

Loch Kemp Storage - EIA Report

Appendix 9.1: Draft Outdoor Access Management Plan

November 2023

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Loch Kemp Storage Limited

Draft Outdoor Access Management Plan

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1. Introduction

Loch Kemp Storage Ltd is developing the Loch Kemp Pump Storage Scheme (the Proposed Development) located near Whitebridge on the south shore of Loch Ness. The location of the Proposed Development is shown on **Figure 1**.

The Proposed Development is to build and operate a new up to 600 MW pumped storage hydro (PSH) scheme, utilising the existing Loch Kemp as the upper storage reservoir and Loch Ness as the lower reservoir. Full details of the Proposed Development can be found in the Environmental Impact Assessment (EIA) Report, which this Draft Outdoor Access Management Plan (OAMP) supports. However, in summary the Proposed Development comprises two main areas of work:

The upper reservoir works - comprising:

- the upper reservoir (Loch Kemp);
- eight dams; and
- an inlet structure.

The lower reservoir works - comprising:

- a powerhouse building (including administration facilities and visitor facilities);
- a pier and quayside; and
- an access tunnel on the shore of Loch Ness connecting to the underground waterways which link the upper and lower reservoirs.

The upper and lower reservoir works would be connected by a new access track. Several new and upgraded access tracks would also be required around the upper reservoir works.

During the construction and operation periods, the existing B862 public road and Dell Estate forestry tracks would be used. A new access onto the B862 at Whitebridge and upgraded and new access tracks would be required across the Site. During this time appropriate traffic management measures would be put in place on the B862 to avoid conflict with general traffic, subject to the agreement of the roads authority, as describes in **Volume 4: Appendix 16.1: Transport Assessment**.

This OAMP has been prepared in line with the requirements set out in the NatureScot (NS) guidance document “A Brief Guide to Preparing an Outdoor Access Plan” (2010)¹. This considers the baseline outdoor access provisions at the Site, predicts the potential impact that the Proposed Development may have on public access to the Site during the construction and operational phases and considers how any impacts will be managed and monitored.

1.1. Objectives

The objectives of this Draft OAMP are to:

- Determine the existing outdoor access provisions at the Site;
- Determine the potential impact that the Proposed Development may have on public access at the Site during the construction and operational phases; and
- Outline how any impacts would be managed and monitored.

¹ A Brief Guide to Preparing an Outdoor Access Plan (2010). Available at: <https://www.nature.scot/sites/default/files/2017-06/B639282%20-%20A%20Brief%20Guide%20to%20Preparing%20Outdoor%20Access%20Plans%20-%20Feb%202010.pdf> [accessed 07 May 2023]

2. Legislation and Guidance

The following section details the legislation and guidance relevant to this Draft OAMP.

2.1. Land Reform (Scotland) Act

The Land Reform (Scotland) Act (2003)² established a statutory framework of public access rights to most land and inland water in Scotland, based on the principle of responsible access. It is set out in Section 1 of the Land Reform (Scotland) Act that in Scotland everyone has the right to be on land for recreational purposes and to cross land for such purposes, colloquially known as “*The Right to Roam*”.

Part 1 gives everyone statutory access rights to most land and inland water. People only have these rights if they exercise them responsibly by respecting people’s privacy, safety and livelihoods, and Scotland’s environment. Equally, land managers have to manage their land and water responsibly in relation to access rights.

2.2. The Scottish Outdoor Access Code

The Scottish Outdoor Access Code (2005)³ (“the Code”) provides ‘*detailed guidance on the responsibilities of those exercising access rights and of those managing land and water. By doing so, the Code provides a practical guide to help everyone make informed decisions about what best to do in everyday situations and provides the starting point for short promotional codes and more detailed advice*’.

The Code highlights areas where access rights do not apply, those relevant to the Proposed Development are, building, civil engineering or demolition sites, working quarries and other surface workings.

2.3. The Construction (Design and Management) Regulations

The Construction (Design and Management) Regulations (2015)⁴ (the CDM Regulations) require that construction sites are either clearly demarked or completely fenced off, depending on risk. Good practice requires that all working areas are securely fenced off to exclude members of the public from either accidental or deliberate access.

