



## Report to the Scottish Ministers

# ACQUISITION OF LAND (AUTHORISATION PROCEDURE) (SCOTLAND) ACT 1947 ROADS (SCOTLAND) ACT 1984

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Report by Scott M Ferrie, a reporter appointed by the Scottish Ministers

- Case reference: CPO-340-4; ROD-340-6; ROD-340-7; EPW-340-2
- Site Address: A9 Killiecrankie to Glen Garry, Perth and Kinross
- Transport Scotland: Transport Scotland
- The orders sought:
  - A9 Trunk Road (Killiecrankie to Glen Garry) Compulsory Purchase Order 201[ ]
  - A9 Trunk Road (Killiecrankie to Glen Garry) (Trunking) Order 201[ ]
  - A9 Trunk Road (Killiecrankie to Glen Garry) (Side Roads) Order 201[ ]
  - A9 Trunk Road (Killiecrankie to Glen Garry) (Extinguishment of Public Rights of Way) Order 201[ ]
- Statutory Objections: 13
- Non-statutory Objections: 150
- Dates of inquiry sessions: 13-16 January 2020
- Dates of hearing sessions: 16 and 20-21 January 2020
- Dates of accompanied site visits: 16-17 December 2019

Date of this report and recommendation: 9 June 2022

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## Summary of Report into Compulsory Purchase Order, Trunking Order, Side Roads Order and Extinguishment of Public Rights of Way Order

### **A9 Trunk Road (Killiecrankie to Glen Garry) Compulsory Purchase Order 201[ ] A9 Trunk Road (Killiecrankie to Glen Garry) (Trunking) Order 201[ ] A9 Trunk Road (Killiecrankie to Glen Garry) (Side Roads) Order 201[ ] A9 Trunk Road (Killiecrankie to Glen Garry) (Extinguishment of Public Rights of Way) Order 201[ ]**

• Case reference	CPO-340-4; ROD-340-6; ROD-340-7; EPW-340-2
• Case type	Compulsory Purchase and related Orders
• Reporter	Scott M Ferrie
• Transport Scotland	Transport Scotland
• Statutory objections	13
• Non-statutory objections	150
• Date of the draft orders	28 November 2017
• Date case received by DPEA	12 March 2019
• Method of consideration and dates	Dates of inquiry sessions: 13-16 January 2020 Dates of hearing sessions: 16 and 20-21 January 2020 Dates of accompanied site visits: 16-17 December 2019
• Date of report	9 June 2022
• Reporter's recommendation	That the Orders be confirmed subject to modifications

### **Description of the proposed scheme**

The proposed scheme is 21.6 km in length, of which 3.6 km is through Killiecrankie Battlefield. The proposed scheme is an integral part of the wider Scottish Government commitment to upgrade the A9 between Perth and Inverness to dual carriageway by 2025.

The proposed scheme is generally located within the Cairngorms National Park and Perth and Kinross, north of Pitlochry along 21.6km of a single carriageway section of the A9, between Killiecrankie and Glen Garry. The scheme comprises widening of the A9 over two distinct sections:

- North of Killiecrankie to south of Bruar, comprising predominantly northbound widening for approximately 10.3km in the north-west direction alongside the River Garry. A fully grade separated junction will be constructed at Aldclune as well as three left in/ left out at-grade accesses; and

- South of Bruar at the Pitaldonich Underbridge to the existing dual carriageway at Dalnacardoch Wood is largely northbound widening, with some southbound widening north-west of Calvine, and then again north of Dalnamein to the northern project tie in to the existing dual carriageway. This section runs for approximately 11.3km. A fully grade separated junction will be constructed at Bruar/ Calvine as well as two left in/ left out at-grade accesses.

The proposed scheme will provide a total of ten new lay-bys between Killiecrankie and Glen Garry, consisting of five new lay-bys on both the northbound and southbound carriageways.

## **The case for Transport Scotland**

There is a need for the proposed scheme. The proposed scheme is in accordance with the relevant duties, policies and objectives of the Scottish Ministers and contributes to, and will provide overall benefits to, the delivery of those objectives.

The proposed scheme is consistent with the key aims, objectives and strategies of the relevant planning policy framework, and any conflict with local planning policy is outweighed by the overall benefits in the public interest. The environmental impacts associated with the proposed scheme have been fully and adequately assessed and significant adverse impacts mitigated where practicable. The proposed scheme will deliver overall benefits, improvements for driver safety, reduced journey times and enhanced Non-Motorised User facilities.

The land identified in the CPO is required to be acquired to deliver, maintain and operate the proposed Scheme and the CPO is necessary and justified, in the public interest. The preferred route option and junctions for the proposed scheme have been carefully assessed and justified. The objections by affected persons have been carefully considered and satisfied, where this could reasonably be achieved, in balancing the interests of objectors with the public interest. The draft Orders as a whole are necessary in the public interest to achieve delivery of the proposed scheme.

Transport Scotland has therefore demonstrated and submits that the draft Orders are lawful. The compulsory acquisition of land is justified, proportionate and in the public interest. The draft Orders should be made subject only to the modifications which are set out in the Schedule of Agreed CPO and Side Roads Order modifications.

## **Objections to the proposed scheme**

The Combined Objector Group submits that the Scottish Ministers should reject the proposals. The battlefield was not given the weighting that its nature and significance merited in the planning process. This was demonstrated by, amongst other factors, the decision to locate lay-bys within the short 3.6km stretch of new road required in Killiecrankie. The preference for northbound rather than southbound widening has not been proven by the late production of the Alternative Design. It remains the view of the Combined Objector Group that northbound widening by its closer proximity to where the fighting was concentrated is insensitive; does not comply with the spirit of policy to protect our historic battlefields; and represents a greater risk to future understanding of the battle than would be the case with southbound widening. The battlefield is a key tourism driver in Killiecrankie; that sector would suffer the effects of the proposed scheme.

A number of objections remain outstanding in regard to impacts on specific properties. These relate to impacts during operation of the scheme, but focus on impacts during the construction period; this is a particular concern of tourism sector businesses affected by the proposed scheme.

### **Reporter's conclusions**

The A9 dualling programme between Perth and Inverness is a long standing commitment of the Scottish Government. It can take considerable support from national transport and planning policy. The programme as a whole would offer considerable benefits to drivers and to the economy, businesses, local communities, travellers and tourists. Without the proposed scheme, the benefits arising from the wider dualling programme would not be fully realised.

The proposed scheme route alignment and design have been subject to robust environmental impact assessment and an iterative design process in accordance with the Environmental Impact Assessment (Scotland) (Regulations) 1999, the Design Manual for Roads and Bridges, and other relevant guidance and good practice. They have been informed by considerable consultation with statutory consultees, stakeholders and affected parties. There are no remaining objections from any of the statutory consultees.

Any scheme to widen the A9 would clearly result in a range of impacts, both beneficial and adverse. In this case those impacts have been appropriately considered and, where practicable, appropriate mitigation has been incorporated into the scheme design. The Environmental Statement accurately predicts effects and Ministers are entitled to rely on its findings in making their decision on the proposed scheme.

