 4 The water will be abstracted above the weir and fed to the powerhouse. The powerhouse and main laydown area comprises an area of farmland currently unused and is bounded by the A822 to the south and east, and by the River Braan to the north and west.
- 5 Construction of a shaft, under the powerhouse, 30m deep will house the turbine, generator and other equipment. At the base of the shaft 350m of tunnelled pipeline (tailrace) will return the water to the river downstream of the Rumbling Bridge.
- 6 The proposed scheme will have a generating capacity of up to 1.99MW and an average annual energy output of around 6,800MWh (which would provide electricity for approximately 1,500 homes).

- 7 The proposed scheme will also require temporary site establishment and laydown areas including areas for site reception, offices and car parking during construction.
- 8 A new vehicular access will be formed to the main site compound and retained for access to the powerhouse from the A822.
- 9 This application follows on from an unsuccessful scheme in 2005 that affected a large and sensitive stretch of river, including an area downstream of the current application site, popular with canoeists.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 10 EEC Directive (No 2003/35/EC) requires the Competent Authority (and in this case Perth and Kinross Council) giving a planning consent for particular project to make the decision in the knowledge of any likely significant effects on the environment. The Directive therefore sets out a procedure that must be followed for certain types of project before they can be given development consent'.
- 11 This procedure, known as Environmental Impact Assessment (EIA), is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. This helps to ensure that the importance of the predicted effects, and the scope for reducing any adverse effects, are properly understood by the public and the relevant competent authority before it makes its decision.
- 12 A screening exercise in accordance with the EIA (Scotland) Regulations 2011 (as amended) was undertaken by the Planning Authority and in this case an Environmental Statement was required due to the projects size, nature and its relationship with 'sensitive areas'

NATIONAL POLICY AND GUIDANCE

- 13 The Scottish Government expresses its planning policies through the National Planning Framework 1& 2, the Scottish Planning Policy (SPP) and Planning Advice Notes (PAN).

Scottish Planning Policy 2010

- 14 This SPP is a statement of Scottish Government policy on land use planning and contains:
 - the Scottish Government's view of the purpose of planning,
 - the core principles for the operation of the system and the objectives for key parts of the system,
 - statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,

- concise subject planning policies, including the implications for development planning and development management, and
- the Scottish Government's expectations of the intended outcomes of the planning system.

The most relevant paragraphs of the above are as follows:

- Paragraphs 45 – 51: Economic Development
- Paragraphs 92 – 97: Rural Development
- Paragraphs 110 - 124 the Historic Environment
- Paragraph 123: Archaeology
- Paragraphs 125 – 148: Landscape & Natural Heritage
- Paragraphs 134 – 136: International Designations (SPA's & SAC's)
- Paragraphs 142 – 145: Protected Species
- Paragraphs 146 – 148: Trees & Woodland
- Paragraphs 165 – 181: Transport
- Paragraphs 182 – 195: Renewable Energy
- Paragraphs 196 – 211: Flooding and Drainage

15 The following Scottish Government Planning Advice Notes (PAN) are also of interest:

- PAN 1/2011 Planning and Noise
- PAN 2/2011 Planning and Archaeology
- PAN 40 Development Management
- PAN 45 Renewable Energy
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 58 Environmental Impact Assessment
- PAN 60 Planning for Natural Heritage
- PAN 61 Planning and Sustainable Urban Drainage Systems
- PAN 69 Planning & Building Standards Advice on Flooding
- PAN 79 Water and Drainage

DEVELOPMENT PLAN

16 The Development Plan for the area consists of the Approved Tayplan 2012 and the Adopted Local Development Plan 2014.

Tayplan: Strategic Development Plan 2012-2032

17 The vision set out in the TAYplan states that:

“By 2032 the TAYplan region will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice, where more people choose to live, work and visit and where businesses choose to invest and create jobs.”

18 Under the Tayplan the principal relevant policies are:-

Policy 3: Managing Tayplan's Assests

19 Understanding and respecting the regional distinctiveness and scenic value of the TAYplan area through: ensuring development likely to have a significant effect on a designated or proposed Natura 2000 sites (either alone or in combination with other sites or projects), will be subject to an appropriate assessment. Appropriate mitigation requires to be identified where necessary to ensure there will be no adverse effect on the integrity of Natura 2000 sites in accordance with Scottish Planning Policy; and safeguarding habitats, sensitive green spaces, forestry, wetlands, floodplains (in-line with the water framework directive), carbon sinks, species and wildlife corridors, geodiversity, landscapes, parks, townscapes, archaeology, historic buildings and monuments and allow development where it does not adversely impact upon or preferably enhances these assets.

Policy 6: Energy and Waste/Resource Management Infrastructure

20 This policy relates to delivering a low/zero carbon future for the city region to contribute to meeting Scottish Government energy targets and indicates that, in determining proposals for energy development, consideration should be given to the effect on off-site properties, the sensitivity of landscapes and cumulative impacts.

LOCAL DEVELOPMENT PLAN 2014

21 Under the LDP the principal relevant policies are as follows:-

Policy PM1: Placemaking

22 Design and siting of development should reflect the character and amenity of place.

Policy NE1: Environment and Conservation Policies

23 National, local and European protected species should be considered in development proposals

Policy NE1A: International Nature Conservation Sites:-

24 Development which could have a significant effect on a site designated or proposed under the Habitats or Birds Directive (Special Areas of Conservation and Special Protection Areas) or a Ramsar Site will only be permitted after an Appropriate Assessment indicates certain criteria.

Policy NE2: Forestry, Woodlands and Trees

- 25 The Council will seek to protect all wildlife and wildlife habitats, including grasslands, wetlands and peat-lands and habitats that support rare or endangered species.

Policy NE3: Bio Diversity

- 26 The Council will seek to protect and enhance wildlife and wildlife habitats.

Policy TA1: Transport Standards and Accessibility Requirements

- 27 The Plan identifies that encouragement will be given to the retention and improvement of existing infrastructure.

