Beauly BESS

784-B066659

Report to Inform Habitats Regulations Assessment Stage 1 and Stage 2

TNEI Group

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TETRA TECH

Tetra Tech London, 11th Floor, Angel Court, London, United Kingdom, EC2R 7HJ

Tetra Tech Limited. Registered in England number: 01959704
Registered Office: 3 Sovereign Square, Sovereign Street, Leeds, United Kingdom, LS1 4ER

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Version	2	**Prepared by:**	Charlie Lee BSc (Hons) Graduate Ecologist  Lewis Hooper BSc (Hons) Senior Ecologist 
Date:	December 2024	**Checked by:**	Danny de la Hey BSc (Hons) Associate Ecologist
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EXECUTIVE SUMMARY

Contents	Summary
Site Location	The site is located approximately 1km south of Beauly in the Scottish Highlands and is centred at Ordnance Survey National Grid Reference NH 52446 44471.
Proposals	The proposed development is a Battery Energy Storage System (BESS) of up to 100 MW with associated infrastructure, earthworks, drainage, accesses and ancillary works (including landscaping and biodiversity enhancement).
Scope of this Report	The purpose of this report is to assess the pathways to Likely Significant Effects (LSE) (HRA Stage 1) of the development proposals upon relevant European designated sites (Natura 2000) recorded within influence to the Proposed Development site, and subsequently appropriately assess whether these would result in an adverse effect on the integrity of these sites (HRA Stage 2).
Stage 1: Screening Results	The results from the Stage 1 Screening Assessment found that there were three potential pathways to likely significant effects including: • Surface water pollution during construction; • Ground water pollution during construction; and • Disturbance from increased noise, visual impacts and potential vibration during operation and construction.
Stage 2: Appropriate Assessment	The results from the Stage 2 Appropriate Assessment found that with the application of mitigation there would be no adverse effect on the integrity of any Habitats Sites. The mitigation will comprise: • A site-specific noise, visual, vibration and water pollution mitigation strategy incorporated into a Construction Environmental Management Plan (CEMP) once construction methods are finalised, and • Management and enhancement of existing screening vegetation to ensure its continued presence and integrity. The impact pathways which have been assessed alone, as they have an appreciable impact and would lead to LSE. As a result, no assessment of in-combination effects is required during the screening assessment.
Conclusion	The Proposed Development has been screened for any LSE alone and it has been determined that in the absence of mitigation, there are likely significant affects upon Inner Moray Firth SPA, Inner Moray Firth Ramsar, Moray Firth SAC and Moray Firth SPA regarding potential water pollution, noise, visual and vibration pollution and air pollution from construction. To mitigate against this a (pre-construction) Construction Environmental Management Plan will be produced which will incorporate the measures to negate or cancel pollution or visual / noise / vibration that might impact on the qualifying features of the European sites or the habitat on which they rely, and this will be legally bound.

	Once these mitigation measures are implemented, it is considered that there will be no adverse effects on the integrity of the European designated sites.

1.0 INTRODUCTION

1.1 BACKGROUND

Tetra Tech was commissioned by TNEI Group in September 2024, on behalf of the Field Beauly Ltd. (the Applicant), to undertake a Habitats Regulations Assessment (HRA) to support a planning application for the creation of a BESS at Dunballoch Farm, Beauly, Inverness, IV4 7AY hereafter referred to as "Proposed Development". This report is required to establish the potential for the Proposed Development to affect the qualifying features of any designated site either alone or in combination with other plans or projects. The application is to the Energy Consents Unit (ECU) who will be the competent authority, which will involve an assessment for the development under the Habitats Regulations. This document provides a Report to Inform HRA to assist the competent authority in undertaking their duties.

This report has been prepared by Ecologist Charlie Lee BSc (Hons) and Senior Ecologist Lewis Hooper BSc (Hons) and the conditions pertinent to it are provided in Appendix A.

1.2 SITE DESCRIPTION

The Proposed Development is located approximately 1km south of Beauly in the Scottish Highlands and is centred at Ordnance Survey National Grid Reference NH 52446 44471 (Figure 1). It comprises a large grassland pasture which at the time of the survey was used by grazing sheep. There are two electrical pylons within the field with overhead cables running from east to west. The southeast site boundary is walled by an old dry-stone dyke, behind which is extensive woodland.

The Proposed Development site is bordered by a mix of pastoral and arable farmland, conifer plantations and area of mixed woodland. A hardstanding road (A862) is located within 130m east of the Proposed Development site and the River Beauly is located west of the Site and runs adjacent to the southwest boundary line. Beauly Quarry is located 1km northwest and the Inner Moray Firth Ramsar/Special Protection Area (SPA) site is located 0.88km north of the proposed development site which empties into the Moray Firth SAC.

1.3 DEVELOPMENT PROPOSALS

The development proposals consist of the creation and operation of a BESS of up to 100 MW with associated infrastructure, access and ancillary works (including landscaping and biodiversity enhancement).

1.4 REQUIREMENT FOR HRA

An HRA is an assessment of the potential impacts of a proposed project or plan on the conservation objectives of any Habitat sites[1] and, where necessary, an assessment of the development mitigation and /

[1] The term Habitat site is to define sites which are afforded protection through the Habitat Regulations and policy, is an accepted terminology used by NatureScot (NS) and in the National Planning Policy (NPP).

or avoidance measures to preclude negative effects. The impacts assessed must include the direct, indirect and in-combination impacts before approving the plan or project, considered along with any current or proposed activities, developments or policies impacting on the site. The potential impacts of projects and polices outside the Habitat sites, but potentially impacting upon them (i.e., negative effects upon functional habitat used by their qualifying features) must also be included in the assessment.

The requirement for an HRA is established through Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora, hereby referred to as the 'Habitats Directive', in Articles 6(3) and 6(4). The Habitats Directive is transposed into national legislation by the Conservation (Natural Habitats, &c.) Regulations 1994. These are hereafter referred to as the 'Habitats Regulations'.

The term Habitat Site is determined fully in Regulation 10 of the Habitats Regulations and includes:

- Designated Special Areas of Conservation (SACs), and;
- Classified Special Protection Areas (SPAs).

As a matter of policy in Scotland the following sites should be subject to the Habitats Regulations Assessments in the same way as a statutory Habitat Site:

- Listed and proposed Ramsar Sites;
- Potential SPAs (pSPA), and;
- Possible/proposed SAC (pSAC).

The National Planning Policy Framework 4 (NPPF4) (The Scottish Government, 2023) states that:

Policy 4b:

> *'Development proposals that are likely to have a significant effect on an existing or proposed European site (Special Area of Conservation or Special Protection Areas) and are not directly connected with or necessary to their conservation management are required to be subject to an "appropriate assessment" of the implications for the conservation objectives.'*

Policy 4c also states:

> *'All Ramsar sites are also European site and/or Sites of Special Scientific Interest and are extended protection under the relevant statutory regimes.'*

The Highlands Council Local Development Plan April 2012 (The Highland Council, 2012) is the relevant local plan for the Proposed Development and includes the following:

Policy 57 Natural, Built and Cultural Heritage.

> *'All development proposals will be assessed taking into account the level of importance and type of heritage features, the form and scale of the development, and any impact on the feature and its setting, in the context of the policy framework. The following criteria will also apply:*
>
> 1. *For features of **local/regional importance** we will allow developments if it can be satisfactorily demonstrated that they will not have an unacceptable impact on the natural environment, amenity and heritage resource.*

2. *For features of **national importance,** we will allow developments that can be shown not to compromise the natural environment, amenity and heritage resource. Where there may be any significant adverse effects, these must be clearly outweighed by social or economic benefits of national importance. It must also be shown that the development will support communities in fragile areas who are having difficulties in keeping their population and services.*
3. *For features of **international importance** developments likely to have a significant effect on a site, either alone or in combination with other plans or projects, and which are not directly connected with or necessary to the management of the site for nature conservation will be subject to an appropriate assessment. Where we are unable to ascertain that a proposal will not adversely affect the integrity of a site, we will only allow development if there is no alternative solution and there are imperative reasons of overriding public interest, including those of a social or economic nature. Where a priority habitat or species (as defined in Annex 1 of the Habitats Directive) would be affected, development in such circumstances will only be allowed if the reasons for overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment, or other reasons subject to the opinion of the European Commission (via Scottish Ministers). Where we are unable to ascertain that a proposal will not adversely affect the integrity of a site, the proposal will not be in accordance with the development plan within the meaning of Section 25(1) of the Town and Country Planning (Scotland) Act 1997.*

Policy 58 Protected Species.

'Where there is good reason to believe that a protected species may be present on site or may be affected by a proposed development, we will require a survey to be carried out to establish any such presence and if necessary, a mitigation plan to avoid or minimise any impacts on the species, before determining the application.

Development that is likely to have an adverse effect, individually and/or cumulatively, on European Protected Species will only be permitted where:

- *There is no satisfactory alternative;*
- *The development is required for preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment, and;*
- *The development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.*

Development that is likely to have an adverse effect, individually and/or cumulatively, on protected bird species will only be permitted where:

- *There is no other satisfactory solution, and;*
- *The development is required in the interests of public health or public safety.*

This will include but is not limited to avoiding adverse effects, individually and/or cumulatively, on the populations of the following priority protected bird species:

- *Species listed in Annex 1 of the EC Birds Directive;*

- *Regularly occurring migratory species listed in Annex II of the Birds Directive;*
- *Species listed in Schedule 1 of the Wildlife and Countryside Act 1981 as amended;*
- *Birds of conservation concern.*

Development that is likely to have an adverse effect, individually and/or cumulatively, on other protected animals and plants will only be permitted where the development is required for preserving public health or public safety.

Development proposals should avoid adverse disturbance, including cumulatively, to badgers and badger setts, protected under the Protection of Badgers Act 1992 (as amended by the Nature Conservation (Scotland) Act 2004'

Policy 59 Other Important Species.

