



EXECUTIVE LEADERSHIP TEAM

ELT(24)xx

INNOVATION AND INVESTMENT

FOR DISCUSSION

**PROPERTY AND GROWTH INFRASTRUCTURE  
LOCH LOMOND SHORES, WEST RIVERSIDE  
OPTIONS PAPER ON PROPOSED DEVELOPMENT BY FLAMINGO LAND LIMITED**

**RACI**

Activity	
<b>Responsible</b>	11(3A)(a) <b>(SRO)</b>
<b>Accountable</b>	<b>Jane Martin MD for Innovation and Investment</b>
<b>Consulted</b>	11(3A)(a)
<b>Informed</b>	11(3A)(a)

**INTRODUCTION**

This paper sets out the options on SE's conditional contract with Flamingo Land Limited (FLL) and invites discussion on the SE corporate position, if a request is received from FLL to extend the current Planning Permission in Principle Longstop Date of the 10(5)(e).

The Board of the Loch Lomond and Trossachs National Park Authority (LLTNPA) refused the Planning Permission in Principle application from FLL on the 16<sup>th</sup> September. Following the LLTNPA decision to refuse the application FLL have stated, so far, they intend to appeal the planning decision. FLL are expected to request extending the Longstop Date to give them the best chance of successfully appealing the current planning position.

It is important that SE can quickly convey the agreed corporate position to FLL on whether or not SE would be minded to grant consent to a request to extend the Longstop Date as this could influence whether or not FLL do decide to pursue a planning appeal or potentially withdraw from the project.

10(5)(d), albeit the decision on whether or not this would be a 10(5)(d) rests with the SE CEO in consultation with the CFO. The decision to enter into the conditional contract was approved by the SE Board in February 2021. Therefore, if any extension to the conditional contract longstop is agreed 10(5)(d) then that ELT decision would need to be ratified by the SE Board.

**BACKGROUND**

SE originally acquired the sites at Balloch, West Dunbartonshire over three acquisitions stretching from 1989 to 1998. The SE ownership splits into two phases. The phase 1 development, Loch Lomond Shores, was completed in 2002 and consists of a retail mall, SeaLife centre (previously a large format film theatre, visitor attraction and restaurant), a Gateway Centre (currently empty since 2020 but previously designed as an orientation centre for the National Park), a tree top ropes course, mini golf, Bird of Prey Centre, restaurant and cafes and water sports.

Various masterplans for the development of the phase 2 land on West Riverside have consistently included the development of visitor accommodation. This SE owned site currently lies undeveloped on the banks of the river Leven as it enters Loch Lomond.

In 2015 SE, in partnership with LLTNPA, marketed the Loch Lomond Shores West Riverside site for mixed-use tourism development, and subsequently awarded preferred developer status to FLL for the delivery of 'Lomond Banks', an internationally competitive tourism and leisure destination. SE entered into an exclusivity agreement with FLL to allow FLL time to undertake appropriate due diligence, work up proposals and submit a planning application. The decision was taken at that time to create a joint planning application between SE and FLL in order that should FLL decide at any time not to proceed SE would benefit from the planning status.

In early 2019, an online petition, spearheaded by the Scottish Green Party, against the proposed development received approximately 55,000 signatures, and in August 2019 the LLTNPA Planning department issued their recommendation to refuse consent citing over development within Drumkinnon Wood and Pierhead elements of the proposals.

Prior to formal refusal, FLL & SE withdrew the application and a joint decision was made for SE to no longer be a joint planning applicant. [REDACTED]

10(5)(e)

Despite the refusal of the original application FLL remain committed to the project. In June 2020, given the potential economic benefits arising, ELT approved a recommendation to enter a conditional contract with FLL to replace the exclusivity agreement and in Feb 2021, an SE Board paper was tabled outlining the project in detail given the sensitivities around the development and involvement of media and politicians. The conditional contract was signed at the end of February 2021 and in May 2022 FLL submitted a revised Planning Permission in Principle application for the development.

A change request was approved by the Director of Innovation and Place (May 2024) to extend the conditional contract Longstop Date from [REDACTED] to a revised date of [REDACTED]. The proposed extension was required to allow the determination of FLL's Planning Permission in Principle application. There have been multiple delays with the Planning Permission in Principle application because of several key issues arising with stakeholders including Transport Scotland and SEPA which required detailed reports and negotiations. At the time the change request was approved (end March 2024) and the contract amended there was no fixed date for the Planning Permission in Principle application to be decided by the LLTNPA. Given the original application was submitted in May 2022 the developers' request for a [REDACTED] extension was accepted, to [REDACTED] [REDACTED],

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[REDACTED] with any further extension specifically subject to further consideration and approval by SE]. [REDACTED]

10(5)(e)

10(5)(e)

## SCENARIOS

Following the decision by LLTNPA to refuse the Planning Permission in Principle application by FLL there are now three potential scenarios.

