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Dear Insert Salutation

**Legislation**

**!!Summary!!**

**!!Site!!**

Thank you for consulting SEPA for an Environmental Impact Assessment (EIA) scoping opinion in relation to the above development. We welcome engagement with the applicant at an early stage to discuss any of the issues raised in this letter and would especially welcome further pre-application engagement once initial peat probing, peat condition assessment and habitat survey work has been completed and the layout developed further as a result.

Our position and advice, given below, is based on the determining authority ultimately determining that the proposal is classed as development that could be supported for the purposes of assessment under Policies 5 and 22**,** as defined in National Planning Framework 4. If this is not the case, please advise so we can re-consider our position and advice.

Advice for the determining authority:

To **avoid delay and potential objection** the EIA submission must contain a series of scale drawings of sensitivities, for example peat depth, peat condition, Groundwater Dependent Terrestrial Ecosystems (GWDTE), proximity to watercourses, overlain with proposed development. This is necessary to ensure the EIA process has informed the layout of the development to firstly avoid, then reduce and then mitigate significant impacts on the environment. We request that the issues covered in Appendix 1 below, be addressed to our satisfaction in the EIA process. This provides details on our information requirements and the form in which they must be submitted.

We have also provided site specific comments in the following section, which provides pre-application advice and can help the developer focus the scope of the assessment.

# Site specific comments

## Review scoping report/other submitted information and detail any site specific concerns you note e.g. Buffers to sensitive receptors or plans not clearly showing all built elements. If draft assessments included, detail any concerns/comments we may have on them. Potential issues or areas on which we could give site specific comments include:

## Cases where a PMP is definitely required – “in this case, where much of the site is on peat, we expect the application to be supported by a comprehensive site specific peat management plan.”

## Cases where it is clear that there will be wetlands on the site and it makes more sense to go directly to NVC (sections 3 & 4 of the appendix)– “in this case, where it is clear that much of the site is likely to be peatland and/or wetland, we suggest you may wish to go straight to carrying out national vegetation classification survey (NVC) survey without carrying out phase 1. For further information on assessments please refer to [LUPS- GU31](https://www.sepa.org.uk/media/144266/lups-gu31-guidance-on-assessing-the-impacts-of-development-proposals-on-groundwater-abstractions.pdf), in particular sections 2.10 to 2.14. [Good practice during wind farm construction | naturescot](https://www.nature.scot/doc/guidance-good-practice-during-wind-farm-construction) also provides useful information on NVC survey method and mapping requirements.

## Cases where much of the site is forested, an NVC of these areas is not required - “we can confirm that habitat survey information is not required for areas which are heavily forested or recently felled.”

## Cases where, based on the information provided at scoping, it seems unlikely that any groundwater abstractions will be located within 250 m of excavations – “based on the information provided at this stage it seems unlikely that any development will take place within 250 m of a groundwater supply source; if this is the case it would be helpful if the EIA report provides evidence to confirm this.”

## Cases where the only apparent flood risk issue is design of watercourse crossings – “provided watercourse crossings are designed to accommodate the 1 in 200 year event plus climate change and other infrastructure is located well away from watercourses we do not foresee from current information a need for detailed information on flood risk.”

# Regulatory advice for the applicant

## Details of regulatory requirements and good practice advice, for example in relation to engineering works in the water environment and waste management, can be found on the [regulations section](https://www.sepa.org.uk/regulations/) of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the local compliance team at: enter team email.

If you have queries relating to this letter, please contact Team Email including our reference number in the email subject.

Your sincerely / Yours faithfully,

Insert Name

Job Title

Planning Service

Ecopy to: Email of agent/consultant, Determining Authority case officer etc.