Policy HE1: Scheduled Monuments and Non-Designated Archaeology

- 28 There is a presumption against development which would have an adverse effect on the integrity of a Scheduled Monument and its setting and the Council will seek to protect areas or sites of archaeological interest and their settings.

Policy ER1: Renewable and Low Carbon Energy Generation

- 29 Proposals will be supported where they are well related to the resources that are needed for their operation and in assessing such proposals, a series of criteria will be taken in to account.

Policy ER6: Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Area's Landscapes

- 30 Development and land use change should be compatible with the distinctive characteristics and features of Perth and Kinross's landscapes.

Policy EP2: New Development and Flooding

- 31 There will be a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source or where the proposal would increase the probability of flooding elsewhere.

Policy EP8: Noise Pollution

- 32 There is a presumption against the siting of development proposals which will generate high noise level of noise in the locality of existing or proposed noise sensitive land uses.

OTHER POLICIES

Tayside Landscape Character Assessment (TLCA)

- 33 The Tayside Landscape Character Assessment (TLCA) is published by Scottish Natural Heritage. The Structure Plan, the Kinross Area Local Plan and the Highland Area Local Plan 2000 make it clear that the TLCA will be a 'material consideration' when considering any proposal in Perth & Kinross. The TLCA suggests that the overall aim of any management strategy should reflect the sensitivities of the landscape.

Scottish Natural Heritage's Guidance on Hydroelectric Schemes and the Natural Heritage Version 1 – December 2010

- 34 Provides guidance on the natural heritage impacts associated with hydro developments. It focuses on design issues and ways to mitigate environmental effects.

Scottish Environment Protection Agency Guidance for developers of run-of-river hydropower schemes

- 35 Provides guidance on the acceptability of proposed hydro developments with regards to the water environment.

SITE HISTORY

- 36 In 2005 a planning application with supporting Environmental Statement was submitted to the Scottish Government's Energy Consents Unit for a 3.4MW run-of river hydropower scheme over a broadly similar but larger application site to that currently proposed. At the same time a licence application under the Water Environment (Controlled Activities) (Scotland) Regulations was submitted to SEPA. The licence was refused and an appeal was upheld by the Scottish Ministers. The grounds for refusal were after a series of balancing tests for sustainable development under the Water Framework Directive (WFD), the impacts on the water environment and impacts on recreational interests (principally canoeing) did not outweigh the benefits of the proposed activities to human health, to the maintenance of human safety or to sustainable development under Article 4 of the WFD.

CONSULTATIONS

Perth and Kinross Heritage Trust

No objection, no archaeological interests

Environmental Health

No objection in relation to noise or private water supplies subject to conditions and informative

Local Flood Prevention Authority	No objection subject to conditions regarding use of flood resilient materials
Scottish Natural Heritage	No objection in relation to impact on SAC subject to conditions.
Scottish Environment Protection Agency	No objection subject to conditions
Dunkeld and Birnam Community Council	Objection as the potential benefits do not outweigh the adverse impacts on the environment and the cultural heritage of the area.
Access and Infrastructure	No objection however public access plan to be required by condition.

REPRESENTATIONS

- 37 A total of 44 letters of representation have been received including a letter from the Community Council and one letter of support.

Summary of Issues raised by Representations

The representations have raised the following relevant issues: -

- Contrary to policy
- Visual impact/design
- Water quality of Braan negatively effected
- Negative impact on recreational tourism
- Impact on biodiversity
- Noise
- Traffic impact/access
- Impact on protected species
- Impact on flow in particular the falls
- Impact on swimming pools
- Impact on Salmon/Trout

These issues are all raised in the Appraisal section of this report.

ADDITIONAL STATEMENTS

Environment Statement	Submitted
Screening Opinion	Yes
Environmental Impact Assessment	Submitted
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	None
Report on Impact or Potential Impact	Reports submitted as part of the Environmental Statement.

APPRAISAL

Policy

- 38 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise. The determining issues in this case are whether: - the proposal complies with Development Plan policy; or if there are any other material considerations which justify a departure from policy. The most relevant policies of TAYplan 2012 and the Local Development Plan 2014 (LDP) are outlined in the policy section above.
- 39 The most relevant policies are Policy 6 of TAYplan and Policy ER1: Renewable and Low Carbon Energy Generation of the LDP. These policies relate to the aim of delivering a low/zero carbon future for the city region to contribute to meeting Scottish Government energy targets and indicates that, in determining proposals for energy development, consideration should be given to the effect on off-site properties, the sensitivity of landscapes and cumulative impacts.

Landscape and Visual Impact

Weir/Intake

- 40 The scheme involves the construction of an adjustable weir 35-40m wide approximately 300m upstream of Rumbling Bridge. This type of weir can be raised and lowered automatically, depending on river flows. Abstraction will be via a screened side intake structure immediately upstream of the weir. The abstracted water will pass from the intake chamber through a buried pipeline which will connect the intake to the powerhouse shaft.

Powerhouse/Shaft

- 41 Proposed to the south of the weir and intake is the powerhouse, switch room building, transformer and hard standing.

- 42 The powerhouse is 11.8m x 6.4m x 7.2m and the switchroom 10.8m x 5.3m x 5.7m. The buildings are gable ended with a pitched roof. The proposed materials are harled blockwork walls and dark grey corrugated roof cladding. The structures would be visible for a very short duration when travelling on the A822 and there is an established landscape backdrop to reduce any potential visual impacts. The materials would require to be conditioned to ensure that they are appropriate to the location. In this case a timber clad finish would be more appropriate as it would resemble farm or forestry buildings which would be more relevant to this location, this will be conditioned. The associated transformer compound with secure fencing is located on the western side of the switchroom building; its impact could be reduced by the choice of colour of the compound fencing, to be conditioned.
- 43 The powerhouse will sit on top of the powerhouse shaft which is 10 metres in diameter and 30 metres in depth. The underground shaft will house the pipeline, turbine, generator, main access and escape staircase and associated equipment. The top of the shaft only will be visible forming a small platform.

