



**TRANSPORT
SCOTLAND**
CÒMHDHAIL ALBA

Environmental Impact Assessment Record of Decision

M9 Winchburgh Junction 1B

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I. Notice of Decision under Paragraph 7 of Schedule I of the Roads (Scotland) Act 1984

The Scottish Ministers give notice that they have decided to proceed with the project to construct a new junction on the M9 at Winchburgh. Accordingly, the following will be made by the Scottish Ministers on 17th November 2021 -

1. The M9/A9 Trunk Road (Winchburgh Junction 1B At The B8020) Special Road Scheme 2021
2. The M9/A9 Trunk Road (Winchburgh Junction 1B At The B8020) (Special Road) (Side Roads) Order 2021
3. The M9/A9 Trunk Road (Winchburgh Junction 1B At The B8020) (Extinguishment Of Public Rights Of Way) Order 2021

An environmental impact assessment (EIA) has been made for this project.

The Scottish Ministers have taken into consideration –

(a) the Environmental Impact Assessment Report (EIAR) into this project published on 20 August 2020,

(b) the opinion on the EIAR or the project expressed by –

- West Lothian Council
- Scottish Water
- NatureScot (formally Scottish Natural Heritage);
- Scottish Environment Protection Agency (SEPA); and
- Historic Environment Scotland (HES)

The above also provided consultation comments during the EIA scoping and consultation process, prior to publication of the EIAR.

a. Environmental Impact Assessment Report

The project is located at the approximately 1km north of the village of Winchburgh in West Lothian. The project would incorporate:

- Construction of four new grade separated slip roads providing access to all directions of the M9;
- Construction of two new roundabouts on the B8020 and realignment of the current local authority road;

- Construction of maintenance access tracks and Sustainable Urban Drainage System (SuDS) detention basins; and
- Construction of ancillary highway elements including drainage, traffic signs, motorway communications and road restraint systems.

The need for the junction is associated with the development masterplan of Winchburgh village which has a planning condition to ensure a new junction is constructed on the M9 prior to 1000 new houses being constructed within the village. This will ensure that the increased traffic generated from the Winchburgh development can be distributed onto the local and national road network efficiently.

Transport Scotland's key objectives for the project are as follows:

- to minimise construction impacts on users of the road network;
- to minimise adverse impacts on environmental receptors; and
- to improve journey time reliability of the trunk road network.

The Scottish Ministers determined that the project is a relevant project within the meaning of section 55A of the Roads (Scotland) Act 1984, and falls within Annex I of Council Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment and that the project requires an EIA. The Notice of Determination was published by Transport Scotland on 27 August 2020.

In accordance with the Roads (Scotland) Act 1984 an [EIAR](#) was published on 20 August 2020.

EIAR Chapter 10 (Schedule of Mitigation and Residual Effects) outlines any significant residual effects that have been identified due to construction and operation of the proposed scheme. Residual effects comprise those which remain significant after incorporating the mitigation measures as provided in Chapter 4 to 9 of the EIAR. In the EIAR, all residual effects identified are generally defined as significant when they are assessed to be of moderate or greater in significance. Within the EIAR, significant and non-significant residual effects are identified according to the methodology provided for each environmental topic within Chapters 4 to 9. The assessment of environmental parameters reported in the EIAR found that there are no significant adverse residual effects, other than the visual impact of the junction, to the following topics as a result of the proposed scheme:

- Landscape and Visual (Chapter 4);
- Cultural Heritage and Archaeology (Chapter 5)
- Road Drainage and the Water Environment (Chapter 6);
- Ecology and Nature Ecology (Chapter 7);

- Air Quality (Chapter 8);
- Noise (Chapter 9);

The landscape and visual assessment in Chapter 4 (Landscape and Visual) has found that with proposed mitigation, the overall residual effect on the visual impact of the junction, has been assessed to be of moderate adverse significance during construction and short term, however, for a medium and long term period, the effect is considered minor and not significant as the mitigation provided through the landscape proposals become incorporated.

No other significant adverse effects are predicted in the EIAR as a result of the proposed scheme.