Disclaimer: This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on the [planning section of our website.](https://www.sepa.org.uk/environment/land/planning/)

Appendix 1: Detailed scoping requirements:

Please note that some of the planning guidance referenced in this response is being reviewed and updated to reflect the [National Planning Framework 4](https://www.gov.scot/publications/national-planning-framework-4/)  (NPF4) policies. For example the [Flood Risk Standing Advice](https://www.sepa.org.uk/media/534740/sepa-flood-risk-standing-advice-for-planning-authorities-and-developers.pdf) and [Guidance on Assessing the Impacts of Development Proposals on Groundwater Abstractions and Groundwater Dependent Terrestrial Ecosystems](https://www.sepa.org.uk/media/144266/lups-gu31-guidance-on-assessing-the-impacts-of-development-proposals-on-groundwater-abstractions.pdf). It still provides useful and relevant information, but some parts may be updated further in the future. This appendix sets out our minimum information requirements and we would welcome discussion around these prior to formal submission to avoid delays. There may be opportunities to scope out some of the issues below depending on the site. Evidence must be provided in the submission to support why an issue is not relevant for this site. If there is a significant length of time between scoping and application submission, the developer should check whether our advice has changed.

# Site layout

## Each of the drawings requested below must detail all proposed upgraded, temporary and permanent infrastructure. This includes all tracks, excavations, buildings, borrow pits, pipelines, cabling, site compounds, laydown areas, storage areas and any other built elements. All drawings must be based on an adequate scale with which to assess the information.

## The layout should be designed to minimise the extent of new works on previously undisturbed ground. For example, a layout which makes use of lots of spurs or loops is unlikely to be acceptable, cabling must be laid in ground already disturbed such as verges, and existing built infrastructure must be re-used or upgraded where possible.

## A comparison of the environmental effects of alternative locations of infrastructure elements may be required.

# Water environment

## The proposals should demonstrate how impacts on local hydrology have been minimised and the site layout designed to minimise watercourse crossings and avoid other direct impacts on water features. Measures should be put in place to protect any downstream sensitive receptors.

## The submission must include a set of drawings showing:

* + 1. All proposed temporary or permanent infrastructure overlain with all lochs and watercourses.
    2. A minimum buffer of 50m around each loch or watercourse. If this minimum buffer cannot be achieved each breach must be numbered on a plan with an associated photograph of the location, dimensions of the loch or watercourse and drawings of what is proposed in terms of engineering works.
    3. A map showing the location, size, depths and dimensions of all borrow pits overlain with all lochs and watercourses within 250m and showing a site-specific buffer around each loch or watercourse proportionate to the depth of excavations. The information provided needs to demonstrate that a site specific proportionate buffer can be achieved.

## Further advice and our best practice guidance are available within the water [engineering](https://www.sepa.org.uk/regulations/water/engineering/) section of our website. Guidance on the design of water crossings can be found in our [Construction of River Crossings Good Practice Guide.](https://www.sepa.org.uk/media/151036/wat-sg-25.pdf)

# Flood risk

## Advice on flood risk is available at [Flood Risk Standing Advice](https://www.sepa.org.uk/media/534740/sepa-flood-risk-standing-advice-for-planning-authorities-and-developers.pdf) and reference should also be made to [Controlled Activities Regulations (CAR) Flood Risk Standing Advice for Engineering, Discharge and Impoundment Activities](https://www.sepa.org.uk/media/94134/car-flood-risk-standing-advice-for-engineering-discharge-and-impoundment-activities.pdf).

## Crossings must be designed to accommodate the 0.5% annual exceedance probability flows (with an appropriate allowance for climate change), or information provided to justify smaller structures.

## If it is considered the development could result in an increased risk of flooding to a nearby receptor, then a flood risk assessment (FRA) must be submitted. Our [Technical Flood Risk Guidance for Stakeholders](https://www.sepa.org.uk/media/162602/ss-nfr-p-002-technical-flood-risk-guidance-for-stakeholders.pdf) outlines the information we require to be submitted in an FRA.

# Peat and peatland

## Where proposals are on peatland or carbon rich soils (CRS), the following should be submitted to address SEPA’s requirements in relation to NPF4 Policy 5 to protect CRS and the ecosystem services they provide (including water and carbon storage). Peatland in near natural condition generally experiences low greenhouse gas emissions, is accumulating and may be sequestering carbon, has high value for supporting biodiversity, helps to protect water quality and contributes to natural flood management, irrespective of whether that peatland is designated for nature conservation purposes or not.