Tailrace

- 44 At the bottom of the shaft a tunnelled outflow pipe (tailrace) will return the water 40m downriver of the Rumbling Bridge Falls on the eastern bank of the Braan within a narrow gorge. There will be access into the gorge for operational and maintenance staff, via a stairwell with landing platforms leading from the public path on the south side of the river Braan.

Grid Connection

- 45 A separate switch house building will be constructed off the Balhomish Farm access track, from which an underground cable will run to the powerhouse. This switch house will measure approximately 5m x 5m x 3m high, located in an area not visible from the A822 road.
- 46 The distribution network operator (DNO) will be responsible for providing a connection from the existing Strathbraan 11kV overhead line to the switch house, likely via an underground cable from the adjacent overhead line. Any separate consents required for this connection are the responsibility of the DNO.

Construction Compounds

- 47 The proposed construction compounds and pipe laydown areas are to be located within a clearing to the west of the proposed powerhouse. The main construction compound for the works will be approximately 50m x 50m. This will include welfare facilities, site offices, hard standing area and general storage arrangements for materials, plant and equipment.
- 48 A smaller site will be required on the northern side of the river to facilitate the intake construction and also near the tailrace outfall to facilitate the construction of this structure.

- 49 The compounds and their immediate accesses will be surfaced using crushed local stone laid on a geotextile membrane. After construction, the land will be fully reinstated.
- 50 These compounds are required for a temporary period only during construction operations and I am satisfied that given the impact is only temporary that these elements can be supported.

Access/Construction Traffic

- 51 Access to the application site is via the A822 and a new temporary access to the intake structure may be required from the minor farm road (Old Military Road) along the north side of Strathbraan. The position of the site accommodation and access to the main sections of the works will be selected so that traffic through the application site via the A822 is minimised.
- 52 It is estimated there would be between 500 – 1000 vehicle movements (depending on the source of quarry product) for the delivery of material such as concrete, aggregate, pipe supply, steel, and electro-mechanical equipment to the site. Locally won material would always be used where possible, reducing vehicle movements to the lower end of the range. The movement of plant such as dumper trucks and excavators would be for the most part restricted within the construction site.
- 53 Movements for the supply of material to the site would be spread out over a 20 month period – although the majority of the main construction operations would be completed within 12-18 months – giving an estimate an average of 8 vehicle movements per day which may be up to a maximum of 20 movements peaking on specific days. It is anticipated that most of the concrete required will be delivered to site in ready-mixed form.
- 54 As a consequence of this there will be a temporary increase in traffic associated with construction. I appreciate construction operations will have an impact on the nearby residential properties in terms of noise and vehicular movement, however they will be for a temporary period only and the timing and operations associated with construction are controlled by separate legislation out with the planning remit.
- 55 The Council's Transport Planner has been consulted on the proposal and has offered no objection subject to condition, including the provision of a Construction Traffic Management Plan which will help to ensure that vehicles movements from construction operations have as minimal an impact as possible on the local population.

Flows

- 56 The proposed scheme will only operate when there is sufficient water available in the river. The type of weir proposed is adjustable in height and will be controlled to maintain water levels upstream to facilitate abstraction without

adversely impacting water levels during periods of flood flow. To achieve this, the weir will be automatically lowered during high flow events. This will both limit the impacts on flood levels upstream of the weir.

- 57 The Rumbling Bridge Falls are an attractive feature and therefore the impact on these falls of the abstraction of water requires to be considered. The flow data submitted indicates that there will be an impact on average flow conditions which would have some visual impact on the actual flow over the falls, however the impact on high flows when it can be argued that views of the falls would be the most spectacular would be minimal as the scheme would only be abstracting a very small percentage of the available flow. Additionally there is little actual evidence to suggest that a small reduction in the flow of water would have an adverse impact on visitor experience. Tourism visits are likely to be greatest during the summer months when flows are at their lowest level in any case.
- 58 Currently the site offers the opportunity for visitors to experience the river's water features (waterfalls, cascades etc) under the full range of natural flow conditions (i.e. very low to very high flows). The opportunity to experience the features under the full range of different natural flows conditions contributes to the quality of the recreational experience. The natural sense of the water features and knowledge that they are changeable in appearance is part of the appreciation of the site. Currently visitors with preference for experiencing water features under certain flow conditions may exercise those preferences when timing their visit. Others can visit on multiple occasions to experience the features under a range of flow conditions. One off visitors can experience the water features under flow conditions in keeping with weather conditions immediately preceding the visit. There is no preference shared by all which would elevate the recreational value of the site when at a particular flow condition compared with its value at any other flow condition. I am therefore satisfied that the proposed scheme will not have any significant impact on the visual amenity of the falls.

SEPA/Car License

- 59 The applicant has been granted a CAR licence for the proposed development under the Water Environment (Controlled Activities) Regulations 2005 (as amended). SEPA has been formally consulted on this application and have offered no objections. They have advised that the proposal has been granted a CAR License subject to conditions which would protect the water environment.
- 60 SEPA has also provided recommendations within their consultation response regarding the other regulatory requirements which they are involved in. I intend to attach an informative note making the applicant aware of these regulatory requirements.
- 61 SEPA has noted that conditions are required in regard to the potential impact on private water supplies, that the Construction Environmental Management Plan (CEMP) is submitted for approval at least two months prior to the

proposed commencement (or relevant phase) of development and that compensatory storage is provided as demonstrated in drawing 13/01698/14. These can be covered by suitably worded planning conditions.

River Tay Special Area of Conservation (SAC)

- 62 The River Braan, to the Rumbling Falls, is part of the River Tay SAC, which is designated for its important populations of Atlantic salmon, otter, brook, sea and river lamprey and clearwater lochs. The intake for the proposed scheme will be located approximately 400m upstream of the SAC boundary and the tailrace located within the boundary of the SAC, below Rumbling Bridge. This stretch of river is inaccessible to salmon and lampreys.
- 63 SNH, therefore, consider that this scheme will not impact on the protected features in the long-term.
- 64 There may be impacts resulting from the construction phase however the application, as submitted, is accompanied by the Outline Construction Environmental Management Plan. If this supporting information is approved as part of the planning consent, SNH have indicated that it is unlikely that the proposal will have a significant effect on any qualifying interests of the SAC. An appropriate assessment is not required and the proposed impact on the SAC is considered negligible.