The decision to opt for northbound widening in the vicinity of Killiecrankie was a reasonable one. The options were appropriately assessed in accordance with the Design Manual for Roads and Bridges, and Transport Scotland has demonstrated in its evidence that none of the other options considered would have less impact overall than the proposed scheme. The current A9 alignment runs through the Killiecrankie Inventory Battlefield site. Impacts on the battlefield are unavoidable as online widening has been justified. In that regard the scheme was developed in accordance with Scottish Planning Policy and relevant guidance.

Impacts on individual properties and businesses, which are subject to remaining objections, have been reasonably assessed and appropriate mitigation has been designed into the scheme where necessary and possible.

There is a clear justification for the proposed scheme; the land identified in the compulsory purchase order is necessary to construct and operate the proposed scheme; the compulsory purchase order is justified in the public interest and the orders, taken together, are necessary to achieve the delivery of the proposed scheme.

### **Recommendations**

That the Scottish Ministers confirm the draft orders subject to the modifications to the CPO and modifications to the Side Roads Order, both proposed by Transport Scotland.

DPEA case references: CPO-340-4; ROD-340-6; ROD-340-7; EPW-340-2

The Scottish Ministers  
Edinburgh

Ministers

In accordance with my [minute appointment](#) dated 14 May 2019, I made arrangements to conduct an inquiry in connection with the proposed Orders to enable the dualling of the A9 between Killiecrankie and Glen Garry. This was required because there are statutory objections to the proposed orders, which have not been withdrawn.

A [pre-inquiry meeting](#) was held on 19 September 2019 to consider the arrangements and procedures for the inquiry. It was determined that an inquiry session would be held to take further evidence on route design and general impacts (including impacts on the Killiecrankie Battlefield); and that hearing sessions would be held to hear further evidence on: tourism impacts; House of Urrard Estate impacts; and impacts on four specific properties: Old Faskally House, Druimuan House, The Killiecrankie Hotel, and Old Manse of Blair. This report is structured accordingly.

Subsequently, Killiecrankie and Fincastle Community Council, which was to participate in the hearing session on site-specific impacts, chose instead to submit further written submissions only on that topic.

In order to facilitate preparation for and representation at the inquiry, a Combined Objector Group was formed, representing:

- Killiecrankie and Fincastle Community Council (OBJ160)
- Blair Atholl Area Tourism Association (OBJ075)
- Blair Ecosse Management Ltd/ The Old Manse of Blair (OBJ139)
- Druimuan House (OBJ006 & OBJ161)
- Henrietta Fergusson & Wordmatrix Ltd (OBJ166 & OBJ178)
- KilliecrAnkie1689 (OBJ071)
- George MacLean & Anthony Cuthbert (OBJ167)
- Sandra, Tim and Brian Parkins (OBJ020, OBJ021 and OBJ026)
- Rosemary Rattray (OBJ008)
- Soldiers of Killiecrankie (OBJ079)
- The Scottish Battlefields Trust (OBJ102).

This initiative avoided duplication of evidence and assisted greatly in the efficient running of the inquiry.

The remaining objections were to be considered on the basis of the written material already lodged. Following ongoing discussions with Transport Scotland, a number of objections have been withdrawn, some conditionally.

I held accompanied site inspections on 16-17 December 2019, and made a number of unaccompanied site inspections before, during and after the inquiry.

The inquiry session was held on 13-16 January 2020, and the hearing sessions took place on 16 January and 20-21 January 2020. Closing statements were exchanged in writing, with the final closing statement, on behalf of Transport Scotland, being lodged on 27 February 2020.

Following the exchange of closing statements, I allowed a further exchange of written submissions on matters arising from the decision of Scottish Ministers in the Tomatin to Moy and the Pitlochry to Killiecrankie A9 dualling Orders; and on Covid 19-related restrictions at the Killiecrankie Visitor Centre.

My report addresses the 163 remaining objections, including 13 statutory objections. The remaining and withdrawn objections are listed in Appendix 4 of this report. I also make brief reference to the withdrawn objections and (linked to those) to the [modifications to the CPO](#) and [modifications to the Side Roads Order](#), both proposed by Transport Scotland. I take account of all of the written material lodged by the parties. This includes the Environmental Report and other environmental information.

## Abbreviations

AADT	annual average daily traffic
COG	Combined Objector Group
CPO	Compulsory Purchase Order
CNPA	Cairngorms National Park Authority
dB	decibel
DMRB	Design Manual for Roads and Bridges
DPEA	Planning and Environmental Appeals Division
ER	Environmental Report
ESG	Environmental Steering Group
ha	hectare
HES	Historic Environment Scotland
HGV	Heavy Goods Vehicle
HS	Historic Scotland
km	kilometre
m	metre
NTS	National Trust for Scotland
PKC	Perth and Kinross Council
PKHT	Perth and Kinross Heritage Trust
PWS	private water supply
SAC	Special Area of Conservation
SEA	Strategic Environmental Assessment
SEPA	Scottish Environment Protection Agency
SNH	Scottish Natural Heritage
SSD	Stopping Sight Distance
STAG	Strategic Transport Appraisal Guidelines
SuDS	Sustainable Drainage System
TS	Transport Scotland (the promoter)
WHO	World Health Organisation



## CHAPTER 1: ROUTE DESIGN AND GENERAL IMPACTS

### Main points of the case for Transport Scotland: Route design

#### The proposed scheme

1.1 The background to the proposed Scheme, set in the wider context of the dualling of the A9 between Perth and Inverness, and a scheme description, is set out in the Statement of Reasons [CD028].

1.2 The proposed scheme is generally located within the Cairngorms National Park and Perth and Kinross, north of Pitlochry along 21.6km of a single carriageway section of the A9, between Killiecrankie and Glen Garry. The scheme comprises widening of the A9 over two distinct sections:

- North of Killiecrankie to south of Bruar, comprising predominantly northbound widening for approximately 10.3km in the north-west direction alongside the River Garry. A fully grade separated junction will be constructed at Aldclune as well as three left in/ left out at-grade accesses; and
- South of Bruar at the Pitaldonich Underbridge to the existing dual carriageway at Dalnacardoch Wood is largely northbound widening, with some southbound widening north-west of Calvine, and then again north of Dalnamein to the northern project tie in to the existing dual carriageway. This section runs for approximately 11.3km. A fully grade separated junction will be constructed at Bruar/ Calvine as well as two left in/ left out at-grade accesses.

1.3 The proposed scheme will provide a dual carriageway with two lanes of 3.65m width in each direction, minimum 2.5m verges, plus a 1m hardstrip to both the inside and outside lanes in each direction. The mainline will include a central reservation with a minimum width of 2.5m to separate northbound and southbound traffic.

1.4 There would be two new fully grade-separated junctions at Aldclune and at Bruar. At Aldclune the proposed scheme also includes provision of a new bridge for the northbound carriageway over the River Garry which will sit alongside the existing Essangal Underbridge, with that bridge retained to carry the southbound carriageway. At Pitaldonich a new bridge will carry the dual carriageway over the River Garry and the existing A9 Pitaldonich Underbridge will be utilised as a southbound merge slip road for the proposed junction at Bruar. In addition, the proposed scheme will involve the upgrading of a number of side roads and provision of new accesses to enable access to the existing road network. This will include the closure of a number of direct accesses to the A9, thereby improving safety.

