Overview of proposed changes to Machrihanish Airbase Community Company Memorandum and Articles of Association to be considered and ratified at the company AGM on 26th September 2017.

Changes to Memorandum of Association:

3. Purposes

3.3 - Insertion of new charitable purpose - To advance environmental protection or improvement, including through the generation of energy on a renewable basis, for the benefit of the Community and the public in general following principles of sustainable development, where sustainable development means development which meets the needs of the present without compromising the ability of future generations to meet their own needs.

4. Property

4.5 – Updated to reflect changes to the Land Reform (Scotland) Act 2016 to include Part 3A applying to Abandoned, Neglected or Detrimental land.

7. Dissolution

7.2 – Three insertions into this clause – 1. Inclusion of Part 3A changes to the Land Reform Scotland Act 2016, 2. Inclusion of the requirement to have the Office of the Scottish Charity Regulator (OSCR) approval for company dissolution, 3. Inclusion of Part 3A changes to the Land Reform Scotland Act 2016

If, on the winding up of the Company, any property remains, after satisfaction of all its debts and liabilities, such property (including any land acquired by it in terms of the Land Reform Act) shall be given or transferred to such other:

(a) Community body or bodies

(b) or crafting community body or bodies or

(c) Part 3A Community body or bodies as may be:

(a) determined by not less than 75% of the Ordinary Members of the Company who are present and voting at a General Meeting called specifically (but not necessarily exclusively) for the purpose, and
(b) approved by the Office of the Scottish Charity Regulator (and its successors) approved thereafter by the Scottish Ministers,
under declaration that, if the Company is a charity at or before the time of its winding up, then the community body or bodies or crofting community body or bodies or Part 3A Community body or bodies referred to above must also be a charity or charities

7.3 – Addition of wording in bold and deletion of wording scored through as below;

Or if no such Community body or bodies or Part 3A Community body or bodies or crofting community body or bodies is determined by the Ordinary members and approved by the Scottish Ministers in terms of Clause 7.2, such property referred to in Clause 7.2 if not charitable shall be transferred to the Scottish Ministers or, if it is a charitable organisation be transferred, to such charity or charities as the Scottish Ministers may direct.

7.4 – Addition of wording in bold and deletion of wording scored through as below;

In Clause 7:

(a) “Community Body” has meaning ascribed to it under Section 34 of the Land Reform Act
(b) “Crofting Community Body” has meaning ascribed to it under them respectively in Sections 54 and 71 of the Land Reform Act
(c) and “Charity” has the meaning ascribed to it in Section 34(8) of the Land Reform Act
(d) “Part 3A Community Body” have the meaning ascribed to it under Section 74 of the Community Empowerment (Scotland) Act 2015.

END of changes to Memorandum of Association

Changes to Articles of Association:

6. Membership

7.1 – Reduction in age of ordinary members from 18 to 16 in line with the adoption of the 2015 Scottish Elections (Reduction of Voting Age) Bill allowing 16 and 17 year olds to vote in all Scottish Government and local elections.

7.3 – Changes to the definition of junior member from 12 to 17 to 12 to 15 in line with the changes to the lower age permitted of ordinary members in 7.1.

8.2 – Changing the wording from - At least three quarters of the majority of the members of the Company are members of the Community - to - At least three quarters of the members of the Company are members of the Community.

Also supported by: East Kintyre Windfarm Trust, West Kintyre Windfarm Trust, Tangy 2 Windfarm Trust, Campbeltown Community Council and the Co-operative Community Fund.
8.3 – Removal of the original clause - and, in the event that the number of members falls below 20 or that the majority of members of the Company does not consist of Ordinary Members, the Board may not conduct any business other than to ensure the admission of sufficient Ordinary Members to achieve the minimum number and/or maintain the majority –

And replacing it with –

In the event that the number of members falls below 20 or that at least three quarters of the members of the Company do not consist of members of the Community, the Board may not conduct any business other than to ensure the admission of sufficient Ordinary Members to achieve the minimum number and/or maintain the majority.

44. MEETINGS OF THE BOARD OF DIRECTORS

50 – Insertion of article 50.1, 50.2 and 50.3.

50.1 Subject to Article 50, the company, upon request of any person for a copy of any minutes must, if the request is reasonable, give the person within 28 days of the request a copy of the requested minutes

50.2 Where such a request is received under Article 50.1 the company:

(a) may withhold information contained in the minutes, and

(b) if it does so, must inform the person requesting a copy of the minutes of its reason for doing so.

72. ALTERATION TO THE MEMORANDUM and ARTICLES OF ASSOCIATION

72.2 – Removal of the original clause requiring written consent from the Scottish Ministers through the Scottish Government Rural Directorate and replacement with amended clause

72.3. Addition of wording in bold and deletion of wording scored through as below;

Any changes to the purposes are subject to with the written consent of the Office of the Scottish Charity Regulator (and its successors) in terms of section 16 of the Charities and Trustee Investment (Scotland) Act 2005

72 – Insertion of 72.3 and 72.4

72.3 notify the Office of the Scottish Charity Regulator (and its successors) of any other changes to the Articles not covered under Article 72.2 (i.e. not related to purposes) in terms of Section 17 of The Charities and Trustee Investment (Scotland) Act 2005.

72.4 notify the Scottish Ministers of any alterations to the Articles under Section 35(1) of the

Also supported by: East Kintyre Windfarm Trust, West Kintyre Windfarm Trust, Tangy 2 Windfarm Trust, Campbeltown Community Council and the Co-operative Community Fund.
Land Reform Act.

Other changes to note

Spelling and format corrections have been made throughout the M&A's.

