

Environmental Standards Scotland
Ìrean Àrainneachdail na h-Alba

ENVIRONMENTAL
Standards Scotland
Ìrean Àrainneachdail na h-Alba

██████████
Freedom of Information Officer
foi@environmentalstandards.scot
0808 1964000

██████████@gmail.com

07/03/2025

Our ref: ESS.EIR.004

Dear ██████████,

Information request – partial disclosure

I am writing in response to your email of 31 January 2025, received by us on 3 February 2025. You asked for:

1. all correspondence up to the present day between ESS, Scottish Forestry and the Environmental Rights Centre for Scotland (ERCS) in respect of a complaint made by ERCS about the failure of Scottish Forestry to comply with the Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017
2. clarification as to whether Scottish Forestry has been given a deadline to comply with the law in respect of the above breach

As the information you have requested is 'environmental information' for the purposes of the Environmental Information (Scotland) Regulations 2004 (EIRs), we are required to deal with your request under those Regulations. We are applying the exemption at section 39(2) of the Freedom of Information (Scotland) Act 2002 (FOISA), so that we do not also have to deal with your request under FOISA.

This exemption is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption, because there is no public interest in dealing with the same request under two

Environmental Standards Scotland
enquiries@environmentalstandards.scot
Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD
0808 1964000

different regimes. This is essentially a technical point and has no material effect on the outcome of your request.

I wrote to you on 24 February 2025 to advise that under regulation 7 of the EIRs a public authority may extend the 20 working day deadline for responding to a request by up to a further 20 working days, if the complexity and volume of the information makes it impractical for the authority to respond within the original deadline. We considered your request to be complex and voluminous for the reasons set out in that email and therefore extended the deadline by a further ten working days to 14 March 2025. We noted that we would, of course, endeavor to provide the information before that date, if possible.

1. Correspondence between ESS, Scottish Forestry and the Environmental Rights Centre for Scotland (ERCS)

Response: I enclose the information listed in the attached Schedule of Information. This correspondence spans the period from the date of the representation being received (27 February 2024), which we consider to be the start of correspondence relating to this complaint, to the date of your request (31 January 2025).

The EIRs allow a public authority to withhold information in response to a request, where one or more exceptions listed in the EIRs applies. While our aim is to provide information whenever possible, in this instance we are unable to provide some of the information you have requested because exceptions under regulations 11(2) and 10(4)(e) of the EIRs apply to that information. These are explained further below.

To provide you with as much information as we can, where possible the documents have been redacted to remove exempt information, while leaving the rest of the information in place. Wherever information has been removed, this is marked in the text, along with reference to the exception we are applying. Where information has been withheld in its entirety, this has been marked as WITHHELD in column four of the Schedule.

Regulation 11(2)(a) – personal data

An exception under regulation 11(2)(a) of the EIRs (personal data) applies to some of the information requested because it is personal data of a third party and disclosing it would contravene the data protection principles in Article 5(1) of the UK General Data Protection Regulation. This exception is not subject to the 'public interest test', so we are not required to consider if the public interest in disclosing the information outweighs the public interest in applying the exception.

Regulation 10(4)(e) – internal communications

Regulation 10(4)(e) allows authorities to refuse to disclose internal communications. This is a class-based exception, meaning that there is no need to consider whether disclosure of the communication would cause harm before applying the exception. Provided the information is an internal communication, the exception will apply. Notes of meetings constitute internal communications, provided they have not been communicated externally.

Public interest test

This exception is subject to the 'public interest test'. Taking account of all the circumstances of this case, we have found that, for some of the information you have requested, on balance the public interest lies in favour of upholding the exception. ESS recognises that there is a public interest in individuals being able to exercise their rights under the EIRs in order to enhance their understanding of the work of a public authority and ensure openness and accountability in relation to the exercise of their statutory functions and the basis upon which certain positions are reached and decisions made. We acknowledge there is a strong presumption in favour of disclosure under the EIRs.

The internal meeting note dated 21 May 2024 is a draft note, which was never finalised following the departure of the SIO previously responsible for the investigation. While acknowledging the public interest in favour of disclosure, there is a public interest in permitting authorities a private space in which to draft, edit and refine communications, in order to ensure that any finalised versions have been fully considered and accurately reflect the views of the authority. In this case, as this internal meeting note is in draft form and was never finalised, ESS takes the view that it does not represent the finalised views of both ESS and Scottish Forestry, and disclosure of such information would therefore not be in the public interest.

2. Deadline for compliance

Response: Scottish Forestry will publish a new public register website which will allow for the direct inspection of forestry EIA documents that are created following the website's launch. The new website will be operational by the end of August 2025 at the latest. EIA forestry documents will be added to the new website in a phased approach, with screening opinions (which represent the majority of forestry EIA documents) being made available by the end of August 2025. Other document types will be added iteratively with all being available on the new website by the end of 2026.

As an interim measure, prior to the publication of the new public register website, Scottish Forestry have committed to :

- a) make all relevant forestry EIA documents, for forestry projects that require EIA consent, available for inspection on a dedicated webpage

- b) publish a comprehensive list of all legacy forestry projects (regardless of whether EIA consent required or not) with associated information to allow interested parties to make informed requests for relevant forestry EIA documents to be made available for inspection. Scottish Forestry has committed to completing any requests for these documents to be made available for inspection within 20 working days of the initial request

In ESS' view, the implementation of these remedial actions will allow interested parties to effectively access and inspect the relevant forestry EIA documents and bring Scottish Forestry into compliance with its statutory duty.

ESS accordingly considers that informal resolution has been achieved and will monitor Scottish Forestry's delivery of the agreed remedial actions and provide public updates on progress.

Further details on the outcome of this case can be found in the summary report, available on our website: [Scottish Forestry's Environmental Impact Assessment Process Informal Resolution Report - Environmental Standards Scotland](#)

Right to seek a review

If you are unhappy with this response to your request under the EIRs, you may ask us to carry out an internal review of the response by writing to:

Mark Roberts
Chief Executive Officer
Environmental Standards Scotland
Thistle House
91 Haymarket Terrace
Edinburgh
EH12 5HD
Email foi@environmentalstandards.scot

Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the due date when you received this letter. We will complete the review and tell you the result within 20 working days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your appeal rights is available on the Commissioner's website at: <https://www.foi.scot/appeal>

Yours sincerely,



Freedom of Information Officer
Environmental Standards Scotland

Schedule of Information

Doc no.	Correspondence	Attachments	Release – wholly or in part	Exemption/ exception applied	Public interest test
1	20240227 - Email Incoming - Representation - SF duty to publish EIA documents - CONTAINS ALL REP DOCS - IESS.24.015.	1.1- ESS-REPRESENTATION-FORM - Scottish Forestry EIA register 1.2- ERCS ESS representation - paper apart 1.3 - FOI request to SF 1.4 - SF FOI response 1.5 - SF FOI table 1.6 - ERCS letter to SF - 25 January 2024 1.7 - SF letter to ERCS - 23 February 2024 1.8 - 2016 EIA Regs Consultation	In part	Reg 11(2)(a)	Not subject to public interest test
2	20240227 - Email Outgoing - Acknowledgement of Representation - SF duty to publish EIA documents		In part	Reg 11(2)(a)	Not subject to public interest test
3	20240305 Email Outgoing - allocation to SIO - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
	20240312 Email Outgoing - update - moved to pre-		In part	Reg 11(2)(a)	Not subject to public interest test

4	investigation - IESS.24.015				
5	20240404 Email Outgoing - update - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
6	20240404 Email Incoming - acknowledging update - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
7	20240411 Email Outgoing to Scottish Forestry - Invitation to Informal Resolution - IESS.24.015	7.1 - 20240411 Letter to Scottish Forestry - Invitation to Informal Resolution - IESS.24.015.pdf	In part	Reg 11(2)(a)	Not subject to public interest test
8	20240425 Email Incoming Scottish Forestry - inviting ESS to meeting - IESS.24.015	8.1 - IESS.24.015 - Letter to ESS for - EIA Documentation Available for Review.pdf	In part	Reg 11(2)(a)	Not subject to public interest test
9	20240425 Email Outgoing to Scottish Forestry - responding to meeting invite - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
10	20240503 Email Chain - scheduling meeting - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test

11	20240506 Email Incoming - seeking update - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
12	20240507 Email Chain - discussing ESS' position - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
13	20240508 Email Incoming - acknowledgement - RE_ IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
14	20240521 Internal note of telephone call between ESS and Scottish Forestry		WITHHELD	Reg 10(4)(e)	In favour of maintaining exemption
15	20240523 Email Incoming - seeking update - RE_ IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
16	20240523 Email Outgoing to - providing update - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
17	20240524 Email Incoming - unhappy with update - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test

18	20240528 Email Outgoing - response - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
19	20240529 Email Incoming Scottish Forestry - seeking extension - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
20	20240529 Email Outgoing to Scottish Forestry - agree end of week for information - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
21	20240531 Email Incoming - information agreed at meeting - IESS.24.015	21.1 - PR Improvements Roadmap + EIA fast-track option.docx	In part	Reg 11(2)(a)	Not subject to public interest test
22	20240611 Email Outgoing to Scottish Forestry - Further Enquiries - IESS.24.015	22. 1 - 20240611 Letter to Scottish Forestry - Further Enquiries - IESS.24.015	In part	Reg 11(2)(a)	Not subject to public interest test
23	20240612 Email Incoming - Seeking Update - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
24	20240613 Email Incoming - further enquiry - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test

25	20240617 Email Outgoing to - response to further enquiry - IESS.24.015 details		In part	Reg 11(2)(a)	Not subject to public interest test
26	20240704 Email incoming - further info on PR work - IESS.24.015	<p>26.1-SF Response to ESS - July 2004.pdf</p> <p>26.2-Document 1 - Scoping Report as published on SF website.pdf</p> <p>26.3-Document 2a - example EIA Screening Opinion - Consent Not Required.pdf</p> <p>26.4-Document 2b - example EIA Screening Opinion - Consent Not Required.pdf</p> <p>26.5-Document 3 - example EIA Screening Opinion - Consent Required.pdf</p> <p>26.6-Document 4 - example EIA Scoping Opinion.pdf</p> <p>26.7-Document 5 - example EIA report notice.pdf</p> <p>26.8-EIA Staff Procedures Guidance September 2023.pdf</p>	In part	Reg 11(2)(a)	Not subject to public interest test
27	20240715 Email outgoing - ack of information - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test

28	20240717 Email incoming - enquiry on progress - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
29	20240717 Email outgoing - - response to enquiry - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
30	20240718 Email incoming - further enquiry - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
31	20240723 Email outgoing - - response to enquiry - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
32	20240806 Email chain - seeking update - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
33	20240812 Email outgoing - update on IR - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
34	20240814 Email incoming - enquiry - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
35	20240819 Email outgoing - response to enquiry - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test

36	23102024 - Email incoming - response to follow up request - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
37	20241030 Email outgoing - response to enquiry - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
38	20241106 Email incoming and chain - ack of e-mail - IESS.23.015 details		In part	Reg 11(2)(a)	Not subject to public interest test
39	20241205 Email incoming - update request - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
40	20241205 - Email Outgoing - Response to update request - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
41	20241205 - Internal note of telephone call between ESS and Scottish Forestry		In part	Reg 11(2)(a)	Not subject to public interest test
				Reg 10(4)(e)	In favour of disclosing information

42	20241205 - Email Outgoing - Informal Resolution - Further Enquiries - IESS.24.015	42.1 - 2024-12-05 - Letter to Scottish Forestry - Further Enquiries to Support Informal Resolution.pdf	In part	Reg 11(2)(a)	Not subject to public interest test
43	20241209 - Email chain - Progress update & arrangement of meeting to discuss - IESS.24.015 details		In part	Reg 11(2)(a)	Not subject to public interest test
44	20241212 - Internal note of telephone call between ESS and ERCS		In part	Reg 11(2)(a)	Not subject to public interest test
				Reg 10(4)(e)	In favour of disclosing information
45	20241220 - Email Incoming - Response to Dec24 Sec.23 - IESS.24.015	45.1 - SF Response to ESS - Dec 2004.pdf	In part	Reg 11(2)(a)	Not subject to public interest test
46	20241220 - Email Outgoing - Points of clarification on response to Dec24 S.23 - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
47	20250110 - Email Incoming - SF Response	47.1 - SF Response to ESS - Jan 2025.pdf	In part	Reg 11(2)(a)	Not subject to public interest test

	to Dec24 Further Enquiries - IESS.24.015				
48	20250115 - Email Outgoing - Informal Resolution Actions Proposed - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
49	20250117 - Email Incoming - Agreement of Information Resolution Actions Proposed - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
50	20250129 - Email Incoming - Seeking Update - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test
51	20250129 - Email Outgoing - Update on intended publication date - IESS.24.015		In part	Reg 11(2)(a)	Not subject to public interest test

From: [redacted R.11(2)]
To: [ESS Representations](#)
Subject: Representation - SF duty to publish EIA documents
Date: 27 February 2024 14:55:00
Attachments: [image001.png](#)
[ESS-REPRESENTATION-FORM - Scottish Forestry EIA register.docx](#)
[ERCS ESS representation - paper apart.pdf](#)
[1. FOI request to SF.pdf](#)
[2.1 SF FOI response.pdf](#)
[2.2 SF FOI table.xlsx](#)
[3. ERCS letter to SF - 25 January 2024.pdf](#)
[4. SF letter to ERCS - 23 February 2024.pdf](#)
[5. 2016 EIA Regs Consultation.pdf](#)

Dear ESS,

We would like to make a new representation regarding Scottish Forestry's duty to make EIA documents available for inspection.

Please find attached:

- A completed representation form.
- A paper apart which sets out the background to the representation and the outcome sought.
- Six background documents.

I would be grateful if you could confirm receipt.

Kind regards,
[redacted R.11(2)]

[redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS) | [Web](#) | [@ERCScot](#) | [YouTube](#)

My working days are Tuesdays, Thursdays and Fridays, 9am to 5pm.

ENVIRONMENTAL Standards Scotland Ìrean Àrainneachdail na h-Alba

Representation Form

The purpose of this form

We can accept and will consider (free of charge) any representation which includes any instance of concern from anyone about how public authorities discharge their environmental law responsibilities or the effectiveness of environmental law itself.

The purpose of this form is to enable you to set out your representation in a structured way so that we can carry out an initial assessment and consider what steps, if any, should or can be taken. We may also wish to contact you to discuss your representation or seek further information from you. If you have any difficulties in using or completing this form, our staff are more than happy to assist and can be contacted at Representations@environmentalstandards.scot.

Please use this form to contact us if you have specific concerns:

- that a public authority isn't complying with an environmental law;
- that an environmental law isn't being implemented or applied properly; or
- that an environmental law isn't effective in protecting the environment.

In this context a public authority means a person carrying out any function of a public nature and environmental law means any law which is mainly about the environment.

Compliance relates to whether a public authority is failing to take proper account of environmental law when exercising its functions or is acting in a way that is contrary to (or incompatible with) environmental law.

Environmental law means any law which includes provisions mainly about the environment and environmental protection, with environmental protection including:

- (a) protecting, maintaining, restoring or improving the quality of the environment,
- (b) preventing, mitigating, minimising or remedying environmental harm caused by human activities; and
- (c) monitoring, considering, assessing, recording, reporting on or managing data on anything relating to paragraphs (a) and (b).

In practical terms, the effectiveness of environmental law relates to whether the law is achieving its intended effect in protecting the environment and contributing to our international obligations relating to environmental protections.

Next steps

It is important to explain that, before considering what action should be taken, we normally expect that you will have given the relevant public authority the opportunity to respond to the issue or that you have tried to resolve your concerns through other available mechanisms. Whatever action we do take, we will write to you setting out the reasons for this and provide as much further assistance as we can.

It is also important to understand that we are not an appeal or complaints body for individual decisions taken by public authorities in the exercise of their regulatory functions in relation to a particular person or case (for example, a decision on an application for a licence or a decision on regulatory enforcement in a specific case).

The '[How to raise a concern](#)' and '[Frequently Asked Questions](#)' pages on our website provide further information on our role and may assist you in completing this form.

By submitting this form you agree to our [Data Privacy Notice](#). ESS may use the information you provide but we will not share your personal information without obtaining prior consent from you. You may tell us at any time if you wish to withdraw your representation.

When you have completed this form, please send it to Representations@environmentalstandards.scot.

Section 1 – Your representation

1. Please tell us below the name of the public authority you are contacting us about.

Scottish Forestry

2. What area of the environment does your representation relate to? (for example, air quality/pollution, water quality/pollution, contaminated land, nature conservation, protected sites, protected species, climate change environmental assessment and monitoring).

EIA

3. Have you already contacted the public authority about the matter?

Yes

No

Have you received a response?

Yes

No

If the answer to either of the above questions is 'no', please tell us in the box below why this is the case.

n/a

4. Does your representation relate to:

- A public authority not complying with an environmental law?

Yes No Don't know

- Environmental law not being implemented or applied properly?

Yes No Don't know

- An environmental law isn't effective in protecting the environment?

Yes No Don't know

5. If the answer to the above questions is 'no', ESS may not be able to help you. If you have answered 'yes' or 'don't know' to any of the questions above, please tell us in the box below what the background to your representation is, including the key dates when decisions/actions were taken, and specifically what you feel has gone wrong. If possible, please include below the details of the environmental law(s) your concerns relate to and, whether there any related public authority policies, guidance and/or decisions.

It would also be of assistance if you could also provide copies of the public authority's response to you and any supporting information you have.

Please see enclosed paper apart.

6. What outcome are you seeking through bringing your representation to ESS?

Please see enclosed paper apart.

7. How did you hear about ESS?

Previous contact.

Section 2 – Your details

The person who identified the problem should normally fill in this form. If you are acting on behalf of someone else, please check and confirm that they are content for you to do so.

First Name	[redacted R.11(2)]
Last Name	[redacted R.11(2)]
Your Organisation's name (if applicable)	Environmental Rights Centre for Scotland
Telephone Number	[redacted R.11(2)]
Email address	[redacted R.11(2)] @ercs.scot
Address Line 1	c/o Scottish Environment LINK
Address Line 2	Dolphin House, 4 Hunter Square
Town/City	Edinburgh
Post Code	EH1 1QW
Preferred contact method	Email

To investigate your concerns, or make further enquiries, we normally need to contact the public authority to confirm that you have tried to

resolve your concerns with them first. We may also need to discuss with the public authority the nature of your concerns. This means that we may need to share with the public authority personal information related to your case.

Diversity Monitoring

ESS would appreciate if you could assist us to ensure we are reaching as many people as possible and preventing barriers from using our service. To support this, we have a Diversity Monitoring Form available on our website at <https://www.environmentalstandards.scot/wp-content/uploads/2023/02/ESS-Diversity-Monitoring-Form.docx>

Filling in this form is voluntary and will not affect our investigation of your representation.

Your completed Diversity Monitoring Form will be stored anonymously in a secure database, separate from your representation. You may submit the form along with your representation or separately.

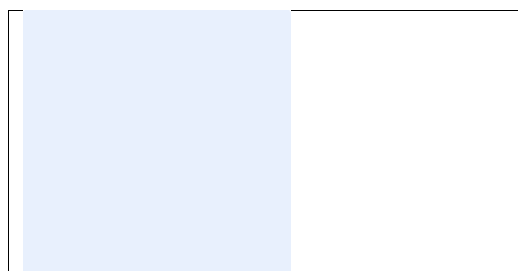
Declaration

By completing and signing this form, I confirm that the information given is accurate and that I provide my consent for ESS to share information about me with the public authority/authorities subject to the representation **(if you have any concerns about us sharing your information with the public authority please contact us to discuss).**

I also understand that ESS may access and review information about my concerns held by the public authority and that, depending on the nature of the representation, this may include sensitive personal information. I also understand that my personal information will be retained by ESS as set out in our privacy notice.

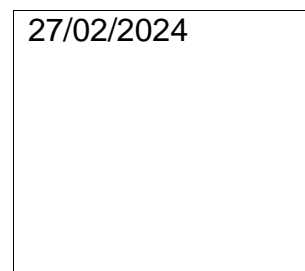
Signature

(Click image to add a digital signature file)



Date

27/02/2024



[redacted R.11(2)]

Section 3 – Checklist

- Have you fully completed all sections of the form that apply to you?

Yes No

- Have you included copies of all your supporting paperwork (in particular any response you have received from the public authority)?

Yes No

- Please do not send us original documents. To help protect your information we do not hold original documents on our files. Any original documents you send will be returned. Also, when our involvement with your representation comes to an end, the documents we hold on our files will be destroyed in line with our records retention policy.
- If you plan to send us large amounts of documents, please put your documents in date order, putting the most recent document at the front and oldest at the back.

ERCS representation to ESS

Scottish Forestry's duty to make EIA documents available for inspection

Paper apart – Sections 1(5) and 1(6)

27 February 2024

1. This paper apart sets out the background to a representation from ERCS to ESS on Scottish Forestry's duty to make environmental impact assessment ('EIA') documents available for inspection and explains the outcome sought as a result of this representation.

Background to this representation

2. The legal framework for environmental impact assessments vis-à-vis forestry developments is contained within the Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017 ('the 2017 Regulations').
3. A 'screening opinion' is defined in Regulation 2(1) of the 2017 Regulations as "an opinion... as to whether a project is, or is not, an EIA forestry project".
4. An 'EIA forestry project' requires an EIA to be carried out prior to any work or operation commencing on that project.¹
5. The 2017 Regulations require certain EIA documents to be made publicly available. Regulation 23 of the 2017 Regulations states as follows:

Availability of opinions, directions etc. for inspection

23.—(1) Where any document mentioned in paragraph (2) is received, issued or adopted by the Commissioners, the Commissioners must make copies of that document available for inspection—

(a) on a website (or by other electronic means); and

(b) at all reasonable hours at an office of the Commissioners where the register may be inspected.

(2) The documents are any—

(a) request under regulation 15(1);

¹ Regulation 3(1) of the 2017 Regulations.

(b) copy of a request under regulation 15(8);

(c) direction given under regulation 9;

(d) screening opinion;

(e) screening direction;

(f) scoping opinion;

(g) scoping direction;

(h) EIA report and any additional information;

(i) reports or advice issued to the Commissioners at the time when notice is given under regulation 18(1); and

(j) statement of reasons accompanying any of the above.

6. Regulation 23 requires Scottish Forestry to make available on a website any EIA screening opinions which have been issued or adopted.
7. ERCS established via FOI request that, since the establishment of Scottish Forestry on 1 April 2019, Scottish Forestry appears to have issued screening opinions for 305 afforestation developments. Copies of the FOI correspondence are enclosed (documents 1, 2.1 and 2.2).
8. Scottish Forestry does not make any of its EIA screening opinions available for inspection on its website, contrary to its Regulation 23(1)(a) duty to do so.
9. ERCS wrote to Scottish Forestry on 25 January 2024 to make a complaint regarding Scottish Forestry's breach of the Regulation 23(1)(a) duty. ERCS requested a commitment from Scottish Forestry to make all EIA screening opinions available on its website. A copy of this letter is enclosed (document 3).
10. Scottish Forestry responded by letter on 23 February 2024 (document 4). The complaint was not upheld. Scottish Forestry considers that their Regulation 23 duties are being met.

11. Scottish Forestry's position is explained in their letter as follows:

...Whilst these documents are not currently available on a website they can be requested and are provided by email by the relevant Conservancy office and therefore are made available for inspection "by other electronic means". The Public Register of Environmental Impact Assessment clearly shows where an opinion has been given by Scottish Forestry. The website makes clear that local conservancy offices can be contacted for more information on individual cases. This can include for the purpose of requesting copies of screening opinions, which will then be emailed by the Conservancy office. Scottish Forestry are satisfied that our duties under regulation 23 of the 2017 Regulations are being met.

I am not upholding your complaint about the failure of Scottish Forestry to make EIA screening opinions available for inspection in line with regulation 23 of the 2017 Regulations, as I found that Scottish Forestry's approach of providing EIA documents by email is compliant with that duty...

Breach of the Regulation 23(1)(a) duty

12. Scottish Forestry's position is broadly that, although they accept that the various documents specified in Regulation 23(2) are not currently available on their website, they can be requested by email instead which amounts to those documents being made available for inspection "by other electronic means".

13. ERCS' view remains that Scottish Forestry is in breach of its Regulation 23(1)(a) duty for three reasons.

14. First, Scottish Forestry's provision for members of the public to request documents by email cannot discharge the duty to "make copies of that document available for inspection". A document is not 'available for inspection' if it must first be requested via a formal email request process. At the date on which a member of the public makes such an email request to Scottish Forestry, there would be no document available for the member of the public to inspect. Regulation 23(1)(a) would require amended for requesting documents by email to be sufficient to discharge the duty (e.g. change "make copies of that document available for inspection" to "make copies of that document available on request").

15. Second, if Scottish Forestry's position were correct, that would render the Regulation 23(1)(a) duty redundant because it would amount to duplication of pre-existing rights of access to information. Members of the public have rights under the Freedom of

Information (Scotland) Act 2002 ('the 2002 Act') and The Environmental Information (Scotland) Regulations 2004 ('the 2004 Regulations') to request information from public authorities in Scotland. For example, Regulation 5(1) of the 2004 Regulations provides that, "...a Scottish public authority that holds environmental information shall make it available when requested to do so by any applicant". If Scottish Forestry's position was correct, Regulation 23(1)(a) would serve no purpose whatsoever because it would be unnecessary duplication of the rights of access to information set out in the 2002 Act and the 2004 Regulations. The legislature cannot have intended the 2017 Regulations to duplicate pre-existing rights of access to information.

16. Third, Scottish Forestry's position is contrary to the legislative intention behind the Regulation 23(1)(a) duty. The 2017 Regulations were intended to transpose the EU EIA Directive (Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment as amended by Directive 2014/52/EU ('the 2014 Directive')). Recital 18 of the 2014 Directive states that:

With a view to strengthening public access to information and transparency, timely environmental information with regard to the implementation of this Directive should also be accessible in electronic format. Member States should therefore establish at least a central portal or points of access, at the appropriate administrative level, that allow the public to access that information easily and effectively.

17. Recital 18 of the 2014 Directive makes clear that the legislative intention behind the requirement for information to be made available electronically is to ensure that the public is able to access that information easily and effectively from a central portal or points of access. Information that is available on a website is available electronically which the public can access easily and effectively; whereas information that is available only on request is not easily accessible by the public.

18. The aim in recital 18 of making the EIA process more transparent is reflected in the Scottish Government's consultation document which preceded the 2017 Regulations ('Consultation on Environmental Impact Assessment amending Scottish Environmental Impact Assessment Regulations to Transpose Directive 2014/52/EU' (2016) – document 5). Paragraph 106 of that consultation document states that:

106. The Directive states that competent authorities are now required to make EIA information electronically accessible to the public. Publishing the information electronically will be mandatory for the first time and should make the process more transparent.

19. The references in paragraph 106 of that consultation document to making information “electronically accessible to the public” and that electronic publication of documents will be “mandatory” are at odds with Scottish Forestry’s position on the Regulation 23(1)(a) duty.

Outcome sought from this representation

20. We request that ESS takes the necessary steps to ensure that Scottish Forestry publishes all of the documents referred to in Regulation 23(2) of the 2017 Regulations on its website as soon as possible.

Documents enclosed with this representation

1. ERCS FOI request to Scottish Forestry 27 November 2023.
- 2.1 FOI response from Scottish Forestry dated 12 December 2023.
- 2.2 Spreadsheet from Scottish Forestry.
3. ERCS letter to Scottish Forestry dated 25 January 2024.
4. Letter from Scottish Forestry to ERCS dated 23 February 2024.
5. Scottish Government, ‘Consultation on Environmental Impact Assessment amending Scottish Environmental Impact Assessment Regulations to Transpose Directive 2014/52/EU’ (2016).

[redacted R.11(2)]

From: [redacted R.11(2)]
Sent: 27 November 2023 10:51
To: Scottish.Forestry@forestry.gov.scot
Subject: Freedom of information request

Dear Sir/Madam,

**FOI request
Screening opinion
Environmental Impact Assessment
The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017**

I would like to make a freedom of information request.

My FOI request relates to the Forestry Environmental Impact Assessment) (Scotland) Regulations 2017 ('the 2017 Regulations')

I would be grateful if you could send me the following information:

- The number of screening opinions issued by Scottish Forestry under the 2017 Regulations since 1 April 2019.
- The number of screening opinions where Scottish Forestry adopted an opinion that a forestry project was an EIA project.

Please contact me if you require any clarification to process my FOI request.

I look forward to receiving your response within the next 20 working days.

Yours faithfully,


[redacted R.11(2)]
[redacted R.11(2)]

[redacted R.11(2)]
[redacted R.11(2)]
My usual working days are Monday to Thursday 9am – 5pm
[redacted R.11(2)]

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Environmental Rights Centre for Scotland (ERCS) | *Our vision is of a Scotland where every person's right to live in a healthy environment is respected, protected and fulfilled* | [Web](#) |  [@ERCScot](#) | [YouTube](#)

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Scottish
Forestry
Coilltearachd
na h-Alba

Saughton House
Broomhouse Drive
Edinburgh, EH11 3XD
forestry.gov.scot

Email: scottish.forestry@forestry.gov.scot
Tel: 0131 370 5250

Chief Executive: Paul Lowe

[redacted R.11(2)]
[redacted R.11(2)] [@ercs.scot](mailto:[redacted R.11(2)]@ercs.scot)

Our ref: 2023/00387055

12 December 2023

Dear [redacted R.11(2)]

REQUEST UNDER THE ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004 (EIRs)

Thank you for your information request dated November 27 2023.

Your request

I would be grateful if you could send me the following information:

- The number of screening opinions issued by Scottish Forestry under the 2017 Regulations since 1 April 2019.
- The number of screening opinions where Scottish Forestry adopted an opinion that a forestry project was an EIA project.

As the information you have requested is 'environmental information' for the purposes of the Environmental Information (Scotland) Regulations 2004 (EIRs), we are required to deal with your request under those Regulations. We are applying the exemption at section 39(2) of the Freedom of Information (Scotland) Act 2002 (FOISA), so that we do not also have to deal with your request under FOISA.

This exemption is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption, because there is no public interest in dealing with the same request under two different regimes. This is essentially a technical point and has no material effect on the outcome of your request.



Scottish Government
Riaghaltas na h-Alba
gov.scot

Scottish Forestry is the Scottish Government agency responsible for forestry policy, support and regulation

Is e Coilltearachd na h-Alba a' bhuidheann-ghnìomha aig Riaghaltas na h-Alba a tha an urra ri poileasaidh, taic agus riaghladh do choilltearachd

BRAVE values and behaviours are the roots that underpin our work.



Response to your request

Please find attached a list of all afforestation applications which met the screening thresholds for Environmental Impact Assessment, broken down by Conservancy office and noting a) the hectareage of each application b) whether consent was deemed to be required. Please see [our website pages on Environmental Impact Assessment](#) for further information as to the thresholds and procedures.

Your right to request a review

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to Scottish.Forestry@forestry.gov.scot or by post at Scottish Forestry, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD.

Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the date when you received this letter. We will complete the review and tell you the result, within 20 working days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your appeal rights is available on the Commissioner's website at:

<http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>

Yours sincerely

[redacted R.11(2)]

[redacted R.11(2)]

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Environmental Rights Centre for Scotland
c/o Scottish Environment Link
Dolphin House
4 Hunter Square
Edinburgh, EH1 1QW

25 January 2024

Scottish Forestry
Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD

Sent by email only to: sfexecoffice@forestry.gov.scot

Dear Sir/Madam,

Stage one complaint

**The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017
Failure to publish EIA screening opinions**

We refer to the above, to our freedom of information request to Scottish Forestry dated 27 November 2023 and to your response dated 12 December 2023 (your reference 2023/00387055). Copies are enclosed for ease of reference.

The purpose of this letter is to make a complaint regarding Scottish Forestry's failure to publish environmental impact assessment ('EIA') screening opinions as required by the Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017 ('the 2017 Regulations').

Please treat this letter as stage one complaint as per your complaints policy.

Requirement to publish screening opinions

As you will be aware, Regulation 23 of the 2017 Regulations requires that:

- (1) Where any document mentioned in paragraph (2) is received, issued or adopted by the Commissioners, the Commissioners must make copies of that document available for inspection –*
 - (a) on a website (or by other electronic means); and*
 - ...
- (2) The documents are any –*
 - ...
 - (d) screening opinion;*



Regulation 23 requires Scottish Forestry to make available on a website any EIA screening opinions which have been issued or adopted.

Scottish Forestry's FOI response

Your 12 December 2023 response provided a list of 305 afforestation applications where an EIA screening opinion was issued.

Scottish Forestry's website includes a public register of EIAs.¹ The register does not contain copies of any EIA screening opinions.

Scottish Forestry's website does not appear to make any EIA screening opinion available for public access.

Scottish Forestry appears to be in breach of its Regulation 23 duty to make copies of screening opinions available for inspection on a website or by other electronic means.

Outcome requested as a result of this complaint

We request that Scottish Forestry commits to making all of its EIA screening opinions publicly available on its website **by no later than 1 March 2023**, failing which we will make a representation to Environmental Standards Scotland.

We would be grateful for your response within the next five working days, as per your complaints handling procedure.

Please contact me if you require any further information to process this complaint.

Yours faithfully,

[redacted R.11(2)]

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Rights Centre for Scotland

¹ The register is available at <https://forestry.gov.scot/publicregistereia> (accessed 23 January 2024).



Scottish
Forestry
Coilltearachd
na h-Alba

Saughton House
Broomhouse Drive
Edinburgh EH11 3XD
forestry.gov.scot

Email: scottish.forestry@forestry.gov.scot
Tel: 0131 370 5250

Chief Executive: Paul Lowe

[redacted R.11(2)]

[redacted R.11(2)] [@ercs.scot](mailto:[redacted R.11(2)]@ercs.scot)

Our ref: 2024/00395612

23 February 2024

Dear [redacted R.11(2)]

COMPLAINT REGARDING FAILURE TO PUBLISH EIA SCREENING OPINIONS

Thank you for your e-mail of 25 January 2024, which we have dealt with as a Stage 2 complaint as per [our published guidance on the Scottish Forestry website](#).

As [redacted R.11(2)] I have been asked to investigate your complaint and respond on behalf of Scottish Forestry. The [redacted R.11(2)] has also reviewed your complaint and considered it together with the Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the 2017 Regulations”) and Scottish Forestry’s related processes.

I understand your complaint to be about a perceived failure of Scottish Forestry to make EIA screening opinions available for inspection in line with regulation 23 of the 2017 Regulations.

You also asked :

“That Scottish Forestry commits to making all of its EIA screening opinions publicly available on its website by no later than 1 March 2023, failing which we will make a representation to Environmental Standards Scotland.”

As part of my investigation I have reviewed regulation 23 of the 2017 Regulations and the duty on Scottish Ministers to make copies of the documents listed in paragraph (2) of that regulation available for inspection. This duty requires that Forestry EIA screening opinions must be made available for inspection on a website (or by other electronic means) and they must be available at all reasonable hours at an office of the Scottish Ministers where the register may be inspected.

Whilst these documents are not currently available on a website they can be requested and are provided by email by the relevant Conservancy office and therefore are made available for inspection “by other electronic means”. [The Public Register of Environmental Impact Assessment](#) clearly shows where an opinion has been given by Scottish Forestry. The website makes clear that local conservancy offices can be contacted for more information on individual cases. This can include for the purpose of requesting copies of screening opinions, which will

then be emailed by the Conservancy office. Scottish Forestry are satisfied that our duties under regulation 23 of the 2017 Regulations are being met.

I am not upholding your complaint about the failure of Scottish Forestry to make EIA screening opinions available for inspection in line with regulation 23 of the 2017 Regulations, as I found that Scottish Forestry's approach of providing EIA documents by email is compliant with that duty.

Notwithstanding our position on this matter, as a result of your complaint, we will revise the wording on the website to provide greater clarity that EIA screening opinions, along with other EIA documents specified in regulation 23 of the 2017 Regulations, can be requested from Scottish Forestry and will be made available for inspection by email.

In addition, I thought it would be relevant and helpful for you to be aware that a digital project to upgrade the IT systems that provide Scottish Forestry's Public Registers is underway. This project is in the planning phase and we expect to see the first substantial changes later in 2025. Our intention is to improve the transparency of our forestry regulatory processes by allowing interested parties to view cases and associated documents at various stages in the application process.

Right of appeal

I hope that this has provided the information you require to address your concerns. However, if you still feel that this complaint has not been resolved then you may be able to have it reviewed externally by the Scottish Public Services Ombudsman. Normally you must submit any complaint to the Ombudsman not more than twelve months after you became aware of the matter you want to complain about.

However, as you are complaining as an organisation, ERCS, as opposed to as an individual, you would need to clarify with the Ombudsman whether they would be willing to take up a complaint from an organisation.

Your enquiries and or complaint should be submitted to the:

Scottish Public Services Ombudsman
4 Melville Street
Edinburgh
EH3 7NS

Telephone: 0800 377 7330

Email: ask@spsso.org.uk

Website: www.spsso.org.uk

In the event that the SPSO isn't willing to take on your complaint, you may be able to make a representation to Environment Standards Scotland, as you indicated in your complaint letter to Scottish Forestry.

Yours sincerely

[redacted R.11(2)]

[redacted R.11(2)]

[redacted R.11(2)]
Scottish Forestry

Consultation on

Environmental Impact Assessment

**amending Scottish Environmental Impact
Assessment Regulations to Transpose
Directive 2014/52/EU**



August 2016

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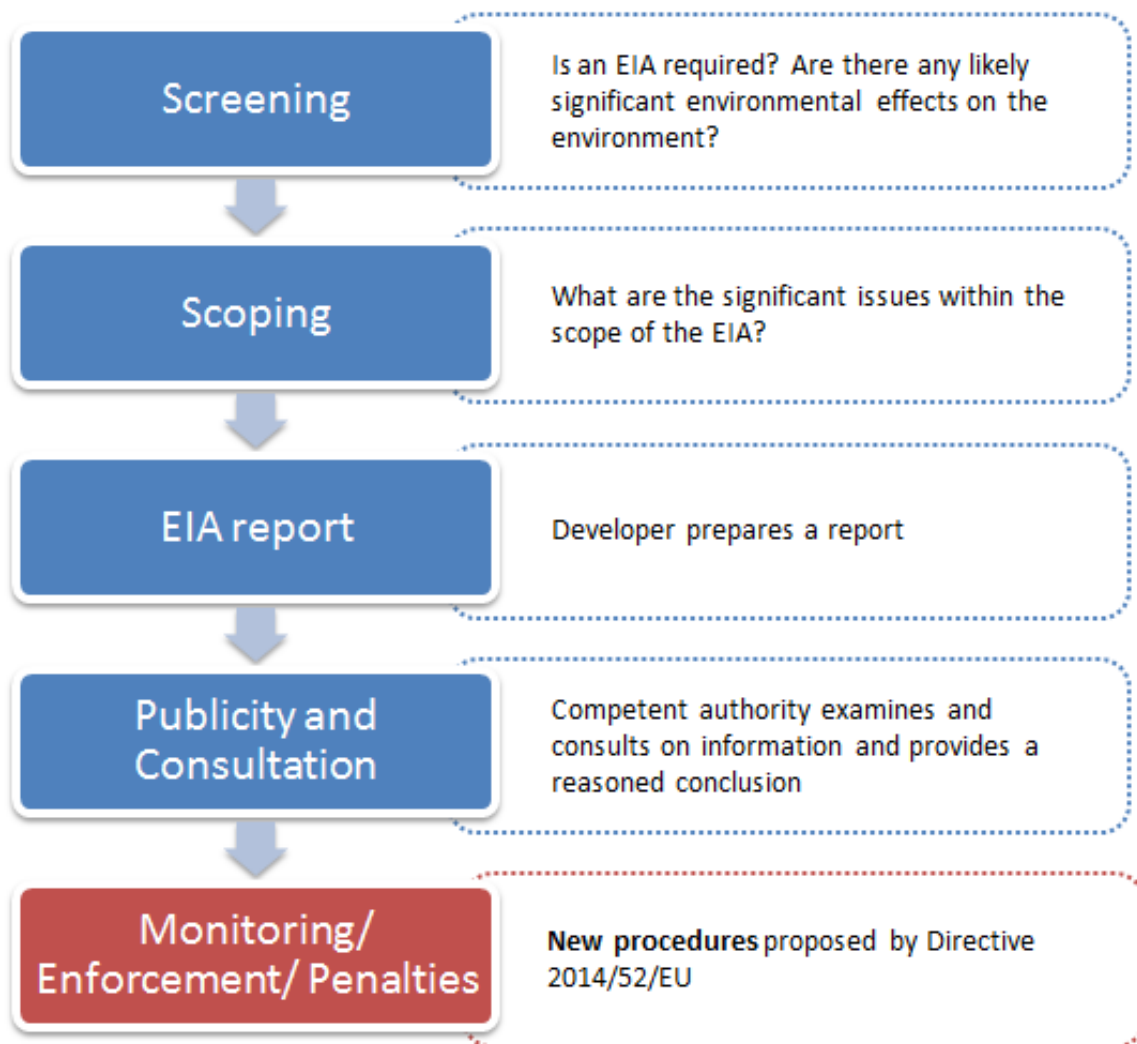
PART ONE - INTRODUCTION

1. Scottish Ministers are inviting comments on the enclosed consultation which sets out proposals for implementing the European Directive 2014/52/EU amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (known as the Environmental Impact Assessment or 'EIA' Directive).
2. The Directive's main aim is to provide a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation of projects with a view to reduce their impact on the environment.
3. The requirements of the Directive form part of European law and must be incorporated into the domestic legislation of Member States. The Directive leaves it to Member States to decide how best to transpose these requirements.
4. Following the EU Referendum the Scottish Government is committed to explore all options to secure Scotland's interests and protect its relationship with the EU. The UK, and therefore Scotland, continues to be a member of the EU and as such is statutorily obligated to transpose the Directive into Scottish legislation.
5. The Scottish Government's Better Regulation agenda seeks to support and promote sustainable economic growth through ensuring regulation adheres to the five principles of proportionality; consistency; accountability; transparency; and targeted regulation. The new draft regulations seek to be in keeping with these principles and minimise additional regulatory burden whilst protecting the environment.
6. In Scotland the EIA Directive has been transposed into Scots law through a number of Scottish Statutory Instruments relating to individual EIA consenting regimes including; Planning, Energy, Marine Licensing, Trunk roads, Transport and Works Projects, Agriculture, Land Drainage, Forestry, Flood Management, Ports and Harbours and Controlled Activities.
7. To minimise duplication through the consultation process, this consultation seeks your views on changes to eight of the above regimes. Ports and Harbours, Flooding and Controlled Activities will progress the Transposition separately.
8. We have sought to provide as much consistency as possible in our approach to the transposition across the regimes, where there are proposed differences to the approach taken by individual regimes these are highlighted throughout the consultation. You can see how the proposals have been drafted in legislation through the accompanying draft legislation; the Town and Country Planning (Scotland) Regulations and The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017.
9. This consultation will be open for 12 weeks from **09 August to 31 October 2016**.

Background

What is an Environmental Impact Assessment?

- 10. An Environmental Impact Assessment (EIA) is a means of drawing together, in a systematic way, an assessment of a project's likely significant effects on the environment. This process helps to ensure that the public have a chance to provide their views and the relevant authority giving the development consent (the 'competent authority') makes its decision in the knowledge of any likely significant effects on the environment prior to consent being given. The Directive therefore sets out a procedure that must be followed for certain types of project before they can be given 'development consent'.
- 11. The EIA process is made up of several stages which are set out below.



How is EIA Applied in Scotland?

12. In Scotland there are eleven separate EIA regimes with their own competent authority/authorities and legislation. In relation to roads for which the Scottish Ministers are the roads authority; the Scottish Ministers are both developer and competent authority.
13. A summary of the eight regimes to which this consultation relates are summarised below, alongside working titles for the amended draft legislation which will be laid in Parliament to implement the changes of the Directive.

Planning

14. The Planning System in Scotland is used to make decisions about the future development and use of land in our towns, cities and countryside. It considers where development should happen, where it should not and how development affects its surroundings. The system balances different interests to make sure that land is used and developed in a way that creates high quality, sustainable places.
15. For the majority of planning applications an EIA is not required, and the usual planning process provides a means of assessing the environmental effects of a proposal. However, in cases where a proposal is likely to have a significant effect, these powers are further supplemented by the Town and Country Planning EIA Regulations.
16. The draft Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 can be viewed at <https://consult.scotland.gov.uk/eia-transposition-team/transposition-of-environmental-impact>

Energy

17. In Scotland, consent from Scottish Ministers is required to construct, extend or operate electricity generating stations with a generating capacity in excess of 50 megawatts, or to install or keep installed overhead electricity lines, under sections 36 and 37 of the Electricity Act 1989 respectively.
18. The existing Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 define the circumstances under which such a development proposal should be subject to an EIA, and prescribe the information an applicant is required to submit as part of an Environmental Statement.
19. The regulations provide that Ministers may not consent any development without consideration of all the environmental information, and they set out the requirements for publication of any such information to allow public participation in the process.
20. The draft Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 can be viewed at <https://consult.scotland.gov.uk/eia-transposition-team/transposition-of-environmental-impact>

Marine Licensing

21. Certain activities require a licence to be issued before they can be lawfully carried out in Scotland's seas. Licences are issued under the Marine (Scotland) Act 2010 or the Food and Environment Protection Act 1985 for certain activities between 0-12 nautical miles and under the Marine and Coastal Access Act 2009 for certain activities between 12-200 nautical miles. Other licensing regimes apply in relation to other licensable activities in the marine area (for example oil and gas).
22. Licensable activities under the Acts specified above include (but are not limited to) the deposit of substances or objects into the sea or on or under the sea bed, the removal of substances or objects from the sea bed, construction, alteration and improvement works and dredging.
23. Marine licences are issued on behalf of Scottish Ministers by Marine Scotland Licensing Operations Team (MS-LOT) who provide a "one-stop-shop" for all marine licence applications determined by them in Scottish waters. MS-LOT also process section 36 consent applications made under the Electricity Act 1989 on behalf of Scottish Ministers for offshore renewable projects in Scottish waters out to 200 nautical miles.
24. For the majority of marine licence applications an EIA is not required, and the usual marine licence application process provides a means of assessing the environmental effects of a proposal. However, in cases where a proposal is likely to have a significant effect on the environment, these powers are further supplemented by the current UK Regulations ([The Marine Works \(Environmental Impact Assessment\) Regulations 2007](#)).
25. Regulations will be made to transpose the EIA Directive, as amended, for marine licensing in Scotland's seas for which the Scottish Ministers have devolved competence in place of the current UK Regulations.

Trunk Roads

26. The Roads (Scotland) Act 1984 is used by the Scottish Ministers in relation to the management of the strategic road network and includes provisions relating to the promotion of construction and improvement works.
27. The majority of works undertaken on the network will not require an EIA and environmental issues will be considered through non-statutory environmental review process. In relation to major works that have the potential for significant effects on the environment, the Act requires that these are made subject to EIA.
28. [The Roads \(Scotland\) Act 1984](#) will be amended to reflect the transposition.

Transport and Works Projects

29. Transport and Works (Scotland), or TAWS, is an order-making process which avoids the need for private Bills for transport-related developments. It enables orders to be made authorising the construction or operation of railways, tramways, other modes of guided transport, trolley vehicle systems and inland waterways (e.g. canals). Applications for TAWS orders are made to the Scottish Ministers. The requirements of the EIA Directive have been applied to applications for TAWS orders through the Applications and Objections Rules.
30. [The Transport and Works \(Scotland\) Act 2007](#) and [The Transport and Works \(Scotland\) Act 2007 \(Applications and Objections Procedure\) Rules 2007](#) will be amended to reflect the transposition.

Agriculture

31. The Environmental Impact Assessment (Agriculture) (Scotland) Regulations 2006 applies to the use of uncultivated or semi-natural areas for intensive agricultural purposes, and to projects involving the restructuring of rural land holdings which exceed size thresholds or are on sensitive areas. For such projects, an application for a screening decision must be submitted to Scottish Ministers.
32. [The Environmental Impact Assessment \(Agriculture\) \(Scotland\) Regulations 2006](#) will be amended to reflect the transposition.

Land Drainage

33. The Environmental Impact Assessment (Scotland) Regulations 1999 applies to land drainage works which are the subject of an application for an 'Improvement Order' (under the Land Drainage (Scotland) Act 1958), which are likely to have a significant effect on the environment, and where the area of the proposed works is either larger than 1 hectare or located within a Site of Special Scientific Interest. For such projects, an Environmental Statement must be provided to Scottish Ministers.
34. [Part IV of The Environmental Impact Assessment \(Scotland\) Regulations 1999](#) will be amended to reflect the transposition.

Forestry

35. Forestry Commission Scotland (FCS) serves as the forestry directorate of Scottish Government, advising on and implementing forestry policy, including regulation of forestry.
36. Where proposed forestry projects exceed certain size thresholds and could therefore have a significant impact on the environment, they are considered under the EIA (Forestry) Regulations. FCS is the competent authority. EIA consent is not required for the majority of forestry projects, but where consent is required; applicants must prepare an environmental statement.

37. The types of forestry work that EIA regulations apply to, if above a certain area threshold, are:
- Afforestation: planting new woods and forests, including direct seeding or natural regeneration, planting Christmas trees or short rotation coppice;
 - Deforestation: felling woodland to use the land for a different purpose;
 - Forest roads: the formation, alteration or maintenance of private ways on land used (or to be used) for forestry purposes. This includes roads within a forest or leading to one;
 - Forestry quarries: quarrying to obtain materials required for forest road works on land that is used, or will be used, for forestry purposes, or on land held or occupied with that land.
38. [The Environmental Impact Assessment \(Forestry\) \(Scotland\) Regulations 1999](#) will be amended to reflect the transposition.

Why is EIA Changing?

39. Since the EIA Directive first came into effect in 1988 it has been amended several times, the most recent amendments were made by the 2011/92/EU (Public Participation) Directive which consolidated the changes that came before it. The 2011 Directive has been amended through the new Environmental Impact Assessment (EIA) Directive 2014/52/EU which will be implemented by Member States by 16 May 2017.
40. The main aim of the Directive is to provide a high level of protection for the environment and to contribute to the integration of environmental considerations into the preparation of projects with a view to reduce their environmental impact, and this remains the case.
41. The European Commission website¹ states that the new Directive aims to simplify the rules for assessing the potential effects of projects on the environment in line with the drive for smarter regulation, aiming to lighten unnecessary administrative burdens. It states that the Directive also improves the level of environmental protection, with a view to making business decisions on public and private investments more sound, more predictable and sustainable in the longer term.
42. The new approach also aims to be forward looking, by paying greater attention to threats and challenges that have emerged since the original rules came into force some 25 years ago. This means more attention to areas like resource efficiency, climate change and disaster prevention, which will be better reflected in the assessment process.
43. The main amendments are as follows:
 - Article 1(2)g Definition of EIA process
 - Article 2(3) Joint/Coordinated procedures
 - Article 3 Information to be assessed
 - Article 4(4) List of the information developer must supply for screening determination
 - Article 4(6) Maximum timeframe for screening opinion
EIA should only consider likely significant effects
 - Article 5(3) Use of competent experts
 - Article 6(2) Informing the public electronically
 - Article 8a(2) Stating reasons for refusing development consent.
 - Article 8a(1) Information to be contained in consent decision
 - Article 8a(4) Monitoring of significant adverse effects
 - Article 10a Penalties for infringements of national provisions

¹ (<http://ec.europa.eu/environment/eia/review.htm>)

Responding to this Consultation

44. We are inviting responses to this consultation by 31 October 2016
45. Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You can view and respond to this consultation online at <https://consult.scotland.gov.uk/eia-transposition-team/transposition-of-environmental-impact>. You can save and return your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of **31 October 2016**
46. If you are unable to respond online, please complete the Respondent Information Form (see "Handling your Response" below) and send it to:

EIA Transposition Team
Scottish Government
Area 2H South
Victoria Quay
Edinburgh
EH6 6QQ

Or by email to EIAconsultation2016@gov.scot

47. Questions are raised throughout the consultation, these can be answered in the questionnaire annexed to this consultation paper.

Handling your Response

48. If you respond using Citizen Space (<http://consult.scotland.gov.uk>), you will be directed to the Respondent Information Form. Please indicate how you wish your response to be handled and, in particular, whether you are happy for your response to be published.
49. If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form which is also included in Annex A to this document. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.
50. All respondents should be aware that the Scottish Government is subject to the provisions of the [Freedom of Information \(Scotland\) Act 2002](#) and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next Steps in the Process

51. Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.scotland.gov.uk>. If you use Citizen Space to respond, you will receive a copy of your response via email.
52. Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so.