1.5 The proposed scheme will provide a total of ten new lay-bys between Killiecrankie and Glen Garry, consisting of five new lay-bys on both the northbound and southbound carriageways. These lay-bys will be provided to a Type A arrangement including a segregation island with a minimum width of 1.8m to increase safety. All existing A9 lay-bys on the single carriageway section between Killiecrankie and Glen Garry will be removed.

1.6 The proposed scheme is located within close proximity to a number of environmental designations, including watercourses forming part of the River Tay Special Area of Conservation (SAC) which are crossed by the existing road, the Tulach Hill and Glen Fender Meadows SAC, the Killiecrankie Battlefield and Blair Castle Garden and Designed Landscape which are bisected by the existing road, several Sites of Special Scientific Interest (SSSI) and a Geological Conservation Review (GCR) site.

1.7 The proposed scheme supports the positive Benefit-Cost to Government Ratio (BCR) of the overall A9 Dualling Programme; as reported in the A9 Dualling Case for Investment.

1.8 The proposed scheme is an integral part of the wider Scottish Government commitment to upgrade the A9 between Perth and Inverness to dual carriageway by 2025. The Scottish Government remains committed to the dualling of the A9. In support of the proposed scheme, Transport Scotland has prepared and lodged three reports:

- A9 Dualling - Perth to Inverness - Policy Context Report [Document TS203];
- A9 Dualling - Perth to Inverness - Background to Scheme Development Report [Document TS204]; and
- A9 Dualling - Perth to Inverness - Need and Justification Report [Document TS207].

1.9 These set out local and Scottish Government policy in support of the proposed scheme, as part of the overall A9 Dualling Programme. These reports provide details of the need and justification for the programme, as well as details of the iterative manner in which the proposed scheme has been designed to enable publication of the draft Orders [Documents CD001 to CD004] and the supporting Environmental Statement [Documents CD011 to CD013].

1.10 In his recommendation to Scottish Ministers to proceed with the adjacent A9 Glen Garry to Dalwhinnie Scheme, the Reporter stated "... Support for the A9 dualling programme between Perth and Inverness is deeply embedded across national transport, economic and planning policy. I am left in no doubt that the programme as a whole would offer considerable benefits and opportunities for the full range of users of the A9 together with wider benefits for businesses and the economy....".

1.11 Since the conclusion of the inquiry, it should be noted that Scottish Ministers have issued their decisions to make the draft Orders in respect of the dualling of the A9 between Pitlochry and Killiecrankie and also between Tomatin and Moy. The reports to Ministers for both schemes express similar views regarding the support for A9 Dualling being embedded in Scottish Government Policy.

1.12 It should be noted for the current case, that the stated position of all objectors participating in the oral procedure is that they are not opposed to the dualling of the A9 between Killiecrankie and Glen Garry. It is Transport Scotland's submission that substantial and compelling evidence has been presented in respect of the need and justification for the proposed scheme, as part of the A9 Dualling Programme as a whole.

## The draft Orders

1.13 The draft Roads Orders and the draft Compulsory Purchase Order ("CPO") are as follows:

- The A9 Trunk Road (Killiecrankie to Glen Garry) Compulsory Purchase Order 201[ ] [Document CD001] ("CPO");
- The A9 Trunk Road (Killiecrankie to Glen Garry) (Trunking) Order 201[ ] [Document CD002] ("Trunking Order");
- The A9 Trunk Road (Killiecrankie to Glen Garry) (Side Roads) Order 201[ ] [Document CD003] ("Side Roads Order"); and
- The A9 Trunk Road (Killiecrankie to Glen Garry) (Extinguishment of Public Rights of Way) Order 201[ ] [Document CD004]

1.14 The draft Orders [Documents CD001 to CD004] are to be made in terms of the Roads (Scotland) Act 1984 and the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947. The draft Orders and associated Environmental Statement ("ES") [Documents CD011 to CD013] were published on 28 November 2017.

1.15 A total of 183 objections were received by Transport Scotland following publication of the draft Orders and ES. Following discussions with objectors, and refinements to the proposed scheme, a number of objections were withdrawn (notably Historic Environment Scotland (HES), Cairngorms National Park Authority (CNPA), Perth and Kinross Council (PKC) and Network Rail) so that 164 objections remained extant by the commencement of the inquiry. Discussions with such objectors have led to some limited agreed modifications to the draft CPO and Side Roads Order.

1.16 To that end, Transport Scotland relies on the Schedule of Agreed CPO Modifications and modified Side Roads Order and requests that the draft Orders should be made, as modified only in accordance with that Schedule and modified Side Roads Order. Further modifications may be made to the draft CPO at the stage that the CPO is made in light of agreements reached with other affected landowners.

1.17 At the close of the inquiry, the Reporter requested that Transport Scotland set out in its closing submission the powers available to Scottish Ministers at the stage of making the Orders, specifically whether it is open to the Reporter to recommend modifications to the Orders.

1.18 It is Transport Scotland's position that any modifications (other than those invited by Transport Scotland and referred to above) would risk frustration of the proposed scheme, and in turn the A9 Dualling Programme as a whole. The land included within the draft CPO is the land over and above that already vested in Scottish Ministers considered necessary (and no more than is necessary) for the construction and maintenance of the proposed scheme, including any mitigation identified in the ES. While Transport Scotland has carried out minor refinements to the proposed scheme since publication of the draft Orders in order to minimise its footprint (in particular on the Killiecrankie Battlefield), Transport Scotland cannot materially change or add to the CPO, the scheme footprint or the mitigation committed to within the ES, without rendering the proposed scheme incomplete, and the Orders undeliverable.

1.19 Paragraphs 4(2) and 5 of Part I of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, which are applied by Paragraph 7 of Part II of Schedule 1 to the said Act to compulsory purchase by Ministers provide:

"4(2) ...If any objection duly made as aforesaid is not withdrawn, the confirming authority shall, before confirming the order, either cause a public local inquiry to be held or afford to any person by whom any objection has been duly made as aforesaid and not withdrawn an opportunity of appearing before and being heard by a person appointed by the confirming authority for the purpose, and after considering the objection and the report of the person who held the inquiry or the person appointed as aforesaid, may confirm the order either with or without modifications".

1.20 Scottish Ministers may therefore, following the inquiry and having considered this report, make the CPO either with or without modifications. However, the power to modify the CPO is subject to significant limitations. Paragraph 5 of Part I of Schedule I to the said Act provides:

"5. The order as confirmed by the confirming authority shall not, unless all persons interested consent, authorise the acquiring authority to purchase compulsorily any land which the order would not have authorised that authority so to purchase if it had been confirmed without modification".

1.21 Typically, modifications relate to removing typographical errors, the description, or exclusion of land not deemed necessary to the scheme following negotiations or revisions. Any modification will take place only if the CPO is made.

1.22 As regards the Trunking Order and the Side Roads Order, Scottish Ministers in terms of Paragraph 7 of Part I of Schedule 1 to the Roads (Scotland) Act 1984, having considered objections made to the draft Orders and not withdrawn and, where a public local inquiry is held, the report of the person who held the inquiry, may make or confirm the Orders (with or without modifications). As with the CPO, this power is not without significant constraints.

1.23 In connection with the refinements developed following publication of the DMRB Stage 3 Design, Transport Scotland refers to the Development of the Scheme Report [TS206 Section 8] as the minimum steps which would require to be taken should it be recommended that part of the proposed scheme be relocated or removed, or should additional land be required to accommodate such recommendations.

