



Loch Lomond & The Trossachs National Park Authority
Carrochan
Carrochan Road
Balloch
G83 8EG

Ref: EIR 2024-005
Date 18 March 2024

Dear

REQUEST UNDER FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

We refer to your request for information, received by email on 19th February 2024. The information you have requested is environmental information, as defined in Regulation 2 of the Environmental Information (Scotland) Regulations 2004 (EIRs). We have therefore applied the exemption in section 39(2) of FOISA and dealt with your request under the EIRs alone.

Details of your request are provided below, followed by the National Park Authority's corresponding responses.

Your Request (1)

My 17 December information request pointed out that there is no justification for the Cononish Mine Planning Audit Reports not to be published on the planning portal as soon as these are produced and is in the public interest to do so especially now that the operator has gone into administration with consequent increased risks to the environment. It should not take more than a couple of weeks after a Planning Audit visit for a report to be drafted and agreed by those attending and, at the very least, should be published immediately after the subsequent visit and not delayed for an arbitrary six months before members of the public find out what has been happening at the mine.

The 23 August Planning Audit Report is due to be published at the end of this week and there is no reason why that for 24 October should not be published now. The 8 December Planning Audit visit was over two months ago giving plenty of time for a report to be drafted and agreed but, in any case, it seems likely that a further visit will have taken place by now and confirmation of this or when it is scheduled is also requested.

Providing copies of the three outstanding Planning Audit Reports should be straightforward and I trust that these will be sent to me well before the 20 working days permitted for a review.

LOCH LOMOND & THE TROSSACHS NATIONAL PARK AUTHORITY

National Park Headquarters, Carrochan, Carrochan Road, Balloch, G83 8EG Long: 4°34'24"W Lat: 56°00'12"N

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Our Response

Please note that the operator of the mine, SGZ Cononish Ltd, is not in administration.

The report in relation to the visit which took place in August 2023 was published on 23 February 2024. The reports in relation to the October and December visits are still being finalised and will be published on our website in line with the publication schedule.

When monitoring reports are provided to the National Park Authority, each report is reviewed on a case-by-case basis, to assess whether disclosure would, or would be likely to, cause substantial harm to one or more of the following: (i) the course of justice, (ii) the ability of a person to receive a fair trial, or (iii) the ability of any public authority to conduct an inquiry of a criminal or disciplinary nature.

As with any planning monitoring case, the matter may result in legal proceedings, so the National Park Authority needs to provide the operator with a reasonable period to address any issues that arise, and to ensure that any formal legal enforcement action, should it be required, is not prejudiced. In this case, it was decided that the National Park Authority will publish the monitoring reports six months after the respective site visits, as releasing the monitoring reports earlier is likely to cause substantial prejudice to (i) the course of justice, and (ii) the ability of a person to receive a fair trial. As a result of your request, our Development Management Team have reviewed the proposed dates for publication and have confirmed that they remain appropriate. We are therefore withholding both reports from release under sections 10(4)(d) and 10(5)(b) of the EIRs.

The exceptions in Regulations 10(4)(d) and 10(5)(b) of the EIRs are subject to a public interest test (i.e. whether the public interest in maintaining the exception outweighs the public interest in making the information available). We recognise that there is a public interest in relation to the transparency of decision-making procedures on matters such as the one to which this information request relates. There is a public interest in individuals being able to exercise their rights under the EIRs to enhance their understanding of the work of a public authority and ensure openness and accountability in relation to the planning process.

This request relates to material which is still in the process of completion. These reports relate to ongoing monitoring of planning conditions for a major development. As referenced above, monitoring reports for this development are routinely published on the National Park Authority's planning portal six months after site visits take place, to allow the operator a reasonable period to address any arising issues and avoid prejudice to any formal enforcement action should that be required.

It is recognised that gold mining operations in the National Park have attracted some public interest and media attention. However, we have concluded that there is a greater public interest in ensuring the accuracy and completeness of the October and December site monitoring reports in advance of their publication.

