

## ABERDEEN CITY COUNCIL

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<b>COMMITTEE</b>	Council
<b>DATE</b>	17 April 2024
<b>EXEMPT</b>	No Appendix 2 contains exempt information as described in paragraph 8 of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973, enacted by the Local Government (Access to Information) Act 1985.
<b>CONFIDENTIAL</b>	No
<b>REPORT TITLE</b>	Aberdeen South Harbour Link Road – Compulsory Purchase Order
<b>REPORT NUMBER</b>	CR&E/24/108
<b>DIRECTOR</b>	Gale Beattie
<b>CHIEF OFFICER</b>	John Wilson
<b>REPORT AUTHOR</b>	Ross Stevenson
<b>TERMS OF REFERENCE</b>	6

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### 1. PURPOSE OF REPORT

- 1.1 This report updates Council on the progression of the Aberdeen South Harbour Link Road and the approval of the Outline Business Case by the Aberdeen City Region Deal Joint Committee of 9 February 2024.
- 1.2 This report requests that the Council approve the recommendation to make the Compulsory Purchase Order (CPO) to facilitate the Aberdeen South Harbour Link Road.

### 2. RECOMMENDATIONS

That Council:-

- 2.1 notes the Design Manual for Roads and Bridges Stage 3 Scheme Assessment report, appendix 1;
- 2.2 notes the approved Outline Business Case for the Aberdeen South Harbour Link Road, exempt appendix 2: and
- 2.3 resolves to make a Compulsory Purchase Order in respect of the land identified in the CPO Map (comprising 5 sheets) contained in Appendix 3 and instructs the Chief Officer - Governance to implement the statutory procedures following on from the making of the Order and continue to pursue voluntary acquisition in parallel with the compulsory purchase process.

### **3. CURRENT SITUATION**

- 3.1 At its meeting of 25 August 2021 (report number COM/21/174) the City Growth and Resources Committee considered the External Transportation Links to Aberdeen South Harbour (ETLASH) Updated Strategic Business Case (SBC) and resolved:-

“Subject to approval by the UK and Scottish Governments, instruct the Chief Officer - Capital to progress the next stages of project delivery, including but not limited to, surveys and investigations, design development, obtaining all necessary approvals, permissions, licences, agreements and consents required to develop the design and an Outline Business Case for the project and to report back to this Committee and the City Region Deal Joint Committee upon completion in 2024, and to provide an update if not completed by that time”

- 3.2 Following approval from both the UK and Scottish Governments the preferred road and active travel corridor, upgraded Coast Road and Hareness Road, was progressed as the Aberdeen South Harbour Link Road (ASHLR) project. The Department for Transport (DfT), Design Manual for Roads and Bridges (DMRB), Stage 2 Route Option Assessment process identified a preferred route option within the corridor.
- 3.3 The DMRB Stage 2 preferred route option was then subject to DMRB Stage 3 Scheme Assessment, where the advantages and disadvantages, in environmental, engineering, economic and traffic terms were assessed. A copy of the DMRB Stage 3 Scheme Assessment is included within appendix 1.
- 3.4 An Outline Business Case (OBC) (Appendix 2) has been prepared which sets out the case for the ASHLR intervention. The OBC has been developed in line with relevant Scottish Transport Appraisal Guidance (STAG) and DfT Transport Analysis Guidance (TAG). The OBC summarises the rationale, objectives, scope, and expected outcomes of the project, as well as the estimated costs, benefits, risks, and delivery options of the project.
- 3.5 The OBC consists of six components: executive summary, strategic case, economic case, financial case, commercial case, and management case, a copy of which is included in exempt appendix 2. The OBC was approved by the Aberdeen City Region Deal Joint Committee of 9 February 2024, and has since been submitted to both Scottish and UK Governments to enable progression to the detailed design and implementation of the project, following the conclusion of the DMRB Stages 2 and 3.
- 3.6 Whilst the OBC is being considered by both Governments the planning application, detailed design, road and traffic orders for the scheme continue to progress.

#### **Land acquisition.**

- 3.7 The land required for the scheme has been identified as part of the DMRB Stage 3 and the detailed design of the Project. Aberdeen City Council owns

most of this land however it is necessary to acquire third party land in order to deliver the scheme. The extent of additional land to be acquired has been minimised as far as possible. 23 number of plots have been identified for permanent acquisition, 2 number of plots have been identified for permanent servitude rights, and a further 11 number of plots have been identified as being necessary on a temporary basis for working space during the construction of the project.