Comments and Complaints

53. If you have any comments about how this consultation exercise has been conducted, please send them by email to EIAconsultation2016@gov.scot

Scottish Government Consultation Process

54. Consultation is an essential part of the policy-making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.
55. You can find all our consultations online: <http://consult.scotland.gov.uk>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.
56. Consultations may involve seeking views in a number of different ways, such as public meetings, focus groups, or other online methods such as Dialogue (<https://www.ideas.gov.scot>)
57. Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:
 - indicate the need for policy development or review;
 - inform the development of a particular policy;
 - help decisions to be made between alternative policy proposals;
 - be used to finalise legislation before it is implemented.
58. While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

PART TWO - PROPOSALS

Section 1. Assessment Process

Definition of EIA Process

Article 1(2)(g)

“environmental impact assessment” means a process consisting of:

- (i) the preparation of an environmental impact assessment report by the developer...*
- (ii) the carrying out of consultations ...;*
- (iii) the examination by the competent authority of the information presented in the environmental impact assessment report and any supplementary information provided, where necessary, by the developer ... and any relevant information received through the consultations...;*
- (iv) the reasoned conclusion by the competent authority on the significant effects of the project on the environment, taking into account the results of the examination referred to in point (iii) and, where appropriate, its own supplementary examination; and*
- (v) the integration of the competent authority's reasoned conclusion into any of the decisions*

- 60. The Directive defines the EIA process stage by stage and replaces the current term “environmental statement” with the term “Environmental Impact Assessment Report” sometimes shortened in legislation to “EIA Report”.
- 61. This article also introduces the requirement for the competent authority to provide a reasoned conclusion which describes the impacts on the environment and the manner in which these have been dealt with. The reasoned conclusion by which the competent authority finalises its examination of the environmental impact of the project is already a part of an integrated development consent procedure.
- 62. This Article is mandatory and must be transposed across all regimes. Examples can be seen in the draft regulations for Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations (Town and Country Planning) in regulation 4 and for Electricity Works (Environmental Impact Assessment) (Scotland) Regulations (Electricity) in regulation 4.

Exemptions - Defence/Civil Emergencies

Article 1(3)

Member States may decide, on a case-by-case basis and if so provided under national law, not to apply this Directive to projects, or parts of projects, having defence as their sole purpose, or to projects having the response to civil emergencies as their sole purpose, if they deem that such application would have an adverse effect on those purposes.

- 63. This Article amends exemptions so that it only applies to projects where defence is the sole purpose or projects which are solely in response to civil emergencies.
- 64. Defence is a reserved matter therefore provisions concerning defence are covered by amendments to the relevant UK legislation. Draft provisions on civil emergencies are however proposed in relevant EIA regimes.
- 65. This will be transposed across all regimes. Examples can be seen in the draft regulations for Town and Country Planning in regulation 6(4) and for Electricity in regulation 6(5).

Coordinated Procedures

Article 2(3)

In the case of projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and from Council Directive 92/43/EEC and/or Directive 2009/147/EC of the European Parliament and the Council, Member States shall, where appropriate, ensure that coordinated and/or joint procedures fulfilling the requirements of that Union legislation are provided for.

In the case of projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and Union legislation other than the Directives listed in the first subparagraph, Member States may provide for coordinated and/or joint procedures.

Under the coordinated procedure referred to in the first and second subparagraphs, Member States shall endeavour to coordinate the various individual assessments of the environmental impact of a particular project, required by the relevant Union legislation, by designating an authority for this purpose, without prejudice to any provisions to the contrary contained in other relevant Union legislation.

Under the joint procedure referred to in the first and second subparagraphs, Member States shall endeavour to provide for a single assessment of the environmental impact of a particular project required by the relevant Union legislation, without prejudice to any provisions to the contrary contained in other relevant Union legislation.

- 66. In the case of projects for which there is an obligation to carry out an assessment under the EIA Directive and also under the Habitats and/or Birds Directives, the EIA Directive requires that either a **coordinated procedure** or a **joint procedure** should be used. The **coordinated** procedure is undertaken by designating a lead authority to coordinate the individual assessments, whereas the joint procedure requires a single assessment.
- 67. We feel that coordinated procedures offer the greatest flexibility for developers around the phasing and timing of EIA and Habitats Regulations Appraisal (HRA).
- 68. This Article is mandatory and must be transposed across all regimes. Examples can be seen in the draft regulations for Town and Country Planning in regulation 54(1) and for Electricity in regulation 36.

69. Finally, this article also includes provision such that Member States *may* choose to also include within the scope of their joint or coordinated procedure any assessments required under the Water Framework Directive, the Industrial Emissions Directive, the SEA Directive, the Waste Framework Directive, and the SEVESO III Directive.
70. Whilst we do not propose to legislate for mandatory coordination in these circumstances, we would welcome stakeholder views on whether, in the spirit of greater coordination, new EIA regulations should include express provision that no construction for an EIA development may take place until any relevant operational permits required under the Directives listed above have been granted.

Exemptions – Public Consultation

Article 2(5)

...in cases where a project is adopted by a specific act of national legislation, Member States may exempt that project from the provisions relating to public consultation laid down in this Directive, provided the objectives of this Directive are met.

71. This Article refers to developments such as those authorised by means of a Private or Hybrid Bill for example via private Bill procedures or an Order under the Transport and Works (Scotland) Act 2007. The Article now exempts these special projects from the requirement for public consultation.
72. It is our intention that the full publicity requirements of the Directive will not apply in respect of projects to the extent that they are directly authorised by means of such a Private or Hybrid Bill. These procedures have their own publicity requirements. Full publicity requirements will continue to apply to an Order under the Transport and Works (Scotland) Act 2007.

Question 1. Do you agree with proposals to provide for a coordinated rather than joint procedure?

Question 2. What would the regulatory impact be if legislation was introduced which required that no construction of any EIA development should take place until any relevant operational permits or consents required under the Habitats and Birds Directives, Water Framework Directive, the Industrial Emissions Directive, or the Waste Framework Directive had been granted?

Question 3. Do you have any further comments on the changes proposed to implement articles 1 and 2 of the EIA Directive?

Section 2. Information to be Assessed

Assessment Information

Article 3(1)

The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case, the direct and indirect significant effects of a project on the following factors:

- (a) population and human health;*
- (b) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;*
- (c) land, soil, water, air and climate;*
- (d) material assets, cultural heritage and the landscape;*
- (e) the interaction between the factors referred to in points (a) to (d).*

73. This article sets out the broad requirements of the EIA process and the environmental factors to be considered, as appropriate, in the assessment as well as the interaction between those factors. It also clarifies that the EIA should only be assessing **significant** effects of the project on the environment.
74. Amendments have been made to some of the factors to take into account when considering what could be significantly affected by a development, including replacing “Human Beings” with “Population and Human Health” and “Flora & Fauna” with “Biodiversity.”
75. This Article is mandatory and must be transposed across all regimes. Examples can be seen in the draft regulations for Town and Country Planning in regulations 4(2) and 4(3) and for Electricity in regulation 4(2) and 4(3).
76. **Annex IIA** sets out the information in detail to be provided by the developer to decide if the development should be subject to an EIA Report. This has been transposed into the draft regulations for Town and Country Planning in regulation 8 and for Electricity in regulation 8. The selection criteria set out in Annex III as transposed by Schedule 3 for both Town and Country Planning and Electricity.
77. **Annex III1(g)** gives examples of the above amendments. Risks to human health include water contamination or air pollution, therefore this should not be understood as requiring consideration of social and/or economic impacts. The addition of the new reference to biodiversity encourages a more holistic approach to considering the interrelationships within the natural environment.

78. **Annex IV(4)** of the Directive provides a full description of the factors specified in Article 3(1) likely to be significantly affected by the project: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.

Assessing the Risk of Major Accidents

79. **Article 3(2)** of the Directive requires consideration of the expected effects deriving from the vulnerability of the project to risks of major accidents and/or disasters that are relevant to the project concerned for example including those caused by climate change.
80. This Article is mandatory and must be transposed across all regimes. Examples can be seen in the draft regulations for Town and Country Planning in regulation 4(4) and for Electricity in regulation 4(4).
81. **Annex III1(f)** expands the description to state 'the risk of major accidents and/or disasters which are relevant to the project concerned, including those caused by climate change, in accordance with scientific knowledge'. This could include flood risks and storm events.

Question 4. Will you have to change your current practice to take account of the risk of major accidents?

Question 5. Do you consider that our approach to transposition of information to be assessed appropriately implements the requirements of the Directive?

Section 3. Screening

Information to be Provided for Screening

Article 4(4)

Where Member States decide to require a determination for projects listed in Annex II, the developer shall provide information on the characteristics of the project and its likely significant effects on the environment. The detailed list of information to be provided is specified in Annex IIA. The developer shall take into account, where relevant, the available results of other relevant assessments of the effects on the environment carried out pursuant to Union legislation other than this Directive. The developer may also provide a description of any features of the project and/or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

82. This article introduces a more detailed list of information to be provided to enable screening for Schedule/Annex II projects that exceed any relevant thresholds in legislation. It describes the information to be provided by the developer including taking into account the available results of other relevant assessments.
83. The article clarifies that the developer may provide a description of any features and mitigation measures of the project envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment. This could negate the need to carry out an EIA and has the potential to reduce the number of EIAs.
84. This article is mandatory where a case by case screening process is in place. Examples can be seen in the draft regulations for Town and Country Planning in regulation 8 and for Electricity in regulation 8.
85. **Annex IIA** sets out the information to be provided by the developer when a screening decision has to be made for Schedule 2 /Annex II developments. This has been transposed into the draft regulations for Town and Country Planning in regulation 8 and for Electricity in regulation 8.

Determination

Article 4(5)

The competent authority shall make its determination, on the basis of the information provided by the developer...taking into account, where relevant, the results of preliminary verifications or assessments of the effects on the environment carried out pursuant to Union legislation other than this Directive. The determination shall be made available to the public and:

(a) where it is decided that an environmental impact assessment is required, state the main reasons for requiring such assessment with reference to the relevant criteria listed in Annex III; or

b) where it is decided that an environmental impact assessment is not required, state the main reasons for not requiring such assessment with reference to the relevant criteria listed in Annex III, and, where proposed by the developer, state any features of the project and/or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

86. The article largely clarifies the approach to screening as determined through European Court of Justice case-law. The main addition is that the screening opinion, positive and negative, must be based on information provided by the developer and that the competent authority must give reasons justifying their decision. The screening opinion must be made available to the public.
87. This Article is mandatory where a case by case screening process is in place. Examples can be seen in the draft regulations for Town and Country Planning in regulation 7(2) and for Electricity in regulation 7(2).

Maximum Timeframe for Determination

Article 4(6)

Member States shall ensure that the competent authority makes its determination as soon as possible and within a period of time not exceeding 90 days from the date on which the developer has submitted all the information required...

In exceptional cases, for instance relating to the nature, complexity, location or size of the project, the competent authority may extend that deadline to make its determination; in that event, the competent authority shall inform the developer in writing of the reasons justifying the extension and of the date when its determination is expected.

88. This article sets a maximum timeframe for the competent authority to provide a screening opinion. This decision, known as the determination, must be made as soon as possible and within a period not exceeding 90 days from the date on which the developer has submitted all the information required.

89. This article also allows discretion in the maximum time limit in exceptional circumstances relating to the nature, complexity, location or size of the project.
90. Where regimes currently have timescales in place for screening these are within the new maximum time period for determination:
- Energy - 21 days from the date that the planning authority is required to submit its views
 - Planning - 21 days
 - Forestry - 28 days
 - Agriculture - 35 days
 - Transport and Works projects - 42 days
 - Land Drainage currently has no screening provisions but will legislate for 35 days
 - Marine works as soon as reasonably practicable following a 28 day consultation period.
 - Trunk Roads has no legislative time limit for screening as Scottish Ministers are the developers for the purposes of road developments for which Scottish Ministers are the roads authority.
91. This article is mandatory where a case by case screening process is in place. Examples can be seen in Town and Country Planning regulations in 9 and 10 and for Electricity in regulation 9. For Trunk Roads the time limit referred to in the Directive will be considered for inclusion in the legislative amendments required to comply with article 4(5).

Question 6. Will you have to change your current practices to meet the new screening requirements?

Question 7. Are you content with the current timescales for providing a screening opinion?

Question 8. Do you consider that our approach to transposition of screening appropriately implements the requirements of the Directive?

Section 4. EIA Report

Information to be Provided in an EIA Report

Article 5(1)

Where an environmental impact assessment is required, the developer shall prepare and submit an environmental impact assessment report. The information to be provided by the developer shall include at least:

(a) a description of the project comprising information on the site, design, size and other relevant features of the project;

(b) a description of the likely significant effects of the project on the environment;

(c) a description of the features of the project and/or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment;

d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;

(e) a non-technical summary of the information referred to in points (a) to (d); and

(f) any additional information ... relevant to the specific characteristics of a particular project or type of project and to the environmental features likely to be affected.

Where an opinion is issued... the environmental impact assessment report shall be based on that opinion, and include the information that may reasonably be required for reaching a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment.

The developer shall, with a view to avoiding duplication of assessments, take into account the available results of other relevant assessments under Union or national legislation, in preparing the environmental impact assessment report.

92. This article further clarifies the content of the EIA Report. It sets out what should be included in an EIA Report including mitigation measures, a non-technical report and reasonable alternatives and introduces a new provision requiring that where a scoping opinion is requested the EIA Report must be “based on” that opinion.
93. This Article is mandatory and must be transposed across all regimes. Examples can be seen in the draft regulations for Town and Country Planning at regulation 5(3) and for Electricity at regulation 5(3).
94. **Annex IV** sets out information in detail to be included in an EIA Report. This is mandatory and must be transposed across all eight sets of regulations. This has been transposed into the draft regulations for Town and Country Planning in Schedule 4 and for Electricity in Schedule 4.

Question 9. Will you have to change your current practice to prepare a reasoned conclusion?

Question 10. Do you consider that our approach to transposition of requirements concerning the content of the EIA report appropriately implements the Directive?

Section 5. Scoping

Scoping Opinion

Article 5(2)

Where requested by the developer, the competent authority, taking into account the information provided by the developer in particular on the specific characteristics of the project, including its location and technical capacity, and its likely impact on the environment, shall issue an opinion on the scope and level of detail of the information to be included by the developer in the environmental impact assessment report The competent authority shall consult the authorities... before it gives its opinion. Member States may also require the competent authorities to give an opinion as referred to in the first subparagraph, irrespective of whether the developer so requests.

95. Currently the developer can require a competent authority to issue a scoping opinion setting out the information to be included in the EIA Report. Where scoping is undertaken, the competent authority must consult the consultation bodies before issuing a scoping opinion.
96. The Directive also provides that Member States can choose to make it mandatory that competent authorities have to give a scoping opinion irrespective of whether the developer so requests.
97. Scoping has an important role to play in achieving the Scottish Government's aim of proportionate and effective EIA. In order to gain the full benefits of EIA, developers are encouraged to engage where appropriate with the competent authority and with the consultation bodies during the early stages of planning and design. In this way EIA can help to facilitate the early avoidance of adverse effects through changes to design strategies.
98. Such engagement can be iterative, and our experience is that there are a range of differing approaches and administrative best practice at the pre-application stage, not all of which will necessarily fit with a requirement for mandatory scoping envisaged by the Directive. Consequently, we do not propose to introduce any new procedural requirements on mandatory scoping.
99. This has been transposed into the draft regulations for Town and Country Planning in regulation 17 and for Electricity in regulation 12.

Question 11. Do you consider that our approach to transposition of scoping appropriately implements the requirements of the Directive?

Section 6. Assessment quality and expertise

Competent Experts

Article 5(3)

In order to ensure the completeness and quality of the environmental impact assessment report:

(a) the developer shall ensure that the environmental impact assessment report is prepared by competent experts;

(b) the competent authority shall ensure that it has, or has access as necessary to, sufficient expertise to examine the environmental impact assessment report; and

(c) where necessary, the competent authority shall seek from the developer supplementary information... which is directly relevant to reaching the reasoned conclusion on the significant effects of the project on the environment.

100. The Directive states that the developer shall ensure that the EIA Report is prepared by competent experts and the competent authority shall ensure that it has, or has access as necessary to, sufficient expertise to examine the report.
101. Given the diverse range of EIA topics and different areas of specialist expertise, we do not propose to define in legislation any particular route to or procedures for accreditation in this respect.
102. Part of the EIA process is to consult with statutory consultees such as Scottish Environment Protection Agency, Scottish Natural Heritage and Historic Environment Scotland and to take into account the consultees' comments.
103. This Article is mandatory and must be transposed across all regimes. Examples can be seen in the Town and Country Planning regulations at 5(5), 4(7) and 26(2) and for Electricity at regulation 4(7), 5(5) and 19(2).

Question 12. Do you consider that our approach to transposition of assessment quality and expertise appropriately implements the requirements of the Directive?

Section 7. Consultation and Publicity

Bodies to be Consulted

Article 6(1)

Member States shall take the measures necessary to ensure that the authorities likely to be concerned by the project by reason of their specific environmental responsibilities or local and regional competences are given an opportunity to express their opinion on the information supplied by the developer and on the request for development consent... To that end, Member States shall designate the authorities to be consulted, either in general terms or on a case-by-case basis. The information gathered ... shall be forwarded to those authorities. Detailed arrangements for consultation shall be laid down by the Member States.

104. This article allows Member States to state which bodies shall be consulted, including local and neighbouring authorities. The main statutory consultees in Scotland are the local planning authority, Scottish Natural Heritage, Historic Environment Scotland and the Scottish Environment Protection Agency.
105. This Article is mandatory and must be transposed across all regimes. Examples can be seen for Town and Country Planning in regulations 22(1)c and 2(1) (designated “consultation bodies”) and for Electricity in regulation 16 and 2 (designated “consultation bodies”).

Electronic Publication

Article 6(2)

In order to ensure the effective participation of the public concerned in the decision-making procedures, the public shall be informed electronically and by public notices or by other appropriate means, of the following matters early in the environmental decision-making procedures... and, at the latest, as soon as information can reasonably be provided.

106. The Directive states that competent authorities are now required to make EIA information electronically accessible to the public. Publishing the information electronically will be mandatory for the first time and should make the process more transparent.
107. This Article is mandatory and must be transposed across all eight regimes. This has been transposed into the draft regulations for Town and Country Planning in regulation 21 and for Electricity in regulation 14.

Informing the Public

Article 6(5)

The detailed arrangements for informing the public, for example by bill posting within a certain radius or publication in local newspapers, and for consulting the public concerned, for example by written submissions or by way of a public inquiry, shall be determined by the Member States. Member States shall take the necessary measures to ensure that the relevant information is electronically accessible to the public, through at least a central portal or easily accessible points of access, at the appropriate administrative level.

108. The Directive states that Member States should undertake necessary measures to ensure that relevant information is available through a 'central portal or easily accessible points of access'.
109. Currently most competent authorities already publish EIA Reports on their websites therefore there should be little change in practice for competent authorities in this respect. We are however exploring opportunities for digital initiatives such as mygov.scot to help to better signpost EIA information which is held at a local level.
110. This Article is mandatory and must be transposed across all regimes. Examples can be seen for Town and Country Planning in regulation 21 and for Electricity in regulation 14.

Timeframes for Consulting the Public

111. **Article 6(7)** sets a new minimum time frame for public consultations on the environmental impact assessment report, which should be no shorter than 30 days.
112. Existing timescales in place across regimes are:
- Energy Consents 28 days (minimum)
 - Forestry 28 days
 - Planning 28 days
 - Land Drainage 28 days
 - Agriculture 42 days
 - Transport and Works Projects 42 days (minimum)
 - Marine Works 42 days
 - Trunk Roads 42 days
113. This article is mandatory and must be transposed across all regimes. Some regimes will retain their current limits; those below the new minimum will have at least 30 days for consulting the public. Examples can be seen for Town and Country planning in regulation 21(5)(f) and for Electricity in regulation 14(2)(f).

Question 13. Do you consider that our approach to transposing consultation and publicity appropriately implements the requirements of Directive?

Question 14. Do you feel that the current arrangements for informing the public meet your needs?

Section 8. Monitoring

Information to be Included in a Decision

Article 8a(1)

The decision to grant development consent shall incorporate at least the following information:

(a) the reasoned conclusion ...;

(b) any environmental conditions attached to the decision, a description of any features of the project and/or measures envisaged to avoid, prevent or reduce and, if possible, offset significant adverse effects on the environment as well as, where appropriate, monitoring measures.

114. This Article sets out requirements for information to be included in a decision to grant development consent. The first part reflects the requirement in Article 1(2)(g)(v) that the competent authority's reasoned conclusion must be integrated into any decision.
115. The second requirement sets out that, in addition to any environmental conditions attached to the decision, competent authorities must also ensure that any mitigation measures and appropriate procedures regarding the monitoring of significant adverse effects on the environment resulting from the construction and operation of a project are identified and clearly set out in the consent.
116. We welcome views on whether and to what extent this may require changes to current practice; for example, where currently mitigation measures may be set out in a scheme of mitigation rather than in the decision itself.
117. This Article is mandatory and must be transposed across all regimes. Examples can be seen for Town and Country Planning in regulation 29(2)(f) and for Electricity in regulation 21(2)(f).

Information to be Included in a Refusal Decision

118. **Article 8a(2)** is based on European Court of Justice case law (C-87/02 and C-75/08) and requires that where development consent has been refused the competent authority must state the reasons for the refusal. This is already common practice across many EIA Regimes.
119. This Article is mandatory and must be transposed across all eight regimes. This has been transposed into the draft regulations for Town and Country Planning in regulation 29 and for Electricity in regulation 21.

Monitoring Requirements

Article 8a(4)

Member States shall ensure that the features of the project and/or measures envisaged to avoid, prevent or reduce and, if possible, offset significant adverse effects on the environment are implemented by the developer, and shall determine the procedures regarding the monitoring of significant adverse effects on the environment.

The type of parameters to be monitored and the duration of the monitoring shall be proportionate to the nature, location and size of the project and the significance of its effects on the environment.

Existing monitoring arrangements resulting from Union legislation other than this Directive and from national legislation may be used if appropriate, with a view to avoiding duplication of monitoring.

120. The Directive states that the development consent should set out the parameters and duration of any monitoring to be required and that this should be proportionate to the nature, location and size of the project and its significant effects on the environment.
121. Monitoring should not be used as a general means of gathering environmental information and should not duplicate any monitoring required for other reasons.
122. This Article is mandatory and must be transposed across all regimes. Examples of this can be seen for Town and Country Planning in regulation 30 and for Electricity in regulation 22.

Question 15. Do you consider that the regulations meet the requirements of the Directive concerning the information to be included in the development consent?

Question 16. What administrative changes are likely to be required to implement new provisions on the content of decision notices?

Question 17. Do you consider that our approach to transposition of monitoring in the regulations implements the requirements of the Directive?

Question 18. Will you have to change your current practices to meet the new monitoring requirements?

Section 9. Decision

Up-to-date Reasoned Conclusion

Article 8a(6)

The competent authority shall be satisfied that the reasoned conclusion ..., or any of the decisions ..., is still up to date when taking a decision to grant development consent. To that effect, Member States may set time-frames for the validity of the reasoned conclusion...

123. This article concerns the validity of the EIA decisions stating that the reasoned conclusion is still 'up-to-date'. We propose that the reasoned conclusion should be considered up to date if the competent authority is satisfied, having regard to current knowledge and methods of assessment, that the reasoned conclusion addresses the likely significant effects of the development on the environment.
124. This Article is mandatory and must be transposed across all regimes. Examples of this can be seen for Town and Country Planning in regulation 29(4) and for Electricity in regulation 21(4).

Informing the Public of the Decision

Article 9(1)

When a decision to grant or refuse development consent has been taken, the competent authority or authorities shall promptly inform the public and the authorities ... thereof, in accordance with the national procedures, and shall ensure that the following information is available to the public and to the authorities ...

(a) the content of the decision and any conditions attached thereto ...

(b) the main reasons and considerations on which the decision is based, including information about the public participation process. This also includes the summary of the results of the consultations and the information gathered ... and how those results have been incorporated or otherwise addressed, in particular the comments received from the affected Member State

125. This article introduces additional information, including results of the consultations undertaken, which must be included in the decision. There is also a requirement that the competent authorities must promptly inform the public.
126. This article is mandatory and will be transposed across all regimes. Examples of this can be seen for Town and Country Planning in regulations 29 (1) & (2) and for Electricity in regulation 21(1) and (2).

Question 19. Do you consider that our approach to transposition for decisions appropriately implements the requirements of the Directive?

Section 10. Conflict of Interests

Objectivity

Article 9a

Member States shall ensure that the competent authority or authorities perform the duties arising from this Directive in an objective manner and do not find themselves in a situation giving rise to a conflict of interest. Where the competent authority is also the developer, Member States shall at least implement, within their organisation of administrative competences, an appropriate separation between conflicting functions when performing the duties arising from this Directive.

127. This new article is based on European Court of Justice case-law (C-474/10) and deals with a conflict of interest where an organisation is both the developer and the consultation body and/or competent authority. Where the competent authority is also the developer there must be an appropriate separation between functions.

128. This Article is mandatory and must be transposed across all regimes. Examples of this can be seen for Town and Country Planning in regulation 53 and for Electricity in regulation 37.

Question 20. Do you consider that our approach to conflict of interest appropriately implements the requirements of the Directive?

Section 11. Penalties

Rules on Penalties

Article 10a

Member States shall lay down rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive. The penalties thus provided for shall be effective, proportionate and dissuasive.

129. Ultimately it will be a matter for the courts to determine whether any breach of national EIA provisions has occurred, with the ultimate sanction that an existing permission or consent could be quashed. Currently, Marine Licensing and Agriculture EIA regimes also have penalties expressly for the provision of false information by the developer. We would welcome views on whether similar provision providing for penalties and sanctions for knowingly or recklessly providing false information should be applied across all eight EIA regimes.

Question 21. Do you agree with proposals to introduce penalties and sanctions for knowingly or recklessly providing false information should be applied across all eight EIA regimes?

Section 12. Transitional Arrangements

Transition from 2011/92/EU - Screening

130. **Article 3(1) (2014/52/EU)** provides transitional measures concerning certain applications for EIA screening of those projects which are listed in Annex II of the 2011 Directive. The article states that where an application for screening for such projects has been initiated prior to 16 May 2017 then that screening application will be subject to the current 2011 Directive.

131. This Article is mandatory and must be transposed across all regimes. Examples of this can be seen for Town and Country Planning in regulation 57 and for Electricity in regulation 38.

Transition from 2011/92/EU - Scoping

132. **Article 3(2) (2014/52/EU)** provides transitional measures whereby the current 2011 Directive will continue to apply, as unamended by the 2014 Directive, for applications in which the developer has, before 16th May 2017, submitted an environmental statement or where a scoping opinion has been sought.

133. This Article is mandatory and must be transposed across all regimes. Examples of this can be seen for Town and Country Planning in regulation 57 and for Electricity in regulation 38.

Question 22. Do you consider that our approach to transitional arrangements appropriately implements the requirements of the Directive?

Section 13. Other Policy Issues

134. The transposition of the Directive has also given the individual regimes the opportunity to examine current practices against the Directive.

Thresholds

Forestry Regime

135. Under Article 4.2 Member States have the power to set thresholds for Annex II projects.

136. Forestry Commission Scotland would like to seek your views on a proposed change to the threshold for afforestation projects in non-sensitive areas, which includes; planting new woods and forests, direct seeding or natural regeneration and planting Christmas trees or short rotation coppice. The Forestry Commission feel that the proposed change would help to reduce the number of screening decisions relating to appropriate woodland creation projects.

Question 23. Do you have any comments on the proposal by the forestry regime to increase the afforestation threshold for non-sensitive areas from 5 hectares to 20 Hectares?

Marine Works Regime

137. Marine Scotland would like to seek your views on the adoption, within the Marine Works EIA (Scotland) Regulations 2017, of the thresholds related to screening specified in Schedule 2 of the draft Town and Country Planning EIA (Scotland) Regulations 2017 where they are relevant to marine developments, for example marinas, and the construction of harbours and ports.

Question 24. Do you have any comments on the proposal by the marine regime to adopt the thresholds used by the planning regime where they are relevant to marine developments?

Multi-stage Consents

138. In cases where a consent procedure comprises more than one stage (a 'multi-stage consent'), the European Court of Justice has made clear that the effects which a project may have on the environment must be identified and assessed at the time of the procedure relating to the principal decision. (Cases C-201/02 and C-508/03 refer.) However, the courts have equally made clear that if those effects are not identified or identifiable at the time of the principle decision, assessment must be undertaken at the subsequent stage. Further information and background on multi-stage consents can be found in Planning Circular 3/2011².

139. We are taking the opportunity to generally bring up to date and to improve consistency of provisions on multi-stage consents across the relevant EIA regimes.

² Circular 3/2011: THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2011 <http://www.gov.scot/Resource/Doc/350238/0117228.pdf>

140. The Town and Country Planning regulations include draft new provision at regulation 4(6)(b) and updated provisions in Part 8. These extend to how planning authorities are to deal with applications for multi-stage consent required by a condition imposed in respect of a deemed planning permission granted by a direction under section 57 of the 1997 Act (development with government authorisation).

141. For multi-stage consent applications required under Electricity Act consents the relevant provisions are to be found in Part 8 and in regulation 4(5) and (6). Regulation 4(6) recognises that in the context of the determination of an application for Electricity Act consent it may be that subsequent approvals giving rise to the need for an application for the multi stage consent may be required in connection with a grant of deemed planning permission.

Question 25. Do you have any comments on the new provisions on multi stage consents?

Guidance

It would be helpful to have an understanding of the needs of users for guidance over and above the regulations themselves. We would also welcome any other comments you may have.

Question 26. Do you currently use EIA guidance? If so please provide further details.

Question 27. Is there any particular area or regime where you feel that guidance would be helpful?

PART THREE - ASSESSING IMPACT

Equalities

142. An Equality Impact Assessment (EQIA) involves assessing the impact of new or revised policies, practices or services against the requirements of the public sector equality duty. The duty requires all Public Service policy makers to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. It covers people in respect of all aspects of equality: age, disability, sex, race, religion or belief, sexual orientation, gender reassignment and pregnancy and maternity and children's wellbeing and rights.
143. Based on an initial assessment, we feel that there is unlikely to be any impact on any of the groups above.

Question 28. Do you think that the proposals presented might impact on people differently depending on characteristics such as age, disability, gender, race, religion or belief, sexual orientation, gender identity or children's rights and wellbeing?

Businesses

144. The BRIA considers if the changes will impact on business. All policy changes, whether European or domestic, which may have an impact upon business, charities or the voluntary sector must be accompanied by a Business and Regulatory Impact Assessment (BRIA).
145. Please refer to the partial BRIA which is provided as a supporting document to the consultation.

Question 29. What do you consider are the likely costs and benefits arising from the changes outlined in this consultation paper? (Please specify which of the Scottish EIA regimes your comments refer to.)

Question 30. Do you have any comments on the Draft Partial Business Regulatory Impact Assessment?

Strategic Environmental Assessment

146. We consider that the proposed changes to legislation required through the implementation of the Directive are likely to have no or minimal impacts on the environment. The proposals set out in the Consultation Paper have been pre-screened in accordance with the Environmental Assessment (Scotland) Act 2005.
147. We are however, inviting views on these proposed changes through this consultation process. As the changes to legislation are further defined, and in light of responses to the consultation, the potential for environmental effects will be reviewed in accordance with the 2005 Act.



ANNEX

Consultation on Environmental Impact Assessment amending Scottish Environmental Impact Assessment Regulations to Transpose Directive 2014/52/EU

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response.

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (anonymous)
 Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
 No

Questionnaire

Please provide your feedback on these proposals in the form of responses to the questions below.

Regimes

If you are answering the consultation questions in relation to a particular regime, please select the relevant box clearly highlight which regime you are referring to in the comments section.

- | | |
|--|---|
| <input type="checkbox"/> Agriculture | <input type="checkbox"/> Marine Works |
| <input type="checkbox"/> Energy | <input type="checkbox"/> Planning |
| <input type="checkbox"/> Forestry | <input type="checkbox"/> Transport and Works Projects |
| <input type="checkbox"/> Land Drainage | <input type="checkbox"/> Trunk Roads |

Section 1. Assessment Process

Q1. Do you agree with proposals to provide for a coordinated rather than joint procedure?

- Yes
- No
- Unsure

Comments

Q2. What would the regulatory impact be if legislation was introduced which required that no construction of any EIA development should take place until any operational permits or consents required under the Habitats and Birds Directives, Water Framework Directive, the Industrial Emissions Directive, the Waste Framework Directive or the SEVESO III Directive had been granted?
(Please provide details in the comments box below)

Comments

Q3. Do you have any further comments on the changes proposed to implement articles 1 and 2 of the EIA Directive?
(Please provide details in the comments box below)

Comments

Section 2: Information to be Assessed

Q4. Will you have to change your current practice to take account of the risk of major accidents?

- Yes
- No
- Unsure

Comments

Q5. Do you consider that our approach to transposition of information to be assessed appropriately implements the requirements of the Directive?

- Yes
- No
- Unsure

Comments

Section 3: Screening

Q6. Will you have to change your current practices to meet the new screening requirements?

- Yes
- No
- Unsure

Comments

Q7. Are you content with the current timescales for providing a screening opinion?

- Yes
- No
- Unsure

Comments

Q8. Do you consider that our approach to transposition of screening appropriately implements the requirements of the Directive?

- Yes
- No
- Unsure

Comments

Section 4: EIA Report

Q9. Will you have to change your current practice to prepare a reasoned conclusion?

- Yes
- No
- Unsure

Comments

Q10. Do you consider that our approach to transposition of requirements concerning the content of the EIA report appropriately implements the Directive?

- Yes
- No
- Unsure

Comments

Section 5: Scoping

Q11. Do you consider that our approach to transposition of scoping appropriately implements the requirements of the Directive?

- Yes
- No
- Unsure

Comments

Section 6: Assessment Quality and Expertise

Q12. Do you consider that our approach to transposition of assessment quality and expertise appropriately implements the requirements of the Directive?

- Yes
- No
- Unsure

Comments

Section 7. Consultation and Publicity

Q13. Do you consider that our approach to transposing consultation and publicity appropriately implements the requirements of Directive?

- Yes
- No
- Unsure

Comments

Q14. Do you feel that the current arrangements for informing the public meet your needs?

- Yes
- No
- Unsure

Comments

Section 8. Monitoring

Q15. Do you consider that the regulations meet the requirements of the Directive concerning the information to be included in the development consent?

- Yes
- No
- Unsure

Comments

Q16. What administrative changes are likely to be required to implement new provisions on the content of decision notices?

Comments

Q17. Do you consider that our approach to transposition of monitoring in the regulations implements the requirements of the Directive?

- Yes
- No
- Unsure

Comments

Q18. Will you have to change your current practices to meet the new monitoring requirements?

- Yes
- No
- Unsure

Comments

Section 9. Decision

Q19. Do you consider that our approach to transposition for decisions appropriately implements the requirements of the Directive?

- Yes
- No
- Unsure

Comments

Section 10. Conflict of Interests

Q20. Do you consider that our approach to conflict of interest appropriately implements the requirements of the Directive?

- Yes
- No
- Unsure

Comments

Section 11. Penalties

Q21. Do you agree with proposals to introduce penalties and sanctions for knowingly or recklessly providing false information should be applied across all eight EIA regimes?

- Yes
- No
- Unsure

Comments

Section 12. Transitional Arrangements

Q22. Do you consider that our approach to transitional arrangements appropriately implements the requirements of the Directive?

- Yes
- No
- Unsure

Comments

Section 13 Other Policy Issues

Q23. Do you have any comments on the proposal by the forestry regime to increase the afforestation threshold for non-sensitive areas from 5 hectares to 20 Hectares?

Comments

Q24. Do you have any comments on the proposal by the marine regime to adopt the thresholds used by the planning regime where they are relevant to marine developments?

Comments

Q25. Do you have any comments on the new provisions for multi stage consents?

Comments

Q26. Do you currently use EIA guidance? If so please provide further details.

- Yes
- No
- Unsure

Comments

Q27. Is there any particular area or regime where you feel that guidance would be helpful?

Comments

Part 3 – Assessing Impact

Q28. Do you think that the proposals presented might impact on people differently depending on characteristics such as age, disability, gender, race, religion or belief, sexual orientation, gender identity or children’s rights and wellbeing?

Comments

Q29. What do you consider are the likely costs and benefits arising from the changes outlined in this consultation paper?
(Please specify which of the Scottish EIA regimes your comments refer to.)

Comments

Q30. Do you have any comments on the Draft Partial Regulatory Impact Assessment?

Comments



Scottish Government
Riaghaltas na h-Alba
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W W W . g o v . s c o t

From: [redacted R.11(2)]
To: [ESS Representations](#); [redacted R.11(2)]
Subject: Representation - SF duty to publish EIA documents
Date: 27 February 2024 15:23:04
Attachments: [image002.png](#)
[image004.png](#)
[image001.png](#)

Hi [redacted R.11(2)]

Thanks for this. We will be in touch shortly to discuss.

[redacted R.11(2)] (She/Her) MIEnvSc

[redacted R.11(2)]

[redacted R.11(2)] [@environmentalstandards.scot](#)

[redacted R.11(2)]

General Enquiries | enquiries@environmentalstandards.scot

0808 1964000 | www.environmentalstandards.scot

Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

Document 3.

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: IESS.24.015 - Scottish Forestry's Duty to make EIA documents available for inspection
Date: 05 March 2024 11:50:00

Good morning [redacted R.11(2)]

I am writing to let you know that this case you brought to us last week has now been allocated to me. I will carry out an initial assessment and be in touch in due course.

Kind regards
[redacted R.11(2)]

[redacted R.11(2)] (she/her)
[redacted R.11(2)]
[redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)

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Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: IESS.24.015 - moved to pre-investigation
Date: 12 March 2024 09:30:00

Good morning [redacted R.11(2)]

Your recent representation regarding Forestry Scotland has now been moved to investigation and I have made some initial enquiries. I will be on leave from tomorrow until 4 April, and expect to have a response to my enquiries by the time I return.

Kind regards
[redacted R.11(2)]

[redacted R.11(2)] (she/her)
[redacted R.11(2)]
[redacted R.11(2)]@environmentalstandards.scot

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From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - moved to pre-investigation
Date: 04 April 2024 10:15:00

Dear [redacted R.11(2)]

I returned from leave today and wanted to update you that I have received a response to my enquiries on this case, which I will consider in more detail next week.

I also note that I mistakenly stated in the body of my email below that the case was moved to investigation – this was an error on my part and as in the email subject line, the case was moved to pre-investigation. Apologies for any confusion.

I will be in touch with a further update in due course.

Kind regards
[redacted R.11(2)]

[redacted R.11(2)] (she/her)
[redacted R.11(2)]
[redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - moved to pre-investigation
Date: 04 April 2024 14:03:16
Attachments: [image001.png](#)

[redacted R.11(2)]

Thanks we will wait to hear further from you about their response.

Investigation/pre-investigation point understood.

Kind regards,

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS) | [Web](#) | [@ERCScot](#) | [YouTube](#)

From: [redacted R.11(2)]
To: [Scottish Forestry Enquiries](#)
Subject: 20240411 Letter to Scottish Forestry - Invitation to Informal Resolution - IESS.24.015
Date: 11 April 2024 09:37:00
Attachments: [20240411 Letter to Scottish Forestry - Invitation to Informal Resolution - IESS.24.015.pdf](#)

Good morning,

I am contacting you from Environmental Standards Scotland as we have received a representation expressing concerns that Scottish Forestry are not meeting their duties under The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017 (the 2017 Regulations).

As we have not corresponded previously, I do not have a direct email contact and would appreciate if the attached letter could be forwarded to the appropriate person within the organisation.

If you have any questions about this email or attached letter please do not hesitate to contact me.

Kind regards
[redacted R.11(2)] (she/her)
[redacted R.11(2)]
[redacted R.11(2)]@[environmentalstandards.scot](mailto:enquiries@environmentalstandards.scot)

General Enquiries | enquiries@environmentalstandards.scot
0808 1964000 | www.environmentalstandards.scot
Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Standards Scotland
Ìrean Àrainneachdail na h-Alba

ENVIRONMENTAL
Standards Scotland
Ìrean Àrainneachdail na h-Alba

[redacted R.11(2)] @environmentalstandards.scot

Scottish Forestry
scottish.forestry@forestry.gov.scot

11 April 2024

Subject: Invitation to Informal Resolution Process: Scottish Forestry's duty to make environmental impact assessment documents available for inspection
Case Reference: IESS.24.015

To whom it may concern,

Environmental Standards Scotland has received a representation expressing concerns that Scottish Forestry (SF) are failing to meet their duties under The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017 (the 2017 Regulations); specifically Regulation 23 which requires SF to make certain Environmental Impact Assessment (EIA) documents available for inspection on a website or by other electronic means.

I understand that SF's view is that whilst the documents are not available on a website, they can be requested and are provided by email by the relevant office and therefore are made available for inspection 'by other electronic means'. I note that the Public Register of Environmental Impact Assessment shows where an opinion has been given by Scottish Forestry and the website makes clear that local conservancy offices can be contacted for more information on individual cases. (I would note that on review of the website I was only able to see 25 results listed on the EIA register however I have been informed that SF have given an opinion on at least 305 developments since 2019.)

Having considered the representation and evidence available, we do not consider the duty to make the relevant documents 'available for inspection on a website (or by other electronic means)' is likely to be satisfied simply by offering to provide copies of the document by email on request.

Environmental Standards Scotland Enquiries
enquiries@environmentalstandards.scot
Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD
0808 1964000

ESS believes the matter is within SF's ability to rectify and therefore, as per our strategic plan, we would like to invite SF to work with ESS to pursue informal resolution. We believe that agreeing effective remedial action on an informal basis will often be more expedient and cost-effective, and will result in better environmental outcomes, than pursuing formal enforcement action. However, where it is not possible to resolve a matter by agreement in a reasonable timescale, we will use the statutory powers available to us to prevent risk of harm to the environment, and to ensure the necessary remedial action is taken to put matters right.

We envision the informal resolution process to involve:

- dialogue between ESS staff and SF staff to discuss the identified issues in detail, clarify any misunderstandings, and seek appropriate remedial actions;
- exchange of relevant information on a timely basis; and
- SF providing return documentation demonstrating acceptable implementation of the remedial actions.

In the first instance, it may be helpful to set up a meeting between myself and the relevant SF staff to discuss matters.

We greatly welcome your attention to this matter, and request that you respond within 15 business days of the date of this letter, to indicate SF's willingness to proceed with informal resolution. Please reference our case number (IESS.24.015) in your return correspondence.

If you have any questions or queries, or are unable to meet this deadline, please do not hesitate to contact me at the above e-mail address.

Yours sincerely

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Standards Scotland Enquiries

enquiries@environmentalstandards.scot

Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

0808 1964000

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: IESS.24.015: Scottish Forestry Invitation to Informal Resolution Process: Duty to make EIA documents available for Inspection
Date: 24 April 2024 17:27:24
Attachments: [image001.jpg](#)
[IESS.24.015 - Letter to ESS for \[redacted R.11\(2\)\] EIA Documentation Available for Review.pdf](#)

Dear [redacted R.11(2)]

Please find attached correspondence for your attention.

Regards

[redacted R.11(2)]

[redacted R.11(2)] – [redacted R.11(2)]

Scottish Forestry
Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD

Mobile [redacted R.11(2)]



Scottish Forestry is the Scottish Government agency responsible for forestry policy, support and regulation
www.forestry.gov.scot www.facebook.com/scottishforestry [@scotforestry](https://twitter.com/scotforestry)



Scottish
Forestry
Coilltearachd
na h-Alba

Saughton House
Broomhouse Drive
Edinburgh EH11 3XD
forestry.gov.scot

Email: scottish.forestry@forestry.gov.scot
Tel: 0131 370 5250

Chief Executive: Paul Lowe

[redacted R.11(2)]
Environment Standards Scotland
Thistle House
91 Haymarket Terrace
Edinburgh
EH12 5HD

Via e-mail: [redacted R.11(2)] @environmentalstandards.scot

Your Ref: **IESS.24.015**

Date: 24 April 2024

Dear [redacted R.11(2)]

Invitation to Informal Resolution Process: Duty to make EIA documents available for Inspection

Thank you for your letter of 11 April 2024 informing Scottish Forestry of concerns held by Environmental Standards Scotland in relation to how Scottish Forestry makes Environmental Impact Assessment (EIA) documentation available for review.

Promoting and supporting sustainable forest management through regulation of the forest industry is a priority for Scottish Forestry.

Where concern exists that Scottish Forestry is failing to deliver its duty in relation to EIAs for forestry projects, we welcome the opportunity to discuss how we may improve the process.

I would like to invite you to a meeting with [redacted R.11(2)], [redacted R.11(2)], at Saughton House at 2pm, on 22 May. Please confirm the appointment, or contact me directly to make alternative arrangements.

Yours sincerely

[redacted R.11(2)]

[redacted R.11(2)]

[redacted R.11(2)]

Tel: [redacted R.11(2)]

E-mail [redacted R.11(2)] [@forestry.gov.scot](mailto:[redacted R.11(2)]@forestry.gov.scot)

Scottish Forestry is the Scottish Government agency responsible for forestry policy, support and regulation

Is e Coilltearachd na h-Alba a' bhuidheann-ghnìomha aig Riaghaltas na h-Alba a tha an urra ri poileasaidh, taic agus riaghladh do choilltearachd

 **Scottish Government**
Riaghaltas na h-Alba

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015: Scottish Forestry Invitation to Informal Resolution Process: Duty to make EIA documents available for Inspection
Date: 25 April 2024 14:44:00
Attachments: [image002.png](#)
[image003.jpg](#)

[redacted R.11(2)]
Dear

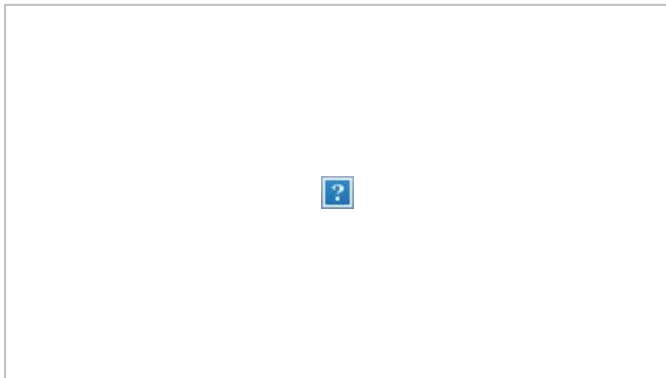
Many thanks for your email and attached letter. Unfortunately, ESS, [redacted R.11(2)] [redacted R.11(2)] is not available at the suggested meeting time. I am happy to go ahead without him, or if you prefer we can reschedule to when he is available, just let me know.

Either way, whilst I appreciate the invite out to Saughton House, due to other work commitments and considerations it would be preferable for us if we could hold the meeting on Teams – is that something that we could set up?

Kind regards
[redacted R.11(2)]

[redacted R.11(2)] (she/her)
[redacted R.11(2)]
[redacted R.11(2)]@environmentalstandards.scot

General Enquiries | enquiries@environmentalstandards.scot
0808 1964000 | www.environmentalstandards.scot
Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD



BSL users can contact via an online BSL/English interpreter

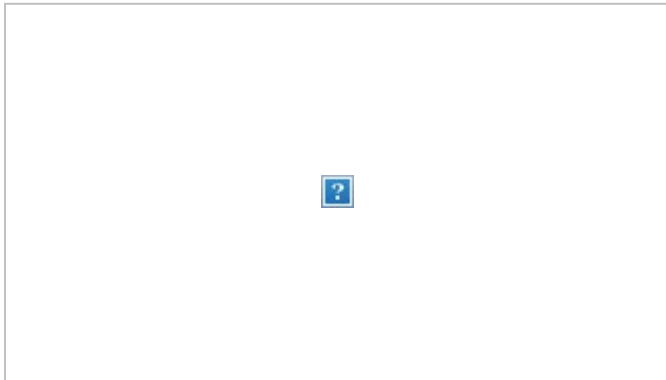
From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015: Scottish Forestry Invitation to Informal Resolution Process: Duty to make EIA documents available for Inspection
Date: 03 May 2024 12:09:00
Attachments: [image002.png](#)
[image003.jpg](#)

I wouldn't imagine this initial conversation should take longer than an hour, but maybe schedule an hour and a half to be on the safe side!

Thanks
[redacted R.11(2)]

[redacted R.11(2)] (she/her)
[redacted R.11(2)]
[redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)

General Enquiries | enquiries@environmentalstandards.scot
0808 1964000 | www.environmentalstandards.scot
Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD



BSL users can contact via an online BSL/English interpreter

From: [redacted R.11(2)]@forestry.gov.scot>
Sent: Friday, May 3, 2024 12:09 PM
To: [redacted R.11(2)] @environmentalstandards.scot>
Subject: RE: IESS.24.015: Scottish Forestry Invitation to Informal Resolution Process: Duty to make EIA documents available for Inspection

Thanks [redacted R.11(2)] I will do – how long do you envisage we will need? shall I pencil in a couple of hours?

Regards
[redacted R.11(2)]

[redacted R.11(2)] – [redacted R.11(2)]
SCOTTISH FORESTRY
Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD

Mobile: [redacted R.11(2)]



Scottish Forestry is the Scottish Government agency responsible for forestry policy, support and regulation
www.forestry.gov.scot www.facebook.com/scottishforestry [@scotforestry](https://twitter.com/scotforestry)

From: [redacted R.11(2)] [@environmentalstandards.scot](https://twitter.com/environmentalstandards.scot)>
Sent: Friday, May 3, 2024 12:02 PM
To: [redacted R.11(2)] [@forestry.gov.scot](mailto:[redacted R.11(2)]@forestry.gov.scot)>
Subject: RE: IESS.24.015: Scottish Forestry Invitation to Informal Resolution Process: Duty to make EIA documents available for Inspection

[redacted R.11(2)]
Hi

Thanks very much, 20th May in the afternoon would suit us, at whatever time works best for yourselves. If you want to set up the teams invite from your end, [redacted R.11(2)] email address is [redacted R.11(2)] [@environmentalstandards.scot](https://twitter.com/environmentalstandards.scot)

Kind regards
[redacted R.11(2)]

[redacted R.11(2)] (she/her)
[redacted R.11(2)]
[redacted R.11(2)] [@environmentalstandards.scot](https://twitter.com/environmentalstandards.scot)

General Enquiries | enquiries@environmentalstandards.scot
0808 1964000 | www.environmentalstandards.scot
Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD



BSL users can contact via an online BSL/English interpreter

From: [redacted R.11(2)] [@forestry.gov.scot](mailto:[redacted R.11(2)]@forestry.gov.scot)>
Sent: Friday, May 3, 2024 10:38 AM
To: [redacted R.11(2)] [@environmentalstandards.scot](https://twitter.com/environmentalstandards.scot)>
Subject: RE: IESS.24.015: Scottish Forestry Invitation to Informal Resolution Process: Duty to make EIA documents available for Inspection

Good Morning [redacted R.11(2)]

We'd be happy to meet virtually, and also to find a better date, would any of these other dates/times suit you better?

20 th May	Afternoon
21 st May	Afternoon
22 nd May	Morning
29 th May	Afternoon
30 th May	Afternoon

Regards
[redacted R.11(2)]

[redacted R.11(2)] – [redacted R.11(2)]

Scottish Forestry
Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD

Mobile: [redacted R.11(2)]



Scottish Forestry is the Scottish Government agency responsible for forestry policy, support and regulation
www.forestry.gov.scot www.facebook.com/scottishforestry [@scotforestry](https://twitter.com/scotforestry)

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - moved to pre-investigation
Date: 06 May 2024 13:40:48
Attachments: [image001.png](#)

[redacted R.11(2)]
Hi

Could you please update me on this representation?

In particular, could you please let me know what steps ESS will take/has taken to ensure that SF publishes all of the requisite EIA documents online and any timescales associated with that?

Kind regards,

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS) | [Web](#) | [@ERCScot](#) | [YouTube](#)

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - moved to pre-investigation
Date: 07 May 2024 16:08:00
Attachments: [image002.png](#)
[image003.png](#)

Hi [redacted R.11(2)]

I am sorry that my response has caused confusion. At this stage, having considered the representation and evidence available, we consider it possible that there is a compliance issue here and this is why we have proceeded to invite SF to informal resolution. I would highlight that we have *invited* them to informal resolution – the process has not yet started. It was clear from the information you provided that SF do not consider they are non-compliant. Accordingly, and in fairness to SF, we plan to discuss the matter with them and fully explore their position in our initial meeting. We will then consider what action requires to be taken.

Kind regards
[redacted R.11(2)]

[redacted R.11(2)] (she/her)
[redacted R.11(2)]
[redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)

General Enquiries | enquiries@environmentalstandards.scot
0808 1964000 | www.environmentalstandards.scot
Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD



BSL users can contact via an online BSL/English interpreter

From: [redacted R.11(2)] @ercs.scot>
Sent: Tuesday, May 7, 2024 2:22 PM
To: [redacted R.11(2)] @environmentalstandards.scot>
Subject: RE: IESS.24.015 - moved to pre-investigation

Hi [redacted R.11(2)]

I'm a bit confused here.

It sounds like ESS plans to meet SF to hear their point of view rather than to resolve the non-compliance we have raised in our representation. What is there to resolve informally with SF if ESS has no position on the legal issue that is at the heart of this representation?

In terms of ESS understanding SF's position, our representation included a copy of a full complaint response from SF which explains their point of view in detail. We sent ESS this representation more than two months ago, so ESS has already had plenty of opportunity to ask SF to explain themselves further.

I also note that page 25 of ESS' attached internal guidance on informal resolution says that ESS can initiate informal resolution where either there is evidence of non-compliance with environmental law/a risk of non-compliance, environmental law is not effective or improvements can be made in the implementation or application of environmental law.

Could you please explain which of the justifications in ESS' guidance has been used to progress to informal resolution and the reasons why?