1.24 Such a recommendation could, at least, delay the progress of the proposed scheme by a substantial period, would require additional consultation with statutory consultees, could require an addendum to the ES to be published, and at worst could render the entire scheme undeliverable in its current form. There is no objectively considered evidence to demonstrate that the proposed scheme is not in the public interest, there is therefore no reason for the Reporter to recommend changes or additions to the draft CPO or Roads Orders, beyond those contained within the Schedule of Agreed CPO modifications and modified Side Road Order. The Development of the Scheme Report [TS206] reflects the proposed modifications for the Refined Design.

1.25 Transport Scotland therefore, on the basis of the written and oral evidence which it has presented to the inquiry, requests that Scottish Ministers make the draft Orders

subject only to the modifications contained within the Schedule of Agreed CPO modifications [TS446] and modified Side Road Order [TS447].

### Objections to the Orders

1.26 By the time of the commencement of the inquiry, 164 objections to the proposed scheme remained extant. A group of combined local objectors ("the Combined Group") was formed to facilitate the pooling of evidence during the inquiry, comprising:

Killiecrankie and Fincastle Community Council (OBJ160);

Blair Atholl Area Tourism Association (OBJ075);

Mr & Mrs MacDonald and Blair Ecosse Management Ltd - The Old Manse of Blair (OBJ139);

James Bax & Loretta McLaughlan - Druimuan House (OBJ006 & OBJ161);

Henrietta Fergusson and Wordmatrix Ltd - Killiecrankie House/Hotel (OBJ166 & OBJ178);

KilliecrAnkie1689 (OBJ071);

George MacLean and Anthony Cuthbert - Old Faskally House (OBJ167);

Graeme Millen (OBJ171);

Sandra, Tim and Brian Parkins (OBJ020, OBJ021 and OBJ026);

Rosemary Rattray (OBJ008);

Soldiers of Killiecrankie (OBJ079); and

The Scottish Battlefields Trust (OBJ102).

1.27 In respect of the remaining, non-participating objectors, Transport Scotland has lodged written submissions detailing its position in respect of these matters, with the exception of its position on all other battlefield objections.

1.28 House of Urrard and the Combined Group object to the proposed Scheme. They criticise the process by which, and the information which was taken into account when, the preferred route was selected. The Combined Group complain about a perceived lack of consultation and transparency, criticising Transport Scotland for failing to work up an alternative southbound design to DMRB Stage 3 specification at the time at which the preferred route was selected. Both sets of objectors overlook the role which statutory consultees have played in the design development of the proposed scheme.

1.29 The Combined Group make much in their Closing Submission of the change in status from Historic Scotland to Historic Environment Scotland during the design development of the proposed scheme. The Combined Group state, without any evidence to support such an assertion, that there must remain doubts over the "official" status of the Historic Scotland review of the Environmental Report of the SEA in July 2013. It is not entirely clear to Transport Scotland what point the Combined Group seek to make in

respect of this assertion. What is however clear, is that significant consultation took place with Historic Scotland and Historic Environment Scotland throughout all stages of the design development of the proposed scheme. There are no flaws in the consultation process as the Combined Group continue to assert, without foundation.

1.30 The Combined Group and House of Urrard overlook the refinements made to the proposed scheme following publication of the draft Orders. These refinements led directly to the withdrawal of objections by HES, CNPA and PKC. There can be no question of Transport Scotland being "selective" in the advice it takes from statutory consultees. As a matter of law, the Scottish Ministers, in deciding whether to make the Orders, are required to take into consideration the Environmental Statement and "any opinion on that statement or the project which is expressed in writing "... "by any of the consultation bodies or by any other person and is received by the Scottish Ministers within any period specified for the purpose by them". That process was followed robustly by Transport Scotland in this instance.

1.31 Transport Scotland has followed a robust process by which it selected the preferred route and, through that process, considered alternatives. This process is as set out in the Design Manual for Roads and Bridges ("DMRB"), which provides standards, advice notes and other documents relating to the design, assessment and operation of trunk roads, followed across the United Kingdom, relied upon and accepted in other roads inquiries. The DMRB process has at its heart the safety of road users. No evidence has been presented by any objector which supports an argument that the DMRB has not been followed.

1.32 No evidence has been presented which supports an argument that there has been a failure to comply with the EIA Regulations.

1.33 The Combined Group have (at least until Mr Bax's precognition was lodged) been clear on their preference for southbound widening of the existing A9, as it passes through Killiecrankie Battlefield. This demonstrates a refusal by the objectors to consider the weight of evidence which has been provided to them and to this inquiry regarding the adverse impacts of such an Alternative Scheme compared with the Refined Design, while simultaneously highlighting their failure to produce any objectively considered evidence supporting their argument in favour of southbound widening

1.34 Transport Scotland's approach has been consistent and evidence-based. Transport Scotland has on numerous occasions tested decisions taken at earlier points in the DMRB process, which on each occasion has confirmed that those decisions were robust. Not least, the working up of the Alternative Scheme for inclusion within the Development of the Scheme Report [TS206], prepared for the purpose of assisting the Inquiry, has confirmed that decisions taken at DMRB Stages 2 and 3 were correct. This represents robust, evidence-based decision making.

1.35 House of Urrard also appear to be suggesting that just because they would provide land on the southbound side of the current A9 to Transport Scotland at no cost to the public purse, that is the outcome which should be preferred. The design and delivery of a scheme such as the proposed scheme involves balancing many interests (private rights as well as the public interest).

1.36 The objectors have produced very limited evidence, none of which seriously contradicts Transport Scotland's position. They have not produced any evidence to support an assertion that there is an alternative option which is better than the proposed scheme.

### Objections to the DMRB process

1.37 The Combined Group has been very critical of the DMRB process utilised by Transport Scotland in the design development of the proposed scheme. In particular it refers to: structural flaws in the planning framework; lack of authority of statutory consultees; conflicting aims of CNPA within the planning process; and lack of consideration of the importance of the Battle of Killiecrankie in a national and international context.

1.38 Transport Scotland has explained clearly the staged development process it requires to follow in identifying and designing (to the required standard for the purposes of publication of draft Orders and supporting Environmental Statement) a preferred scheme for trunk road improvements, such as the proposed scheme. Additionally, Transport Scotland has lodged in evidence a report to explain how the design development of the proposed Scheme takes account of planning policy [TS211]. This report explains that, while the proposed scheme is promoted under the Roads (Scotland) Act 1984, planning policy is embedded in the Design Manual for Roads and Bridges ("DMRB") stages of development and assessment.

1.39 Transport Scotland contends that, while the decision of Scottish Ministers whether to make the draft Orders is not bound by the Planning Act, it is a decision akin to one under that legislative regime. Accordingly, there is no specific hierarchy of the various policies and topics which require to be balanced in recommending an overall scheme.

1.40 The Combined Group's insistence that consideration of the impact of the proposed scheme upon Killiecrankie Battlefield should be given paramount consideration, above all other environmental considerations is incorrect. While impacts on the battlefield was one of several considerations, and it is contended for Transport Scotland that the importance of the battlefield was recognised from the outset, it is without policy foundation, to suggest that the impact of the proposed scheme upon Killiecrankie Battlefield should be elevated above all other environmental considerations.