'The Council will have regard to the presence of and any adverse effects of development proposals, either individually and/or cumulatively, on the Other Important Species which are included in the lists below, if these are not already protected by other legislation or by nature conservation site designations:

- *Species listed in Annexes II and V of the EC Habitats Directive*
- *Priority species listed in the UK and Local Biodiversity Action Plans, and;*
- *Species included on the Scottish Biodiversity List.*

We will use conditions and agreements to ensure detrimental affect on these species is avoided.'

Policy 60 Other Important Habitats and Article 10 Features:

'The Council will seek to safeguard the integrity of features of the landscape which are of major importance because of their linear and continuous structure or combination as habitat "stepping stones" for the movement of wild fauna and flora. (Article 10 Features). The Council will also seek to create new habitats which are supportive of this concept.

The Council will have regard to the value of the following Other Important Habitats, where not protected by nature conservation site designations (such as natural water courses), in the assessment of any development proposals which may affect them either individually and/or cumulatively:

- *Habitats listed in Annex I of the EC Habitats Directive;*
- *Habitats of priority and protected bird species;*
- *Priority habitats listed in the UK and Local Biodiversity Action Plans, and;*
- *Habitats included on the Scottish Biodiversity List.*

The Council will use conditions and agreements to ensure that significant harm to the ecological function and integrity of Article 10 Features and Other Important Habitats is avoided. Where it is judged that the reasons in favour of a development clearly outweigh the desirability of retaining those important habitats, the Council will seek to put in place satisfactory mitigation measures, including where appropriate consideration of compensatory habitat creation.'

1.5 HRA GUIDANCE

The HRA process undertaken by Tetra Tech has been developed in accordance with the following guidance:

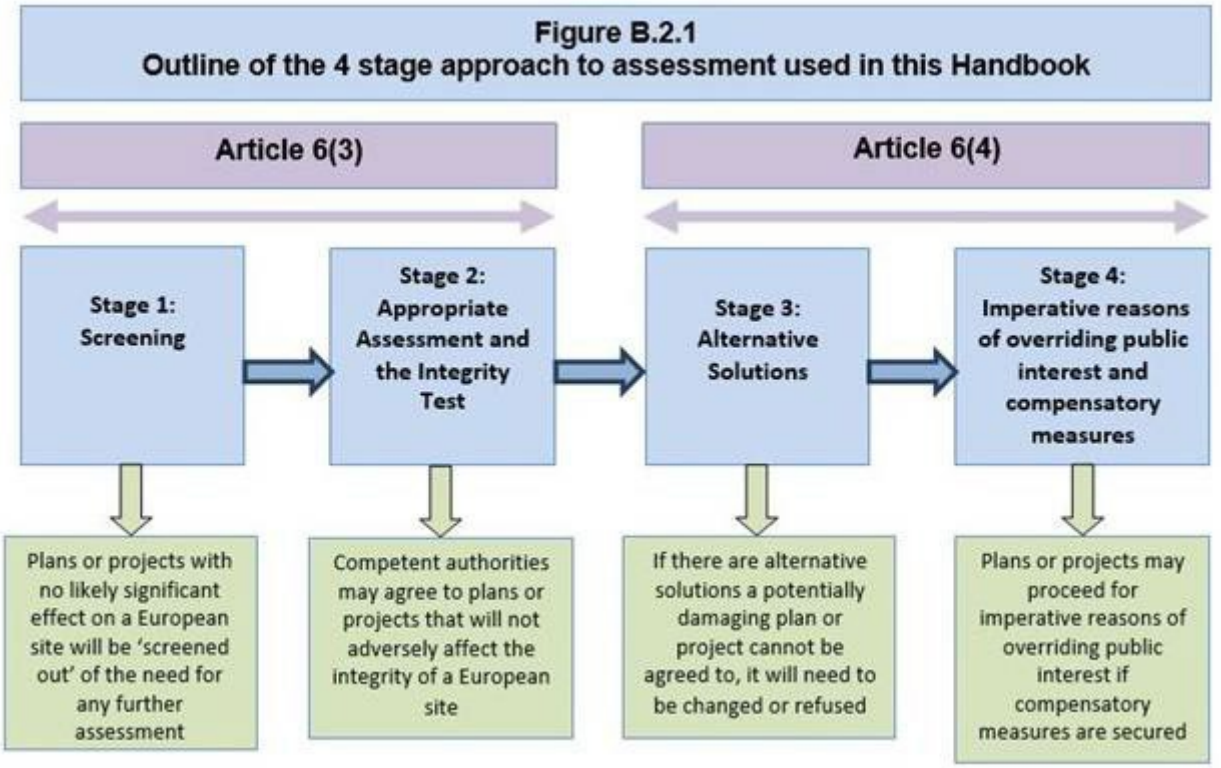
- DTA Publications (2023). The Habitats Regulations Assessment Handbook 2023 (DTA Publications, 2023) (Accessed online, by subscription only); and
- HRA judgement (Holohan & Ors. v An Bord Pleanála, 7 November 2018, C - 461/17) has also been considered within this assessment. In summary this judgement provides further clarification about the scope of an Appropriate Assessment (AA), requiring that the assessment must:
    - Catalogue the entirety of habitat types and species for which a site is protected;
    - Identify and examine the implications of the project for species present on the SPAs / SACs
      /Ramsar sites for which the site has not been listed provided that those implications are liable to affect the Conservation Objectives of the site (i.e. if they are necessary to the conservation of the habitat types and species listed for the protected area); and
    - Consider the implications for habitat types and species to be found outside the SPA / SAC / Ramsar sites provided that those implications are liable to affect the Conservation Objectives of the SPA / SAC (i.e. if they are necessary to the conservation of the habitat types and species listed for the protected area).

In essence this is how a thorough HRA is carried out, as there may be other features supporting the Conservation Objectives of the site which are not actually listed as qualifying features, both within the designated area and outside this

2.0 HRA METHODOLOGY

The HRA process involves the following tasks split according to the guidance stages, the current report is concerned with Stage 1 – Screening. **Table 1** provides a summary of each stage of the HRA process.

Table 1 - HRA Stages



Stage	Details
Stage 1 **Assessment of Likely Significant Effects**	Stage 1 is often called an Assessment of Likely Significant Effects (ALSE) and is essentially a preliminary examination, typically utilising existing data, records and specialist knowledge. The purpose of the screening test is to identify the possibility of an adverse significant effect, which could undermine a European site's conservation objectives. The essential question is: (i) either alone or in combination with other plans or projects would be likely to have a significant effect on a site included within the European Sites Network and (ii) is not directly connected with the management of the site for nature conservation. If it can be demonstrated that significant effects will not occur, no further assessment is required. If significant effects cannot be excluded on the basis of

	objective information without extensive investigation, a plan or project should be considered to have a likely significant effect and taken through to an appropriate assessment (Tyldesley and Chapman, 2013).
Stage 2 **Appropriate Assessment**	If it cannot be satisfactorily demonstrated that significant effects are unlikely, a full "Appropriate Assessment" will be required. This stage is focused entirely upon the qualifying features of the European sites in question. The essential question here is: "Will the project, either alone or in-combination with other relevant plan or project actually result in an adverse effect upon the integrity of any Habitats sites?" If it is concluded that adverse effects will occur, mitigation measures will be required to either avoid the impact in the first place, or to reduce the ecological effect to such an extent that it is no longer significant. Note that, unlike standard Ecological Impact Assessment, compensation for adverse effects (i.e. creation of alternative habitat) is not permitted to be considered at the Appropriate Assessment stage.

The Stage 1 Screening Assessment comprises four steps, as described below:

- Step 1. Determining whether the project or plan is directly connected with or necessary to the management of the Habitat Site(s);
- Step 2. Describing the project or plan and the description and characterisation of other projects or plans that in-combination have the potential for having significant effects on the Natura 2000 site(s);
- Step 3. Identifying the potential effects on the Habitat Site(s); and
- Step 4. Assessing the significance of any effects on the Habitat Site(s).

The Stage 2: Appropriate Assessment should identify the effects of those plans or projects on qualifying features of the European Site Networks in relation to the Conservation Objectives of those sites and determine whether these effects will result in an adverse effect on the integrity of the Habitats site. Only where the decision maker (the competent authority – in this case the ECU, via The Highland Council) is satisfied that there will be no adverse effect on integrity, or where there are imperative reasons of overriding public interest, can the plan or project be approved.

2.1 INFORMATION USED TO INFORM THE ASSESSMENT

This assessment was informed by a number of sources which were used to identify the nearby Habitat Sites, pathways to likely significant effects, and methods of appropriate mitigation.

2.1.1 Desk Study

The online NatureScot Site link (https://sitelink.nature.scot) and Scotland's Environment Map (https://map.environment.gov.scot/sewebmap) mapping tools was consulted to determine which Habitat Sites could be impacted by the proposed works. Other sources of information included:

- National Site Network site citations;
- The conservation objectives for each considered Habitat Site; and
- The Site Improvement Plans (SIPs) for each Habitat Site.

2.1.2 Previous Ecological Reports

A Preliminary Ecological Appraisal (PEA) for the Proposed Development was completed by Tetra Tech on 8th August 2024 and issued to TNEI in December 2024 (Tetra Tech, 2024a). The report identified multiple Habitats Sites (SACs/ SPAs / Ramsar sites) within a 10km radius of the Proposed Development, with development proposals having potential to impact a number of these. The report also identified that there is the potential for the Proposed Development site itself to support protected, priority and/or notable species, as such further surveys have been undertaken. A summary of the PEA findings and results of any additional further surveys undertaken is detailed below.