2.4. Hydropower Construction Guidance

The Scottish Environmental Protection Agency (“SEPA”), Scottish Natural Heritage (“SNH”) and Scottish Renewables jointly published the Guide to Hydropower Construction Good Practice⁵. This

² The Land Reform (Scotland) Act (2003), [online] Available at: <https://www.legislation.gov.uk/asp/2003/2/contents> [Last Accessed 03/11/23]

³ The Scottish Outdoor Access Code (2005). [online] Available at: <https://www.outdooraccess-scotland.scot/sites/default/files/2018-09/Scottish%20Outdoor%20Access%20Code%20-%20Part%201%20Introduction.pdf> [Last Accessed 03/11/23]

⁴ The Construction (Design and Management) Regulations (2015), [online] Available at: <https://www.legislation.gov.uk/ukxi/2015/51/contents/made> [Last Accessed 03/11/23]

⁵ Guide to Hydropower Construction Good Practice, version 3, September 2019.

guide was developed to “... direct all stakeholders involved in development and construction of a hydro scheme to the appropriate sections of existing guidance, as well as provide a level of standing advice to help minimise construction impacts and highlight legislative compliance requirements”.

The guidance notes that developers and contractors have obligations relating to the safety of the public under the Health and Safety at Work etc. Act (1974) and the CDM Regulations. The Code requires that restrictions on public access:

- Be kept to the minimum area and the minimum duration that is reasonable and practicable; and
- That management arrangements are flexible enough to take reasonable account of public access requirements and adapt as the site develops by focussing on where actual risks are present.

These recommendations ensure that limitations on access are seen to be proportionate and credible by recreational users. This is likely to encourage greater compliance by the public and be more effective in meeting safety needs.

3. Outdoor Access Baseline

The following section provides details of the baseline outdoor access at the Site of the Proposed Development.

The Site is located within a remote area adjacent to the shore of Loch Ness within the Dell Estate approximately 13 km to the north-east of Fort Augustus. The Site is crossed with access tracks which are used by the Estate, and its workers and guests.

Local residents have confirmed through the public consultation process as detailed in **Volume 4, Appendix 5.6; Pre-application Consultation (PAC) Report**, that they currently use the Site for recreational purposes including walking and horse riding. Additionally, Loch Ness is used for recreational purposes including swimming, boating, canoeing etc, as well as for commercial uses such as barges, ferries and boat tours.

There are six recognised recreational routes in the vicinity of the Proposed Development, as follows:

- Dell Lodge to Foyers path (Core Path IN25.01);
- Loch Ness 360 Route;
- South Loch Ness Waymarked Trails;
- Sustrans Cycle Route (part of the Caledonia Way Long Distance Cycle Route);
- Great Glen Canoe Trail (Loch Ness); and
- Scottish Hill Track 235.

The Dell Lodge to Foyers Core Path (IN25.01) intersects the Site boundary in the north-eastern corner, south of Dell Farm, and ends approximately 390 m further to the south (as shown in **Figure 2**).

Two other recognised recreational routes (the Loch Ness 360 route and South Loch Ness Waymarked Trails) follow the same path through the Site and join the B862 approximately 3 km to the north, (as shown in **Figure 2**). Loch Ness 360 route and the South Loch Ness Waymarked Trails follow the same path as the Dell Lodge to Foyers Core Path and continue south from Dell Lodge through the eastern edge of the Site, before rejoining the B862 to the north of Whitebridge.

The other recognised route which runs adjacent to the Site boundary, along the B862, is the Sustrans Cycle Route, which runs from Oban to Inverness.

The B862 joins two separate sections of National Cycle Route 78 and is utilised by an on-road Sustrans Cycle Route. The Proposed Development includes the creation of a new junction with the B862 at Whitebridge as shown in **Figure 2**.

Part of the Site is part of the Ness Woods Special Area of Conservation (SAC) and Easter Ness Forest Site of Special Scientific Interest (SSSI), as indicated in **Figure 2**. The primary reason for these designations is the "*Tilio-Acerion forests of slopes, screes and ravines*". Additionally, it is noted that otters are present within the designated site.

4. Impacts

This section identifies the predicted impacts and potential enhancements on the outdoor access baseline during the construction and operational phases of the Proposed Development.