Kind regards,

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS) | [Web](#) | [@ERCScot](#) | [YouTube](#)

From: [redacted R.11(2)]

[redacted R.11(2)] [@environmentalstandards.scot](#)>

Sent: Tuesday, May 7, 2024 11:08 AM

To: [redacted R.11(2)] [@ercs.scot](#)>

Subject: RE: IESS.24.015 - moved to pre-investigation

[redacted R.11(2)]
Hi

Our initial contact through informal resolution is to engage in dialogue. We need to provide SF with the opportunity to give their point of view. Once we understand SF's position we will be better placed to make a fuller judgement about compliance. At this stage, we have informed SF that, having considered the representation and evidence available, we have questions about whether the duty to make the relevant documents 'available for inspection on a website (or by other electronic means)' is likely to be satisfied simply by offering to provide copies of the document by email on request.

Kind regards
[redacted R.11(2)]

[redacted R.11(2)] (she/her)

[redacted R.11(2)]

[redacted R.11(2)] [@environmentalstandards.scot](#)

General Enquiries | enquiries@environmentalstandards.scot
0808 1964000 | www.environmentalstandards.scot
Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD



BSL users can contact via an online BSL/English interpreter

From: [redacted R.11(2)] @ercs.scot>
Sent: Tuesday, May 7, 2024 9:13 AM
To: [redacted R.11(2)] @environmentalstandards.scot>
Subject: RE: IESS.24.015 - moved to pre-investigation

[redacted R.11(2)]
Thank you for the update

I assume that the move to informal resolution means that ESS is of the view that SF are in breach of the Regulation 23(1)(a) duty to publish the various EIA documents online.

Can you confirm ESS' assessment of the representation please?

Kind regards,

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS) | [Web](#) | [@ERCScot](#) | [YouTube](#)

From: [redacted R.11(2)] @environmentalstandards.scot [redacted R.11(2)]
[redacted R.11(2)] @environmentalstandards.scot>

Sent: Tuesday, May 7, 2024 8:24 AM
To: [redacted R.11(2)] @ercs.scot>
Subject: RE: IESS.24.015 - moved to pre-investigation

[redacted R.11(2)]
Good morning

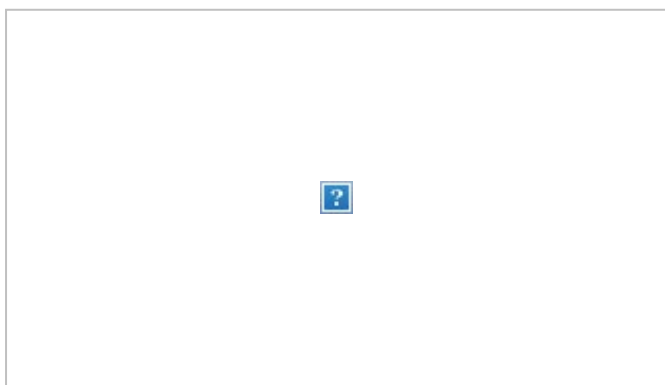
We have invited SF to informal resolution on the case, and they have proposed we

meet to discuss in the first instance. The meeting is scheduled for 20 May and I will update you on the outcome of that.

Kind regards
[redacted R.11(2)]

[redacted R.11(2)] (she/her)
[redacted R.11(2)]
[redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)

General Enquiries | enquiries@environmentalstandards.scot
0808 1964000 | www.environmentalstandards.scot
Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD



BSL users can contact via an online BSL/English interpreter

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - moved to pre-investigation
Date: 08 May 2024 15:42:38
Attachments: [image001.png](#)
[image002.png](#)

Thank you for clarifying that ^[redacted R.11(2)]

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS) | [Web](#) | [@ERCScot](#) | [YouTube](#)

Document 14.

Document withheld under Reg 10(4)(e)

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - moved to pre-investigation
Date: 22 May 2024 16:59:28
Attachments: [image001.png](#)
[image002.png](#)

Hi [redacted R.11(2)]

Could you please update me on ESS' 20 May meeting with Scottish Forestry?

Has Scottish Forestry added anything beyond what was in the correspondence we sent along with the representation to justify their position?

What further steps will ESS take to resolve this representation?

Thanks,

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS) | [Web](#) | [@ERCScot](#) | [YouTube](#)

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - moved to pre-investigation
Date: 23 May 2024 13:53:00
Attachments: [image002.png](#)
[image003.png](#)

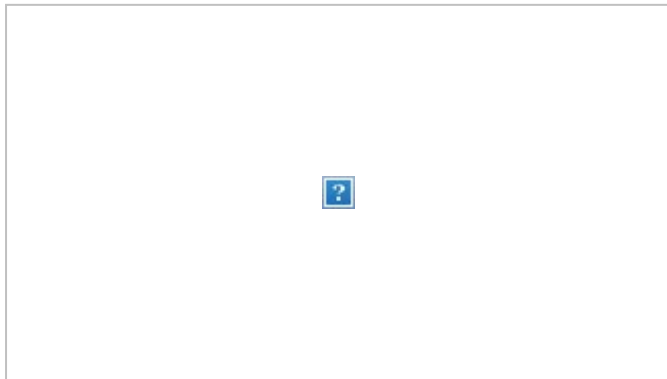
H [redacted R.11(2)]

As you know we met with Scottish Forestry, this was on the 21st as it had to be rescheduled. During the meeting we discussed the terms of the representation and outlined our view on potential areas of non-compliance. Scottish Forestry will be sending further information to me within the next week which I will consider and determine next steps. Of course, when the case is concluded we will fully report on the process and outcomes.

Kind regards
[redacted R.11(2)]

[redacted R.11(2)](she/her)
[redacted R.11(2)]
[redacted R.11(2)][@environmentalstandards.scot](mailto:environmentalstandards.scot)

General Enquiries | enquiries@environmentalstandards.scot
0808 1964000 | www.environmentalstandards.scot
Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD



From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - moved to pre-investigation
Date: 24 May 2024 09:26:19
Attachments: [image001.png](#)
[image002.png](#)

Hi [redacted R.11(2)]

Thanks for the update.

You didn't answer my question on whether Scottish Forestry added anything beyond what was in the correspondence we sent with the representation to justify their position. Could you please respond to that question?

In terms of further updates, I would prefer regular updates throughout your investigation rather than waiting for a report at the end of the process please. Regular updates from investigation officers for those who have made representations are part of [ESS' services standards](#).

I would be grateful if you could update me once you have received the information from Scottish Forestry to explain ESS' next steps and the associated timescales.

Kind regards,

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS) | [Web](#) | [@ERCScot](#) | [YouTube](#)

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - moved to pre-investigation
Date: 28 May 2024 15:21:00
Attachments: [image002.png](#)
[image003.png](#)

[redacted R.11(2)]
Good afternoon [redacted R.11(2)] my apologies for the delay in getting back to you as I was on leave.

We try to be as transparent as possible and keep those who bring representations to us updated, but that does not mean we routinely disclose the specific details of discussions whilst we are still considering matters. At this relatively early stage, I am still exploring the details of SF's position and my assessment of this.

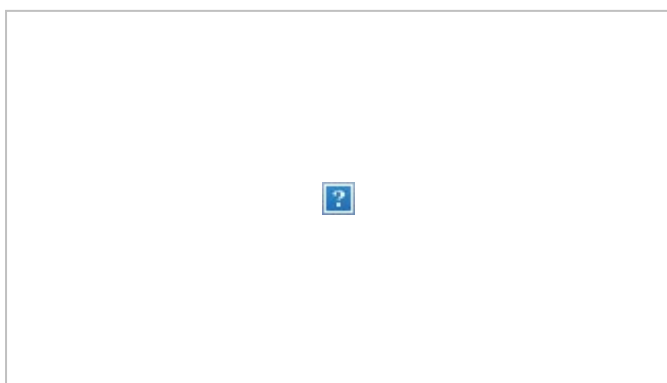
I recognise one of ESS' service standards is to give updates throughout the case, which is to reassure those who have brought a representation (and the organisations involved) that the case is progressing. It is for ESS to decide the level of update at any given time.

I will update you again once I have received the information from SF and determined next steps.

Kind regards
[redacted R.11(2)]

[redacted R.11(2)] she/her)
[redacted R.11(2)]
[redacted R.11(2)] [@environmentalstandards.scot](mailto:environmentalstandards.scot)

General Enquiries | enquiries@environmentalstandards.scot
0808 1964000 | www.environmentalstandards.scot
Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD



BSL users can contact via an online BSL/English interpreter

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Cc: [redacted R.11(2)] [redacted R.11(2)]
Subject: Scottish Forestry - Response to ESS Meeting 21/5/24
Date: 28 May 2024 17:15:05
Attachments: [image001.jpg](#)
Importance: High

[redacted R.11(2)]

My apologies – we met last Tuesday and I’d committed to provide you with some follow-up information within the week – which I have not yet done - sorry.

We’ve been struggling with errors in our reporting system, and with staff taking making use of the long bank holiday weekend, we haven’t completely resolved these.

I don’t want to provide you with inaccurate information, or provide you with what we agreed in a piecemeal way, but I am confident I’ll be able to forward you our complete response to the meeting later this week, if that would be acceptable?.

Regards

[redacted R.11(2)]

[redacted R.11(2)] [redacted R.11(2)]

SCOTTISH FORESTRY
Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD

Mobile: [redacted R.11(2)]



Scottish Forestry is the Scottish Government agency responsible for forestry policy, support and regulation
www.forestry.gov.scot www.facebook.com/scottishforestry [@scotforestry](https://twitter.com/scotforestry)

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Cc: [redacted R.11(2)] [redacted R.11(2)]
Subject: RE: Scottish Forestry - Response to ESS Meeting 21/5/24
Date: 29 May 2024 08:39:00
Attachments: [image002.png](#)
[image003.jpg](#)

Good morning [redacted R.11(2)]

Thanks for getting in touch, I appreciate the update – end of the week would be fine for the information.

Kind regards,
[redacted R.11(2)]

[redacted R.11(2)](she/her)

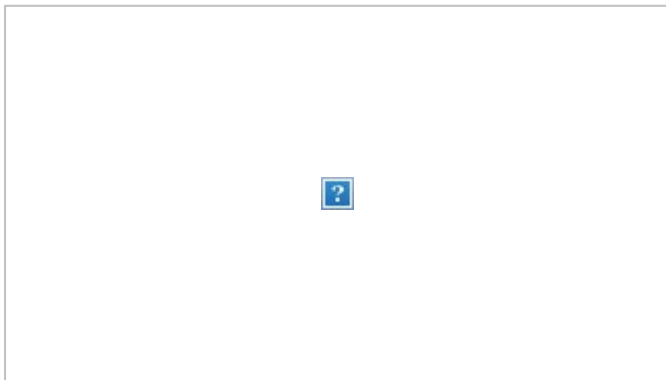
[redacted R.11(2)]

[redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)

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0808 1964000 | www.environmentalstandards.scot

Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD



BSL users can contact via an online BSL/English interpreter

From: [redacted R.11(2)]
To: [redacted R.11(2)] [redacted R.11(2)]
Cc: [redacted R.11(2)] [redacted R.11(2)] [redacted R.11(2)]
Subject: Scottish Forestry / ESS: Publishing of EIA Decisions
Date: 31 May 2024 16:40:32
Attachments: [PR Improvements Roadmap + EIA fast-track option.docx](#)
[image001.jpg](#)

Dear [redacted R.11(2)] [redacted R.11(2)]

Thank you for outlining the ESS concern over how Scottish Forestry makes information available to stakeholders and communities on the EIA decisions it makes, at last week's introductory meeting.

I appreciate I'm a little later than agreed with this information, thank you for your patience.

As an initial response SF agreed to provide you with some additional information, namely:-

1. An indication of the number of EIA Screening and Scoping Decisions we make on an annual basis.
 2. An estimate of the number of documents relating to these decisions.
 3. A proposal on how we may make historical decisions on Screening Opinions available for review after the 28 days they are currently published.
 4. Provide a Roadmap outlining the timescale of planned system developments that will make SF EIA decisions more transparent.
1. In the last 5 years, SF has made approximately 250-300 EIA screening and scoping decisions each year.
 2. Typically, an EIA screening opinion would involve 2-3 documents, the Opinion, our Reasoning and a Map. EIA Scoping decisions may include many more documents as the outcome of these decisions requires a full Environmental Statement. We publish these documents on the Scottish Forestry website: [Scottish Forestry - Past Environmental Impact Assessment consultations](#)
 3. Our intention is that in the short term we will put a list of historic EIA Screening decisions on our website, allowing an interested party to request EIA documents. The system we use to publish EIA Screening Opinions on the Scottish Forestry website has an inadequate reporting facility. It wasn't designed to output reports and we only use it to key-in information so that we may publish our EIA Screening decisions on our website. Those decisions are individually recorded in a separate case management system against each case and it is proving more difficult than we anticipated to collate a database of all our previous decisions. We are still assessing how we can produce this information, and it may require us to collate each decision manually from our case management system and paper files. We are continuing to explore how we may automate this work and will update you

when we have a proposal. We are also exploring how we may permanently publish all our future decisions and will provide an update on this aspect as soon as we can confirm how that will be possible.

4. Our digital development team have added stage descriptions to our Public Register Project Roadmap (attached), to give you an indication of the work required at each stage and what outcome will be achieved. The current planned timescale for completion of this project is during the quarter June/Aug 2025, with the fast-track option showing EIA PR functionality as being possible by April 2025. We are sharing the Roadmap to show our current planning around the improvements you have suggested, and an option to bring this forward. Please note this is a live area of work in development.

If you have any questions about any of this information, please do get in touch.

I look forward to hearing from you on the next steps.

Regards
[redacted R.11(2)]

[redacted R.11(2)] – [redacted R.11(2)]

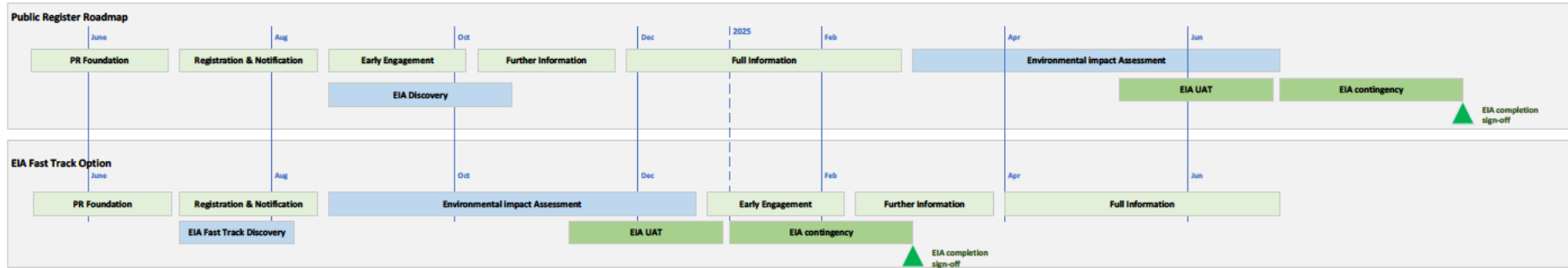
Scottish Forestry
Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD

Mobile: [redacted R.11(2)]



Scottish Forestry is the Scottish Government agency responsible for forestry policy, support and regulation
www.forestry.gov.scot www.facebook.com/scottishforestry [@scotforestry](https://twitter.com/scotforestry)

Public Register Improvements Roadmap



Phase	Deliverables
PR Foundation	Ability to search on a map Publication of case details as per existing public register
Registration & Notification	Ability to register and be notified of new/changed cases in area of interest
Early Engagement	Early publication of submitted forestry proposals, prior to assessment by SF Publication of essential documents only
Further Information	Publication of system generated case documents, which are auto-redacted
Full Information	Publication of all relevant case documents, including those which require manual redaction
EIA Discovery / EIA Fast Track Discovery	Discovery phase to establish requirements for improved EIA public register
Environmental Impact Assessment	Publication of legally required EIA documents (screening opinion and reasoned conclusion) for all forestry projects (afforestation, deforestation, forest roads, forest quarries)

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Cc: [redacted R.11(2)]
Subject: 20240611 Letter to Scottish Forestry - Further Enquiries - IESS.24.015
Date: 11 June 2024 09:17:00
Attachments: [20240611 Letter to Scottish Forestry - Further Enquiries - IESS.24.015.pdf](#)
[image001.png](#)

Good morning [redacted R.11(2)] and [redacted R.11(2)]

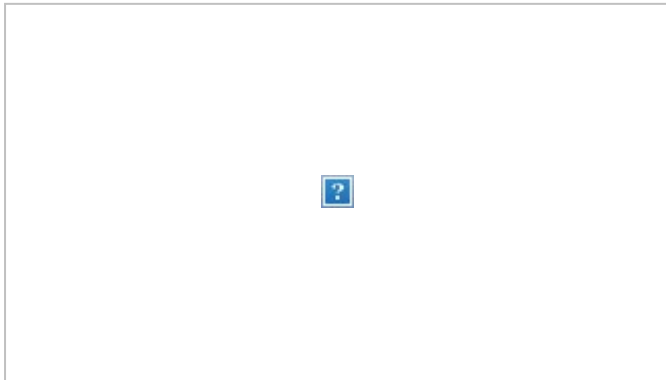
Many thanks for the further information you provided to us following our meeting in May, in relation to the publication of EIA documentation. Please see attached a letter with further enquiries.

As noted in the letter, my last day at ESS will be 28 June 2024, so after this date please contact [redacted R.11(2)]

Kind regards,
[redacted R.11(2)]

[redacted R.11(2)] (she/her)
[redacted R.11(2)]
[redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)

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[redacted R.11(2)]
Environmental Standards Scotland
Ìrean Àrainneachdail na h-Alba

ENVIRONMENTAL
Standards Scotland
Ìrean Àrainneachdail na h-Alba

[redacted R.11(2)] @environmentalstandards.scot

[redacted R.11(2)]
[redacted R.11(2)]
Scottish Forestry
[redacted R.11(2)]@forestry.gov.scot
CC [redacted R.11(2)] - [redacted R.11(2)] @forestry.gov.scot

11 June 2024

Subject: Informal Resolution Process: Scottish Forestry's duty to make environmental impact assessment documents available for inspection
Case Reference: IESS.24.015

Dear [redacted R.11(2)],

Many thanks again to you, [redacted R] and [redacted R.11(2)] for meeting with myself and [redacted R.11(2)] to discuss the representation we received, concerning Scottish Forestry's duty to make environmental impact assessment (EIA) documents available for inspection. Thank you also for the explanation [redacted R] has provided, outlining the approximate number of EIA screening and scoping decisions made by SF on an annual basis and a proposal for future work to make more information publicly available.

I am writing to confirm ESS' position regarding SF's current compliance with the legislation and to ask some further questions. I would be very happy to meet to discuss any of these points if that would be of benefit.

To confirm, the relevant legislation is The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017 ('the 2017 Regulations'); specifically, Regulation 23 which states:

23.— Availability of opinions, directions etc. for inspection

(1) Where any document mentioned in paragraph (2) is received, issued or adopted by the Scottish Ministers, the Scottish Ministers must make copies of that document available for inspection—

(a) on a website (or by other electronic means); and

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(b) at all reasonable hours at an office of the Scottish Ministers where the register may be inspected.

(2) The documents are any—

(a) request under regulation 15(1);¹

(b) [...]²

(c) direction given under regulation 9;³

(d) screening opinion;

(e) [...]

(f) scoping opinion;

(g) [...]

(h) EIA report and any additional information;

(i) reports or advice issued to the Scottish Ministers at the time when notice is given under regulation 18(1);⁴ and

(j) statement of reasons accompanying any of the above

As outlined during our meeting, ESS' is of the view that SF's current approach to these documents (ie, that they are not published and are solely available on request) is unlikely to be compliant with the legislation for a number of reasons:

- The purpose of the legislation: the regulations transpose EU Directive 2011/92 on the assessment of the effects of certain public and private projects on the environment (amended by Directive 2014/52/EU). This introduced specific reference to the need to strengthen public access to information. The Directive states that Member States should establish at least a central portal or points of access, at the appropriate administrative level, that allow the public to access that information easily and effectively. A purposeful interpretation of this provision favours an interpretation which achieves easy, effective, accessible information, and in our view, placing the onus on members of the public to proactively seek out this information doesn't lend itself to that.
- Comparable provisions relating to public register duties mostly state that the register information may be kept 'in any form'. Regulation 23 on the other hand specifically requires the documents to be both available for inspection on a website/other electronic means, and at an office of the Scottish Ministers, going further than other provisions.
- Duplication of existing right of access to information: members of the public have rights under the Freedom of Information Act to request information from public

¹ **15.— Requests for scoping opinions**

(1) An applicant may request the Scottish Ministers to adopt a scoping opinion

² (b), (e) and (g) revoked by Forestry and Land Management (Scotland) Act 2018.

³ Regulation 9 relates to exemptions – Scottish Ministers may direct that the regs do not apply where compliance with the regs would have an adverse effect on the purpose of the forestry project. If they make such a direction they must publish certain information regarding the decision.

⁴ **18.— Publication of EIA report** *(1) Where, in relation to an EIA application, the applicant submits to the Scottish Ministers a report which the applicant refers to as an EIA report, the Scottish Ministers must publish, as soon as possible, a notice in accordance with this regulation.*

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authorities – if Regulation 23 is only to be interpreted as the information being available on request by email, that renders it redundant in light of Freedom of Information rights.

Whilst we welcome SF's commitment to creating a new online public register, we also have some questions about the information provided.

My understanding is that the first stage of the process is for applicants to request a screening opinion, in which SF will determine whether consent is required. If consent is required, a scoping opinion will be requested. The scoping opinion will set out what information is required to be within the Environmental Impact Assessment. Once the applicant has carried out the EIA, SF will determine whether to give consent for the project.

In ^[redacted R.11/2] email of 31 May 2024, he noted that SF issue around 250-300 screening and scoping opinions per year. It was explained that screening opinions generally involve 2-3 documents, but scoping decisions may include many more documents, as the outcome of these decisions requires a full environmental statement. He provided a link to the page on the website 'Past EIA consultations', which lists 14 consultations, only two of which post-date the 2017 Regulations.

If my understanding is correct, it appears that there have been only two cases in which a scoping opinion and EIA have been required since 2017; and therefore that would mean of the ~1500 cases (based on the figures of 250-300 per year), only two have led to scoping opinions being issued, with the remainder going no further than screening. Could you confirm this is the case?

I also wish to clarify what is meant by 'scoping decisions', as it is not a term used in the legislation. ^[redacted R.] stated in his email that scoping decisions include the entire 'environmental statement' (also not a term used in the legislation). My understanding of a scoping opinion is that this is simply the view given by SF on what should be included in the EIA.

In order to assist us in our determination of whether, and to what extent, informal resolution can be achieved, I would be grateful if you could provide an explanation of each of the documents in Regulation 23 and, if possible, provide an example of each document.

In terms of an interim plan, before the public register website update, ^[redacted R.] notes that SF's intention is to publish a list of historic EIA screening decisions on the website, however this was proving more difficult than anticipated. Given that this information is, at least temporarily, already published on SF's website, I am unclear why this information has not been collated in some way already, especially since it was presented at our meeting that this would be something that could be achieved quickly.

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As we discussed, in the interim, a list or spreadsheet with details of cases in which screening opinions were given would allow the public to see cases in which there exists information relating to the EIA Regulations, and request the relevant documents. This is the approach we have taken in another public register case, in order to achieve a stepped approach to full information and documentation being freely available for the public to inspect.

In terms of what should be included in this list, in our view, any cases where any of the documentation listed in Regulation 23 has been generated should be included. (I appreciate that, if my earlier understanding of the number of cases going to scoping and EIA is correct, there may be very few that fall under any category other than screening.) This should then provide at least basic information of any cases in which there are documents covered by Regulation 23, allowing the public to make full information requests for information.

Turning to the document 'PR Improvements Roadmap + EIA fast-track option'. In principle, we welcome the plan to move this update to the website. In order for ESS to track progress against the plan, it would be helpful to have some more information on how the deliverables can be measured. For example, under 'Early Engagement', what would 'essential documents' cover? In 'Further Information', what documents are 'system generated'? etc. Please also clarify your understanding of 'legally required EIA documents' – in the plan for improvement you have stated these are screening opinions and reasoned conclusions, which does not appear to cover all the information specified by Regulation 23. Finally, do you envision the plan as outlined to include publication of historic Regulation 23 documentation, or only that going forwards?

As we noted before, ESS believes this matter is within SF's ability to rectify and therefore, as per our strategic plan, we would like to work with SF to pursue informal resolution. We believe that agreeing effective remedial action on an informal basis will often be more expedient and cost-effective than pursuing formal enforcement action. However, where it is not possible to resolve a matter by agreement in a reasonable timescale, we will use the statutory powers available to us to prevent risk of harm to the environment, and to ensure the necessary remedial action is taken to put matters right.

To recap, I would be grateful if you could provide the following:

General information:

1. Confirmation of the number of cases that have gone past 'screening' stage since 2017.
2. An explanation and example of each type of document listed in Regulation 23(2).
3. All of SF's guidance/process documents on the EIA process from start to finish.

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In relation to interim measures:

4. Confirmation of a timescale for publishing a list of historic EIA screening decisions.
5. Confirmation of a timescale for publishing a list of cases where any of the documentation listed in Regulation 23 has been generated.

In relation to the 'PR Improvements Roadmap + EIA fast-track option':

6. Further details regarding how deliverables can be measured.
7. Clarification of what documents are covered by terms in the plan such as 'essential documents', 'system generated documents', etc, relating back to the legislation.
8. Clarification of the meaning of 'legally required EIA documents'.
9. Confirmation of whether historic documentation will be published within this plan.

We greatly welcome your attention to this matter, and request that you respond within 15 business days of the date of this letter.

If you have any questions or queries, or are unable to meet this deadline, please do not hesitate to contact me at the above e-mail address.

Please note that my last day at ESS will be 28 June 2024. After this date, please contact [redacted R.11(2)] at [redacted R.11(2)] [@environmentalstandards.scot](mailto:enquiries@environmentalstandards.scot)

Yours sincerely

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Standards Scotland Enquiries

enquiries@environmentalstandards.scot

Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

0808 1964000

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - moved to pre-investigation
Date: 12 June 2024 17:03:28
Attachments: [image001.png](#)
[image002.png](#)

Hi [redacted R.11(2)]

Could you please send me an update on this representation?

ESS met SF on 21 May, SF were then to send further information to ESS the following week (i.e. by the end of May) for review.

In particular, could you please confirm:

- Whether Scottish Forestry have added anything beyond what was in the correspondence we sent with the representation to justify their position.
- What further steps ESS will take to ensure that SF publishes all the requisite EIA documents online.
- The timescales for any further steps by ESS.

Kind regards,

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS) | [Web](#) | [@ERCScot](#) | [YouTube](#)

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - moved to pre-investigation
Date: 13 June 2024 14:47:03
Attachments: [image001.png](#)
[image002.png](#)

[redacted R.11(2)]
H

Thank you for the update.

Does that mean SF have conceded that they are in breach of their duty to publish the EIA documents?

Sorry to hear that you are leaving ESS and thanks for letting me know about that. Do you have something else lined up post-ESS?

Kind regards,

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS) | [Web](#) | [@ERCScot](#) | [YouTube](#)

From: [redacted R.11(2)]@environmentalstandards.scot [redacted R.11(2)]

[redacted R.11(2)]@environmentalstandards.scot>

Sent: Thursday, June 13, 2024 9:09 AM

To: [redacted R.11(2)] @ercs.scot>

Subject: RE: IESS.24.015 - moved to pre-investigation

[redacted R.11(2)]
Dear

I am still in discussion with SF about how we can reach an agreement and plan for how they will publish the EIA information on their website. I do not have any more substantive update to give you because discussions are ongoing. Please rest assured that once there is more information to give, you will be updated appropriately.

Please note that I will be leaving ESS and my last day will be 28 June 2024. I will let you know who will be taking over this case on my departure once it has been decided.

Kind regards
[redacted R.11(2)]

[redacted R.11(2)] (she/her)
[redacted R.11(2)]
[redacted R.11(2)]@environmentalstandards.scot

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Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD



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From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - moved to pre-investigation
Date: 17 June 2024 09:28:00
Attachments: [image002.png](#)
[image003.png](#)

Dear [redacted R.11(2)]

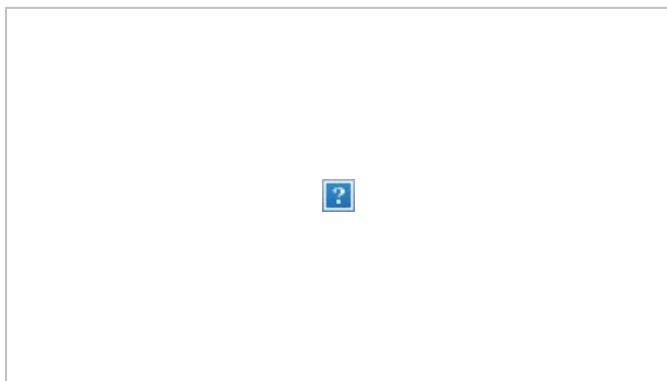
As per my previous email, I am still in discussion with SF and we will provide you with a more substantive update as soon as possible.

I do have another position lined up for when I leave ESS, though I will be sorry to leave ESS it's the right time for me to move on.

Best wishes
[redacted R.11(2)]

[redacted R.11(2)] (she/her)
[redacted R.11(2)]
[redacted R.11(2)]@environmentalstandards.scot

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BSL users can contact via an online BSL/English interpreter

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Cc: [redacted R.11(2)] [redacted R.11(2)]
Subject: RE: 20240611 Letter to Scottish Forestry - Further Enquiries - IESS.24.015
Date: 04 July 2024 20:30:08
Attachments: [SF Response to ESS - July 2004.pdf](#)
[Document 1 - Scoping Report as published on SF website.pdf](#)
[Document 2a - example EIA Screening Opinion - Consent Not Required.pdf](#)
[Document 2b - example EIA Screening Opinion - Consent Not Required.pdf](#)
[Document 3 - example EIA Screening Opinion - Consent Required.pdf](#)
[Document 4 - example EIA Scoping Opinion.pdf](#)
[Document 5 - example EIA report notice.pdf](#)
[EIA Staff Procedures Guidance September 2023.pdf](#)
[image002.jpg](#)
[image003.png](#)

Dear [redacted R.11(2)]

Please find attached, a letter and supporting information relating to the further enquiries regarding ESS case reference IESS.24.015.

Regards
[redacted R.11(2)]

[redacted R.11(2)]
Scottish Forestry
Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD

Mobile: [redacted R.11(2)]



Scottish Forestry is the Scottish Government agency responsible for forestry policy, support and regulation
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Email: scottish.forestry@forestry.gov.scot
Tel: 0131 370 5250

Chief Executive: Paul Lowe

[redacted R.11(2)]

Via e-mail: [redacted R.11(2)] [@environmentalstandards.scot](mailto:scottish.forestry@forestry.gov.scot)

Your ref: IESS.24.015

Date: 4 July 2024

Dear [redacted R.11(2)]

Subject: Informal Resolution Process: Scottish Forestry's duty to make environmental impact assessment documents available for inspection

Thank you for [redacted R.11(2)] letter of 11 June 2024, following our recent meeting on this subject.

In response to your letter please find enclosed further information and some points of clarification.

Apologies for the use of different terms in the previous letter, by way of clarification:-

Screening decision refers to the EIA Screening Opinion.

Scoping decision refers to the EIA Scoping Opinion.

Environmental Statement (the term previously used in the 1999 EIA regulations) refers to EIA Report.

In response to your questions:-

1. Confirmation of the number of cases that have gone past 'screening' stage since 2017.

Since 2017, 15 cases have had a screening opinion issued that stated that EIA consent would be required, and would have been required to carry out a scoping process in order to progress. Two of these cases have progressed to produce an EIA report, 1 case is ongoing and the remainder were withdrawn.

2. An explanation and example of each type of document listed in Regulation 23(2).

a) Request for Scoping Opinion:

Example: document 1 – A request for Scoping Opinion normally submitted as an EIA scoping report. This report is produced by the applicant after Scottish Forestry issues a Screening Opinion that EIA consent is required.

(c) Direction given under regulation 9:

No examples exist. No such direction has been given since the 2017 regulations came into force.

(d) Screening Opinion:

Examples: documents 2a, 2b and 3 – These documents are produced following Scottish Forestry's assessment of the information submitted with a Screening Opinion Request for a forestry project. Scottish Forestry's template incorporates the statement of reason detailed below in (j) within the Screening Opinion document. Details of forestry EIA Screening Opinions are published on the Scottish Forestry EIA register.

Scottish Forestry is the Scottish Government agency responsible for forestry policy, support and regulation



Is e Coilltearachd na h-Alba a' bhuidheann-ghnìomha aig Riaghaltas na h-Alba a tha an urra ri poileasaidh, taic agus riaghladh do choilltearachd

(f) Scoping Opinion:

Example: document 4 – These documents are produced following Scottish Forestry's assessment of the information provided within an EIA Scoping report. Scottish Forestry's template means that the statement of reason detailed below in (j) are included in these documents. Details of EIA Screening Opinions are published on the Scottish Forestry EIA register.

(h) EIA Report and any additional information;

Examples: website [Scottish Forestry - Past Environmental Impact Assessment consultations](#) – The [Cambusmore](#) and [Acha-Bheinn](#) projects were consented under the 2017 regulations.

(i) Reports or advice issued to the Scottish Ministers at the time when notice is given under regulation 18(1):

Example: document 5 – The advert is published by the applicant once Scottish Forestry have accepted the EIA report.

(j) Statement of reasons accompanying any of the above.

For screening Statement of Reasons, see documents 2 and 3 as referred to for (d).

These Statement of Reasons are not currently published on Scottish Forestry website but wording on the website explains that these are available on request.

Scoping Opinion Statement of Reasons see document 4 as referred to for (f).

These Statement of Reasons are published on Scottish forestry website.

3. All of SF's guidance/process documents on the EIA process from start to finish.

The EIA process is explained on the SF website:

<https://www.forestry.gov.scot/support-regulations/environmental-impact-assessment>

Direct links to guidance and documents are:

Environmental Impact Assessment for Forestry Projects application guidance

<https://www.forestry.gov.scot/component/edocman/1003-environmental-impact-assessment-for-forestry-projects-application-guidance/download?Itemid=0>

EIA Screening Selection Criteria

<https://www.forestry.gov.scot/component/edocman/188-selection-criteria-for-screening-forestry-projects/download?Itemid=0>

EIA Scoping Checklist

<https://www.forestry.gov.scot/component/edocman/1387-eia-scoping-checklist-2022/download?Itemid=0>

Undertaking an Environmental Impact Assessment in Forestry Guidance

<https://www.forestry.gov.scot/component/edocman/1388-undertaking-an-environmental-impact-assessment-in-forestry-2022/download?Itemid=0>

Screening Opinion request form (Word)

<https://www.forestry.gov.scot/component/edocman/649-eia-screening-opinion-request-form/download?Itemid=0>

Screening Opinion request form (PDF)

<https://www.forestry.gov.scot/component/edocman/187-environmental-impact-assessment-screening-opinion-request-form/download?Itemid=0>

Scottish Forestry also have guidance on the internal staff procedure which is attached with this correspondence.

4. Confirmation of a timescale for publishing a list of historic EIA screening decisions.

The IT system, “GLS” we use to publish Forestry EIA Screening and Scoping Opinions has been in use since the 1990s. When Forestry Commission transitioned to Scottish Forestry in 2019 it wasn’t possible to continue to utilise the full functionality of this system as it wasn’t compatible with Scottish Government systems and more modern software and IT security requirements. As a result we have continued to use this system with limited functionality until a new replacement system could be implemented.

A new IT system to support Forestry EIA cases and improved Public Register functionality is currently under development and due to be implemented during 2025. As a result the legacy GLS system is primarily used to manage individual EIA cases and we cannot use it to produce a list of historic EIA Screening Opinions.

In order to compile a list of historic Forestry EIA opinions we are using records from other systems. There are around 1,500 EIA Screening Opinions to compile and we expect to complete this work in August 2024. We will publish the list of historic Forestry EIA Opinions on Scottish Forestry’s website as soon as we have compiled the required information.

5. Confirmation of a timescale for publishing a list of cases where any of the documentation listed in Regulation 23 has been generated.

As above.

Your understanding is correct that the majority of these cases will be EIA Screening Opinions.

In relation to the ‘PR Improvements Roadmap + EIA fast-track option’:

6. Further details regarding how deliverables can be measured.

The PR Improvement Roadmap shared in May shows the project timeline for each of the build phases for the new Public Register system. We intend to release the different elements of functionality in phases over the next year, but we have still to confirm whether this will be possible or appropriate for each phase. In some cases the testing and staff training required for additional functionality could delay the release of future functionality and we will need to keep this under review as the project progresses.

IT development work is currently underway on the PR Foundation, and we plan to release this first phase of improved functionality over the next few months. We would be willing to provide updates on the build progress with ESS to assist in monitoring how the development work is progressing.

7. Clarification of what documents are covered by terms in the plan such as ‘essential documents’, ‘system generated documents’, etc, relating back to the legislation.

The “Early Engagement” phase relates to the early development stage of forestry projects, often 1-2 years before Scottish Forestry receives an EIA Screening Request. Our plan is to be able to put details of forestry projects that are under development on the SF Public Register. Although SF wouldn’t have received an application at this stage, the project developer should be engaging with interested stakeholders.

Including information about projects at this stage will increase awareness amongst stakeholders and make it easier for them to find out about projects and contact the developers at an early stage. So the “essential documents only” term refers to concept maps, issues logs, environmental surveys, etc. and not documents covered by Regulation 23.

The term “system generated documents” includes acknowledgements, e-mails, as well as EIA Screening Opinions for certain types of EIA forestry projects. The administration of woodland creation projects is supported by a digital system which can be used to generate the EIA Screening Opinion. Where the EIA Screening Opinion is generated by this digital system it will be covered by the term “system generated documents”.

Other types of forestry projects, such as deforestation cases, are not supported by a digital system and associated EIA Screening Opinions are produced manually and would need to be uploaded as a separate case document.

8. Clarification of the meaning of ‘legally required EIA documents’.

This refers to the documents specified in Regulation 23, that will need to be available in the case management system to publish on the Scottish Forestry website, or on the EIA public register.

9. Confirmation of whether historic documentation will be published within this plan.

Our current focus is on developing the functionality to publish EIA documents for live and future forestry EIA cases. This work will provide us with the functionality to manually upload individual historic EIA case documents. This is currently forecast to be implemented by Spring 2025. Until that time we wouldn’t be in a position to publish historic EIA documents, other than by placing them directly on our website.

At this stage SF does not intend to publish historic EIA documentation as part of the project to improve the EIA public register. This would be a significant undertaking due to the number of EIA Screening Opinions since the regulations were introduced in 2017. However, where we receive requests for specific historic EIA case documents we would upload these and make them available via the public register.

The Scottish Forestry website includes a statement explaining how to access EIA case documents, and this will be reiterated where the list of historic EIA Screening and Scoping Opinions is published.

I hope this additional information and the above clarifications are helpful in moving things forward and allowing us to progress towards informal resolution.

I can confirm that Scottish Forestry is genuinely seeking to make significant improvements in this area and open to agreeing appropriate remedial actions on an informal basis.

My team and I would also be happy to arrange a further meeting after you have had the opportunity to consider this information. In particular it may be helpful to have a further meeting to discuss the stages in the EIA forestry process and where these fit within overarching woodland creation and Long Term Forest Plan application processes.

Applicants developing woodland creation projects will typically request EIA screening opinions after a period of 1-2 years carrying out environmental surveys, stakeholder engagement and using this information to finalise the project proposal and any associated mitigation. It is rare for forestry applicants to request a screening opinion without supplying supporting environmental information.

Yours sincerely,

[redacted R.11(2)]

p.p.

[redacted R.11(2)]

[redacted R.11(2)]

Acha-bheinn – Scoping Report

Introduction

Scottish Woodlands Ltd (SWL) submitted an application for an Environmental Impact Assessment (EIA) screening opinion for 95.7ha of afforestation on 11th August 2017. Forestry Commission Scotland (FCS) issued an EIA determination on the 22nd December 2017, which stated that the project would require an EIA. FCS supplied a statement of reasons, which is included as appendix 1. to this report. A scoping meeting was held on the 28th March 2018 and the report that follows is the summary of that meeting, the issues raised, and ultimately SWL's recommendations for the focus of the EIA.

Scoping Meeting

The scoping meeting took place at SWL office in Lochgilphead. A list of attendees and apologies is shown in table 1.

Scopee	Organisation
Attended	
[redacted R.11(2)]	Royal Society for the Protection of Birds (RSPB)
[redacted R.11(2)]	Dunadd Community Council
[redacted R.11(2)]	Argyll Raptor Study Group (ARSG)
[redacted R.11(2)]	FCS
[redacted R.11(2)]	SWL
[redacted R.11(2)]	FCS
[redacted R.11(2)]	Kilmartin Museum
[redacted R.11(2)]	SWL
[redacted R.11(2)]	Landowner
[redacted R.11(2)]	Lawrence Environmental
Apologies	
[redacted R.11(2)]	Stroneskar Farm
[redacted R.11(2)]	Argyll Raptor Study Group (ARSG)
[redacted R.11(2)]	FCS
General Enquiries	Argyll and Bute Council
General Enquiries	Scottish Environment Protection Agency (SEPA)
[redacted R.11(2)]	Individual
[redacted R.11(2)]	Individual
[redacted R.11(2)]	Kilmartin Museum
[redacted R.11(2)]	Historic Environment Scotland
[redacted R.11(2)]	Scottish Natural Heritage

Table 1. List of attendees and apologies.

Minutes

Table 2. contains the minutes from the scoping meeting. The final column shows a reference to the issues log (appendix 4.). There is a reference in this column if an issue is raised or if the information in the minute is relevant to the issue. Multiple minutes are assigned to single issues.

Many of the issues arising from the scoping meeting were brought up in the EIA determination statement of reasons issued by FCS on 22nd December 2018. Some duplication occurs in the issues log, this is to ensure that the scopes concerns can be addressed as clearly as possible, rather than referring them to a relevant issue from the statement of reasons.

Issues are coded by topic as follows:

SoR – Arising from the EIA determination statement of reasons (appendix 1.)

AR – Issues concerning archaeology

TT – Issues concerning timber transport

BG – Issues concerning black grouse

GE – Issues concerning golden eagle

WC – Issues concerning whinchat

MF – Issues concerning march fritillary

HH – Issues concerning hen harrier

Scopee / Heading	Minute	Issues log ref. (if added).
Intro		
[redacted R.11(2)]	Explanation of EIA and scoping process. Scottish Woodland to write scoping report detailing issues raised. Summary of EIA letter: Cumulative impact of this and previous planting. UKFS compliance Red listed species (excluding black grouse) may not be an issue in this location.	na na SoR1-15
[redacted R.11(2)]	Cumulative impact on black grouse and other species such as whinchat and golden eagle.	SoR5, SoR6 and GE1-3
[redacted R.11(2)]	Concern that undiscovered archaeology will be lost. Links to archaeological features. Concern over the increased pressure on the public road from timber harvesting.	AR1 and AR2 TT1
[redacted R.11(2)]	Scottish Woodlands survey identified 41 archaeological features. Potential for more sites to be discovered. Concerns over lack of connectivity.	AR1 and AR2
[redacted R.11(2)]	Planting is leading to slow erosion of eagle territory. Survey intensity is too low. Proposed mitigation is not enough.	GE3 GE1 na

	Potential to use GERM model – ridge modelling may not be relevant. Potential to use PAT model.	GE1
[redacted R.11(2)]	Bird survey undertaken in 2017 – 3 visits.	na
	Discussed [redacted R.11(2)] survey information. Explained black grouse distribution and lek positions, including leks outside of the scheme area.	na
[redacted R.11(2)]	Site not grazed for 2/3 years. Occasional use by horses and cattle.	BG4
	On ownerships: Stroneskar farm to north, sheep farm with black grouse. Estate of brother to the NW, cattle farm. [redacted R.11(2)] land includes this site and land to the south.	na
Black Grouse		
[redacted R.11(2)]	First proposal not adequate as one lek is missing.	BG2
	Lek requires visibility splays and planned buffer. Requirement to visit to plan lek better.	BG2
	Potential to mow the lek or use ponies/cattle in an electric fence.	BG2
[redacted R.11(2)]	Lek requires low density woodland cover.	BG1
	Loss of nesting habitat and brood rearing areas. These require short and long vegetation, flushes and Blaeberry. Cotton grass and bog moorland important.	BG2
[redacted R.11(2)]	Can't rely on simply displacing black grouse to other sites, as they might not be suitable.	BG2
[redacted R.11(2)]	Asked if Glyphosate was a problem for birds.	BG3
[redacted R.11(2)]	Black grouse could be using most of the site.	BG5
[redacted R.11(2)]	Females stay within 1.5km of lek and nest in tall vegetation.	BG5
[redacted R.11(2)]	Asked if removal of her sheep has benefitted black grouse.	BG4
[redacted R.11(2)]	Some sheep grazing helps maintain black grouse habitat.	BG4
	Populations have been increasing since a dip in ca. 1991	BG5
[redacted R.11(2)]	Increased felling and restocking provides black grouse habitat.	BG3
[redacted R.11(2)]	Predator control, connected with sheep farming, usually benefits black grouse.	BG4
[redacted R.11(2)]	Stroneskar controls foxes but non-sheep areas are seeing more foxes.	BG4
[redacted R.11(2)]	If dipped, sheep can reduce tick numbers, which is a benefit for black grouse.	BG4
[redacted R.11(2)]	Would prefer native woodland planting.	BG1
[redacted R.11(2)]	Scots pine and juniper would be useful at low densities.	BG1

[redacted R.11(2)]	A black grouse survey over the wider area would be required.	BG5
[redacted R.11(2)]	Is there an increased black grouse population to the east of the road.	BG5
[redacted R.11(2)]	Would like to see the extent on woodland cover in the wider are (inc FE blocks) change. Male black grouse tend to be static/hefted to their areas. Prefer to see no ground preparation March to August.	BG5 BG6
Public Road		
[redacted R.11(2)]	Explained the Argyll Timber Transport Forum. [redacted R.11(2)] to speak to timber transport officer and revert to [redacted R.11(2)]	TT1
Archaeology		
[redacted R.11(2)]	Explained the walkover report – connectivity requirements and buffers according to UK Forest Standard. This area is not as important as the Kilmartin Glen, but there still could be undiscovered sites.	AR1 AR2
[redacted R.11(2)]	[redacted R.11(2)] will write to [redacted R.11(2)]	na
Golden Eagle		
[redacted R.11(2)]	This is not classic eagle territory so they may behave differently.	GE1
[redacted R.11(2)]	PAT model not take account of prey availability 9 hours of survey not enough and timing of observations not so good.	GE1
[redacted R.11(2)]	PAT model suggests low activity on site.	GE1
[redacted R.11(2)]	Quite a number of eagles observed in the general area.	GE1
[redacted R.11(2)]	Is there a lack of prey on the site? Black grouse could be prey.	GE2
[redacted R.11(2)]	Virtually no red grouse in the area. Concerned about cumulative loss of land. Eagles adapt to land use and changes of prey type.	GE2 GE3 GE2 and GE3
[redacted R.11(2)]	What type of mitigation is possible?	na
[redacted R.11(2)]	Ungrazed open ground is better for golden eagle than Sitka spruce.	GE3
[redacted R.11(2)]	Alternative to afforestation is 5 ponies plus deer.	BG4
[redacted R.11(2)]	Requests that golden eagle be addressed through EIA on a cumulative basis.	GE2 and GE3
[redacted R.11(2)]	Suggests more observations required throughout the year.	GE1
Other Species		
[redacted R.11(2)]	Whinchats – strong holding in Scottish and Wales. This is a good area and so should be concerned. There are other species too to be concerned about.	WC1 (SoR6)

[redacted R.11(2)]	Other species may benefit.	na
[redacted R.11(2)]	Other species may benefit.	na
Marsh Fritillary		
[redacted R.11(2)]	Previously grazed areas are becoming rank, which is not good for this species.	MF1
Hen Harrier		
[redacted R.11(2)]	Concern over loss of hen harrier habitat.	HH1

Table 2. Minutes of the scoping meeting.

Issues Log

Each point from the statement of reasons has been included in the issues log. Issues raised in the minutes have been grouped and added to the issues log. SWL has proposed mitigation next to each issue and given an indication of significance following mitigation in the next column. Some issues are simply relevant information and so have not been given a significance. Issues of UKFS non-compliance have not been assigned mitigation or significance as they are outside the scope of the EIA.

Recommendations for the EIA Report

SWL assessment of significance in the issues log shows 6 issues as unknown significance (SoR2, SoR3, SoR5, SoR7, BG1 and BG2). These issues are all focussed on black grouse and we recommend that the EIA covers black grouse only.

The EIA should quantify the likely current black grouse population within the area of the proposed woodland creation and in the wider area (defined below and in appendix 5 as the study area).

It should provide descriptions and maps to show the site, design, size and context.

Working on the basis that the EIA determination, made by FCS, concluded that the woodland creation proposal is likely to have a significant impact on black grouse and its habitat, the EIA report should aim to describe these impacts within the woodland creation proposal area. Further to this it should describe the likely significant effects of the cumulative afforestation of the study area (appendix 5).

It should identify mitigation to negate or reduce the significance of the likely impacts found.

It should describe and discuss the alternative to the woodland creation proposal, a low-density grazing regime using cattle and/or horses.

It should include a non-technical summary of the information.

It should include an updated issues log (appendix 4) showing how each issue has been mitigated and closed out.

Recommendations for Surveys

There are black grouse records for the area ranging back to 2007. These come from local interested parties and from surveys associated with woodland creation. SoR5 mentions a commitment by SWL to monitor populations in these previous schemes, but unfortunately this was not carried out.

Existing records are usually black cock counts during lekking. While these give snapshots of the population they do not account for the same birds using multiple leks. SWL proposes a survey regime using two surveyors simultaneously to account for duplication.

The suggested study area is a 1.5km (1512ha) buffer around the two main leks at Acha-bheinn and Stroneskar Farm. This is shown in appendix 5.

The survey will monitor grouse numbers and movements across the two leks and the surrounding areas.

This survey method was carried out in Spring 2018 by Lawrence Environmental.

Appendices

Appendix 1. FCS EIA determination and statement of reasons.

Appendix 2. [redacted R.11(2)] Correspondence

Appendix 3. RSPB follow up letter

Appendix 4. Issues log

Appendix 5. Suggested study area

[redacted R.11(2)]

Scottish Woodlands Ltd

11th February 2019

Perth & Argyll Conservancy

Upper Battleby
Redgorton
Perth, PH1 3EN

[redacted R.11(2)]
Scottish Woodlands
Loghgilphead
Argyll

Tel: 0300 067 6005
panda.cons@forestry.gsi.gov.uk

[redacted R.11(2)]

[redacted R.11(2)]

By email

22 December 2017

Dear [redacted R.11(2)]

Acha-Bheinn WC - Forestry (EIA) (Scotland) Regulations 2017

We refer to your application for our screening opinion as to whether the forestry project you have proposed at Acha-Bheinn, by Barmolloch, Argyll is an EIA forestry project (is likely to have significant effects on the environment by virtue of factors such as its nature, size or location) and therefore requires our consent under regulations 3 and 7.

In making this screening determination under regulation 11, we have taken into account the relevant selection criteria set out in schedule 2 of the regulations, available results of any relevant assessment of the effects of the forestry project proposed and the information you have provided under regulation 12 (request for a screening opinion).

We can confirm that the work you propose is an EIA forestry project and requires our consent. In Annex 1 of this letter, we have set out the statement of reasons for our decision under regulation 11(3). This determination will be made publicly available.

Please contact us if you wish to take this project to the scoping stage.

Yours sincerely

[redacted R.11(2)]

[redacted R.11(2)]

[redacted R.11(2)]

Statement of reasons

In this case the relevant criteria in schedule 2 are:

- Size and design of the forestry project
- Cumulation with other existing forestry projects
- The sensitivity of the area with regard to biodiversity.

Although the potential for cumulative impact is recognised in the EIA determination request, no real attempt has been made to consider the cumulative impact of the loss of open ground habitat and species by the preceding three Barmolloch schemes and the current proposal.

There is no explanation as to how the Acha-Bheinn proposal has been designed to complement or fit with Barmolloch 1, 2 and 3.

From the ornithological report, the site seems to be important for black grouse with four blackcock seen leking in the spring. The operational plan seems to contradict this and no mitigation is suggested for the lek on the site (the lek was not identified on the maps) or for general black grouse use of the proposal area.

The ornithological report concludes that the scheme may result in neutral impact to black grouse but notes an element of uncertainty that the current number of cocks could be supported long term. This raises a question which doesn't seem to have been answered in the scheme design. There is no consideration of the effects of fences in the plan.

Open habitat management is necessary to maintain the low / grazed type sward black grouse need to maintain a presence in the landscape. Bird movement, and activity at leks, is traditionally highly mobile across these types of landscape and some displacement would seem highly likely. The SNH Species Action Framework advocates moorland management, new native woodland creation and predator control as key prescriptions for black grouse management. These three actions could be considered as potential mitigation.

The cumulative impact of the current and preceding three woodland creation schemes on black grouse has not been considered. There is reference to the importance of black grouse in the documentation for the previous three schemes and a reference to a commitment by Scottish Woodlands to monitor the populations.

