

**THE HIGHLAND COUNCIL (INVERNESS WEST LINK)  
COMPULSORY PURCHASE ORDER 2013**

**STATEMENT OF REASONS**

**1. INTRODUCTION**

- 1.1. This document is the Statement of Reasons ("**this Statement of Reasons**") by The Highland Council ("**the Council**") for the making of a compulsory purchase order entitled "The Highland Council (Inverness West Link) Compulsory Purchase Order 2013" ("**the CPO**").
- 1.2. This Statement of Reasons has been prepared in accordance with the Scottish Government Guidance contained in Scottish Planning Circular 6 / 2011: Guidance on using Compulsory Purchase Orders.
- 1.3. On 5<sup>th</sup> September 2013 the Council resolved to make the CPO in respect of land to the south and west of Inverness City required for the construction of the Inverness West Link ("**the Scheme**"). This Statement of Reasons sets out the background to, the purpose of, and the justification for making the CPO.

**2. DESCRIPTION OF LAND TO BE ACQUIRED**

- 2.1. **Location** - This land extends from the B862 Dores Road to the A82 (Trunk Road) Glenurquhart Road crossing both the River Ness and the Caledonian Canal. The plots of land to be acquired, which are shown coloured pink on the CPO plans contained in Annex A ("**the CPO Plans**"), extend to 15.29 hectares or thereby. The plots of land over which a servitude right is to be acquired, which are shown coloured blue on the CPO Plans, extend to 0.97 hectares or thereby and the plots of land over which a temporary right is to be acquired, which are shown coloured

green on the CPO Plans, extend to 6.45 hectares or thereby. The need for and purpose of each plot is set out in the schedule to the CPO.

2.2. **Topographical Features** - The area is largely flat or gently sloping open ground lying to both sides of the River Ness at Ness-side and both sides of the Caledonian Canal at Tomnahurich with the river and canal enclosing a wedge of open flat land at the Canal Parks. The Torvean Landform geological SSSI with its steep south facing slopes lies to the north of the canal, outwith the land contained in the CPO. The Tomnahurich Hill Designed Landscape, also a geological esker and burial ground, lies to the east of the A82 trunk road and is again outwith the land contained in the CPO. Whin Park amenity area and its boating pond lie adjacent to the River Ness to the south of the Canal Parks. They are outwith the land contained in the CPO.

2.3. **Present Use** - The land to the south of the River Ness is primarily agricultural land, currently being cropped and grazed. The wedge of land between the river and canal and also the land to the west of the canal is open green space and is used for formal recreational (rugby) and informal amenity purposes (walking). The river corridor with riverbank scrub and trees is used for angling and canoeing with informal amenity footpaths beside the river. The canal corridor with its tow paths is used by Caledonian Canal boat traffic along with formal and informal rowing. The tow paths themselves are used by Scottish Canals for maintenance of the canal as well as by local residents for walking and informal recreation. The land to the north west of the Caledonian Canal is used for formal recreation (golf).

2.4. **Development Plan Status** - The broad alignment of the Inverness West Link is included in the adopted Inverness Local Plan 2006 and (more indicatively) in the adopted Highland-wide Local Development Plan 2012. Adjoining land to the south of the River Ness is zoned for development purposes and the adjoining land lying within the canal parks between the river and the Canal is retained for recreational purposes. Adjoining land

to the north west of the canal is retained for recreation with the need to reconfigure existing and new recreational uses. The detailed alignment and design for Inverness West Link is embodied within the Torvean and Ness-side Development Brief, which was adopted by the Council as statutory Supplementary Guidance on 18<sup>th</sup> September 2013. This therefore forms part of the development plan in terms of Section 22 of the Town and Country Planning (Scotland) Act 1997.

- 2.5. **Relevant Community Council(s)** - The area of land to be acquired lies within 5 Community Council boundaries. These Community Councils are;
- Holm Community Council;
  - Ballifeary Community Council;
  - Dalneigh & Columba Community Council;
  - Muirtown Community Council;
  - Inverness West Community Council.