4.1. Construction Phase

The construction of the Proposed Development is expected to take up to 5 years. During this period existing access tracks would be upgraded and used to transport materials, equipment and operatives around the Site. During this period the dams, inlet structures, powerhouse building, pier and tunnels would be constructed.

The Site would be a construction site managed by the appointed civil engineering contractor (the Principal Contractor). It would be the responsibility of the Principal Contractor to ensure that the Site is safe for both workers and the general public in line with the CDM Regulations. A draft Construction Environmental Management Plan (CEMP) has been developed and included as **Volume 4, Appendix 3.3** to the EIA Report. Once a Section 36 Consent from the Scottish Ministers Energy Consents Unit (ECU) has been obtained and the Principal Contractor has been appointed, the CEMP would be updated in consultation with the Highland Council, SEPA and NatureScot.

The access arrangements and appropriate warnings would be communicated to the local community prior to construction via the local liaison group, project website and local mailing list.

The Site boundary encompasses a large area (c. 600 hectares) however, construction works would not occur across the whole site and would be contained within the Development Area, as shown on **Figure 2**. Therefore, access would be managed to ensure that restrictions to access:

- Be kept to the minimum area and the minimum duration that is reasonable and practicable; and
- Have management arrangements flexible enough to take reasonable account of public access requirements and adapt as the Site develops by focussing on where actual risks are present.

Access would be limited in areas based on the works being carried out to ensure that the Principal Contractor can adhere to the CDM Regulations and maintain safety.

As detailed in **Section 3**, the Site is part of the Dell Estate and the tracks are therefore private. However, in line with the Land Reform (Scotland) Act there is currently a '*Right to Roam*' across the Site. During the construction period for the areas being worked, access would be restricted in line with the CDM Regulations. These restrictions would be for the duration of the construction works in that area. As such, it is considered to be a temporary adverse impact on the public's Right to Roam across sections of the Site, for recreational purposes during the construction period of the Proposed Development. The eastern part of the Site where recognised recreational routes intersect the Site boundary, listed in **Section 3**, are not anticipated to experience any significant construction activities during the construction period. No major project structures (dams, waterways, powerhouse etc) are proposed to be located in this area, as they are located by the upper and lower reservoirs respectively. Therefore, it is not anticipated that a significant restriction to public access would be experienced on these recognised routes. Furthermore, vehicle access to facilitate construction of the above structures would be from the Site entrance on the B862 main road, south of Whitebridge. Therefore, it is not anticipated to significantly impact public access to these routes.

Access gates would be installed to limit unauthorised vehicles from entering the Site and pass gates would be installed where the Site entrance meets the B862 to accommodate walkers, cyclists and horse riders. Signage would be put in place where the site entrance meets the B862 to highlight to the public the risk of entering the Site. A security compound would also be located near the main access junction to the site with the B862 during the construction period. It is anticipated that the security compound would usually be manned during the day, but it may be manned up to 24 hours a day during certain construction activities. During the construction period appropriate traffic management measures would be put in place on the B862 to avoid conflict with general traffic, subject to the agreement of the roads authority, as describes in **Volume 4: Appendix 16.1: Transport Assessment**.

The powerhouse building is to be located on the eastern shore of Loch Ness. As part of the construction works, suitable barriers would be installed to prevent users of Loch Ness accessing the Site from the loch.

The construction of the majority of the dams on Site would be from the extracted material won through the excavation of the tunnels. This material would be transported from the main access tunnel located behind the powerhouse to the project structures around the upper reservoir in HGVs. The volume of material being extracted means that there would be a significant number of vehicle movements along the internal tracks from the commencement of the Proposed Development until the completion of the dams.

During the construction phase the following measures would be implemented:

- Site information boards would be posted at regular intervals along the tracks, informing members of the public 'what to do' if site traffic is encountered. Similarly, training / briefing of all drivers to be aware of recreational route users to be undertaken during Site induction.
- A speed limit for vehicles on construction access tracks would be set by the Principal Contractor, in accordance with construction methods risk assessments, with appropriate signage highlighted.
- Warning signage indicating the likelihood of traffic would be placed at regular intervals along the tracks.
- Dedicated crossing points would be implemented at areas where the risk of public interaction with construction vehicles is highest.
- Site rules would dictate flashing / hazard lights are to be switched on by all construction traffic vehicles while using site tracks;

The above arrangements would be implemented to ensure both that those wishing to make access are informed of construction hazards, and that construction workers are trained to anticipate and take measures to avoid other access users.