Prepared on the 29/08/17 after receiving written approval of the changes from OSCR and the Scottish Government published in full on 31/08/17 on www.machrihanish.org and via MACC social media platforms and notified to company members via an advert in the Campbeltown Courier on the 01/09/17.

Also supported by: East Kintyre Windfarm Trust, West Kintyre Windfarm Trust, Tangy 2 Windfarm Trust, Campbeltown Community Council and the Co-operative Community Fund.
Also supported by: East Kintyre Windfarm Trust, West Kintyre Windfarm Trust, Tangy 2 Windfarm Trust, Campbeltown Community Council and the Co-operative Community Fund.
Our ref: CB00112
17 August 2017

Dear Jacqui

LAND REFORM (SCOTLAND) ACT 2003 - PART 2: COMMUNITY RIGHT TO BUY STILL COMPLY WITH SUSTAINABLE DEVELOPMENT MACHRIHANISH AIRBASE COMMUNITY COMPANY

I am writing to confirm that, under section 34(4) of the Land Reform (Scotland) Act 2003 “the Act”, Scottish Ministers remain satisfied that the main purpose of your community body, Machrihanish Airbase Community Company, is still consistent with furthering the achievement of sustainable development.

Please also note:

- If an application under Community Right to Buy has been submitted for consideration, then section 35(A1) & (A2) of the Act would apply.

- If an application is successfully registered or land bought through the Act remains in the community body ownership, section 35(1) of the Act applies if you amend your governing documents, and Scottish Ministers, through the Scottish Government, Land Reform and Tenancy Unit, Community Land Team (or its successors) should be notified of any such changes.

- Equally, if the community do not have a registered interest, section 35(1) of the Act applies if you amend your governing documents, and Scottish Ministers, through the Scottish Government, Land Reform and Tenancy Unit, Community Land Team (or its successors) should be notified of any such changes.
• You should also ensure you comply with the Articles in your governing document at all times.

Yours sincerely

IAN HERON
On behalf of Scottish Ministers
Ms Jacqui Baynham,
TC Young Solicitors,
7 West George Street,
Glasgow
G2 1BA

Your ref: MEE/JBNMACHROO-20
Our ref: RS/C&N/17-1515

15 August 2017

Dear Ms Baynham,

Request for consent to amend constitution so far as it relates to purposes for Machrihanish Airbase Community Company (SC042435)

I am writing to let you know our decision about your request of 08/08/2017 for consent to amend the constitution of the charity named above. We have made our decision under section 16(2)(a) of the Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act).

I can now confirm that the Office of the Scottish Charity Regulator (OSCR) gives consent to amend the constitution of the charity, so far as it relates to purposes, to the following:

3.1 To manage community land and associated assets for the benefit of the Community and the public in general following principles of sustainable development, where sustainable development means development which meets the needs of the present without compromising the ability of future generations to meet their own needs

3.2 To advance community development, including urban or rural regeneration, following principles of sustainable development, where 'sustainable development' means development which meets the needs of the present without compromising the ability of future generations to meet their own needs

3.3 To advance environmental protection or improvement, including through the generation of energy on a renewable basis, for the benefit of the Community and the public in general following principles of sustainable development, where sustainable development means...
development which meets the needs of the present without compromising the ability of future generations to meet their own needs.

The charitable purposes from the 2005 Act which are applicable are:

F - the advancement of citizenship or community development,
M - the advancement of environmental protection or improvement,

This consent applies only to the amendments to the charitable purposes in the constitution. The other proposed changes to your constitution which were detailed in your application are not subject to OSCR’s consent and accordingly this consent does not apply to these changes.

You must ensure that all changes to the constitution are made in accordance with the powers, procedure or legislation which permits the change and, if applicable, that consent from another regulators or third party is obtained. Failure to follow the necessary steps may mean that the changes are of no legal effect.

What you should do next

1. Notify OSCR within three months of the date of change. OSCR will not update the charity’s purposes on the Scottish Charity Register until we receive this notification.

2. Complete the attached Appendix 1 declaration and send (or e-mail) it to OSCR along with the following evidence:

   • a copy of the resolution passed agreeing to the change
   • an amended copy of the charity’s constitution showing the revised purposes
   • confirmation that the change has been submitted to Companies House

We look forward to receiving confirmation that the charity has amended the constitution. Please contact us if you have any questions.

The final evidence should be sent to info@oscr.org.uk or by post for the attention of the Registration Team.

Yours sincerely

 Neil Edwards
 Registration Team Case Officer
 Tel 01382 346897
 Neil.edwards@oscr.org.uk
Appendix 1- Change to constitution (so far as it relates to purposes)

Please consider the statement you are agreeing to below. Charity trustees must ensure that the charity adheres to the terms of its constitution or governing document and that it complies with the provisions of the Charities and Trustee Investment (Scotland) Act 2005 and any other relevant legislation.

By signing this declaration, you are declaring that the trustees have taken the correct/necessary actions required to give effect to the amendments to the charity's constitution. The trustees understand that if the charity has not followed the procedure specified in the constitution or required by other legislation, the amendments to the constitution may not be valid and may be subject to challenge. We, the trustees, hereby declare that we made the following amendments to the constitution of Machrihanish Airbase Community Company (SC042435)

Amended charitable purposes as per our application 08/08/2017

Other changes to the constitution (please detail below)

Date of change to Constitution

Please ensure you have enclosed any additional evidence requested by OSCR in the Notice of Consent

Signed by one of the Trustees on behalf of all

Print name

Designation

Date

Please note that Section 26 of the Charities and Trustee Investment (Scotland) Act 2005 provides that it is an offence to knowingly provide false or misleading information to OSCR.