### 3. **PROJECT HISTORY**

- 3.1. An indicative alignment for a bridge crossing of the River Ness at Holm Mills was first identified in a feasibility study promoted by Inverness County Council in 1974. This same broad alignment was adopted formally as Council planning policy in 1982 (when it was confirmed within the Adopted Inverness Local Plan 1982) following a public local inquiry in 1981. This broad alignment was reaffirmed in the Inverness, Culloden and Ardersier Local Plan adopted in 1994 also following a public local inquiry.
- 3.2. The crossing of the Caledonian Canal as well as the crossing of the River Ness on this broad alignment was confirmed in 2006 (following adoption of another Inverness Local Plan after a public local inquiry). The Scottish Government Reporter left the method of crossing the canal flexible (either as open cutting under the canal or low swing bridge over the canal).

- 3.3. A similar alignment crossing of the river and an aqueduct canal crossing was promoted by the Council as a potential trunk road scheme (The Inverness Trunk Link Road project) in 2007. This project, however, was not successful in its bid to be included in Transport Scotland's final Strategic Transport Projects Review document as a Scottish Government project.
- 3.4. Following a formal options appraisal and public consultation, the current Scheme alignment with a 3 span crossing of the river and a low level swing bridge over the canal matching the existing swing bridge was confirmed by the Council at its meeting on 1st March 2012.
- 3.5. It is proposed to construct the Scheme in two Sections. Section I will deliver the section from the Dores Road across the River Ness to the A82 (T) Glenurquhart Road. Section II will deliver the tandem canal bridge arrangement across the Caledonian Canal at Tomnahurich.

#### **4. PURPOSE**

- 4.1. Purpose of Acquisition - The CPO is being promoted to enable the construction of the Scheme which consists of a primary distributor road linking the Inverness Southern Distributor B8082 at Dores Road (Holm) Roundabout with A82 (Trunk Road) Glenurquhart Road and includes cycle tracks, footpaths, underpasses as well as hard and soft landscaping in mitigation. This CPO will allow the west section of the Inverness Southern Distributor to be completed. The need for the Scheme and the benefits that the Scheme will bring are set out in section 9 of this Statement of Reasons.
- 4.2. The plots of land over which a servitude right is to be acquired are necessary for construction access and subsequent maintenance access purposes and the plots of land over which a temporary right is to be acquired are necessary for various construction uses e.g. Contractor Site

Compound, temporary storage of topsoil and construction plant access routes.

## **5. USE OF LAND AFTER ACQUISITION**

- 5.1. The CPO will result in the acquired land being used for a primary distributor road (including river and canal bridges) contiguous footway / cycleways, drainage ditches, associated landscaping and other mitigation. The land and completed road will be incorporated in the List of Roads within the terms of the Roads (Scotland) Act 1984.
- 5.2. The plots of land to be acquired are necessary for the construction of the Scheme including essential mitigation.

## **6. DESCRIPTION AND NEED OF ANY NEW RIGHTS BEING CREATED**

- 6.1. With the exception of acquisition of land and servitude rights being obtained under the CPO there are no other rights being obtained or required for the Scheme.

## **7. USE OF PARTICULAR ENABLING ACT**

- 7.1. The Council is using the powers contained in Section 103, 104,105,106 and 110 of the Roads (Scotland) Act 1984 to acquire land through Compulsory Purchase for the purposes of building a new distributor road and for mitigating the impacts of the construction of that new road.
- 7.2. As set out in this Statement of Reasons, the Council considers that the powers under the Roads (Scotland) Act 1984 are the relevant powers to use to secure the necessary rights for the development. There are no other more specific or appropriate powers which ought to be used. Further for the reasons set out in this Statement of Reasons, the Council considers that the making of the CPO complies with the terms of its enabling powers.