Plate 1: Example Construction Staff Warning Sign

4.1.1. Walkers

As stated within **Section 3**, the Site boundary is intersected by the Dell Lodge to Foyers Core Path (IN25.01), the Loch Ness 360 Route and South Loch Ness waymarked trails to the east of the Development Area. Due to the main access point for construction traffic and almost all construction activities occurring away from these recognised routes, it is considered that the access and safety of walkers using these routes would not be impacted.

4.1.2. Equestrians

Within the responses to the Proposed Development returned during Scoping, it is understood that access tracks on the Site are used by equestrians (refer to **Table 9.1** of **Chapter 9 Land Use and Recreation**). Where practicable and safe to do so, the continued access to these tracks would be made available during the construction period. In addition, the construction workforce and vehicle drivers associated with the Proposed Development would be briefed on how to safely approach and pass any equestrian users.

4.1.3. Cyclists

The B862 joins two sections of National Cycle Route 78 and is utilised by a Sustrans Cycle Route, (part of the Caledonia Way Long Distance Cycle Route), as stated within **Section 3**. Despite being outwith the project Site boundary, cyclists using the B862 would be affected for a short period

during construction. Initially due to the construction of the new Site access junction south of Whitebridge and throughout the construction period due to additional vehicle usage along the B862.

The construction of the new access junction is anticipated to take approximately 9 weeks. During this period appropriate traffic management measures would be put in place on the B862 to avoid conflict with general traffic, subject to the agreement of the roads authority, as described in **Volume 4, Appendix 16.1: Transport Assessment**. It is not proposed to close the B862 for any period during construction. As such there would not be any need to re-route access for cyclists. Any impacts associated with the construction of the junction with the B862 on access for cyclists would therefore be short-term and temporary in nature whilst maintaining safety of the route at all times.

The vehicle movements along the B862 are anticipated to increase as a result of additional movements during the construction of the Proposed Development (refer to **Volume 1, Chapter 16: Traffic, Access and Transport** and **Volume 4, Appendix 16.1: Transport Assessment** of the EIA Report). However, it is considered that the increase in vehicle movements would not affect the continued use of the B862 by cyclists.

4.2. Operational Phase

With proper maintenance it is anticipated that the Proposed Development would remain functional indefinitely.

The upper reservoir would be formed by creating four new saddle dams and four minor cut off dams and raising the water levels in Loch Kemp by approximately 28 m. This would result in the permanent loss of land which the public currently has access to under the Land Reform (Scotland) Act and loss of tracks within the Dell Estate. However, upon the completion of the construction of the Proposed Development, access around the Site would be reinstated, including access along the new tracks and across the new dam structures. Signage would be put in place for the lifetime of the Proposed Development to highlight the potential safety issues of the public accessing the Site, and the Site would remain part of the privately owned Dell Estate. The area of land loss / water gain as a result of the enlargement of Loch Kemp is shown on **Figure 3**.

4.2.1. Boat Access

The Proposed Development would include a visitor centre, located within the powerhouse building, along the eastern shore of Loch Ness. Access to the visitor centre for visitors would be via organised / pre-arranged boat tours only. To ensure that access to Ness Woods SAC / Easter Ness Forest SSSI does not increase from existing levels as a result of visitors to the powerhouse, access into the wider site from the powerhouse would be restricted to operational staff of the Proposed Development. This would minimise the risk of any impacts on the Ness Woods SAC / Easter Ness Forest SSSI as a result of increased footfall.

4.2.2. Vehicle Access

During the operational phase of the Proposed Development, there would be a small number of vehicles using the access routes for operation and general maintenance purposes. In addition, infrequent access by heavier vehicles for maintenance would occur as required. However, public vehicle access to the Proposed Development would not be permitted.

