

## ABERDEEN CITY COUNCIL

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<b>COMMITTEE</b>	City Growth and Resources
<b>DATE</b>	28 <sup>th</sup> October 2020
<b>EXEMPT</b>	The report is not exempt but the appendices are exempt as follows:-  Appendix 10.1: Financial Implications: Para 8: estimated expenditure on contracts  Appendix 10.2: Outline Business Case: Para 8: estimated expenditure on contracts  Appendix 10.3 – Heat Offtake Agreement, Principles: Para 9 (terms of acquisition or disposal)
<b>CONFIDENTIAL</b>	N/A
<b>REPORT TITLE</b>	Torry Heat Network – Third Progress Report
<b>REPORT NUMBER</b>	RES/20/172
<b>DIRECTOR</b>	Steve Whyte
<b>CHIEF OFFICER</b>	John Wilson
<b>REPORT AUTHOR</b>	Bill Watson
<b>TERMS OF REFERENCE</b>	1.1.2, 1.1.7, 2.1.1, 4.1

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### 1. PURPOSE OF REPORT

- 1.1 This report updates the Committee on the progress made with this project and seeks approval of a number of recommendations.

### 2. RECOMMENDATION(S)

That the Committee:-

- 2.1 approves the proposed amended scope for this phase of this project;
- 2.2 approves the acceptance of a Low Carbon Infrastructure Programme Grant from the Scottish Government;
- 2.3 approves the carry forward of any portion of the General Fund Capital budget for the project, not required for this phase of works, so that it can be used as match-funding against a future grant application;
- 2.4 approves the Council entering into a twenty year Heat Offtake Agreement with the EfW operating company which follows the principles set out in appendix 10.3, and approves the estimated annual expenditure associated therewith set out in appendix 10.1; and
- 2.5 approves the recommendations contained within section 3.2 of this report with regard to the upgrading and usage of the Council's assets, property and estates.

### **3. BACKGROUND**

- 3.1 During 2016 it was recognised that a district heating infrastructure project in Torry might be viable, given that heat (reserved by a SEPA license for a heat network) was expected from the EfW project.
- 3.2 The extent of the proposed infrastructure within the next phase of this Heat Network is:
- a Heat Distribution Facility (containing controls, valves, heat buffer tanks and back-up boilers and other equipment required to effectively operate and supply heat to the district heating network). It is proposed that this facility will be located within the former Waste Transfer Station building, Greenbank Crescent, Tullos (i.e. immediately adjacent to the EfW site);
  - the main spine heat distribution pipes from the Heat Distribution Facility (routed underneath the Aberdeen to Dundee railway line) so as to connect with the existing heating network in Torry) to supply heat for 146 homes (to the 3 high rises) and 3 public buildings (Deeside Family Centre, Provost Hogg Court and Balnagask House): sufficient for the future district heating needs of Torry, and a potential future connection to the city centre network;
  - new internal installations, heat metering and heat supply pipes to Tullos Primary School and Torry Social Work office; and
  - new internal installations, heat metering and heat supply pipes to an additional (circa) 150 homes to Balnagask Circle, Balnagask Court and the Farquhar Road stub blocks, i.e. that upon completion of this phase of the Network, circa 296 homes will be provided with heat from the EfW plant.
- 3.3 The Council has received an offer of a capital funding grant from the Scottish Government's Low Carbon Infrastructure Programme (LCITP) towards this next phase of this Network.
- 3.4 The Scottish Government have advised that further grant funding opportunities are currently being developed. It is intended that these new grant opportunities will also be pursued, so that further phases of this Network can also be delivered in a financially prudent manner. To this end it is recommended that any portion of the General Fund Capital budget for the project, not required for this phase of works, is carried forward to future years so that it can be used as match-funding against a future grant application.
- 3.5 The main principles of a Heat Offtake Agreement have been agreed between ACC, the EfW operating company (Indaver) and the EfW lead company (Acciona). It is proposed that the full Heat Offtake Agreement will be signed in

late 2020, so as to secure the future heat supply to this Network from the EfW plant (in early 2023).