2.1.3 Bats

Local records from Highland Biological Recording Group (HBRG) features numerous records of bat species within 2km of the Proposed Development site. These include Daubenton's Myotis daubentonii, soprano pipistrelle Pipistrellus, common pipistrelle Pipistrellus pipistrellus and Brown long-eared bat Plecotus auritus. A series of static bat recording detectors was undertaken in parallel with the PEA, the results of which will be reported separately. There are four farm buildings directly adjacent northeast of the Proposed Development site, two of which was categorised as low Bat Roost Suitability (BRS), one was moderate BRS and another high BRS. These buildings will not be impacted by the development and operational access will be via the existing farm access adjacent. The River Beauly and its riparian edges which run along the southwestern boundary of the Proposed Development Site provide foraging resources and commuting routes suitable for all species of bat resident in Scotland. Woodland parcels, tree lines, and hedgerows throughout the wider landscape also provide habitat suitable for foraging and commuting, with open farmland also likely to be used for foraging by a range of bat species.

2.1.4 Otter and Beaver

The HBRG data search returned two records of otter Lutra lutra and no records of beaver Castor fiber within 2km of the Proposed Development site. Due to the presence of otter and beaver signs within 2km of the Proposed Development site, targeted protected species surveys for otter and beaver were recommended and completed in autumn 2024.

No direct evidence of otter presence was found within the site boundary. Otter footprints were found along the sandy substrate at the water's edge upstream of the site. Features which could be used by resting otter are present in the riparian zone of the River Beauly including overhanging bank profile, exposed tree roots, outlier badger setts and rabbit warrens in the wider landscape.

Evidence of beaver activity, fresh and older gnaw markings, were observed approximately 400m from the western site boundary line along the banks of the River Beauly. Further downstream, approximately 500m – 1km from the northern site boundary fresh signs of beaver foraging were recorded.

2.1.5 Birds

The HBRG data search returned 936 bird records, encompassing 64 species within 2km of the Proposed Development site. The HBRG returned a record for Osprey Pandion haliaetus, an Annex 1 qualifying species for the Inner Moray Firth Ramsar/SPA 0.88km north of the Proposed Development site; however, the specific nest location could not be disclosed due to the sensitive nature of Osprey breeding sites.

It was recommended that a data collection and consultation exercise should be undertaken with NatureScot and the Highland Raptor Study Group/Royal Society of Protection of Birds; to request information on any known/established Osprey nests; the presence of known Schedule 1 bird nest sites/territories within the site and wider area; and records of grazing by wintering birds to accurately inform the HRA process.

As such, based on the historical and contemporary field survey data presented in the PEA report, the inferred ornithological baseline conditions are considered representative of the Proposed Development site. Furthermore, it is believed that the existing survey data, supplemented by relevant and recent consultation data, is sufficient to support an accurate assessment of potential impacts from the Proposed Development on ornithological receptors, and in turn sufficient to proceed with HRA Stages 1 (screening) and 2 (appropriate assessment). NatureScot have not responded to the letter of consultation at the time of writing this report.

2.2 CONSULTATION

Tetra Tech sent a letter of consultation to NatureScot on the 20th November 2024 requesting advice on the acceptability of ornithological baseline data to inform the HRA process (Tetra Tech, 2024b). The letter highlights that the ecological surveys conducted on the Proposed Development site have not recorded any qualifying species associated with the statutory protected sites.

Due to the prohibitive nature of the Osprey breeding locations, consultation with Nature Scot was undertaken to establish if Osprey nests were known to be in use within 750m of the development.

Nature Scot have responded to ask for more time regarding provision of consultation advice.

3.0 SCOPE OF ASSESSMENT

3.1 IDENTIFICATION OF NATIONAL SITE NETWORK SITES WITH POTENTIAL TO BE AFFECTED BY THE PROJECT

Projects may have spatial implications which can have further reaching effects than those predicted to fall within the development footprint. Specifically, it is recognised that distance between plan / project and a European Site is not a definitive determinant as to the likelihood or severity of an impact occurring. Site variables such as prevailing wind conditions, surface and groundwater flow direction will all have an influence on the relative distance at which an impact can occur.

Additionally, the mobile nature of qualifying interest species must also be considered, since an adverse effect on the qualifying species of a designated site, even if they are present outside the designated site for which they are qualifying, may still result in a significant adverse effect on a designated site. Hence, a development some distance away from a Habitat Site could still have effects on the site and therefore, needs to be considered as part of the screening process.

The Court Judgement relating to Case C-461/17 Holohan v. An Bord Pleanala ECLI:EU:C:2018:649 states 'Article 6(3) of Council Directive 92/43/EEC of 21st May 1992 on the conservation of natural habitats and of wild fauna and flora must be interpreted as meaning that 'an Appropriate Assessment' must, on the one hand, catalogue the entirety of habitat types and species for which a site is protected, and, on the other, identify and examine both the implications of the proposed project for the species present on that site, and for which that site has not been listed, and the implications for habitat types and species to be found outside the boundaries of that site, provided that those implications are liable to affect the conservation objectives of the site.'

This means that both species and habitats which are present within the designated site boundary or outside of the site should be considered even if they are not qualifying features, if they are supporting features that might affect the conservation objectives of the site if lost or damaged. This HRA has considered qualifying features as well as other habitats, flora and fauna that might be important in achieving the conservation objectives of the site and maintaining site integrity.

3.2 DETERMINING THE ZONE OF INFLUENCE

Site selection was dependent upon the likelihood of the project resulting in an impact pathway(s) causing LSE to Habitat Sites. A 10km search radius from the Proposed Development site was used to identify any terrestrial Habitats sites that could be adversely affected by the works (See Figure 2). This is considered to be sufficient to capture all terrestrial Habitat Sites which may be impacted by the works.

Table 2 below lists the Habitat Sites identified that could be affected by the Proposed Development and details each sites qualifying and supporting features, any threats to their integrity as identified in the Site Improvement Plans (SIP), and their conservation objectives.

Table 2 - Site Selection

Site	Distance to Proposed Development	Qualifying Features	SIP Threats and Pressures	Conservation Objectives
UK9001624 - Inner Moray Firth SPA	0.88km north	**Annex II species:** (Breeding) • A094 - Osprey. (Non-breeding) • A156 - Black-tailed godwit *Limosa limosa*; • A193 - Common tern *Sterna hirundo*; • A017 - Cormorant *Phalacrocorax carbo*; • A160 - Curlew *Numenius arquata*; • A067 - Goldeneye *Bucephala clangula*; • A070 - Goosander *Mergus merganser*; • A043 - Greylag goose *Anser anser;* • A130 - Oystercatcher *Haematopus ostralegus*; • A069 - Red-breasted merganser *Mergus serrator*;	• Utility and service lines; • Other forms of pollution which do not include, surface water, ground water, marine water, air, soil or excess energy; • Invasive non-native species; • Changes in biotic conditions; • Changes in abiotic conditions; • Renewable abiotic energy use; • Interspecific faunal relations;	To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and To ensure for the qualifying species that the following are maintained in the long term: • Population of the species as a viable component of the site; • Distribution of the species within site; • Distribution and extent of habitats supporting the species;

Site	Distance to Proposed Development	Qualifying Features	SIP Threats and Pressures	Conservation Objectives
		• A162 - Redshank *Tringa totanus*; • A062 - Scaup *Aythya marila;* • A052 - Teal *Anas crecca*; • A050 - Wigeon *Anas penelope,* and; • Waterfowl assemblage. **Source: (JNCC, 2020a).**	• Outdoor sports and leisure activities, recreational activities, and; • Hunting and collection of wild animals (terrestrial), including damage caused by game (excessive density), and taking/removal of terrestrial animals (including collection of insects, reptiles, amphibians, birds of prey, etc., trapping, poisoning, poaching, predator control, accidental capture (e.g. due to fishing gear), etc.) **Source: (JNCC, 2020a).**	• Structure, function and supporting processes of habitats supporting the species, and; • No significant disturbance of the species. **Source: (NatureScot, 2018).**
UK13025 - Inner Moray Firth Ramsar	0.88km north	**Meets the Ramsar criterion 1:** The site supports a variety of important wetland habitats including intertidal mudflats and salt flats supporting areas of saltmarsh with eelgrass	• Recreation/ disturbance; • Over grazing; • Under grazing, and; • Invasive non-native species.	Conservation objectives for the Inner Moray Firth Ramsar match that of the Inner Moray Firth SPA.

Site	Distance to Proposed Development	Qualifying Features	SIP Threats and Pressures	Conservation Objectives
		Zostera beds. Sand dunes and a shingle bar are also present within Inner Moray Firth Ramsar. **Meets the Ramsar criterion 2:** Osprey throughout the Ramsar site (2008 to 2012, up to 25 territories within feeding range, 12.5% of the GB population, with 4 pairs breeding within the site, 4% of the GB population), and Common tern (310 pairs, 2% of the GB population). **Meets the Ramsar criterion 4:** Supporting the following waterbird species at a critical stage in their life cycles: • Scaup (118 individuals, 1% of the GB population); • Curlew (1,262 individuals, 1% of the GB population); • Goosander (325 individuals, 4% of the GB population); • Goldeneye (218 individuals, 1% of the GB population); • Teal (2,066 individuals, 1% of the GB population); • Wigeon (7,310 individuals, 3% of the GB population), and;	**Source: (NatureScot, 2024a).**	

Site	Distance to Proposed Development	Qualifying Features	SIP Threats and Pressures	Conservation Objectives
		• Cormorant (409 individuals, 3% of the GB population). In the five-year period 1991/92 to 1995/96, a winter peak mean of 33,148 individual waterbirds was recorded with the assemblage additionally including a nationally important population, greater than 2,000 individuals, of Oystercatcher (3,063 individuals, 0.9% of the GB population). **Meets the Ramsar criterion 5:** Regularly supporting waterbirds in numbers of 20,000 individuals or more. In the five-year period 1992/93 to 1996/97, a winter peak mean of 26,800 individual waterbirds was recorded, comprising 16,800 wildfowl and 10,000 waders. **Meets the Ramsar criterion 6:** Regularly supporting 1% or more of the individuals in a population of waterbirds (1992/93 to 1996/97, winter peak means): Bar-tailed godwit *Limosa lapponica*, (1,090 individuals, 1% of the Western European biogeographic population); Greylag goose *Anser anser* (2,651 individuals, 3% of the Iceland/UK/Ireland biogeographic population);		