1.41 It is Transport Scotland's clear evidence is that the "weighting" of each receptor is effectively captured through attributing importance/ value to receptors which, in combination with the predicted magnitude of impact, informs the significance of impact resulting from the proposed scheme. This helps identify potentially significant impacts and to prioritise areas for mitigation to avoid, reduce and/ or limit significant environmental impacts. As the battlefield has been assessed to be of high value it is therefore more sensitive to a magnitude of change than receptors of lower value and would be a priority for mitigation should there be a significant impact on it.

1.42 Section 4 of the Plans and Policies Compliance Report [TS211] describes those considerations which Transport Scotland considers to be material to the decision on the draft Orders, following an approach which is applied under the Planning Act but which is also considered appropriate to schemes determined under the Roads Act. It is Transport Scotland's view that the range of material considerations clearly demonstrate that on balance, the proposed scheme should be approved and the draft Orders made. There are accordingly no structural flaws in the planning system.

1.43 The battlefield and its key landscape characteristics are assessed as part of the Killiecrankie Battlefield 'historic landscape' in the Cultural Heritage Chapter 15 of the ES. With reference to the Combined Group's Closing Submission, Transport Scotland accepts that the HES letter of 22 January 2019 [TS408.47] did not state that it would withdraw its objection because the Refined Design is better than the DMRB Stage 3 Design. In that correspondence, however, the conclusion of HES is that "...alignment options to either the north or south of the existing carriageway within the Inventory boundary would be likely to have comparable adverse impacts on key landscape characteristics and special qualities of the battlefield regardless of whether the overall alignment is to the north or southbound side of the carriageway."

1.44 While the Combined Group complain about lack of engagement and apparent "confusion" regarding the process to be adopted in the design development of the proposed scheme, it has presented no evidence to substantiate these criticisms. On the contrary, Transport Scotland's position is that in terms of the local feedback received, many issues have been incorporated into design work, some because they coincide with issues that Transport Scotland also considers valid, but some because they raised genuine local concerns and came at a time that they could be fully addressed in scheme development and work in balance with the rest of the scheme requirements.

1.45 In taking forward the proposed scheme, Transport Scotland's approach to engagement and consultation has been no different from that which has applied across other projects within the A9 Dualling Programme. Local residents are not categorised as statutory or non-statutory during consultation, as that designation only has a bearing on the basis upon which those affected by a proposed scheme may be entitled to compensation in due course. Transport Scotland's consultation with communities affected by the A9 Dualling Programme commenced at an early stage from 2012 onwards, at which time the staged approach to the process of route choice and design development was fully explained. Transport Scotland has actively engaged with and sought feedback from the local community, including the Combined Group, throughout the design development of the proposed scheme.

1.46 A recurrent theme on behalf of the Combined Group is its frustration with a perception that CNPA has not represented the interests of Killiecrankie residents throughout its consultation in the design development process. Insofar as Transport Scotland is concerned, it has produced evidence of the consultation involving CNPA throughout the design development of the proposed scheme, including consultation on the Refined Design, which ultimately led to the withdrawal of the CNPA objection. Transport Scotland does not consider that there is any evidence upon which a conclusion could be reached that there are conflicting aims of CNPA within the planning process.

1.47 In conclusion, the Transport Scotland invites Ministers to reject all grounds of objection maintained in respect of the lack of suitability of the evidence-based process prescribed in DMRB for the design development of the proposed scheme. The Combined Group does not suggest an alternative process, merely that it would wish the section of the proposed scheme through the battlefield to be more sensitively designed.

#### Objections to route choice/ alignment of the proposed scheme

1.48 In this regard the following documents are material:

- the Background to Scheme Development Report [TS204];



- the Development of the Scheme Report [TS206]; and
- the precognition and evidence provided to the inquiry by Mrs McMillan, which sets out the process by which the preferred route was selected in accordance with the requirements of DMRB (which took into account impacts on the battlefield).

1.49 Both the Combined Group and House of Urrard consider that southbound widening of the A9 (at least as it passes through Killiecrankie Battlefield, in the vicinity of Killiecrankie) would be preferable, although neither of them produced any objectively considered evidence as to why this should be the case. It is Transport Scotland's considered view that the objectors, generally, simply wish the new carriageway to be constructed (marginally) further away from them. Transport Scotland's evidence clearly explained that from the outset of the Strategic Environmental Assessment Report, the importance of Killiecrankie Battlefield was recognised, as well as the potential for significant impacts thereon. Despite this early recognition and appreciation of the potential for such effects upon the battlefield, at DMRB Stage 1, it was concluded that online design options were preferable due to the scale of environmental disbenefits associated with offline options (including potentially significant impacts on Ancient Woodland, the Pass of Killiecrankie Site of Special Scientific Interest (SSSI) and Loch Tummel National Scenic Area (NSA), as well as property demolition).

1.50 At DMRB Stage 2, route and junction options were sifted and thereafter developed into whole route options. These route options were considered by a team of environmental specialists, as well as being subject to consultation with the members of the Environmental Steering Group, and members of the public. It is clear that Transport Scotland undertook a robust assessment before deciding that the proposed scheme would involve northbound widening of the existing A9, as it passes through Killiecrankie Battlefield.

1.51 In summary, the reasons for this decision were: northbound widening provided the best earthworks balance; northbound widening would allow for the re-use of the existing Allt Girnaig and Allt Chluain Underbridges, rather than requiring their demolition; and the above issues have an impact on cost, with southbound widening more expensive than northbound widening (between £29.0M and £32.9M more).

1.52 None of the environmental issues, especially the impact upon Killiecrankie Battlefield, in respect of which the objectors' concerns are focussed, was considered a differentiator in respect of route choice at DMRB Stage 2. That said, having regard to the archaeological investigations brought forward to 2018, and the working up of the Alternative Scheme in the Development of the Scheme Report, it has clearly been demonstrated that, despite unfounded assertions to the contrary, the route choice decision made by the Transport Scotland at DMRB Stage 2 was correct.

1.53 While, at paragraph 3.1.23 of their Closing Submission, the Combined Group seems to suggest that the cultural heritage differentiator is due to the difference in impact on unidentified archaeological remains, this is incorrect. In fact, as clearly explained in the Development of the Scheme Report [TS206], it is the presence of the cutting which causes the differentiator on cultural heritage grounds between the Refined Design and the Alternative Scheme.

1.54 Transport Scotland has produced clear, objectively considered evidence that southbound widening of the existing A9 as it passes through Killiecrankie Battlefield would have a more significant adverse impact on it than the proposed scheme.

1.55 While it is accepted that additional investigations may be undertaken by a contractor in due course which could favour the retention of existing structures, Transport Scotland contends that, for southbound widening, on the basis of information currently available, demolition and replacement of these structures is the favoured way forward. To suggest otherwise is speculation, not based on any objectively considered evidence or professional guidance. This is also to select only one of the reasons for preferring northbound widening. There is therefore no basis upon which it could reasonably be concluded that southbound widening is to be preferred on the basis that structure demolition was not required.