During the operational phase the following measures would be implemented:

- Warning signage indicating the likelihood of traffic would be placed at regular intervals along the tracks;
- Site information boards would be posted at regular intervals along the tracks, informing members of the public 'what to do' if site traffic is encountered. Similarly, training / briefing of all drivers to be aware of recreational route users to be undertaken during Site induction; and
- A speed limit for vehicles on operational access tracks would be set by the Operator with appropriate signage highlighted.

These measures would ensure that potential conflicts between vehicles and the public are minimised.

5. Mitigation

During the design of the Proposed Development the potential impacts upon public access to the Site have been considered, balanced with health and safety concerns associated with the construction of a scheme of this nature. The access arrangements and appropriate warnings would be communicated to the local community prior to construction via the local liaison group, project website and local mailing list.

Although there would be loss of access to some land during the construction phase, there is the potential to retain public access along the existing estate track from the B862 to Loch Pàiteag. This would be investigated further as the construction method statements are developed by the appointed Principal Contractor.

6. Management and Monitoring

The development and management of the OAMP would be the responsibility of the appointed Principal Contractor during the construction phase of the Proposed Development. The responsibility would lie with the Operator during the operational phase.

This Draft OAMP has been produced to support the Section 36 application. The OAMP would be reviewed prior to commencement of construction works. Thereafter the approved OAMP would be a live document and reviewed annually during the construction period as a minimum. In addition, reviews would be conducted prior to the commencement of works which may have impact upon public access or the potential for public / contractor interfaces.

7. Summary and Conclusions

This Draft OAMP has identified the existing outdoor access provisions at the Site. Although the land is within the privately owned Dell Estate, there is a Right to Roam which includes land and waters as established under the Land Reform (Scotland) Act. Local residents have confirmed through the public consultation process that they currently use the Site for recreational purposes including walking and horse riding.

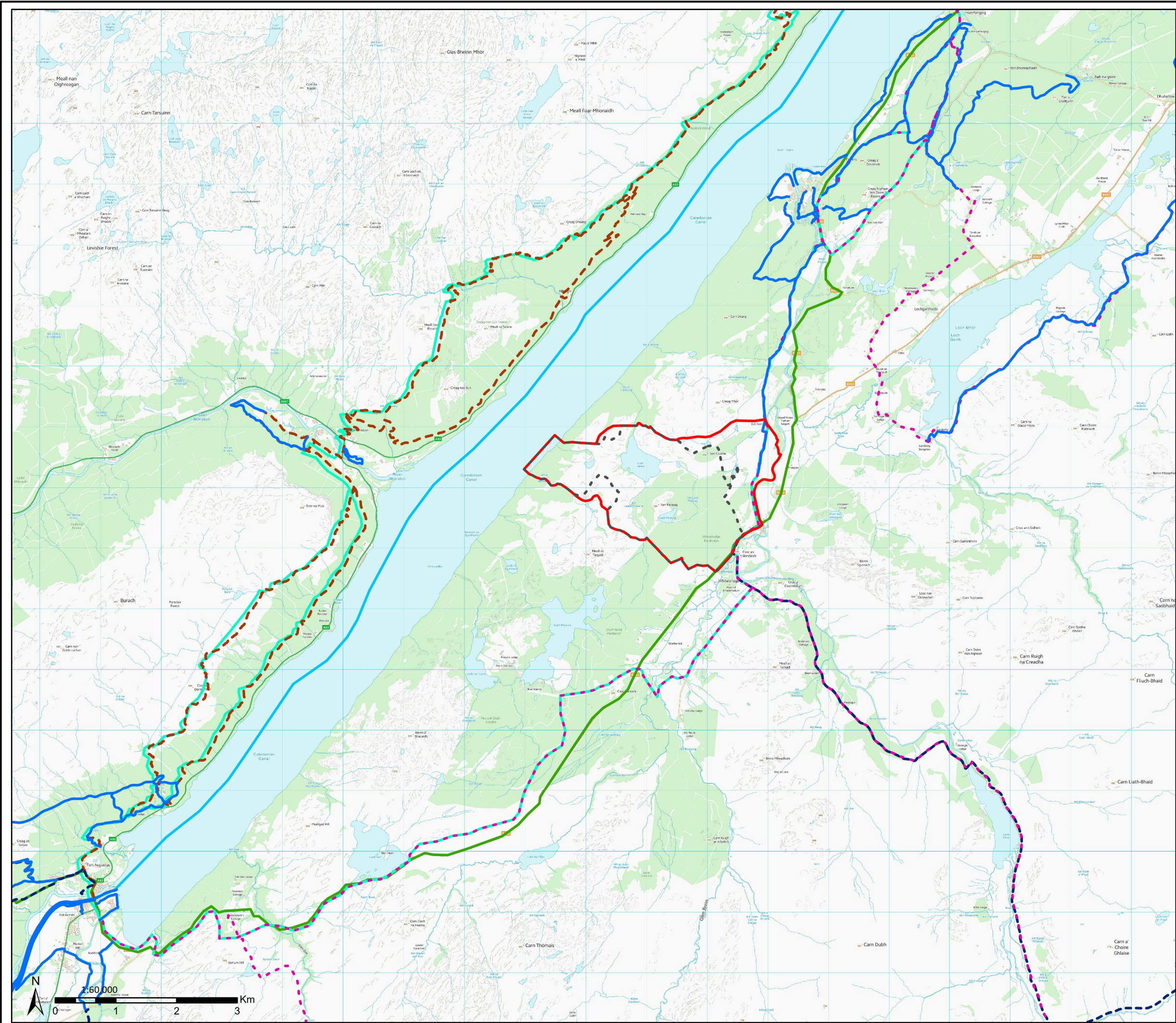
The most significant impacts on access would occur during the construction phase. The Site would be a construction site and in order to comply with the CDM Regulations access for the public would be prohibited from the areas of the Site where there are health and safety concerns. This would be for the duration of the construction works in that area. However, as identified this would not adversely affect any recognised access routes, including those that exist along the eastern section of the Site. The potential to retain informal access along the estate track from the B862 to Loch Pàiteag would be investigated further as the construction method statements are developed. The impact upon users of the B862 outwith the Proposed Development, is considered in **Volume 1, Chapter 16: Traffic Access and Transport** and **Volume 4, Appendix 16.1: Transport Assessment** of the EIA Report.