- 3.6 Should the recommendations in this report be approved, work will continue/commence on a number of workstreams:
- 3.6.1 The supply, construction and installation of the network infrastructure is to be contracted out. The works will be procured in accordance with the Council's Procurement Regulations.
  - 3.6.2 The construction and installation of the infrastructure proposed will require legal consent from Network Rail for the proposed District Heating pipe infrastructure to pass underneath the Aberdeen-Dundee railway line. Legally compliant scheme decisions will also be required from joint property owners of tenement properties. Both forms of legal agreement will need to include a right to access the new district heating network for maintenance purposes.
  - 3.6.3 Obtaining road closure consents and planning permission.
  - 3.6.4 Obtaining coordination assistance of the utility suppliers, who have services running in the vicinity of the proposed district heating network infrastructure.
  - 3.6.5 Reviewing terms of the supply of heat from the district heating network to the public buildings to be connected to the district heating network.
  - 3.6.6 Engaging an operator of this extended district heating network and agree the legal and commercial terms for the running, maintenance, and billing of this extended network on the Council's behalf. The business case demonstrating how the Council is to achieve best value for this operating contract is to be developed and approved by Officers under existing delegated powers, prior to a legal agreement for the new operating contract being entered into.

The operator of the existing heat network in Torry is Aberdeen Heat and Power.

- 3.6.7 Reviewing agreements already in place for heat supply on the Balnagask Community heating network are to establish if any of those agreements would need to be varied to reflect the new source of heat (from EfW rather than the current position utilising gas boilers) and how that can be achieved.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 The financial implications relating to this report are outlined in an exempt appendix attached to this report.

#### **5. LEGAL IMPLICATIONS**

- 5.1 The construction of the EfW facility is being funded by Aberdeen City Council, Aberdeenshire Council and Moray Council, and the facility will be processing

residual waste from all three authorities. For the facility to be allowed to operate, the EfW Contractor must obtain and maintain a permit which meets SEPA's permit conditions. The permit has yet to be issued, but the Thermal Treatment of Waste Guidelines 2014 ("TTG") set out that the EfW lead contractor (Acciona) shall be required to work towards the facility achieving a specified level of energy efficiency within 5-7 years of commissioning of the facility by implementing its heat and power plan submitted with its permit application. The delivery of heat to the proposed district heating network in Torry features in the EfW Contractor's current heat and power plan.

- 5.2 It is acknowledged in the TTG that heat and power plans may fail due to external factors, such as the withdrawal or delay of a 3<sup>rd</sup> party, and in these circumstances SEPA would work with the EfW lead contractor (Acciona) to revise its heat and power plan. The Council is, accordingly, under no contractual obligation to deliver the district heating network.
- 5.3 The proposed investment by the 'state' (Aberdeen City Council) to create a heat network is considered to be a low State Aid compliance risk due to the clear compliance with Scottish, UK and EU policy with regard to the creation of low carbon heat networks. Legal advice has been obtained on this and the proposals have been designed to ensure that this risk remains low.
- 5.4 These proposals have been developed in a manner which takes into account current and proposed regulations for the suppliers of heat:
  - 5.4.1 The proposed design will be compliant with the requirements of the recently introduced Medium Combustion Plant Directive, with regard to the back-up boilers provided as part of this project.
  - 5.4.2 Consideration has also been given to the impact of foreseeable possible future legislation. The Scottish Government, in its second consultation (Nov 2017) on Local Heat and Energy Efficiency Strategies proposed a licencing system covering consumer protection. This proposal is based on advantageous pricing for domestic consumers and has allowed for membership of the Heat Trust; the latter setting out best practice standards for consumer protection. It is understood that this will ensure the Torry Heat Network meets, or exceeds, these potential heat network regulations, currently at Stage 1 of Scottish Parliament legislation
- 5.5 There is no other relevant legislation, foreseen at present, that needs to be accounted for.

## 6. MANAGEMENT OF RISK

Category	Risk	Low (L) Medium (M) High (H)	Mitigation
<b>Strategic Risk</b>	Potential for non-delivery of Heat Network project, which would negatively impact on the development of a Low Carbon regional economy	L	Proposals have been prepared, which deliver on this strategic requirement.
<b>Compliance</b>	<p>Non-compliance with State Aid rules</p> <p>Delay in securing legal rights to lay the Heat Network infrastructure over jointly owned property (including a right of access for operation and maintenance)</p> <p>Compliance with future Heat Network Regulations</p>	<p>L</p> <p>M</p> <p>L</p>	<p>External legal advice has been obtained and is to be followed.</p> <p>A significant programme allowance has been allowed against this risk, in this Report</p> <p>The specification and financial model allow for the additional costs that may arise from the legislation currently being considered by the Scottish Parliament</p>
<b>Operational</b>	<p>The EfW plant becoming operational later than programmed.</p> <p>An operator cannot be found to operate and maintain the district heating network.</p>	<p>L</p> <p>L</p>	<p>It is proposed that the number of houses that are connected to this network are restricted, within this proposed phase, until the EfW plant is fully operational.</p> <p>It is intended that an operations contractor will be appointed prior to the acceptance of the tender for these installation works.</p>