## 8. PLANNING STATUS

- 8.1. The purpose of the Scheme was to complete the Inverness Southern Distributor at its western extremity.
- 8.2. The National Planning Framework 3 refers to the West Link within the section on Areas of Coordinated Action, Area 2 Inverness and Inner Moray Firth. On page 68 the document states “*Key issues in this area will therefore include: Recognition of the role in Inverness as the Highland capital, and the key developments, such as the West Link, that will support this in the future.*”
- 8.3. The Inverness West Link is contained in the 2006 adopted Inverness Local Plan at Section 29 on page 36 under the title A9 – A82 Trunk Road link. Section 29 of this document states “*The Council will safeguard land at Ness-side, Canal parks and Torvean for the construction of Phase V of the A9 – A82 Trunk road link, to link Dores Road with the A82 (T) at General Booth road. This will enable the road to be constructed on the general alignment identified on the proposals map as one scheme, including a new canal crossing; and linkage to Glenurquhart Road / the Bught dependent on the means of construction, related traffic and technical considerations. The road will be designed to minimise the environmental impact on landscape features, and on open space and recreational activities towards the Bught. The highest standards of design and fit into the landscape will be required.*”
- 8.4. A planning application was submitted on 18<sup>th</sup> October 2013. It is expected that this planning application will be determined by the Council in early 2014. The application was treated as a Major Application, although not strictly in this category, and accordingly has been the subject of considerable public consultation prior to submission.

## 9. POLICY AND OBJECTIVES

- 9.1. Within the Council's Local Transport Strategy (LTS) published in August 2010 policy 2 states "*The Council will seek to make cost effective improvements to the Council road network through its own Capital budget, developer contributions and other external funding opportunities which may become available during the timeframe of the LTS*". Within this section of the document the Inverness West Link is identified as a road improvement in keeping with the policy and objectives of the LTS.
- 9.2. Within the Council's 'Working together for the Highlands' programme for the period 2012 to 2017 on page 11 'Working together for better infrastructure' item 6 advises "*Working with partners, the Council will support the delivery of the Inverness West-Link Road and the associated amenity and leisure improvements*".

## 10. JUSTIFICATION AND NEED FOR THE SCHEME

- 10.1. The principle of the Inverness Southern Distributor was first established in the early 1970s to facilitate the expansion and consolidation of the City and to provide a strategic route around the south side of the City to reduce traffic levels and congestion in the City centre. Phases I, II, III & IV of the Southern Distributor from Inshes to Dores Road were completed in 2002. Phase V of the road was committed in the development plan by the Council in 2003. This final phase will allow key development sites to be released to assist and encourage economic development.
- 10.2. The designs for Phase V were taken forward using the Scottish Transport Appraisal Guidance (STAG) process which provides a formal structured approach to design taking the project through three stages of design. These are:
- Stage I – Options generation and sifting;
  - Stage II – Options appraisal;

- Stage III – Detailed Design.
- 10.3. Stage I of the design process examined 90 separate options and these were sifted down to 6 options which were presented to the public. Following consultation 2 additional options were included and 8 options in total were taken forward to Stage II.
- 10.4. Within Stage II the options appraisal assessed each of the 8 options under the headings of
- Environment;
  - Safety;
  - Accessibility;
  - Economics;
  - Integration;
  - Risk.
- 10.5. The public were consulted on the outcome of this assessment and this along with public comments was presented to Council in March 2012 where option 6 was selected as the preferred option. Option 6 was then taken forward to Stage III and the detailed design. This is the Option that is the subject of this CPO.
- 10.6. Following completion of the detailed design this was presented to the public as a consultation and in response to constructive comments a number of design changes were made to the layout. This was presented to the Council on 5<sup>th</sup> September 2013 who adopted the detailed design and resolved to make a planning application and Compulsory Purchase Order for the scheme.
- 10.7. The STAG process has been followed to investigate all possible alternatives. Stakeholders and the public have been consulted widely on potential options as well as the preferred solution.

## 11. ENGAGEMENT

- 11.1. The Council has held exhibitions, convened public meetings and had wide consultation with the public and stakeholders at each of the three stages of the STAG design process. It has also contacted and discussed the Scheme with all directly affected landowners, tenants and occupiers.
- 11.2. Public Consultation No. 1 was commenced on the 15<sup>th</sup> & 16<sup>th</sup> December 2010 with exhibitions and public meetings.
- 11.3. Public Consultation No. 2 was commenced on the 29<sup>th</sup> November & 1<sup>st</sup> December 2011 with exhibitions and public meetings.
- 11.4. Consultation No. 3 was commenced on the 17<sup>th</sup> & 18<sup>th</sup> April 2013 with exhibitions and again at an exhibition on 4<sup>th</sup> May 2013. This consultation closed on 31<sup>st</sup> May 2013.
- 11.5. Information on each consultation can be found on the Council's website at [www.highland.gov.uk/icwl2](http://www.highland.gov.uk/icwl2)
- 11.6. Several detailed design adjustments to the Scheme have been made to address issues raised through the consultation, notably the skewing of the River Ness Bridge to reduce agricultural severance and the loss of developable land at Ness-side.
- 11.7. The Council believes all reasonable adjustments have been made to the Scheme to accommodate issues raised by landowners, tenants and other interested members of the public.
- 11.8. Relocation / mitigation measures for the Scheme have been agreed in principle with a number of affected tenants as follows:
- Highland Rugby Club – retention, realignment, and remarking of 3 pitches at the Canal Parks;