The Proposed Development would include a new visitor centre within the powerhouse building, along the eastern shore of Loch Ness. However, any access for the public to this amenity would be via organised boat tours and no further access into the Site would be permitted beyond the powerhouse building, to prevent any adverse impacts on the Ness Woods SAC / Easter Ness Forest SSSI.

This Draft OAMP has been produced to support the Section 36 application. This would be reviewed and updated as necessary prior to commencement of construction works. Thereafter the approved OAMP would be a live document and reviewed annually during the construction period. In addition, reviews would be conducted prior to the commencement of works which may have impact upon public access or the potential for public / contractor interfaces.

Appendices

A Figures



Key

- Site Boundary
- - - Development Area
- Recreational Routes**
- Core Paths
- - - South Loch Ness Waymarked Trails
- - - Scottish Hill Tracks
- - - Great Glen Way 2019
- Loch Ness 360 Route
- Sustrans Cycle Route
- Great Glen Canoe Trail

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**Figure 1
Outdoor Access Management Plan
- Site Location**

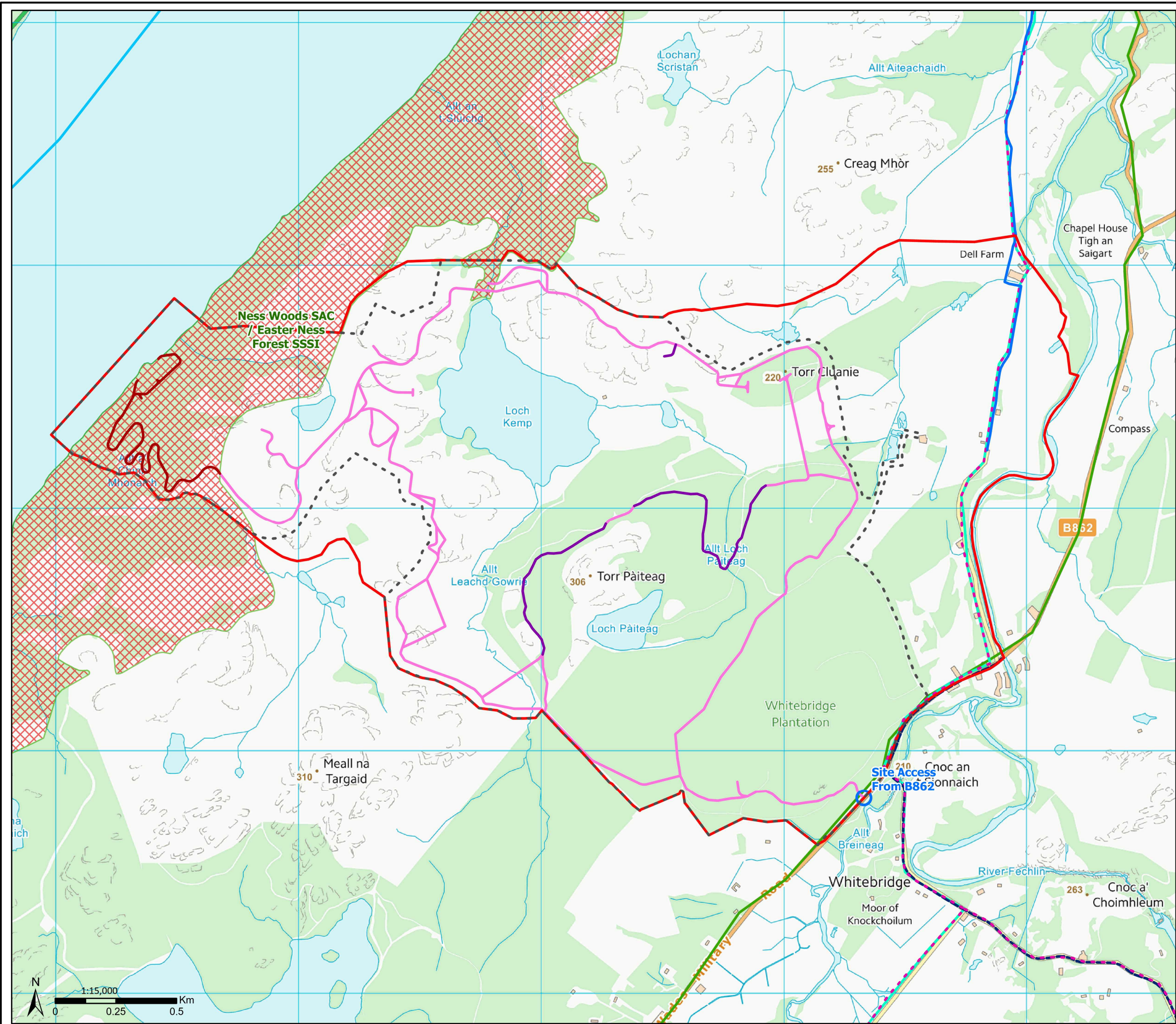
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Key

- Site Boundary
- Development Area
- Site Access From B862
- Access Track within SAC
- Construction and Operational Access Track 4m width
- Construction Access Track 8m width (reinstated to 4m where feasible)
- Ness Woods SAC / Easter Ness Forest SSSI

Recreational Routes

- Core Paths
- South Loch Ness Waymarked Trails
- Scottish Hill Tracks
- Great Glen Way 2019
- Loch Ness 360 Route
- Sustrans Cycle Route
- Great Glen Canoe Trail