Site	Distance to Proposed Development	Qualifying Features	SIP Threats and Pressures	Conservation Objectives
		• Red-breasted merganser Mergus serrator (1,184 individuals, 1% of the Northwest & Central Europe biogeographic population), and; • Redshank (1,621 individuals, 1% of the Eastern Atlantic biogeographic population). **Source: (NatureScot, 2022a).**		

UK0012583 - Moniack Gorge SAC	3.4km southeast	**Annex II species:**
		1386 - Green shield-moss *Buxbaumia viridis*
		Source: (JNCC, 2015a).
			• Livestock farming and animal breeding (without grazing);
			• Forest and plantation management & use;
			• Other ecosystem modifications;
			• Other human intrusions and disturbances, and;
			• Grazing in forests/ woodland.
			Source: (JNCC, 2015a).
				• To ensure that the qualifying feature of Moniack Gorge SAC is in favourable condition and makes an appropriate contribution to achieving favourable conservation status, and;
				• To ensure that the integrity of Moniack Gorge SAC is maintained by meeting objectives 2a, 2b and 2c for the qualifying feature;
				  • 2a., Maintain the population of the species as a viable component of the site;
				  • 2b., Maintain the distribution of the species throughout the site, and;
				  • 2c., Maintain the habitats supporting the species within the site.
				Source: (NatureScot, 2020a).

Site	Distance to Proposed Development	Qualifying Features	SIP Threats and Pressures	Conservation Objectives

UK9020313 - Moray Firth SPA	3.4km northeast	**Annex II species:**
		(Breeding)
		• A016 – Shag *Phalacrocorax aristotellis*;
		(Non-breeding)
		• A065 - Common scoter *Melanitta nigra*;
		• A063 - Eider *Somateria mollissima*;
		• A067 - Goldeneye;
		• A003 - Great northern diver *Gavia immer*;
		• A064 - Long-tailed duck *Clangula hyemalis*;
		• A069 - Red-breasted merganser;
		• A001 - Red-throated diver *Gavia stellata*;
		• A062 - Scaup;
		• A018 – Shag;
		• A007 - Slavonian grebe *Podiceps auritus*, and;
		• A006 - Velvet scoter *Melanitta fusca*.
		Source: (JNCC, 2020b).
			• Hunting, fishing or collecting activities;
			• Fishing and harvesting aquatic resources;
			• Changes in biotic conditions;
			• Changes in abiotic conditions;
			• Marine water pollution;
			• Renewable abiotic energy use;
			• Other ecosystem modifications;
			• Marine and freshwater aquaculture;
			• Outdoor sports, leisure activities and recreational activities;
			• Utility and service lines;
			• Other human intrusions and disturbances;
			• Shipping lanes, ports and marine constructions;
			• Exploration and extraction of oil or gas;
				• To ensure that the qualifying features of the Moray Firth SPA are in favourable condition and make an appropriate contribution to achieving Favourable Conservation Status, and;
				• To ensure that the integrity of the Moray Firth SPA is restored in the context of environmental changes by meeting objectives 2a, 2b and 2c for each qualifying feature
				  • 2a., The populations of qualifying features are viable components of the site;
				  • 2b., The distribution of the qualifying features is maintained throughout the site by avoiding significant disturbance of the species, and;
				  • 2c., The supporting habitats and processes relevant to qualifying features and their prey resources are maintained, or where appropriate restored, at the Moray Firth SPA.
				Source: (NatureScot, 2022b).

Site	Distance to Proposed Development	Qualifying Features	SIP Threats and Pressures	Conservation Objectives
			• Airports and flightpaths, and; • Military use and civil unrest. **Source: (JNCC, 2020b).**	
UK0019808 - Moray Firth SAC	5.6km northeast	**Annex I habitat:** 1110 – Sandbanks which are slightly covered by water all the time. **Annex II species:** 1349 – Bottlenose dolphin *Tursiops truncatus* **Source: (JNCC, 2015b).**	• Biocenotic evolution and succession; • Pollution to surface waters (limnic & terrestrial, marine & brackish); • Exploration and extraction of oil or gas; • Utility and service lines; • Shipping lanes, ports and marine constructions; • Urbanised areas and human habitation; • Discharges; • Introduced genetic material and GMO; • Marine water pollution; • Abiotic (slow) natural processes; • Military use and civil unrest;	• To ensure that the qualifying features of Moray Firth SAC are in favourable condition and make an appropriate contribution to achieving Favourable Conservation Status, and; • To ensure that the integrity of Moray Firth SAC is maintained or restored in the context of environmental changes by meeting objectives 2a, 2b and 2c for each qualifying feature: *For subtidal sandbanks:* ◦ 2a., Extent and distribution of the habitat within the site; ◦ 2b., Structure and function of the habitat and the supporting environment on which it relies, and; ◦ 2c., Distribution and viability of typical species of the habitat. *For bottlenose dolphin:*

Site	Distance to Proposed Development	Qualifying Features	SIP Threats and Pressures	Conservation Objectives
			• Human induced changes in hydraulic conditions; • Mining and quarrying; • Marine and freshwater aquaculture; • Interspecific faunal relations; • Fishing and harvesting aquatic resources; • Industrial or commercial areas, and; • Invasive non-native species. **Source: (JNCC, 2015b).**	• 2a., The population of bottlenose dolphin is a viable component of the site; • 2b., The distribution of bottlenose dolphin throughout the site is maintained by avoiding significant disturbance, and; • 2c., The supporting habitats and processes relevant to bottlenose dolphin and the availability of prey for bottlenose dolphin are maintained. **Source: (NatureScot, 2024b).**
UK0013575 - Conon Islands SAC	8.8km north	**Annex I habitat:** 91E0 – Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*). **Source: (JNCC, 2015c).**	• Grazing in forests/ woodland; • Mining and quarrying; • Interspecific floral relations; • Invasive non-native species, and; • Human induced changes in hydraulic conditions **Source: (JNCC, 2015c).**	• To ensure that the qualifying feature of Conon Islands SAC is in favourable condition and makes an appropriate contribution to achieving favourable conservation status, and; • To ensure that the integrity of Conon Islands SAC is restored by meeting objectives 2a, 2b and 2c for the qualifying feature: • 2a., Maintain the extent and distribution of the habitat within the site;

Site	Distance to Proposed Development	Qualifying Features	SIP Threats and Pressures	Conservation Objectives
				• 2b., Restore the structure, function and supporting processes of the habitat, and; • 2c. Restore the distribution and viability of typical species of the habitat. **Source: (NatureScot, 2020b).**
UK0013618 - Monadh Mor SAC	9.9km Northeast	**Annex I habitats:** • 7140 – Transition mires and quaking bogs, and; • 91D0 – Bog woodland. **Source: (JNCC, 2015d).**	• Grazing in forests/ woodland; • Pollution to surface waters (limnic & terrestrial, marine & brackish); • Interspecific floral relations; • Problematic native species; • Invasive non-native species; • Pollution to groundwater (point sources and diffuse sources); • Grazing; • Air pollution and air-borne pollutants;	• To ensure that the qualifying features of Monadh Mor SAC are in favourable condition and make an appropriate contribution to achieving favourable conservation status, and; • To ensure that the integrity of Monadh Mor SAC is maintained by meeting objectives 2a, 2b and 2c for each qualifying feature: *For transition mires and quaking bogs:* • 2a., Maintain the extent and distribution of the habitat within the site; • 2b., Maintain the structure, function and supporting processes of the habitat, and; • 2c., Maintain the distribution and viability of typical species of the habitat.

Site	Distance to Proposed Development	Qualifying Features	SIP Threats and Pressures	Conservation Objectives
			• Outdoor sports, leisure activities and recreational activities; • Forest and plantation management and use; • Forestry activities, and; • Hunting and collection of wild animals (terrestrial), including damage caused by game (excessive density), and taking/removal of terrestrial animals (including collection of insects, reptiles, amphibians, birds of prey, etc., trapping, poisoning, poaching, predator control, accidental capture (e.g. due to fishing gear), etc.). **Source: (JNCC, 2015d).**	*For bog woodland:* • 2a., Maintain the extent and distribution of the habitat(s) within the site; • 2b., Maintain the structure, function and supporting processes of the habitat(s), and; • 2c., Maintain the distribution and viability of typical species of the habitat. **Source: (NatureScot, 2020c).**

4.0 STAGE 1: SCREENING ASSESSMENT

4.1 ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS

The Habitats Regulations Assessment Handbook (DTA Publications, 2023) confirms that during the Screening Stage, 'If significant effects cannot be excluded on the basis of objective information without extensive investigation, a plan or project should be considered to have a likely significant effect and taken through to an Appropriate Assessment'.

The concept of a 'likely significant effect' as embodied in Article 6(3) of the Habitats Directive and regulation 63(1) of the Habitats Regulations is central to their operation. Its interpretation is well established in law and guidance and embraces the precautionary principle. The screening exercise which applies the phrase 'would be likely to have a significant effect' is often referred to as the test for 'likely significant effect' or even the test for 'LSE', or as 'the significance test.

The meaning of likely has been settled by case law - the ECJ Waddenzee ruling states that:

'43 It follows that the first sentence of Article 6(3) of the Habitats Directive subordinates the requirement for an appropriate assessment of the implications of a plan or project to the condition that there be a probability or a risk that the latter will have significant effects on the site concerned; and

…'44 In the light, in particular, of the precautionary principle, which is one of the foundations of the high level of protection pursued by Community policy on the environment, in accordance with the first subparagraph of Article 174(2) EC, and by reference to which the Habitats Directive must be interpreted, such a risk exists if it cannot be excluded on the basis of objective information that the plan or project will have significant effects on the site concerned Such an interpretation of the condition to which the assessment of the

implications of a plan or project for a specific site is subject, which implies that in case of doubt as to the

absence of significant effects such an assessment must be carried out.'