### Objections to the proposed scheme and refinements to the DMRB Stage 3 design

1.56 As stated above, the publication of the draft Orders and the ES attracted 183 objections, the vast majority of which relate to impacts of the proposed scheme upon Killiecrankie Battlefield, and which remain outstanding at the present time. Initially, and understandably given that impact on the battlefield is unavoidable with an online dualling option, concerns regarding the impact of the proposed scheme on the battlefield were raised by three statutory consultees, namely HES, CNPA and PKC. Despite the Combined Group's erroneous assertion that "...the historic environment had not been properly considered hitherto", it was confirmed for Transport Scotland at the inquiry that these bodies' views were, as they required to be, taken into account by TS in the design development leading to the DMRB Stage 3 design.

1.57 When objections were then received, Transport Scotland knew fairly clearly what it required to do to resolve the objections. As a matter of fact, that is what happened, leading to the Refined Design [TS206, Section 8]. Transport Scotland has explained clearly the process by which the 2018 archaeological investigations were undertaken and agreed with HES and Perth & Kinross Heritage Trust (PKHT) on behalf of PKC. With reference to the Battle of Killiecrankie Factual Report [TS205], the 2018 archaeological investigations confirmed the baseline and assessment of residual impacts upon the battlefield as presented in the ES, and reinforced Transport Scotland's confidence that the mitigation committed to in the ES was appropriate insofar as impacts upon the battlefield were concerned. As a result of this confirmation having been obtained, all overseen by PKHT and in agreement with HES, Transport Scotland was able to develop refinements to the proposed scheme, specifically to address the objections of the statutory consultees.

1.58 Those refinements were "tweaks" to that design, which slightly reduce the footprint of the proposed scheme within the extents of the battlefield, and introduce some changes to the mitigation proposed, in order to address concerns expressed by objectors and statutory consultees. The line of the dualled A9 itself has not changed as a result of the refinements made, nor has the significance of any of the residual impacts reported in the ES increased. An ES addendum was not required because the significance of residual impacts of the Refined Design are the same or reduced when compared to those presented in the ES, and the mitigation strategy adopted therein remains unchanged.

1.59 The legal test in respect of this issue is contained in Section 20A(5D) of the 1984 Act which provides that: 'where the Scottish Ministers obtain further information relating to the environmental statement and such further information is reasonably required to give

proper consideration to the likely environmental effects of the proposed project....,' the Scottish Ministers must, amongst other procedural requirements, publish notice of the further information just as would have been required for the original ES. In this regard, Transport Scotland has produced objectively considered expert evidence that the Refined Design does not increase the significance of residual impacts presented in the ES for the proposed scheme. Accordingly, there can be no question that the ES is inadequate. The Refined Design complies with the ES, which remains adequate.

### Conclusions on route design

1.60 Transport Scotland's evidence is that:

- There is a need for the proposed scheme;
- The proposed scheme is in accordance with the relevant duties, policies and objectives of the Scottish Ministers and contributes to, and will provide overall benefits to, the delivery of those objectives;
- The proposed scheme is consistent with the key aims, objectives and strategies of the relevant planning policy framework, and any conflict with local planning policy is outweighed by the overall benefits in the public interest;
- The environmental impacts associated with the proposed scheme have been fully and adequately assessed and significant adverse impacts mitigated where practicable;
- The proposed scheme will deliver overall benefits, improvements for driver safety, reduced journey times and enhanced Non-Motorised User (NMU) facilities;
- The land identified in the CPO is required to be acquired to deliver, maintain and operate the proposed scheme and the CPO is necessary and justified, in the public interest;
- The preferred route option and junctions for the proposed scheme have been carefully assessed and justified;
- The objections by affected persons have been carefully considered and satisfied, where this could reasonably be achieved, in balancing the interests of objectors with the public interest; and
- The draft Orders as a whole are necessary in the public interest to achieve delivery of the proposed scheme.

1.61 Transport Scotland has therefore demonstrated and submits that the draft Orders are lawful. The compulsory acquisition of land is justified, proportionate and in the public interest. The draft Orders should be made subject only to the modifications which are set out in the Schedule of Agreed CPO and Side Roads Order modifications [TS446 and TS447].

### The predicted environmental effects of the proposed scheme: Environmental Impact Assessment

1.62 The DMRB Stage 1 objective is to identify environmental advantages, disadvantages and constraints associated with broadly defined route corridors. At DMRB Stage 2, the objective is to identify the factors and effects to be considered in the selection of route options, and the identification of environmental advantages, disadvantages, and constraints associated with route options. The final outcome of DMRB Stage 2 is a preferred route option that is progressed to DMRB Stage 3.

1.63 At DMRB Stage 3, the preferred route option is developed into a proposed scheme whereby the engineering design is developed and refined in parallel with an EIA. The design process at DMRB Stage 3 includes the development of mitigation to avoid, reduce or offset/ remedy significant environmental impacts. At the end of DMRB Stage 3 the draft Orders are published alongside a supporting Environmental Statement in accordance with the EIA Regulations.

#### DMRB Stage 1 – Strategic Environmental Assessment

1.64 Two strategic studies, carried out from 2012 to 2014, examined the engineering and environmental aspects of the A9 Dualling Programme from Perth to Inverness. These studies were the A9 Dualling Programme – Preliminary Engineering Support Services (A9 PES) [CD110] and the A9 Dualling Programme – Strategic Environmental Assessment (A9 SEA), which consists of the SEA Environmental Report [CD106], SEA Addendum [CD111] and SEA Post Adoption Statement [CD112].

1.65 Through these studies, route-wide assessments identified the engineering and environmental constraints, issues, risks and opportunities. Together the A9 SEA and PES provided an equivalent DMRB Stage 1 assessment for the A9 Dualling Programme. The A9 SEA, together with the A9 PES, identified that online widening, generally following the route of the existing A9, was the most suitable option. Additionally, a number of locations were identified where further consideration of localised offline sections should take place. The online widening recommendation, with localised offline sections, was consistent with the topographical, environmental and physical constraints around the existing A9, including designated sites.

#### DMRB Stage 2 - Environmental Assessment

1.66 As the Development of the Scheme Report [TS206] explains, the proposed scheme represents the combination of two sections of the A9 dualling programme that were initially progressed separately in 2014 to 2016 during DMRB Stage 2. The Killiecrankie to Pitagowan and Pitagowan to Glen Garry sections were subject to DMRB Stage 2 route options assessments as separate projects.

1.67 The environmental assessment in Part 3 of the two DMRB Stage 2 Reports [CD018 and CD021] provides: determination of potential significant environmental impacts of the route options; identification of significant differences (on environmental grounds) between the routes to inform route selection i.e. the presence of differentiators; and outline of the assessment scope for the EIA to be undertaken at DMRB Stage 3.

1.68 To enable an appropriate level of assessment an environmental baseline was established through desk-based reviews, site walkovers and consultation. The topics considered and level of detail provided, were in line with DMRB guidance. This baseline formed the basis of constraints mapping of the study area. Once a baseline was established, a sifting assessment was undertaken informed by populated tables with environmental constraints for each option being considered [CD030, CD031, CD032 and CD033]. Together with data on engineering and costs, this was used to determine which mainline and junction options would be progressed to the DMRB Stage 2 assessment.

1.69 The sifting process identified four mainline route options (referred to as 1, 2, 3 and 4) to be progressed to DMRB Stage 2 assessment for both the Killiecrankie to Pitagowan and Pitagowan to Glen Garry DMRB Stage 2 projects.