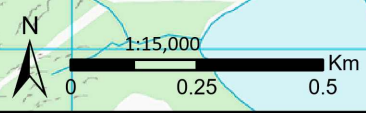
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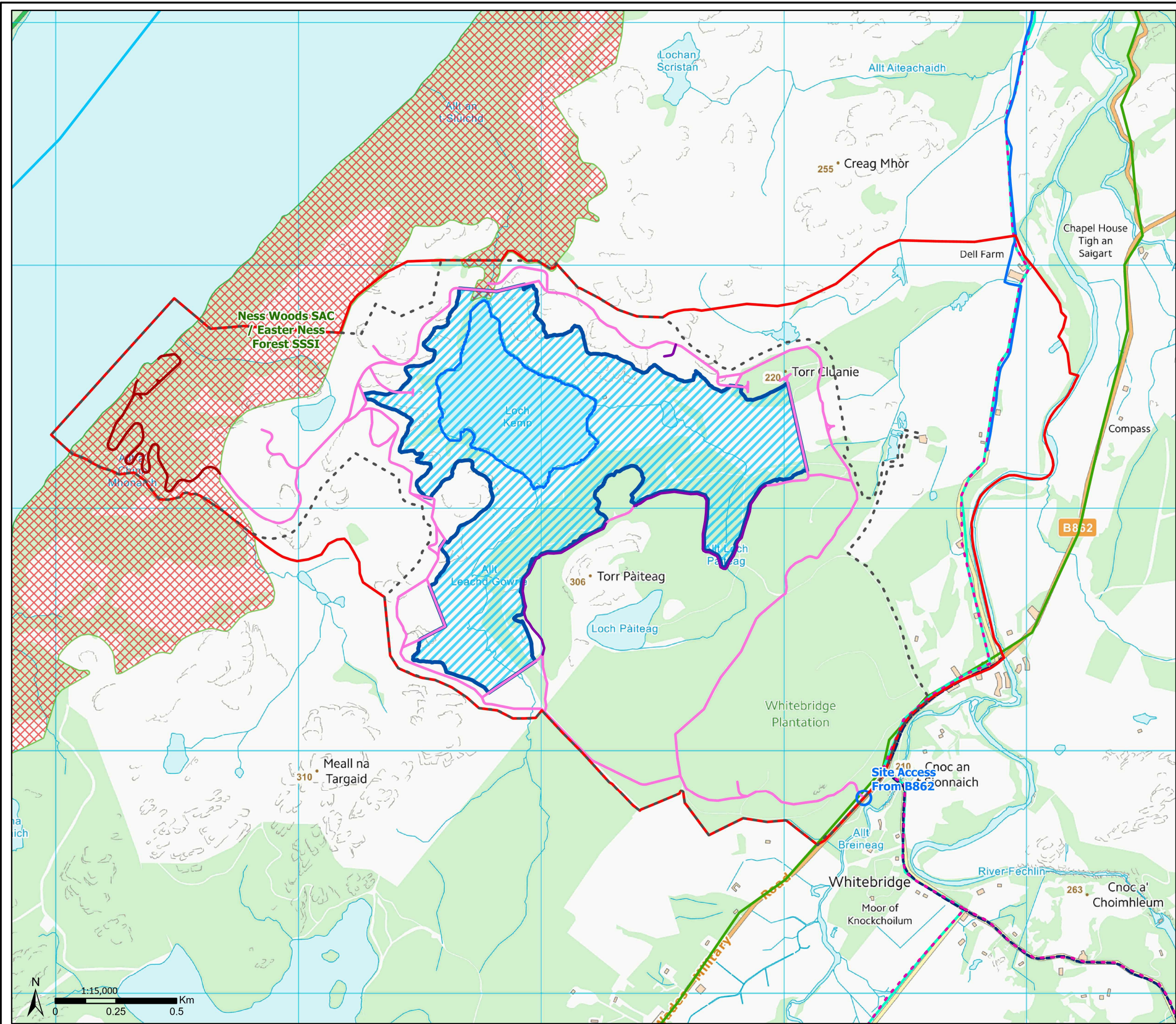
**Figure 2
Outdoor Access Management Plan
- Site Interactions**

Drawn by: MJC Date: 03/11/2023
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- Key**
- Site Boundary
 - Development Area
 - Site Access From B862
 - Access Track within SAC
 - Construction and Operational Access Track 4m width
 - Construction Access Track 8m width (reinstated to 4m where feasible)
 - Minimum 177mAOD level
 - Maximum 205mAOD level
 - Inundation Area
 - Ness Woods SAC / Easter Ness Forest SSSI
- Recreational Routes**
- Core Paths
 - South Loch Ness Waymarked Trails
 - Scottish Hill Tracks
 - Great Glen Way 2019
 - Loch Ness 360 Route
 - Sustrans Cycle Route
 - Great Glen Canoe Trail

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**Figure 3
Outdoor Access Management Plan
- Inundation Area**

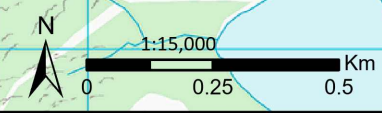
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