Therefore, a likely significant effect can be defined as the risk of a significant effect, and Sweetman defines this further or even a possibility of a risk:

…'47. It follows that the possibility of there being a significant effect on the site will generate the need for an appropriate assessment for the purposes of Article 6(3). The requirement at this stage that the plan or project be likely to have a significant effect is thus a trigger for the obligation to carry out an appropriate assessment.' There is no need to establish such an effect; it is, merely necessary to determine that there may be such an effect' and not following the dictionary definition of 'likely'.

The ruling of C-323/17 People Over Wind 2018 has stated that ' Article 6(3)… must be interpreted as meaning that, in order to determine whether it is necessary to carry out, subsequently, an appropriate assessment of the implications, for a site concerned, of a plan or project, it is not appropriate, at the screening stage to take into account measures intended to avoid or reduce the harmful effects of the plan

or project on that site'. This means that measures intended to avoid or reduce the harmful effects of a plan or project on Habitats sites should not be taken into account during the screening stage.

4.2 IS THE PROJECT DIRECTLY CONNECTED WITH OR NECESSARY TO THE SITE MANAGEMENT FOR NATURE CONSERVATION

The development proposals are not connected with and are not necessary for the management of any European sites detailed in this report, although they do have the potential to affect them. The site is functionally linked to the Inner Moray Firth SPA and Ramsar via the River Beauly which is directly adjacent along parts of the south – southwestern boundary of the Proposed Development Site and in wider landscape context.

4.3 ASSESSING RISK OF IMPACT PATHWAYS LEADING TO LIKELY SIGNIFICANT EFFECTS

On evaluation of the conservation objectives of the Habitats Sites identified in **Table 2** above, **Table 3** evaluates the potential impact pathways to likely significant effects as a result of the Proposed Development.

Further consideration of potential LSEs for this specific project has resulted in the following being screened out:

- Air pollution – The Institute of Air Quality Management (IAQM) (Institute of Air Quality Management, 2014) describes the ZOI of fugitive dust from construction activities as 50m and 500m from any haul road. The site and its haul roads are not within 50m or 500m of any designated site. As the proposals do not include residential development and the operational phase will not require frequent visits, there will be no increase in the Annual Average Daily Traffic (AADT).
- Non-native invasive species - Non-native invasive species listed on Schedule 9 of the Wildlife and Countryside Act, 1981 (as amended) were recorded on site during the PEA (Tetra Tech, 2024a), and the Proposed Development will be confined to the site boundary and will therefore not lead to potential invasion of designated sites by invasive species and therefore are not considered further in this assessment.
- Recreational Pressure – All impacts relating to recreational pressure on Habitat Sites can be screened out as the proposals do not involve residential housing and there will be no increase in recreational activity due to these proposals. No LSE no in combination required.

Only credible impact pathways where effects are possible have been considered. Therefore, the following impacts have been excluded:

- Renewable abiotic energy use;
- Interspecific faunal relations;
- Outdoor sports and leisure activities, and recreational activities;
- Hunting and collection of wild animals (terrestrial);
- Over grazing;

- Under grazing;
- Livestock farming and animal breeding (without grazing);
- Forest and plantation management & use;
- Grazing in forests/ woodland;
- Hunting, fishing or collecting activities;
- Fishing and harvesting aquatic resources;
- Marine and freshwater aquaculture;
- Shipping lanes, ports and marine constructions;
- Exploration and extraction of oil or gas;
- Airports and flightpaths;
- Military use and civil unrest;
- Biocenotic evolution and succession;
- Urbanised areas and human habitation;
- Introduced genetic material and GMO;
- Abiotic (slow) natural processes;
- Human induced changes in hydraulic conditions;
- Mining and quarrying;
- Invasive non-native species;
- Problematic native species;
- Industrial or commercial areas, and;
- Grazing in forests/ woodland.

The report has assessed:

- Changes in water quality during construction and operation;
- Disturbance to qualifying features due to increase visual stimuli, vibration and noise during construction and operation, and;

A determination is made as to whether likely significant effects are possible, and whether further assessment at Stage 2 is required.

Table 3 - Identifying pathways to LSE

Site	Qualifying Feature	Impact Pathway	Assessment	Determination of LSE
UK9001624 - Inner Moray Firth SPA	**Annex II species:** (Breeding) • A094 - Osprey (Non-breeding) • A156 - Black-tailed godwit; • A193 - Common tern; • A017 - Cormorant; • A160 - Curlew; • A067 - Goldeneye; • A070 - Goosander; • A043 - Greylag goose;	Surface water pollution during construction and operation	The Proposed Development boundary is approximately 15m from the River Beauly which is directly connected to the Inner Moray Firth SPA. There is potential for construction activities to lead to pollution incidents such as mobilising silt and spillage of hydrocarbons. As such LSE cannot be excluded as the Site is hydrologically linked to this SPA. Therefore, further assessment is required.	LSE – potential significant effect
		Ground water pollution during construction and operation	The Proposed Development is situated on Braemore Mudstone Formation, which consists of mudstone and sandstone. These types of rocks are generally known for their low permeability, meaning they do not allow fluids to pass through easily. This characteristic makes them effective barriers to fluid flow, often acting as confining layers in geological formation. No qualifying species will be affected by LSE due to groundwater pollution and can therefore be exclude from further assessment, both alone or in combination with another plan or project.	No LSE – potential significant effect
		Disturbance on qualifying features during construction and operation	Although the River Beauly is 15m from the Proposed Development boundary, the Site does not contain any estuarine habitats which the majority of these qualifying species rely on, there is potential for a small number of these species to be using the river for foraging purposes. In the case of Osprey and goosander it is expected that these species will hunt for fish within the river channel. Therefore, LSE cannot be excluded, and further assessment is required.	LSE – potential significant effect

	• A130 - Oystercatcher; • A069 - Red-breasted merganser; • A162 - Redshank; • A062 - Scaup; • A052 - Teal, and; • A050 - Wigeon.			
UK13025 - Inner Moray Firth Ramsar	Habitats including intertidal mudflats, saltflats with eelgrass *Zostera* beds. Species which include: • A094 - Osprey;	Surface water pollution during construction and operation	The Proposed Development boundary is approximately 15m from the River Beauly which is hydrologically connected to the Inner Moray Firth Ramsar. There is potential for construction activities to lead to pollution incidents such as mobilising silt and spillage of hydrocarbons likely Significant Effect cannot be excluded. Therefore, further assessment is required.	LSE – potential significant effect
		Ground water pollution during construction and operation	The Proposed Development is situated on Braemore Mudstone Formation, which consists of mudstone and sandstone. These types of rocks are generally known for their low permeability, meaning they do not allow fluids to pass through easily. This characteristic makes them effective barriers to fluid flow, often acting as confining layers in geological formation. No qualifying species will be affected by LSE due to groundwater pollution and can therefore be exclude from further assessment, both alone or in combination with another plan or project.	No LSE – potential significant effect

	• A193 - Common tern; • A160 - Curlew; • A062 - Scaup; • A070 - Goosander; • A067 - Goldeneye; • A052 - Teal; • A050 - Wigeon; • A017 - Cormorant; • A157 - Bar-tailed godwit; • A043 - Greylag goose; • A069 - Red-breasted merganser, and; • A0162 - Redshank.	Disturbance on qualifying features during construction and operation	Although the River Beauly which 15m from the Proposed Development does not contain any estuarine habitats which the majority of these qualifying species rely on, there is potential for a small number of these species to be using the river catchment for foraging purposes. In the case of Osprey and goosander it is expected that these species will hunt for fish within the river channel. Therefore, LSE cannot be excluded, and further assessment is required.	LSE – potential significant effect
UK0012583 -	**Annex II species:**	N/A	All threats and pressures mentioned in Site Improvement Plans are not deemed	No LSE

Moniack Gorge SAC	1386 - Green shield-moss		relevant to these proposals and therefore any LES to this European Site has been ruled out.	
UK9020313 - Moray Firth SPA	**Annex II species:** (Breeding) • A016 - Shag (Non-breeding) • A065 - Common scoter; • A063 - Eider; • A067 - Goldeneye; • A003 - Great northern diver; • A064 - Long-tailed duck; • A069 - Red-breasted merganser; • A001 - Red-throated diver; • A0632 - Scaup; • A018 - Shag; • A007 - Slavonian grebe, and;	Surface water pollution during construction and operation	The Proposed Development boundary is approximately 15m from the River Beauly which is directly connected to the Inner Moray Firth SPA and subsequently the Moray Firth SPA. There is potential for construction activities to lead to pollution incidents such as mobilising silt and spillage of hydrocarbons. Likely significant effect LSE cannot be excluded as the site is hydrologically linked to this Moray Firth SPA. Therefore, LSE cannot be excluded, and further assessment is required.	LSE – potential significant effect
		Ground water pollution during construction and operation	The Proposed Development is situated on Braemore Mudstone Formation, which consists of mudstone and sandstone. These types of rocks are generally known for their low permeability, meaning they do not allow fluids to pass through easily. This characteristic makes them effective barriers to fluid flow, often acting as confining layers in geological formation. Therefore, none of the qualifying species will be affected by LSE due to groundwater pollution and can therefore be exclude from further assessment, both alone or in combination with another plan or project.	No LSE
		Disturbance on qualifying features during construction and operation	Although the River Beauly is 15m from the Proposed development boundary, the site does not contain any estuarine habitats which the majority of these qualifying species rely on, there is potential for a small number of these species to be using the river for foraging purposes. Therefore, LSE cannot be excluded, and further assessment is required.	LSE – potential significant effect