The ornithological report flags up significant concerns over the loss of red listed scrub/moorland songbirds and identifies a cumulative impact caused by the current proposal, other current proposals and the previous Barmolloch schemes. Although our internal advice suggests that the red listed songbirds identified are not in decline in Argyll, it is concerning that the issue identified in the report has not been addressed by the proposal.

The impacts on black grouse, on a site and cumulative impact basis, have not been adequately addressed or mitigated in the proposal and are likely to have significant effects on the environment.

Separately, there are a number of aspects of the proposal which would have to be addressed in order to meet the UK Forestry Standard:

- The design of any woodland in and around the higher, craggier areas within the proposal area likely to be of use to golden eagle should follow good practice on golden eagles and forestry.

- A significant area (9 hectares) of new native woodland placed at the highest part of the scheme could (at least in part) have been used to strengthen habitat networks within the forest.
- It will be important to check site suitability for the establishment of native woodland at the highest parts of the scheme.
- It's not clear how the 18 hectares of potential ground water dependant habitats (GWDTE), the marshy grassland identified in the vegetation survey, have been considered in light of the recent guidance on GWDTEs.
- There has been some attempt at creating habitat networks on the site but this is limited and more should be done to enhance and buffer the existing native woodlands and remnant mature trees and to connect to open space provided by the deep peat and high number of archaeological features.
- The ornithological report mentions calcareous grasslands and it would be useful to note how these are being mitigated and to cross-reference these with the vegetation survey.
- The operational plan does not identify how the habitats identified as being of conservation importance in the habitat survey will be mitigated.
- We would want to take a look at the area (7.5 hectares) of shallow and occasionally deep peat to confirm that it is appropriate for planting.

Observations of Black Grouse, Golden Eagle and Marsh Fritillary (1990-present)

Location – Fearnoch, Kilmichael Glen (NR875 973)

I lived at [redacted R.11(2)] from [redacted R.11(2)] while employed as [redacted R.11(2)]
[redacted R.11(2)] and as [redacted R.11(2)]

Black Grouse

I made casual observations during the period 1990 to 2001. There was a peak count of 13 cocks and 3 hens in 1991 at what is now known as the **Lochan Add East lek** (NR8797). Numbers lekking dramatically declined for no apparent reason from 13 in 1991 to 2 in 1994 to zero in subsequent years. This may have been due to a change in grazing regime or movement to alternative leks.

During the period 2002 to 2018 I have been monitoring all the leks in the vicinity of Lochan Add and Barmolloch as part of the RSPB Black Grouse Survey. Three main leks were identified, Barmolloch at approx. NR871993, Lochan Add South at approx. NR856975 and Lochan Add North at approx. NR858983.

Barmolloch lek - one to three cocks used this lek during the period 2002 to 2010 and casual observations in subsequent years have located single cocks lekking here. The lekking area was ploughed and planted in 2010 (Barmolloch 1). There was always movement between Barmolloch and Lochan Add North leks and counts suggest Lochan Add north became more popular after planting.

Lochan Add South lek – this was a regular lek from 2004 to 2015 with one to five lekking cocks and up to 5 grey hens. In February 2016, the entire lekking area was ploughed in preparation for planting (Barmolloch 3). I actually witnessed this operation from my Vantage Point and considering the hundreds of hours of personal observations and diligent submission of survey forms, this was devastating. Following a meeting with Scottish Woodlands the disturbed ground was restored. Although no birds have been observed lekking since the disturbance up to four cocks have visited the lek from Lochan Add North. There is regular movement between Lochan Add north and south but since disturbance at Barmolloch and Lochan Add South, lekking activity has become concentrated at Lochan Add North.

Lochan Add North lek – one to four cocks have lekked here during the period 2009 to 2018. This important lek is now under threat from further planting. The Species Map for the Acha-bheinn scheme suggests the entire lekking area will be planted with sitka spruce! The operational plan suggests that the black grouse population has moved north and will not be affected by the proposal in the short term which is inaccurate. There is an outstanding lek 3km to NE at Stroneskar Farm which has been monitored since 2015 and counts suggest a steady increase from 5 cocks in 2015 to 9 cocks this year. This reflects the similar trend at Lochan Add North which has had a peak of four cocks in 2017 and this year (monitoring ongoing). Lochan Add East has also been used again in recent years reflecting a possible upward trend in the local population. It is therefore unlikely that the birds have moved from Lochan Add to Stroneskar and the Lochan Add North lek remains of outstanding importance.

Recommendation

It is imperative that the Lochan Add north lek is visited to ground truth the grid reference and mark out the boundary of the lek should planting be given approval. The area which was left as open ground at the Lochan Add South lek was inadequate. Consideration must be made not just to the lekking area but to the provision of a buffer of broadleaves and open ground as flight lines to provide connections to adjoining leks. Given the local importance of the area for black grouse, the recent upward trend needs to be encouraged by active management and design of any future planting. The abrupt change in vegetation structure due to lack of deer, sheep and cattle grazing is an important consideration and could have a profound effect on the location and survival of future leks. **It is imperative that a repeat of Barmolloch and Lochan Add South is avoided by good practice management and communication.**

Golden Eagle

The mosaic of open ground between the A816 and Kilmichael Glen forms the eastern half of a golden eagle territory. This territory has been occupied since 2014 and I have made regular observations since 2015. Although my observations have been limited since March 2017, I recently (daily during the period 4 to 9 March 2018) observed the pair of eagles displaying and hunting in the vicinity of the proposed Acha-beinn planting scheme. My hundreds of hours of observations during the last three years suggest that the eagles use this part of their territory on a daily basis. There is an eyrie only 1.5km south of the Acha-beinn proposal which has not been used in recent years possibly due to disturbance by forestry operations in the vicinity at this crucial time of the year. The eyrie which has been used in recent years is only 4km west of the Acha-beinn proposal – the operational plan indicates 6km.

The Acha-beinn scheme needs to address the cumulative loss of open ground in this area and the related loss of an abundant supply of sheep and deer carrion available to the eagles. On 4 April 2015 at 0630h I observed an eagle stoop on the black grouse lek at Lochan Add south – long may this continue! The operational plan indicates a lack of golden eagle sitings in the vicinity contrary to my observations which suggest regular foraging and display activity.

Marsh Fritillary

The Kilmichael Glen corridor is of outstanding local interest for marsh fritillary, the small satellite colonies being an important link between core populations at Moine Mhor and Stroneskar Farm. My observations have been mainly on a casual basis and much of the area west of Fearnoch has not been covered. I have however noted changes in habitat through lack of grazing following the planting of ground adjacent to Fearnoch and Barmolloch. Low intensity sheep, cattle and deer grazing maintain important habitats for marsh fritillary in favourable condition and the abrupt change to no grazing can have devastating effects on the local population.

Maintaining open corridors and continued active management of suitable habitat within planting scheme areas is recommended for this important species.

[redacted R.11(2)]

27 March 2018

[redacted R.11(2)]
Scottish Woodlands
2 Smithy Lane
Lochgilphead
Argyll

29 March 2018

Dear [redacted R.11(2)]

CC [redacted R.11(2)]

ENVIRONMENTAL IMPACT ASSESSMENT (FORESTRY) (SCOTLAND) REGULATIONS 2017 ACHA-BHEINN NEW WOODLAND CREATION SCOPING

Thank you for consulting RSPB Scotland on this application for the creation of approximately 136ha of woodland and the opportunity to attend the scoping meeting. Following the meeting we would like to submit the following comments to summarise our concerns regarding the proposal.

RSPB Scotland welcomes the decision that an Environmental Impact Assessment (EIA) is required for this proposal due to its potential impacts upon priority species including golden eagles (Annex 1 of the EC Birds Directive), black grouse, whinchat and marsh fritillary. The cumulative impacts of open ground loss on priority species and habitats from existing, new and proposed woodland should be fully assessed.

Although some survey work has been completed we do not consider the information provided to be sufficient to adequately assess the potentially significant environmental impacts that could arise from this proposal.

This site has a high ornithological diversity, with a number of species of conservation concern present, including Annex 1 and UKBAP species. Following the consent of previous woodland creation schemes within this area, it is disappointing that further open habitat loss is being considered within an area currently heavily dominated by commercial conifer plantation forestry. **It is our view that further woodland expansion in this area should be focused on small-scale low density native broadleaved woodland designed to consider black grouse, eagles and other priority species present.**

Golden Eagle

Golden eagles are an Annex 1 listed species and are therefore offered special protection by EU law. This proposal has the potential to impact upon golden eagles that breed within the local area. The Operational Plan mistakenly identifies the closest current nest location as 6km from the proposal area (the nest is 6km west of a previous nest location, rather than the proposal area). In reality the most recent nest site location is located under 4km from the forestry proposal, and this pair has previously nested within 3km and are highly likely to utilise the open ground habitat for

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foraging as the 3km range of the current nest site is already heavily afforested. Further information should also be sought from the Argyll Raptor Study Group who have local knowledge of this area.

Currently, only 9 hours of Vantage Points (VPs) have been carried out across the proposal area and from the maps provided it appears that one of the vantage points utilised was within the proposed site. This is not best practice and we would request that further vantage point watches across the year are carried out following standard guidance <http://www.snh.gov.uk/docs/C278917.pdf>, and additional information from local Raptor Study Group members sought. The EIA should assess the potential impacts on this species and should provide details of how the scheme design has been modified to minimise/avoid impacts on eagles.

Hen harrier

Hen harrier is an Annex 1 listed species and are therefore offered special protection by EU law. The current proposal would result in large areas of suitable foraging habitat becoming unsuitable for hen harrier in the medium to long-term. As per the advice above regarding golden eagle, the current VP work is inadequate to assess utilisation of the site and further vantage point watches across the year should be carried out following standard guidance.

Black Grouse

Black grouse is a red-listed UKBAP species which remains a species of high conservation concern in Argyll. The current proposal would result in a large area of black grouse habitat becoming unsuitable in the medium to long term, in addition to losses already occurred as a result of previous forestry applications in this area.

This open ground area is a regionally important site for black grouse within Argyll. In 2017, between 10-14 males were present on 3 leks across the area. One of these leks is within the proposed planting area and the current FGS map indicates that planting would occur directly over the lek site. This would result in lek displacement and is unacceptable, particularly taking into consideration the damage caused to another established lek within the area as a result of a previous forestry scheme.

The current assessment of impacts on black grouse is inadequate. The operational plan outlines that black grouse surveys have been completed, but wrongly suggests that the black grouse population has moved north and would not be affected by the proposal in the short term. The breeding bird survey clearly indicates that black grouse were recorded lekking at a known lek site within the forestry proposal area. We therefore advise that further consideration of black grouse is required at this site in order to assess the importance of the local population and inform planting design and fence marking requirements.

The EIA should assess the cumulative impacts of forestry in the area on black grouse in the long term and identify appropriate ways to avoid impacts and if necessary compensate for habitat loss.

Whinchat

Whinchats are a red-listed species due to significant declines in recent years. The breeding bird survey indicates that a high density of this species is present within the proposed planting area with 22 pairs in c136ha. Afforestation is likely to lead to a decrease in the density of this priority species, and the impacts of this should be thoroughly assessed and appropriate mitigation identified.

Marsh Fritillary

From the information provided it appears that no survey work has been carried out to assess the importance of the area for marsh fritillary. Survey work is required to identify important areas for this species and to inform the planting design.

Cumulative Loss of Open Ground

In the past RSPB Scotland has expressed concern over the potential consequences on open ground biodiversity through the cumulative impacts of afforestation in this area. Previous afforestation in this area has concentrated on a similar altitudinal range of marginal 'rough moorland'. Barmolloch 1, 2 & 3 woodland proposals made little assessment of cumulative impact within their applications.

We welcome the inclusion of a 'Landscape Scale Assessment of afforestation' map with this proposal, however this is a very simplistic map and further assessment is required to determine the cumulative impact on priority species in order to comply with the requirements of the EIA Regulations. Ideally, habitat and species data from previous applications should be included within the assessment to determine cumulative impacts. Currently the 'landscape scale' assessment assumes all open ground is of equal importance, whereas a more thorough assessment should look at priority habitats and those of importance for priority species. For example, from aerial photography it appears that areas of the open ground to the north of the 'Bheinn Bhan Ridge' area is improved grassland, which will provide limited foraging opportunities for species such as golden eagle and black grouse. A cumulative impact assessment should form part an important part of the EIA.

Deep Peat

A comprehensive peat survey has not been presented with the operational plan. The habitat survey states that areas of deep peat may be present within the mapped wet heath areas and this should be fully investigated and used to inform the planting design to ensure that areas of deep peat are avoided.

Potential Mitigation

Appropriate mitigation is likely to include substantially reducing the size of the scheme, increasing the proportion of native-broadleaves and low density planting, incorporating buffers of at least 200m radius around lek sites and appropriately managing open ground habitat. No planting or ground preparation should be undertaken during the lekking or breeding season (Mar-Aug), and we would appreciate the opportunity to attend a site visit in conjunction with [redacted R.11(2)] to clearly identify lek sites.

If you have any queries, please do not hesitate to get in touch.

Yours sincerely,

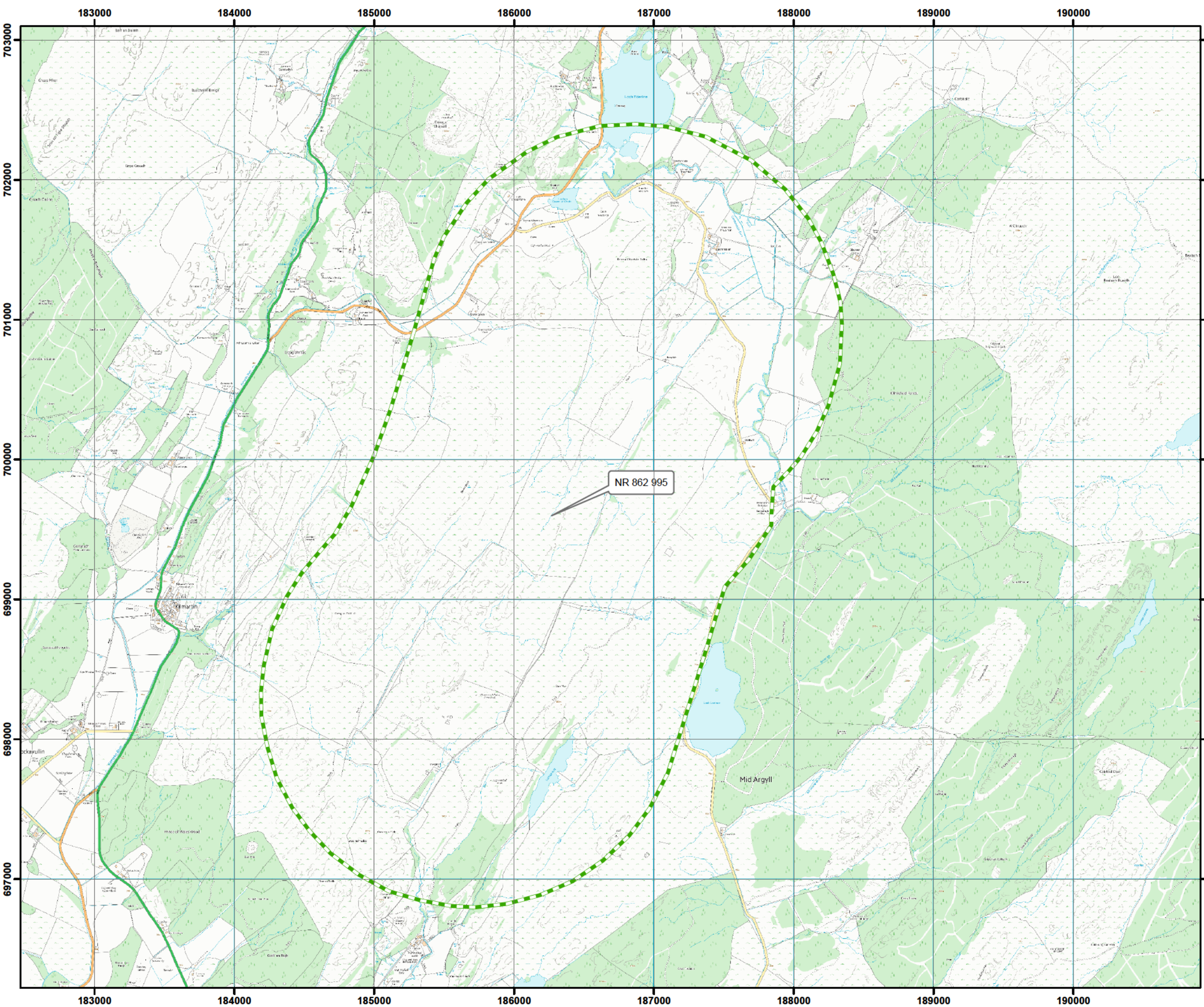
[redacted R.11(2)]

[redacted R.11(2)]

[redacted R.11(2)]

Ref	Raised By	Date	Issue (include date and raised by)	Applicant's response	SWL suggested significance following mitigation.	FCS Comments	Agreed Mitigation	Status (Open, Closed)	Significance of Impact (High, Medium, Low)
SoR1	[redacted R.11(2)]	22/12/2017	There is no explanation as to how the Acha-Bheinn proposal has been designed to complement or fit with Barmolloch 1, 2 and 3. i.e. FCS does not believe the current proposal has been designed to compliment the previous 3 barmolloch schemes	The proposal plants natural land forms, leaving areas of open ground and existing broadleaves. Previous proposals were designed in a similar manner and these areas naturally link up, providing transition through non coniferous forest areas. There will be information to support this in the revised FGS submission and the EIA chapter on black grouse (suggested below) is likely to assess the suitability of the remaining open ground throughout the recent afforestations. A ny revised proposal coming forward in the Environmental Report will take greater account of the 3 previous schemes in the revised proposal design.	low subject to the revision of the proposals to take greater account of the previous Barmolloch schemes.				
SoR2	[redacted R.11(2)]	22/12/2017	From the ornithological report, the site seems to be important for black grouse with four blackcock seen leking in the spring. The operational plan seems to contradict this and no mitigation is suggested for the lek on the site (the lek was not identified on the maps) or for general black grouse use of the proposal area.	The original mitigation will be rectified to remove the lek area from the scheme. A bespoke buffer area will be created, taking into account the manner in which the birds use the lek (further surveys required).	This lek site will be assessed as part of the assessment of the impact of the proposal on black grouse in the Environmental Report.				
SoR3	[redacted R.11(2)]	22/12/2017	The ornithological report concludes that the scheme may result in neutral impact to black grouse but notes an element of uncertainty that the current number of cocks could be supported long term. This raises a question which doesn't seem to have been answered in the scheme design. There is no consideration of the effects of fences in the plan.	The applicant suggests an EIA chapter on black grouse, which will answer this question. Fences will be marked to prevent grouse strikes.	Long term viability of population, significance unknown - Recommend including in EIA. The significance of deer fencing will be low if marked.				
SoR4	[redacted R.11(2)]	22/12/2017	Open habitat management is necessary to maintain the low / grazed type sward black grouse need to maintain a presence in the landscape. Bird movement, and activity at leks, is traditionally highly mobile across these types of landscape and some displacement would seem highly likely. The SNH Species Action Framework advocates moorland management, new native woodland creation and predator control as key prescriptions for black grouse management. These three actions could be considered as potential mitigation.	Open habitat management for black grouse will be considered in the Environmental Report. The report will consider options for moorland management (including potential grazing regimes), woodland creation and predator control.	Will form part of Environmental Report in relation to black grouse habitat				
SoR5	[redacted R.11(2)]	22/12/2017	The cumulative impact of the current and preceding three woodland creation schemes on black grouse has not been considered. There is reference to the importance of black grouse in the documentation for the previous three schemes and a reference to a commitment by Scottish Woodlands to monitor the populations.	Cumulative impact unknown, mitigation depends on impact assessment.	Screening determination assesses cumulative impact as likely to be significant. - Recommend including in EIA. Mitigation of impact to be delivered will be dependant on surveys and assessment and expert advice through the Environmental Report.				
SoR6	[redacted R.11(2)]	22/12/2017	The ornithological report flags up significant concerns over the loss of red listed scrub/moorland songbirds and identifies a cumulative impact caused by the current proposal, other current proposals and the previous Barmolloch schemes. Although our internal advice suggests that the red listed songbirds identified are not in decline in Argyll, it is concerning that the issue identified in the report has not been addressed by the proposal.	The moorland bird survey dealt with these species on a national level. Any revised woodland creation proposal coming forward as part of the Environmental Report will consider this as part of ensuring any revised proposal is UK Forestry Standard compliant.	low				
SoR7	[redacted R.11(2)]	22/12/2017	The impacts on black grouse, on a site and cumulative impact basis, have not been adequately addressed or mitigated in the proposal and are likely to have significant effects on the environment.	Cumulative impact unknown, mitigation depends on impact assessment.	Screening determination assesses cumulative impact as likely to be significant. Recommend including in EIA.				
SoR8	[redacted R.11(2)]	22/12/2017	The design of any woodland in and around the higher, craggier areas within the proposal area likely to be of use to golden eagle should follow good practice on golden eagles and forestry.	This is a UKFS compliance issue and will be rectified in any revised WC proposal which forms part of the Environmental Report	na				
SoR9	[redacted R.11(2)]	22/12/2017	A significant area (9 hectares) of new native woodland placed at the highest part of the scheme could (at least in part) have been used to strengthen habitat networks within the forest.	This is a UKFS compliance issue and will be rectified in any revised WC proposal which forms part of the Environmental Report	The creation of any new native woodland habitat networks will be considered as part of the black grouse assessment in the Environmental Report				
SoR10	[redacted R.11(2)]	22/12/2017	It will be important to check site suitability for the establishment of native woodland at the highest parts of the scheme.	This is a UKFS compliance issue and will be rectified in any revised WC proposal which forms part of the Environmental Report	na				
SoR11	[redacted R.11(2)]	22/12/2017	It's not clear how the 18 hectares of potential ground water dependant habitats (GWDTE), the marshy grassland identified in the vegetation survey, have been considered in light of the recent guidance on GWDTEs.	This is a UKFS compliance issue and will be rectified in any revised WC proposal which forms part of the Environmental Report	na				
SoR12	[redacted R.11(2)]	22/12/2017	There has been some attempt at creating habitat networks on the site but this is limited and more should be done to enhance and buffer the existing native woodlands and remnant mature trees and to connect to open space provided by the deep peat and high number of archaeological features.	This is a UKFS compliance issue and will be rectified in any revised WC proposal which forms part of the Environmental Report	na				
SoR13	[redacted R.11(2)]	22/12/2017	The ornithological report mentions calcareous grasslands and it would be useful to note how these are being mitigated and to cross-reference these with the vegetation survey.	This classification was a typo mistake in the bird report and was referring to calcareous rich <u>marshy</u> grassland for which the majority is retained in the revised design. This is a UKFS compliance issue and will be rectified in any revised WC proposal which forms part of the Environmental Report	na				
SoR14	[redacted R.11(2)]	22/12/2017	The operational plan does not identify how the habitats identified as being of conservation importance in the habitat survey will be mitigated.	This is a UKFS compliance issue and will be rectified in any revised WC proposal which forms part of the Environmental Report	na				
SoR15	[redacted R.11(2)]	22/12/2017	We would want to take a look at the area (7.5 hectares) of shallow and occasionally deep peat to confirm that it is appropriate for planting.	This is a UKFS compliance issue and will be rectified in any revised WC proposal which forms part of the Environmental Report	na				
AR1	[redacted R.11(2)] [redacted R.11(2)]	28/03/2018	The applicant commissioned an archaeological walkover survey which identified 41 above ground features of local and regional significance, which will be protected according to the mitigation suggested in the survey. The scopes raised concerns that there are undiscovered, potentially below ground, features that would be damaged by operations. Quarrying operations in the nearby Kilmartin Glen were cited as an example of the existence of buried features and items.	The possibility of undiscovered archaeology is acknowledged. The location of the Acha-beinn is more remote than the Kilmartin Glen and therefore the likely frequency and significance of undiscovered features is lower. All ground prep operators will be made aware of the known features and asked to remain vigilant and report any features that are not known.	Low				
AR2	[redacted R.11(2)]	28/03/2018	In addition to buffers of no disturbance, the archaeological survey recommends that key features are connected by open ground. Scopes raised concerns that this was not being carried out to a great enough extent.	In any revised woodland creation proposal in the Environmental Report, archaeological features will be connected according to recommendations in the walkover survey and in compliance with UKFS	Low				
TT1	[redacted R.11(2)]	28/03/2018	Concern was raised over use of the public road by timber lorries. Road quality and frequency of passing places are a problem now, this would be exacerbated in the future if further planting takes place.	[redacted R.11(2)] Will contact the local timber transport officer and revert to [redacted R.11(2)]	Low				


BG1	[redacted R.11(2)]	28/03/2018	Black grouse require low density native woodland, including scots pine and juniper.	Subject to the expert advice in the Environmental Report, native woodland and low density native woodland will be planted in targeted areas to benefit black grouse. More information is required to inform the most beneficial type and extent of this.	Recommend including in EIA as part of potential black grouse mitigation.				
BG2	[redacted R.11(2)]	28/03/2018	Potential loss of black grouse habitat within the site. The EIA determination statement of reasons and the scopes raised numerous concerns over the potential effects of the original proposal on black grouse habitat. The proposal failed to recognise a lek in the centre of the application area and showed trees to be planted over the area. Concern was also raised over the loss of nesting and brood rearing habitat. Concern was voiced over the suitability of the surrounding habitat, which would be relevant if birds were displaced.	The original mitigation will be rectified to incorporate the lek area within the scheme design. A bespoke buffer area will be created, taking into account the manner in which the birds use the lek (further surveys required). Areas of brood rearing habitat (nutrient rich flushes) will be preserved. Key areas of nesting habitat (rank heather) will be preserved. Management of the lek area (e.g. mowing or grazing) may be required, recommendations for will form part of the EIA.	Recommend including in EIA.				
BG3	[redacted R.11(2)]	28/03/2018	Is Glyphosate harmful to birds?	Glyphosate is licensed for use in forestry and agriculture subject to following directions for use.	Low				
BG4	[redacted R.11(2)]	28/03/2018	The landowner explained that sheep were removed from the area two to three years ago and that there has been occasional use by horses and cattle. They asked if this was likely to have had a positive or negative effect on the black grouse. [redacted R.11(2)] provided examples of positive effects of grazing animals including vegetation control, predator control and parasite control. It is not intended that sheep return to the area and the alternative to woodland creation would be 5 ponies, plus any grazing pressure from deer.	The potential use of controlled grazing as mitigation will be addressed in the Environmental Report.	Recommend including in EIA.				
BG5	[redacted R.11(2)]	28/03/2018	Some of the black grouse issues raised by at the scoping meeting and in the EIA statement of reasons cannot be adequately mitigated without further information on how the black grouse use the site, as well as how they use the previous planting and the surrounding hill ground, it is evident that more data is required.	Requirement for a survey of how black grouse use the area in spring 2018. Ongoing requirement for surveys following planting. Suggested survey area is a 1.5km buffer around the two main leks at Acha-bheinn and Stroneskar, which includes minor satellite leks. Surveys would be used to assess cumulative impact of the previous schemes and current proposal.	This would be an essential part of the suggested chapter on black grouse.				
BG6	[redacted R.11(2)]	28/03/2018	Potential for operations to disturb black grouse breeding season.	Operations to take place outside of the breeding season (March to August). Or otherwise a works curfew in dawn dusk period April- early May, and Ecow supervision for nests May to June with constraint zones. This is a UK FS compliance issue.	na				
GE1	[redacted R.11(2)]	28/03/2018	Golden eagles are present within the area. Prior to commissioning surveys the, the PAT model was used to inform the need for a golden eagle survey. This indicated low use, so no vantage point surveys were commissioned. During the moorland bird survey one juvenile was spotted perching on a crag. After consultation with FCS it was agreed that 3 sets of 3 hour vantage point surveys would be carried out. These showed no further sightings. [redacted R.11(2)] noted that this survey intensity was too low. [redacted R.11(2)] noted that this is not typical golden eagle territory and so their use is hard to predict. In a letter following the meeting [redacted R.11(2)] highlighted that one of the vantage points used to survey golden eagles was within the site, which does not follow standard guidance.	From professional ornithologist's observations (including members of the raptor study group), the pair of golden eagles most likely to be affected prefers nest locations >5km to the west and north of the site (with one year closer to the south). The species is known to use the area with a preference for the nearby Beinn Bhan ridge. We suggest that the site constitutes the outer parts of an active eagle range, but that it's importance is relatively low and that existing data is adequate to support this. The vantage point was not within the SRDP application site (there was one record of a juvenile golden eagle seen while undertaking the moorland bird survey within the site). Any revised woodland creation proposal in the Environmental Report will follow the new guidance (soon to be available) on forestry and golden eagles. This is a UKFS compliance issue.	na				
GE2	[redacted R.11(2)]	28/03/2018	Questions raised about prey availability on the site. Black grouse are a prey item for golden eagles.	Any revised woodland creation proposal coming forward in the Environmental Report should identify mitigation measures to ensure there is not a negative impact on black grouse (as GE prey).	Will be covered by black grouse assessment and proposed mitigation in ER.				
GE3	[redacted R.11(2)]	28/03/2018	This and previous plantings are leading to a reduction in eagle habitat. [redacted R.11(2)] would like to see the cumulative effect addressed at EIA. It was also noted that golden eagles adapt to changes in land use and prey.	Advice from GE reports at Barmolloch 3 suggests that the ground is not of high value to GE and woodland creation will not have a significant impact on GE territory or breeding success.	Low				
WC1	[redacted R.11(2)]	28/03/2018	Whinchats are a red listed species and the site has a relatively high number. These are a moorland bird and afforestation would decrease potential habitat.	Any revised woodland creation proposal in the Environmental Report is likely to include a very high proportion of open ground due to mitigation for archaeology and environment, this would lessen the impact on any moorland bird species. See also SoR6	Low				
MF1	[redacted R.11(2)]	28/03/2018	Planting could potentially reduce marsh fritillary habitat.	There are no known records of marsh fritillary within the proposal. Devils-bit scabious can be a good indicator of their presence. Key areas of devils-bit scabious will be identified and remain as open ground or be planted with native woodland.	Low				
HH1	[redacted R.11(2)]	28/03/2018	Planting could potentially reduce hen harrier habitat.	The moorland bird survey showed hen harriers nesting to the north. The revised proposal will include increased open ground, with continuous corridors linked to adjacent hunting habitat. Adjacent sheep walk to the north maintains the required habitat balance for the retention of this breeding species.	Low				



Acha-bheinn

Proposed Black Grouse Study Area

Created On: 08/01/2018

 Proposed Study Area ~ 1,500ha



Scottish Woodlands Ltd
 Research Park, Riccarton
 Edinburgh, EH14 4AP
 1:25,000
 Scale Correct at A3
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 Ordnance Survey 100030835





Scottish
Forestry
Coilltearachd
na h-Alba

South Scotland Conservancy
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southscotland.cons@forestry.gov.scot
[redacted R.11(2)]

[redacted]
Pryor and Rickett
Skiddaw House
Carlisle Airport Business Park
Carlisle
CA6 4NW

Our Reference – 23FGS74574 / 034902016

18/01/2024

Dear [redacted]

The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017

I refer to your consultation in regards to Stobo Woodland Creation scheme which contains proposals for 657 hectares of afforestation, within a total boundary area of 1012ha. We are required to provide a Screening Opinion under the above Regulations as to whether the work you are proposing is an EIA project and will require EIA consent.

The proposed forestry project, referred to as 'Stobo Woodland creation has 548 ha to be planted with conifers and 108 ha broadleaves. 356ha ha will be retained as open ground.

The site is located approximately 4.5 km north east of the village of Stobo, around 11.5 km west of the town of Peebles and 4.2 km north east of the village of Broughton, all within the Scottish Borders. The project areas covers the catchment of the Hopehead Burn with the property boundary following the watershed from Trahenna Hill Hammer Head up to Green Lairs, Pyked Stane Hill round to Flint Hill and Penvalla. An area of approximately 129ha lies within the Easton Burn Catchment. All watercourses run into the River Tweed. 6.3ha of new forest road will also be constructed.

The design of the woodland creation proposal follows three main design principles; open ground on hill tops, along water courses and the valley floor, coniferous planting (mainly Sitka spruce) on the mid slopes, and pine and mixed broadleaves adjacent to the open ground along the water courses, on the valley floor and further uphill adjacent to the spruce in particularly visible or sensitive areas. There is also an area of Douglas Fir proposed north east of Tarcriesh forest.

Scottish Forestry has assessed this proposal for woodland creation against the regulations and have outlined our assessment below, which included consultation with various stakeholders and engaging Forest Research and internal specialists for individual topic specific advice. In addition, the ecological consultancy engaged to undertake the ecological surveys issued a statement (9th January 2024) confirming that Stobo Woodland Creation would not cause significant environmental impacts on the features identified in the ecological surveys.

I can confirm that the work you propose will **not** require EIA consent.

Scottish Forestry is the Scottish Government agency responsible for forestry policy, support and regulation



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S e Coilltearachd na h-Alba a' bhuidheann-ghnìomha aig Riaghaltas na h-Alba a tha an urra ri poileasaidh, taic agus riaghladh do choilltearachd

Biodiversity

Black grouse

Black grouse are located within the Stobo planting area as identified by the Breeding Bird Report.

A black grouse lek and a black grouse breeding site were identified within the site boundary during the 2021 breeding season and reported via the ornithological report. Further consultation took place with RSPB and a further report by the Game and Wildlife Conservation Trust was commissioned in January 2022 with follow up correspondence in March 2023. The following mitigation was proposed in relation to Black Grouse:

- The applicant has reduced the planting area by 39ha. There will be 246.4 ha of open ground within 1.5km of the lek. 186ha of this is within the scheme boundary. Ninety percent of the visible forest edge from the lek site is low density mixed broadleaves or Scots pine and mixed broadleaves.
- The forest edge has been pulled back by 110 metres to the east and 200m to the west from the lek site and 80m from the breeding site.
- The applicant has provided a 'Predator Control Management Plan' to target particular species which could adversely impact upon black grouse.
- Deer fences will be marked for birds to alleviate bird strike risk.

The above issue has been assessed and, with the mitigation outlined, this project is not likely to cause a significant negative environmental effect to black grouse.

Biodiversity

Osprey

Osprey are located within the Stobo planting area as identified by the Breeding Bird Report.

An Osprey nest was identified within the site within the site boundary during the 2021 breeding season and reported via the ornithological report. RSPB and the Raptor Study Group were consulted and the following mitigation was proposed in relation to Osprey:

- No disturbance during the breeding season.
- Planting to be kept back 50m from the breeding site.
- The current stand of trees in which the nest is located is to be retained and to remain prominent in the landscape.
- Scots Pine to be planted in areas closest to nest.

The above issue has been assessed and, with the mitigation outlined this project is not likely to cause a significant negative environmental effect to Osprey.

Biodiversity

Eagles

Eagles are located close to the Stobo planting area as identified by the Breeding Bird Report.

Eagles are known to nest in mature woodlands close to the proposed planting site. Consultation was undertaken with the South Of Scotland Eagle Project, Border Raptor Study Group and the RSPB who all agreed that the planting proposal was unlikely to disturb the golden eagle nest and that the proposal would not impact on the breeding activity of eagles in the area. Hunting ground will be lost to the proposal however and so following mitigation was proposed in relation to Eagles:

- 356ha will be retained as open ground and this will remain available to the eagles for hunting.

- A predator control plan will be implemented and the removal of large mammals, specifically foxes, will reduce predation on smaller to medium sized prey, leaving more available for the eagles to feed on.

The above issue has been assessed and, with the mitigation outlined this project is not likely to cause a significant negative environmental effect to Eagles.

Biodiversity

Groundwater Dependent Terrestrial Ecosystems (GWDTE)

GWDTE are located within the site boundary as identified by the Ecology Report.

Seven flushes of high ecological value were identified in the Phase 1 habitat survey and Ecology Report. Of these, the rich sedge dominated spring line, was already located within a proposed open ground area. The remainder include three acid to neutral flushes and three alkaline to neutral flushes. Furthermore, 24 flushes of medium importance were also identified and of these, nine were within proposed open ground. The following mitigation, in line with Scottish Forestry GWDTE guidance produced with assistance from NatureScot, was proposed in relation to GWDTE:

- Remove all the High Importance GWDTE from the proposed planting area and include a 20m buffer around each site.
- Four of the medium importance flushes, all being alkaline to neutral flushes, to be removed from the planting area and buffered to 20m.
- Ten of the medium importance flushes to be removed from the planting area. Of these, three are located within Native Broadleaves and Low density broadleaved planting areas but will remain unplanted by using variable stocking densities.
- The remaining medium importance GWDTE, a neutral / alkaline flush containing ragged robin, common sedge, march bedstraw, self-heal and meadow sweet will remain within the conifer planting area. The species found within this flush are found within other sites that are to be left unplanted.

The above issue has been assessed and, with the mitigation outlined this project is not likely to cause a significant negative environmental effect to GWDTE.

Biodiversity

Deep peat

Areas of deep peat (50cm +) are within the proposal area as identified by the soil survey.

Using a combination of the broad soil data from the James Hutton Institute and the habitat shapefiles produced by the ecologists during the extended phase 1 habitat assessment high and medium risk areas were identified. These included areas of fen and basin muir, march / marshy grassland, dry modified bog and flushes and springs. Using peat probes, areas of Deep Peat were identified. 14 areas of peat were identified and the following mitigation was proposed in relation to Deep Peat.

- All areas of deep peat (50cm+) to remain unplanted.
- All areas of peat 30cm + to either remain unplanted or within the Low Density Broadleaved option or Native Broadleaved Option.

The above issue has been assessed and, with the mitigation outlined, this project is not likely to cause a significant negative environmental effect to Deep peat.

Biodiversity

Other priority habitats and priority species

Feedback from the public register consultation raised the issue of the presence of purple moor grass and rush pasture priority habitat and dry dwarf shrub heath priority habitat. The following mitigation was proposed in relation to other priority habitats.

- Purple moor grass and rush pasture priority habitat is a lowland priority habitat. This is an upland site. Even so, 70ha of the 165ha of purple moor grass and rush pasture habitat will remain unplanted.
- 110ha of the 390ha of dry dwarf shrub heath will remain unplanted.
- There is an estimated 1.7 million ha – 2.5 million ha of dry dwarf heath shrub in Scotland. (JNCC data).

The above issue has been assessed and, with the mitigation outlined, this project is not likely to cause a significant negative environmental effect in relation to other priority habitats.

Landscape

Upper Tweeddale National Scenic area

The southern part of the proposal is located within the Upper Tweeddale National Scenic Area (NSA) as identified by the Landscape and Visual Appraisal.

The NSA covers an area of 4,902ha and is distinguished by sharply defined, densely wooded valleys with higher, steeper, darker and rugged surrounding hills which provide a sense of enclosure. There is potential for the scheme to have an effect on the following special qualities: Diverse scenery of great charm and beauty, expansive open hills with panoramic views, the variety of woodlands and trees and tranquil riverine landscapes. Consultation was undertaken with Nature Scot, Scottish Borders Council and with advice from the Scottish Forestry Landscape Advisor and through the public register. During this process, the following mitigation was proposed to improve connection between the woodland creation and the landscape qualities:

- Achieving a better balance between open and forested area by increasing the open ground by 55ha. Following on from the public register consultation and after input from the Scottish Forestry landscape advisor, a further 13ha of commercial planting was removed from the scheme in the 'bowl' area to open up the view to the Scots Pine clumps.
- Adjusting the species composition by reducing the area of Sitka by 22ha. This will bring the total area of SS to be planted in the NSA to 196ha, or 4% of the total NSA area.
- Completely removing from the proposal the proposed conifer planting in the Coshbog fields (22ha, not included in the sitka reduction above)
- Using the rule of thirds to pull the planting down from the hill tops so that a third of the height of the hill is visible.
- Opening up views along the John Buchan Way by increasing areas of open ground along the route.
- Adding in areas of open ground around the existing Scots pine plantations.
- Planting over 40ha of native broadleaves and Scots pine within the NSA.

The above issue has been assessed and, with the mitigation outlined this project is not likely to cause a significant negative environmental effect to the National Scenic Area.

Landscape

Tweedsmuir Uplands Local Landscape Area

The Northern part of the proposal is located within the Tweedsmuir Uplands Local Landscape Area as identified by the Landscape and Visual Appraisal.

The Tweedsmuir Uplands LLA covers an area of 53,600ha from just north of Moffat in the south, Yarrowford in the east and up to Blyth Bridge in the north. It comprises steep rolling landform, with deep valleys and rounded peaks of glacial origin. The area lacks the blanket forest cover that affects other areas, and is predominantly open moorland of rough grass and heather. This is a highly scenic area of dramatic landform, and has a significant degree of wildness. In consultation with Scottish Borders Council Landscape Advisor the following mitigation was proposed:

- Using the rule of thirds to pull the planting down from the hill tops so that a third of the height of the hill is visible.
- Opening up views along the John Buchan Way by increasing areas of open ground along the route.
- Leaving three of the fields around Stobohopehead completely unplanted.
- Increasing the areas of open ground.
- The total planting 449ha within the LLA is 0.8% of the total area of the LLA.
- The new forest road will run within the Local Landscape Area. It will follow the contours on the hill and will link up the two existing tracks that run from Stobo Hope head and Hammer Knowe. The road will be less visible 5-10 years after planting once the trees area established.

The above issue has been assessed and, with the mitigation outlined, this project is not likely to cause a significant negative environmental effect to the Local Landscape Area.

Population & Human Health

Private Water Supplies (PWS)

There are private water supplies and associated infrastructure within the proposal as identified by the Private Water Supply Impact Assessment.

Four private water supplies were identified within the PWS Impact Assessment, Stobo Castle Spa, Coshbog, Highfield and West Lodge. In relation to the Stobo Castle Spa PWS and based on the findings of the Impact Assessment and in consultation with Forest Research and based on a further study undertaken by MNV Consulting, the supply of water to the Spa will not be significantly impacted by the proposal. All three reports conclude that the current level of water availability will be maintained. In relation to the impact of forest operations on the quality of the Stobo Spa PWS the following mitigation measures will be put in place:

- Forest and Water Guidelines will be followed at all times.
- A Water Environment Protection Plan has been produced and will be followed.
- A Method Statement of Operations within the PWS has set out the detail of the forest operations, including location of quad bike tracks and burn crossings and timing of operations.
- 50m buffer around the intake.
- 10m open ground buffer, and a further 10m strip of native broadleaved planting, along all the burns that feed the PWS.
- No Forest Operations will take place in the buffer zones.
- The removal of the fields at Coshbog from the planting proposal will result in there being no impact on the three private water supplies that are located there (Coshbog, Highfield, and West Lodge)

The above issue has been assessed and, with the mitigation outlined, this project is not likely to cause a significant negative environmental effect to the Private Water Supplies.

Population & Human Health

Public Access

The proposed area is used for recreation as detailed in Stobo Access Survey and in consultation with Scottish Borders Council Access Officer and by using data from the tracking application Strava. As well as identifying a number of desire lines the survey highlights the popular route, The John Buchan Way, that crosses the site. To ensure there is no significant negative effect on public access across the site the following mitigation measures will be put in place:

- Twelve multi access gates will be placed in strategic locations around the perimeter fence line to allow easy ingress and egress for a range of users to and from the site.
- A buffer of between 10 – 20m (variable, in a wavy line) will be left on either side of all public rights of way that cross the site.

- A quad bike track, ride, coupe boundary or strip of open ground will be located close to all existing desire lines.
- As well as the minimum 10-20m buffer, for the majority of the route the John Buchan Way (JBW) will be within a much wider areas of open ground and along the valley floor the route will feel very open and will be connected to the large area of open ground around Stobohopehead.
- The planting close to the JBW will all be either Native Broadleaves, Low Density Native Broadleaves or Scots Pine.

The above issue has been assessed and, with the mitigation outlined, this project is not likely to cause a significant negative environmental effect to public access.

Population & Human Health

Timber transport

A timber transport appraisal was undertaken and this included an assessment of the productive potential of the scheme, haulage volume calculations and details of how the timber would be removed from site onto the B712. It is estimated that around 300,000 tonnes of timber would be removed from the site over a twenty year period with on average 4-5 loads a day during the extraction phases. Scottish Borders Council Roads Department were consulted and stated that they are content with the appraisal that highlighted the following:

- The B712 is an agreed route for timber haulage.
- The surrounding forestry properties are at different ages and therefore they will be felled at different times to the Stobo proposal.
- There are two routes to the B712 from Stobo, Route A which serves Stobo Home Farm and Route B which serves Easter Knowe Farm. It estimated that around 78% of the timber will be removed from route A and 22% from route B. Having two routes gives greater flexibility.
- At the time of felling a timber transport management plan will be produced and agreed with SBC roads department and further consultation will take place with other road users once harvesting commences.

The above issue has been assessed and, with the mitigation outlined, this project is not likely to cause a significant negative environmental effect in relation to timber transport .

Cultural Heritage

Archaeology – Scheduled monuments

Scheduled monuments are located within the proposal as identified by the Archaeology Survey.

Three scheduled monuments are located within the site. These are SM3094 (NT1528 3866) Fort and Settlement on Hammer Knowe, SM3217 (NT 1317 4030) Homestead located near Clashpock Burn and SM2778 (NT 1590 3923) Barrows and mounds on south east flank of Huskie Rig. In consultation with Historic Environment Scotland and Scottish Borders Council Archaeology the following mitigation has been proposed in relation to scheduled monuments:

- All scheduled monuments to be unplanted and buffered to 20m.
- Open views to the north and south from fort on Hammer Knowe to be maintained.
- All planting surrounding the scheduled monuments (and buffer areas) to be broadleaves.

The above issue has been assessed and, with the mitigation outlined this project is not likely to cause a significant negative environmental effect to scheduled monuments.

Cultural Heritage

Archaeology – Other archaeological features of high significance

Other archaeological features of high significance are located within the proposal as identified by the archaeological survey.

Seven other archaeological features of high significance were identified in the archaeology report. These include a cairn from the prehistoric period (NT 1229 4109), a prehistoric scooped settlement (NT 1542 3873), four tree plantations from around 1500 AD, all located near the Whanslee Burn, and a dam and sluice also from around 1500AD. In consultation with Scottish Borders Archaeology the following mitigation has been proposed in relation to the other archaeological features of high significance:

- The pre historic Cairn is within an area of open ground.
- The prehistoric scooped settlement to be unplanted and within a 20m buffer of open ground with the surrounding planting to be native broadleaves and for a view to be left open to the west towards the fort on Hammer Knowe.
- The four tree plantations are to remain, with enhancement planting of Scots Pine taking place within the original plantation boundaries. A buffer of open ground will be left around each plantation with the area within the centre to be left unplanted.. At least half of Sanoting Point wood will be adjacent to SP, and there will be Scots pine to the north and south of Louden Knowe Wood. The round plantation will be planted with SP and there will be an area of native broadleaves and open ground to the south east of hog Knowe Wood. The setting and view of the woodlands will remain, although the plantation behind will be visible.
- The habitat management plan will ensure any self-seeded spruce will be removed from the plantations.
- The dam and sluice are located out with the proposal area.

The above issue has been assessed and, with the mitigation outlined this project is not likely to cause a significant negative environmental effect to other archaeological monuments of high significance.

Land

Concerns raised over the dominance of the proposed afforestation programme at Stobo and the reduction of agriculture in the area.

A Woodland Creation on Agricultural Land Report was produced which assessed the impact that afforestation would have on agriculture. It concluded that the planting would result in the removal of 51.5 livestock units from the local farming economy. In consultation with SGRPIP it was agreed that:

- The removal of the livestock would have minimal regional and national impact.
- The potential loss of employment of the land being planted is a consideration however additional employment may be created through the tree planting.
- The removal of the fields at Coshbog increase the opportunities of integration between farming and forestry.

The above issue has been assessed and, with the mitigation outlined this project is not likely to cause a significant negative environmental effect in relation to the reduction in agricultural productivity.

Climate Change

Carbon

The planting proposals will sequester around 171,000 tCO₂e. This figure takes into account losses of carbon through soil disturbance and the use of fuel during ground preparation. To ensure that the maximum amount of carbon is sequestered the following is proposed:

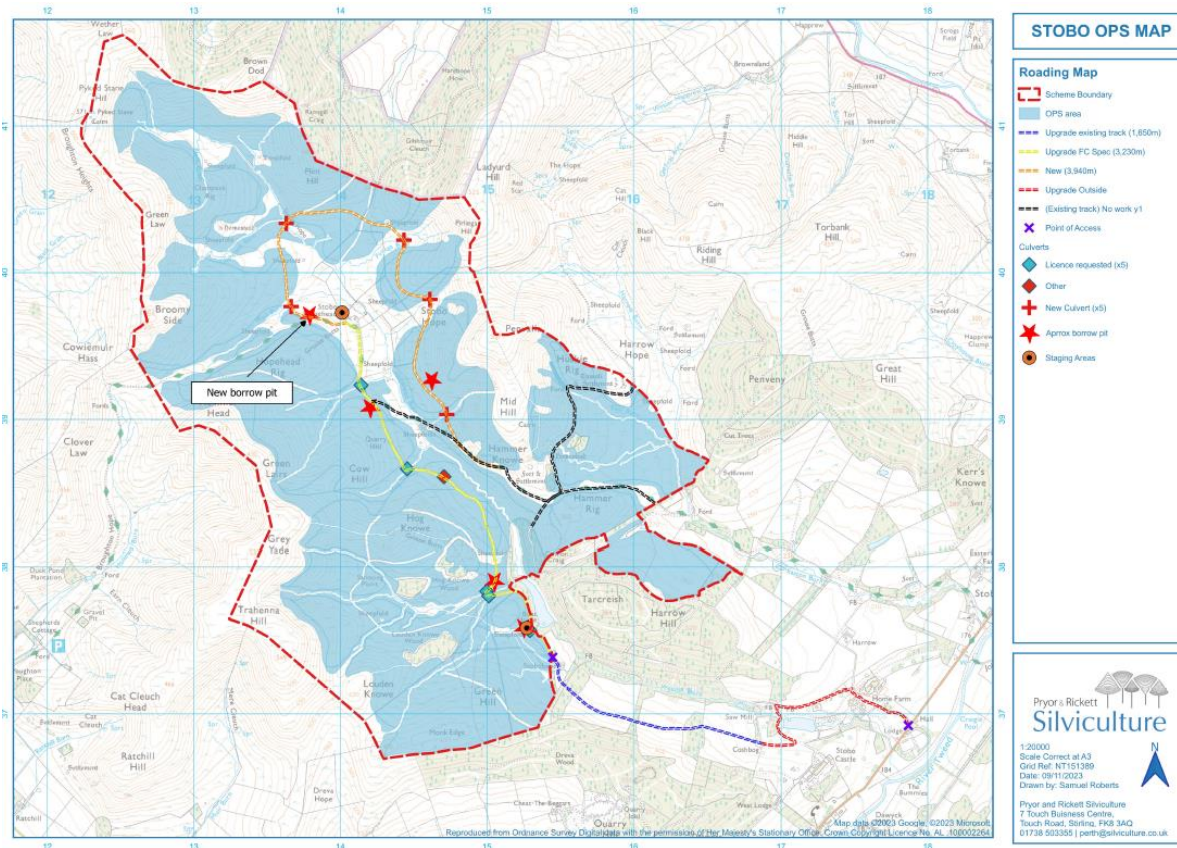
- No deep peat to be planted on
- Ground preparation to use minimum soil disturbance and no ploughing used.
- Quality timber to be grown to maximise the amount of construction grade end product.

The above issue has been assessed and, with the mitigation outlined this project is not likely to cause a significant negative environmental effect in relation to climate change.

Material Assets

As part of the woodland establishment and afforestation programme at Stobo, a new forest road will be constructed using material from an onsite quarry / borrow pit.

A new forest road will be constructed using material from onsite borrow pits and a quarry. New drainage will also be considered when these roads are constructed. The plan below identifies the location of the new road and borrow pits. The following mitigation was proposed in relation to the construction of the new forest road:



- The roads map (above) includes details of road lines, watercourse and drains. Buffer areas are shown as well as PWS.
- Wet weather working will be avoided during the construction phase to minimise diffuse pollution risk.
- Durable material will be used during the construction phase to reduce the risk of road deterioration and run-off.
- All new drains will be installed to be compliant with Forest & Water Guidelines, including not being connected to nearby watercourse. Drains will discharge onto vegetated areas at regular intervals.
- Vegetation in roadside drains will be retained as this creates a natural filter for pollutants.
- No works to commence before SEPA authorisations granted for watercourse crossings, and if the design changes from that provided to Scottish Forestry in November 2023, then updated design specifications need to be provided to Scottish Forestry.
- No works to commence before SBC Prior Notification obtained.

The above issue has been assessed and, with the mitigation outlined, this project is not likely to cause a significant negative environmental effect to land and water environments from forest road construction.

Habitat Regulations Appraisal

There is an indirect connection between Stobo Woodland Creation and River Tweed SAC. At its closest point the scheme is 2,702m upstream from the River Tweed. NatureScot did not request that an HRA was undertaken, however for completeness Scottish Forestry have done an HRA. This concluded that the implementation of the water environment protection plan and following the UK Forestry Standard will in combination be sufficient to protect the water quality in the wider catchment. Coupled with the distance between the proposal area and the SAC and the buffering capacity of the connecting watercourses and lochs it can be concluded that the proposal will not have an adverse effect on the integrity of the River Tweed SAC.