Species and Habitats

- 65 The submission has identified and surveyed protected species likely to be present across the development site and makes reasoned mitigation proposals to reduce the risk of any damaging impacts. This includes the need for contemporary surveys to inform disturbance mitigation efforts and to avoid direct harm to protected species. The mitigation proposals described in the submission, if followed, are likely to ensure compliance with the Wildlife and Countryside Act 1981 (as amended) and avoid harmful and illegal impacts on protected species and habitats.
- 66 The Council's Biodiversity Officer has recommended conditions in relation to Otters, Red Squirrel and Birds.
- 67 Scottish Natural Heritage advises that the responsibility to ensure compliance with the Wildlife and Countryside Act remains with the developer. If new surveys discover signs of protected species in close proximity to the proposed works then a licence from SNH may be required. SNH are satisfied that the mitigation measures contained within the Environmental Statement are sufficient to address the relevant policy considerations.

Tree Loss

- 68 A number of mature trees will need to be removed in order to facilitate the construction of the 35m long intake structure and to allow access to the tailrace. At this stage it is anticipated that at least 5 trees will require to be

removed however this would need to be confirmed and a condition will be added for precise numbers and restrictions placed on the time of year for felling.

Private Water Supply

- 69 Consultation with Environmental Health confirms that properties in the vicinity of the development are served by private water supplies. The principal risk to water supplies is during the construction. While contamination of water supplies is a private legal issue, I consider it only reasonable to ensure the safeguarding of water quality and water supplies thereby ensuring the amenity of residential and commercial premises are protected. Consequently a condition will be attached to the consent to secure this matter.
- 70 Concerns have also been expressed regarding the extracting of water from the burns and the potential reduction in private water supplies provided from these burns. The Environmental Statement makes specific reference to the impact on potential water supplies and indicates that water supplies will not be impacted upon during operation. It also states that close communication will be established and maintained between the operators, contractors, the estate, local farmers and residential neighbours to ensure water supply is maintained.
- 71 It should also be noted that the impact on private water supplies has been fully considered by SEPA during their assessment of the CAR License application. In relation to this issue in their consultation response SEPA have recommended a condition requiring a risk assessment in relation to private water supplies.

Flooding and Drainage

- 72 Development which has a significant probability of being affected by flooding or would increase the probability of flooding elsewhere should usually not be permitted. However, there are exceptions, for example where infrastructure is essential for operational reasons and where it cannot be located elsewhere. In such cases, the development should be designed to remain operational in times of flood and not impede water flow, and the effect on the flood water storage capacity should be kept to a minimum.
- 73 In this instance the Council's Flood Risk Officer has been consulted and raised no objection subject to a condition ensuring that the powerhouse is built utilising flood resilient materials, and that suitable compensatory storage is provided for loss of flood plain. SEPA have requested a condition in relation to the compensatory storage and a condition will be added about materials.

Hermitage Falls

- 74 Concerns have been raised about the impact on the Hermitage located approx. 1km to the west of the application site. The proposal in terms of flows is limited to the stretch of water between the intake of water (the abstraction point) and the outfall (where the water re-enters the river). There is therefore no potential

for changes in flow downstream of the outfall within areas that are important for migratory fish or canoeing activities and the Hermitage.

Listed Buildings

- 75 The proposed tailrace structure is located in close vicinity to Rumbling Bridge which has category C listed building status. Due to the nature of the topography and intervening foliage the assessment within the Environmental Statement is adequate and conclude the impact upon the setting of this listed structure will be minimal.

Archaeology

- 76 The desk based assessment and walk over survey submitted identified no direct impacts on any significant archaeological remains. However PKHT do not agree with the requirement for a programme of archaeological works on the footprint of the infrastructure associated with the development as the potential for the recovery of archaeological deposits is considered low.
- 77 In respect to archaeology and the planning process, as outlined by Scottish Planning Policy historic environment paragraphs, no archaeological condition is recommended in this instance.

Residential Amenity

- 78 The planning system has an important role to play in preventing and limiting noise pollution. Although the planning system cannot tackle existing noise problems directly, it has the task of guiding development to the most suitable locations and regulating the layout and design of new development. The noise implications of development can be a material consideration in determining applications for planning permission.
- 79 The closest residential property is Rumbling Bridge Cottage and Tarfuack which are approximately 190 metres from the proposed powerhouse. Due to the nature of the application site, any low frequency noise created by power generating equipment may propagate over a large distance if this is not adequately controlled.
- 80 The application stated the powerhouse building has been designed to ensure the ventilation louvers are located on the façade facing away from the receptors. The noise levels for operation of the plant have not been predicted since the detailed specifications of the operational plant are not finalised. Noise conditions are therefore be included on any given consent.
- 81 As a large portion of the proposed scheme will be constructed underground, site preparation works will be limited in extent and will be focused at the powerhouse shaft where the majority of the excavation, lining and finishing works will be carried out. Detailed ground investigation will be carried out prior to the main construction which may include trial blasting. A condition requiring

submission of a detailed scheme for the blasting and drilling and also conditions related to vibrations shall be added.

Public Access

- 82 Outdoor Access has now been given a new context in Scotland, since the Land Reform (Scotland) Act 2003. This establishes a duty on local authorities to uphold the outdoor access rights as specified in Section 13(1) of the Act. However, this duty on local authorities does not stop them from carrying on with the authority's other functions, an example of this is when they are considering planning applications for development on land over which access rights are exercisable, they will still be able to give consent for developments. Although, where appropriate, local authorities should consider attaching a suitable planning condition to enable them to ensure reasonable continuing public access.
- 83 A core path and right of way crosses through the development site. In addition the Braan is a popular river for canoeists and other water users. The potential impacts on public access and associated enjoyment of the area, have been assessed in the environmental statement accompanying the planning application. Mitigation measures to reduce the impact on public access and the associated enjoyment of the site must be carried out and a condition will be added to require a Public Access Plan to be submitted.
- 84 A number of in-built mitigation measures have been incorporated into the design of the proposed scheme in order to avoid and minimise effects on recreational users of the Braan including: A fixed 'pull-out' of egress point above the intake to allow canoeists to safely exit before the weir and re-enter downstream past Rumbling Bridge Falls, Visual warning signs by the weir, Positioning the tailrace to minimise the impact on the stretch of river of greatest interest to canoeists / kayakers, Locating the tailrace at a level that is clearly visible to ensure the safety of less experienced paddlers, Provision for canoeists to enter the water downstream of the tailrace, should any paddlers prefer to avoid passing the flows leaving the tailrace.