<b>Financial</b>	UK exit from the EU may result in inflated costs of the required equipment	L	A contingency sum has been allowed for (in this Report) so as to manage this risk
	The bids received for the Construction and installation of the network are in excess of the reported budget costs.	M	A contingency sum has been allowed for (in this Report) so as to manage this risk. In the event that all bids come in over budget, a range of options would be presented to Council for consideration.
	Revenue costs requiring further ACC funding	L	This network will generate income which will contribute towards its running and eventual replacement costs. This network will, however, have to be further extended for revenue independence to be secured.
<b>Reputational</b>	Potential for non-delivery of Heat Network project	L	Proposals have been prepared, which deliver on this core requirement.
	Potential for cost of heat not to be lower than the alternatives	L	Proposals have been prepared, which deliver on the core requirement of providing lower heating costs to the tenants of social housing.
<b>Environment / Climate</b>	Non-delivery of this project will have a significantly adverse impact on the City's carbon emissions.	L	Proposals have been prepared, which deliver on the core requirement of reducing the City's carbon emissions.

## 7. OUTCOMES

<u>COUNCIL DELIVERY PLAN</u>	
<b>Impact of Report</b>	
<b>Aberdeen City Council Policy Statement</b>	<p>This project will contribute towards:</p> <ul style="list-style-type: none"> <li>- maximising community benefit from major developments</li> <li>- the development of the non-oil and gas economic potential of the city.</li> </ul>
<b>Aberdeen City Local Outcome Improvement Plan</b>	
Prosperous Economy Stretch Outcomes	The construction programme for this heating project will support the local economy, employment and training during a period of relatively subdued construction activity.
Prosperous People Stretch Outcomes	The Council is committed to improving the key life outcomes of all people in Aberdeen City. The availability of affordable heating contributes to this objective by providing choice and opportunities which would otherwise not be available
Prosperous Place Stretch Outcomes	The Council is committed to ensuring that Aberdeen is a welcoming place to invest, live and visit and operate to the highest environmental standards. The availability of low cost, low carbon heating contributes to this objective.

## 8. IMPACT ASSESSMENTS

<b>Assessment</b>	<b>Outcome</b>
<b>Impact Assessment</b>	Not required for this report. This will, however, be relevant to the future operating business case
<b>Data Protection Impact Assessment</b>	Not required for this report. This will, however, be relevant to the future operating business case

## 9. BACKGROUND PAPERS

- 9.1 Special Council meeting on 24<sup>th</sup> October 2016, decisions
- 9.2 Communities, Housing and Infrastructure Committee on 24<sup>th</sup> January 2017, report
- 9.3 Communities, Housing and Infrastructure Committee on 24<sup>th</sup> May 2017, report
- 9.4 Council, 4<sup>th</sup> March 2019, report Joint Energy from Waste Project Contract Award
- 9.5 General Services Capital budget 2020, approved 3<sup>rd</sup> March 2020.

The Heat Network budget is listed under “Projects with indicative budgets” on page 3.

- 9.6 Housing Revenue Account budget 2020, approved 3<sup>rd</sup> March 2020.

The Torry Heat Network aspects fall under section 3.3 on page 22 of the appendix.

## 10. EXEMPT & CONFIDENTIAL APPENDICES

- 10.1 Financial Implications
- 10.2 “Torry Heat Network, Outline Business Case - Detailed Appraisal”, WSP, May 2020.
- 10.3 Heat Off-take Agreement between the Council and EfW Operator, Principles

## 11. REPORT AUTHOR CONTACT DETAILS

<b>Name</b>	Bill Watson
<b>Title</b>	Principal Architect
<b>Email Address</b>	<a href="mailto:williamwatson@aberdeencity.gov.uk">williamwatson@aberdeencity.gov.uk</a>
<b>Tel</b>	07801 129455