- 3.8 The Council needs to control these plots to progress the Project. Due to the total number of plots, it is unlikely that voluntary acquisition will be possible for all. As a result, compulsory acquisition of plots is considered reasonable and proportionate to ensure that they can be acquired and within an appropriate timescale.
- 3.9 In 20 further instances the compulsory purchase process is intended to be used for the extinguishment of third-party rights over areas of land currently owned by the Council and required for the Project. This will ensure that there are no title restrictions or gaps between this land and adjoining plots and that there is sufficient working space to undertake project works. Accordingly, it is proposed that this land (or rights in land) will also be included in the CPO.
- 3.10 The 56 plots of land are shown coloured pink 23 plots, blue 2 plots, green 11 plots and purple 20 plots on the CPO Map (comprising 5 sheets) in Appendix 3. The plots include an agricultural outbuilding however do not include any residential or commercial buildings.
- 3.11 Officers will continue to seek voluntary acquisition alongside a CPO process in line with Scottish Government guidance. The District Valuer (Valuation Office Agency) has been instructed to negotiate terms with each of the affected parties. However, considering the above and given the importance of the Project; to ensure programme slippage does not detrimentally impact on the timescales for delivery of this major infrastructure investment it is now appropriate to commence the compulsory purchase process through the making of a CPO to acquire control over all of the necessary land. Additionally, progressing the CPO now should allow timing of the Project works to proceed in line with expectations, within the period of the Aberdeen City Region Deal, ending 2027.
- 3.12 There are special rules which apply to the compulsory purchase of particular categories of land, including land owned by the Crown; statutory undertakers' land and open space. The CPO plots include land within each of these categories. It is proposed that land or rights in land to be acquired from the Crown and Network Rail will be dealt with through negotiation. The open space land which is needed for the Project will be replaced by equivalent land to be used as open space and the Scottish Ministers will be asked to certify that the proposed exchange of land is acceptable.
- 3.12 Given the compelling reasons for progressing the Project, which are set out within the OBC, it is considered on balance that the public interest outweighs that of the individuals or businesses affected. A human rights impact assessment has been carried out as part of the Integrated Impact Assessment

It is acknowledged that affected parties would be deprived of their land or rights in land however they will be compensated in line with the statutory framework and appropriate accommodation works will be offered where possible. The interference with affected parties' rights is therefore considered proportionate.

- 3.13 Prior to the CPO being made, fresh title searches will be carried out and other enquiries made so that the schedules are up to date with the most accurate information that is available at that time. Based on current records, it is estimated that there are approximately 25 individuals and companies that will require to be notified.

### **Preparation of the CPO**

- 3.14 Work to prepare the CPO has been undertaken with input from in-house Estates and Legal teams supported by external resources.
- 3.15 Technical advisors continue to progress the detailed design of the Project and have defined the land required to construct the Project. The land to be acquired has been minimised as far as possible. Alongside the Council's permitted development rights as Roads Authority the Project requires the successful conclusion of a Planning Application. The Planning Application is considered to have reasonable prospects of success based on the work undertaken as part of the OBC and DMRB Stage 3 Scheme Assessment.
- 3.16 It is anticipated that the detailed design of the Project will evolve over the coming months, however, the final Project works will be accommodated within the land that is currently under Aberdeen City Council ownership / control as well as that acquired as part of the CPO.

### **Process & Timescales**

- 3.17 If the Council approves the recommendations contained in this report, the CPO will be promoted in accordance with the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 by the Council as the Roads Authority to compulsorily acquire land and rights in land for the purpose of carrying out construction and improvement of a public road. It is considered that the powers under the Roads (Scotland) Act 1984 (sections 103, 104, 106 & 110) are the relevant powers to use to secure the necessary rights for the Project. There are no other more specific or appropriate powers which ought to be used. The CPO will be made, advertised and served on all relevant parties. It is proposed that service of the CPO will likely be carried out by the end of Spring 2024.
- 3.18 Following notice being served, the CPO will be sent to Scottish Ministers for confirmation. The process allows for objections to be made to the CPO and the objection period must be a minimum of 21 days. Any objections are required to be sent to the Scottish Ministers in writing. Should Scottish Ministers receive objections they will contact the Council to ask if the objection can be resolved and subsequently withdrawn.
- 3.19 Should objections from owners, tenants, occupiers or title burden holders be maintained the Scottish Ministers will arrange for a Public Local Inquiry (PLI) to