The construction of the Winchburgh junction requires planning permission which was granted by West Lothian Council on 13 January 2021. The project will also be carried out in accordance with the conditions of the planning consent.

b. Consultation

A summary of consultation responses received following publication of the EIAR, and how these have been considered, is provided below. There are no outstanding statutory objections to the EIAR.

i. West Lothian Council

West Lothian Council provided a response to the EIAR relating to both their transportation and planning departments. West Lothian Council transportation department had no objection to the EIAR and agreed with the assessment methodology relating to construction traffic in email correspondence on 13 and 27 July 2018.

West Lothian Council planning department provided comments relating the provision of more information relating to Human Health and Wellbeing and Pedestrians and Others within the EIAR via email correspondence between 2 August 2018 and 12 December 2018. They also requested additional viewpoints from the north of the junction be included under the Landscape and Visual Impact Assessment (LVIA) and adding Duntarvie Castle within the noise receptor assessment.

Transport Scotland responded to West Lothian Councils comments. A summary of Transport Scotland's response is provided below:

Viewpoints (Landscape and Visual Impact Assessment (LVIA)):

The Promoter undertook a full review of the scoping viewpoints as suggested by West Lothian Council as well as additional views where it was considered there was potential for significant effects and prepared a list of final viewpoints. Fieldwork was undertaken to verify the views and therefore there are a number which have been replaced to ensure the most suitable locations were selected for assessment. Table TA1.2.2 of Technical Appendix 1.2: EIA Scoping Responses presented the rationale for viewpoint selections or rejection. The LVIA has also included a written discussion on views from nearby settlements, roads, and public recreation areas, and will assess impacts on views from the area surrounding the proposed development. Further information is presented in Chapter 4: Landscape and Visual Impact Assessment in Volume 2.

Noise:

The Promoter undertook noise assessments on the following (Noise Sensitive Receptors) NSRs: The Myre Farm, Niddry Mains House, and Duntarvie Castle. The Promoters noise assessment was based upon updated traffic flows at the proposed M9 motorway junction, flowing south/north on the B8020 and east/west on the M9 motorway in light of the completed and operational Winchburgh Masterplan. The most recent noise assessment concluded that Niddry Mains House would experience a significant noise level increase due to a tenfold increase in traffic flow following opening of the proposed junction. However, this significance was based upon a scenario where all future traffic (i.e., with the junction built and operational) will follow the existing alignment of the B8020 road, which runs directly past Niddry Mains House. However, this does not represent a realistic scenario of the Winchburgh Masterplan as the M9 junction will not be built/operational without the rest of the Winchburgh Masterplan being implemented.

ii. Historic Environment Scotland

Historic Environment Scotland (HES) provided a response to the EIAR in an email dated 27 July 2018. HES did not raise any objection to the EIAR. HES noted that the nearby Duntarvie Castle is a Scheduled Monument and Category A listed building and that they agreed with the EIAR methodology to restrict EIA assessment to the potential impacts on the setting of the castle.

Transport Scotland were not required to respond to Historic Environment Scotland as they confirmed they were content with the proposed scope of the assessment for sites within their remit, the approach to baseline data collection, prediction of environmental effects and the assessment of significance, as presented in the Scoping Report.

iii. Scottish Water

Scottish Water were consulted as part of the scoping exercise; however, they did not provide a response and it is assumed they are satisfied by the content of the EIAR.

iv. NatureScot

NatureScot provided a response to the EIAR in an email dated 1 August 2018. NatureScot confirmed they were generally in agreement with the Landscape and Visual Impact Assessment and recommended that mitigation measures included within the EIAR should be (LVIA) derived through an iterative process with results of the LVIA informing any mitigation measures. NatureScot also confirmed they were satisfied with the scope of protected species surveys adding that any required mitigation would be described within the EIAR including any licensing requirements.

Transport Scotland were not required to respond to NatureScot as they were satisfied with the scope of the EIAR.

v. Scottish Environment Protection Agency

Scottish Environment Protection Agency (SEPA) provided a response to the EIAR in an email dated 3 August 2018. SEPA provided responses on a number of aspects which related to surface water, flood risk, pollution prevention and working in the water environment. SEPA's comments related to ensuring there was no increased detrimental flood risk associated with the implementation of the new junction. SEPA also raised the need to ensure the guidance and requirements of CIRIA C697 - The SuDS Manual are implemented and that any licenses required under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) were submitted in due course.