Cumulative Impacts

The impacts of this project must also be assessed in relation to its cumulative effects with other approved, recently completed projects or projects that are being planned that could affect the same factors/receptors such as population and human health, biodiversity, land, cultural heritage and the landscape.

There are three other projects that are in close proximity to Stobo Woodland Creation that may increase or reduce the significance of the potential impacts identified within this screening opinion. These projects are all under different ownership and have different agents acting on behalf of the landowner. These another projects are:

- Broughton Woodland Creation. This is located to the west of Stobo woodland creation with a shared boundary from Trehenna Hill to Broomyside. The total project area is 171ha with the planting area covering 143ha. The EIA determination for this scheme was undertaken in April 2023 and the Forestry Grant Scheme was approved in May 2023. Of the 143ha of planting, 75ha was under the conifer option, 33ha diverse conifer and 35ha Native Broadleaves.
- Dreva Hope Woodland Creation. This is a conifer, diverse conifer and broadleaved scheme covering 18ha and located to the south of the Stobo scheme with a shared boundary of around 300m at Great hill. Dreva Hope was approved and planted in winter 2023.
- North Harrowhope Woodland Creation. This case has recently been submitted but is not finalised and has not been consulted on. It currently consists of 109ha of mixed conifer planting within a total project area of 148ha. The species proposed are scots pine, douglas fir, Norway spruce with 11ha of native broadleaves. North Harrowhope shares a boundary to the East of Stobo along Mid hill and Hammer Knowe.

The total contiguous project area of all three projects is 1,362ha with a total planting area (or proposed planting area) of 927 ha. Within that 927 ha at least 10%, or 95ha, will be open ground.

To assess the cumulative impacts of all four schemes, in relation to the Stobo proposal, each of the potential impacts have been reassessed.

Biodiversity – Black Grouse

No black grouse were identified within the Broughton or Dreva Hope planting schemes. Two black grouse were seen within the Stobo boundary during the first North Harrowhope survey undertaken in spring 2021 (they were not seen in subsequent surveys). These are probably foraging grouse from the nearby Stobo lek. No other Black grouse were seen within the North Harrowhope boundary.

The lek and breeding site at Stobo are likely to be the only black grouse lek and breeding site within the cumulative area. The area of open ground available to the grouse is a key element of the mitigation of the Stobo scheme. The North Harrowhope Scheme has proposed planting within the 1.5km radius of the lek site and this may reduce the availability of open ground to the grouse at the Stobo lek. Therefore there will have to be mitigation within the North Harrowhope scheme to ensure that sufficient open ground is available. The other mitigation proposed for the Stobo Scheme, namely predator Control Plan and fence markers will also be required for the North Harrow hope Scheme. The current species

proposals within the North Harrowhope are primarily Scots Pine in the areas closest to the lek and the breeding site, but these designs will be further consulted on.

The mitigation proposed in relation to Black Grouse for Stobo, along with the mitigation that will be included within the north Harrowhope Scheme, is sufficient to ensure there is no significant impact assessed cumulatively with adjacent proposals.

Biodiversity – Osprey

There is an osprey nest within the Stobo boundary and no further ospreys were found at Broughton, Dreva Hope or North Harrowhope. Ospreys feed on fish and so the forestry planting will not affect their feeding.

The mitigation proposed in relation to Osprey for Stobo is sufficient to ensure there is no significant impact assessed cumulatively with adjacent proposals.

Biodiversity - Groundwater Dependent Terrestrial Ecosystems

By their nature GWDTE are usually small and localised areas of high botanical interest with little connectivity to distant GWDTE (although the springs may emerge from connected geological strata). All important flushes within the Stobo scheme and Broughton Schemes were left as open ground with buffers and the North Harrowhope Scheme will only be approved if any important flushes within the boundary are also left unplanted and buffered,

Therefore the mitigation proposed for Stobo is sufficient to ensure there is no significant impact even when assessed cumulatively with adjacent proposals.

Biodiversity - Deep peat

No deep peat was found at Broughton Knowe or Dreva Hope. Areas of Deep peat will not be planted at Stobo. A small area of peat was found in the very north of the North Harrowhope plantation and this will be left unplanted.

Therefor the mitigation proposed for Stobo is sufficient to ensure there is no significant impact even when assessed cumulatively with adjacent proposals.

Landscape

All four schemes are located wholly or partly within the National Scenic Area.

Consultation feedback from NatureScot and SBC landscape has been given for Stobo (and previously for Broughton Knowe and Dreva Hope). The application for North Harrowhope has only recently been submitted and the appropriate landscape assessment has not been undertaken. Therefore it is not possible at this time to assess whether the addition of the North Harrowhope Scheme to the area will cause a significant negative environmental effect. The landscape appraisal for North Harrowhope will need to include a landscape assessment that includes Broughton Knowe, Dreva Hope and Stobo.

Providing a landscape assessment, that includes all four schemes, with the North Harrowhope application will ensure there is no significant impact in regards the Stobo even when assessed cumulatively with adjacent proposals.

Population & Human Health

Private Water Supplies (PWS)

All the private water supplies within the contiguous area are discrete and within the watershed of each individual scheme. Therefore the proposed planting of one scheme will not have an impact on PWS contained within another scheme.

Therefore the mitigation proposed for Stobo is sufficient to ensure there is no significant impact even when assessed cumulatively with adjacent proposals.

Population & Human Health

Public Access

Public access is to be maintained and encouraged within the Stobo scheme. Two multiuse gates will allow access from Stobo to North Harrowhope, and there are two multiuse gates proposed between Stobo and Broughton Knowe. All current public paths and rights of way will be maintained, even when these cross between the properties. The SBC access officer has been consulted on both Broughton Knowe and Stobo and will also be consulted for North Harrowhope.

Therefore the mitigation proposed for Stobo is sufficient to ensure there is no significant impact even when assessed cumulatively with adjacent proposals.

Timber transport

The timber access for Stobo joins the North Harrowhope route at Harrow Hope and comes through Penveny Forest and down the access road to Easter Knowe Farm and beyond onto the B712 agreed route.

To mitigate against significant negative impacts caused by too many timber lorries using the Easter Knowe Farm access (route B in the Stobo Scheme assessment):

- A timber transport assessment will be a requirement for the North Harrowhope Scheme.
- Forest Plans for each of the forests will need to be produced before felling commences and as part of this process an overview of the timber haulage will be undertaken to ensure that the timber access routes are used appropriately with a limit of the number of waggons per day. The council roads department will be consulted as part of the forest plan approval process.
- The species choices for North Harrowhope are Scots Pine, Douglas Fir and Norway Spruce. The yield class for these are (on average) 11, 12 and 16 respectively. Therefore the main phase of felling will be behind the main phase of felling for Stobo.

Therefore the mitigation proposed above and for the Stobo scheme is sufficient to ensure there is no significant impact even when assessed cumulatively with adjacent proposals.

Cultural Heritage

Archaeology – Scheduled Monuments

There are Scheduled Monuments within the Stobo Scheme and the North Harrowhope Scheme (there are no scheduled monuments within the Broughton Knowe and Dreva Hope Schemes). The Huskie Rig monuments straddle the boundary between Stobo and North Harrowhope and on both sides of the boundary the SM will be left as open ground with a buffer area as agreed with HES and the council archaeologist. The other SMs will be left as open ground within both schemes.

Therefore the mitigation proposed for the Stobo scheme and the requirement to follow the recommendations given by HES for the North Harrowhope scheme will be sufficient to ensure there is no significant cumulative impact.

Cultural Heritage

Archaeology – Other archaeological features of high significance

There are other archaeological features within the North Harrowhope scheme and these will be assessed and consulted on as part of the North Harrowhope pre-application consultation and EIA determination. It is unlikely that these archaeological features are connected to other features that are within the other schemes, particularly Stobo, to the extent that they require more than the standard mitigation of leaving the unplanted with a surrounding buffer zone.

Therefore it is unlikely that there will be a significant impact on archaeology even when assessed cumulatively, that cannot be mitigated against using the standard protections outlined in UKFS and agreed with HES and the council archaeologist.

Land

The cumulative loss of agricultural land as a result of 1,362ha of agricultural land being removed from agricultural activity. Of the 1,362ha of land, RPID have been consulted on the removal of 1,044ha and have concluded that there will be minimal regional and national impacts. Therefore it is unlikely that a further 148ha will cause a significant cumulative impact.

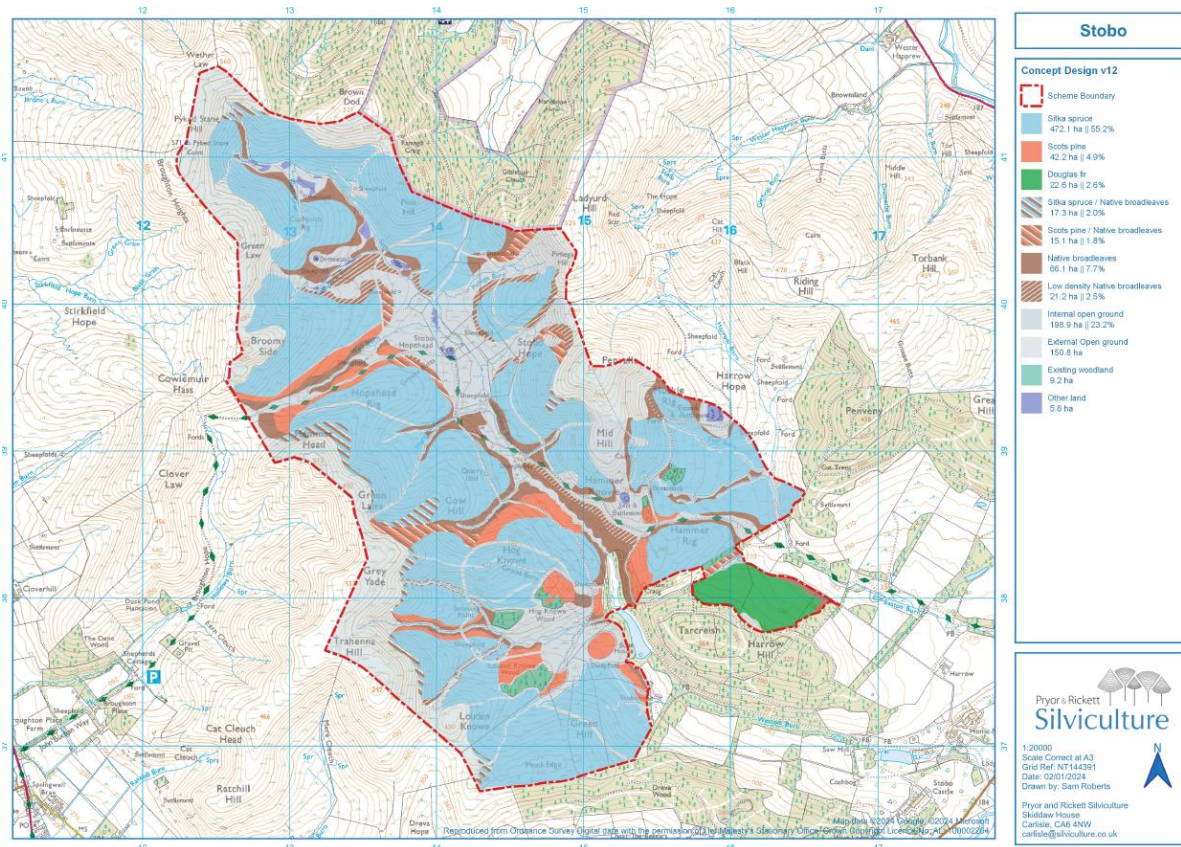
Summary

There have been several sensitivities identified, namely black grouse, priority habitats, PWS, road construction and drainage, access, landscape and archaeological sensitivities. Early engagement with stakeholders and consultees has enabled a thorough assessment of the issues which, where necessary, have been mitigated to significantly limit any negative impact on the environment.

Work in relation to this forestry project is expected to start within 5 years and be completed within 10 years from the date of this letter. If you have not started any of the work identified in this screening opinion within 5 years from the date of this letter but still wish to proceed with the project, then please advise us. We may choose to screen the proposal again to decide whether your project requires EIA consent under these Regulations.

Please note that if you intend to apply for grant funding for this work, you must wait until you get an approved contract from us before you start any of the work.

Please find below the final design map(s) for this project:



Work in relation to this forestry project is expected to start within 5 years and be completed within 10 years from the date of this letter. If you have not started any of the work identified in this screening opinion within 5 years from the date of this letter but still wish to proceed with the project, then please advise us. We will screen the proposal again to decide whether your project requires EIA consent under these Regulations.

Please note that if you intend to apply for grant funding for this work, you must wait until you get an approved contract from us before you start any of the work.

Yours sincerely

[redacted R.11(2)]

[redacted R.11(2)]

[redacted R.11(2)]



Scottish
Forestry
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Gresham House
c/o [redacted]
Speyside Business Centre
8 West Street
Fochabers
IV32 7DJ

Our Reference – WCP-141

12th October 2023

Dear [redacted]

The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017

I refer to your application Glen of Rothes New Woodland Creation at Rothes which contains proposals for, 433ha hectares of afforestation and 5.5ha of new forest roads.

We are required to provide a Screening Opinion under the above Regulations as to whether the work you are proposing is an EIA project and will require EIA consent.

I can confirm that the work you propose will **not** require EIA consent.

This decision is based on the final species planting design; information provided by you within the Screening Opinion Request and its supporting information; and our understanding of the site and issues as informed by site visits and assessments. This has allowed us to conclude the following with respect to the EIA receptors on site:

Population and Human Health

1. Proposal has the potential to impact private water supplies.

A private water supply assessment (PWS) has been carried out to inform this proposal. It identifies 23 PWS within 1km buffer of the site boundary. The report identified seven PWS at unmitigated risk from forestry operations. The main potential effects of the forestry works on the PWS have been identified as loss of quality, from sedimentation and chemical pollution, and loss of quantity, from reduction in recharge, damage to groundwater aquifer and hydrogeological connectivity, of both surface and groundwaters.

Potential significant effects have been addressed by adopting the following mitigation measures as recommended in the Glen of Rothes PWS Assessment report:

- No ploughing within PWS surface water hydrological catchments;
- 50m protective buffer zones applied to abstraction points;
- Low density planting within PWS surface water hydrological catchments;
- Protection of springs from livestock poaching and planting;
- Protection of hydro-geological pathways;
- Protection of the tank storage capacity and the treatment works; and

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S e Coilltearachd na h-Alba a' bhuidheann-ghnìomha aig Riaghaltas na h-Alba a tha an urra ri poileasaidh, taic agus riaghladh do choilltearachd

- Management of clean water in cut-off ditches/installation of SuDS treatment.
- An appropriately qualified Hydrological Clerk of Works (HCoW) or individual from Scottish Woodlands to adopt the role of a HCoW (or similar) will be appointed to provide onsite advice regarding the permanent and temporary forestry drainage design, proposed mitigation measures and to undertake in-situ monitoring within the PWS catchments.
- Monthly extractive sampling for laboratory analysis will also be undertaken during planting and felling operations.

Additionally, PWS pipelines have been buffered in open ground. During operations, the need to cross pipelines will be minimised and pipes will be protected where required. No linear cultivation will be carried out within catchment areas to limit rapid drainage and maximise water infiltration. Pollution prevention measures will be undertaken, including the use of exclusion buffers to prevent machinery and chemical/fuel use within sensitive areas. Machinery operators will be provided with spill kits on site and sediment traps will be installed to reduce risk of material entering watercourse where required. Forest and Water Guidelines will be followed, and a Diffuse Pollution Control Plan will be implemented during the operational phase.

2. Proposal has the potential to impact informal recreational access across the site

There is currently some informal access around the site and along the old railway line. The proposal provides new informal footpaths and retains existing recreational access, including the old railway line which is an aspirational core path. Where deer fencing crosses access routes, self-closing pedestrian gates will be installed to facilitate access. These are shown in Map 4: Infrastructure. A new car park to accommodate up to 6 cars will be built next to the turn-off for the fishery to support recreational use of the site. Where the old railway line runs adjacent to Birchfield Halt, the new footpath will be run along the adjacent field boundary to help create space between the house and footpath.

Soil

1. There is potential for deep peat soils to be distributed across the planting area.

A soil assessment has been undertaken which identified peat soils within the site along with peaty gleys, peaty podzols and brown earths. A peat depth survey and topographical assessment was carried out to identify and exclude all deep peat over 50cm from the planting areas.

Potential significant effects have been addressed by removing all peat over 50cm in depth from the planting area to ensure that all deep peat over 50cm has been retained and buffered. Areas of deep peat greater than 0.25 ha in extent have been identified and excluded from the proposed Woodland Creation area. Areas less than 0.25ha and deemed unmappable will be marked on the ground prior to any cultivation works taking place.

Cultivation will largely be by continuous moulder and excavator mounding dependent on topography. Mounding will be from short shallow trenches where possible or inverted mounds and ground preparation types have been informed by soil type. Where soil is shallow (5-15cm) and the excavator cannot break through the hard pan and/or bedrock, scarification is the preferred method of cultivation to break up the soil. Where this is adopted the scarifier will be raised at 20-30m intervals to reduce water run-off and the likelihood of diffuse pollution and soil erosion. Maps 6 and 6.1 illustrate proposed cultivation across the site.

All cultivation and drainage works will comply with SF "Cultivation for upland productive woodland creation sites" Guidance (July 2021).

Biodiversity

1. Proposal has the potential to impact on priority habitats and species

A terrestrial ecology survey was undertaken in 2021 by Blairbeg Consulting. This include an European Protected Species survey and a Phase I habitat survey These were informed by desk-based research for records and background data on UKBAP and LBAP species which could be affected by the proposal. Specialist advice was also sought from NatureScot and Butterfly Conservation Scotland.

Walkover survey further evaluated habitats and species distribution or potential across the site and identified any areas which are not suitable for planting with these being excluded from the planting area and retained in open ground. The proposal has incorporated these recommendations into the design.

The majority of higher ground on the site consists of expanses of blanket mire communities. These are generally dominated by M17 *Trichophorum germanicum-Eriophorum vaginatum* blanket mire and M19 *Calluna vulgaris-Eriophorum vaginatum* blanket mire. At higher elevations and on exposed ridges and knolls evidence of erosion is apparent, with sometimes extensive areas of gullying and/or bare peat.

Steeper ground and areas of shallower soil are dominated by a mixture of dry and wet dwarf shrub heaths, varying with groundwater movement and substrate dryness. H10 *Calluna vulgaris-Erica cinerea*, H12 *Calluna vulgaris-Vaccinium myrtillus*. Large areas of these dwarf shrub heaths, particularly in the east of the site, have been grazed or are in mosaic with acid grassland, acid flush and marshy grassland communities. Gullies and riparian zones, including those on hill ground within wider expanses of heath and mire, are occupied by sedge and rush-dominated acid flush communities, and are frequent and sometimes extensive along narrow drainage lines from higher to lower ground.

Gentle slopes and flatter areas along glen are affected by agricultural improvement, and a network of active and abandoned field systems are dominated by acidic and neutral grassland pasture, with wetter areas transitioning to marshy grasslands. Fields in the valley floor are dominated by arable land use and mixed woodland planting.

Woodland communities comprise both semi-natural and exotic plantation. Fragments of broadleaved woodland dominated by Birch (*Betula sp.*) woodland are particularly prevalent along the northwestern slopes of Brown Muir. Scattered Scot's pine is frequent along woodland edges on both east and west sides of the glen. More established semi-natural woodland is present along larger watercourses eg. Gawrie burn. Large exotic and Scot's pine plantations are present throughout low/mid elevations with some mixed plantations present along the valley floor. Other habitat types recorded were fragmentary or highly restricted in nature but include bog pools, sedge-mires, marshy grasslands, Willow and Gorse scrub and Bracken.

This survey found one GWDTE which has been retained and buffered in open ground as per the report recommendations. Dry modified bog was identified as offering some suitability for planting dependent on the underlying peat depth. The accompanying peat depth assessment identified that around 18ha of this habitat is on peat less than 50cm in depth which is suitable for planting as per the report recommendations.

A badger sett has been recorded within the proposal boundary. Potential significant impacts have been mitigated by badger gates to be installed on the new fencing to facilitate the free movement of badgers. Forestry Practice Guide 9 'Forest Operations and Badger Setts' will be followed. Legislation and best practice will be adhered to, with licencing from NatureScot obtained if required.

No evidence of otter has been recorded on the site. Should otter be encountered during operations, FCS Guidance Note 35c Forestry & Otters will be adhered to mitigate against any significant potential impacts.

2. Proposal has the potential to impact breeding birds through displacement and disturbance

A breeding bird survey and black grouse survey was undertaken in 2021 by Blairbeg Consulting. RSPB were also engaged to offer comment on the design and mitigation with regards to bird interest.

The survey recorded Ten red-listed species held breeding territories within or just outside the site – Black grouse, Cuckoo, Curlew, Lesser redpoll, Linnet, Mistle thrush, Skylark, Spotted flycatcher, Song thrush and Yellowhammer. In addition, eight amber-listed species – Barn swallow, Bullfinch, Common gull, Kestrel, Meadow pipit, Reed bunting, Short-eared owl and Willow warbler were recorded during the course of bird surveys within the survey area. Most species recorded at Glen of Rothes and listed as birds of conservation concern are not considered sensitive to woodland establishment, and many are positively associated with woodland eg. Cuckoo, Mistle thrush, Song thrush and Spotted flycatcher. However, others will be sensitive to loss of open ground habitats eg. Skylark, Linnet, Meadow pipit and Reed bunting. No specific measures are considered necessary for these species, as all are considered widespread in a regional context. The survey report did recommend mitigation measures to reduce significant negative impacts on black grouse and curlew.

Black grouse were recorded displaying at one location. Potential significant impacts are mitigated by retaining the lek in open ground with a 200m buffer around the lek site. The landowner will additionally undertake to remove natural regeneration within the 200m buffer to maintain as open ground in perpetuity. To reduce the risk of fence collision, fence-marking for black grouse will be incorporated into new fencing required to enclose the proposed planting site, as per recommendations in FC Technical Guidance Note 19 – Fence marking to reduce grouse collisions (2012).

Possible breeding pairs of curlew were recorded at three locations across the site. The proposal has minimal impact on 2 of the territories where new planting comprises 3% and 7% of the recommended 500m buffer around the territory centre and retains significant suitable habitat within this buffer. Around the third territory, new conifer planting makes up 30% of the 500m buffer and the use of open ground and native broadleaves will create linkage to alternative habitat within 500m of the territory centre however it is likely that this pair will be displaced over time. Across the scheme area this represents 0.3pairs/km². The BTO wader sensitivity map shows curlew abundance as 'cool'. The breeding territories are already adjacent to existing conifer plantations. The potential displacement of one breeding pair of curlew is not considered to be significant.

3. Proposal has the potential to displace deer populations

Glen of Rothes hosts a roe deer population and there is a migratory herd of red deer which transitions between Teinland Forest, Black Hills and Rothes Estates. Potential significant impacts of afforestation have been mitigated through the Deer Management Plan to be implemented to support successful establishment and inform efforts for collaborative control and engagement with neighbouring landowners. The Plan aims to keep deer numbers at between 3-5 deer per km² and at a level which will support natural regeneration. Deer fence enclosures will be regularly inspected. A zero-tolerance approach will be taken to deer found within the fence and control will be carried out through culling. A baseline survey of deer numbers will be carried out to inform deer management prior to planting and to inform cull targets.

4. Proposal has the potential to impact existing native woodland habitat

There is existing native woodland and natural regeneration across the site. Potential significant impacts have been mitigated within the design by identifying areas of existing woodland and retaining these within the design. A Natural Regeneration Assessment has been carried out to identify and remove from the planting areas any area where existing regeneration is over 20% canopy. This will allow areas of established natural regeneration to develop naturally and this will be supported by reduced browsing damage as a result of deer control and fencing. The fencing prescription is appropriate to manage deer where control will be compromised in locations near the road, fisheries and private properties. Rhododendron control within the existing ancient woodland is being carried out to minimise the spread of this invasive species. New native woodland planting stock will be sourced from seed zone 202 and the NVC woodland type mixes are climatically suited to the site.

Cultural Heritage

1. The proposal has the potential to impact archaeology and historic environment features across the site

An Archaeological Survey has been undertaken and provided in support of the proposal. During the walkover, 45 features of local or regional significance were recorded with recommendations for mitigation. These have been adopted in the proposed design.

Features W1 – 16 and W31 – 47 are retained in a 5m open buffer with features W17 – W28 retained in 10m open ground buffers. Features W29, W30 and W43 are of negligible significance with no buffer required. To retain intervisibility between Features W17 – W28, this whole cairn field has been retained in an area of open ground to avoid disturbance.

Birchfield Halt was identified as a cultural heritage feature during stakeholder engagement and has been retained in an open ground buffer of 100m.

Prior to work commencing on site features close to working areas should be marked off using suitable markers. These markers should stand over 1m above ground height and be robust enough to last for the duration of the project. This will serve as a reminder to those working on the site not to damage these by driving over them and reduce operational risk to archaeological features during ground works and planting. A toolbox talk will also be provided to all personnel working on the site to highlight the presence of archaeological features, their locations and point out appropriate action.

Material Assets

1. Proposal has the potential to affect A941 road and utilities crossing the site

Site is bisected by the A941 which is an 'Agreed' route within Grampian Timber Transport Group. Future timber will be transported via private road directly onto the A941; or via a short section of a minor public road (consultation route within GTTG) from the Barluack road end onto the A941. Moray Council have been engaged and have agreed with this approach.

The risk of trees falling on to the public road has been mitigated through the revised design with no new planting within 5m of the carriageway surface.

Moray Council own a weather station within the proposal area which has been identified and retained in an open ground buffer to retain access.

Access to WiFi Scotland infrastructure within the proposal area is retained under the recreational access provision.

Overhead power lines cross the site. These are retained in open ground wayleaves of 10m either side of the transmission line.

2. New forest roads are proposed to service the woodland creation

The proposal includes three new roads. Two are situated on the north east side of the A941 and the third is located on the south west of the A941 allowing access to Scar Hill. These are shown on Map 4 Infrastructure Map.

To the north east side of the A941, road works involves two separate road networks. One road starts half way up the Barluack access road, going through compartment 4 then ending in 2. The total length of this road is circa 1500m (2.37ha). This will provide access to the top of the hill due to there being no right of access through the Barluack settlement. The second road of 788m starts in the field adjacent to the estate owned trout fishery. The area of this road is 0.80ha. Both will provide access for management operations including timber haulage in future.

The road works on the west side of the A941 will continue from the existing road network providing access to Scar Hill. The total meterage for this section of road is 2486m and the area totals 2.5ha.

The proposed new forest roading at Glen of Rothes has been located to optimise future access for timber haulage in response to site gradient and topography and constraints such as archaeology, watercourse crossings and organic soil to avoid increase risk of impact on these features. A peat survey has been conducted along road corridor to confirm there is no peat over 2m depth. As per Forestry Commission Technical Note 20 'Reducing greenhouse gas emissions from forest civil engineering' where peat is over 50cm deep and less than 1m, the peat layer will be stripped to form hard subbase. Where peat depth exceeds 1m, the road will be 'floated' on top of existing surface. This will be done utilising a geogrid installed in line with manufacturer's instructions. Based on the survey information provided it is not anticipated that new roading will be constructed on peat depths in excess of 1m and road lines may be micro cited to minimise peat disturbance. No new road construction will be carried out on peat depths in excess of 2m in line with the recommendations of FCTN20. Granular material will be laid onto any geogrid used to form road sub-base where the road is floated to help to maintain hydrological flows under the road. The road is to be surfaced with suitable locally dug or locally imported material to form the final road surface. Relief culverts of 300mm diameter to be installed as required in appropriate locations and spacing depending on gradient. Additional relief culverts will be installed on peat greater than 50cm in depth to help maintain downhill water regime and these will be a maximum of 50m intervals. Silt traps will be installed on watercourses to reduce the risk of sediment transfer and the Diffuse Pollution Control Plan will further mitigate risks to the water environment.

Water

1. Proposal has the potential to impact the water environment

The proposed planting area incorporates several watercourses and tributaries of the Broad Burn and Burn of Rothes, Burn of Stonehouse and Burn of Whiterashes which feed into the River Spey SAC which is designated for Atlantic salmon, sea lamprey and freshwater pearl mussel and sensitive to diffuse pollution and sediment entering the catchment.

Potential significant impacts have been mitigated through the site-specific Diffuse Pollution Control Plan. Implementation of this should prevent silt and pollution from entering the tributaries of the Broad Burn and Burn of Rothes, Burn of Stonehouse and Burn of Whiterashes during ground preparation, planting and the construction and operation of the new forest road by installing silt traps within roadside ditches and maintaining these in perpetuity. The proposed cultivation methods of mounding and scarification have been selected to reduce soil disturbance and risk of run-off across the site. Watercourses are retained in open ground and there will be no cultivation within this buffer as per the UKFS. During the road use phase, silt trap maintenance will continue to mitigate risk of sediment entering watercourses. Forest operations will adhere to UKFS and Forest and Water Guidelines. Relevant planning permissions and CAR licenses will be obtained prior to operations taking place.

Where localised drainage works are required, these will also comply with comply with the 'Forests and Water' guidelines (5th Edition). Specifically:

- new drains will not exceed 2 degrees angle of slope
- new drains will terminate well short of any watercourses
- drain ends will be channelled upslope at their termini
- silt traps will be constructed to prevent sediments reaching watercourses
- drainage works will be undertaken immediately after the ground preparation has been complete

No aerial application of Asulox will be carried out to control bracken. Bracken will be predominately controlled by hand hooking around planted trees rather than by chemical application which negates risk to water environment. Trees will be fertilised at time of planting with 10g/tree of NPK tree boost fertiliser in the planting notch at time of planting. Remedial forestry slow release N,P,K fertiliser may be used in late spring/early summer in the latter years of the scheme if heather regrowth creates check. Use of fertilisers will follow current best practice guidelines including UKFS Forest and Water

guidelines. No fertilisers shall be applied in priority habitats, around priority plant species or around veteran trees.

Landscape

1. The new planting will have a visual impact in the landscape as a land use change

Glen of Rothes is bisected by the A941 road and is prominent in the local landscape. The existing landscape described as Landscape Character Type 290: Upland Moorland & Forestry. The key characteristics are the relationship between forestry and moorland hills and the more intimate farmed landscape in the valleys.

A Landscape Assessment has been provided which demonstrates how the proposed design fits with the Landscape Character Type and responds to the landscape features. The design has been revised to pull planting back from the from east side of A941 to maintain the best agricultural land in the valley and maintain the limited open views from within the valley. Views on west side of A941 are limited due to topography. Native broadleaves are used to create diversity before going into less visible larger scale conifer planting. Natural regeneration is being protected and encouraged to help create more permanent forest structure through the commercial blocks. Prominent hilltops are retained and large areas of open moorland are retained at higher elevations. Species choice and design help to create more visual diversity in what is already a forested landscape and mitigate potential significant impacts.

Land Use:

1. Proposal has the potential to have a significant impact on local and regional agriculture

Glen of Rothes Estate is currently under a mixture of forestry, farming, and open hill ground with the land included in the woodland creation boundary used for a mixture of livestock grazing on the upland slopes and arable farming on the lower ground situated next to the trout fishery running towards Coleburn distillery. An Agricultural Impact Assessment was completed to evaluate the impact of the landuse change at a local, national and regional scale.

The proposal will retain 47.37ha out of 187.96ha LCA4.1 land in agriculture. 11.53ha of 298.38ha LCA 5.2 land will be retained in agriculture. 26% of Glen of Rothes Estate will remain available to agriculture tenancy. The majority of this will exist within the current Pitcraigie agricultural lease and on ground which is suited to agriculture. Across the two leased holdings on the Estate, the afforestation proposals will effect a maximum loss of 89% of current livestock units which equates to a 0.141% reduction in cattle and a 0.074% loss in sheep in the Grampian region. In Scotland this is equal to a 0.03% and 0.0072% reduction in cattle and sheep respectively. SGRPID have confirmed that the LCA 5.2 land proposed in would be limited to supporting a small to medium sized upland sheep and or beef cattle enterprise or similar livestock enterprise. At the current time the effect of losing such an enterprise on local and national agriculture systems would be limited. SGRPID have also confirmed that with regards to LCA 4.1/2 taking into consideration the natural features of the area with steep slopes, this limits agricultural use to mostly grazing land only and therefore afforestation will have limited impact on local and national agriculture systems

Of the two agricultural leased holdings, one lease naturally expired in October 2022 and was not renewed. The second lease is ongoing and the leaseholders have been able to buy the existing cattle shed and will be able to continue farming on the ground retained in agriculture. It is understood that this tenant owns additional ground in the Grampian region and so it is anticipated that the reduction in agricultural land available to rent will not have a significant effect on the local economy. The tenant uses an ash by-product from distilleries which will still be available to use on ground they lease which is being retained in agriculture. Land classed as improved arable adjacent to the A941 has been removed from the original proposal and in response to stakeholder responses.

This change in land use will take 382.01ha of improved grassland and rough grazing out of agricultural subsidy and will establish a sustainable timber resource for the future. During the establishment and planting phase and at intervals in the management lifecycle it will generate local employment. It is not considered that the landuse change will have a significant impact.

Conclusions

The final proposal is for a 433ha Productive Conifer woodland and 5.50ha of new forest road. Within the proposal boundary, there is a further 172.45ha of existing woodland and 400.27ha of other land which includes deep peat, natural regeneration and ground retained in agriculture with the total project area of 1005.72ha.

The proposed new planting is of scale and the design recognises its place as part of a forested landscape. The design has also been significantly revised to retain the better agricultural ground and agricultural activity and will protect natural regeneration across the site to strengthen native habitat networks. The majority of the site is 'preferred' in the Moray Woodland & Forestry Strategy and the proposal supports the Strategy's economic development, access and wellbeing and environmental themes.

Work in relation to this forestry project is expected to start within 5 years and be completed within 10 years from the date of this letter. If you have not started any of the work identified in this screening opinion within 5 years from the date of this letter but still wish to proceed with the project, then please advise us. We will screen the proposal again to decide whether your project requires EIA consent under these Regulations.

Please note that if you intend to apply for grant funding for this work, you must wait until you get an approved contract from us before you start any of the work.

Yours sincerely

[redacted R.11(2)]

[redacted R.11(2)]

[redacted R.11(2)]

Enc: Final Species Design 25th Sept 2023



Glen of Rothes
New Woodland Creation

Final Species Design
Map

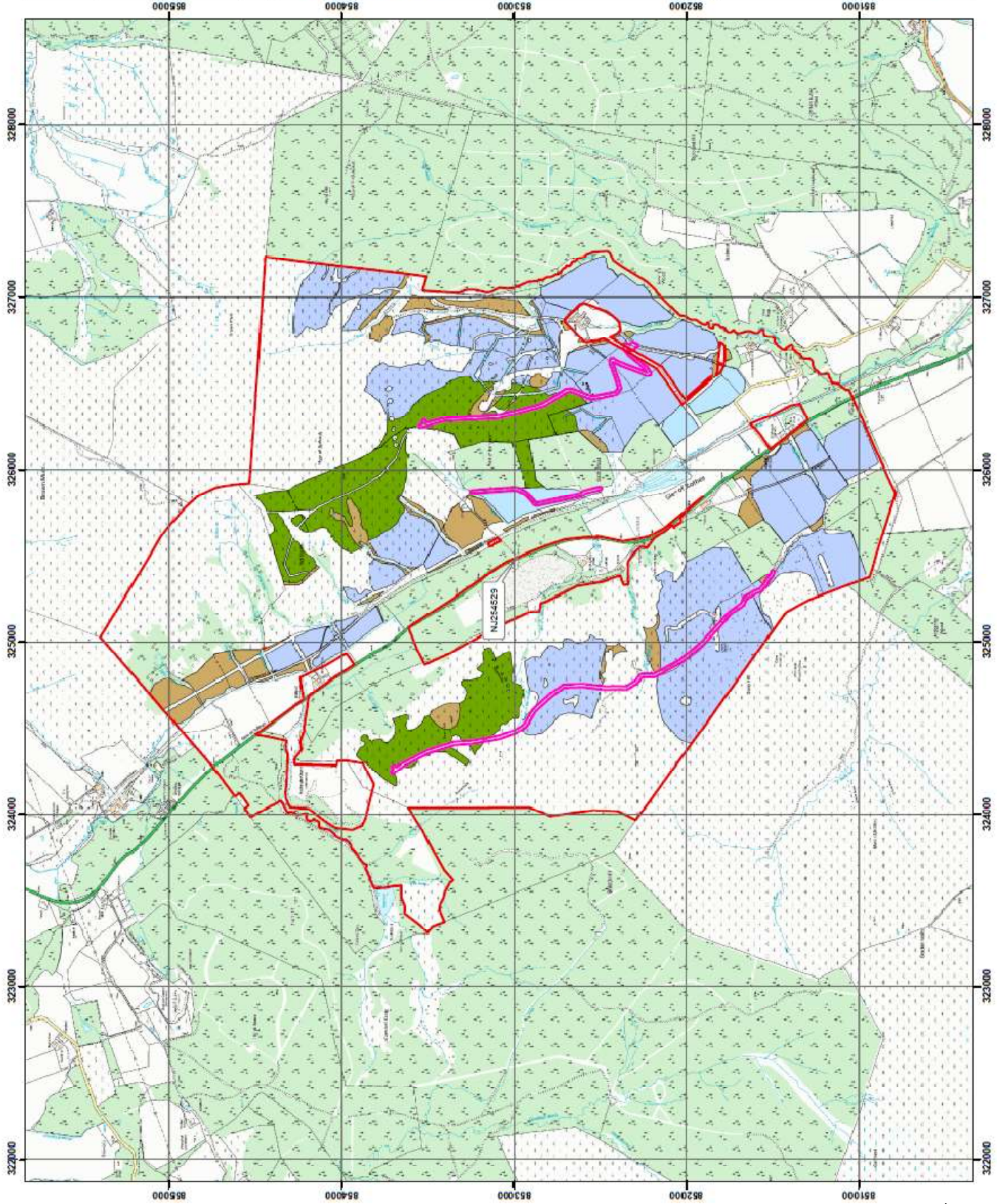
Created On: 25/09/23

Legend

- Estate Boundary
- New Road
- Species**
- SS
- NS
- SP
- NMB



Scottish Woodlands Ltd
Research Park, Rosedale
Edinburgh, EH11 4AP
1:20,000
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[redacted R.11(2)]

[redacted]
Scottish Woodlands
Sandpiper House, Perth
PH1 3EE

By email

Our Reference – 033902112

25 March 22

Dear [redacted]

The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017

I refer to your application Castlehill and Hillpark woodland creation at Kinfauns for 22.43 hectares of afforestation.

We are required to provide a Screening Opinion under the above Regulations as to whether the work you are proposing is an EIA project and will require EIA consent.

I can confirm that the work you propose **will** require EIA consent for the following reasons:

Background

The scheme is comprised of two separate compartments, one (Castlehill) just north of Kinfauns Castle and centred on NO 150 229 and the second (Hillpark) an area of land to the south of Kinoull Hill and centred on NO 129 221. The Hillpark compartment is mostly obscured from view as it has trees below and above and is close to the Friarton Bridge/Perth interchange on the A90.

The Castlehill compartment is visible from a number of viewpoints and also borders a public road along which there are a number of houses, all currently enjoying views across the Tay. Nine of the houses are on the northern boundary of the site and when consulted, all nine houses expressed concerns about the loss of views, which would result from the planting proposal.

Kinoull hill and Deuchny wood are very popular and highly valued areas for recreation just outside Perth with the value applying to both residents and visitors. The minor road running immediately to the north of the Castlehill planting area is National Cycle Network Route 77.

Our concerns related to the loss of landscape value, loss of householder amenity and reduction in value of the visitor experience. These concerns related to the Castlehill part of the application.

POPULATION

Loss of visual amenity to householder and reduction in value of the visitor experience

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The road above the Castlehill area proposed for planting and adjacent viewing points present stunning views over the River Tay for those visiting Kinnoull hill and Deuchny wood and those walking, cycling (or driving) along NCN77. This similarly applies to the nine or more householders who currently have the same view. The view is also important for those on the A90 and for far views from Moncrieffe hill.

The Scottish Government's Land rights and Responsibilities Statement and the related protocol on engagement are relevant to the stakeholder engagement process here. Two principles are relevant and are copied below. In the context of the Statement, public interest should not necessarily be thought of in opposition to private interest. Public interest includes the effect on individuals, who are also members of the public.

Principle 1 - The overall framework of land rights, responsibilities and public policies should promote, fulfil and respect relevant human rights in relation to land, contribute to public interest and wellbeing, and balance public and private interests

Principle 6 - There should be greater collaboration and community engagement in decisions about land.

We recognise that Scottish Woodlands have actively engaged with the local householders to explain their proposal and to ascertain householders' views and have made some attempts to mitigate the concerns raised.

Overall, however, the Castlehill part of the proposal does not provide a balance between private and public benefits because it disbenefits the householders concerned and those using Kinnoull hill, Deuchny wood and NCN77 because of the loss of these exceptional views over the Tay, which are recognised in the LLA. The proposal will have a significant impact on the amenity of the householders concerned and insufficient weight and consideration has been given in the design of the proposal, to the concerns raised by householders and the impact the planting will have on recreational users of the area.

Our conclusion for landscape below is similar.

LANDSCAPE

Both sites in the proposal fall within the Sidlaw Hills Local Landscape Area.

The initial landscape work provided by Scottish Woodlands didn't present the true, likely extent of the landscape impact because of the heights chosen for the trees but our landscape architect has since provided updated views to use in our decision making.

Sidlaw Hills Local Landscape Area – Perth & Kinross Council: Landscape Supplementary Guidance 2020 [LandscapeSG_mar2020.pdf \(pkc.gov.uk\)](https://www.pkc.gov.uk/landscapesg-mar2020.pdf) is described on pages 36-37, including Special Qualities, Forces for Change and Objectives.

The Special Qualities include:

- Important backdrop and setting to the lower Tay and the Carse of Gowrie
- Accessible sport and recreation adjacent to the city of Perth with prominent viewpoints at Kinnoull Hill
- The drama of the cliffs, woodland and tower at Kinnoull Hill, high above the motorway and the cliff extending beyond towards Dundee.

A relevant Objective is:

- Ensure long-term maintenance of policy woodlands and designed landscapes, whether listed on an inventory or otherwise, which make a strong contribution to this area.

We are of the view that the retention of the existing open ground is important in the context of the LLA, including the existing character of the designed landscape and its setting, as well as maintaining prominent views from the area in and around Kinnoull hill.

Kinfauns Castle Inventory Garden & Designed Landscape [KINFAUNS CASTLE \(GDL00240\)](#)
[\(historicenvironment.scot\)](#)

This designed landscape with enclosing hills has been in relative consistent balance since the early 19th century. The **Landscape Character Type 382 – Lowland Hill Ranges** [LCT 382 - Lowland Hill Ranges - final pdf.pdf](#) describes the distinctive wooded hills – which serves to accentuate their height – of Kinnoull, Deuchny and Binn Hills, framing the valley of the Deuchny Burn flowing through the pattern of field enclosures and policy woodland and trees of the designed landscape.

In the Summary it is described as *An important picturesque designed landscape, which plays an important role in the local scenery and provides some of the most significant views in the region, with a Scenic level of Outstanding.*

A 1:25000 map view clearly shows this relationship and relative equal proportion of valley open ground either side of the burn. It is this relationship that the proposals would alter and at maturity the new belt of trees is likely to visually coalesce with the woodland on the hills above (losing that accentuation in height) and the policy woodland to the lower slopes below (see next para).

Although the Inventory of Gardens and Designed landscapes are not Scheduled Monuments, these landscapes nominated for the Inventory are considered important because they represent the very best examples of designed landscapes in Scotland and are of national importance.

FCS Historic Environment Resource Guide for Forest and Woodland Managers in Scotland notes that *'Inclusion of a site on the inventory means that it receives recognition and a degree of protection through the planning system, as a material consideration in the determination of a planning application and in Forestry Commission Scotland (now Scottish Forestry) licensing and grant procedures.'*

Whilst, we acknowledge HES' view that the proposed planting would not have a negative impact on the designed landscape per se (principally we understand because the lower part of the field immediately behind the castle is being left open), we remain of the view that the proposal would negatively impact on the wider landscape context of the long established pattern of field enclosure, policy woodland and trees of the designed landscape.

We also note that the planning team within Perth & Kinross Council did not express concern over the proposal in relation to the LLA. However, we are satisfied that following assessment of all the available information, and with the benefit of specialist landscape advice, that our conclusions are sound.

Conclusion

The Castlehill element of the proposal will have significant adverse effects on landscape, visual amenity and local distinctiveness. We think there is one area where planting would be appropriate, which is at the east end of the site, being the open area sandwiched between 2 existing areas of woodland. We have identified that area in the attached map.

We feel there is also the opportunity to reinforce the bank area, which splits the field in two, with new parkland trees, if this was something that was of interest. We attach an excerpt from the 1st edition OS map for Kinfauns showing the greater prevalence of parkland trees across the middle break in the field, for interest.

There is a live FGS application for this proposal, which therefore cannot progress in its current form. We would be happy to discuss a smaller, revised proposal as described above.

It is recommended that you now contact us to request a Scoping Opinion, which will provide the information that is to be included in your EIA Report.

We must consult statutory consultees during the scoping process, so we recommend you arrange a Scoping Meeting and invite all of the necessary organisations and individuals that may have an interest in your EIA forestry project.

We advise this includes Perth & Kinross Council, Historic Environment Scotland and all the neighbours/local stakeholders, with whom you have already engaged, who can contribute information or may be affected by your proposals. We will be happy to agree a formal list of consultees for the scoping process.

If you do not hold a Scoping Meeting we will still require the following information to consult independently:

- A description of the location of your forestry project
- A map identifying the land
- A description of the nature and purpose of your forestry project and its likely effects on the environment
- Any other information that you wish to provide, e.g. any avoidance, off-setting or mitigation measures.

Guidance on EIA for forestry projects can be found at:

<https://forestry.gov.scot/support-regulations/environmental-impact-assessment>

Yours sincerely
[redacted R.11(2)]

[redacted R.11(2)]
[redacted R.11(2)]

Castlehill & Hillpark NWC

Castlehill Species Map
BRN: [REDACTED]
MLC: 89/699/0021

Created On: 23rd Nov 2020

Legend


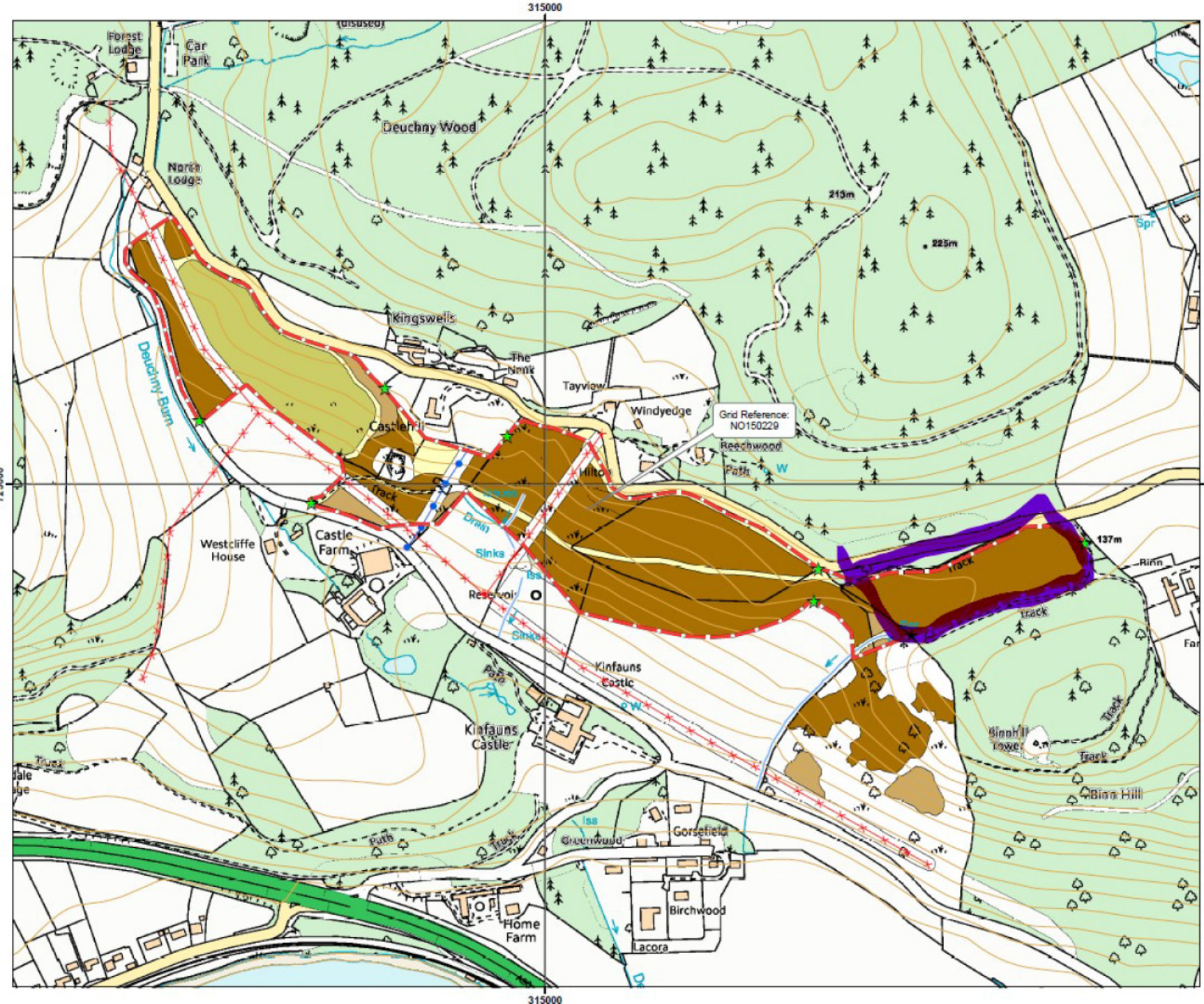
- DF
- MB
- NMB
- OG
- Deer Fence
- Deer Gate
- Overhead Powerline
- Utilities-Above Ground



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[redacted R.11(2)]

3 July 2019

[redacted]
Scottish Woodlands
Lochgilphead

By email

Dear [redacted]

Acha-Bheinn woodland creation – EIA – Scoping opinion

Thank you for the revised scoping report and associated appendices.

As background, Forestry Commission Scotland (now Scottish Forestry) made a screening determination on 22 December 2017 that the proposal for the creation of 95.7 hectares of woodland at Acha-Bheinn, by Barmolloch, was an EIA forestry project, which therefore required our consent. A scoping meeting was held on 28 March 2018.

If you have not done so already, you should circulate a copy of the final scoping report and associated appendices to the stakeholders who attended the meeting, to any statutory stakeholders who didn't attend the meeting, and to any stakeholders who couldn't attend the meeting but indicated that they wished to be kept informed about the proposal.

Under s15 of the Forestry (Environmental Impact assessment) (Scotland) Regulations 2017, and having taken into account:

- The specific characteristics of the forestry project
- The specific characteristics of forestry projects of the type proposed; and
- The environmental features likely to be affected by the forestry project

You must assess the following effects on the environment in the EIA report for this EIA forestry project:

- The cumulative impact (and at a landscape scale) on black grouse populations and the loss of their open ground habitat brought about by the current proposal and the preceding three Barmolloch schemes (Barmolloch 1, 2 and 3), using the area identified in Appendix 5 of the applicant's scoping report, as the study area.

This should include addressing the following issues and questions:

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- What is the likely black grouse population within the area of the forestry project and in the wider survey area as shown in Appendix 5 of the scoping report:
 - Now
 - Prior to the planting of the 3 Barmolloch woodland creation areas, and in the intervening years between then and now (in so far as that data is available)
 - Provide a description and analysis of any population changes during that time
 - After the collection and analysis of the survey information, assess the impact on black grouse and make recommendations to mitigate that impact; and
 - Seek any information available on black grouse populations on the nearby National Forest Estate managed by Forestry and Land Scotland and include that in your assessment.

The methodology for the survey work should meet recommended professional ornithological practice and be approved by Scottish Forestry.

Your EIA report must be based on this scoping opinion and must include the information that may be reasonably required for reaching a reasoned conclusion on the significant effects of the project on the environment.

The EIA report must include, at least, all those requirements set out in s6(3)(a)-(f) of the regulations.

Alternative options to be assessed should include:

- No planting on the site
- Planting of a low density native woodland mosaic
- Other, different design of woodland creation
- Moorland management
- Predator control; and
- The use of extensive grazing regimes to help deliver a habitat that benefits black grouse.

Mitigation proposed may include a range of mitigation types including those identified above.

The EIA report must be prepared by competent experts and the report must be accompanied by a statement from you, outlining those experts' relevant experience or qualifications.

You should ensure that the project presented and described in the EIA report meets the UK Forestry Standard (UKFS) and, in particular, you should ensure that you address all the UKFS issues set out in our screening determination and statement of reasons dated 22 December 2017 together with any UKFS issues raised by stakeholders and recorded at the scoping meeting on 28 March 2018.