Economic Impacts

- 85 The submission states that the proposed 1100kw scheme could generate an annual electricity output of 2,785Mw hours and result in a saving of 1197 tonnes of CO₂ compared to energy generation by conventional fossil-fuel mix in the UK. This would make a contribution towards the Scottish Government's target of 100% electricity generation from renewable energy sources by 2020. It would also assist one of the aims of TAYplan policy 6 which seeks to deliver a low/zero carbon future for the Region through a reduction in fossil fuels.

Bond

- 86 It is important that all potential impacts of development are considered from the construction process, during operations and in decommissioning.

In this case after the construction period the impact of the development could be easily managed if operations ceased. However the construction process is substantial and should construction cease before completion, the environmental and visual impacts could be detrimental.

A bond or similar financial arrangement would ensure remedial works could be carried out should works cease during the construction period and I propose to condition accordingly.

LEGAL AGREEMENTS

87 None required.

DIRECTION BY SCOTTISH MINISTERS

88 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

CONCLUSION AND REASONS FOR RECOMMENDATION

89 The proposed development would contribute to the Scottish Government's target of 100% of electricity generation from renewable energy sources by 2020. I have taken account of the potential impacts the development may have on the environment and sensitive receptors and conclude that a grant of planning permission for the proposed development with conditional control to secure mitigation measures would comply with the Development Plan for the area. In this case there are no material considerations that would justify refusal of the application.

RECOMMENDATION

A Approve the application subject to the following conditions:

- 1 The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning consent.
- 2 The Outline Construction Environmental Management Plan (CEMP) ref 13/01698/26 is not approved. A finalised CEMP which includes a finalised Construction Method Statement (CMS) shall be submitted a minimum of 2 months prior to the commencement of development and implemented to the satisfaction of the Council as Planning Authority until completion of development.
- 3 Development shall not commence until an independent and suitably qualified Ecological Clerk of Works (ECoW) or Environmental Manager has been appointed at the developers expense. Details of this appointment shall be subject to the prior written approval of the Planning Authority. The appointed

person will remain in post for the duration and subsequent restoration of the proposed development. The ECoW or Environmental Manager in representation of the Planning Authority relating to this development shall have responsibility for the following:

- a) Implementation of the Construction Environmental Management Plan (CEMP) required 2 by this condition.
- b) Authority to stop operations or to alter construction methods should there be any works occurring which are having an adverse impact on the natural heritage.
- c) Prior to the commencement of development they shall provide an environmental / ecological tool box talk for construction staff.
- d) They will have authority to amend working practices where required. Any amendments shall be submitted to the Council as Planning Authority as an addendum to the approved CEMP.
- e) They shall make weekly visits to the development site at a time of their choosing. No notification of this visit is required to be given to the developer or contractor.
- f) They are required to submit a detailed monthly report for the review of the Planning Authority in consultation with SEPA for the duration of development.
- g) They shall notify the Council as Planning Authority in writing of any requirement to halt development in relation to this condition as soon as reasonably practicable.

The above shall be submitted a minimum of 2 months prior to the commencement of development and implemented to the satisfaction of the Council as Planning Authority until completion of development.

- 4 Prior to the commencement of works on the development, the applicant shall submit for the written approval of the Planning Authority a Construction Traffic Management Scheme (TMS) which shall include the following:
 - (a) timing of construction traffic to minimise impact on local communities particularly at school start and finishing times, on days when refuse collection is undertaken, on Sundays and during local events;
 - (b) a code of conduct for HGV drivers to allow for queuing traffic to pass;
 - (c) arrangements for liaison with the Roads Authority regarding winter maintenance;
 - (d) emergency arrangements detailing communication and contingency arrangements in the event of vehicle breakdown;
 - (e) arrangements for the cleaning of wheels and chassis of vehicles to prevent material from construction sites associated with the development being deposited on the road;
 - (f) arrangements for cleaning of roads affected by material deposited from construction sites associated with the development;
 - (g) arrangements for signage at site accesses and crossovers and on roads to be used by construction traffic in order to provide safe access for pedestrians, cyclists and equestrians;

- (h) details of information signs to inform other road users of construction traffic;
- (i) arrangements to ensure that access for emergency service vehicles are not impeded;
- (j) co-ordination with other HGV construction traffic known to use roads affected by construction traffic associated with this development;
- (k) traffic arrangements in the immediate vicinity of temporary construction compounds;
- (l) the provision and installation of traffic counters at the applicant's expense at locations to be agreed prior to the commencement of construction;
- (m) monitoring, reporting and implementation arrangements;
- (n) arrangements for dealing with non-compliance; and
- (o) details of HGV movements to and from the site.

The TMS as approved shall be strictly adhered to during the entire site construction programme all to the satisfaction of the Council as Planning Authority unless otherwise agreed in writing.