	• A006 - Velvet scoter.			
UK0019808 - Moray Firth SAC	**Annex I habitat:** 1110 - Sandbanks which are slightly covered by water all the time. **Annex II species:** 1349 - Bottlenose dolphin.	Surface water pollution during construction and operation	The Proposed Development boundary is approximately 15m from the River Beauly which is directly connected to the Inner Moray Firth SPA and subsequently the Moray Firth SAC. There is potential for construction activities to lead to pollution incidents such as mobilising silt and spillage of hydrocarbons. Likely Significant Effect cannot be excluded as the Proposed Development is hydrologically linked to this SAC. Therefore, LSE cannot be excluded, and further assessment is required.	LSE – potential significant effect
		Ground water pollution during construction and operation	The Proposed Development is situated on Braemore Mudstone Formation, which consists of mudstone and sandstone. These types of rocks are generally known for their low permeability, meaning they do not allow fluids to pass through easily. This characteristic makes them effective barriers to fluid flow, often acting as confining layers in geological formation. neither bottle noise dolphins or sandbanks will be affected by LSE due to groundwater pollution and can therefore be excluded from further assessment, both alone or in combination with another plan or project.	No LSE

		Disturbance on qualifying features during construction and operation	The site or any neighboring habitats do not have the potential to support bottlenose dolphin and no disturbance through any means during the construction and operational phase on Moray First SAC can be excluded.	No LSE
UK0013575 - Conon Islands SAC	**Annex I habitat:** 91E0 - Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*).	N/A	All threats and pressures mentioned in SIP are not deemed relevant to these proposals and therefore any LSE to this Habitat Site has been ruled out.	No LSE
UK0013618 - Monadh Mor SAC	**Annex I habitats:** • 7140 - Transition mires and quaking bogs, and; • 91D0 - Bog woodland.	Surface water pollution during construction and operation	Monadh Mor SAC is upstream of the Proposed Development site and is therefore deemed to not be hydrologically linked. Due to this conclusion LSE through water pollution during the proposals has been excluded either alone or in combination with any other plan or project.	No LSE
		Ground water pollution during construction and operation	The Proposed Development is situated on Braemore Mudstone Formation, which consists of mudstone and sandstone. These types of rocks are generally known for their low permeability, meaning they do not allow fluids to pass through easily. This characteristic makes them effective barriers to fluid flow, often acting as confining layers in geological formation.	No LSE

4.4 EMBEDDED MITIGATION

As part of the proposals, a comprehensive landscape planting scheme will be implemented around the perimeter of the BESS facility primarily to provide a visual screen to the local area. Native tree and shrub species will be planted to augment the existing and overgrazed native riparian woodland of the River Beauly adjacent to the site, which subsequently will provide embedded mitigation for screening to the adjacent River Beauly which could be used by qualifying species of nearby European Sites. The use of embedded mitigation within the screening assessment of the HRA process is considered appropriate as an objective of the landscaping scheme is to provide a biodiversity net gain/enhancement which extends beyond what would be required solely as a visual screen of the Proposed Development. The use of embedded mitigation would be consistent with case law: *Waddenzee, People Over Wing, Grace & Sweetman and Eco Advocacy.*

4.5 SCREENING ASSESSMENT FOR LIKELY SIGNIFICANT EFFECTS IN-COMBINATION

The impact pathway described in Table 3 has been assessed alone, as it will either result in no effect and therefore no LSE or have an appreciable impact and would lead to LSE. As a result, no assessment of in combination effect is required during the screening assessment. The DTA handbook (Chapman and Tydlesday, 2023) provides guidance on assessing in combination assessment:

In deciding the required scope of an appropriate assessment, one must always keep firmly in mind that the underlying purpose of Article 6(3) of the Habitats Directive is to ensure (subject to the operation of Article 6(4)) that a plan or project is authorised only to the extent that it will not, either alone or in combination.

When a plan or project is screened as having a likely significant effect alone, the appropriate assessment should initially concentrate on its effects alone (unless in any particular case it is more cost- effective to include possible in-combination effects from the start). Three possible situations then arise, depending on the conclusions of the appropriate assessment:

1. *Firstly, it may not be possible to ascertain, even having taken into account incorporated mitigation measures and any further mitigation measures which could be imposed on the subject plan or project, that the plan or project alone will not have a significant adverse effect on the integrity of the European site. The assessment need not proceed further to consider in-combination effects, which are taken into account by the fact that any such effects are irrelevant to the requirement to refuse authorisation (subject as always to Article 6(4)).*

2. *Secondly, if on assessment alone it is ascertained that the subject plan or project will in fact have no effect at all on the European site, an adverse effect in combination is ruled out and no further assessment is required. The plan or project may be authorised.*

Thirdly, if on assessment alone it is ascertained that the subject plan or project alone will not have a significant adverse effect on the integrity of the site, but it will or may have an insignificant adverse

effect, the appropriate assessment will have to be extended to consider the possible cumulative effects of the subject proposal and other plans or projects the Proposed Development will have an effect alone, there is no requirement to undertake assessment during the screening assessment. As there are conceivable impacts which have demonstrable impacts alone, there is no requirement for an assessment in- combination for this project.

4.6 SCREENING ASSESSMENT CONCLUSION

The screening assessment has concluded that LSE cannot be excluded from three impact pathways which will lead to LSE to the conservation objectives of the qualifying features.

Table 4 - Impact pathways to LSE

Pathways	Sites to be affected	Stage 2 required
Disturbance on qualifying features during construction and operation	• Inner Moray Firth SPA • Inner Moray Firth Ramsar • Moray Firth SPA	Yes
Ground water pollution during construction	• Moray Firth SAC • Inner Moray Firth SPA • Inner Moray Firth Ramsar • Moray Firth SPA	No
Surface water pollution during construction	• Moray Firth SAC • Inner Moray Firth SPA • Inner Moray Firth Ramsar • Moray Firth SPA	Yes

European Sites which have been screened out of the assessment at Stage 1 include:

- Conon Islands SAC
- Monadh Mor SAC
- Moniack Gorge SAC

5.0 STAGE 2: APPROPRIATE ASSESSMENT

The following sections discuss the pathway to LSE that could result in impacts on the integrity of the Habitats Site identified during Stage 1: Screening.

The DTA Handbook states that:

'The assessment must be of the implications of the plan or project, for the qualifying features of the site, in view of the site's conservation objectives, in light of the best scientific knowledge in the field. The assessment should also address the implications of the proposed plan or project for habitat types and species to be found outside the boundaries of the site if those implications may affect the achievement of the conservation objectives of the site.'

The AA should also include consideration of the conservation status of the qualifying feature(s) in the European Site(s) and European Sites' condition.

The conclusions of the AA must inform the Integrity Test and will therefore influence the decision on the application. It should provide the objective, scientific basis necessary to enable the competent authority to make its decision in respect of site integrity with the appropriate degree of confidence.

5.1 DISTURBANCE ON QUALIFYING FEATURES

The Proposed Development will not lead to any disturbance to qualifying species within any European Sites boundaries. However, the Site of the Proposed Development and the surrounding grassland has potential to support over wintering Greylag Geese which are qualifying species of Inner Moray Firth SPA. The Proposed Development could therefore support Moray Firth SPA qualifying species, such as Osprey and provide a suitable, functionally linked land is described as:

The term 'functional linkage' refers to the role or 'function' that land or sea beyond the boundary of a European site might fulfil in terms of supporting the populations for which the site was designated or classified. Such an area of land or sea is therefore 'linked' to the site in question because it provides a (potentially important) role in maintaining or restoring a protected population at favourable conservation status (Chapman and Tyldesley, 2024).

Only species considered likely to habitually using the site or area adjacent to it are consider in detail, these being Greylag Geese and Osprey.

The ability of waterfowl to travel beyond the key areas of their protected habitats, Inner Moray Firth SPA is considerable. As the surrounding grassland could support an overwintering population of Greylag Geese there is potential that the Proposed Development would lead to adverse effects to the conservation objectives of the Greylag Geese population, in particular: the distribution and extent of habitats supporting the species, the structure, function and supporting processes of habitats supporting the species, and the significant disturbance of the species.

Criteria on disturbance in birds have been taken from several sources including The Waterbird Disturbance and Mitigation Toolkit (Cutts, Hemingway, & Spencer, 2013), and Goodship and furnace (2022) have been principal sources of information to provide thresholds of tolerances for disturbance to birds. Where doubt has arisen due to lack of information the precautionary principle, which is a founding principle of the

Habitats Regulations has been upheld and incorporated into mitigation to ensure that the mitigation is suitably robust, and certain to work.

5.1.1 Visual Disturbance

Greylag Geese

Greylag Geese generally show more tolerance towards human disturbance compared with other Geese species present in the UK; birds on breeding grounds, roosting sites and in foraging areas may tolerate some degree of disturbance. However, this species will move away from areas that have high levels of human activity such as roads and human habitation. Keller (1991), found that overwintering Greylag Geese were heavily impacted by roads; in northeast Scotland, birds were not found within 100m of the nearest road and the median distance was 400m (Goodship and Furnace,2022).

Having considered the above and taken the findings of the PEA report of limited use by of the Site by Greylag Geese as a foraging resource any impacts from visual disturbance during construction will be nugatory; there may be an effect, but it would not be significant when considered in respect of the conservation objectives of Greylag Geese. Therefore, an adverse effect to the integrity of the site alone, can be ruled out.

Osprey

In the UK, Osprey has the potential to be disturbed at nest sites, especially early on in the breeding season. Depending on the level of habituation to disturbance, a buffer zone of 350-750m is suggested to protect Ospreys during the breeding season from pedestrian disturbance. A buffer zone at the lower end of this range may be sufficient to protect individuals that have some habituation to human presence.

Without mitigation there is the chance that nesting birds within 500m of the Proposed Development would be disturbed by construction activity. Due to the limited population of Osprey within the UK, failure in breeding is likely to be classed as an adverse effect to the integrity of the qualifying species.