Transport Scotland responded to SEPA's various comments as summarised below:

Flood risk: The Promoter updated the EIAR to ensure the most up to date flood modelling parameters were included in the Flood Risk Assessment (FRA). The FRA is appended in Technical Appendix 6.2 and the dialogue associated with flood risk is noted in Chapter 6: Road Drainage and the Water Environment.

Surface water drainage: The Promoter added to Section 6.7 of the EIAR, mitigation during operation, of Chapter 6: Road Drainage and the Water Environment to detail the proposed SuDS methodology using filter drains, detention basins and swales to manage and treat road run-off. This ensured the EIAR details complied with the latest SEPA and best practice information.

Pollution Prevention and Environmental Management: The Promoter included mitigation to avoid, reduce or offset predicted significant effects on the water environment is included in Section 6.7 (Mitigation) of Chapter 6: Road Drainage and Water Environment in Volume 2, and full Schedule of Mitigation within Chapter 10: Schedule of Mitigation in Volume 2. The Promoter also advised an Environmental Management Plan (EMP) will be prepared and agreed with West Lothian Council and Transport Scotland before any works start, which will provide details of how pollution prevention measures and other environmental management measures will be implemented on-site. The EMP will be a live document that the appointed Contractor will follow and update as the construction works progress.

Engineering Activities in the Water Environment: The engineering works required for the proposed development, as well as relevant information as requested, is included within the M9 Winchburgh Junction – Stage 3 Scheme Assessment Report, Part 2: Engineering and Traffic Assessment. The hydrology and flood modelling has been updated and the outputs are included in Chapter 6: Road Drainage and Water Environment in Volume 2. The inclusion of proposed SuDS is predicted to improve the quality of road runoff outfalling to the Swine Burn (see Section 6.7: Mitigation during Operation in Chapter 6: Road Drainage and Water Environment) in Volume 2 for more information.

Disruption to Wetlands Including Peatlands: Chapter 7: Ecology and Nature Conservation (Section 7.4 Baseline Conditions) in Volume 2 the Phase 1 habitat survey was carried out across the whole site by the Promoter. No wetland habitats were identified; therefore, National Vegetation Classification (NVC) surveys were not required. Similarly, no habitats were assessed to be Ground Water Dependant Terrestrial Ecosystems (GWDTEs). There are no peatlands within or in the immediate environs of the site.

c. Participation in decision making

The arrangements taken to ensure the public had the opportunity to participate in the decision-making procedures were:

The project was available for review online at [storymap](#) where the public could view plans and were provided links to the Transport Scotland project specific website.

Transport Scotland published notice of the EIAR on 27 August 2020 in the Scotsman and 28 August 2020 in the Edinburgh Gazette. The notice included the following:

- that the Scottish Ministers, as the relevant roads authority, are considering implementing the project;
- the proposed location and nature of the project;

- that the project is subject to EIA;
- that a copy of the [EIAR](#) is available for viewing on the Transport Scotland website;
- In accordance with the Coronavirus (Scotland) Act 2020, Schedule 6, Part 3 para 9, the EIAR was not available for inspection at public display locations;
- that copies of the EIAR could be obtained by emailing Transport Scotland at a charge of £350 for a hard copy or £10 for the DVD format. Requests for further information about the project could be sent to the email address M9Winchburgh@transport.gov.scot; and
- that any person wishing to make representations about the project and the EIAR, including in relation to the terrestrial or marine effects, could do so by email to Transport Scotland stating the title of the scheme and the grounds of objection and that any such notice must be received on or before 8 October 2020.
- that the Scottish Ministers will take into consideration any representations so made before deciding whether or not to proceed with the project with or without modifications.

Objections received from the public and/or other bodies with an interest in the project have been logged and responded to by Transport Scotland. A summary of the Transport Scotland responses is appended to the [Scottish Minister' decision letter](#).

2. Summary of the Environmental Information Including Consultations

As noted above in this decision, an EIAR for this project was published on 20 August 2020.