be held. If a PLI were to be held, Scottish Ministers will appoint an Independent Reporter who will consider the case being made by the Council and any objectors. On completion of the PLI the Reporter will submit a report to Scottish Ministers making a recommendation on whether or not the CPO should be confirmed. Scottish Ministers will then consider the report and make a final decision on whether or not to confirm the CPO.

- 3.20 There are no set time scales for these processes but they typically take between 12-18 months from the making of a CPO to decision by the Scottish Ministers.
- 3.21 If the CPO is confirmed and following any vesting of land acquired there are likely to be claims arising from landowners and other affected parties based on the land compensation legislation which may take several years after completion of the Project to settle. The claims may be referred to the Lands Tribunal for determination if a negotiated settlement is not possible.

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

- 4.1 The project's funding was approved as part of the Aberdeen City Region Deal by both Councils on 17 August 2016 and by the UK and Scottish Governments on 21 November 2016. Within the Aberdeen CRD, £25m has been allocated from the UK Government (£12.5m) and Scottish Government (£12.5m) for the transport infrastructure to support the harbour expansion.
- 4.2 The OBC Financial Case Capital Outturn Cost estimate, including Inflation and Risk, is now £23.05 million, £0.45 million over the available funding when removing the £2.4 million sunk costs from the £25million budget. It should be noted that the overrun currently projected is as a result of the risk profiling and not based on the capital works estimate. This figure will be refined as the project progresses through detailed design towards Full Business Case.
- 4.3 The OBC has been prepared on the basis that the shortfall of funding can be met by funds within the Aberdeen City Region Deal, specifically from funds reallocated from the Strategic Transport Appraisal element. Notwithstanding this, it is desirable to continue investigating alternative funding opportunities for elements of the project, to maximise the use of ACRD funds.

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

- 5.1 An outline of the CPO process and timescales is contained within sections 3.17 - 3.21 above.

#### **6. ENVIRONMENTAL IMPLICATIONS**

- 6.1 The Environmental Implications are detailed within the DMRB Stage 3 Scheme Assessment and the OBC Environmental Assessment Report (EAR).
- 6.2 For Sustainable Drainage Systems (SuDS) the EAR details that with a drainage strategy which contains at least one level of SuDS in the design, there would be no increase in surface water flooding within the preferred corridor, and there is anticipated to be a betterment in the quality of road drainage outfalling to the

coast, compared to the existing road drainage arrangements. Any potential for untreated road drainage adversely impacting on sensitive coastal ecological designations would also be reduced.

- 6.3 The following ecological constraints are being considered and, where appropriate, will be mitigated for: statutory and non-statutory designated sites; breeding birds; bats; badger; otter; and invasive species. Mitigation measures to avoid or minimise impacts on these sensitive receptors, including preconstruction surveys are being considered.
- 6.4 Opportunities exist for the provision of ecological enhancements in the form of bird and bat boxes, wetland habitat improvement, SuDS, and the use of certain species in the planting proposals. These include native species, species which provide nectar sources for pollinators, berry-bearing species, and species which flower at differing times.
- 6.5 In landscape terms, this area of coastline has numerous industrial influences, including the railway line, Aberdeen South Harbour, Altens Industrial Estate and the existing Coast Road itself. The scheme would be in character with the existing infrastructure and would largely follow the alignment of the existing road. There would be some loss of vegetation due to the footprint of the scheme, but this could be mitigated by a replacement planting scheme to be developed at future project stages.
- 6.6 In terms of visual amenity, the road widening and realignment would lead to increased traffic volumes, and the proposed railway bridge would be larger in scale and more prominent than the existing bridge. However, these scheme elements would be viewed in the context of the existing road corridor. Some mitigation planting in the form of hedgerows could help soften the appearance of the road corridor in the landscape.
- 6.7 The scheme has the potential to intersect known landfills and other areas of potential land contamination.
- 6.8 A Design Manual for Roads and Bridges Carbon Appraisal assessing the whole life carbon of the design options was undertaken as part of the Stage 2 Route Options Assessment and incorporated into the Outline Business Case. A further Stage 3 Carbon Assessment was undertaken on the design at Stage 3, this identified scheme Earthworks as the largest contributor to Transport emissions. A value engineering exercise reduced the estimated carbon emission by 1,249 tonnes of carbon dioxide equivalent. During the detailed design further efforts will be made to reduce the identified capital carbon hotspots.

