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To Whom It May Concern:

Response to Electricity network infrastructure: consents, land access and rights consultation

Scottish Renewables (SR) is the voice of Scotland's renewable energy industry. Our vision is for Scotland to lead the world in renewable energy. We work to grow Scotland's renewable energy sector and sustain its position at the forefront of the global clean energy industry. We represent over 375 organisations that deliver investment, jobs, social benefit and reduce the carbon emissions which cause climate change.

Our members work across all renewable technologies, in Scotland, the UK, Europe and around the world, ranging from energy suppliers, operators and manufacturers to small developers, installers, and community groups, as well as companies throughout the supply chain. In representing them, we aim to lead and inform the debate on how the growth of renewable energy can provide solutions to help sustainably heat and power Scotland's homes and businesses.

SR welcomes efforts from the UK and Scottish Governments to reform the planning and land rights processes, aiming to achieve faster consents and the construction of infrastructure that promotes energy security across the UK. However, the proposed changes do not go far enough to impact determination timelines for transmission and miss a chance to speed up determination timelines for renewable energy generation developments.

Insufficient Change for Transmission Projects

The proposed changes in this consultation primarily protect existing transmission infrastructure and do not address the need for new infrastructure to receive land rights more quickly than the current process allows. Typically, in Scotland, the Planning and Environmental Appeals Department (DPEA) determines necessary wayleaves within 18 months and advises that the compulsory purchase process could take up to 24 months.

However, significant volumes of land rights applications and complexities associated with large infrastructure projects may cause even longer determination periods. DPEA expects to receive 600 requests for wayleaves in 2025, primarily for transmission projects, and it is unknown what portion of those will require Ministerial approval. Consequently, reliance on statutory determinations for land rights could result in Pathway to 2030 projects being delayed by 12-36 months due to land rights.

In not pursuing fundamental land rights reform, the consultation does not address the National Infrastructure Commission's (now NISTA's) recommendation that the Government undertake structural reforms to planning and land rights regime, providing new powers for electricity networks, across all voltages, that align with other statutory undertakers, such as water and telecoms.

Should this remain unsupported by the Government, we would want to see the scope of the consultation widened to include reforms focused on improving timescales and costs. To ensure that land rights are determined within reasonable timescales, the determination of necessary wayleaves and compulsory purchase orders must be guaranteed within a minimum of 12 months through statutory inclusion. This would also further support the Scottish Government in funding resource planning to support statutory requirements.

A Missed Opportunity to Speed Up Transmission Deployment

This consultation missed key opportunities to address the land rights challenge of new transmission infrastructure. We would encourage the UK Government to add the following:

- **Create statutory determination periods for necessary wayleaves and compulsory purchase orders.** This is the most restrictive barrier to securing land rights. To meet the demanding schedule of transmission upgrades and new infrastructure, determinations must be made within a twelve-month timeframe, and this timeframe must be included in statute.
- **Amend Schedule 4 of the Electricity Act to specify which rights are included in the granting of a necessary wayleave, including the rights of access over private property.** Due to a lack of clarity in current legislation regarding the extent of access rights over a property under necessary wayleaves, landowners often challenge network operators' rights of access over their property. This leads to additional costs and programme delays. We anticipate that this ambiguity in the law will lead to unnecessary disputes for Pathway to 2030 projects, resulting in increased costs and project delays.
- **Amend the Electricity Act to incorporate powers to access all needed land rights in Schedule 4.** Under the Electricity Act, necessary wayleaves do not provide for all access rights required to construct new infrastructure. When new infrastructure requires access to property not hosting the infrastructure, compulsory purchase

orders are required. We recommend extending necessary wayleaves to cover all rights required to support a given project, allowing all land rights associated with linear transmission projects to be applied for through a single form of land rights application.

- **Amend the Electricity Act to allow network operators the right to access and upgrade existing infrastructure to increase voltage without acquiring new land rights where there is no significant additional burden on the land.** Currently, network providers are required to acquire new land rights for voltage upgrades that do not materially change the impact on the footprint of the existing infrastructure. Where this is the case, we recommend that the Electricity Act be amended to allow existing rights to cover voltage upgrades, to reduce the cost and time required to acquire new land rights.
- **Clarify the rights provided by Schedule 4, paragraph 10 of the Electricity Act to ensure that a single notice can be served to facilitate a suite of surveys over a reasonable period of time.** This would clarify the extent of activities and time scales associated with notices to cover works over large-scale transmission projects. In addition, where access is refused in Scotland, the network provider should be able to follow up with a warrant application to the Sheriff Court, similar to Section 172 of the Housing and Planning Act in England and Wales. At that point, timely access should be granted. These rights should support a pre-emptive warrant approach to mitigate delays to access. This would provide significant support to tCSNP2 projects moving forward.

A Missed Opportunity to Speed Up Onshore Wind Deployment

This consultation misses an opportunity to address the land rights challenge related to oversail and overrun for onshore wind projects. Currently, developers are required to create leases individually with landowners for oversail and overrun rights. As land becomes scarcer for renewable energy developments, projects can have as many as fifty leases for oversail and overrun.

Landowners have begun holding developers to ransom for payments that the proposed projects can't financially support. These negotiations are putting projects at risk. Currently, the only solution for developers is a compulsory purchase order, which is not suitable for this application. It is too blunt a tool and would give the developer who uses it full land rights, when multiple developers will likely need access to those same pinch points.

We recommend the creation of a new provision allowing developers to apply to Scottish Ministers for short-term oversail and overrun wayleave rights when required, during the construction process and for any repairs during the lifetime of the wind farm. This should be subject to compensation payment and land reinstatement after use. Compensation should be determined on a statutory basis. Due to the need to deploy renewable energy projects

quickly, we recommend removing time-bound requirements for negotiations and the requirement to have negotiated with landowners.

Scottish Renewables looks forward to working with you to ensure that land rights reform enables quicker deployment of both transmission infrastructure and onshore wind projects.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Amundson', with a stylized flourish at the end.

Megan Amundson
Head of Onshore & Consenting
Scottish Renewables