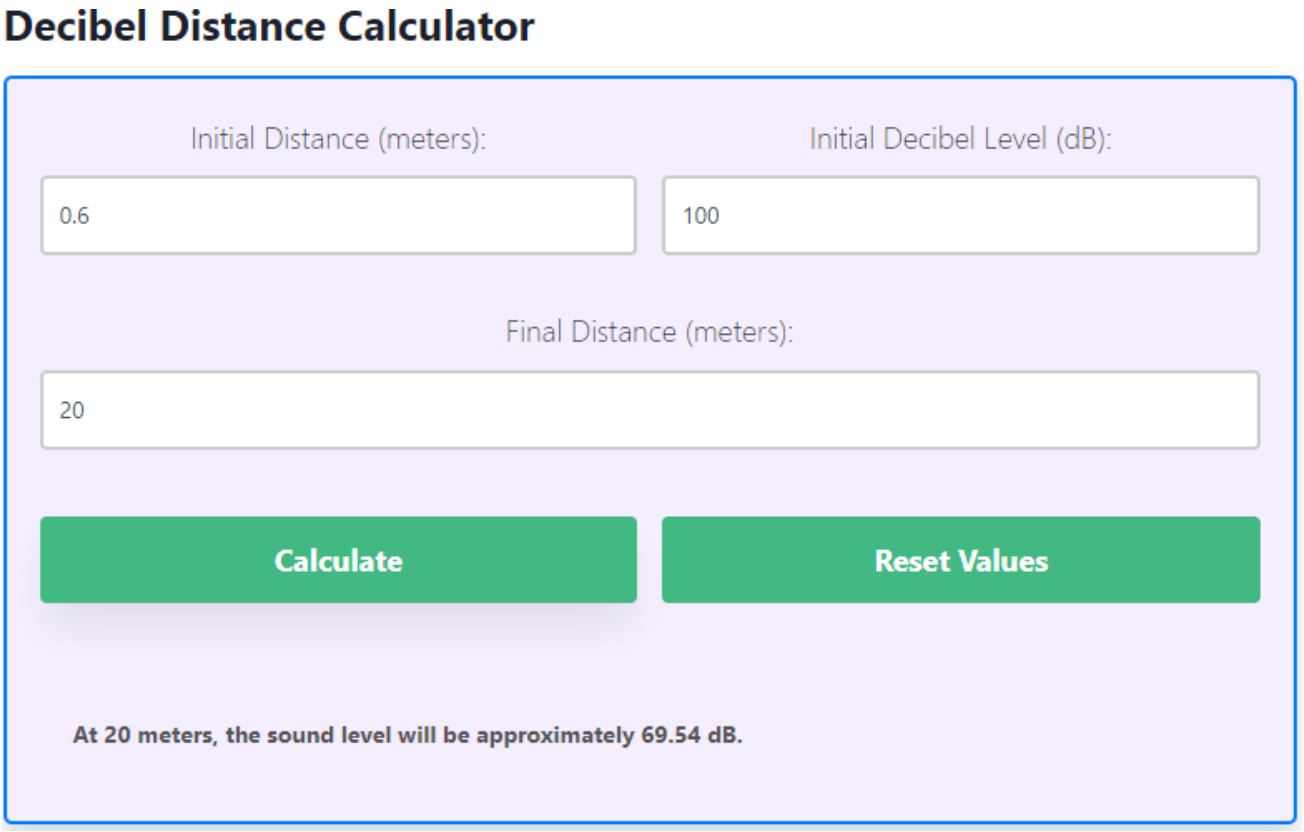
The ensure that an adverse effect does not occur, the works should follow an appropriate hierarchy of avoidance before implementation of mitigation – Avoid potential impacts to Osprey by:

- No works to be undertaken within the breeding bird season, if this is not possible:
- Establish if breeding Osprey are present within 500m of the works
- Implement suitable mitigation to prevent disturbance from human activities including using acoustic hoarding to reduce disturbance from increased human activity and noise (see 5.1.2).

5.1.2 Noise disturbance

Construction works associated with the Proposed Development are expected to be temporary and limited in duration due to the scale and nature of the works being the construction of a Battery Energy Storage System. The Waterbird Disturbance and Mitigation Toolkit (Cutts, Hemingway, & Spencer, 2013) describes noise level of 70 dB at source as being an accepted threshold for noise disturbance for the majority of wetland birds species.

Typical development sites exhibit 90 decibels, assuming that no activities such as concrete breaking or driven piling would take place. Using the source decay method a typical development site which would generate 90 decibels at source would need to be reduced to 75 decibels or less at the receptor:



Decibel Distance Calculator

72 decibels is the figure provided by (Cutts, Hemingway, & Spencer, 2013) when noise at source becomes a moderate noise level, where birds no longer exhibit behavioural responses (moving away) from the noise.

To provide mitigation for Greylag Geese foraging on the acoustic hoarding around the site fencing would act to reduce the noise level by 30 decibels and also reduce visual disturbance.

Providing the appropriate acoustic hoarding is implemented for the period of construction and/or plant with appropriate noise emissions, then no adverse effect to the integrity of the European sites can occur either alone or in combination with any other plan or project.

5.1.3 Vibration during construction

During the construction phase it is highly likely that vibration within the wider area will increase. Although at the time of writing no piling is anticipated and so increase in vibration are deemed to be limited in distribution and severity. Therefore, no adverse effect to the integrity of the European Sites is expected either alone or in combination with any other plan or project.

5.2 WATER POLLUTION DURING CONSTRUCTION

5.2.1 Surface water pollution

The Proposed Development is adjacent to the River Beauly (within 15m) which is directly connected to Moray Firth SAC, Inner Moray Firth SPA, Inner Moray Firth Ramsar, and Moray Firth SPA. There is potential for surface water pollution during construction in the form of sedimentation, and releases of pollutants such as hydrocarbons through fuel and chemical spillages to enter the river and subsequently run to these Habitat Sites.

The following Pollution Prevention Guidelines (PPG)) which although withdrawn, are still considered to provide useful advice provide an appropriate mitigation strategy:

- PPG 1: Understanding your environmental responsibilities – good environmental practices;
- PPG 6: Working at construction and demolition sites; and
- PPG 7: Safe storage – The safe operation of refueling facilities.

The Pollution Prevention Guidelines will be implemented by the contractor and detailed within CEMP or similar binding document.

The following additional measures must be implemented during construction:

- Risk assessments and toolbox talks for contractors doing any refuelling activities;
- Bunding of refuelling areas;
- Emergency incident strategy;
- Spill kits will be available on site at all times;
- Signage will be on site in contractors' compounds relating to sensitivity of the Habitat sites; and,
- A waste disposal plan will be in place for the site, detailing where all waste generated will be stored prior to removal.

Whilst the detailed measures to control potential pollution for spillages or leaks during construction and operation, there is additional risk of increased sedimentation from construction activities reaching the watercourses during the construction phase.

Additionally, guidance published by Construction Industry Research and Information Association (CIRIA) including C532 'Control of Water Pollution from Construction Sites: Guidance for Consultants and Contractors' will be followed to ensure environmental good practice for the control of water pollution arising from construction activities (Masters *et al*., 2001).

Specific measures relating to control of potential surface water pollution during the construction phase will be detailed within a CEMP ahead of construction commencing. With the implementation of the CEMP, any LSEs on Inner Moray Firth SPA, Inner Moray Firth Ramsar, Moray Firth SAC and Moray Firth SPA can be ruled out for the project alone.

5.2.2 Surface water during operation

The surface water generated by the compound will flow overland to a clay lined ditch which will direct the surface water to the infiltration basin through pipes and a manhole fitted with a penstock valve. The drainage strategy will discharge the surface water into the below ground soils at a rate of 0.08280 m/hr) (Haydn Evans , 2024a) .

During this HRA, the client's representative from TNEI indicated that in a contamination event the penstock valve will be activated such that water does not drain into the infiltration basin.

Attenuation has been sized using FEH data and Causeway Flow software to accommodate the temporary run-off for rainfall events up to and including the 1:200-year event. The volume of storage provided in the infiltration basin provided for the BESS/substation compound for the 200-year event is 1092 m3 with a maximum water level of 9.288 mAOD. The proposed bank level of the basin is 9.600 mAOD and therefore sufficient freeboard is provided for the 200-year event. The basin has been designed with 1:3 side slopes. (Haydn Evans, 2024a).

The surface water strategy is designed to attenuate water collected from the impermeable surfaces and discharge to ground via the infiltration basin. Providing the mitigation measures can be implemented as described with in Haydn Evans (2024a) then no adverse effect to the integrity of the any European sites will occur.

5.3 IN COMBINATION ASSESSMENT

An in combination assessment of the impacts caused by noise and visual disturbance was undertaken, this includes assessing relevant plans or projects (Chapman and Tyldesley, 2023):

a. Applications lodged but not yet determined, including refusals subject to an outstanding appeal or legal challenge;
b. Projects subject to periodic review e.g. annual licences, during the time that their renewal is under consideration;
c. Projects authorised but not yet started;
d. Projects started but not yet completed;
e. Known projects that do not require external authorisation;
f. Proposals in adopted plans;
g. Proposals in draft plans formally published or submitted for final consultation, examination or adoption

The Highland Council planning portal[2] was accessed December 2024, and used to search for any plans or projects from the above criteria which would fall within a 2km ZOI of the Proposed Development.

The following proposals and projects were highlighted by TNEI for consideration of In Combination Effects (Table 5). Of note is application 24/03064/SCOP which crosses the Beauly BESS site. The operation to conduct this work would add to construction phase risks to designated features from noise, disturbance and pollution pathways similar to that of this appraisal and are expected to be effectively managed using a robust Construction Environmental Management Plan and have considered designated habitats and their qualifying features. Also, it is not expected that the programme of these works would occur in parallel to the Beauly BESS project. Thus, no in combination effects are expected.

24/02885/SCRE and 24/02632/PAN are nearby BESS applications and no in combination effects are expected.