- Inverness Blitz – relocation of training area to the Bught Park;
- Inverness Rowing Club – improved road access to retained boat shed / club house;
- Jacobite Cruises – relocated ticket office, car parking and moorings plus improved road access;
- Caley Cruisers – new tie-up facilities between tandem bridges;
- Torvean Golf Club – reconfiguration of golf course to account for the loss of 6 holes displaced by the Scheme and replacement clubhouse.

11.9. In addition the Council is considering consolidating and enhancing the recreational facilities at Torvean with a Sports Hub and further sporting and recreational development.

## **12. PUBLIC BENEFIT**

12.1. The Scheme has the following benefits:

- It allows the peripheral growth of the City of Inverness without unacceptable congestion on the City's radial routes and in the city centre;
- It will reduce traffic congestion in Inverness City centre;
- It will reduce existing canal bridge delays and waiting times by always having one bridge open to road traffic;
- It will enhance the capacity of the bridge river crossings for Inverness City and improve connectivity across the River Ness;
- The new road network with associated cycle tracks and footpaths will expand the active travel network removing bottlenecks and barriers to cycling and walking;
- Improved connectivity to the south and west of Inverness will release land for development identified in the local plan.

### **13. PUBLIC BENEFIT RELATIVE TO ADVERSE EFFECTS ON INDIVIDUALS**

13.1. As a consequence of uncertainty for the road infrastructure in this area over many years the proposals will create opportunities for development of the Inverness Rowing Club, Highland Rugby Club and Torvean Golf Club in terms of expansion of their facilities. It is considered that the adverse effects of the Scheme on individual landowners are very limited.

### **14. IMPACTS OF THE SCHEME AND PROPOSED MITIGATION**

14.1. An Environmental Impact Assessment (EIA) has been carried out and has identified and assessed the likely main environmental effects of the Scheme as required by the Environmental Impact (Scotland) Regulations 1999. Measures envisaged to prevent, reduce and, where possible, offset any adverse effects have been developed. These include new landscape planting, noise barriers and other measures to reduce traffic noise and measures to mitigate the impact on natural heritage. Some of the land to be acquired is required to ensure that these measures can be delivered. This is in accordance with the powers contained in Section 106 of the Roads (Scotland) Act 1984.

### **15. FUNDING**

15.1. Capital Funding - The Council at its meeting on 27<sup>th</sup> June 2013 approved a 10 year capital programme. The first 5 years were approved as a firm programme and the second 5 years were approved as an indicative programme. In respect of the Inverness West Link this programme included within the first 5 years firm section of the programme

- £1.914M in 2013/14;
- £2.000M in 2014/15;
- £7.600M in 2015/16;
- £7.000M in 2016/17;
- £7.410m in 2017/18.

This amounts to a total of £25.924M within the first 5 years of the programme with these costs being at 2011 prices within Stage II of the design process. Section I of the Scheme is included in the first 5 years of the programme with Section II rolling forward to the second 5 years of the programme.

- 15.2. Third Party Funding - Existing and proposed Section 75 planning agreements are likely to secure additional developer contributions towards the Scheme. These monetary contributions are likely to lie in the estimated range £3.5M to £4.5M. This planning gain will contribute towards the cost of the Scheme but is not expected to be received until developments are complete on the ground. The Council will proceed with the Scheme in advance of developments with funding allocated from the Capital programme. Construction of the scheme is not dependent on contributions.