In terms of a number of issues raised by stakeholders at the scoping meeting, we are satisfied that:

- Good practice (following UKFS) in the design of any woodland in and around the higher, craggier areas within the forestry project area likely to be of use to golden eagle, will ensure there will be no negative impact on golden eagle

- The project area is not sufficiently sensitive in terms of archaeology to require trees not to be planted or prohibit ground preparation to take place, if any woodland planting is eventually consented as part of this process. A full walkover survey has been carried out by a competent archaeologist and appropriate buffers have been recommended for each of the remains.

However, the archaeological report did identify that “there is the potential that archaeological deposits and structures survive beneath the topsoil on anyone of the numerous terraces and areas of flat ground” and cup and ring marks on a boulder were found during ground preparation on the adjacent site.

Therefore, in the event that woodland creation does take place on this site, the applicant will have to:

Discuss with Scottish Forestry - the requirement for the applicant to have an archaeologist on site at an early stage of any ground preparation to carry out an assessment of disturbed ground on the terraces and areas of flat ground mentioned in the archaeological report, on a sampling basis, to assess whether there is a higher risk of uncovering and damaging archaeological deposits and structures, and if such deposits or structures are found, to put in place the appropriate mitigation.

Put in place procedures for the appropriate training of operators and site managers in relation to the potential for undiscovered archaeology and;

Make arrangements for an archaeologist to attend promptly for any potential discovery during operational works.

- Timber transport issues will have to be addressed as part of UKFS compliance, and in advance of any planting, if consented. We have a regional timber transport officer to help with this.

It will be helpful to meet soon to discuss next steps. In the meantime, we will circulate this scoping opinion to stakeholders.

Best regards

[redacted R.11(2)]

[redacted R.11(2)]

Acha-bheinn Woodland Creation, Argyll

Proposal for the Establishment of a Mixed Forest

An application has been made to the Perth and Argyll Conservancy of Scottish Forestry under the Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017 for tree planting and associated works at Acha-bhienn, Argyll.

A copy of the Environmental Report will be available for public consultation for a period of 28 days at <https://www.scottishwoodlands.co.uk/public-consultations/>. Due to current circumstances relating to Covid-19 hard copies for viewing are not available from Perth and Argyll Conservancy however the Environmental Report can be viewed on the Scottish Forestry Website.

Within the total woodland creation of 138.95 hectares, 58.28 hectares is proposed for commercial conifers, plus 20.71ha of native broadleaves and 59.69ha hectares of open ground.

Any comments on the scheme should be submitted in writing to Scottish Forestry, Perth and Argyll Conservancy, Upper Battleby, Redgorton, Perth PH1 3EN or preferably by email to panda.cons@forestry.gov.scot within the 28 day consultation period which opens on the 19th of June 2020 and closes on the 16th of July 2020.

Scottish Ministers may decide either to grant consent subject to the mandatory conditions required by Regulation 4 of the EIA Regulations or subject to such further conditions as they see fit, or refuse consent.



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Environmental Impact Assessment Staff Procedure

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Introduction

The following guidance has been updated to reflect changes brought about as a result of the introduction of [The Forestry \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017](#) 'The Regulations' and the subsequent changes following devolution of forestry to Scotland.

To avoid duplication of information it has been written to be used in conjunction with the following external guidance [Environmental Impact Assessment for Forestry Projects](#) and [Undertaking an Environmental Impact Assessment in Forestry and preparing an EIA Report](#).

This internal guidance, previously referred to as the EIA Code, is intended to be used as a PDF with links to additional sources of information, forms, standard letters and checklists. It will be reviewed and updated regularly, taking into account any amendments to the Regulations, processes or where the requirement for additional information has been identified.

Should you require clarification on any EIA matter, or if the information you are looking for is not contained within the available guidance, you should bring this to the attention of the Woodland Creation & Forestry Regulations team who will assist Conservancies to ensure a consistent approach is taken to complex cases and environmental issues across Scotland. The Woodland Creation & Forestry Regulations team are part of Operational Delivery.

Standard letter templates for EIA are available in [S:\SRDPEIA docs\EIA Standard Letters](#) for most circumstances. If you would like to make changes to any of these letters or if you have any queries with or would like to suggest amendments to this guidance, or have new information regarding or associated to EIAs that you feel should be included within, please contact Operational Delivery.

*Casebook now has a **Woodland Creation Pre-application** case type which contains the necessary steps and letters for issuing your screening opinion for woodland creation. If you are using Casebook you do not need to use the standard letters in the S:\SRDPEIA docs folder unless you have to conduct scoping or full EIA consent.*

GLS must still be used if doing a screening opinion in Casebook.

This guidance should still be used for understanding EIA.

To ensure that you have the most up-to-date information when dealing with a new Forestry Project, it is advised that rather than printing a copy for reference, you obtain the most recent version from [S:\SRDPEIA docs](#)

Summary of timescales specified within the EIA Regulations

Stage of EIA process	Regulatory timescale
Screening Opinion	Must be given within 28 days from receiving all the information required, up to 90 days if agreed with applicant for complex cases.
Scoping Opinion	Must be given within 35 days from receiving request, or such longer period as agreed with applicant.
Request for sufficient information to adopt a scoping opinion	28 days from applicant's request to notify them what further information is required.
Publication / Consultation of EIA Report	30 days.
Requests for supplementary information to ensure completeness of EIA Report	We may specify a reasonable period; if the applicant does not provide it within this timescale we may treat the EIA application as withdrawn.
Publication of additional information	30 days.
Making the consent decision	We must make a decision within 6 months of receiving and accepting the EIA Report/application for consent, or such longer period as agreed with applicant.
Right to challenge the validity of our consent decision - application to court	Application to the Court of Session 'by any aggrieved person' must be made within 6 weeks from the publication of the consent decision.
EIA consent (mandatory conditions)	Work must begin within 5 years and be completed within 10 years of consent decision; we may specify a shorter period.
Enforcement notice	Must specify the time period during which any remedial measures must be taken; we may specify different time periods for different measures.
Right to challenge the validity of the enforcement notice – application to court	Application to the Court of Session 'any aggrieved person' must be made within 6 weeks from the date of issue.

1.0 The Screening Process

The decision to be made for screening is essentially whether the proposed project is or is not likely to have **significant** negative effect on the environment. Our assessment under the EIA Regulations takes precedence over consideration of the silvicultural practices or eligibility of the work within a forest plan, grant or felling application. Applications that propose the use of inappropriate techniques or species but are unlikely to cause a significant effect on the environment can be resolved through the application of other mechanisms such as UKFS, felling regulations, grant scheme eligibility criteria, Controlled Activities Regulations etc.

1.1 Definition of forestry projects

Afforestation: initial afforestation for the purpose of conversion to another type of land use. The threshold area for afforestation should be based upon the spatial extent of the impact of the physical characteristics of the whole forestry project i.e. the gross area within the woodland creation perimeter boundary including, where relevant, all integral open ground and unplantable areas e.g. scree, extensive deep peat, lochs and other waterbodies. The term afforestation is taken to include planting, direct seeding or natural regeneration, planting Christmas trees or short rotation coppice. Christmas trees and short rotation coppice are considered here as these types of project may also have a significant effect on the environment particularly in sensitive areas, they are not considered under Agricultural EIA Regulations, and if not managed and harvested in the way for which they were intended, they will likely grow on to form woodland resulting in a change of land use.

Deforestation: felling woodland to use the land for a different purpose e.g. permanent conversion to agriculture or grouse moor. Woodland removal should be allowed only where it would achieve significant and clearly defined additional public benefits, when assessing an application for deforestation guidance should be sought from The Scottish Government's [Policy on Control of Woodland Removal](#). The permanent removal of Christmas trees or short rotation coppice would not be considered deforestation under the EIA regulations as they do not meet the definition of woodland cover, however if for reasons such as due to a lack of management either crop subsequently develops into woodland, then a screening opinion for removal would be required. Woodland removal associated with development is considered under [The Town and Country Planning](#) or [The Electricity Works](#) EIA Regulations, as a matter of good practice developers should notify Scottish Forestry of their plans when considering woodland removal under these regimes and should consider it in line with the Control of Woodland Removal policy.

Forest road works: The formation, alteration or maintenance of private ways on land used (or to be used) for forestry purposes. This includes roads within a forest or leading to one. The threshold for roads should be based upon the net area e.g. for a Cat 1A road about 25m in width, 400 metres of this road would be required to exceed the threshold, other tracks of around 10 metres width would require 1 kilometre to exceed the threshold. In view of the potential difficulties in arguing that ATV or mountain bike tracks are not “forest road works”, based upon a narrow interpretation of use “for the purposes of forestry”, the best option is to treat the construction of the tracks as being subject to the Regulations.

Forest quarry works: quarrying to obtain materials required for forest road works on land that is used, or will be used, for forestry purposes, or on land held or occupied with that land. See [Appendix 1](#) for further information on roads and quarries.

1.2 Thresholds and exceptional circumstances

A forestry project is to be taken as not likely to have significant effect on the environment if the area covered, or to be covered, by the project does not exceed any relevant threshold specified in [Schedule 1](#) paragraph 3 of the Regulations. The Regulations allow us to ask the applicant to apply for consent for forestry projects below these thresholds, where we believe there are ‘exceptional circumstances’ which, taking account of the selection criteria in [Schedule 2](#), make it likely that the forestry project will have significant effects on the environment.

Situations we may consider ‘exceptional’ include, (but are not limited to):

Deforestation < 1ha of Ancient Semi-Natural Woodland or other woodland of high conservation or amenity value, located out with a sensitive area.

Afforestation < 20ha where no part of the land is in a sensitive area but the proposal is sufficiently close to have a significant effect on the integrity of the site e.g. effects of non-native species regenerating on adjacent protected site; or proposals that may have a significant effect on neighbouring property or infrastructure.

Forest roads or quarries < 1 ha located out with sensitive areas which propose using a construction method (including drainage) which could have an effect on nearby priority habitats such as Wet Woodland or [Groundwater Dependant Terrestrial Ecosystems](#) (GWDTE).

‘exceptional circumstances’ was used by Perth & Argyll Conservancy when issuing an Enforcement Notice (The old curling pond, Monikie, Angus, Enforcement Notice) case documents can be viewed by typing TENA-009-2000 in the search box at <https://www.dpea.scotland.gov.uk/CaseSearch.aspx?T=1>

1.3 Accumulated area and cumulative impacts

Both accumulated area (for thresholds) and the cumulative effects of multiple projects must be taken into consideration when assessing projects for a screening opinion.

Accumulated area – used primarily to decide whether projects below EIA size thresholds may require to be screened. This is primarily for small projects adjacent, or near to, existing projects where you should take accumulated area into account when deciding whether a screening opinion is necessary.

When deciding whether a project exceeds the relevant EIA size threshold the accumulated area of past projects that have been approved or completed within the previous 5 years needs to be taken into account, including different ownerships. When the accumulated area is taken into account, small projects can exceed the threshold for EIA screening. When applications come in that are under the threshold for an EIA screening opinion, we should look to adjacent land and determine the area of similar projects that have taken place within the last five years. This may result in the project area plus accumulated area of past projects exceeding the EIA threshold and the project would then require an opinion.

When considering the accumulated area, there is no specified scale or distance within which other projects must be considered. A radius of 1 km may be appropriate for a small project but this should be considered on a site by site basis and may be influenced by topography and the amount of recent activity.

Where the accumulated area has been considered and factored into a decision not to screen a project, a record should be added to the case file or issues log.

Where the accumulated area has been considered and results in a project being screened, any factors related to the accumulated area assessment should be recorded as part of the screening opinion.

Where a forestry project is under the threshold area but you believe the site to fall within the category of 'exceptional circumstance' due to particular sensitivities then a screening opinion can be required out with the stated thresholds.

Cumulative effects with other projects – used primarily to improve the assessment of environmental impacts of a project either at screening or full EIA application stage. This applies to all projects and requires looking outside of the immediate forestry project to see if environmental impacts are compounded by other existing or planned projects.

At EIA screening or full EIA Report assessment the impacts of a project must also be assessed in relation to its cumulative effects with other approved, recently completed projects or projects that are being planned (e.g. in due diligence) that could affect the same factors/receptors (population and human health, biodiversity, land, soil, water, air and climate, material assets, cultural heritage and the landscape), such as the cumulative effects of wader habitat loss across a landscape. Where Scottish Forestry consider there may be a

cumulative impact this must be highlighted to the applicant as soon as it is identified so that they can fully consider the issue in their submission.

The cumulative impact with nearby projects may increase or reduce the significance of potential impacts and affect your assessment of these impacts (**see 1.7**).

This assessment should include:

- whether the cumulative impacts are additive or antagonistic (less than the sum of the individual impacts) or synergistic (greater than the sum of the individual impacts).
- Scale at which the impact is considered i.e. local, regional, national.

When considering accumulated area or cumulative impacts you should look at the following:

- Forester Web map browser layer 'FGS 2014-24' should be interrogated to check for recently approved adjacent woodland creation projects.
- Care should be taken to identify any adjoining proposals which have been screened and approved as 'consent not required' but have yet to be submitted as an FGS, or projects that will not be grant funded such as compensatory planting, as these will not appear on the map browser. WCP casebook module can help identify such proposal using the WC Report - Location function.
- Where there are adjacent/nearby applications you should review the EIA Screening Opinion reasoned conclusion and issues log to understand what mitigation was put in place and where there might be cumulative impacts on the factors in your assessment.

There may be situations, especially with larger cases, where multiple applications for afforestation should be considered jointly, to determine whether or not EIA is required, a particular application should not be considered in isolation if, in reality, it could be regarded as an integral part of an ultimately more substantial development.

- Where possible, collaboration between the applicants of both adjoining or nearby proposals (or where there is likely to be a significant environmental impact) should be encouraged.
- To aid in a collaborative approach, Scottish Forestry can provide applicants with information from adjacent or nearby projects. This information can include the reasoned conclusion, issues log, and any other survey information that is pertinent to the proposal, ensuring any sensitive information is removed (sensitive information being the identification of individuals or sensitive species data).
- It is then the responsibility of the applicant to provide Scottish Forestry with sufficient information to assess the significance of the cumulative impact on each factor, when the screening opinion request is submitted. If it is evident that there will be cumulative impacts it is important for applicants to highlight this early as an EIA Report may be required. If the cumulative impact is deemed significant then this would be further analysed in the EIA report.
- It may be necessary to obtain specialist advice on the specific factor to inform Scottish Forestry's assessment of the cumulative impact. Specialist advice can be sourced as per guidance on Saltire: [Research and specialist advice \(sharepoint.com\)](https://www.scot.nhs.uk/saltire/research-and-specialist-advice)

1.4 Getting notified about proposed work

You may receive applications for forestry projects formally through a Screening Opinion Request Form, or informally through a woodland creation grant application. You **must** consider the proposal against the information set out in [EIA Checklist 10a](#). If you answer yes to any of the three questions posed at 1c, you **must** then proceed to [EIA Checklist 10b](#) and provide the applicant a screening opinion. **Further information on EIA Checklist 10 is provided in [Appendix 6](#).**

The timescale you need to make a decision is within 28 days from receiving all the information¹. If you are unable to provide a decision within 28 days agree a longer period in writing with the applicant (up to 90 days for complex cases) using the '[Extend 28 day time limit for Opinion](#)' standard letter. In exceptional circumstances arising because of the nature, complexity, location or size of the forestry project, it is not practicable to adopt a screening opinion within 90 days, that period may be extended by giving written notice to the applicant stating (i) a date by which the screening opinion will be adopted and (ii) the justification for the extension.

1.5 Not enough information from the applicant

If we consider that the applicant has not provided sufficient information to give a screening opinion, we **must** ask for any additional information in writing, the letter or email should clearly explain why the additional information is required. This **must** be done within 28 days of the grant application or request for a screening opinion being submitted.

A standard letter is available for this purpose – '[Request additional information to provide Screening Opinion](#)' however an email will suffice. Evidence of the request must be retained in the case file. Do not use the 'Extend 28 day' letter mentioned above for this purpose. Requests should be reasonable and proportionate; information should only be requested when it is essential, not merely desirable, to the decision on the project and where it could actually influence our views in a substantive way.

Remember to record the date additional information was requested and when it was received at the top of Checklist 10b; and save a copy of the written request in the case file.

1.6 Mitigation in screening

The Regulations expressly provide that an applicant may, when requesting a screening opinion, include a description of any features of the proposed development, or proposed mitigation measures, envisaged to avoid, prevent or effectively reduce significant adverse effects on the environment, and we must take this information into account when making our decision. The extent to which mitigation or other measures are taken into account in reaching a screening opinion will depend on the facts of each case. In some cases, the measures may form part of the proposal, be modest in scope or so plainly and easily achievable that it will be possible to reach a conclusion that there is no likelihood of significant environmental effects.

¹ The date on which the request for a screening opinion was made for the purposes of the regulations should be taken as the date on which you received sufficient information from the applicant to provide an opinion, not necessarily the date the request was submitted.

Where, in reaching a screening opinion, we take into account proposed mitigation measures, we **must** state these in our reasoned conclusion and consider the need for appropriate obligations to ensure these measures are delivered and included in any subsequent consent, regardless of whether or not the development is an EIA forestry project. This could be achieved by including explicit conditions in a grant scheme contract, felling permission or LTFP/LMP approval.

1.7 Assessing significance

The more environmentally sensitive the location, the more likely it is that the effects of a forestry project will be significant and will require EIA. In reaching your decision consideration should be given to proposals which could have complex, long-term, or irreversible impacts, and where expert and detailed analysis of those impacts would be relevant to the issue of whether or not the proposal should be allowed.

Identifying significant environmental effects is crucial, both in determining whether EIA is required, and when determining the scope and content of any EIA Report. This calls for the exercise of professional judgement taking into account factors such as nature, scale and location of the project, knowledge of the local area and its environment and the evaluation of such information as it is reasonable to expect the applicant to provide at this stage.

The amount of information necessary at this stage does not mean you need to have “full knowledge” of every environmental effect, only if it is decided that EIA is required will full and detailed knowledge of the project’s likely significant effects be required.

It is for you to judge whether a forestry project would be likely to have a significant effect, you must make an informed judgement, on the basis of the information available and to any gaps in that information and to any uncertainties that may exist, as to the likelihood of significant effects.

The gaps and uncertainties may or may not make it impossible to reasonably conclude that there is no likelihood of significant environmental effects; everything depends upon the circumstances of the individual case.

There may be occasions when there is insufficient information for you to reach a conclusion that a forestry project will not have a significant effect on the environment, in which case it should be subject to EIA.

Assessing significance appears at several stages of the EIA process:

- At screening, in terms of Schedule 2 as to what triggers EIA;
- At scoping, which environmental factors are likely to be significantly affected and so should be included in the assessment process; and
- Determining the significance of impacts, as described and analysed in the EIA Report.

The following **significance matrix** uses common criteria to evaluate the significance of an effect, it includes the sensitivity of the receiving environment and the magnitude of the predicted effect and can be used throughout the EIA process.

Sensitivity is understood as the sensitivity of the environmental receptor to change, including its capacity to accommodate the changes the project may bring about.

Magnitude considers the characteristics of the change (timing, scale, size, and duration of the impact) which would probably affect the target receptor as a result of the proposed project.

While magnitude is determined by empirical prediction, sensitivity involves more subjective judgments in terms of how a certain environmental receptor is valued.

Using the tables below you can assess sensitivity and magnitude and then work out the significance of the effect.

Sensitivity	Definition
High	High importance and rarity, national or international scale. The receptor has low capacity to absorb change without fundamentally altering its present character.
Medium	Medium importance and rarity, regional scale. The receptor has some tolerance of the proposed change subject to design and mitigation.
Low	Low or medium importance and rarity, local scale. The receptor is tolerant of the proposed change subject to design and mitigation.
Magnitude	Definition
Major	Total loss of resource and/or quality and integrity of resource over a significant area; severe change/damage to key characteristics, features or elements for more than 2 years.
Moderate	Loss of resource, but not adversely affecting the integrity over a significant area; partial loss of/damage to key characteristics, features or elements, for more than 6 months but less than 2 years.
Minor	Some measurable change in attributes, quality or vulnerability; minor loss of, or alteration to, one (maybe more) key characteristics, features or elements.

A combination of the magnitude of the impact under consideration and the sensitivity of the receiving environment determines the significance of effect.

Magnitude	Sensitivity		
	High	Medium	Low
Major	Major	Major	Moderate
Moderate	Major	Moderate	Minor
Minor	Moderate	Minor	Negligible

You can consider effects predicted to be Minor or Negligible to be manageable and are therefore 'Not Significant'. You can consider effects that are assessed as Moderate or Major to be 'Significant'.

When the significance of impacts is assessed this takes into account any mitigation, i.e. the assessment applies to the residual impacts of the forestry project. This is defined as any effect that would remain following the implementation of committed mitigation measures.

At the beginning of screening, there may be little information upon which to base your decision, and at times it can be difficult to define what is 'significant' in terms of environmental effect. Checklists can assist in determining whether an EIA is required. While there is no legal requirement to use checklists, they can provide evidence of a transparent, consistent and systematic record of screening decisions.

The *SF Screening Checklist* has been adapted from an EC checklist to be more specific to forestry projects, you can find a copy in <S:\SRDP\EIA docs\SF EIA Checklists>

A copy of the original checklist can be obtained at <http://ec.europa.eu/environment/eia/eia-support.htm>

The checklist mentioned above contains a useful list of questions that may assist in your decision. The following list of questions can be asked for each 'Yes' answer in the Screening Checklist and the conclusion and the reasons for it noted. The questions are designed so that a 'Yes' answer will generally point towards the need for an EIA and a 'No' answer points to an EIA not being required. The answer that the impact is uncertain would, most likely, point to the need for an EIA.

1. Will there be a large change in environmental conditions?
2. Will new features be out-of-scale with the existing environment?
3. Will the impact be unusual in the area or particularly complex?
4. Will the impact extend over a large area?
5. Will there be any potential for transboundary impact?
6. Will many people be affected?
7. Will many factors of other types (e.g. biodiversity, water, human health) be affected?
8. Will valuable or scarce features or resources be affected?
9. Is there a risk that environmental standards will be breached?
10. Is there a risk that protected sites, areas, and features will be affected?
11. Is there a high probability of the effect occurring?
12. Will the impact continue for a long time?
13. Will the effect be permanent rather than temporary?
14. Will the impact be continuous rather than intermittent?
15. If it is intermittent will it be frequent rather than rare?
16. Will the impact be irreversible?
17. Will it be difficult to avoid, or reduce or repair or compensate for the effect?

1.8 Adopting a screening opinion

We **must** adopt a screening opinion for a relevant project even where a request has not been made. Our opinion must be given in writing to the person who we reasonably think would have been the applicant using the '[Consent required](#)' or '[Consent not required](#)' standard letter.

Transparency in decision-making is important in ensuring an effective EIA. Transparency is essential not only in the way decisions are reached, but also in the manner they are communicated to the public. Any suggestion of bias may be used against us by anyone not agreeing with our decisions; keep accurate notes of all discussions and decisions made and record these in the case file.

It is important the applicant keep a record of all the issues and any related evidence presented by external interested parties and how their concerns have been considered in the screening process, this should be done in an **Issues Log**. You will also use the issues log when recording your own comments, agreeing mitigation, and for identifying the specific issues to be covered in the EIA Report for projects you have decided require our consent. In the event that a decision is subsequently questioned or challenged in the courts a systematic approach to process will provide a record of the basis on which our screening opinion (and other decisions throughout the EIA process) were made.

[A template issues log is available on our website.](#)

When adopting a screening opinion, we **must** accompany it with a written statement giving the main reasons for the conclusion as to whether the proposed forestry project is, or is not, an EIA forestry project, with reference to the following **relevant** criteria from Schedule 2 of the Regulations:

Characteristics of forestry projects: Must be considered having regard, in particular, to:

- (a) the size and design of the forestry project;
- (b) cumulation with other existing forestry projects and/or approved forestry projects;
- (c) the use of natural resources, in particular land, soil, water and biodiversity;
- (d) the production of waste;
- (e) pollution and nuisances;
- (f) the risk of major accidents and/or disasters which are relevant to the forestry project concerned, including those caused by climate change, in accordance with scientific knowledge;
- (g) the risks to human health (for example due to water contamination or air pollution).

Location of forestry project: The environmental sensitivity of geographical areas likely to be affected by the forestry project must be considered having regard, in particular, to:

- (a) the existing and approved land use;
- (b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground;
- (c) the absorption capacity of the natural environment, paying particular attention to the following areas:

- (i) wetlands, riparian areas, river mouths;
- (ii) coastal zones and the marine environment;
- (iii) mountain and forest areas;
- (iv) nature reserves and parks;
- (v) European sites and other areas classified or protected under national legislation;
- (vi) areas in which there has already been a failure to meet the environmental quality standards, laid down in Union legislation and relevant to the project, or in which it is considered that there is such a failure;
- (vii) densely populated areas;
- (viii) landscapes and sites of historical, cultural or archaeological significance.

Characteristics of the potential impact: The likely significant effects of the forestry project on the environment must be considered in relation to criteria set out in the paragraphs above, (with regard to the impact of the forestry project on population and human health, biodiversity, land, soil, water, air and climate, material assets, cultural heritage and the landscape) taking into account:

- a) the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);
- b) the nature of the impact;
- c) the transboundary nature of the impact;
- d) the intensity and complexity of the impact;
- e) the probability of the impact;
- f) the expected onset, duration, frequency and reversibility of the impact;
- g) the cumulation of the impact with the impact of other existing and/or approved forestry projects;
- h) the possibility of effectively reducing the impact.

Where the screening opinion is to the effect that the proposed forestry project is not an EIA forestry project, the reasoned conclusion must also state any features of the proposed forestry project or proposed mitigation measures envisaged to avoid or prevent significant adverse effects on the environment. This enables third parties, to be satisfied that as 'Competent Authority' we have determined, in accordance with the rules laid down by national law, that an EIA was not

When informing an applicant of our decision use either the '[Consent Required](#)' or '[Consent not required](#)' standard letter. Our screening opinion and the written statement referred to above must be sent to the applicant and made available for public inspection (if requested) at your office (a necessary precondition to ensure transparency in the EIA process and access to justice). **Examples of screening opinions where consent is and is not required are provided in [Appendix 2](#) and [3](#).**

We must also record the decisions we make about projects that exceed the regulatory thresholds on our Public Register. [Appendix 6](#) provides further information on entering information on our EIA Public Register.

2.0 The Scoping Process

Scoping takes place once a decision has been made that the proposal will require our consent. It provides an opportunity for the applicant, Scottish Forestry and other interested parties to determine what the main effects of the proposal are likely to be, thereby defining the EIA Report's content. It enables the applicant to establish the existing or 'baseline' conditions against which the effects of the proposal may be judged, this can be a crucial stage for local communities, neighbours, consultees and other interested groups that may have intimate knowledge which is highly relevant to understanding the baseline conditions.

[Regulation 15](#) allows the applicant to request a scoping opinion, (and identifies the conditions in the event that this takes place) this provision allows the applicant to be clear about what we consider the main effects of the proposal are likely to be and, therefore, the topics on which the EIA Report should focus.

While it is not mandatory for the applicant to request us to provide an opinion on the scope and level of detail of information to be included in the EIA Report, Regulation 15 allows us to provide a scoping opinion of our own volition should we think it necessary.

The Regulations state we **must not** adopt a scoping opinion until we have consulted with the applicant and the consultation bodies². When no formal request has been made by the applicant it is strongly advised to adopt a scoping opinion as it can provide several benefits, these are outlined below:

Identifies key issues to be addressed: The scoping exercise should provide a list of activities which may cause environmental effects, together with initial estimates of their likelihood and their potential magnitude; a list of environmental factors that are likely to be affected by the different stages or activities of the project; and a plan for conducting the technical studies, including details of methods to be used and resources required.

Saves time and money: Scoping should help focus resources on the important issues for decision-making and avoid wasted effort on issues of little relevance. In addition, it reduces the risk of delays caused by requests for further information after the submission of the EIA Report.

Stimulates early consultation: A consultation session about the project and its environmental impacts is carried out during scoping, between the applicant and Scottish Forestry, as well as with the consultation bodies, other interested parties, and the public.

Sets appropriate time and space boundaries: Scoping aids in effective planning, management and with resourcing of the EIA Report. It can identify other legislation or regulatory controls that may be relevant to the project and can provide opportunities for the necessary assessment work, for different control systems, to be undertaken in parallel, thereby avoiding the duplication of effort and costs for all concerned.

² Consultation bodies means - [Local Authority](#); [SEPA](#); [NatureScot](#); [HES](#); and any other body designated by any enactment as having specific environmental responsibilities.

Helps to identify preliminary Alternatives and Mitigation Measures: Scoping can be important in identifying preliminary mitigation measures and preliminary alternatives to the proposed project, which should be considered by the applicant.

In the event an applicant does not formally request our scoping opinion we should write to the consultation bodies requesting any information they hold, which will assist us in writing our scoping opinion, using the '[Appropriate bodies provide information](#)' standard letter.

2.1 Woodland Creation Processing Agreement (WCPA)

To assist in identifying what is required from those involved, and setting realistic timescales for the delivery of the various stages of the process, consider using a WCPA for all proposals that require EIA consent. A WCPA is a project management tool which sets out a route to a decision on a proposal, not necessarily to an approval. It is not intended to be a lengthy document; it sets out the key stages involved in determining a major woodland creation proposal, identifying what is required from those involved and setting realistic timescales for the delivery of the various stages of the process.

[The WCPA template and associated guidance note is available on our website.](#)

2.2 Information for scoping

More details on the types of information that are useful for scoping are given below. Where gaps and uncertainties do exist, these should be identified and taken into account.

1. Characteristics of the Project

- Brief description of the proposed project.
- Reasons for proposing the project.
- A plan showing the boundary of the proposal, including any land required temporarily during construction.
- Physical form of the proposal (layout, structures, construction materials, etc.).
- Description of the main processes.
- Any new access arrangements or changes to existing road layout.
- A work programme for construction, operation, and commissioning phases, and restoration and after-use where appropriate.
- Construction methods.
- Resources used in construction and operation (materials, waste etc.).
- The relationship with other existing/planned projects.
- Information about the alternatives that are being considered.
- Information about mitigating measures which are being considered.
- Other activities which may be required as a consequence of the project (e.g. new roads, extraction of aggregate, provision of new water supply, etc.).
- Details of any other permission required for the project.

2. Location of the Project

- Maps and photographs showing the location of the project relative to surrounding physical, natural, and man-made features.
- Existing land-uses on and adjacent to the site and any future planned uses.

- Land-use policies (e.g. Local Development Plan, Forest and Woodland Strategies).
- Protected or sensitive areas or features.
- Details of any alternative locations that have been considered.

3. Characteristics of the Potential Impact

- A brief description of the project's likely impacts considering the following factors: impacts on population, human health, biodiversity, land, soil, water, air, climate, material assets, cultural heritage and landscape, and the interactions between them.
- Nature of the impacts (i.e. direct, indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative).
- Extent of the impact (geographical area, size of the affected population/habitat/species).
- Magnitude and complexity of the impact.
- Probability of the impact.
- Duration, frequency, and reversibility of the impact.
- Mitigation incorporated into the project design to reduce, avoid or offset significant adverse impacts.

2.3 Scoping meeting

This meeting should be organised and resourced by the applicant. The purpose of the meeting is to assist them in identifying and focussing on the **relevant issues**, identify those matters which can either be scoped out or which need not be addressed in detail in the EIA Report and discuss and agree appropriate methods of impact assessment, including survey methodologies.

Our role will be to act as an independent facilitator and chair the meeting:

- ensuring the applicant has invited all the necessary organisations and individuals that may have an interest in the project;
- that they have provided enough information about the project for participants to understand what is being proposed so they are able to identify any potential issues;
- making clear to participants that the scoping process is about hearing and understanding their views, not about selling the project;
- reassure participants that any views that they express at the scoping stage will not preclude them from making further comments;
- provide sufficient time for consultees to respond to requests for views and information; and
- ensuring that the views expressed are taken into account, and are seen to be taken into account, in the planning and preparation of the EIA Report and that an explanation is provided if recommendations are not followed.

The chairperson will need to ensure that everyone is given the opportunity to cover their field of interest and highlight the issues that are important to them. In the event participants are unable to attend the scoping meeting, we **must** ensure the applicant gives consideration to any written comments received.

The meeting is likely to follow the following format:

- Introduction, apologies, purpose and content of the meeting
- Background and outline of proposals by the applicant
- Raising of relevant issues and concerns by each participant
- Discussion on outcome and way forward
- Summary and close

It is the applicant's responsibility to keep a detailed record of the scoping meeting, which will inform the scoping report and in turn the scoping opinion, as chair we should ensure this record is agreed with all participants during the summary and close stage.

If there is considerable local interest in the proposal, consideration should be given to holding an exhibition and providing a suggestion box, as some people are nervous about standing up and speaking in public. Meetings can also be dominated by a few vocal attendees and might not allow the full range of issues or even the most important ones to be expressed.

2.4 Scoping report

Given that there are no formal requirements regarding the content of the scoping report in the Regulations, the format and detail of these documents will vary, however, the scoping report should contain a description of the scoping process, including a list of all those involved and any environmental effects to be assessed and included in the EIA Report.

The applicant will need to circulate the scoping report following the meeting and have it agreed by all participants before we can accept it and refer to it when writing the reasoned conclusion for the scoping opinion. **Further information on holding a scoping meeting and the content of a scoping report can be found in the guidance booklet - [Undertaking an Environmental Impact Assessment in Forestry](#).**

2.5 Scoping opinion

The scoping opinion can help, as a matter of good practice, to define the EIA Report's Terms of Reference and the level of detail of the information necessary for the assessment; it can also give an indication of the time needed to prepare the EIA Report. We **must** adopt the scoping opinion within 35 days from receiving the request, or such longer period as may be agreed in writing with the applicant.

In adopting a scoping opinion we must take into account:

- the specific characteristics of the particular forestry project;
- the specific characteristics of forestry projects of the type concerned; and
- the environmental features likely to be affected by the forestry project.

The following list presents all of the aspects that should be considered when preparing the scoping opinion:

- the baseline studies required to understand the existing environment's status, and any special requirements for such studies regarding their geographical extent or timing, e.g. because of seasonal changes in fauna and flora;
- the types of Alternatives that ought to be considered;

- the level of detail of investigations required;
- the methods to be used to predict the magnitude of environmental effects;
- the criteria against which the significance of effects should be evaluated;
- the types of Mitigation Measures to be considered;
- organisations to be consulted when assessing environmental impacts;
- the membership and management of the experts or team of experts that will prepare the EIA Report; and
- the work plan and resourcing for the assessment of environmental impacts.

The *SF Scoping Checklist* is designed to help users identify the likely significant environmental effects of proposed projects during scoping and can be used as an aid to writing the scoping opinion, you can find a copy in <S:\SRDP\EIA docs\SF EIA Checklists>

It has been adapted from the EC Scoping Checklist to make it more specific to forestry projects. A copy of the original checklist can be obtained at <http://ec.europa.eu/environment/eia/eia-support.htm>

If we have not been provided sufficient information to adopt a scoping opinion, we **must** notify the applicant of the points on which we require further information within 28 days of receiving the request.

A template for drafting our scoping opinion can be found in <S:\SRDP\EIA docs>

Operational Delivery can provide support in drafting the scoping opinion.

Adopting a scoping opinion in response to a request does not preclude Scottish Forestry from requiring the applicant to submit additional information in connection with any EIA Report relating to an EIA application for the same forestry project. A later scoping opinion will supersede the terms of an earlier scoping opinion.

2.6 Effect of a scoping opinion

Where a scoping opinion has been provided the EIA Report **must** take that into account. The EIA Report is not necessarily invalid if it does not fully comply with the scoping opinion, however, as this document represents the considered view of Scottish Forestry, an EIA Report that does not cover all the matters specified in the scoping opinion will likely be subject to calls for additional information and subsequent cycles of consultation under [Regulation 21](#).

2.7 Providing information to the applicant preparing the EIA Report

The applicant may ask Scottish Forestry or any of the consultation bodies for information relevant to the preparation of the EIA Report. We can give relevant information to the applicant provided that it is **not confidential**, please remember to redact any personal details (e.g. signatures, personal email or postal addresses) on information that you may provide. [Regulation 17](#) entitles Scottish Forestry or other bodies that have provided information to the applicant to make a reasonable charge reflecting the administrative cost of making the relevant information available.

[The Environmental Information \(Scotland\) Regulations 2004](#) impose a general duty on Scottish Public Authorities to organise and keep up to date environmental information relevant to the work they do with a view to making it available to any person who requests it. If requested, information must be made available within 20 working days.

Public Authorities need only provide information already in their possession, there is no obligation to undertake research or to take steps to obtain information which they do not already have.

Scottish Forestry, any statutory body or the local authority, which the applicant has asked for information to assist with preparing the EIA Report, is not obliged to give information where they are prevented from doing so, or where they have the power to refuse to do so under these Regulations. Legitimate reasons for refusing to make information available include: if disclosure would compromise data protection principles; or if public interest in making the information available is outweighed by not doing so.

2.8 Time limit for preparing the EIA Report

Although the submission of an EIA Report is not subject to any statutory time limit, we should check progress with the applicant at suitable intervals, every effort should be made to ensure the applicant submits within a reasonable timescale. A record of this progress check should be kept on file (preferably using a [WCPA](#)).

Until the EIA Report is submitted and consulted on, the EIA application cannot be determined except by refusal.

3.0 The EIA Report

The EIA Report is the report produced by, or on behalf of and at the expense of, the applicant. It must be prepared by a competent expert (as defined in [Regulation 6](#)) and be submitted with the application for consent.

It embraces the following four elements of:

- i. gathering environmental information;
- ii. describing the project;
- iii. predicting and describing the environmental effects of the project; and
- iv. defining ways of avoiding, reducing or compensating for the adverse effects.

EIA Reports should be compliant but proportional to the nature, scale and significance of effects. They should be rigorously edited, focused on key issues and should not contain so much detail that they distract readers from important environmental effects, or so lengthy and technical that they deter people from reading them.

The EIA Report is the applicant's statement on the project, its purpose is to:

- reach a reasoned conclusion on the significant effects of the development on the environment;
- identify if additional information or evidence should be requested from the applicant;
- establish an initial view on the key environmental issues prior to the receipt of views from consultees;
- identify specific issues on which the views of consultees should be sought;
- begin consideration of any conditions which may be needed to secure mitigation and any monitoring measures.

[Schedule 3 of the Regulations](#) lists the information for inclusion in EIA Reports.

Matters normally to be included in an EIA Report which are reasonably required to assess the environmental effects of the proposal and which the applicant can reasonably be required to compile include:

A description of the proposal including, in particular:

- A description of the location of the development;
- the physical characteristics of the whole development, any requisite demolition works and the land use requirements during the construction and operational phases;
- the main characteristics of the operational phase (in particular production processes) for instance, energy demand and usage, the nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) to be used;
- an estimate, by type and quantity, of expected residues and emissions (water, air and soil and subsoil pollution, noise, vibration, light, heat, etc.) and the quantities and types of waste produced during construction and operational phases.

Alternatives considered: A description of the reasonable alternatives (e.g. design, location, size and scale) relevant to the proposal studied by the proposer and an indication of the main reasons for choosing the selected option, including a comparison of the environmental effects.

Baseline environmental information: A description of the relevant aspects of the current state of the environment and an outline of the likely evolution in the absence of the proposal as far as that is possible, using reasonable effort and taking account of available relevant information and scientific knowledge.

A description of factors likely to be significantly affected, in particular:

- population
- human health
- biodiversity (particularly protected habitats and species)
- land (e.g. land take) and landscape
- soil (e.g. organic matter, erosion, compaction)
- water (e.g. hydromorphological changes, quantity and quality)
- air and climate (e.g. greenhouse gas emissions, impacts relevant to adaptation)
- material assets
- cultural heritage, including architectural and archaeological aspects

A description of the likely significant effects on the environment resulting from, inter alia:

- the construction and existence of the proposal, including any demolition works;
- the use of natural resources, particularly land, soil, water and biodiversity and considering as far as possible the sustainable availability;
- any emission of pollutants, noise, vibration, light, heat and the creation of nuisances, and the disposal and recovery of waste;
- the risk to human health, cultural heritage of the environment (e.g. due to accidents or disasters);
- the cumulation of effects with other existing and/or consented/approved projects of proposals, taking account of existing problems relating to areas of particular environmental importance or use of natural resources;
- the impact of the proposal on climate (e.g. nature and magnitude of greenhouse gas emissions and proposal vulnerability to climate change);
- the technologies and substances used.

The description should take account of direct and indirect effects, secondary, cumulative, transboundary, short-term, medium-term and long term effects, permanent and temporary effects and positive and negative effects of the proposal. The description should also take account of established environmental protection objectives established at EU level and those under the relevant directives.

Forecasting Methods: A description of the forecasting methods or evidence used to identify and assess significant effects on the environment.

Technical difficulties and limitations: Details of any difficulties, such as technical deficiencies or lack of knowledge, encountered in compiling the required information and the main uncertainties involved.

Mitigation measures: A description of the measures envisaged to prevent, reduce and, where possible, to offset any significant adverse effects on the environment. This should include proposed monitoring measures and explain the extent to which the effects are avoided, reduced or offset and cover construction and operational phase.

Vulnerability to risks of Major Accidents or Disasters: A description of the expected effects deriving from the vulnerability of the development to risks of major accidents and or disasters relevant to the proposal, including information obtained/available through risk assessments pursuant to EU legislation including relevant directives. This should include measures to prevent or mitigate significant adverse effects of such events and details of preparedness and proposed response to emergencies.

A non-technical summary of the above information

A reference list detailing the sources for the descriptions and assessments in the EIA Report

3.1 Reviewing and evaluating the EIA Report

As competent authority we are responsible for evaluating the EIA Report to ensure it addresses all of the relevant environmental issues and that the information is presented accurately, clearly and systematically. We must ensure that we have, or have access to as required, sufficient expertise to examine the EIA Report and should be prepared to challenge the findings where we believe they are not adequately supported by scientific evidence.

The applicant should be advised to let us see a draft copy of the proposed EIA Report prior to submission so we can check content and ensure that all the issues have been adequately covered. We must ensure there is sufficient information on both the project and reasonable alternatives to assess the likely environmental effects of the work and any proposed mitigation.

During the review identify those issues on which advice from specialists may need to be sought e.g. hydrology, archaeology, landscape, biodiversity etc. The review may also identify issues on which the specific views of the consultation bodies will be required, in which case the consultation bodies should be advised accordingly from the outset.

A good EIA Report should have the following qualities:

- A table of contents at the beginning of the document;
- Reads as a single document with appropriate cross-referencing;
- Is concise, comprehensive and objective, written in an impartial manner without bias;
- Contains a non-technical summary, which is understandable to someone who does not have previous forestry experience or an in-depth knowledge of the project;
- Has a clear structure with a logical sequence that describes, existing baseline conditions, predicted impacts (nature, extent and magnitude), scope for mitigation, proposed mitigation/compensation measures, significance of unavoidable/residual impacts for each environmental factor;
- Includes a full description and comparison of the alternatives studied;
- Makes effective use of diagrams, illustrations, photographs and other graphics to support the text;
- Uses consistent terminology with a glossary;
- References all information sources used;
- Has a clear explanation of complex issues;
- Contains a good description of the methods used for the studies of each environmental factor;
- Covers each environmental factor in a way which is proportionate to its importance;
- Provides evidence of effective consultations;
- Provides a basis for effective consultations to come;
- Makes a commitment to, and includes a programme for, mitigation and any monitoring that may be required;
- Contains a reference list detailing the sources used for the description and assessments included in the report.

The *SF EIA Review Checklist* has been designed to support users examine the quality of the EIA Report, ensuring sufficient, well informed information has been examined and presented in a logical format, you can find a copy in <S:\SRDP\EIA docs\SF EIA Checklists>

It has been adapted from the EC EIA Report Checklist to make it more specific to forestry projects. A copy of the original checklist can be obtained at <http://ec.europa.eu/environment/eia/eia-support.htm>

3.2 Insufficient Information

Where we consider key issues are not fully addressed, or not addressed at all, we **must** request additional information; we have to ensure that we have all the relevant environmental information to reach a reasoned conclusion as to the significant effects of the proposal on the environment.

The Regulations allow us to ask for additional information provided it is directly relevant to reaching the reasoned conclusion. We must write to the applicant and state clearly what information we require, to enable us to make a proper consideration of the environmental effects, ensuring that the additional information requested can be clearly linked to the decision-making process, and is not merely precautionary in nature. The Regulations oblige the applicant to provide this further information within such reasonable period as we may specify, if the applicant does not provide the supplementary information within such period we may treat the EIA application as being withdrawn.

Where the applicant fails or refuses to provide additional information we will be unable to make a decision about the application other than to refuse consent.

3.3 Assessing the alternatives

The EIA Report should contain a description of the reasonable alternatives studied by the applicant (e.g. project design, location, size etc.). It must set out the main reasons for selecting the chosen option in favour of an alternative and include a comparison of the environmental effects. It should be noted that the predicted environmental effects of the alternatives rejected may have been better or worse than the submitted project, therefore EIA does not absolutely constrain the selection of the submitted project in preference to alternatives studied, but it is reasonable to expect that a rational explanation would be included in the EIA Report as to why a more, or less, environmentally harmful project was chosen for submission.

3.4 Mitigation measures

The EIA Report should clearly describe the adverse impact each measure is intended to avoid, mitigate or compensate when implemented. It should also describe the effectiveness of such measures, their reliability and certainty, as well as the commitment to ensuring the practical implementation and monitoring of the results. It may not be possible to mitigate all significant effects but we must ensure that we identify any residual impacts (those remaining after mitigation) and their significance.

In accordance with the precautionary principle, a long-term approach should be promoted, and priority should be given to avoiding impacts (prevention measures), while remediation and compensatory measures should only be considered as a last resort.

Mitigation measures are often made a condition of our consent, a description of mitigation and compensatory measures for significant adverse effects **must** be incorporated in the [decision notice](#).

Types of Mitigation	How it Works
Measures to prevent	Impact avoidance by: <ul style="list-style-type: none"> • Changing techniques, not undertaking certain projects or components that could result in adverse impacts. • Changing the site, avoiding areas that are environmentally sensitive. • Putting in place preventative measures to stop adverse effects from occurring.
Measures to reduce	Impact minimisation by: <ul style="list-style-type: none"> • Scaling down or relocating the project. • Redesign elements of the project. • Using a different technique. • Taking supplementary measures to reduce the impacts either at the source or at the receptor
Measures to offset	Offset or compensate for residual adverse impacts that cannot be avoided or further reduced in one area with improvements elsewhere with: <ul style="list-style-type: none"> • Site remediation / restoration

When reviewing the proposed mitigation measures consider the following:

- Are they specific to the predicted effect?
- Is the action proposed feasible?
- How effective will it be?
- Can this action be enforced? (**Through conditions?**)
- How will you verify that it has worked? (**Monitoring required?**)

Securing mitigation: Where specific mitigation measures are required, these **must** be explicitly secured by condition as part of the consent decision. A general condition which says that the matters referred to in the EIA Report should be implemented should not be used and is unlikely to be valid unless the EIA Report was exceptional in the precision with which it specified the mitigation measures to be undertaken.

Although not a regulatory requirement we may request a schedule of mitigation, to aid drafting the consent notice this can be tied into the conditions making it enforceable. A schedule of mitigation is also a helpful means of ensuring that the mitigation measures are compatible and will work together to achieve the desired aims. It also has advantages for applicants, as it can provide more certainty as to the requirements with which they must comply.

3.5 Monitoring

As competent authority the EIA Regulations require us to consider whether it is appropriate for monitoring measures to be carried out; where appropriate we must also give consideration to whether any required monitoring measures should make provision for any remedial action to be taken. Monitoring should be proportionate to the nature, location and size of the EIA forestry project and the significance of its effects on the environment.

Monitoring should not be used as a general means of gathering environmental information, rather it is a means of monitoring, where appropriate, the effectiveness of any measures to avoid, prevent, reduce or offset significant adverse effects of the project.

Monitoring requirements for projects will be decided on a case by case basis, this will include considering:

- Which mitigating measures should be checked for compliance;
- Which stages of the proposal monitoring should be undertaken;
- How such monitoring should be undertaken and by whom.

In deciding to grant consent for the project legally binding conditions drawn up at the time of the decision should make clear what procedures will be put in place to review the monitoring and to change the mitigation if necessary, they should indicate the following:

- Who will review the effects;
- Who will report to whom;
- Who is responsible for taking decisions;
- Who will implement the changes to mitigation and other remedial works;
- Who will pay the costs of remedial work and corrective action.

In considering whether to require monitoring measures, and the nature of any measures to be imposed, we should bear in mind that monitoring arrangements under other regulatory regimes may be used if appropriate, with a view to avoiding duplication.

Advice may be sought from Operational Delivery and the consultation bodies when drawing up conditions to ensure monitoring is appropriate to the nature of the concern.

Where mitigation or monitoring measures are required, we must take steps to ensure that those measures are implemented. Set a calendar resumption to ensure the appropriate compliance checks are made and that details of the outcome are recorded and placed in the case file.

If there is a timetable for receipt of details of monitoring and this is not met consultation bodies, and/or third parties are entitled to press us to take action. Similarly, if there is a timetable for agreeing and implementing mitigation measures and this is not met, or consultation bodies, and/or third parties believe it is not being met, they can alert us and press us to take action.

3.6 Consultation and publicity

On accepting the EIA Report we must inform the applicant (using [EIA Report acceptable and requires to be consulted on](#) standard letter) and agree the number of hard copies required, there should be sufficient copies for each of the bodies we consult, a copy for the file and those for public display.

The applicant may make a reasonable charge to members of the public requesting a hard copy of the EIA Report to cover the costs of copying and the administration involved in dispatching copies. If you think that the charge being made by the applicant is excessive, particularly if it will prevent voluntary bodies from getting access to the document, then you should raise this with the applicant and discuss reducing the cost.

In accordance with [Regulation 18](#) the applicant must publish a notice in the local press and the [Edinburgh Gazette](#) and we must publicise the application by means of our Public Register. [Appendix 4](#) provides a draft notice that can be shared with the applicant for this purpose. We should send consultees copies of the EIA Report (accompanied by the standard [Letter to Consultees](#)) as closely as possible to the date that the public notice appears in the newspapers and on our Public Register.

On the same day the notice is published in the press, the EIA Report must also be made available on the [EIA Projects](#) page of our website. Complete the following project summary and send it to the [corporate communications team](#) along with the EIA Report for publication:

An application for consent under the above Regulations has been made to Scottish Forestry for **(EIA forestry project)** at **(location)** on an area extending to **(size)** hectares. A copy of the EIA Report may be viewed by following the link below.

Any person or organisation who wishes to make comment on the application may submit their views, in writing, to Scottish Forestry at the address below:

Conservancy address

Email: ._cons@forestry.gov.scot

Comments must be received within 30 days from **(date)**. Should the applicant submit additional information in relation to this application then this will also be made available here and comments accepted by the same means.

A hard copy **must** also be made available for public viewing during normal office hours at the local Conservancy office. Although not stated in the Regulations it has become routine to keep a hard copy at a venue in the locality of the EIA forestry project, where the local community will have sufficient opportunity to review.

3.7 Confidential Annexes

Scottish Forestry are subject to [The Environmental Information \(Scotland\) Regulations 2004](#) and [Freedom of Information \(Scotland\) Act 2002](#). Both have a presumption that any

information held will be released to any member of the public who seeks it, except in certain circumstances. Such circumstances enable the restriction of information whose release might lead to harm to protected species. It is therefore important that confidential annexes include only that information which it is necessary to keep confidential.

NatureScot has produced specific guidance on [EIA Reports and Annexes of Environmentally Sensitive Bird Information](#)

Key points include:

- that the information included should be limited to [Schedule 1 species](#) and their breeding and/or communal roost locations;
- confidential annexes should not be used to keep non-sensitive information from the public; and
- environmentally sensitive confidential data should be in a separate annex from any other commercial in-confidence data which developers may share with NatureScot or consenting authorities.

3.8 Consultation responses

It is vital that consultees concentrate on making representations about the project, clearly setting out their opinion as to the effects on the environment and the significance of the effects. These representations can, and should, draw upon the information in the EIA Report and indicate whether the conclusions in the EIA Report are a sound basis for informing Scottish Forestry as to the effects on the environment. Detailed comments on the EIA Report may assist, however the response should not focus entirely on the strengths or weaknesses of the EIA Report. The consultee's response should clearly distinguish between the formal response to the application, and the comments on the EIA Report.

Should any consultee who has been provided a copy of the EIA Report not reply within the 30 day consultation period, you should enquire immediately as to whether they intend on providing a response. Extensions to the statutory consultation period should only be given in exceptional circumstances.

3.9 Additional information / Modifications to the project

EIA is not an opportunity to obtain information that is desirable for other purposes. Information should only be requested when it is essential, not merely desirable, to the decision on the project, or where it would influence conditions that may be imposed.

Where an applicant has submitted additional information and evidence, or made modifications after submitting the EIA Report, which in our opinion (or the Scottish Ministers, as the case may be) is substantive, the additional material **must** be subject to the same consultation and publicity as the original EIA Report and taken into account before reaching a decision on the application.