- 5 Prior to any decommissioning of the site a Decommissioning Method Statement shall be submitted for the approval of the Council as Planning Authority in consultation with SNH. This Method Statement should ensure there is a process in place for ensuring good practice working methods are used for the removal of infrastructure and site restoration.
- 6 Any approved Decommissioning Method Statement shall be implemented and overseen by an independent Environmental Manager who shall have powers similar to the Environmental Manager/Ecological Clerk of Works employed during the construction phase.
- 7 Prior to the commencement of site clearance details of trees to be retained and the comprehensive approach to their protection in accordance with BS 5837:2012 "Trees in relation to Design, Demolition and Construction" shall be submitted for the written approval of the Council as Planning. Following tree works the protection scheme shall be installed immediately in accordance with the plan unless phasing has been proposed and approved. The approved Tree Protection measures shall not be removed, breached or altered without prior written authorisation from the local planning authority but shall remain in a functional condition throughout the entire development or as per the phasing plan. If such protection measures are damaged beyond effective functioning then works that may compromise the protection of trees shall cease until the protection can be repaired or replaced with a specification that shall provide a similar degree of protection.
- 8 Prior to the commencement of development the operator of the hydro scheme shall have written permission from the relevant competent authority to export electricity to the National Electrical Grid. Details of the connection point and methods of connecting to the grid from the powerhouse shall be submitted for approval of the Council as Planning Authority. Thereafter the connection shall be installed in accordance with the approved method.

- 9 Prior to Commencement of Development, a fully detailed landscaping mitigation plan which will ensure there is no net loss of trees associated with the felling required to implement the consent shall be submitted to and approved in writing by the Planning Authority. Measures to protect the new planting from animals should be included. The scheme shall also include appropriate habitat creation and shall take account of the protected species identified in the Environmental Statement. The approved scheme shall be fully implemented to the satisfaction of the Planning Authority no later than the first planting season following the Commissioning of Development. Any plant failures through disease, weather exposure, neglect or damage shall be replaced with equivalent species within one year of such failure.
- 10 In the event the development fails to produce electricity on a commercial basis to the public network for a continuous period of 12 months with no realistic expectation of resumption in the foreseeable future, then, unless otherwise agreed in writing with the Planning Authority, it shall be deemed to have permanently ceased to be required. The Planning Authority shall have due regard to the circumstances surrounding the failure to generate and shall take any decision following discussion with the Company and such other parties it considers appropriate. If the Development is deemed to have ceased to be required the Company shall cause the Development to be decommissioned and the site will be reinstated within a period of eighteen months following the expiry of such period of cessation or within such timescale as agreed in writing by the Planning Authority.
- 11 Reinstatement shall include the removal of the above ground infrastructure, if considered necessary and restoration of the natural water regime to normal flows, to the written satisfaction of the Planning Authority in consultation with other relevant authorities in accordance with Condition 6.
- 12 Prior to commencement of development, details of the location and measures proposed for the safeguarding and continued operation, or replacement, of any septic tanks and soakaways / private water sources, private water supply storage facilities and/or private water supply pipes serving properties in the vicinity, sited within and running through the application site, shall be submitted to and approved in writing by the Council as Planning Authority. The approved protective or replacement measures shall be put in place before the development commences and shall be so maintained throughout the period of construction.
- 13 All vehicles associated with the development shall park within the designated compound areas only to the satisfaction of the Council as Planning Authority unless otherwise agreed in writing with the Planning Authority.
- 14 The external finish materials are not approved. Prior to the commencement of development full details and samples of the external finishes for the powerhouse and switchhouses shall be submitted for the written approval of the Planning Authority. The details, as approved, shall be implemented as part of the site development and completed in their entirety prior to the development becoming operational.

- 15 Prior to the commencement of development full details of the external transformer fencing shall be submitted for the written approval of the Planning Authority. The details, as approved, shall be implemented as part of the site development and completed in their entirety prior to the development becoming operational.
- 16 Prior to the commencement of development a landscaping plan shall be submitted detailing boundary treatments with the A822. The landscaping, as approved, shall be implemented as part of the site development and completed prior to the development becoming operational.
- 17 Prior to the operation or bringing into use of the development details of the surface finish and area of hardstanding to be retained between the powerhouse/switchhouse and the A822 shall be agreed in writing by the Council as Planning Authority. The details as agreed shall be implemented prior to the use of the development and maintained thereafter.
- 18 Prior to the commencement of development details of the flood resistant and resilient materials to be incorporated into the design of the powerhouse shall be submitted to and approved in writing by the planning authority, thereafter the scheme shall be implemented and maintained in accordance with the approved plans.
- 19 Prior to the commencement of development the applicant shall submit a Public Access Management Plan for the approval of the Council as Planning Authority.
- 20 Prior to the commencement of construction, a full detailed construction method statement giving details of measures to prevent harmful materials entering the watercourses shall be submitted and agreed in writing by the Council as Planning Authority in consultation with SNH and SEPA. The details shall include:
 - a) Pollution prevention safeguards, including drainage arrangements and the possible use of use of siltation traps, settlement tanks and bunds, their locations, operation and management.
 - b) Storage and disposal of materials, including the siting of stock piles, use of buffer strips and disposal methods.
 - c) Construction site facilities, including extent and location of construction site huts, vehicles, equipment and materials compound.

The details as approved shall be strictly adhered to during the development of the site.

- 21 Prior to the commencement of development a scheme detailing the timing for all blasting and drilling operations for the hereby approved development shall be submitted and approved in writing by the Council as Planning Authority in consultation with Environmental Health. The scheme as approved shall be

implemented to the satisfaction of the Council as Planning Authority until completion of development.