## It should be clearly demonstrated that the assessment has informed careful project design and ensured, in accordance with relevant guidance and the mitigation hierarchy in NPF4, that adverse impacts are first avoided and then minimised through best practice.

## The submission should include a series of layout drawings at a usable scale showing all permanent and temporary infrastructure, with extent of excavation required. These plans should be overlaid on the following:

* + 1. Peat depth survey showing peat probe locations, colour coded using distinct colours for each depth category. This must include adequate peat probing information to inform the site layout in accordance with the mitigation hierarchy in NPF4, which may be more than that outlined in the [Peatland Survey – Guidance on Developments on Peatland (2017).](https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2018/12/peatland-survey-guidance/documents/peatland-survey-guidance-2017/peatland-survey-guidance-2017/govscot%3Adocument/Guidance%2Bon%2Bdevelopments%2Bon%2Bpeatland%2B-%2Bpeatland%2Bsurvey%2B-%2B2017.pdf)
    2. Peat depth survey showing interpolated peat depths.
    3. Peatland condition mapping – the [Peatland Condition Assessment](https://www.nature.scot/sites/default/files/2023-02/Guidance-Peatland-Action-Peatland-Condition-Assessment-Guide-A1916874.pdf) photographic guide lists the criteria for each condition category and illustrates how to identify each condition category.

## The detailed series of layout drawings above should clearly demonstrate that development proposals avoid any near natural peatland and that all proposed excavation is on peat less than 1m deep.

## The layout drawings should also demonstrate that peat excavation has been avoided on sites where this is possible. On other sites where complete avoidance of peat and carbon rich soils is not possible then it should be clearly demonstrated that the deepest areas of peat have been avoided and the volumes of peat excavated have been reduced as much as possible, first through layout and then by design making use of techniques such as floating tracks.

## The Outline Peat Management Plan (PMP) must include:

* + 1. A table setting out the volumes of acrotelmic, catotelmic and amorphous peat to be excavated. These should include a contingency factor to consider variables such as bulking and uncertainties in the estimation of peat volumes.
    2. A table clearly setting out the volumes of acrotelmic, catotelmic and amorphous excavated peat: (1) used in making good site specific areas disturbed by development, including borrow pits (quantities used in making good areas disturbed by development must be the minimum required to achieve the intended environmental benefit and materials must be suitable for the proposed use), (2) used in on and off site peatland restoration, and (3) disposed of, and the proposed means of disposal (if deemed unavoidable after all other uses of excavated peat have been explored and reviewed).
    3. Details of proposals for temporary storage and handling of peat - [Good Practice during Wind Farm Construction](https://www.scottishrenewables.com/assets/000/000/453/guidance_-_good_practice_during_wind_farm_construction_original.pdf?1579640559) outlines the approach to good practice when addressing issues of peat management on site and minimising carbon loss.
    4. Suitable evidence that the use of peat in making good areas disturbed by development, including borrow pits, is genuine and not a waste disposal operation, including evidence on the suitability of the peat and evidence that the quantity used matches and does not exceed the requirement of the proposed use. If peat is to be used in borrow pits on site, SEPA will require sections and plans including the phasing, profiles, depths and types of material to be used.
    5. Use of excavated peat in areas not disturbed by the development itself is now not a matter SEPA provides planning advice on. Please refer to [Advising on peatland, carbon-rich soils and priority peatland habitats in development management | NatureScot](https://www.nature.scot/doc/advising-peatland-carbon-rich-soils-and-priority-peatland-habitats-development-management) 2023, and the [Peatland ACTION – Technical Compendium](https://www.nature.scot/doc/peatland-action-technical-compendium) which provides more detailed advice on peatland restoration techniques. Unless the excavated peat is certain to be used for construction purposes in its natural state on the site from where it is excavated, it will be subject to regulatory control. The use of excavated peat off-site, including for peatland restoration, will require the appropriate level of environmental authorisation. Excavated peat will be waste if it is discarded, or the holder intends to or is required to discard it. These proposals should be clearly outlined so that SEPA can identify any regulatory implications of the proposed activities. This will allow the developer and their contractors to tailor their planning and designs to accommodate any regulatory requirements. Further guidance on this may be found in the document [Is it waste - Understanding the definition of waste.](https://www.sepa.org.uk/media/154077/is_it_waste.pdf)