The fact that a project is subject to the EIA process does not preclude modifications or amendments to it during the consideration of the application, these may be made after the EIA Report has been submitted. The iterative process of EIA can lead Scottish Forestry or consultees to seek changes to the proposals to avoid or further reduce environmental effects, equally, the applicant may wish to make changes to help satisfy concerns expressed by Scottish Forestry, consultation bodies or the public.

When accepting modifications we must ensure it is clear which scheme is being consented, by imposing a condition referring to the revised plan.

From a procedural point of view, whether the modifications can be accepted as an amendment, without a new application being made, is a decision for Scottish Forestry (or as the case may be, the Scottish Ministers) the key questions will be:

- **Are the modifications so extensive as to amount to a different project proposal?** If so, a new application should be made.
- **Are the modifications significant but not extensive?** If so, a new application is generally not required but we must consult on, and publicise the proposal again.
- **Are the modifications not so significant as to merit consultation and publicising generally?** If so it may be appropriate to approach selected consultees for comment.

4.0 EIA consent decision

We cannot give our decision until the 30 day period specified in the newspaper advertisement, our letter seeking consultees comments and the EIA register have expired. [Regulation 7.-\(2\)](#) stipulates that we must make the consent decision within 6 months (or such longer period agreed in writing with the applicant) of receiving the EIA Report or any supplementary information we have requested be provided by the applicant.

After taking account of any information made available by the applicant, comments from consultees and the public, only the following decisions can be made:

- **Grant consent subject to the mandatory conditions;**
- **Grant consent as above, plus other reasonable conditions as we see fit; or**
- **Refuse consent.**

4.1 Mandatory Conditions

The following conditions must be included in our consent decision; we may reduce the project commencement or completion timescale and specify shorter periods than stated below, provided we have sufficient reason e.g. to ensure specific survey data remains a reliable basis for our decision.

- work in relation to the EIA forestry project must be started within such period as is specified in the EIA consent (being a period of no more than 5 years beginning with the date on which EIA consent is granted); and

- no work may be carried out in relation to the EIA forestry project after the expiration of such period as is specified in the EIA consent (being a period of no more than 10 years beginning with the date on which the EIA consent is granted).

4.2 Further Conditions

We can attach any other relevant conditions to the consent that are deemed necessary to ensure that the environment is protected from the impact of the forestry project. These could include the requirement for monitoring; or mitigation measures required to avoid, prevent or reduce and if possible offset likely significant adverse effects.

To ensure they are legally binding and therefore enforceable, it is recommended you discuss and agree the wording of any further conditions with Operational Delivery prior to issuing the decision notice.

4.3 Content of a decision notice

Where an EIA application is determined by Scottish Forestry our decision notice must include the information listed below:

- a description of the forestry project;
- the terms of the decision;
- the main reasons and considerations on which the decision is based;
- information about the arrangements taken to ensure the public had the opportunity to participate in the decision making procedures; and
- a summary of the environmental information; the results of the consultations and information gathered and how those results, in particular comments received from an EEA State pursuant to consultation under [Regulation 27](#), have been incorporated or otherwise addressed.

If the decision is to grant EIA consent the decision notice must also include:

- a statement of the mandatory conditions;
- a statement of any further conditions to which the decision is subject;
- a description of any monitoring measures which may be required;
- a description of any mitigation measures which may be required;
- the reasoned conclusion;
- a statement that Scottish Forestry are satisfied that the reasoned conclusion is still up to date; and
- information regarding the right to challenge the validity of the decision and the procedures for doing so.

Reasoned conclusion: As competent authority we must also carry out our own separate assessment of the significant effects of the EIA forestry project on the environment the 'reasoned conclusion'. Although the term is not defined by the Regulations best practice dictates that it must take account of the results of the examination of the EIA Report, any other environmental information, consultation responses, statutory obligations, Scottish Government policy and where appropriate, any additional information. It **must not** simply rely on the applicant's assessment.

The reasoned conclusion is still up to date if we are satisfied, having regard to current knowledge and methods of assessment, that it addresses the likely significant effects of the proposal on the environment.

Things to consider when formulating the reasoned conclusion:

- Examine and justify the different tools and methods used during the preparation of the EIA Report, and subsequent consultations;
- Examine the information and data provided in the EIA Report and during consultations. Key messages of the baseline conditions, significant effects, predicted impacts of the project, suggested monitoring and mitigation measures, and other relevant information should be highlighted;
- Clearly discuss the evidence with a view to reaching a conclusion, allowing for any additional arguments which may arise;
- State clearly what the reasoned conclusion is and the arguments on which it relies;
- Define a programme to mitigate and monitor the effects of the project (in case

When drafting the decision notice use either the **Consent refused** template or **Consent granted** template depending on the outcome of the assessment.

Operational Delivery can provide support in drafting the decision notice.

significant adverse effects would be caused).

4.4 Duties to inform

Where an EIA application is determined by Scottish Forestry we must:

- a) notify the applicant of the decision;
- b) notify the consultees by sending them a copy of the decision notice ([Reply to those who commented about the application for consent](#) standard letter);
- c) notify the public of the decision, and where a copy of the decision notice may be inspected, by publishing a notice in the same newspapers as the initial notice; and
- d) make a copy of the decision notice available for public inspection at the local Conservancy office and on our website

On the same day the notice is published in the press our Decision Notice **must** also be made available on the [EIA Projects](#) page of our website. Complete the relevant project summary below and send along with the Decision Notice to the [corporate communications team](#) for publication.

Where consent has been refused this notice should remain on our website for 6 weeks, (the statutory period in which the applicant apply to the Court of Session for judicial review):

An application for consent under the Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017 was submitted to Scottish Forestry for **(EIA forestry project)** at **(location)** on an area extending to **(size)** hectares.

Consent for the project was refused on **(date)**

A copy of our Decision Notice may be viewed by following the link below.

Decision Notice

Where consent has been granted this notice should remain on our website for the period of consent (usually ten years):

A template notice for publicising our decision in the newspapers is provided in [Appendix 5](#).

5.0 Right to challenge the validity of the decision – Applications to court

Scottish Forestry's decision is final, subject to the right of any aggrieved person³ applying to the [Court of Session](#) for judicial review. An application to the Court **must** be made within 6

An application for consent under the Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017 was submitted to Scottish Forestry for (EIA forestry project) at (location) on an area extending to (size) hectares. A copy of our Decision Notice may be viewed by following the link below.

EIA Report (Send the following relevant documents for publication. If the EIA Report is not large and is not split up into individual chapters then the full document could be presented on this page)

Non-Technical Summary

Figures – e.g. Final Design Plan

Consent decision

Decision Notice

Consent for the project, subject to conditions, was granted on (date)

weeks from the date of publication of our decision on EIA consent.

What will the Court look at? The Court, when reviewing a decision, will examine the way in which Scottish Forestry has made its decision. It will consider, for example, whether all the relevant information was taken into account, the decision was wrong in law, the person making the decision had the power to do so and any procedural impropriety. The Court will not consider the merits, or substance, of a decision or substitute it with an alternative decision.

What is an example of procedural impropriety? A breach of duty to act fairly, failure to consult, being or appearing to be biased, failing to take into account legitimate expectations.

What options are available to the Court? It can quash decisions, award damages, make a declaration and make interim orders, including interim interdict (an order preventing an action until the Court has made its judgment), find in our favour or refuse the application for judicial review.

What happens in judicial review proceedings? Judicial reviews are made by way of a Petition to the Court of Session in Edinburgh. All judicial review actions go to a judge for

³ An aggrieved person can be the applicant, or a person with sufficient interest or whose rights have been impaired by the granting of EIA consent. For the purposes of the Regulations any NGO promoting environmental protection and meeting any requirements under law is deemed to have rights capable of being impaired.

First Orders to be granted. The first order allows the petitioner (the person challenging the decision) to serve the petition on the respondent (the decision-maker). It is at this stage that the petitioner can also seek interim orders, for example to prevent forest road construction until the Court has an opportunity to consider what should happen to it at a full hearing of the case.

If interim orders are sought, a caveat may be triggered, caveats are a form of early warning system which respondents often put in place in the Court of Session in order to alert them in the event that a petitioner is seeking an award of interim orders against them. The respondent can then arrange to make representations to the judge before first orders are granted. Once first orders have been granted, the case will be assigned a date for a First Hearing, if the matter is urgent, this can be arranged at short notice. More often, though, a hearing may be fixed for some months ahead. The respondent can then arrange for an advocate to be appointed to represent their interests in the case.

The first hearing can be either a short one, to decide on future procedure, or it can be a lengthier one, where detailed legal arguments are made on behalf of parties. It is also possible to have a second hearing, at which evidence can be led, either by affidavit (sworn statement), or in person. The judge may either give his or her opinion orally when he or she is finished hearing the case, or he or she may choose to think about it for a while (makes avizandum) before issuing his or her decision.

Opinions are published on the [Scottish Courts website](#) on the date of issue.

6.0 Breaches of Regulations

6.1 Powers of Entry

Provided you have been issued with and have on your possession an Authorisation Card (and accompanying legislation list), you may at any reasonable time enter any land on which you reasonably suspect that work in relation to an EIA forestry project is being, or has been carried out:

- without consent, where consent is required; or
- to ensure compliance with any condition subject to which EIA consent was granted, (including where applicable any condition to take mitigation or monitoring measures).

6.2 Enforcement notice

We can serve an enforcement notice when we discover that a person is carrying out, or has carried out work, where our consent would be required, or is in breach of a condition of the consent that we have granted.

The Regulations allow us to withdraw a notice or vary it by means of issuing a subsequent notice at any time.

You may serve the notice on:

- A person - who is carrying out, or has carried out work in connection with an EIA forestry project;

- A corporate body - the notice can be served on a director, manager, secretary or similar officer of the body, where the affairs of the body are managed by its members, a member;
- A Partnership - In relation to a limited liability partnership, a member; in relation to a Scottish partnership, a partner; or in relation to an unincorporated association other than a Scottish partnership, an individual who is concerned in the management or control of the association.
-

The notice can be served on any person by:

- Delivering it to them personally.
- Leaving it at their last known address or place of business.
- Posting it to their last known address or place of business.
- Sending it by email to that person's last known email address.

One or more of the following measures can be included in the notice:

- Stop work in relation to the EIA forestry project.
- Apply for consent.
- Restore the land to the condition it was in before any work started.
- Carry out work on the land to comply with conditions of consent.
- Remove or alleviate any damage to the environment that has been caused by the work.

The notice to stop work should be with immediate effect and must specify the time period during which any of the remaining four measures specified above must be taken. We can specify different periods for different measures.

When the enforcement notice relates to work carried out without consent, a written statement of the reasons why we think that the work is an EIA forestry project must accompany the enforcement notice, or if provided separately, as soon as practicable after serving the enforcement notice.

A template for drafting an enforcement notice can be obtained from [S:\SRDPEIA docs](#) Operational Delivery are available to provide support in drafting the enforcement notice.

[6.3 Right to challenge the validity of the enforcement notice](#)

The right to challenge the validity of our decision can also be used regarding the issuing of an enforcement notice.

See section [5.0 Right to challenge the validity of the decision – Applications to court](#) above for further information on this process.

7.0 Relevance of European Designations to EIA

Under the [Habitats Regulations](#) all competent authorities, before undertaking or giving any form of permission, consent or other authorisation to a plan or project, must check whether the plan or project would be likely to have a significant effect on a European site (SAC/SPA).

It is important to ensure that the applicant is aware of, and understands the significance and purpose of all relevant designations, the potential effects on the designation should be considered, and where they have the potential to be significant, should be included in the scope of the EIA.

Where in relation to the EIA forestry project there is also a requirement to carry out a Habitats Regulations Appraisal (HRA), Scottish Forestry must, where appropriate, ensure that these are co-ordinated. Any plan or project likely to have a significant effect on or within a Natura site is subject to an Appropriate Assessment (AA) of the implications for the site in view of the site's conservation objectives. The AA decision is binding and determines whether a plan or project may proceed.

The scope of the AA and the EIA is different, the EIA should consider all significant environmental effects, while the AA focuses on the conservation objectives and the integrity of the Natura site in question, however some of the information collected for one assessment can be used for the other.

More information on HRA can be found on the [NatureScot website](#) and in our HRA Staff Procedure, which can be obtained from [S:\SRDP\HRA](#)

Comparisons between the EIA and HRA processes

Elements of the process	EIA process	HRA process
Origin	EC Directive 85/337/EEC amended by 97/11/EEC, 2003/35/EC, 2011/92/EU and 2014/52/EU.	EC Directives 79/409/EEC and 92/43/EEC
Statutory basis in Scotland	The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017	Conservation (Natural Habitats &c) Regulations 1994 as amended and Conservation of Habitats and Species Regulations 2010.
Applies to	Afforestation, deforestation, forest roads and quarries.	Any plans and projects likely to have significant effects on a European site.
Assessment work undertaken by	The project proposer	Scottish Forestry who can require all necessary information to be submitted by the proposer of a project and ensure that the assessment is co-ordinated where EIA is undertaken.
Trigger for requiring assessment	Projects' screened as having likely significant effects on environment.	Compulsory screening of plans and projects for likely significant effect on a European site.
Reporting provisions	The project proposer must produce an EIA Report, which must contain specified Material.	None, but in practice project applicants or plan makers produce a report to inform the assessment, although the content of the report is not specified.

Publicity requirements	Statutory publicity set out in regulations.	Consultation with the public discretionary and only if an appropriate assessment is required.
Consultation requirements	Statutory consultation with NatureScot, SEPA, HES and other consultees (including the public) as specified in regulations.	Statutory consultation only with NatureScot and only if an 'appropriate assessment' is required. Scottish Ministers will consult the other UK administrations on all cases where derogations have applied to allow a potentially damaging project to proceed.
The precautionary principle	Applied proportionally as a matter of policy and good practice as may be necessary.	Embedded in law – Scottish Forestry must ascertain (beyond reasonable doubt) that there would not be an adverse effect on integrity of the site.
Effect of a negative assessment	Scottish Forestry must decide whether benefits of the project outweigh the identified negative environmental effects.	The plan or project cannot be undertaken, given effect or consent, as the case may be, unless there are no alternative solutions, there are imperative reasons of overriding public interest and compensatory measures are secured to ensure the coherence of the UK site (Natura 2000) network.
Monitoring requirements	None required by the regulations but Scottish Forestry should impose monitoring conditions where necessary.	None required by the regulations, Scottish Ministers will publish a report every six years (from EU exit day) on site condition.

References and other sources of information

[The Forestry \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017](#)

[Environmental Impact Assessment Handbook, Guidance for competent authorities, consultation bodies, and others involved in the Environmental Impact Assessment process in Scotland – SNH & HES](#)

[Assessing the cumulative impacts of onshore wind farms on birds](#)

[Scottish Planning Series, PLANNING CIRCULAR THE TOWN AND COUNTRY PLANNING \(ENVIRONMENTAL IMPACT ASSESSMENT\) \(SCOTLAND\) REGULATIONS 2017 – Scottish Government](#)

[Planning Advice Note, 1/2013, Environmental Impact Assessment – Scottish Government](#)

[Environmental Impact Assessment of Projects, Guidance on Screening – EC](#)

[Environmental Impact Assessment of Projects, Guidance on Scoping – EC](#)

[Environmental Impact Assessment of Projects, Guidance on the preparation of the Environmental Impact Assessment Report – EC](#)

[Environmental Impact Assessment for Forestry Projects 2018 – Scottish Forestry](#)

[Undertaking an Environmental Impact Assessment in Forestry and preparing an Environmental Impact Assessment Report – Scottish Forestry](#)

<https://www.nature.scot/professional-advice/planning-and-development/environmental-assessment/habitats-regulations-appraisal-hra>

Appendix 1: Additional Information on Roads, Tracks and Quarries

Permitted development: [The Town and Country Planning \(General Permitted Development\) \(Scotland\) Amendment \(No. 2\) Order 2014 \(SSI 2014 No. 300\)](#) came into effect on 15th December 2014. The Order amends the [Town and Country Planning \(General Permitted Development\) \(Scotland\) Order 1992](#) to require that, prior to the formation, or alteration, of agricultural or forestry private ways the developer or landowner must apply to the relevant local planning authority (LPA) for a decision on whether the prior approval of the LPA is needed before development begins. This process is known as ‘prior notification’. The application must be accompanied by a description of the proposed development. The LPA will then consider whether their prior approval is required. If planning permission is required for the road or quarry, then these proposals will not come under Forestry EIA Regulations but rather the Town and Country Planning EIA Regulations, which are exercised by the LPA.

Information you should expect to adopt a screening opinion:

- Location maps of routes, quarries / borrow pits, plans of engineering operations i.e. cuttings, embankments, accesses, turning points, culverts, bridges, silt dams, drainage plan, a pollution prevention plan would also demonstrate good practice.
- Surveys in relation to factors such as water, soils, landscape, biodiversity, cultural heritage, population and human health.

Summary of the main issues to be considered:

Water and soils - Check the water quality on site. Consider the downstream effects of chemicals, fuels, siltation, temperature, pH changes and the effect an increase or decrease in quantity of flow rate on episodes of flooding and the potential impact on public and private water supplies. Ensure positioning of culverts do not create a barrier to fish migration. Although the presumption should always be to avoid disturbing deep peat, this is not always practicable. ‘Floating roads’ are usually used in deep peat areas, but it should be understood that this method of construction can significantly alter habitat drainage regimes. Adequate provision must be made for maintaining through-drainage to avoid drying or flooding of habitats adjacent to the track. It is important to maintain hydrological connectivity between both sides of the track in order to avoid impacts on GWDTEs and other wetlands, this is particularly important where a track runs across a slope.

Landscape - Consider the visual impact of the road or quarry, particularly in landscape sensitive areas e.g. NSA, National Parks, Wild Land. The design of cuttings and embankments should be of natural form and likely to recolonise

Biodiversity - Consider the impact of the road or quarry on sensitive sites such as SSSI’s, SAC’s, ASNW’s, open semi-natural vegetation, badger setts, raptor nests, fish spawning grounds, GWDTE’s etc. Consider the impact from traffic through the site both during and post construction.

Cultural Heritage - The proximity of roads, tracks and quarries to known archaeological sites must be considered. What is the potential impact of construction traffic crossing or parking on the site? The site may need protection from exploitation as a source of road building material.

Population & Human Health - Carry out an assessment of the frequency and timing of use i.e. seasonal use only or all year. Consider the impact of construction and future use on neighbours. Consider potential increased risk to other users of the site and adjacent roads, likely use of site by non-forest traffic e.g. farm or sporting.

Further information can be found using the links below:

[Planning Circular 2/2015: Consolidated Circular on Non-domestic Permitted Development Rights](#)

[FCS Briefing Note 3 - Prior Notification of forestry](#)

[Constructed tracks in the Scottish Uplands](#)

[The Design and Use of the Structural Pavement of Unsealed Roads](#)

[FORESTRY & WATER SCOTLAND](#)

[SEPA - The Water Environment \(Controlled Activities\) \(Scotland\) Regulations 2011 \(as amended\) A Practical Guide](#)

[Practice guide for forest managers to assess and protect Groundwater Dependent Terrestrial Ecosystems](#)

Appendix 2: Example of a comprehensive reasoned conclusion to accompany a screening opinion where the proposed forestry project is not an EIA forestry project

Dear

The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017

I refer to your application Logiealmond Estate near Harrietfield, Perthshire, which contains proposals for 111.67 hectares of afforestation and 1.3 hectares of forest road.

We are required to provide a Screening Opinion under the above Regulations as to whether the work you are proposing is an EIA project and will require EIA consent.

I can confirm that the work you propose will **not** require EIA consent.

The information accompanying the request for a screening opinion made under Regulation 12.– (1), identified that the woodland creation proposal could have potential significant effects on the following EIA factors listed under Regulation 5.– (3):

Population and Human Health

- 1. Private water supplies for human consumption and the water supply to the common drain for septic tanks in Harrietfield are located within the area proposed for woodland creation.**

Potential significant effects have been addressed by including the following mitigating features in the planting design:

Drinking water abstraction points will be buffed by 50m of open ground and all water pipes and the water supply to the common drain will be buffered by a minimum of 5m open ground, as identified on Appendix 3d Logiealmond Estate Water supplies.

No forest operations will take place within buffer areas and access to these assets will be maintained.

The project proposed, including the mitigation outlined, is not likely to cause a significant effect to Private Water supplies.

- 2. A core path and other routes used for public access have been identified within the area proposed for woodland creation. The proposed deer fence will cross the core path at two locations and is sited adjacent to it for approximately 0.5km.**

Potential significant effects have been addressed by including the following mitigating features in the planting design:

The deer fence will be located north of the core path in the section in which it runs adjacent to it. As prominent views in this location are primarily to the south and west it is considered the impact on the visitor experience will be minor negligible. All recognised access routes will be serviced by pedestrian gates as identified on Appendix 1 Logiealmond Estate Concept Map v19. Access to the Logiealmond Estate will continue in accordance with The Land Reform (Scotland) Act 2003.

The project proposed, including the mitigation outlined, is not likely to cause a significant effect to Public Access.

- 3. Increased traffic associated with the woodland creation proposal and the potential impact it may have on the local community was raised during stakeholder engagement.**

The area proposed for productive woodland is serviced by the B8063, which is an 'agreed route' for timber transport. A new forest access road is proposed, which avoids the core path and enters the

public road network west of Harrietfield. Felling will be phased over a 20 year period and will generate on average 275 lorry loads every 5 years.

Potential significant effects will be addressed through the preparation of a timber transport management plan prior to the commencement of felling. This plan will be prepared in consultation with local residents and the local authority roads department.

The project proposed, including the mitigation outlined, is not likely to cause a significant effect to Timber Transport.

Cultural Heritage

- 1. A number of archaeological features were identified within the area proposed for woodland creation, including the Scheduled Monument (SM), Car Stone.**

Potential significant effects have been addressed by including the following mitigating features in the planting design:

Deer fencing and woodland creation is set at an appropriate distance from the SM, so as not to impact the setting or integrity of this feature. The proposed forest road will include a 70m buffer around the SM. Although the new forest road will be visible from the SM, as disturbed ground revegetates it is considered the impact on the setting of Car Stone will be minor negligible.

All other historic features identified within the proposed woodland creation area will be protected by incorporating the recommended buffer zones identified within Section 6 of the applicants Historic Environment Desk-Based Assessment and Walkover Survey and on Appendix 1 Logiealmond Estate Concept Map v19.

No forest operations will take place within buffer areas and access to historic features will remain.

The project proposed, including the mitigation outlined, is not likely to cause a significant effect to the Scheduled Monument.

Soil

- 1. Appendix 4 Logiealmond Soil Report identified areas of deep peat soil. These areas are identified on Appendix 1 Logiealmond Estate Concept Map v19.**

Potential significant effects have been addressed as areas identified as deep peat have been removed from the planting design.

The project proposed, including the mitigation outlined, is not likely to cause a significant effect to areas of deep peat.

Water

- 1. The boundary of the proposal for woodland creation, as identified on Appendix 1 Logiealmond Estate Concept Map v19, is close to the boundary of the River Tay Special Area of Conservation (SAC) and has connectivity to it via several small watercourses.**

Potential significant effects on the water environment as a result of forest operations have been clearly identified in Appendix 3a. Diffuse Pollution Control Plan (DPCP). The DPCP describes the work methods, site supervision and monitoring methods, which are aimed at avoiding water pollution.

The pollution control measures identified within comply with the Controlled Activities Regulations General Binding Rules. Potential significant effects will be avoided through strict adherence to the pollution control measures identified within the DPCP.

The project proposed, including the mitigation outlined, is not likely to cause a significant effect to the SAC.

Biodiversity

1. Potential significant effects on protected species from forest operations associated with the woodland creation proposal were raised during stakeholder engagement.

Appendix 10 Logiealmond Protected Species Report did not identify the presence of protected species during site survey, though it acknowledges suitable habitat is present and the following species may still utilise the site otter, water vole, pine marten, badger, red squirrel, bats, breeding birds, reptiles and amphibians. This report sets out a mitigation strategy for each of these species designed to avoid potential impacts. The measures listed comply with current best practice guidance.

Strict adherence to the mitigation measures identified within this report will avoid any significant effects on protected species during the establishment phase of the forestry project.

The project proposed, including the mitigation outlined, is not likely to cause a significant effect to protected species.

2. Appendix 6b Logiealmond Breeding Bird Survey identified the presence of Black Grouse in the area proposed for woodland creation. The erection of deer fencing to protect the woodland creation proposal could have a potential significant effect on this species.

Potential significant effects will be addressed through the applicant agreeing with Scottish Forestry and RSPB the sections of deer fencing that will require to be marked to prevent bird strike, prior to the commencement of forest operations. Fence marking will be done in accordance with the *FC Technical Note: Fence marking to reduce grouse collisions*.

The project proposed, including the mitigation outlined, is not likely to cause a significant effect to Black Grouse.

3. Potential significant effects on protected habitats from forest operations associated with the woodland creation proposal were raised during stakeholder engagement.

Appendix 7a Vegetation Survey identifies a number of habitats within the survey area that have the potential to support Ground Water Dependant Terrestrial Ecosystems (GWDTE). GWDTE located within the woodland creation proposal area are identified on Appendix 7c Logiealmond Estate GWDTE Areas map.

Potential significant effects have been addressed through applying the approach recommended in the *Practice guide for forest managers to assess and protect Groundwater Dependent Terrestrial Ecosystems when preparing woodland creation proposals*, to inform the planting design.

GWDTE areas are excluded from the planting design and route of the new forest road. No forest operations will take place within a minimum 20m buffer area.

The project proposed, including the mitigation outlined, is not likely to cause a significant effect to GWDTEs.

4. Appendix 6a Logiealmond Curlew Report identified potential significant effects from the woodland creation proposal on a significant breeding population of Curlew.

The area identified for woodland creation in Appendix 1 Logiealmond Estate Concept Map v19 will avoid all but one of the breeding territories identified in the Curlew survey report.

Legal predator control will increase across the estate and target foxes, stoats and crows.

Mechanical operations, such as fertiliser spreading, harrowing and rolling will be avoided during the Curlew breeding season. Mechanical topping of rush dominated habitat will be undertaken between 1st August and 1st March, out with the bird breeding season. Areas of dense rush will be cut in a random pattern to create open areas for birds to feed, whilst some rush will be retained to provide cover.

To enhance flush and wetland conditions for brood-rearing Curlews, a number of moorland drains have been identified for blocking and wader habitat will be improved by creating 20 scrapes, each a minimum size of 20 square metres and designed to hold water from at least 1st March to 31st May.

To reduce the risk of damage to Curlew eggs and fledglings from trampling, stock will be excluded or the intensity of grazing reduced in areas identified as having significant breeding territories in the Curlew survey report, from beginning of March until the end of July.

The location for habitat improvements aimed at benefiting Curlew are identified in Appendix 6e Curlew Mitigation Map.

Potential significant effects have been addressed by including the mitigating features described above in the planting design. Woodland creation will avoid all but one breeding territory. The supporting information identifies the immediate area as suitable alternative habitat and that it has capacity to accommodate the number of breeding pairs displaced. This adjacent habitat will also be subject to improvement and restoration measures, such as, drain blocking and creation of wader scrapes.

Grazing patterns will follow a similar management regime to what has been historically practiced on Logiealmond Estate and other agricultural practices will avoid the critical period for breeding Curlew. The continuation of low intensity grazing and avoidance of disturbance from agricultural practices during the critical period for breeding, planned habitat restoration and improvements for adjacent open ground will benefit not only Curlew, but other species in decline that depend on similar habitat.

When taken into consideration alongside the footprint of the existing woodland resource on Logiealmond, the woodland creation proposal will not significantly increase the amount of woodland edge available to generalist predators. The commitment to increase targeted predator control across Logiealmond Estate will ensure numbers of these species remain at existing or reduced levels from the current baseline.

The applicant will agree a programme for monitoring the effectiveness of the mitigation strategy with Scottish Forestry, prior to the commencement of any forest operations.

The proposed creation of 50.29 hectares of native woodland is to be focussed around existing native or ancient woods which will further develop diverse and resilient native woodland habitat networks in the area, providing benefit to a wide range of other species.

Taking into consideration the mitigation proposed we consider the residual impact on Curlew from the woodland creation proposal to be minor and therefore not a significant effect.

The project proposed, including the mitigation outlined, is not likely to cause a significant effect to Curlew.

Landscape

- 1. Potential significant effects on the landscape relating to forest design were raised during stakeholder engagement. Due to the scale of the initial proposal it was agreed that a Landscape and Visual Impact Assessment (LVIA) would be required to guide forest design and communicate landscape change.**

Appendix 9a Logiealmond Woodland Creation Scheme LVIA v3 identified the proposed design would, overall, integrate well into the mixed land-use of the setting and that landscape and visual effects would be localised.

Two specific areas of the planting design were identified as having potential significant effects:

- Crochan Hill the LVIA found that the form of the planting design did not respond to the local topography; and
- Kindrumpark Farm and Kindrum House the LVIA identified potentially significant impacts on the local setting of dwellings.

The LVIA identified additional mitigation in the planting design that could further reduce these impacts.

Potential significant effects have been addressed by including the following mitigating features in the planting design:

Replacing Sitka spruce with a mixture of native species on the upper margin of Crochan Hill will encourage the development of a more naturalistic ecotone between woodland and open hill. The substitution of Sitka spruce with native species in this location also delivers greater visual integration with the existing woodland resource following restocking, as identified on Appendix 1b Woodland Resource Map.

To reduce the dominance of productive conifers, native broadleaf planting has increased between Kindrum House and the productive conifer woodland to the east and north of the house. Norway spruce and Douglas fir have also been introduced to the planting mixture sub-dividing the conifer element here into smaller compartments. Smaller compartments comprising species of differing growth rates will enable felling to be undertaken over a longer period increasing structural diversity in the woodland over time.

Additional visualisations of the proposal were requested to assess the potential visual effects of the proposals on Kindrum House, identified as LVIA Figures 28-34. These visualisations confirm long views of the valley floor and surrounding hills to the south-east of the property will be lost, though remaining views remain unaffected. The visualisations confirm the degree of spatial enclosure at Kindrum House to be minor due to the retention of open ground between the property boundary and the proposed woodland edge.

Taking account of the proposed mitigation we consider the residual impact on loss of view at Kindrum House from the woodland creation proposal to be minor and therefore not a significant effect.

The project proposed, including the mitigation outlined, is not likely to cause a significant effect to the Landscape.

2. Potential significant effects on the landscape relating to forest road construction were raised by Scottish Forestry following its inclusion in the revised woodland creation proposal. The proposed route is identified on Appendix 1 Logiealmond Estate Concept Map v19.

An addendum to the LVIA was undertaken to inform the route and communicate landscape change forest road and associated borrow pit. The findings of this assessment are that the forest road and borrow pit will have localised landscape and visual impacts in the short term though these will reduce as disturbed ground revegetates and the woodland establishes.

The LVIA addendum and associated visualisations Figures 37-39, confirm there will be no significant effects on the landscape arising from the proposed route forest road and location of the borrow pit.

This decision is valid for only 5 years from the date of this letter and shall cease to have effect beyond 24 June 2026. If you propose to carry out any of the work in your application after 24 June 2026 please inform us immediately. We will screen the proposals again to decide whether your proposals require EIA consent under these Regulations.

Please note that if you intend to apply for grant funding for this work, you must wait until you get an approved contract from us before you start any of the work.

Appendix 3: Example of a reasoned conclusion to accompany a screening opinion where the proposed forestry project is an EIA forestry project

Dear

The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017

I refer to your application at Eisg Brachaidh Estate, by Ullapool for, 250 hectares of afforestation.

We are required to provide a Screening Opinion under the above Regulations as to whether the work you are proposing is an EIA project and will require EIA consent.

I can confirm that the work you propose **will** require EIA consent.

Description of Forestry Project and Location

Although the maps provide a broad indication of where natural-regeneration is anticipated, it is not clear from these or from the supporting information how each area relates to non-woodland protected habitats and how they have been assessed as being suitable for woodland creation.

The supporting information does not clearly demonstrate the requirement to enclose the entire Eisg Brachaidh Estate, non-woodland habitats have been assessed as being in favourable maintained or unfavourable recovering condition.

The role of the Section 7 agreement and Coigach – South Assynt sub area Deer Management Plan in delivering designated features into favourable condition is not discussed. Consequently it is not clear the extent to which these management agreements are being successful or failing to meet their objectives.

The description of relevant aspects of the current state of the environment are incomplete. The mammal survey is an ‘interim report’ largely based on earlier surveys and by its own declaration fieldwork is “by no means complete”. A recent bird survey has not been undertaken, instead the supporting information includes a summary based on personal accounts that are not supported by data.

The screening request concludes “Fencing the estate will avoid any negative impact on surrounding owner’s deer stalking activity”, though the evidence to support this statement has not been provided. To set this proposal in context we would expect an assessment of how the proposal relates to the management objectives of all neighbouring landholdings.

There remains uncertainty as to whether the project can successfully achieve its objective of woodland regeneration in the presence of livestock and wild deer, as no method to control their abundance or distribution in areas identified for natural regeneration is proposed.

The screening request does not consider the potential cumulative impacts with other existing, consented or planned deer fencing that may be relevant to this proposal.

Description and Mitigation of Likely Significant Effects

The supporting information does not provide the level of detail required to determine the significance of impacts on SSSI and SAC features, both within and out with the proposed enclosure. Appendix 2 provides brief notes of an expected outcome within the enclosure, though it is unclear what methodology was used to arrive at these conclusions.

There remains uncertainty over the likely impacts on deer welfare and behaviour over time and therefore the efficacy of the mitigation strategy in minimising impacts to an acceptable level, both within the enclosure and over the whole range. Appendix 3 confirms “Deer movements in the area are difficult to predict with any certainty. The area may be one of the through routes for deer into and through Inverpolly Estate.” The capacity to disperse is an essential part of the lifecycle of wild deer, identifying the likely significant effects and subsequent mitigation on deer is reliant on a predictive approach that requires detailed knowledge of likely deer movement patterns.

The screening request concludes the proposal will not inhibit public access, but does not provide the rationale for this assumption. Favoured routes have not been identified on the access map and local and other relevant stakeholders views have yet to be invited on the location of access gates.

Although a competent piece of work, the visual appraisal does not include mention or assessment of any infrastructure that may be required to both construct, maintain and in future dismantle and remove the enclosure, and any short, medium and long term visual effects of those stages of construction and dismantling. Additionally, the potential visual effects created as a consequence of the vegetation within the enclosure having the grazing pressures removed has not been considered. From the more elevated and distant viewpoints, this differential vegetation pattern may become visible in the wider landscape, despite the actual enclosure being too far distant or screened from view.

Consultation

The outcome of discussions held with NatureScot, including comments and advice with regards to deer and protected sites are not captured within the screening request. Neither are the opinions and issues raised by those who do not support the proposal.

Changes to deer management on one landholding can have significant effects on others. The extent of these effects are unclear, as the views of the tenant farmer, Deer Management Group, all neighbouring properties and local community regarding this project are not fully captured within the screening request and supporting information.

Conclusion

In reaching our decision we have taken into account the information you have provided with the request for a screening opinion and other existing environmental information for the area. We considered the size and design of the forestry project could have complex, long-term, or irreversible impacts on the environmental sensitivity of the area, with particular regard to its biodiversity and landscape. We have therefore concluded that expert and detailed analysis of those impacts would be relevant to whether or not the proposal should be allowed.

Although the visual appraisal makes a valuable contribution to our understanding of how the proposed deer fence may be seen in the landscape, as Eisd Brachaidh estate is within a National Scenic Area and in part within and adjacent to a Wild Land Area, we are of the opinion the potential effects of the deer fence proposals on the landscape should also be assessed and a more in-depth [Landscape and Visual Impact Assessment](#) is required.

Although a useful tool in managing wild deer, fencing is rarely appropriate as a long-term fix particularly on a landscape scale. We need to be certain that this project is an effective means of deer management that both safeguards the designated site woodland features and the sustainable management of wild deer. The screening request and supporting information does not clearly demonstrate this.

The screening request considered alternative solutions were shown to be unviable, but did not provide detail on alternate designs or explain why they were shown to be unworkable. The EIA process will provide further opportunity for an analysis of all reasonable alternatives taking into account the environmental effects.

Next Steps

It is recommended that you now contact us to request a Scoping Opinion, which will provide the information that is to be included in your EIA Report.

We must consult statutory consultees during the scoping process, so we recommend you arrange an online Scoping Meeting and invite Scottish Forestry and all of the necessary organisations and individuals that can contribute information or that may be affected by your EIA forestry project.

We advise this includes:

- NatureScot

- Highland Council
- Scottish Environment Protection Agency
- Historic Environment Scotland
- West Sutherland Deer Management Group
- Assynt Foundation
- Inver and Kirkaig Fishings estate
- Inverpolly estate
- Scottish Wildlife Trust
- Assynt Community Council
- Coigach Community Council
- Ramblers Scotland
- Mountaineering Scotland
- Scottish Canoe Association
- RSPB Scotland

If you do not hold a Scoping Meeting we will still require the following information to consult independently:

- A description of the location of your forestry project;
- A map identifying the land;
- A description of the nature and purpose of your forestry project and its likely effects on the environment; and
- Any other information that you wish to provide, e.g. any avoidance, off-setting or mitigation measures.

Guidance on EIA for forestry projects can be found at:

<https://forestry.gov.scot/support-regulations/environmental-impact-assessment>

Yours sincerely

Appendix 4: Draft notice announcing publication of EIA application

(Applicant pays advertising cost)

The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017

An application for consent under the above Regulations has been made to Scottish Forestry for **(EIA forestry project)** at **(location)** on an area extending to **(size)** hectares. Scottish Forestry may decide either to grant consent subject to the standard conditions required by Regulation 18 under the above Regulations, or subject to such further conditions as they see fit or refuse consent

A copy of the application and the EIA Report may be viewed free of charge on the EIA Projects page of our website, or Monday to Friday, during normal office hours, for a period of 30 days beginning with the date of this notice, at the following address:

Scottish Forestry

Address line 1

Address line 2

Address line 3, Postcode

Other location

Address line 1

Address line 2

Address line 3, Postcode

Any person or body who wishes to make comment on the application may submit their views, in writing, to Scottish Forestry at the above address. Comments must be received within 30 days from the date of this notice. Should the applicant submit additional information in relation to this application then this will also be made available and comments accepted by the same means.

Copies of the EIA Report may be obtained by writing to:

Company Name

Address line 1

Address line 2

Address line 3

Postcode

at a cost of £>>> plus VAT. (DVD format)

at a cost of £>>> plus VAT. (Hard Copy)

Date of Notice: >>>>>>>>

Appendix 5: Draft notice announcing consent decision

(Scottish Forestry pays advertising cost)

The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017

An EIA Report in connection with an application for consent under the above Regulations, for **(EIA forestry project)** at **(location)** on an area extending to **(size)** hectares was advertised in this newspaper on **(date)** in accordance with Paragraph 18 of these Regulations.

Following consultation with statutory agencies and the public Scottish Forestry have now considered the application and the information provided in the EIA Report and have decided **(decision)**.

Copies of the full decision can be viewed on the EIA Projects page of our website, or Monday to Friday, during normal office hours at:

Scottish Forestry

Address line 1

Address line 2

Address line 3, Postcode

Other location

Address line 1

Address line 2

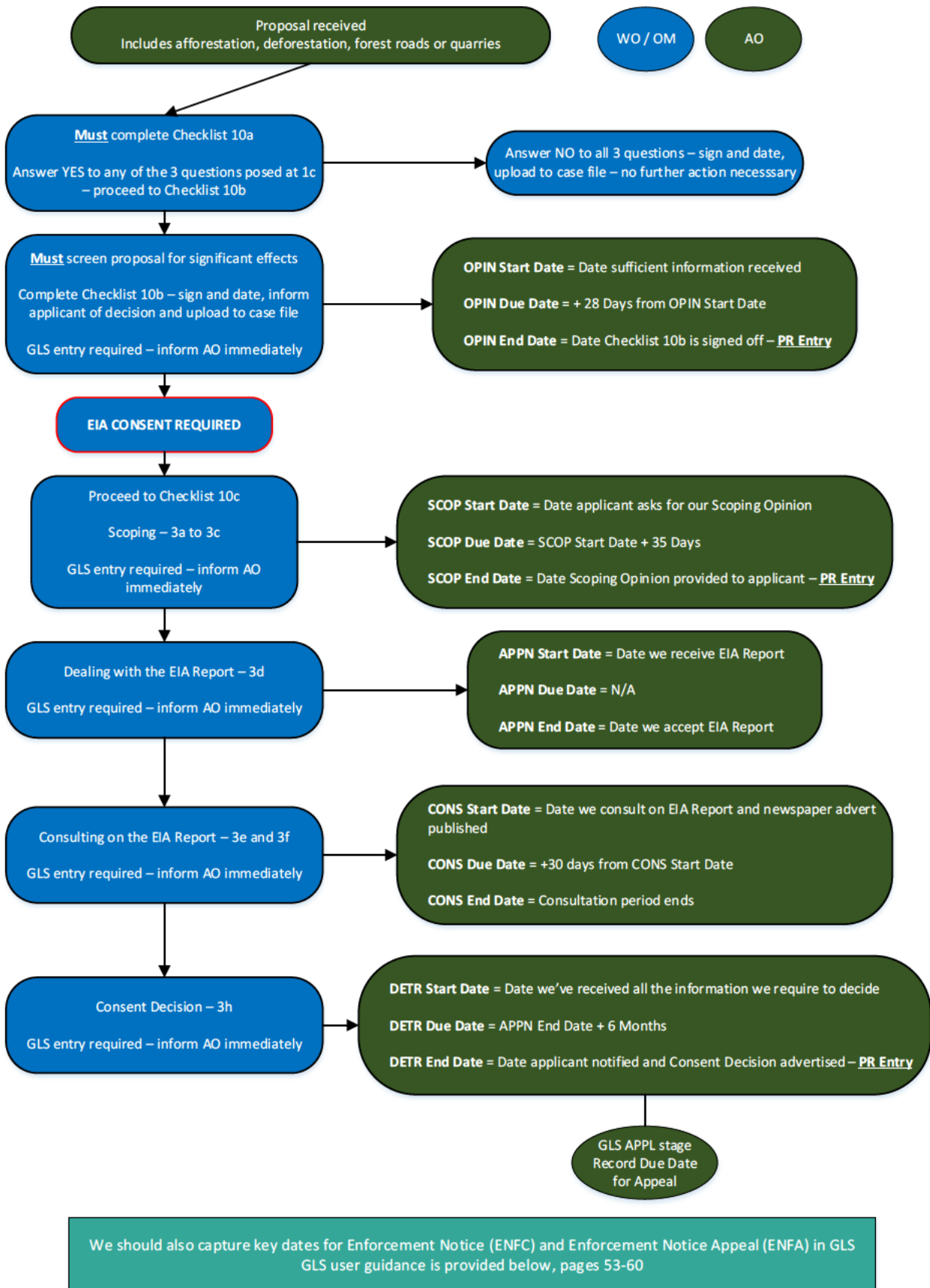
Address line 3, Postcode

If you would like to appeal against the granting of this consent, you must make an application to the Court of Session with a copy to **(Conservator name)** Conservator for **(Conservancy name)** Conservancy within 6 weeks from **(date)**, the date that we published our decision.

DELETE SECTION HIGHLIGHTED YELLOW ABOVE IF CONSENT REFUSED

**(Conservator name), Conservator, Scottish Forestry, (Conservancy name)
Conservancy, (Conservancy address)**

Appendix 6: EIA Checklist 10 and Using Grants and Licence System (GLS) database



Completing EIA Checklist 10 will record the decision we make about whether or not any particular forestry project will have a significant effect on the environment. It also allows us to formally sign off our screening opinion, provides a reminder as to when an entry **must be** made in Grants and Licence System (GLS) and records key information for projects which require our consent.

An electronic Register of our decisions is a requirement of the Regulations, the information entered into GLS provides the basis for the entry on our [EIA Public Register](#). It is therefore **essential** that we record details of all proposals that get as far as EIA Checklist 10b on GLS and ensure that it is kept up-to-date.

<p>Checklist 10a</p> <p>Do we need to assess the impact of a project?</p>	<ul style="list-style-type: none"> • WO must complete this section for all work proposals that are afforestation, deforestation, forest roads and forest quarries. • You may also need to complete if the deforestation has been caused by illegal felling. i.e. does the deforestation exceed the EIA thresholds making it a relevant project.
<p>Checklist 10b</p>	<ul style="list-style-type: none"> • WO must complete this section for all work proposals where the area exceeds the regulatory thresholds. • You may also need to complete this in ‘exceptional circumstances’ for a project with an area under the Regulatory thresholds, but where the work may still have a significant impact on the environment; where Scottish Ministers directed that our consent will be required; or where work has been done without consent and we have issued an enforcement notice. • You must give reasons for your screening opinion at section 2b. • Inform AO of screening opinion immediately after making the decision, as Public Register entry required in GLS.
<p>Checklist 10c</p>	<ul style="list-style-type: none"> • You must complete each section, at each individual stage in the process, for all proposals that require our consent (and an EIA Report which the applicant takes forward). • Inform AO immediately, as each stage is completed so information can be entered in GLS.

Checklist 10 templates can be obtained from the S:\SRDP\EIA docs\checklist 10
 If you use the WC Pre-app case type you do not need to use the templates.

It is no longer necessary to include your signature on Checklist 10. Typing your name on the form is now accepted practice – the Checklists in the shared area have been amended to allow for this.



EIA Checklist 10a

Name and reference¹ of proposal: _____

Date submitted: _____

Section 1. Is this an EIA project and will it need a Screening Opinion for EIA consent?
 Blue highlighted text refers to relevant section of EIA Staff Procedures

1a. Total area of project equals _____ ha

Date submitted is the date we receive the FGS woodland creation/WIG natural regeneration application or EIA Screening Opinion Request (the proposal).

The regulations require us to provide our screening opinion within 28 days. The date on which the request for a screening opinion was made for the purposes of the regulations should be taken as the date on which **you received sufficient information from the applicant** to provide a screening opinion. This may not be the date the proposal was submitted.

Therefore the following lines are included on 10b.



EIA Checklist 10b

Section 2 - Will this project require EIA consent?
 Blue highlighted text refers to relevant section of EIA Staff Procedures

Additional information requested from applicant (1.5) – Date _____

Sufficient information received – GLS OPIN Start Date _____

If you can provide a screening opinion without having to request additional information then the 'Date Submitted' at the top of Checklist 10a should simply be re-entered at 'Sufficient information received', as this date is required to populate 'GLS OPIN Start Date'.

However, if we use the 'Date Submitted' to populate the 'OPIN Start Date' when we have requested additional information, it will appear in the system as if we are taking longer than we actually are to provide our screening opinion and may actually appear as if we are failing to provide a screening opinion within the regulatory timescale.

If additional information is required then this **must** also be done in writing within 28 days of us receiving the proposal. The date the request was made should be entered at the top of Checklist 10b.

A standard letter is available for this purpose – '***Request additional information to provide Screening Opinion***', however an email will suffice. Evidence of the request **must** be retained in the case file.

The date the applicant provides **all** of the information you requested to enable you to provide a screening opinion should then be entered at the top of Checklist 10b, as this would now be the date required to populate 'GLS OPIN Start Date'.

It is a [regulatory requirement](#) that our screening opinion **must** be accompanied by a written statement with reference to such criteria set out in [Schedule 2](#) of the Regulations (**Characteristics of forestry projects, Location of forestry project, Characteristics of the potential impact**) that is relevant to the forestry project and the main reasons for the conclusion as to why consent is, or is not required.

It is also a regulatory requirement that where our screening opinion is to the effect that the proposed forestry project **does not** require consent, the reasoned conclusion **must** also state any features of the forestry project or proposed measures envisaged to avoid or prevent significant adverse effects on the environment i.e. mitigation measures.

2a. The proposals will affect the following:

1.	Soil	Select EIA factor from	6.	Select...
2.	Select...	drop down list	7.	Select...
3.	Select...		8.	Select...
4.	Select...		9.	Select...
5.	Select...		10.	Select...

2b. Provide a reasoned conclusion about the effect or impact that the project may have on the above. If the proposals do not require EIA consent you must also include any proposed mitigation measures envisaged to avoid or prevent significant adverse effects on the environment: [1.6-1.8 Appendix 2 and 3](#)

Type reasoned conclusion for screening opinion here

The reasoned conclusion entered above will then be used to populate the 'Consent required' or 'Consent not required' standard letter to the applicant.

More information can be found in section [1.8 Adopting a screening opinion](#), above.

You can also find an example of a reasoned conclusion where consent is not required in [Appendix 2](#) and where consent is required in [Appendix 3](#).

2d. Confirmation that the proposals do not require EIA consent

I confirm that the proposals for this case do not require consent under the terms of the Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017

Print name (WO)

GLS OPIN End Date

Print name (OM/Conservator)

GLS OPIN End Date

2e. "[Consent not required](#)" letter sent Date sent

2f. Confirmation that the proposals require EIA consent

I confirm that the proposals for this case do require consent under the terms of the Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017

Print name (WO)

Print name (OM/Conservator)

GLS OPIN End Date

Once you've confirmed whether the proposals 'do' or 'do not' require EIA consent save a copy of this form in the case file and inform the Admin Team to enter details of the proposals in the "Scheme Details" screen on the GLS database.

2g. Enter OPIN stage in the "Scheme Stages" screen on GLS database

GLS Scheme number: AO Initials and date:

FOR PROPOSALS THAT REQUIRE EIA CONSENT PROCEED TO EIA CHECKLIST 10c

The date used to populate the 'GLS OPIN End Date' will be the date on which either the WO or OM/Conservator 'signs off' Checklist 10b to confirm whether the proposals do or do not require EIA consent.

In order to get an accurate picture (from GLS) of how long we are taking to provide a screening opinion, this should be the date you have had time to review the additional information requested and made your decision, not the date on which sufficient information was received, unless you have reviewed the additional information and made your decision on the same date it was received.

There is a formal requirement that an Operations Manager (or Conservator) sign-off every EIA screening opinion.

To ensure our decisions are entered on the EIA Public Register in a timely manner – for relatively straightforward non-sensitive proposals where consent is not required, OM/Conservator sign-off can be done at a later date e.g. during FGS clearing checks.

[Regulation 23](#) also requires us to make our screening opinion available for inspection to members of the public who request it. Where a request is received you should where necessary redact any personal information to comply with [Data Protection Act 2018](#) and the General Data Protection Regulation.

For all proposals that require EIA consent you will be required to complete EIA Checklist 10c. You should inform the Admin Team once you have completed each section, at each individual stage, where an entry will be required in GLS.



Scottish Forestry
Coilltearachd na h-Alba

EIA Checklist 10c

Section 3 – Action for proposals that will require EIA consent

3a. Process start – **Blue highlighted text refers to relevant section of EIA Staff Procedures**


Action	Date (dd/MM/yy)
Send "EIA consent required" standard letter	█
Applicant requests scoping opinion (2.2) / scoping meeting agreed (2.3)	█
Enter "SCOP" stage "Start Date" in GLS - AO Initials and date: █	

The date to be used to populate GLS is the date immediately above the 'Enter stage prompt' and not the date the AO makes the entry e.g.

3c. After scoping

Action	Date
Scoping meeting held	█
Scottish Forestry accept applicants scoping report (2.4)	█
Scoping opinion sent to applicant (2.5)	█
Enter "SCOP" stage "End Date" in GLS - AO Initials and date: █	

It is especially important to inform the Admin Team as soon as a decision has been reached at the "SCOP" and "DETR" stage "End Date", as a public register entry is required.



Scottish Forestry
Coilltearachd na h-Alba

EIA Checklist 10c

Advertising and letting people know our decision The same newspapers should be used as at 3.e above (Appendix 5 provides a draft notice for this purpose.)	
1 The Edinburgh Gazette	█
2 █	
Send the project summary and copy of our Decision Notice for the EIA project page of our website to corporate communications team (4.4 provides further information on what to send.)	
You should respond to all organisations and individuals who have commented on the application for EIA consent using the standard letter ' Reply to those who commented about the application for consent '.	
Enter "DETR" stage "End Date" - AO Initials and date: █	

GLS User Guidance

The GLS database has been designed to allow you to input information about the EIA process. This will help us to meet our requirements under The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017 and allow you to do the following:

- Check at which point in the EIA process you have reached with any particular case;
- Help you to keep within the required timescales set out in the Regulations;
- Provide a Public Register (which will be displayed on our website);
- Provide statistical information about the decisions we make.

What screens must you use?

For each project with an area greater than the thresholds, you must enter the basic details of the case in the Scheme Details screen using the "Scheme", "Work Proposals" "Features" and "Scheme Stages" tabs. The information you give on these screens will give general information about the proposals and will be used to generate the public register.

We record the decisions we make in the "Scheme stages" tab. There are only eight possible stages. Each of these will have a 'start date' and an 'end date'. Some stages will have a due date. This is defined in the Regulations and sets a date by which we ought to have carried out a particular action. The database allows you to enter this date so that you can check how long you have left before you need to make a response.

Inputting the Scheme details

From the G&L Schemes – Main Menu:

Click on GLS Application

Select Scheme details

This will take you straight into the Maintain scheme details screen (**GLS210F**).

You will notice that the screen is headed up:

Scheme No	Name	Conservancy	Type	Stage
-----------	------	-------------	------	-------

This is the standard header block, information will only be shown here once you have entered and saved your scheme details

And then there are 5 tabs:

Scheme	Owner	Work Proposal	Features	Objectives
--------	-------	---------------	----------	------------

A full explanation including details of the information you will be asked to input is provided below.