- 22 Power generating equipment shall be acoustically enclosed to attenuate sound there from, such that any noise there from shall not be detectable in any nearby noise-sensitive property.
- 23 The Powerhouse shall be designed and constructed to the satisfaction of the Planning Authority to ensure that nearby dwellings are not subjected to Vibration Dose Values in excess of 0.2 to 0.4 m/s^{1.75} between 2300 and 0700 hours (as set out in Table 1 of BS 6472-1:2008 Evaluation of human exposure to vibration in buildings) as a result of vibration from plant associated with the application.
- 24 The compensatory storage as shown on approved plan 13/1698/14 shall be implemented prior to the operation of the hereby approved scheme to the satisfaction of the Council as Planning Authority.
- 25 Prior to the commencement of development a pre-construction otter survey will be undertaken to ensure no places of shelter will be destroyed or disturbed during construction. The survey shall be submitted and agreed in writing with the Council as Planning Authority.
- 26 All excavations shall be covered overnight or an exit ramp provided to prevent any mammal becoming trapped. All pipework will have ends capped overnight to prevent any mammal becoming trapped.
- 27 Prior to felling works, a survey to identify red squirrel dreys shall be submitted and agreed in writing with the Council as Planning Authority. Should any dreys be found, a 50m exclusion zone will be required from any works if this is not possible, a licence will be required from SNH to disturb red squirrels and their dreys.
- 28 Should any works take place between February and August a pre-felling survey shall be undertaken to determine the presence of any breeding birds in the trees to be felled. The survey shall be submitted and agreed in writing with the Council as Planning Authority. Where any active nests are identified a 20m exclusion zone will be required. If Scottish Crossbill is present, the developer must get agreement from SNH on the size of exclusion zone.
- 29 Prior to the commencement of any development on site, the following shall be submitted to the Planning Authority:
 - (a) Details of a bond or other financial instrument which will ensure that sufficient funds are available to meet the remedial cost of restoring the site should the development granted by this permission fail during the construction period.
 - (b) Confirmation by an independent Chartered Surveyor (whose appointment for this task has been approved by the Council as Planning Authority) that the

amount of the bond or financial instrument is sufficient to meet the remedial cost of restoring the site should the development granted by this permission fail during the construction period..

- 30 The approved bond or financial instrument shall be maintained throughout the construction duration of this permission.

Reasons

- 1 To ensure that the development is carried out in accordance with the plans approved.
- 2 To ensure a CEMP is submitted and approved.
- 3 To ensure a suitably qualified person oversees management of ecological interests on the site.
- 4 In the interests of pedestrian and traffic safety.
- 5 To ensure that the site is reinstated to the satisfaction of the Planning Authority.
- 6 To ensure a suitably qualified person oversees management of ecological interests on the site.
- 7 In order to ensure the protection of all retained trees on the site.
- 8 To ensure that the plant is capable of exporting electricity to the national grid.
- 9 To ensure that the proposed development does not prejudice the appearance of the locality and to preserve and enhance nature conservation interests.
- 10 To ensure the development is decommissioned and the site reinstated when ceased to generate electricity.
- 11 In the interests of visual amenity and to protect the landscape character of the area.
- 12 In order to protect existing private water supplies
- 13 In the interests of pedestrian and traffic safety
- 14 In the interests of visual amenity and to protect the landscape character of the area.
- 15 In the interests of visual amenity and to protect the landscape character of the area
- 16 To ensure landscaping is provided.

- 17 In the interests of visual amenity and to protect the landscape character of the area
- 18 In order to minimise the flood risk
- 19 In To ensure continued public access along the public paths and to the River Braan and to safeguard the quality of the public access experience.
- 20 To prevent harmful materials entering the watercourses
- 21-23 To safeguard residential amenity.
- 24 To reduce any flood risk from the development.
- 25-26 To protect Otters.
- 27 To protect Red Squirrels.
- 28 To protect birds.
- 29 - 30 To ensure that at all times there is sufficient funds available to ensure that the remedial cost of restoring the site should the development granted by this permission fail during the construction period.

B JUSTIFICATION

The proposal is considered to comply with the Development Plan and there are no other material considerations that would justify a departure therefrom.

C PROCEDURAL NOTES

None.

D INFORMATIVES

- 1 Under Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 2 This development will require the 'Display of notice while development is carried out', under Section 27C(1) of the Town and Country Planning Act 1997, as amended, and Regulation 38 of the Development Management Procedure (Scotland) Regulations 2008. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 38 the notice must be:

- Displayed in a prominent place at or in the vicinity of the site of the development
 - Readily visible to the public
 - Printed on durable material.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
- 4 The applicant should ensure that any existing wayleaves for maintenance or repair to existing private water supply or septic drainage infrastructure in the development area are honoured throughout and after completion of the development.
- 5 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See Section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 6 No work shall be commenced until an application for building warrant has been submitted and approved.
- 8 The applicant should be aware of the regulatory guidelines indicated by SEPA in their consultation response.

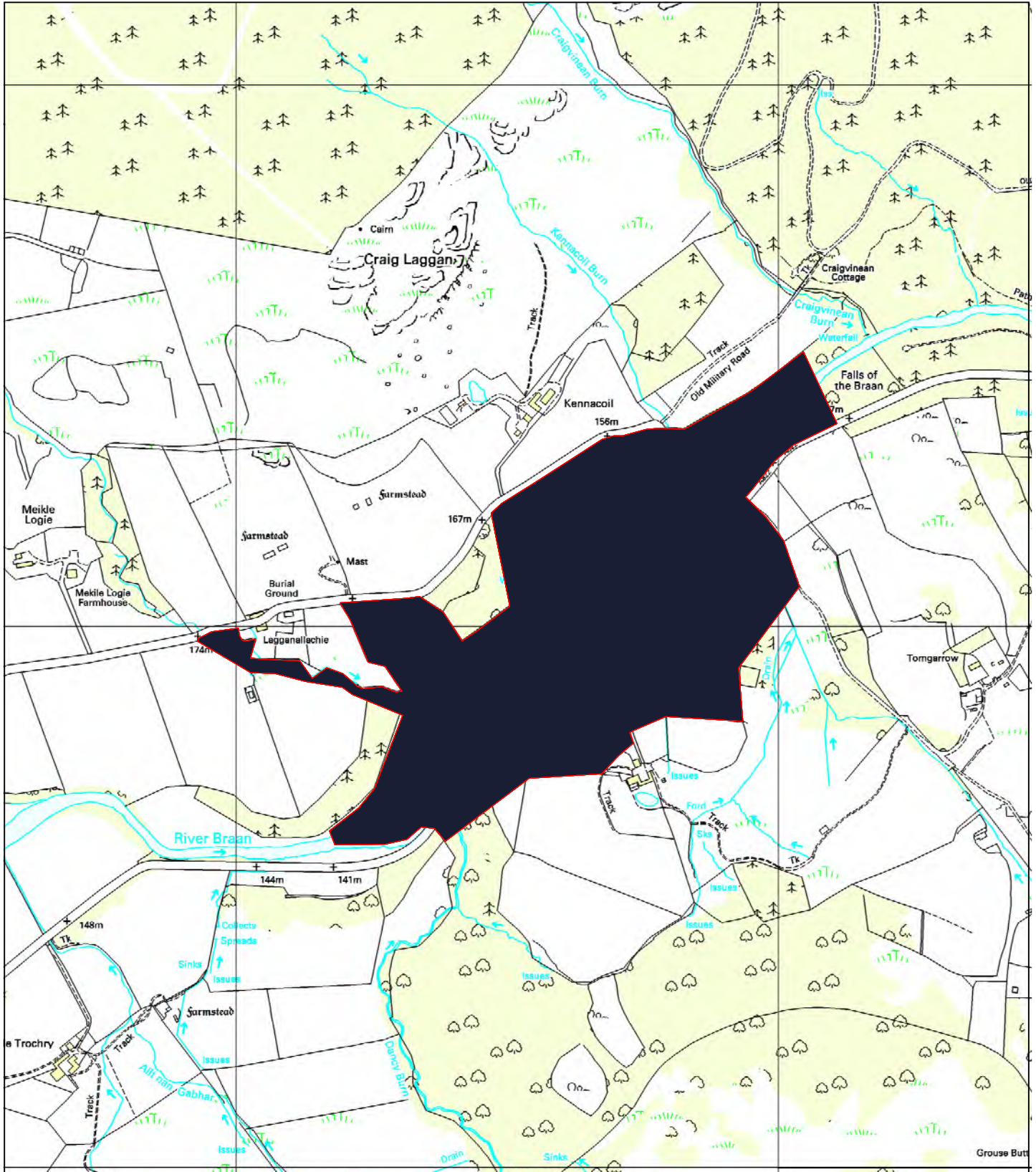
Background Papers: 44 letters of representation
Contact Officer: Joanne Ferguson – Ext 75320
Date: 25/02/2014

