

Annex G

Water Resources
Legislation, Policy and
Guidance

Local, regional and national policies, plans, best practice guidance and reports of relevance to the water environment and to the proposed project have been reviewed and appropriate information fed into the assessment process. Select summaries of the key sources of relevance have been included within the following sub-sections.

G1.1 WATER FRAMEWORK DIRECTIVE

The Water Framework Directive (2000/60/EC) (WFD) became law in Scotland at the end of 2003 through the *Water Environment and Water Services (Scotland) Act 2003 (WEWS Act)*. The Directive establishes a new legal framework for the protection, improvement and sustainable use of surface waters, transitional waters, coastal waters and groundwater across Europe in order to:

- prevent deterioration and enhance status of aquatic ecosystems, including groundwater;
- promote sustainable water use;
- reduce pollution; and
- contribute to the mitigation of floods and droughts.

In order to meet these objectives, a new regulatory regime was introduced under the *Water Environment (Controlled Activities) (Scotland) Regulations 2005 (CAR)*. One of CAR's main objectives was to streamline the regulatory system, bringing existing legislative requirements such as the *Control of Pollution Act, 1974 (COPA)* and *Groundwater Regulations 1998*, under one umbrella.

The CAR make it an offence to undertake the following activities without authorisation:

- discharge to wetlands, surface waters and groundwaters;
- disposal to land;
- abstractions from wetlands, surface waters and groundwaters;
- impoundments (dams and weirs) of river, lochs, wetlands and transitional waters; and
- engineering works in inland waters and wetlands.

Authorisation under CAR can take the form of a General Binding Rule (GBR), Registration, Simple Licence or Complex Licence ⁽¹⁾. Applications for authorisation are required to:

(1) The Water Environment (Controlled Activities) (Scotland) Regulations 2005 A Practical Guide. (SEPA 2007)

- establish that the proposed approach represents the best practice environmental option and results in no deterioration;
- maximise the use of soft engineering techniques and incorporate SUDS;
- demonstrate an understanding of the potential impacts of works on the water environment; and
- present techniques to mitigate potential impacts.

It is considered important that close consultation with SEPA be maintained throughout the development of the proposed project to ensure that requirements under CAR are met or exceeded.

G1.2

SHELLFISH WATERS DIRECTIVE

The EC *Shellfish Waters Directive (79/923/EEC)* was adopted in 1979 to protect and, where necessary, improve the quality of waters where shellfish grow and to contribute to the high quality of directly edible shellfish products. The Directive was transposed into Scot's law through *The Surface Waters (Shellfish) (Classification) (Scotland) Regulations 1971*, which establish classification and sampling criteria and require SEPA to investigate and adopt appropriate measures where monitoring results indicate that the waters do not meet the quality standards specified in the Directive.

Under the Regulations, 104 coastal waters in Scotland, including Loch Ryan, have been designated as 'shellfish growing waters'. These waters must meet minimum quality criteria and must be sampled to a minimum frequency, as prescribed by the Directive. Those waters which do not meet the minimum quality requirements are subject to pollution reduction programmes developed by SEPA to ensure compliance within six years of the water being designated.

G1.3

DANGEROUS SUBSTANCES DIRECTIVE

The *Dangerous Substances Directive (2006/11/EC)*, and its 'daughter' Directives, sets concentration limits in inland surface waters, territorial waters and internal coastal waters for trace metal and trace organic substances. The more hazardous and persistent are known as List I (e.g. hexachlorobutadiene, chloroform, cadmium) and the less serious are known as List II (e.g. zinc, lead, tributyltin). Discharges of dangerous substances have to be authorised and are subject to specific emission standards. The Directive has been implemented in Scotland through the *Surface Waters (Dangerous Substances) (Classification) (Scotland) Regulations 1990 (126/1990)*, *1992 (574/1992)*, *1998 (1998/250)* and the *Surface Waters (Dangerous Substances) (Classification) (Scotland) (No. 2) Regulations 1998 (1998/1344)*.

G1.4

FLOODING DIRECTIVE

The EU *Floods Directive (2007/60/EC)* came into force in November 2007 and requires Member States to take a long-term planning approach to reduce flood risk through:

- undertaking a preliminary flood risk assessment of river basins and associated coastal zones by 2011;
- developing flood hazard maps and flood risk maps for areas where real risks of flood damage exist by 2013; and
- developing flood risk management plans by 2015, including measures to reduce the probability of flooding and its potential consequences.

The Scottish Government must transpose the Directive into Scots law by November 2009. To achieve this, the Scottish Government plans to introduce a Flooding Bill in 2008, and has published a consultation document which sets out the proposal for the Flooding Bill ⁽¹⁾. The Flooding Bill will cover all aspects of planning and preparing for flooding, with the key provisions focusing on:

- transposing the EC Directive on the Assessment and Management of Flood Risks (the Floods Directive);
- creating a framework for a sustainable, catchment focused approach to flood risk management;
- reforming the current legislation covering flood protection and prevention; and
- simplifying the approach to developing and implementing measures to manage flood risk.

G1.5

PLANNING POLICY

G1.5.1

Scottish Planning Policy

Scottish Planning Policy 7 Planning and Flooding (SPP7) provides a national standard for flood risk management in a planning context. This has been taken into account during the design of the scheme and in consideration during the assessment.

Scottish Executive Planning Advice Notes 58 (Environmental Impact Assessment) and *61 (Planning and Sustainable Urban Drainage Systems)* have also been taken into account.

(1) The Scottish Government (2008), *The Future of Flood Risk Management in Scotland: A Consultation Document*

G1.5.2 Local Planning Policy

The adopted Structure Plan and Local Plans covering the area of the proposed development have been consulted for policies relating to the water environment. The policies in *Table G1.1* have been taken in to account during the progression of the scheme's design and during the EIA process.

Table G1.1 Relevant Local Planning Policy

Plan	Policy
Wigtown Local Plan (July 2006)	General Policy (GP) 55a: Implementation of the Water Framework Directive GP 56: Protecting the Quality of Groundwater GP 57: Sustainable Urban Drainage Systems (SuDS) GP 58: Flood Risk and Development GP 60: Water Sewerage and Drainage Provision
Dumfries and Galloway Structure Plan (December 1999)	S3: Development in Flood Risk Areas

G1.5.3 SEPA Policy

SEPA Policy numbers 26 (*Policy on the Culverting of Watercourses, 1998*), 41 (*Development at Risk of Flooding, 2000*) and 54 (*Land Protection Policy, 2003*) have been reviewed and taken into consideration during the EIA process.