## 7. RISK

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H)  *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
<b>Strategic Risk</b>	Until land required for the Project is secured it cannot proceed to construction. The Project is part of the Aberdeen City Region Deal and intended to maximise the economic impacts of the Aberdeen South Harbour and the associated Energy Transition Zone development.	The making of a CPO will provide greater certainty that required land will be acquired outright and within an appropriate timescale.	H	<b>Yes</b>
<b>Compliance</b>	The CPO may not be confirmed if a suitably robust case is not made.	This will be mitigated by the preparation of reports and supporting documents that will inform the process.	L	<b>Yes</b>
<b>Operational</b>	There is a risk of objections from customers and citizens particularly from those directly affected by the Project and/or the compulsory purchase process.  There is a risk associated with not providing an improved transport network which does not reflect the needs of the	This will be mitigated by continued dialogue with those affected by the proposals and presentation of a strong case in response. Compensation will also be payable under the statutory rules to affected landowners and other property interests.	H  H	<b>Yes</b>

	<p>economy and society.</p> <p>The need for and duration of a PLI is a matter for Scottish Ministers and their appointed Reporter in accordance with statute. This will depend upon whether or not objections from landowners or other affected land interests are raised during the CPO process.</p>	<p>This will be mitigated by progressing the Project.</p> <p>This will be mitigated by continued dialogue with those affected by the proposals. However, it may not be possible to negotiate withdrawal of all objections to the proposals.</p>	H	
<b>Financial</b>	<p>The costs associated with the CPO process may have a potential impact on the budget.</p> <p>The Council is not in control of the requirement for a PLI, the timing or the length of time the CPO process may take.</p> <p>The compensation values as agreed or determined by the Lands Tribunal in due course may exceed the estimate and that of the budget set aside for the acquisition.</p>	<p>The potential impact will be managed through the ongoing assessment of risks and cost monitoring.</p> <p>The potential impact will be managed through the ongoing assessment of risks, objector management and programme monitoring.</p> <p>Given the nature of the plots included within the CPO the level of variance is likely to be low and will be managed through ongoing cost monitoring.</p>	M  M  L	<b>Yes</b>
<b>Reputational</b>	<p>There is a risk that Aberdeen City Council will experience</p>	<p>This will be mitigated by progressing the Project.</p>	H	<b>Yes</b>

	<p>reputational damage from supporters of the Project and the Aberdeen City Region Deal if it does not proceed.</p> <p>There is a risk that Aberdeen City Council will experience reputational damage from objectors to the Project if it proceeds.</p>	<p>This will be mitigated by trying to address issues raised by objectors but this may not be achievable in all instances.</p>	M	
<b>Environment / Climate</b>	<p>The Proposed Development does not differ markedly to the existing site in terms of its context and scale, generally limited to changes to the road alignment along Coast Road</p>	<p>Impacts are likely to be acceptable against the relevant standards and commensurate wider area improvements.</p>	L	<b>Yes</b>

## 8. OUTCOMES

<u><a href="#">COUNCIL DELIVERY PLAN 2023-2024</a></u>	
<b>Impact of Report</b>	
<p><b>Aberdeen City Council Policy Statement</b></p> <p><u><a href="#">Working in Partnership for Aberdeen</a></u></p>	<p>The proposal within this report supports the delivery of the following aspects of the policy statement:-</p> <p>Greener Transport, Safer Streets, Real Choices</p> <ul style="list-style-type: none"> <li>- Working with partners to improve the infrastructure supporting access to the Harbour expansion at the Bay of Nigg.</li> <li>- Improving cycle and active transport infrastructure, including by seeking to integrate safe, physically segregated cycle lanes in new road building projects and taking steps to ensure any proposal for resurfacing or other long-term investments consider</li> </ul>