EIAR Chapter 10 (Schedule of Mitigation and Residual Effects) outlines any significant residual effects that have been identified due to construction and operation of the proposed scheme. The assessment of environmental parameters reported in the EIAR found that there are no significant adverse residual effects on any of topics as outlined previously with the exception of landscape and visual assessment. The landscape and visual assessment concluded that this would have a moderate adverse affected in the short term during the construction works, however, would be minor and not significant in the medium and long term as the landscape mitigation is implemented.

As noted above in this decision, EIAR Technical Appendix 1.1 (EIA Scoping Report) describes the consultation undertaken with consultees, relevant bodies, and organisations in relation to the environmental aspects of the proposed scheme prior to publication of the EIAR. This EIAR chapter is supported by EIAR Technical Appendix 1.2 (EIA Scoping Responses).

A summary of consultation responses received following publication of the EIAR, and how these have been considered is provided in Section 1 of this decision.

3. Other Information

As noted previously in this decision, the Scottish Ministers determined that the project is a relevant project within the meaning of section 55A of the Roads (Scotland) Act 1984, and falls within Annex I of Council Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment and that the project requires an EIA. The Notice of Determination was published by Transport Scotland on 27 August 2020.

The EIAR was published on 20 August 2020.

A separate planning application (reference 0769/MSC/20) was submitted to West Lothian Council for determination. The council approved the application on 13 January 2021.

4. Conditions to which the Decision is Subject

As noted in the Scottish Minister's decision letter, following publication of the EIAR, Transport Scotland confirmed that it will ensure all mitigation measures described in Table 10.1 and 10.2 of Chapter 10 (Schedule of Mitigation and Residual Effects) are in place throughout the design, construction, and operation phases.

The decision is also subject to the planning conditions stated in the approved application (reference 0769/MSC/20) by West Lothian Council.

5. Features of the Project and Measures to Avoid, Prevent or reduce and, if possible, offset Likely Significant Adverse Effects on the Environment

Table 10.1 of Chapter 10 (Schedule of Mitigation and Residual Effects) of the EIAR collates and summarises the environmental mitigation measures included within the design. These relate to the design, construction, and operation of the new junction.

6. Monitoring Measures

The monitoring / compliance measures for the environmental mitigation measures are summarised in EIAR Chapter 10 (Schedule of Mitigation and Residual Effects) Tables 10.1 and Table 10.2.

7. Reasoned Conclusion

The reasoned conclusion by the Scottish Ministers on the significant effects of the project on the environment, taking into account the results of the examination by the Scottish Ministers of the information presented in the EIAR and the other environmental information set out above, including in relation to consultation as set out in sections 2 and 3, is that the effects of the project proceeding on the environment will be as follows:

- The works are necessary to support the development of the Winchburgh masterplan.
- An EIA has been undertaken as set out in the EIAR and has concluded that, with mitigation and monitoring measures in place, there will be no significant adverse residual effects in the following areas as a result of the proposed works:
 - Landscape and visual;
 - Cultural heritage and archaeology
 - Road drainage and the water environment;
 - Ecology and nature;
 - Air quality;
 - Noise;
- The EIA concluded that with proposed mitigation, the overall residual effect on the surrounding landscape is of moderate adverse effect during construction, however, with the implementation of the landscape mitigation, this is considered not significant in the medium and long term.
- The mitigation and monitoring measures as set out in Sections 5, 6 and 7 of this decision will be fully implemented and incorporated into contracts, where appropriate.

The Scottish Ministers are satisfied that the reasoned conclusion is still up to date.

8. Decision

The decision of the Scottish Ministers, taking into account all of the above, is to proceed with the project to replace the piled viaduct on the M9 Winchburgh Junction 1B.

9. Right of Challenge

Any person aggrieved by The M9 Winchburgh Junction 1B who wants to question the validity of the Order, or of any provision contained therein, on the grounds that it is not within the powers of the Roads (Scotland) Act 1984 or that any requirement of that Act or of any Regulations made under that Act has not been complied with in relation to the Order, may, within six weeks of 17th November 2021 make an application as regards that validity to the Court of Session.



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