Table 5 – Proposals and projects for consideration of In Combination Effects

LPA Ref.	Description	Decision	Date
24/02885/SCRE	Construction and operation of Battery Energy Storage System (BESS) exceeding 50MW comprising a compound of battery and electrical equipment, access track, landscaping and ancillary works	EIA Screening Decision - EIA not required	4th September 2024
24/03064/SCOP	Section 37 application for the construction of a new double circuit steel structure 400 kV OHL between Beauly, Blackhillock, New Deer and Peterhead, approximately 194km in length, including the diversion of an existing 400kV OHL into a proposed new Coachford 400kV substation near Blackhillock, removal of the existing 132kV OHL from Beauly to Knocknagael substations, and rationalisation and crossings of the existing transmission network	Scoping Opinion Issued	22nd August 2024
24/02632/PAN	Battery energy storage (up to 100MW)	Case Closed	20th August 2024

6.0 LEGALLY SECURING MITIGATION MEASURES

Mitigation and avoidance measures must be shown to work in practice and be secure to be relied upon to meet the test of reasonable scientific doubt.

6.1 ADDITIONAL MITIGATION

Mitigation and avoidance measures must be shown to work in practice and be secure to be relied upon to meet the test of reasonable scientific doubt. Mitigation measures will be outlined within the CEMP, as a planning condition, and this would provide assurance that LSE will not occur.

If the presence of Osprey is confirmed by further surveys or from the ongoing consultation with NS, then additional mitigation would be required to allow the works to proceed. Consultation comments are expected by NS in January 2025 and the consultation letter can be found in Appendix B. Additional mitigation would include:

- Strategies to reduce noise and visual disturbance within the outlined thresholds.
- Adjustments to construction program to avoid potential disturbing activities between late March to September when osprey are reliant on their nest sites.
- Dedicated ornithological monitoring to provide guidance and compliance records.

- Consultation with NatureScot to agree a Species Protection Plan with the aim that no adverse effect will occur to Osprey.

6.2 NOISE DURING CONSTRUCTION

To ensure mitigation is sufficient to prevent disturbance due to noise:

- Monitoring of noise levels to ensure that noise levels do not exceed 90dB at source, and would ideally be less
- Description of control and responsibilities for mitigation measures and implementation shall be detailed within a CEMP. The CEMP will be reviewed and authorised by the competent authority.

6.3 SURFACE WATER POLLUTION DURING CONSTRUCTION

To ensure that mitigation measures are sufficient and secure, prior to start of construction mitigation measures should be detailed and presented to the competent authority within a CEMP. The CEMP should include the mitigation measures and include:

- Role and responsibilities of operators erecting and maintain surface water mitigation during construction, to include maintenance and management surface water mitigation.

Mitigation and avoidance measures must be shown to work in practice and be secure to be relied upon to meet the test of reasonable scientific doubt. Mitigation noted within Section 5 required to negate the adverse effects caused by impact pathways will be outlined within the CEMP and therefore secured as a planning condition.

Mitigation measures will be outlined within the CEMP, as a planning condition, and this would provide assurance that an adverse effect to the integrity of the European sites will not occur either alone or in combination with any other plan or project.

6.4 INTEGRITY TEST

The 'integrity' of a site is defined in England and Wales as 'the coherence of its ecological structure and function across its whole area, that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which the site is (or will be) designated' (Chapman and Tydlesdy, 2024).

The Proposed Development would not lead to an adverse effect to the integrity of the nearby European sites and follows the strict precautionary approach as required by case law[3], nor would it lead to an adverse effect on the wider national network sites. The appropriate assessment has provided the competent authority with the information required to allow it to undertake its statutory function and provided the relevant information for a conclusion of no adverse effect, following the implementation of mitigation.

[3] *Smyth* v Secretary of State Communities and Local Government (Court of Appeal) [2015] EWCA Civ 174 5th March 2015 and C – 127/02 *Waddenzee* 7th September 2004, reference for a preliminary ruling from the Raad van State: Landelijke Vereniging tot Behoud van de Waddenzee, Nederlandse Vereniging tot Bescherming van Vogels v Staatssecretaris van Landbouw, Natuurbeheer en Visserij

7.0 CONCLUSION

The Proposed Development has been screened for a likely significant effect alone and in combination, and it has been determined that there is likely significant effects upon Inner Moray Firth SPA, Inner Moray Firth Ramsar, Moray Firth SAC and Moray Firth SPA with the absence of mitigation regarding potential disturbance to qualifying species and water pollution.

The appropriate assessment has shown that following the implementation of mitigation measures, to negate the occurrence of disturbance to the qualifying avian species of the Inner Moray Firth SPA and avoid the occurrence of water pollution from surface water run off during construction and operation, no adverse effect to the integrity will occur either alone or in combination.

No further assessment will be required.

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FIGURES

Site Location Plan

Beauly BESS

TNEI on behalf of Field

Legend

Site Boundary

Notes:

Drawn by: AARON.HOWARD

Checked by: Bethany James

Figure No. 1

Revision No. A

12 December 2024

0 50 100 150 200 Meters

Scale 1:4,500 @A3

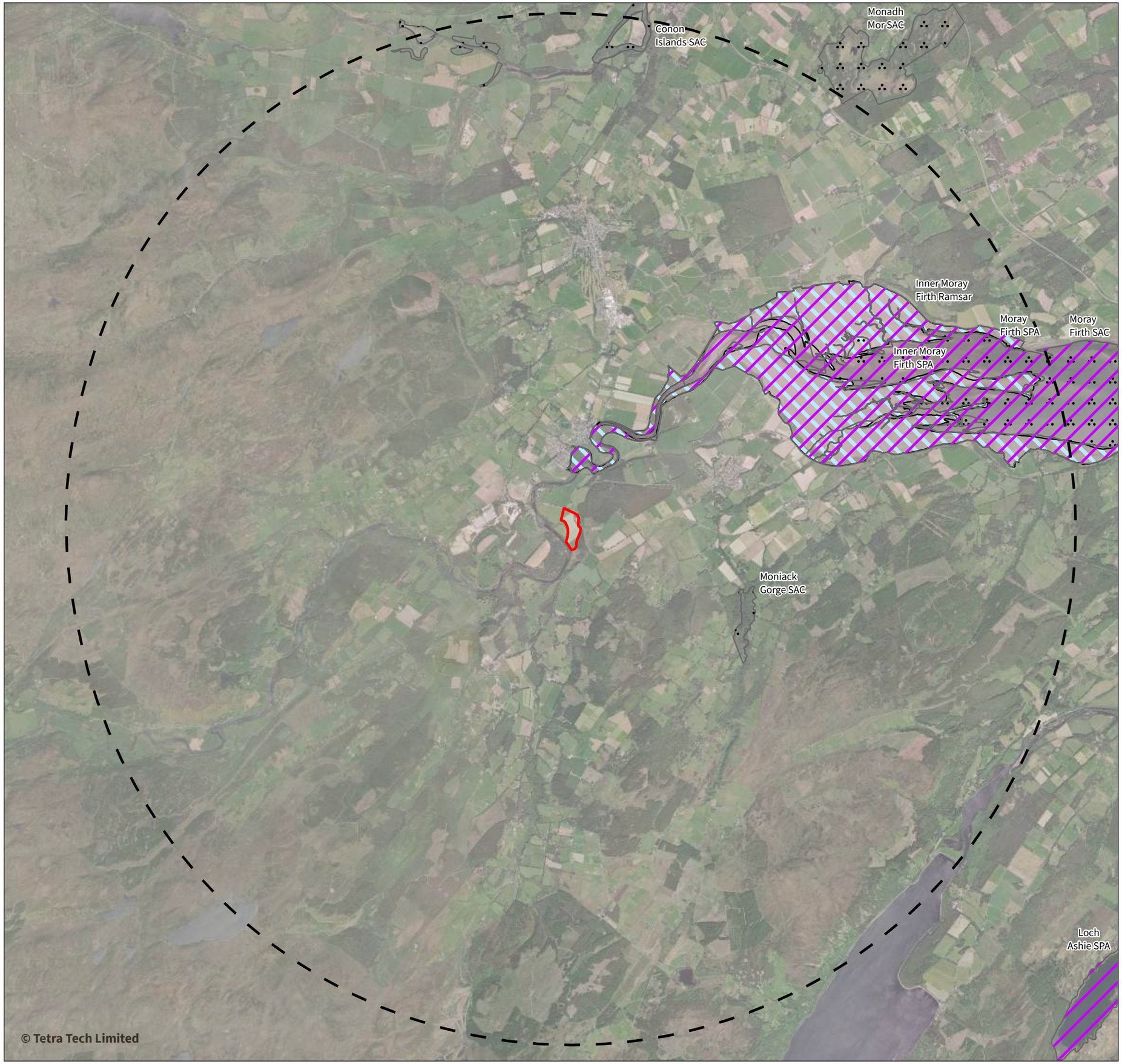
British National Grid

NGR: 252368E 844418N

TETRA TECH

3 Sovereign Square
Sovereign Street
Leeds
United Kingdom
LS1 4ER

Tetra Tech Limited.
Registered in England
number: 01959704



International and National Sites within 10 km

Beauly BESS

TNEI on behalf of Field

Legend

- Site Boundary
- Site Boundary 10 km Buffer
- Special Protection Area (SPA)
- Special Area of Conservation (SAC)
- Ramsar

Data Sources:
Ramsar
Special Protection Areas
Special Areas of Conservation

Notes:
Symbology similar to that used within the MAGIC Application

Drawn by: AARON.HOWARD
Checked by: Bethany James

Figure No. 2
Revision No. A
12 December 2024

0 1 2 3 4 Kilometers
Scale 1:75,000 @A3

British National Grid
NGR: 252173E 844367N

TETRA TECH
3 Sovereign Square
Sovereign Street
Leeds
United Kingdom
LS1 4ER

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number: 01959704

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