	<p>options to improve cycle and active transport infrastructure.</p> <ul style="list-style-type: none"> <li>- Making a real and continued investment in Aberdeen's roads and pavements with the objective of resurfacing and improving an average of at least 40km of roads and 40km of pavements a year from 2023/24 for at least ten years so that by 2032 at least 80% of roads and pavements are in good condition.</li> </ul> <p>A Prosperous City</p> <ul style="list-style-type: none"> <li>- Work with partners to stimulate sustainable economic development, including a managed transition to a carbon neutral economy and work in partnership with the academic, business and other relevant sectors to ensure the long-term future of the energy industry.</li> </ul>
<p><a href="#">Local Outcome Improvement Plan .</a></p>	
<p>Prosperous Economy Stretch Outcomes</p>	<p>The proposals help contribute to Stretch Outcome 1: No one will suffer due to poverty by 2026 – By creating conditions where more cost effective forms of travel such as walking, wheeling and cycling are better enabled, this helps ensure that people are less reliant on expensive forms of transport to get around.</p>
<p>Prosperous People Stretch Outcomes</p>	<p>11. Healthy life expectancy (time lived in good health) is five years longer by 2026 – By supporting the creation of conditions where more cost effective forms of travel such as walking, wheeling and cycling are better enabled, this helps ensure that young people are more able to access education and have more opportunities to keep body and mind healthy while doing so.</p>
<p>Prosperous Place Stretch Outcomes</p>	<p>The proposals will help to contribute to the following stretch outcomes:-</p> <p>13. Addressing climate change by reducing Aberdeen's carbon emissions by at least 61% by 2026 and adapting to the impacts of our changing climate - The proposals support a reduction in the need to travel unsustainably, as well as encouraging active and zero emission travel.</p> <p>14. Increase sustainable travel: 38% of people walking and 5% of people cycling as main mode of travel by 2026 - The proposals support and enable mode shift, walking, wheeling and cycling proposals and the importance of planning in accordance with the National Sustainable Transport Hierarchy.</p>

<p><b>Regional and City Strategies</b></p>	<p>The project is an Aberdeen City Region Deal project., the Strategic Case within the Outline Business Case appended outlines how the project supports Regional and City Strategies, including but not limited to NESTRANS Freight Action Plan, Nestrans Active Travel Action Plan (2014), Aberdeen City and Aberdeenshire Regional Economic Strategy (2015), Aberdeen City Region Deal (ACRD) (2016), Regional Transport Strategy (RTS:2040) (2021), Economic Impact of Aberdeen Harbour Nigg Bay Development – BiGGAR Economics (2013), Aberdeen Strategic Infrastructure Plan (2014), Bay Of Nigg Development Framework (2015), Aberdeen Local Transport Strategy (2016-2021), Aberdeen Roads Hierarchy Study (2019), Sustainable Urban Mobility Plan (SUMP) (2019), Aberdeen Strategic Infrastructure Plan – Energy Transition (2020), Aberdeen Local Development Plan (2023), Aberdeen Active Travel Action Plan (ATAP) (2021-2026)</p>
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## 9. IMPACT ASSESSMENTS

Assessment	Outcome
<p><b>Integrated Impact Assessment</b></p>	<p>New Integrated Impact Assessment has been completed  I confirm this has been discussed and agreed with John Wilson, Chief Officer Capital on 05/04/24</p>
<p><b>Data Protection Impact Assessment</b></p>	<p>Not required</p>
<p><b>Other</b></p>	<p>NA</p>

## 10. BACKGROUND PAPERS

- 10.1 COM/21/174 - City Growth and Resources - External Transportation Links to Aberdeen South Harbour – Updated Strategic Business Case – 25 August 2021
- 10.2 Compulsory purchase in Scotland; A guide for property owners and occupiers <https://www.gov.scot/publications/compulsory-purchase-scotland-guide-property-owners-occupiers/>

## 11. APPENDICES

Appendix 1 – Design Manual for Roads and Bridges Stage 3 Scheme Assessment  
Appendix 2 – Outline Business Case (EXEMPT)  
Appendix 3 – CPO Mapping (comprising 5 sheets)

## 12. REPORT AUTHOR CONTACT DETAILS

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