1.70 For each of the environmental topics, potential impacts and the likely significance of residual impacts were determined and, where required, this informed a comparative assessment to determine lowest, intermediate and highest overall impact for the route options considered for each of the projects at DMRB Stage 2. When identifying differentiators between route options, two aspects were considered: whether the impacts would be considered significant in the context of the EIA Regulations; and whether any of the potential impacts identified differ sufficiently between proposed route options, such that they should be considered as part of the overall identification of a preferred route.

1.71 The overall identification of a preferred route considers environmental, engineering, economic and traffic considerations. If the differences between the options were not significant enough to be considered a differentiator, they were assigned the same impact level for comparison purposes.

1.72 Throughout the DMRB Stage 2 process the statutory consultees; Cairngorms National Park Authority (CNPA), Perth & Kinross Council (PKC), Historic Environment Scotland (HES), Scottish Natural Heritage (SNH) and Scottish Environment Protection Agency (SEPA) were consulted. Together with The Highland Council, the statutory consultees formed the Environmental Steering Group (ESG). The ESG were consulted on the methodology of the assessments, emerging impacts, mitigation and route options. Members of the ESG also reviewed and provided comments on drafts of the DMRB Stage 2 environmental assessments.

1.73 The DMRB Stage 2 environmental assessment for the Killiecrankie to Pitagowan project [CD018] assessed that landscape, visual, ecology and community and private assets were differentiators between route options in terms of environmental impact. Landscape and visual were differentiators between Aldclune Junction Variants A and B. This is due to the greater impact of Junction Variant B on the Glen Garry: Lower Glen and Blair Atholl Landscape Character Area (paragraph 12.6.6, Table 12.10 and Table 12.11) and visual receptors at Aldclune and Clunebeg (paragraph 13.6.7, Table 13.8 and Table 13.9) [CD018]. Ecology was assessed to be a differentiator in favour of northbound widening in Section 2 (Option 1 and Option 3 between ch3890–ch5760) due to the disturbance to Atlantic salmon using a salmon pool within the River Tay Special Area of Conservation (SAC) to the north of Essangal Underbridge [CD018]. Community and Private Assets was also assessed to be a differentiator in favour of northbound widening in Section 2 (Option 1 and Option 3) due to 2 Essangal Cottages, a residential property, being likely to be uninhabitable during construction [CD018].

1.74 For other environmental topics assessed in Chapters 8-18 of the Killiecrankie to Pitagowan DMRB Stage 2 Report [CD018], the differences between route options were not considered to be sufficient to be considered a differentiator in terms of environmental impact.

1.75 While no objections were received in relation to route choice for the DMRB Stage 2 Pitagowan to Glen Garry project, the DMRB Stage 2 Report [CD021] explains that landscape (Chapter 12), visual (Chapter 13), cultural heritage (Chapter 14) and view from the road (Chapter 17) were assessed to be differentiators between route options in terms of environmental impacts.

1.76 On the basis of the DMRB Stage 2 process, Option 4B (Killiecrankie to Pitagowan) and Option 3C (Pitagowan to Glen Garry) were selected as the preferred route options to be taken forward to DMRB Stage 3.

1.77 The process of considering and assessing alternative routes to the proposed scheme during DMRB Stages 1 and 2 is summarised in the ES in Chapter 3 Alternatives Considered [CD011].

### DMRB Stage 3

1.78 At this stage, an EIA was undertaken in accordance with the EIA Regulations and as informed by guidance contained within Volume 11 of the DMRB [CD401.18 to CD401.29]. The EIA process for the proposed scheme can be split into the following key stages:

I. Consultation and Scoping

II. Establishing of Baseline

III. Identification of Impacts

IV. Identification of Mitigation

V. Determination of Residual Impacts

VI. Assessment of Cumulative Impacts

VII. Assessment of Planning Policy Compliance

1.79 The process is iterative whereby a design is developed, its impacts are identified and embedded mitigation is developed to avoid potential impacts where possible. Where they cannot be avoided mitigation is identified and the residual impact significance is determined. The EIA process was informed by extensive consultation with statutory and non-statutory organisations, including consultation with the ESG.

1.80 The EIA considers likely impacts of the proposed scheme on each environmental parameter in comparison to the baseline conditions. The general approach to assessment is based on the determination of the significance of an impact which is a function of a combination of the value, sensitivity or importance of the baseline conditions and the magnitude of potential impacts. The purpose of this stage of the assessment is to identify potentially significant impacts and to prioritise areas for mitigation to avoid, reduce and/ or limit significant environmental impacts.

1.81 Through this process, the design has been iteratively updated and subject to constant development and refinement to improve the balance of factors considered in achieving the proposed scheme. This includes consideration of consultation feedback as well as environmental, engineering and economic feedback. For example, the ESG provided input to the environmental mitigation as described in the respective chapters of this ES and were able to advise and influence aspects of the DMRB Stage 3 design.

### Residual Impacts

1.82 Residual impact sections within the ES chapters report the significance of residual impacts remaining after proposed mitigation identified in the ES has been applied. In line with the requirements of the EIA regulations, where significant impacts remain as a result of the proposed scheme, this was clearly identified in Section 7 of each topic chapter

of the ES and summarised in Chapter 22 (Summary of Significant Residual Impacts) of the ES [CD011].

1.83 The cumulative impact assessment, presented in Chapter 20 of the ES [CD011], considers the potential for cumulative impacts due to the A9 Killiecrankie to Glen Garry combined effect of a number of different environmental impacts of the proposed scheme (type 1 cumulative impacts) and the impacts of other 'reasonably foreseeable' projects (type 2 cumulative impacts) on receptors.

1.84 Transport Scotland undertook archaeological investigations and has made refinements to the DMRB Stage 3 design of the proposed scheme following publication of the ES [CD011, CD012, and CD013] and the draft Orders [CD001, CD002, CD003 and CD004] to address concerns raised by objectors. The environmental review of the Refined Design, for which the mitigation set out in Chapter 21 (Schedule of Environmental Commitments) of the ES [CD011] is still applicable, demonstrates that: there would be no additional significant impacts in terms of the EIA Regulations; and that the significance level of all residual impacts would be no worse than reported in the ES.

#### Landscape and visual impacts of the proposed scheme

1.85 The landscape, visual and view from the road assessments are reported in Chapters 13, 14 and 9 of the ES [CD011], supported by Appendices [CD012] and Figures [CD013].

1.86 For the DMRB Stage 3 design, in the winter of the year of opening, significant impacts would occur on the Pass of Killiecrankie and Glen Garry: Lower Glen, Mid Glen and Upper Glen Local Landscape Character Area (LLCAs). In summer 15 years after opening, the impact on the Glen Garry: Lower Glen LLCA would be reduced but would remain significant.

1.87 People at 77 built receptor and 28 outdoor receptor locations would experience significant visual impacts during construction. People at 74 built receptor and 27 outdoor receptor locations would experience significant visual impacts in the winter of the year of opening. In the summer 15 years after opening impacts would remain significant for 14 built receptor and eight outdoor receptor locations.

1.88 Significant impacts on views from the road are predicted during the winter of the year of opening but not in the summer 15 years after opening.

1.89 Following publication of the ES and the Draft Orders, refinements to the DMRB Stage 3 design were made to address concerns raised by objectors. The refined design was developed with input from Jacobs' landscape architects. An environmental review of the refined design is provided in the Development of the Scheme Report [TS206].