## **16. COSTS**

- 16.1. The most recent Scheme cost estimate of £34.398M was reported to the Council on 5<sup>th</sup> September 2013. These costs are at 2013 prices and include both Section I and Section II of the Scheme. The Council's capital programme when next reviewed will require to take account of these latest cost estimates.
- 16.2. The financial analysis of the Scheme shows a benefit to cost ratio of 2.93 and a net present value of £34.41M both of which represent good value for the Scheme and its investment. This is a reflection of the substantial benefits the Scheme will deliver to users of the transport network in the area.

## **17. RISK**

17.1. There are few barriers to completing the Scheme other than the risk of the CPO process itself. In terms of civil engineering risk the Council has made considerable effort in ground investigations and topographical surveys to remove unforeseen conditions from the design development. Ground investigations results have demonstrated that the risk of unforeseen engineering challenges and consequential increase in costs is low.

## **18. OTHER CONSENTS REQUIRED FOR THE SCHEME**

18.1. As well as planning permission (see section 8 of this Statement of Reasons), Road Stopping Up and Traffic Regulation Orders will be required in due course nearer the time of construction. A Section 75 Scheme under the Roads Scotland Act 1994 will be promoted in respect of the new canal bridge.

18.2. The Caledonian Canal is a Scheduled Monument and the road works within the boundary of the canal are the subject of a Scheduled Monument Consent Application which will run in parallel with the planning application.

18.3. While the other consents may be required to deliver the Scheme, there are no exceptional impediments that are likely to prevent the Scheme being fully implemented.

## **19. UNKNOWN OWNER**

19.1. There are no unknown owners of land within the CPO.

## **20. HUMAN RIGHTS**

- 20.1. The Scheme has been designed to minimise interference with the peaceful enjoyment of a person's possessions under Article 1 of the First Protocol of the European Convention on Human Rights (ECHR) under which no one is to be deprived of their possessions except in the public interest. Any interference with the right has to be provided for by law and strike a fair balance between the interests of the community and the protection of the rights of the individual. The Council believe that the greater good is in the promoting the Scheme for the benefit of the people of the area and that this outweighs the harm caused by the use of compulsory purchase powers to acquire third party land for the Scheme.
- 20.2. In processing the CPO the Council has complied with all relevant legislation and regulations which provide an opportunity for those affected to object to the CPO and have their representations considered at a public inquiry. The land to be acquired for the Scheme which is the subject of the CPO has been kept to a minimum. The public benefit can only be delivered by acquisition of this land and such acquisition would not place a disproportionate burden on affected landowners. In addition, the Scheme already has the benefit of being incorporated in the development plan (see section 2.4 of this Statement of Reasons). Its broad alignment has been tested and confirmed at three public local inquiries. Two of the three inquiries debated feasible alternatives to the Council's broad alignment and assessed all alternatives against a wide range of factors including public benefit and impact on individual rights.
- 20.3. Accordingly the Council considers that the making of the CPO is expedient and would not violate Article 1 to the first protocol of the ECHR.

## **21. SPECIAL CONSIDERATIONS**

21.1. The proposals in the CPO involve the acquisition of special category land as described in section 1(2) of the Acquisition of Land (Authorisation Procedure)( Scotland) Act 1947. The CPO includes land which falls within the following categories of special land, namely (1) land which is the property of a local authority; (2) land acquired by a statutory undertaker for the purpose of their undertaking; and (3) land forming part of common or open space.

## **22. MINISTERIAL STATEMENTS**

22.1. No views have been expressed by Scottish Ministers on the proposed Road Scheme.

## **23. CONCLUSION**

23.1. In conclusion it is the Council's view that:-

- the public benefit of the proposed scheme clearly outweighs the private rights of the owners;
- it is clear how the land is going to be utilised following compulsory acquisition and why the temporary and permanent rights are required;
- there is a realistic prospect of achieving the Scheme in a reasonable timescale;
- there are no exceptional impediments that are likely to prevent the Scheme from being fully implemented.

## 24. LIST OF DOCUMENTS

24.1. The following documents, maps and plans are publicly available via the Council's website at [www.highland.gov.uk](http://www.highland.gov.uk) and a paper set is available for inspection during normal office hours at Council HQ Office, Glenurquhart Road, Inverness:

- The Highland Council (Inverness West Link) Compulsory Purchase Order 2013;
- The Inverness West Link Planning Application including the Environmental Statement;
- The Ness-side and Torvean Development Brief.