Only the highlighted fields require information to be inputted – all others should be left blank.


Scheme Tab

This screen holds details of each EIA. You can:

- Input details of new EIAs
- Amend details of existing EIAs

When you open this screen you will be in **Query mode**. If you want to query on a record, enter information in the field you wish to query and either click on the torch button or select Query, Execute. **If you want to enter a record, you need to cancel the query function - to do this, press the F4 key.**

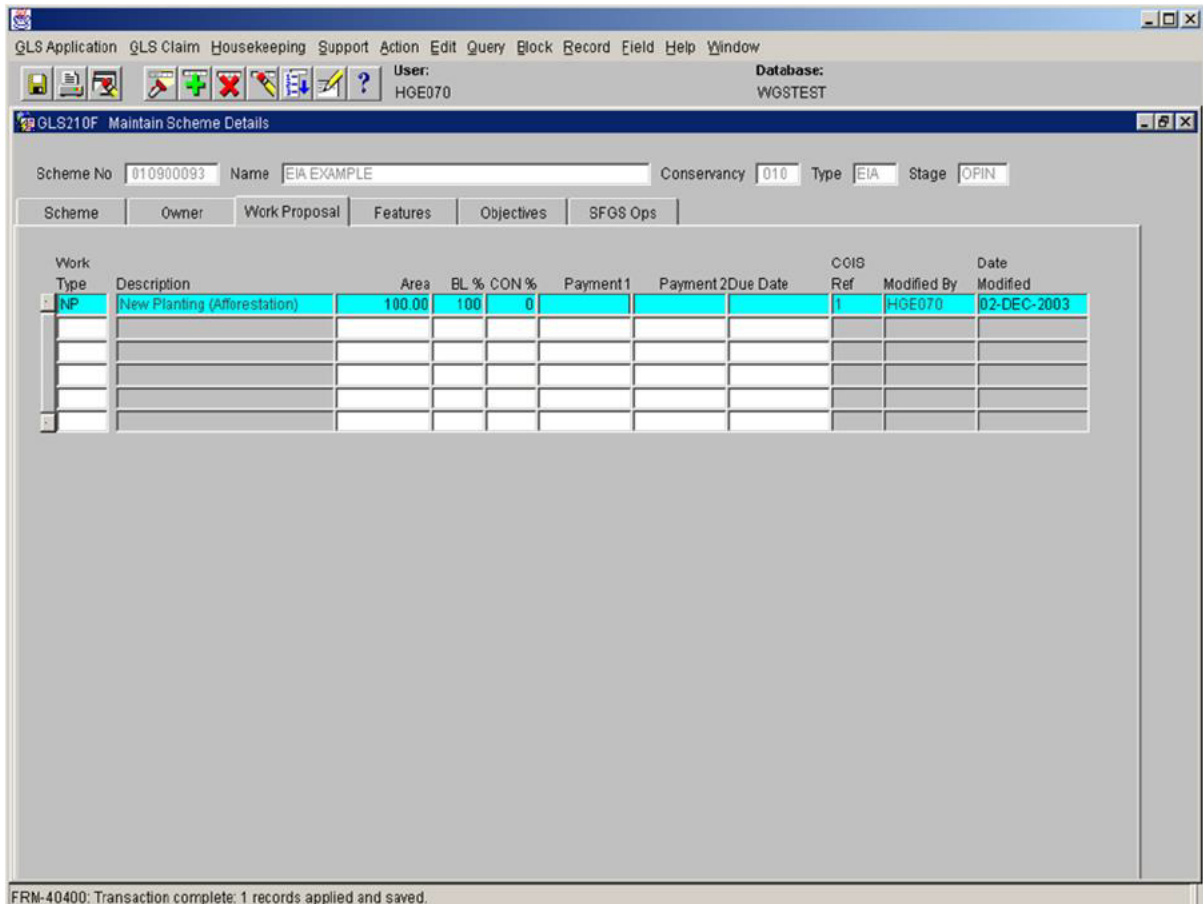
Scheme No	This is a unique reference number, which identifies the scheme and is generated by the system when you create a new record. It is important that you MAKE A NOTE of the scheme number, this should be done at section 2g at the bottom of EIA Checklist 10b. The number consists of your cost centre, a 9, then the number that you scheme has been allocated e.g. 030900001 – would be scheme number 1 for Highland Conservancy.
Name	Input the name of the scheme.
Type	Enter EIA.
Conservancy	Enter your 3-digit Conservancy code, the system will only allow you to enter details for your own Conservancy.
Current Stage	This is the stage the scheme is at and is populated automatically by the system.

Stage Start Date	When you are first registering a scheme this date should be the Date Received , when this scheme starts to progress through the stages this field will show the Current Stage Start Date .
Woodland Officer	Enter the Woodland Officer or Op's Manager code or you can choose from the list of values available, the screen will display the initials and surname. Click List of Values icon – Officers for your Cost Centre are available for selection 
Site	This is the site number of the Conservancy or Area Office associated with the person dealing with the scheme and is populated by the system.
Local Reference	Enter FGS, Felling Permission, LTFP or similar type of reference if the EIA is linked to one of these.
OS Grid Reference	Enter the grid reference given, e.g. NH999999
Nearest Town	Enter the town.
Local Authority	Enter the LA code from the list of values pick list. If there is more than one LA which covers a plan, you should use the one that covers the majority of the land on the plan.
Planning Authority	This will default to the LA you have input, you can change this in cases where the PA differs, or you can delete it if there is no Planning Authority.
Applicant Category	Choose from the list of values PE – personal occupier BU – business occupier VO – voluntary organisation PU – public ownership OT – other CT – crofting tenant
Applicant Type	Choose from the list of values Lessee – LS Owner – OW Tenant – TE Trust – TR
Contact Agency	There are two options available here, O – owner or A – Agent. Only enter details if an agent will be employed to carry out the proposals.

At this stage **SAVE** the information you have entered.

Work Proposal Tab

This screen allows you to enter information relating to the work which will be carried out.



GLS Application GLS Claim Housekeeping Support Action Edit Query Block Record Field Help Window

User: HGE070 Database: WGSTEST

GLS210F Maintain Scheme Details

Scheme No 010900093 Name EIA EXAMPLE Conservancy 010 Type EIA Stage OPIN

Scheme Owner Work Proposal Features Objectives SFGS Ops

Work Type	Description	Area	BL %	CON %	Payment1	Payment2	Due Date	COIS Ref	Modified By	Date Modified
NP	New Planting (Afforestation)	100.00	100	0				1	HGE070	02-DEC-2003

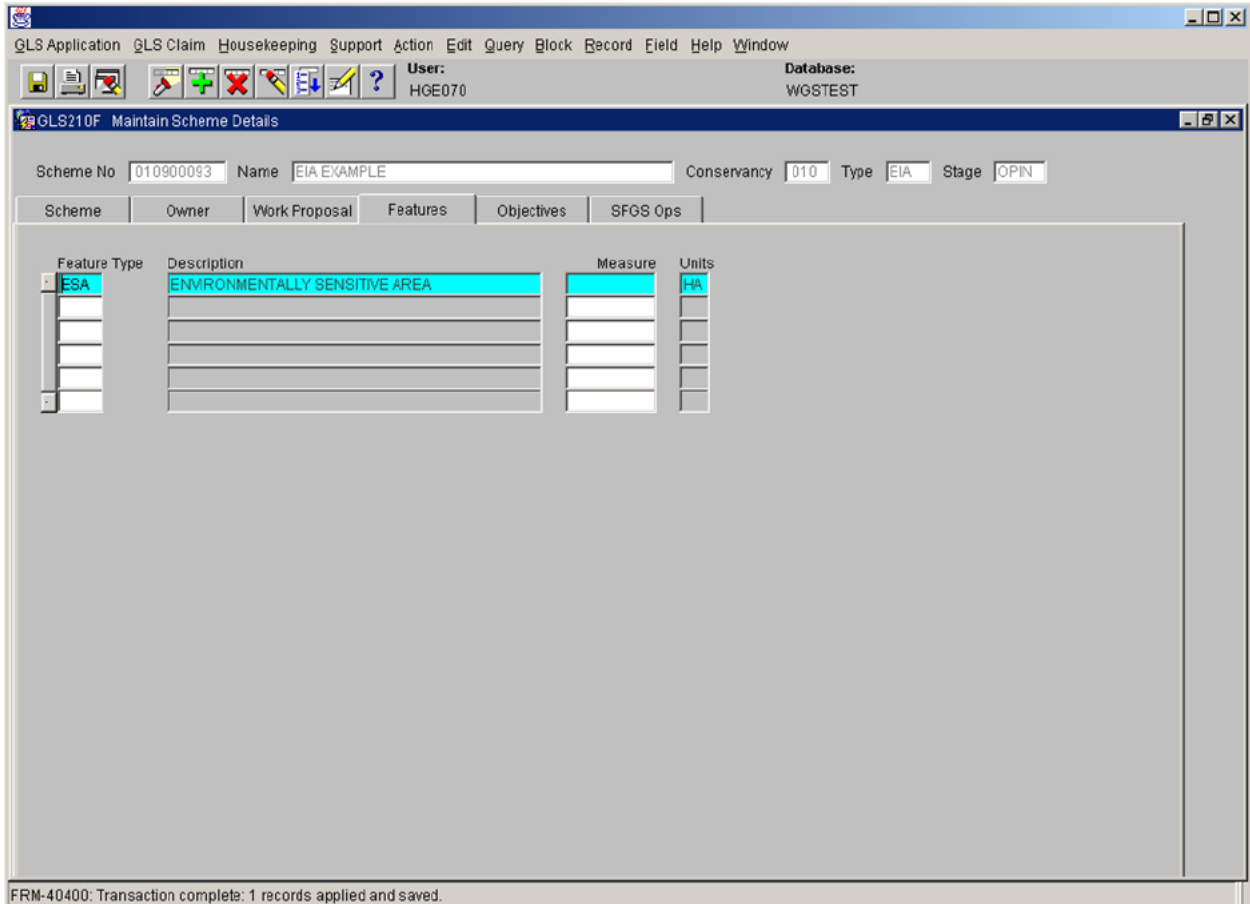
FRM-40400: Transaction complete: 1 records applied and saved.

Work Type	Choose from the pick list of: BQ – Building quarries BR – Building roads DF – Deforestation felling NP - New planting
Description	This is automatically generated when the work type code is entered.
Area	Enter the area in hectares, with 2 decimal places.
BL %	If NP or DF enter % of broadleaves.
CON %	If NP or DF enter % of conifers.
Payment 1	This field is not used for EIA schemes.
Payment 2	This field is not used for EIA schemes.
Due Date	This field is not used for EIA schemes.
CGIS Ref	This field is automatically populated.
Modified By	This field displays the username of the last person to amend the scheme. It is automatically populated by the system.
Date Modified	This field displays the date when the scheme was last amended. It is automatically populated by the system.

At this stage **SAVE** the information you have entered.

Features Tab

This screen records special areas, habitats and protected land.



GLS Application GLS Claim Housekeeping Support Action Edit Query Block Record Field Help Window

User: HGE070 Database: WGSTEST

GLS210F Maintain Scheme Details

Scheme No 010900093 Name EIA EXAMPLE Conservancy 010 Type EIA Stage OPIN

Scheme Owner Work Proposal Features Objectives SFGS Ops

Feature Type	Description	Measure	Units
ESA	ENVIRONMENTALLY SENSITIVE AREA		HA

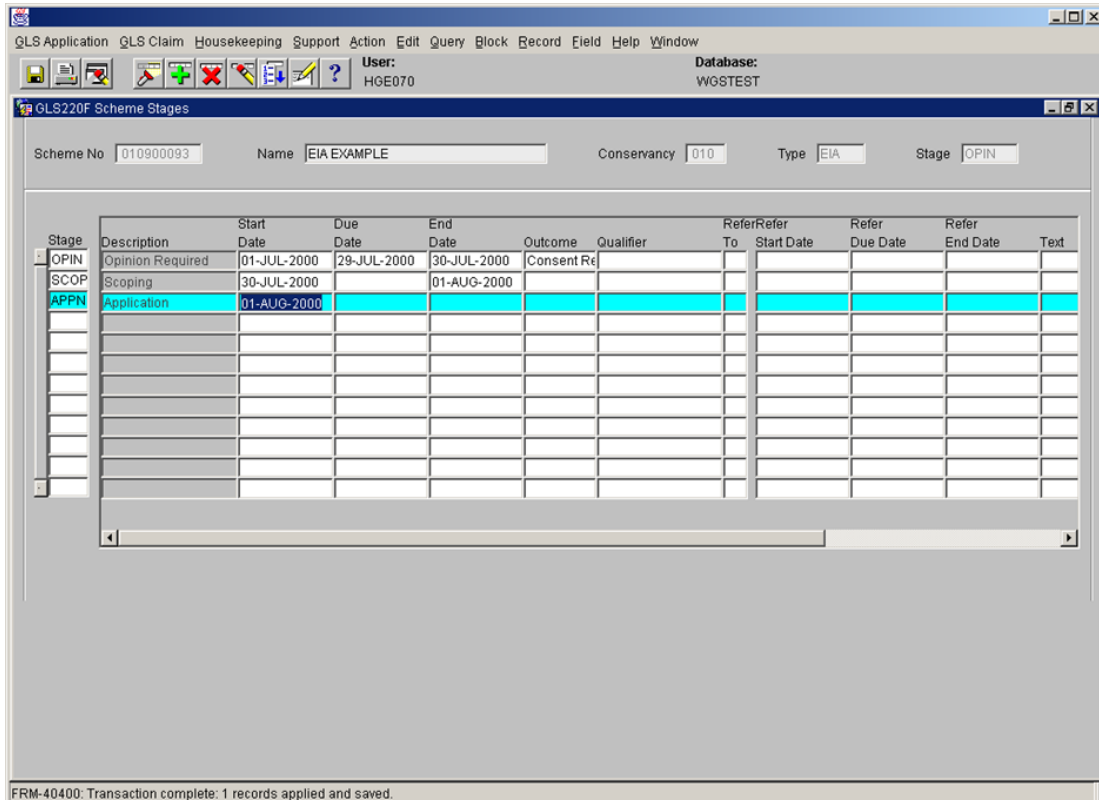
FRM-40400: Transaction complete: 1 records applied and saved.

Feature Type	Enter appropriate code. There is an extensive pick list to choose from.
Description	This is automatically generated when the feature type code is entered.
Measure	Input the area.
Units	The field will populated with either ha for hectares or km for kilometres, depending on what Feature Type you have input.

At this stage **SAVE** the information you have entered.

Scheme stages

The scheme stages screen (GLS220F) records the progression of the EIA.



How to access scheme stages:

From the G&L Schemes – Main Menu

- Click on GLS Application
- Select Scheme stages from the list

When you open this screen you will be in **Query mode**. If you have entered scheme details, the number of the record you have just entered will appear. To recall information on this scheme you need to execute the query. If you want to query on a different record, you can clear the scheme number that is shown and enter a different one then either click on the torch button or select Query, Execute.

The standard header remains the same as the scheme details screen. To enter further details for a scheme query in the scheme number. Entering and executing the query will bring up details of the scheme.

Stage Using the list of values (or type the abbreviation) to enter one of the following stages:

- OPIN** Opinion
- SCOP** Scoping
- APPN** Application for consent with EIA Report
- CONS** Consultation
- DETR** Our decision about the application
- APPL** Application decision challenged at Court of Session
- ENFC** Enforcement Notice issued
- ENFA** Enforcement Notice challenged at Court of Session

Description This is populated automatically by the system once you have entered the stage code.

Scheme stages EIA

	Start Date	Due date	End date
OPIN	Enter date we receive an FGS WC application or Screening Opinion Request or the date we receive any additional/sufficient information we requested from the applicant in order to provide a Screening Opinion.[No entry required in "Due date" OR Scottish Forestry make a Direction that a project with an area below the thresholds is a "relevant" project [No entry required in "Due date"]	+ 28 days from receipt, OR + 28 days from receipt of any additional information requested to allow us to make our opinion, OR A longer period that may be agreed with the applicant	Enter date we issue written notice of our opinion, [Checklist 10b 2d or 2f is signed] OR (Public Register entry made)
SCOP	Enter date applicant asks for our opinion about the issues or information to be covered by the EIA.	+ 35 days from receipt of request, OR Longer period agreed with the applicant.	Enter date scoping opinion provided to applicant. (Public Register entry made)
APPN	Enter date we receive the application for consent i.e. the EIA Report	N/A	Enter date we inform applicant that we accept the EIA Report.
CONS	Enter date we consult the statutory consultees – and the newspaper advert and website notice appears	+ 30 days from CONS start date.	Consultation period ends
DETR	Enter date we've received all the information we require to provide our decision i.e. the date the consultation period has ended and we have received the last of the consultation responses or any other additional information we requested in order to make our decision on consent.	+ 6 months from APPN end date.	Enter date we write to the applicant, consultees and advertise our consent decision (Public Register entry made) ALSO Enter due date for challenge.
APPL	Receipt of the notice of decision being challenged (Court of Session)	+ 6 weeks from the date we write to the applicant with our decision about DETR [no entry required in APPL "start date"] because the applicant has not as such challenged our decision but we use this column to tell use when the challenge period expires	Expiry of the 6 weeks challenge period
ENFC	Enforcement notice served ALSO enter due date for appeal	N/A	Same as "start date"
ENFA	Receipt of notice of enforcement notice being challenged (Court of Session)	+ 6 weeks from the date we issue the enforcement notice [no entry required in ENFA "start date"]	Expiry of the 6 week challenge period

	Outcome	Qualifier
OPIN	Consent required Or Consent N/R MANDATORY	Direction that project exempt Direction that consent required Direction that consent not required
SCOP	Complete	Direction made about the issue
APPN	Accept OR Reject	N/A
CONS	Complete	N/A
DETR	Accept OR Reject	Consent granted with conditions
APPL	Accept OR Reject	SF decision varied
ENFC	Issue	N/A
ENFA	Accept OR Reject	N/A

Refer to Enter A – for applicant

	Refer start date	Refer due date	Refer end date
OPIN	When you write to the applicant requesting further information (before giving an Opinion)	Date which you require the applicant to give you the information.	Receipt of the appropriate information.
APPN	When you write to the applicant requesting further information about the application for consent	Set reminder date for information from applicant	Receipt of information from applicant
CONS	If the date you consult LA's differs from the date you place the advert in the newspapers, use these columns to record the "publicity details" – put the date the ad appears here	+ 30 days for comments	Same Date

Public register This field is linked to the EIA Public Register and will be automatically populated with the date the information appears on the EIA Public Register.

Text Any further information that you feel may be relevant. For those cases where our consent is required, and an EIA Report requested, enter the factors significantly affected. Use those at Section 2a of Checklist 10b.

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Cc: [redacted R.11(2)] [redacted R.11(2)]
Subject: RE: 20240611 Letter to Scottish Forestry - Further Enquiries - IESS.24.015
Date: 15 July 2024 14:45:00
Attachments: [image001.png](#)
[image005.jpg](#)
[image006.png](#)
[image002.png](#)

Dear [redacted R.11(2)] apologies for the delayed response. I've just returned from annual leave.

Thank you very much for your response to [redacted R.11(2)] letter, which we'll now process. We'll get back to you if there's anything else.

Kind regards

[redacted R.11(2)]

[redacted R.11(2)] (He/His)

[redacted R.11(2)]

[redacted R.11(2)]

[redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)

[redacted R.11(2)]

General Enquiries | enquiries@environmentalstandards.scot

0808 1964000 | www.environmentalstandards.scot

Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: IESS.24.015 - Scottish Forestry EIA register
Date: 17 July 2024 09:30:58
Attachments: [image001.png](#)
[image002.png](#)

Hi again^[redacted R.11(2)]

Contacting you again here because this was a representation^[redacted R] was working on and I am unaware who is now responsible for it.

Could you please send me an update on this representation?

In particular, could you please confirm:

- Whether Scottish Forestry have added anything beyond what was in the correspondence we sent with the representation to justify their position.
- What further steps ESS will take to ensure that SF publishes all the requisite EIA documents online.
- The timescales for any further steps by ESS.

Thanks,

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS) | [Web](#) | [@ERCScot](#) | [YouTube](#)

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - Scottish Forestry EIA register
Date: 17 July 2024 13:03:00
Attachments: [image003.png](#)
[image005.png](#)
[image006.png](#)
[image001.png](#)

Dear [redacted R.11(2)] I can confirm that Scottish Forestry has recently provided us with further information. Due to the combination of [redacted R.11(2)] departure and annual leave we have not yet had the chance to consider this information and so don't have a position on further steps or timescales.

I will be scheduling some time next week for us to consider this and will provide you with an update after we have done that. If you have any queries on this case in the interim you can contact me.

Kind regards

[redacted R.11(2)]

[redacted R.11(2)] (He/His)

[redacted R.11(2)]

[redacted R.11(2)]

[redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)

[redacted R.11(2)]

General Enquiries | enquiries@environmentalstandards.scot

0808 1964000 | www.environmentalstandards.scot

Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - Scottish Forestry EIA register
Date: 18 July 2024 16:55:15
Attachments: [image002.png](#)
[image003.png](#)
[image005.png](#)
[image001.png](#)

Hi [redacted R.11(2)]

Thank you for the update.

We appreciate that staff changes will not have helped the progress of this representation.

However, we sent this representation to ESS almost five months ago. Scottish Forestry remains in breach of their duty to publish EIA documents. There's been no obvious progress towards compliance.

This representation does not involve complex legal or factual issues requiring months of consideration and deliberation. My understanding from what [redacted R] said below is that ESS met SF in May. SF have had plenty of opportunity to explain their position to ESS.

If their position remains unchanged then we would like to see enforcement action taken by ESS.

We would be grateful if ESS could approach this representation with more urgency. If there are going to be further delays in resolving this, please send us a full explanation with reasons for any additional delay and timescales for any further work to be done by ESS.

We look forward to your update next week.

Kind regards,

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS) | [Web](#) | [@ERCScot](#) | [YouTube](#)

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - Scottish Forestry EIA register
Date: 23 July 2024 08:35:00
Attachments: [image003.png](#)
[image004.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)

Dear ^[redacted R.11(2)] thank you for your e-mail. As I set out in my e-mail to you last week, we have scheduled some time this week to consider Scottish Forestry's most recent response. I will provide you an update next week on the outcome of this.

Kind regards

[redacted R.11(2)]

[redacted R.11(2)] (He/His)

[redacted R.11(2)]

[redacted R.11(2)]

[redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)

[redacted R.11(2)]

General Enquiries | enquiries@environmentalstandards.scot

0808 1964000 | www.environmentalstandards.scot

Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: [redacted R.11(2)] @environmentalstandards.scot
[redacted R.11(2)] @environmentalstandards.scot>
Sent: Monday, August 5, 2024 4:31 PM
To: [redacted R.11(2)] @ercs.scot>
Subject: RE: IESS.24.015 - Scottish Forestry EIA register

Dear [redacted R.11] I am hoping to bring this together by the end of the week. I'll e-mail or call you on Friday to discuss if you are available.

Kind regards

[redacted R.11(2)]

[redacted R.11(2)] (He/His)
[redacted R.11(2)]
[redacted R.11(2)]
[redacted R.11(2)] @environmentalstandards.scot
[redacted R.11(2)]

General Enquiries | enquiries@environmentalstandards.scot
0808 1964000 | www.environmentalstandards.scot
Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: [redacted R.11(2)] @ercs.scot>
Sent: Monday, August 5, 2024 8:54 AM
To: [redacted R.11(2)] @environmentalstandards.scot>
Subject: RE: IESS.24.015 - Scottish Forestry EIA register

Morning [redacted R.11(2)]

Could you please send me an update on this representation?

Thanks,

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS)

| [Web](#) | [@ERCScot](#) | [YouTube](#) | [LinkedIn](#)

From: [redacted R.11(2)] @ercs.scot>
Sent: Tuesday, August 6, 2024 2:03 PM
To: [redacted R.11(2)] @environmentalstandards.scot>
Subject: RE: IESS.24.015 - Scottish Forestry EIA register

[redacted R.11(2)]
Hi

I'll be on leave this Friday but an email is fine.

Thanks,

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS)

[| Web](#) | [@ERCScot](#) | [YouTube](#) | [LinkedIn](#)

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - Scottish Forestry EIA register
Date: 12 August 2024 08:49:00
Attachments: [image001.png](#)
[image007.png](#)
[image011.png](#)
[image004.png](#)
[image006.png](#)
[image008.png](#)
[image009.png](#)

Dear ^[redacted R.11(2)] as per my previous e-mails, we have invited Scottish Forestry to informal resolution and have been in correspondence with them on how they plan to make information available on its website. Scottish Forestry have confirmed that they are willing to work with ESS on resolving matters.

Scottish Forestry have informed us that their website currently doesn't have the functionality to publish all information. Scottish Forestry explained that they are working on improving this and that this work will enable them to manually upload individual historic EIA case documents, which is currently forecast to be implemented by Spring 2025. Scottish Forestry have also explained that their intention is to go beyond the public register requirements and publish information on projects that are at a very early stage.

At the moment, we consider there is a reasonable route to achieving compliance and have been seeking clarifications from Scottish Forestry around the number and nature of documents involved. We will now begin drafting the report which will be published on our website. I anticipate that we will publish this at some point in September, however we will update you nearer the time to confirm this.

Kind regards
[redacted R.11(2)]

[redacted R.11(2)] (He/His)
[redacted R.11(2)]
[redacted R.11(2)]

[redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)
[redacted R.11(2)]

General Enquiries | enquiries@environmentalstandards.scot
0808 1964000 | www.environmentalstandards.scot
Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - Scottish Forestry EIA register
Date: 14 August 2024 10:59:18
Attachments: [image001.png](#)
[image007.png](#)
[image011.png](#)
[image004.png](#)
[image006.png](#)
[image008.png](#)
[image010.png](#)

Hi [redacted R.11(2)]

Thank you for the update.

We are pleased to hear that Scottish Forestry have changed their position and will be publishing the EIA documentation. Thank you for your work in getting them to this point.

I have a couple of further questions please.

I'm a little concerned that the phrase 'forecast to be implemented by Spring 2025' is vague. Have ESS and SF agreed a deadline by which SF will publish all of the necessary EIA documents?

Could you please also explain why ESS has allowed SF such an extended period of time to resolve the breach of duty?

My understanding is all that is required of SF to resolve this breach of duty is some relatively minor changes to their website and the uploading of documents. We raised the breach of duty with them in January this year.

Kind regards,

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS)

[| Web](#) | [@ERCScot](#) | [| YouTube](#) | [| LinkedIn](#)

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - Scottish Forestry EIA register
Date: 19 August 2024 13:04:00
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image005.png](#)
[image009.png](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)

Dear ^[redacted R.11(2)] thank you for getting back to me. I can confirm that we haven't agreed anything with SF yet, and that we are currently considering their plan. Our report will set out our reasoning and I'll let you know nearer the time when this will be published.

Kind regards

[redacted R.11(2)]

[redacted R.11(2)] (He/His)

[redacted R.11(2)]

[redacted R.11(2)]

[redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)

[redacted R.11(2)]

General Enquiries | enquiries@environmentalstandards.scot

0808 1964000 | www.environmentalstandards.scot

Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: [redacted R.11(2)] [@ercs.scot](mailto:[redacted R.11(2)]@ercs.scot)>
Sent: Wednesday, October 23, 2024 12:16 PM
To: [redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)>
Subject: RE: IESS.24.015 - Scottish Forestry EIA register

[redacted R.11(2)]
Hi

Could you please update me on this representation?

Has a deadline been agreed by which SF will publish all of the necessary EIA documents?

Thanks,

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS)

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - Scottish Forestry EIA register
Date: 30 October 2024 08:12:00
Attachments: [image001.png](#)
[image010.png](#)
[image014.png](#)
[image004.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image011.png](#)

Dear ^[redacted R.11(2)] I can confirm that this case is still live. We have recently recruited an additional [redacted R.11(2)] which means we anticipate publishing a report sometime in November. The report will set out our position on the actions taken by Scottish Forestry.

Kind regards

[redacted R.11(2)]

[redacted R.11(2)] (He/His)
[redacted R.11(2)]
[redacted R.11(2)]
[redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)
[redacted R.11(2)]

General Enquiries | enquiries@environmentalstandards.scot
0808 1964000 | www.environmentalstandards.scot
Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - Scottish Forestry EIA register
Date: 06 November 2024 15:38:48
Attachments: [image001.png](#)
[image013.png](#)
[image015.png](#)
[image002.png](#)
[image003.png](#)
[image005.png](#)
[image009.png](#)
[image010.png](#)
[image012.png](#)

Hi [redacted R.11(2)]

In our RPID EIA register representation (IESS.24.040), ESS provided similar information while the case was live.

I don't see why this representation is any different, but in any event we look forward to reading the report.

Kind regards,

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS)

[| Web](#) | [| @ERCScot](#) | [| YouTube](#) | [| LinkedIn](#)

From: [redacted R.11(2)]@environmentalstandards.scot
[redacted R.11(2)]@environmentalstandards.scot>
Sent: 01 November 2024 17:12
To: [redacted R.11(2)] @ercs.scot>
Subject: RE: IESS.24.015 - Scottish Forestry EIA register

Dear [redacted R.11(2)] thank you for your e-mail. The reason is that the case is still live and under active consideration. Our report will set out our position on the actions taken by Scottish Forestry.

Kind regards

[redacted R.11(2)]

[redacted R.11(2)] (He/His)

[redacted R.11(2)]

[redacted R.11(2)]

[redacted R.11(2)]@environmentalstandards.scot

[redacted R.11(2)]

General Enquiries | enquiries@environmentalstandards.scot

0808 1964000 | www.environmentalstandards.scot

Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: [redacted R.11(2)] @ercs.scot>

Sent: Wednesday, October 30, 2024 4:06 PM

To: [redacted R.11(2)] @environmentalstandards.scot>

Subject: RE: IESS.24.015 - Scottish Forestry EIA register

[redacted R.11(2)]
Thanks

We look forward to your report.

In the meantime, is there a reason why you can't give a yes/no on whether a deadline has been agreed (and a date if one exists)?

Kind regards,

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS)

| [Web](#) | [@ERCScot](#) | [YouTube](#) | [LinkedIn](#)

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - Scottish Forestry EIA register
Date: 04 December 2024 16:56:31
Attachments: [image001.png](#)
[image004.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image011.png](#)
[image014.png](#)
[image016.png](#)
[image017.png](#)

Hi [redacted R.11(2)]

In your last update on this representation, you told me you anticipated publishing a report in November.

Could you please let me know when it will be published?

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS)

| [Web](#) | [YouTube](#) | [LinkedIn](#)

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Cc: [redacted R.11(2)]
Subject: RE: IESS.24.015 - Scottish Forestry EIA register
Date: 05 December 2024 16:00:00
Attachments: [image001.png](#)
[image012.png](#)
[image015.png](#)
[image002.png](#)
[image003.png](#)
[image005.png](#)
[image009.png](#)
[image010.png](#)
[image013.png](#)

[redacted R.11(2)]

Good Afternoon

I have recently joined ESS' Investigations, Standards and Compliance Team and taken over the forestry EIA case from [redacted R.11(2)]

As [redacted R.11(2)] previously set out, the case is still live and under active consideration. In moving forward with it, we have written to Scottish Forestry to further clarify the actions they propose.

Therefore, it will likely be early in the new year that we publish our report on this case, provided the response provided by Scottish Forestry regarding their proposed actions is agreeable.

I apologise for the delay but it has been essential to seek these assurances from Scottish Forestry.

Please feel free to give me a call if you'd like to discuss further.

Kind Regards,

[redacted R.11(2)]

[redacted R.11(2)]

He/Him)

[redacted R.11(2)]

[redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)

[redacted R.11(2)]

General Enquiries | enquiries@environmentalstandards.scot

0808 1964000 | www.environmentalstandards.scot

Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

Note of Telephone Call

Case reference: IESS.24.015

Activity Date	05/12/2024		
Title	Call with [redacted R.11(2)] (Scottish Forestry) to advise of change in case officer and upcoming S.23 request.		
Name of caller:	[redacted R.11(2)]		
Telephone number:	[redacted R.11(2)]		
Date of call:	05/12/2025	Time of call:	15:15

Details

[redacted] called [redacted R.11(2)] at Scottish Forestry to advise [redacted] recently joined ESS ISC team and taken over as case officer.

Looking to move forward with informal resolution of the matter and going to issue further S.23 request today. This is looking for confirmation on the timescale for the implementation of the new public register website, when the list of historic projects will be published and details of what information will be included. [redacted] stated need for this to be sufficient information to allow interested parties to make informed request. Lastly, seeking details on how the system for providing documents upon request will function in practice, including timescales for actioning. [redacted] advised response of response deadline (20/12/24).

[redacted] acknowledged these points and thanked for advance notice of upcoming S.23. Advised that able to respond to these points in line with response deadline.

Closed Call.

Length of call: 10 minutes.

FOLLOW UP ACTIONS: Follow-up email. Including S.23 letter Issued:

[20241205 - Email Outgoing - \[redacted R.11\(2\)\] Informal Resolution - Further Enquiries - IESS.24.015 \(A51177973\)](#)

From: [redacted R.11(2)]
To: [redacted R.11(2)][redacted R.11(2)]
Subject: 2024-12-05 - Informal Resolution - Further Enquiries - IESS.24.015
Date: 05 December 2024 15:32:00
Attachments: [2024-12-05 - Letter to Scottish Forestry - Further Enquiries to Support Informal Resolution.pdf](#)
[image001.png](#)
[image003.png](#)

Good Afternoon [redacted R.11(2)] and [redacted R.11(2)]

I have recently joined ESS' Investigations, Standards and Compliance Team and taken over the forestry EIA public register case from [redacted R.11(2)]

To move forward with informal resolution, I would be grateful if you could respond to the questions set out in the attached letter. Please note the response deadline of 20th December 2024.

If you have any questions please do not hesitate to contact me.

Kind Regards,

[redacted R.11(2)]

[redacted R.11(2)] (He/Him)

[redacted R.11(2)]

[redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)

[redacted R.11(2)]

General Enquiries | enquiries@environmentalstandards.scot

0808 1964000 | www.environmentalstandards.scot

Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Standards Scotland
Ìrean Àrainneachdail na h-Alba

ENVIRONMENTAL
Standards Scotland
Ìrean Àrainneachdail na h-Alba

[redacted R.11(2)]

[redacted R.11(2)]

Scottish Forestry

[redacted R.11(2)] [@forestry.gov.scot](mailto:info@forestry.gov.scot)

CC: [redacted R.11(2)] - [redacted R.11(2)] [@forestry.gov.scot](mailto:info@forestry.gov.scot)

5 December 2024

Subject: Informal Resolution Process: Scottish Forestry's duty to make environmental impact assessment documents available for inspection

Case Reference: IESS.24.015

Dear [redacted R.11(2)]

Many thanks for your letter (dated 4 July 2024) providing clarification on the further enquiries raised by ESS (in our letter dated 11 June 2024) regarding Scottish Forestry's duty to make environmental impact assessment (EIA) documents available for inspection. ESS welcomes Scottish Forestry's willingness to informally resolve this issue. To move forward with this process, I would be grateful if you could respond to the following points:

1. New public register system:

Could you please provide an update on the implementation of the new public register system and website being developed under the PR Improvement Roadmap, which was shared with ESS in May 2024. This previously indicated that the new system, which would fully meet the requirements of Regulation 23 of The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017 ('the 2017 Regulations'), would be operational by June / August 2025. Could you please confirm when the new system will be fully operational?

Secondly, could you also confirm that following implementation of the new system all forestry EIA documents (as required by Reg 23(2) of the 2017 Regulations) will be made available for inspection on Scottish Forestry's website?

Environmental Standards Scotland Enquiries

enquiries@environmentalstandards.scot

Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD
0808 1964000

2. List of historic forestry EIA documents:

As set out in your letter, you expected to complete work compiling a list of historic forestry EIA documents by August 2024 and for this to be published on Scottish Forestry's website as soon as the information was compiled. ESS consider this an important step and therefore I am writing to enquire if this work has been completed? If so, has the list been published on Scottish Forestry's website? If this work has not been completed, I would be grateful if you could set out the reasoning for why and provide a revised timeline for publication of this list on Scottish Forestry's website.

To reiterate, ESS considers it necessary that this list of historic documents captures all types of documentation as required by Regulation 23(2) of the 2017 Regulations.

Additionally, could you please provide details of what information will be included as part of this list. ESS considers it important that sufficient information is provided to allow users to make an informed request.

3. System for providing historic forestry EIA documents:

As set out in your letter, when a historic forestry EIA document is requested, Scottish Forestry intend to upload it to the published public register website. ESS considers it important that the system for making historic forestry EIA documents available affords easy access to them. Therefore, could you please provide details on how this system will function in practice, including any standard operating procedures and timescales that Scottish Forestry commit to for actioning requests.

Conclusion:

I would be grateful if you could respond to this request by 20th December 2024 at the latest. Please reference our case number IESS.24.015 in your return correspondence.

If you have any questions or queries, or are unable to meet this deadline, please do not hesitate to contact me at the above e-mail address.

Yours sincerely,

[redacted R.11(2)]

[redacted R.11(2)]

[redacted R.11(2)]

Environmental Standards Scotland Enquiries

enquiries@environmentalstandards.scot

Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

0808 1964000

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Cc: [redacted R.11(2)]
Subject: RE: IESS.24.015 - Scottish Forestry EIA register
Date: 09 December 2024 11:13:19
Attachments: [image001.png](#)
[image004.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image012.png](#)
[image015.png](#)
[image016.png](#)
[image017.png](#)

Thursday at 2pm is good, thank you [redacted R.11(2)]

I've copied a teams link for it below.

Speak to you then.

[redacted R.11(2)]

[redacted R.11(2)]

Mobile: [redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS)

[| Web](#) | [| YouTube](#) | [| LinkedIn](#) | [| Instagram](#)

From: [redacted R.11(2)] @environmentalstandards.scot [redacted R.11(2)] @environmentalstandards.scot>

Sent: 06 December 2024 14:06

To: [redacted R.11(2)] @ercs.scot>

Cc: [redacted R.11(2)] @environmentalstandards.scot

Subject: RE: IESS.24.015 - Scottish Forestry EIA register

[redacted R.11(2)]

H

Yes, settling in well thank you.

Certainly, a quick call to discuss would be valuable. Would next Thursday afternoon (2pm) work for you?

Many Thanks,

[redacted R.11(2)]

[redacted R.11(2)] (He/Him)

[redacted R.11(2)]

[redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)

[redacted R.11(2)]

General Enquiries | enquiries@environmentalstandards.scot

0808 1964000 | www.environmentalstandards.scot

Address: Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

From: [redacted R.11(2)] [@ercs.scot](mailto:[redacted R.11(2)]@ercs.scot)>

Sent: 06 December 2024 12:08

To: [redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)>

Cc: [redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)>

Subject: RE: IESS.24.015 - Scottish Forestry EIA register

[redacted R.11(2)]

Hi

Thanks for your email and I hope you are settling in well to your new role.

We are concerned by the length of time it is taking to resolve this and would be grateful for an explanation.

Would you and/or ^[redacted R.11(2)] be free to discuss this at any point Wednesday to Friday next week?

Kind regards,

[redacted R.11(2)]

[redacted R.11(2)]

Mobile: [redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS)

[| Web](#) | [| YouTube](#) | [| LinkedIn](#) | [| Instagram](#)

Note of Telephone Call

Case reference: IESS.24.015

Activity Date	12/12/2024		
Title	Call with ERCS to discuss case progress.		
Name of caller:	[redacted R.11(2)]		
Telephone number:	MS Teams		
Date of call:	12/12/2025	Time of call:	14:00

Details

Following email correspondence with [redacted R.11(2)](ERCS), which set out concerns about time taken handing their representation, [redacted] had teams meeting / call to discuss the reasons for this.

[redacted R] advised that recently joined ESS ISC Team and taken over case from [redacted R.11(2)]

[redacted] set out that current resource constraints within ISC team has contributed to delay in finalising the case. Additionally, in taking over the case ESS had become aware of recent judgement that may have impact on our consideration of case, and has been necessary to engage further with Scottish Forestry in lieu of this.

[redacted] advised that ESS will need to consider judgement and response in the round when received, but still aiming to finalise case and publish outcome in early 2025.

[redacted] asked for details of recent high court judgement. [redacted] relayed that it was case of Surrey Searches and others vs. Northumbrian Water and others, with the judgement published late June.

[redacted] also set out position that publication of relevant documents on Scottish Forestry's website isn't a large task, equating this to similar number of docs published on ESS' website. [redacted R] clarified the volume of documents that SF typically administer, and that this far outweighs the number of documents on ESS' website.

[redacted] queried the authenticity of the current resource constraints within the ISC team, stating he didn't believe this to be genuine given the volume of representations ESS receive. [redacted] reassured [redacted] that constraints were real and clarified representation numbers.

[redacted] reassured [redacted] that updates on case progress would be provided in due course.

Length of call: 20 minutes.

FOLLOW UP ACTIONS: None.

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Cc: [redacted R.11(2)] [redacted R.11(2)]
Subject: RE: 2024-12-05 - Informal Resolution - Further Enquiries - IESS.24.015
Date: 19 December 2024 16:16:18
Attachments: [SF Response to ESS - Dec 2004.pdf](#)
[image002.jpg](#)
[image004.png](#)
[image003.png](#)

[redacted R.11(2)]
Dear

Please find attached a letter relating to your enquiries regarding ESS case reference IESS.24.015.

Regards
[redacted R.11(2)]

[redacted R.11(2)] – [redacted R.11(2)]

scottish forestry
Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD

Mobile: [redacted R.11(2)]



Scottish Forestry is the Scottish Government agency responsible for forestry policy, support and regulation
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Coilltearachd
na h-Alba

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Email: scottish.forestry@forestry.gov.scot
Tel: 0131 370 5250

Chief Executive: Paul Lowe

[redacted R.11(2)]

Via e-mail: [redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)

Your ref: IESS.24.015

Date: 19 December 2024

[redacted R.11(2)]
Dear

Subject: Informal Resolution Process: Scottish Forestry's duty to make environmental impact assessment documents available for inspection

Thank you for your letter of 5 December 2024, seeking clarification on the following points.

1. New public register system

Development of the new EIA Public Register system is continuing, with the current estimated completion date remaining as previously indicated; June to August 2025. If the estimated completion date changes, we will update you.

When the new EIA Public Register system is launched, it will enable the publishing of documents relating to EIA screening opinions. The ability to publish documents relating to EIA Scoping Opinions and EIA Consent will be delivered in a subsequent phase of development. As an interim measure, EIA documents that cannot be made available immediately on the new EIA Public Register will be available via Scottish Forestry's website, on a webpage dedicated to forestry projects requiring EIA consent. This approach has been taken as it will enable the majority of Scottish Forestry's opinions to be available on the new public register as soon as possible.

2. List of Historic forestry EIA documents

A list of historic EIA screening and scoping opinions, referring back to the formation of Scottish Forestry in April 2019, is available on the Scottish Forestry website: [Scottish Forestry - Public Register of Environmental Impact Assessments](#).

The list includes details for all types of EIA forestry projects, Afforestation, Deforestation, Forest Roads and Quarries Works and enquirers can locate projects using the project name, local authority area, nearest town and UK National Grid Map Reference specific to the project site. When we receive a request to view the EIA documents relating to a specific case, we will provide each document that we hold from those specified by Regulation 23(2) of the Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017.

3. System for providing historic EIA documents

Whether providing historic EIA documents directly to enquirers, making them available at our nearest office, publishing them on the Scottish Forestry website, or on the new EIA Public Register (once available), Scottish Forestry will aim to respond to these requests within 20 working days.

Scottish Forestry is the Scottish Government agency responsible for forestry policy, support and regulation

Is e Coilltearachd na h-Alba a' bhuidheann-ghnìomha aig Riaghaltas na h-Alba a tha an urra ri poileasaidh, taic agus riaghladh do choilltearachd

 **Scottish Government**
Riaghaltas na h-Alba

The functionality of the new EIA Public Register will be similar to the current [Forestry Grant Scheme \(FGS\) woodland creation and tree Felling Permission applications register](#), where documents can be downloaded from the individual application page.

I hope this information clarifies the points you raised, and should you have any further questions, please do not hesitate get back in contact.

Yours sincerely,

[redacted R.11(2)]

p.p.

[redacted R.11(2)]

[redacted R.11(2)]

– Scottish Forestry

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Cc: [redacted R.11(2)] [redacted R.11(2)]
Subject: RE: 2024-12-05 - Informal Resolution - Further Enquiries - IESS.24.015
Date: 20 December 2024 13:50:00
Attachments: [image001.jpg](#)
[image002.png](#)
[image004.png](#)
[image005.png](#)

[redacted R.11(2)]
Dear

Many thanks for your letter and response. I would be grateful if you could clarify the following:

1. Regarding the new public register website and the publication of documents, I note that the initial launch (June – August 2025) will only include documents relating to screening opinions, with those relating to scoping opinions and EIA consent ‘delivered in a subsequent phase of development’. Could you please set out when this subsequent development will take place, and ultimately when documents relating to scoping opinions and EIA consent will be published on the new website?

Additionally, could you also set out when **functionality for all document types** (as required by Regulation 23(2)) to be published on the new website will be available?

2. I note that as an interim measure, for projects that require EIA consent, all relevant documents will be made available on a dedicated webpage – could you please provide further details of this? Is it currently live, if so could you please provide a link? If not, when will this will be made available?
3. I note that the list of historic forestry EIA projects is now available online and will be updated quarterly. I would be grateful if you could set out Scottish Forestry’s intention of how this list (and it’s subsequent updates) will interact with the [EIA register](#) currently available and the periods that information is made available for. In simple terms, how will information regarding a given forestry project be made available to an interested party (in either the historic list or current register) at any given point in time? I raise this as I note that the current EIA register only displays information for 4 – 6 weeks (dependent on the document type), with the historic list updated quarterly (approx. every 12 weeks). Therefore is there a risk of information ‘dropping off’ the current EIA register, without being ‘picked up’ by the historic list for a period of time?
4. What is the rationale for / basis of the 20 working days response time to requests for documents for historic forestry EIA projects?

Accounting for the upcoming festive period, I would be grateful if you could respond to these points as clarification no later than 10th Jan 2025,.

Kind Regards,

[redacted R.11(2)]

[redacted R.11(2)] (He/Him)

[redacted R.11(2)]

[redacted R.11(2)] [@environmentalstandards.scot](mailto:enquiries@environmentalstandards.scot)

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From: [redacted R.11(2)]
To: [redacted R.11(2)]
Cc: [redacted R.11(2)] [redacted R.11(2)][redacted R.11(2)]
Subject: RE: 2024-12-05 - Informal Resolution - Further Enquiries - IESS.24.015
Date: 10 January 2025 09:15:28
Attachments: [SF Response to ESS - Jan 2025.pdf](#)
[image001.jpg](#)
[image002.png](#)
[image003.png](#)
[image006.png](#)

Dear [redacted R.11(2)]

Thank you for your e-mail.

Please find attached a letter in response to your questions regarding ESS case reference IESS.24.015.

Regards
[redacted R.11(2)]

[redacted R.11(2)] – [redacted R.11(2)]

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Tel: 0131 370 5250

Chief Executive: Paul Lowe

[redacted R.11(2)]

Via e-mail: [redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)

Your ref: IESS.24.015

Date: 10 January 2025

[redacted R.11(2)]

Dear

Subject: Informal Resolution Process: Scottish Forestry's duty to make environmental impact assessment documents available for inspection

Thank you for your e-mail of 20 December 2024, seeking clarification on the following points.

1. New public register development – publishing EIA Scoping Opinions and EIA Consent

The current process (as per point 2 below) for publishing EIA Scoping Opinions, EIA Consent decision notices and related documents has been in place since around 2012.

The specification for the second phase of the new public register development work will be finalised over the next few months. We expect that this development will allow us to publish all EIA documents, including Scoping Opinions, EIA Consent decision notices and supporting documents on the new EIA public register. As yet, we have no firm timeline for the completion of this phase, but it is likely to be in 2026.

2. Current publishing of EIA Scoping Opinions and Consent decisions on the Scottish Forestry website

EIA Scoping Opinions and Consent decisions are currently published on the Scottish Forestry website here: [Scottish Forestry - Environmental Impact Assessment consultations](#)

3. Process for publishing information about new EIA projects

The use of the spreadsheet showing historic EIA projects is a temporary solution until the new EIA public register is available; until that time, the spreadsheet will be updated quarterly with new projects. Following the release of the new system, the spreadsheet will not be updated with projects that post-date the release, but it will remain on the Scottish Forestry website as a record of the projects pre-dating the new public register.

From 1 February 2025, the period that the current EIA public register will show new EIA projects will be extended to 16 weeks. This will ensure that from February, new EIA projects will be continuously advertised, either on the current public register, or within the spreadsheet of historic EIA projects. The quarterly update to the spreadsheet programmed for release in April will be the first time that every EIA forestry project since April 2019 will be continuously advertised on the Scottish Forestry website.

4. Response time for requests for documents relating to historic EIA forestry projects

The standard response time for any request to a Scottish public body is 20 working days, but where possible we would endeavour to respond sooner.

I hope this clarifies the points you raised.

Yours sincerely,

[redacted R.11(2)]

p.p.

[redacted R.11(2)]

[redacted R.11(2)]

– Scottish Forestry

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Cc: [redacted R.11(2)] [redacted R.11(2)] [redacted R.11(2)]
Subject: Informal Resolution -Agreement of Actions Proposed - IESS.24.015
Date: 15 January 2025 15:19:00
Attachments: [image002.png](#)
[image005.jpg](#)
[image001.png](#)
[image003.png](#)
[image007.png](#)

[redacted R.11(2)]
Dear

Many thanks for responding to the questions raised in my email.

Regarding the planning of the next phase of the new public register website, I would be grateful if you could keep me informed on the results of this when available, particularly with respect to when this next phase is likely to be completed by?

I would also ask that you please keep me informed on progress and delivery of the first phase of the new website (screening opinions) in meeting the estimated July / August launch date?

Lastly, I would be grateful if you could review the following text which summarises the actions proposed by Scottish Forestry:

1. Scottish Forestry will publish a new public register website that allows the direct inspection of forestry EIA documents that are created following the websites launch. The new website will be published by the end of August 2025 at the latest. EIA forestry documents will be added to the new website in a phased approach: Screening opinions (which represent the vast majority of forestry EIA documents) will be available by the end of August 2025. Other document types will be added iteratively with all being available on the new website by the end of 2026.
2. As an interim measure, prior to the publication of the new public register website, Scottish Forestry will:
 - a. For forestry projects that require EIA consent, make all relevant forestry EIA documents available for inspection on a dedicated webpage.
 - b. Publish a comprehensive list of all legacy forestry projects (regardless of whether EIA consent required or not) with associated information to allow interested parties to make informed requests for the relevant forestry EIA documents to be made available for inspection. Scottish Forestry have committed to completing any requests for these documents to be made available for inspection within 20 working days of the initial request.

I would be grateful if you could confirm the above text is accurate by no later than Friday 15th January.

If easier to discuss, feel free to give me a call using the number below.

Kind Regards,
[redacted R.11(2)]

[redacted R.11(2)] (He/Him)

[redacted R.11(2)]

[redacted R.11(2)] [@environmentalstandards.scot](mailto:[redacted R.11(2)]@environmentalstandards.scot)

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From: [redacted R.11(2)]
To: [redacted R.11(2)]
Cc: [redacted R.11(2)] [redacted R.11(2)] [redacted R.11(2)]
Subject: RE: Informal Resolution -Agreement of Actions Proposed - IESS.24.015
Date: 17 January 2025 17:24:59
Attachments: [image004.jpg](#)
[image005.png](#)
[image001.png](#)
[image002.png](#)
[image003.png](#)

Dear [redacted R.11(2)]

Thanks for your e-mail of Wednesday.

We will keep you informed on our work to improve the EIA public register, both on this initial phase and the planning for subsequent work and I'm happy to confirm the text you have drafted is accurate.

Regards

[redacted R.11(2)]

[redacted R.11(2)] – [redacted R.11(2)]

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Mobile: [redacted R.11(2)]



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From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - Scottish Forestry EIA register
Date: 29 January 2025 11:43:26
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image005.png](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)
[image013.png](#)
[image014.png](#)
[image015.png](#)

[redacted R.11(2)]
Hi

Following on from our meeting on 12 December, could you please confirm when ESS will publish its report on this representation?

Thanks,

[redacted R.11(2)]

[redacted R.11(2)]

Mobile: [redacted R.11(2)]

Environmental Rights Centre for Scotland (ERCS)
| [Web](#) | [Instagram](#) | [LinkedIn](#) | [Bluesky](#) | [YouTube](#)

From: [redacted R.11(2)]
To: [redacted R.11(2)]
Subject: RE: IESS.24.015 - Scottish Forestry EIA register
Date: 29 January 2025 16:43:00
Attachments: [image001.png](#)
[image004.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image012.png](#)
[image013.png](#)
[image016.png](#)
[image017.png](#)

Hi [redacted R.11(2)]

We're in the process of finalising a publication date – currently planned for next week, but this is dependent on a few factors still to be confirmed.

Once I know for certain I will let you know, but rest assured publication is imminent.

Many Thanks,
[redacted R.11(2)]

[redacted R.11(2)]
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