### Scenario 1.

FLL submit an appeal, which is determined by The Scottish Government Planning and Environmental Appeals Division (SG DPEA) in favour of the developer before the Longstop Date.

10(5)(e)

### Scenario 2

FLL submit an appeal, which is determined by the SG DPEA against the developer before the Longstop Date.

10(5)(e)

### Scenario 3

FLL decide they do not have sufficient time to pursue a planning appeal before the Longstop Date.

In this scenario the developer would be expected to push for a further contract longstop extension.

## **PLANNING APPEAL TIMESCALES**

10(5)(e)

The Scottish Government state that a DPEA reporter will aim to decide an appeal within:

- 12 weeks, if they do not need further information, or if they arrange a site inspection.
- 20 weeks, if they need further written submissions.
- 40 weeks, if they hold a hearing.
- 50 weeks, if they hold an inquiry.

The planning appeal regulations are also used where a planning application is called in for a decision by the Scottish Ministers. The decision timescales are expected to be the same as the appeal process. These timescales are for appeals decided by Reporters not those ultimately decided by Ministers. The SG target is to meet 80% of appeals within these timescales.

## **PROPOSED DEVELOPMENT**

The proposed development by FLL covers both land owned by SE at West Riverside as well as land already owned by FLL at Woodbank House which lies south of Old Luss Road and south west of SE's land ownership at Lomond Shores.

The combined proposed development includes the following: erection and operation of a mixed-use tourism and leisure development including refurbished tourist information building; up to 60-bedroom apartment hotel; up to 32-bedspace budget hotel, up to 104 no. self-catering holiday lodges; restoration and redevelopment/conversion of Woodbank House and attendant listed structures for up to 21 self catering holiday apartments (subject to other necessary consents); leisure pool, waterpark, spa; restaurants, hot food cafe and retail areas; craft brewery including pub; visitor reception area and hub building; external activity areas including areas for event and performance, play, picnic and barbeque; monorail; staff service and welfare accommodation; transport infrastructure; associated access and parking; landscaping and utilities infrastructure works.

If granted planning permission the development is expected to cost c. £40m and once operational could create 80 full-time jobs, 50 part-time and 70 seasonal roles. As part of their pre-planning consultation phase FLL created the 'Lomond Promise' a legally binding promise to the local community which includes no zero hours contracts and paying staff the Real Living Wage.

### STATUTORY PLANNING POSITION

On the 2<sup>nd</sup> September 2024 LLTNPA published a report recommending the FLL Planning Application in Principle application is refused. This recommendation was upheld at a meeting of the LLTNPA Board on the 16<sup>th</sup> September. The reasons cited in the planning officer's report included:

- (i) Concern over flood risk mitigation and compliance with NPF4.
- (ii) Biodiversity – *'it has not been demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks so they are in a demonstrably better state than without intervention'*.
- (iii) *'The proposal would result in the removal of woodland but fails to demonstrate it can deliver appropriate and sufficient woodland compensation to mitigate the loss of woodland including ancient woodland as a consequence of the proposed development'*.
- (iv) Conflicts with the first aim of the National Park to conserve and enhance the natural heritage of the area.
- (v) *'The scale of the proposal, overall, is considered, following a detailed assessment, to be in conflict with the site's capacity for development.'*, and
- (vi) *Proposal is contrary to LDP Overarching Policy 1 (a successful sustainable place and a natural resilient place).*

The planning officer's report also highlighted that at the end of August 2024 there had been 174,946 representations on the planning application. There were 174,872 objections and 69 expressions of support for the application. There were 5 neutral responses.

### BALLOCH AND HALDANE COMMUNITY

10(5)(f)

ELT should also note that Balloch and Haldane Community Council

10(5)(f)

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10(5)(e)

## OPTIONS

The following options on how SE progresses are summarised below.

**Option 1** – SE allow the conditional contract with FLL to run until the Longstop Date, thereafter terminate the contract on the assumption the developer does not submit and win a planning appeal before that date. It is anticipated that in this scenario

10(5)(f)

10(5)(f)

**Option 2** – SE agree to further extend the existing conditional missive in line with the existing contract which initially allows for a

10(5)(f)

10(5)(e)

to allow FLL to fully pursue a planning appeal and planning consent for the proposed development.