Your Request (2)

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My 17 December information request asked for a copy of the Cononish Mine 'Winterisation Plan' mentioned in the 15 October 2021 Planning Audit Report but the 15 February LLTNPA response, reference FOI 2023-028, states that it was "not a specific document which was produced and therefore cannot be provided". This begs the question why it was never produced bearing in mind the number of adverse incidents subsequently reported due to heavy rainfall as well as the current circumstances at the mine.

Consequently, copies of the notes/ minutes of the progress meeting on 8 September 2021 when the need for a Winterisation Plan was discussed are requested along with those of the meetings held on 8 October, 2 November, 24 November and 8 December to try and establish why it was no longer considered necessary.

Our Response

Please find attached:

- Annex A – Minutes of 'Progress Meeting' held 08 September 2021
- Annex B – Minutes of 'Progress Meeting' held 08 October 2021
- Annex C – Minutes of 'Progress Meeting' held 24 November 2021
- Annex D – Minutes of 'Progress Meeting' held 08 December 2021

We hold no record of a 'Progress Meeting' on 02 November 2021.

Your Request (3)

No reference is made to this matter in the 20 December Planning Audit Report or subsequently that I could see and confirmation is also requested that this is the case.

Our Response

A 'Winterisation Plan' is not referenced in the 20 December Planning Audit Report or in subsequent Planning Audit Reports. However, the following Audit Report (February 2022) notes that the operator had produced "Protecting the Environment and Improvement Action Plan, Water Protection and Hydrocarbon Control" this was produced to address concerns around pollution prevention controls.

Your Request (4)

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I would also like copies of related correspondence and notes of discussions with SGZ.

Our Response

As previously outlined, the “Winterisation Plan” was not a specific document that was produced (or ever intended for production), so there is no correspondence relating to such a document.

However, as noted in the October 2021 PMO report, concerns were raised with Scotgold at that time with regards to the management of water on site and the reporting of incidents. As also noted above, the February 2022 Audit Report records that the operator had produced “Protecting the Environment and Improvement Action Plan, Water Protection and Hydrocarbon Control”. This was produced to address concerns around pollution prevention controls.

The December 2021 monitoring report notes that a meeting was called with Scotgold in January 2022 regarding environmental controls. Subsequent PMO reports update on this and are available online at:

<https://eplanning.lochlomond-trossachs.org/OnlinePlanning/?agree=0>

(Application reference number 2017/0254/MIN)

Yours sincerely

**Information Management
Loch Lomond and the Trossachs National Park Authority**

Review Procedure

LOCH LOMOND & THE TROSSACHS NATIONAL PARK AUTHORITY

National Park Headquarters, Carrochan, Carrochan Road, Balloch, G83 8EG Long: 4°34'24"W Lat: 56°00'12"N

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If you are dissatisfied with this decision, or the way in which the Authority has dealt with your request, you are entitled to require the Authority to review its decision. Please note that in order for a review to take place you are required to:

- Send your request for review in writing, setting out in full the reasons why you are requesting a review.
- Submit your review request within 40 working days of either the date on which you received a response from the Authority or the date by which you should have received a response under the terms of the Freedom of Information (Scotland) Act 2002, whichever is the later.
- address your review request to:

Information Manager
Loch Lomond & The Trossachs National Park Authority
National Park Headquarters
Carrochan
Carrochan Road
Balloch
G83 8EG
E-mail: info@lochlomond-trossachs.org

The review will be handled by staff who were not involved in the original decision. You will receive notice of the result of your review within 20 working days.

If you are not satisfied with the response to your request for review, you can contact the Scottish Information Commissioner, the independent body which oversees the Freedom of Information (Scotland) Act 2002, at:

Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS
Tel: 01334 464610
Website: www.itspublicknowledge.info
E-mail: enquiries@itspublicknowledge.info