Nick Brian
Development Quality Manager

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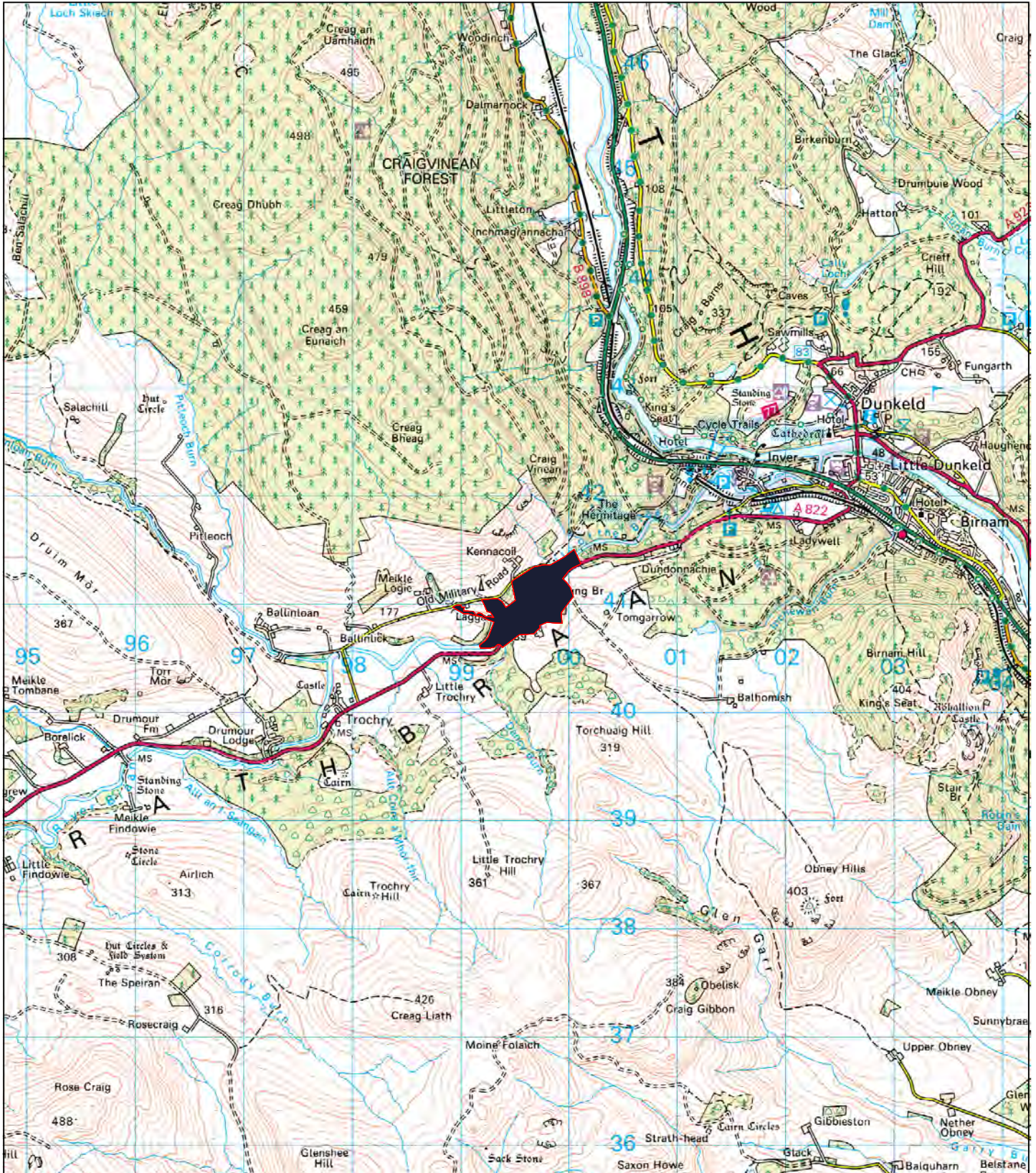
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Perth & Kinross Council

13/01698/FLL

River Braan Hydro Scheme, Trochry

Installation of a run-of-river hydro electric scheme & assoc works



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