## NEXT STEPS

ELT are asked to discuss and agree the preferred option on SE's future contractual relationship with FLL.

The next step would be to communicate SE's position clearly to FLL and ask them to formally confirm whether or not they intend to pursue a planning appeal before the Longstop Date.

11(3A)(a)

ASK: ELT to discuss and agree the preferred option on SE's future contractual relationship with Flamingo Land Ltd

11(3A)(a) updated that the Board of the Loch Lomond and Trossachs National Park Authority (LLTNPA) refused the Planning Permission in Principle application from FLL on the 16<sup>th</sup> September. Following the decision FLL have stated that they intend to appeal the planning decision. FLL are expected to request extending the Longstop Date to give them the best chance of successfully appealing the current planning position.

DISCUSSION:

ELT had an in-depth discussion in relation to the options and key risks. Key areas discussed were:

- Strategic ambitions: It was acknowledged that there was no clear alignment with SE's mission focus. However, there remained economic development benefits for the area.
- Resources: the disproportionate impact on SE resources were considered
- Reputational: the vocal public opposition to the development was taken into consideration, as well as the 10(5)(e)
- Unintentional consequences: the impact on how Scotland is perceived as a place for investment.
- Moral obligation: in terms of SE's intent and spirit of the conditional missive in the existing contract to ensure that the full planning process is able to run its course.

Following a full discussion on the options and risks, and consideration from a comms and economic perspective, ELT agreed the recommendation to the Board to further extend the existing conditional missive in line with the existing contract 10(5)(e)

Decision: ELT agreed the recommendation to the Board to further extend the existing conditional missive in line with the existing contract 10(5)(e)



**SCOTTISH ENTERPRISE BOARD**

**SE (24)66**

**INNOVATION AND INVESTMENT**

**FOR APPROVAL**

**LOCH LOMOND SHORES, WEST RIVERSIDE  
PROPOSED DEVELOPMENT BY FLAMINGO LAND LIMITED**

**INTRODUCTION**

This paper sets out the options on SE's conditional contract with Flamingo Land Limited (FLL) and invites discussion and approval on the SE corporate position, if a request is received from FLL to extend the current Planning Permission in Principle Longstop Date of the 10(5)(e).

The Board of the Loch Lomond and Trossachs National Park Authority (LLTNPA) refused the Planning Permission in Principle application from FLL on the 16<sup>th</sup> September. Following the LLTNPA decision to refuse the application FLL have stated, so far, they intend to appeal the planning decision. FLL are expected to request extending the Longstop Date to give them the best chance of successfully appealing the current planning position.

Due to the profile and potentially controversial nature of development within the Loch Lomond and Trossachs National Park, the decision to enter into the conditional contract was discussed and endorsed by the SE Board in February 2021. Any extension to the conditional contract longstop needs to be ratified by the SE Board.

**BACKGROUND**

SE originally acquired the sites at Balloch, West Dunbartonshire over three acquisitions stretching from 1989 to 1998. The SE ownership splits into two phases. The phase 1 development, Loch Lomond Shores, was completed in 2002 and consists of a retail mall, SeaLife centre (previously a large format film theatre, visitor attraction and restaurant), a Gateway Centre (currently empty since 2020 but previously designed as an orientation centre for the National Park), a tree top ropes course, mini golf, Bird of Prey Centre, restaurant and cafes and water sports. Various masterplans for the development of the phase 2 land on West Riverside have consistently included the development of visitor accommodation. This SE owned site currently lies undeveloped on the banks of the river Leven as it enters Loch Lomond.

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In early 2019, an online petition, spearheaded by the Scottish Green Party, against the proposed development received approximately 55,000 signatures, and in August 2019 the LLTNPA Planning department issued their recommendation to refuse consent, citing over development within Drumkinnon Wood and Pierhead elements of the proposals.

Prior to formal refusal, FLL & SE withdrew the application and a joint decision was made for SE to no longer be a joint planning applicant. 10(5)(e)

Despite the refusal of the original application FLL remain committed to the project. In June 2020, given the potential economic benefits arising, ELT approved a recommendation to enter a conditional contract with FLL to replace the exclusivity agreement and in Feb 2021, an SE Board paper was tabled outlining the project in detail given the sensitivities around the development and involvement of media and politicians. The conditional contract was signed at the end of February 2021 and in May 2022 FLL submitted a revised Planning Permission in Principle application for the development.

Conditional contracts are routinely used by SE when selling land assets. Firstly, they allow SE to monitor the development delivery timetable and ensure developers are making progress against pre-agreed milestones. In relation to this land sale a conditional contract, rather than a clean sale, remains particularly relevant as it ensures that the developer must rigorously follow the statutory planning process, including fulfilling community consultation requirements.