# GWDTE and existing groundwater abstractions

## Groundwater Dependent Terrestrial Ecosystems (GWDTE) are protected under the Water Framework Directive. Excavations and other construction works can disrupt groundwater flow and impact on GWDTE and existing groundwater abstractions. The layout and design of the development must avoid impacts on such areas.

## A National Vegetation Classification (NVC) survey should be submitted which includes the following information:

* + 1. A set of drawings demonstrating all GWDTE and existing groundwater abstractions are outwith a 100m radius of all excavations shallower than 1m and outwith 250m of all excavations deeper than 1m and proposed groundwater abstractions. The survey needs to extend beyond the site boundary where the distances require it.
    2. If the minimum buffers cannot be achieved, a detailed site specific qualitative and/or quantitative risk assessment will be required. Please refer to [Guidance on Assessing the Impacts of Development Proposals on Groundwater Abstractions and Groundwater Dependent Terrestrial Ecosystems](https://www.sepa.org.uk/media/144266/lups-gu31-guidance-on-assessing-the-impacts-of-development-proposals-on-groundwater-abstractions.pdf) for further advice and the minimum information we require to be submitted.

## Please note that due to discrepancies in habitat definition and ambiguity in correspondence with NVC types we do not accept the use of The UK Habitat Classification System (UKHab) as an alternative to NVC.

# Forest removal and forest waste

## If forestry is present on the site, the site layout should be designed to avoid large scale felling, as this can result in large amounts of waste material and a peak in release of nutrients which can affect local water quality.

## The submission must include drawings with the boundaries of where felling will take place and a description of what is proposed for this timber in accordance with [Use of Trees Cleared to Facilitate Development on Afforested Land – Joint Guidance from SEPA, SNH and FCS](https://www.sepa.org.uk/media/143799/use_of_trees_cleared_to_facilitate_development_on_afforested_land_sepa_snh_fcs_guidance-_april_2014.pdf).

# Pollution prevention and environmental management

## The submission must include a schedule of mitigation, which includes reference to best practice pollution prevention and construction techniques (for example, limiting the maximum area to be stripped of soils and peat at any one time) and regulatory requirements. Please refer to the [Guidance for Pollution Prevention](https://www.netregs.org.uk/environmental-topics/guidance-for-pollution-prevention-gpp-documents/) (GPPs) and our [water run-off from construction sites webpage](https://www.sepa.org.uk/regulations/water/pollution-control/water-run-off-from-construction-sites/) for more information.

# Life extension, repowering and decommissioning

## Proposals for life extension, repowering and/or decommissioning must demonstrate accordance with SEPA guidance on the [life extension and decommissioning of onshore wind farms](https://www.sepa.org.uk/media/219689/sepa-guidance-regarding-life-extension-and-decommissioning-of-onshore-windfarms.pdf). Table 1 of the guidance provides a hierarchical framework of environmental impact based upon the principles of sustainable resource use, effective mitigation of environmental risk (including climate change) and optimisation of long term ecological restoration. The submission must demonstrate how the hierarchy of environmental impact has been applied, within the context of latest knowledge and best practice, including justification for not selecting lower impact options when life extension is not proposed.

## The discarding of materials as waste should be avoided. However, if there is an intention to discard materials then further guidance on this may be found in the document [Is it waste - Understanding the definition of waste.](https://www.sepa.org.uk/media/154077/is_it_waste.pdf)

If you would like this document in an accessible format, such as large print, audio recording or braille, please contact SEPA by emailing [equalities@sepa.org.uk](mailto:equalities@sepa.org.uk).