A change request was approved by the Director of Innovation and Place to extend the conditional contract Longstop Date from 10(5)(e) to a revised date of 10(5)(e). The proposed extension was required to allow the determination of FLL's Planning Permission in Principle application. There had been multiple delays with the Planning Permission in Principle application because of several key issues arising with stakeholders, including Transport Scotland and SEPA which required detailed reports and negotiations. At the time that the change request was approved (end March 2024) and the contract amended, there was also no fixed date for the Planning Permission in Principle application to be decided by the LLTNPA. Given the original application was submitted in May 2022 the developers' request for a 10(5)(e) was accepted, to 10(5)(e)

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## BALLOCH AND HALDANE COMMUNITY

10(5)(e)

Board members should also note that Balloch and Haldane Community Council

10(5)(e)

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10(5)(e)

SE has not released any information publicly about the Longstop Date of 10(5)(e), however it has become clear in recent days that the local MP is aware of this date, and we can assume that this is now public knowledge.

## OPTIONS

The following options on how SE progresses are summarised below.

**Option 1** – SE allow the conditional contract with FLL to run until the Longstop Date, thereafter terminate the contract on the assumption the developer does not submit and win a planning appeal before that date. It is anticipated that in this scenario 10(5)(e)

In the discussion at ELT the pros and cons of this option were carefully deliberated. The strong and vocal public opposition to the development as well as the lack of clear alignment with SE's mission focus, and the disproportionate impact on SE's property team resources were all considered as reasons to decline any request for further extensions from the developer.

However, it was felt that this option was not in line with the intent and spirit of the conditional missive in our existing contract. SE's position on this development has been to ensure that the full planning process is able to run its course, and to support that as the statutory vehicle for considering the key implications for the environment and the local community.

**Option 2** – SE agree to further extend the existing conditional missive in line with the existing contract which initially allows for a 10(5)(e) to allow FLL to fully pursue a planning appeal and planning consent for the proposed development.

Whilst respecting the unanimous decision of the LLTNPA Planning Board as well as the scale of public opposition to the plans, this is effectively the first step in the planning process. There is a well-established and recognised route of planning appeal in Scotland. If SE elect not to allow an appeal to be considered it could be argued to be acting unreasonably by the developer. Adopting this position may also negatively impact SE's market reputation when seeking to attract development partners and infrastructure investment in other SE assets such as Broomielaw or BioQuarter.

## CONCLUSION

The Executive Leadership Team have considered these options in full. The recommendation to the Board is that SE agrees to further extend the existing conditional missive 10(5)(e)

This is to allow FLL to fully pursue a planning appeal and planning consent for the proposed development, in line with Scotland's current planning regulations.

11(3A)(a)

11(3A)(a)

**Jane Martin**  
Managing Director Innovation & Investment

Please see below minute extract from 25 October 2024 SE Board Meeting.

**Loch Lomond Shores, West Riverside Proposed Development by Flamingo Land Limited – SE(24)66**

11(3A)(a) joined the meeting to lead on discussion of this paper which set out the options on SE’s conditional contract with Flamingo Land Limited (FLL), inviting discussion and approval from the Board on the SE corporate position, should a request be received from FLL to extend the current Planning Permission in Principle Longstop Date of the 10(5)(e).

11(3A)(a) provided the background, advising that the site was openly advertised in 2015, with five interested parties, of which Flamingo Land was selected as the preferred developer. Two planning applications had been submitted, the first was withdrawn and the second, submitted in 2022, progressed to decision in principle by the planning authority in September 2024, with option to appeal. The current situation was challenging, noting the significant public opposition and the Executive Leadership Team (ELT) had deliberated extensively on next steps.

The key points under consideration included alignment of mission focus, staff resources, the economic benefits, the statutory planning decision and well-established route for planning applications, and moral obligation, e.g. not seeing through the agreement in terms of spirit and intent which may have unintended consequences for other projects, and sending the wrong message to future developers.

The Board discussed the impact on SE should it decide to progress, a key consideration being SE’s integrity and reputation and credibility as a strategic partner and respecting the planning process and outcome. The disproportionate impact on staff to respond to reputational challenges was considered and alignment with SE’s strategy, as well as the ongoing validity of the original economic case.

The Board approved the further extension of the existing conditional missive in line with the existing contract which initially allows for a further extension of 10(5)(e)

This is to allow FLL to fully pursue a planning appeal and planning consent for the proposed development, in line with Scotland’s current planning regulations. 10(5)(e)