1.90 In the winter of the year of opening, it is predicted that significant impacts would occur on the Pass of Killiecrankie LLCA and the Glen Garry: Lower Glen LLCA. In summer 15 years after opening, the impact on the Glen Garry: Lower Glen LLCA would remain significant (Moderate) due largely to the Aldclune Junction.

1.91 People at 16 built receptor locations and four sections of footpath would experience significant visual impacts during construction. People at 15 built receptor

locations and four sections of footpath would experience significant visual impacts in the winter of the year of opening.

1.92 The majority of the significantly affected receptors would be located around Aldclune Junction, with four located close to the A9 south of the proposed scheme in and around Aldclune and Killiecrankie.

1.93 In the summer 15 years after opening, people at five built receptor locations to the north of the A9 would remain significantly affected. Four of these are close to Aldclune Junction. Significant impact on views from the road are predicted during the winter of the year of opening where it passes through Glen Garry: Lower Glen LLCA. In the summer 15 years after opening the impact would not be significant.

1.94 Landscape and visual mitigation proposals for the refined design have been prepared taking account of the specific impacts to ensure that residual impacts are no greater than those predicted in the ES.

1.95 Insofar as the Combined Group's LVI objection is concerned, to deal firstly with their concerns regarding the assessment undertaken at DMRB Stage 2, reference is made to Mr Lancaster's precognition and to the evidence repeated at the inquiry itself whereby the difference between quality and quantity of woodland loss was explained. Mr Lancaster also explained the refinements made to the grading out of side slopes and explained that these are not of sufficient order of magnitude to alter the significance of residual landscape or visual impact or the differentiation between route options. Accordingly, the evidence provided on behalf of Transport Scotland has confirmed that the Combined Group's objection in connection with the DMRB Stage 2 Landscape and Visual Assessment is without merit and should be set aside.

1.96 The Combined Group also raised concerns regarding the LVI of lay-bys within the Battlefield. Much of this evidence overlaps with the response provided by Mr Lancaster in respect of the House of Urrard objection. In this regard it is important to note that neither lay-by within the Battlefield boundary is an enhanced lay-by. Rather, as explained in detail by Mr Robertson, their inclusion and siting has been driven by road safety requirements. The Combined Group's assertion that this lay-by was included to create a new viewpoint is incorrect.

1.97 In respect of the Refined Design, the Combined Group raise a number of concerns as follows:

- Loss of the replacement bund and trees;
- Relocation of woodland planting; and
- Prominence and "Sense of Severance" associated with the Refined Design.

1.98 With reference to Mr Lancaster's precognition, Transport Scotland has explained the reasons why a replacement bund was included within the DMRB Stage 3 Design, and has explained that the two natural stone walls which replace it within the Refined Design maintain screening, while also reducing the proposed scheme's footprint within the Battlefield. Transport Scotland has demonstrated that the removal of the bund in the Refined Design is not a substantial change for the worse in LVI terms. Indeed, in a number



of locations, the reduced footprint of the Refined Design together with screening provided by the natural stone walls will be beneficial when compared to the DMRB Stage 3 Design.

1.99 Insofar as tree loss and relocation of woodland planting are concerned, Mr Lancaster's evidence explains, again, that the woodland planting removed in the Refined Design and relocated to an area at Clunes Lodge in the north of the proposed scheme was not planting with an LVI purpose, but rather was ecological mitigation. Its removal from Field F9 maintains the open outlook which currently exists over this part of the Battlefield.

1.100 The Combined Group maintain an argument that the Refined Design will increase the sense of severance of the Battlefield (despite the fact that it is already severed by the existing A9) and that the dualled A9 when completed will be an "ugly, protruding strip." This subjective assessment on the part of the Combined Group should be disregarded. Mr Lancaster's objectively considered, expert evidence disputes this assertion and explains, with reference to cross-section drawings why the Refined Design does not result in a greater "sense of severance" or prominence than the DMRB Stage 3 Design.

1.101 In conclusion, it is clear from Mr Lancaster's evidence that the significance of residual landscape and visual impacts are not greater for the Refined Design than the DMRB Stage 3 Design presented in the ES. Insofar as the Alternative Scheme is concerned, any differences in impact from a landscape, visual and view from the road perspective are not considered sufficient to be a differentiator. In all the circumstances, standing the lack of any contrary expert evidence presented to the inquiry on LVI matters, the position as stated by Mr Lancaster should be accepted by the Scottish Ministers.

#### Cultural Heritage Assessment

1.102 Cultural heritage inputs into the ES were undertaken based on DMRB Volume 11 Section 3 Part 2 'Cultural Heritage' [CD 401.23], 'Managing Change in the Historic Environment: Historic Battlefields' [CD4 23] and 'Managing Change in the Historic Environment: Setting' [CD 248].

1.103 Inputs into the ES included a re-examination of sources used for the DMRB Stage 2 Environmental Assessment [CD 018], which included a metal detecting survey [CD 036]. To inform the ES a walkover survey and geophysical survey [CD 042] were also undertaken. Information from these sources was used to define the Special Qualities and Key Landscape Characteristics of Killiecrankie Battlefield presented in the ES Chapter 15: Cultural Heritage.

1.104 As identified in Chapter 15, the DMRB Stage 3 Design avoided impacts on most Special Qualities and Key Landscape Characteristics. Embedded mitigation to reduce impacts, where avoidance wasn't possible, was also identified along with specific mitigation, primarily preservation by record. The ES assessed an overall residual impact of Moderate significance on Killiecrankie Battlefield which is considered significant in the context of the EIA Regulations.

1.105 Potential impacts on Urrard House, Walled Garden and Urrard Steading were assessed and presented in ES Appendix A15.4 (Cultural Heritage Impact, Mitigation and Residual Impact Tables). No physical impact on these historic building was identified. The ES assessed residual impacts of Slight significance on the setting of these historic buildings during construction and operation. After mitigation no significant impacts were identified on the cultural heritage assets in Skirmish Fields 1 or 2.

1.106 With the aim of resolving concerns relating to the published draft Orders [CD001, CD 002, CD 003 & CD 004], and ES, and as requested by Historic Environment Scotland (HES) and Perth and Kinross Heritage Trust (PKHT) to help inform their understanding of potential impacts on the battlefield, archaeological investigations, comprising archaeological metal detecting, geophysical survey and trial trenching were undertaken in 2018 [CD 037, CD 038 and CD 039]. Lidar analysis was also undertaken.

1.107 The Special Qualities and Key Landscape Characteristics identified in ES Chapter 15 were reviewed based on the results of the 2018 archaeological investigations and Lidar analysis. While small modifications were made to these, overall they were considered accurate.

1.108 To resolve concerns relating to the published draft Orders and ES, the DMRB Stage 3 design was refined to reduce the footprint within Killiecrankie Battlefield. These refinements are collectively referred to as the Refined Design and are included as part of the proposed scheme. The Refined Design has reduced the magnitude of impact on the battlefield. This reduction of impact has been acknowledged by Historic Environment Scotland [TS 408.47] and PKHT [TS 409.75].

1.109 With the mitigation identified in ES Section 15.5 in place, no significant residual impacts on Killiecrankie Battlefield are predicted during construction. This is the same as was assessed for the DMRB Stage 3 Design and presented in the ES.

1.110 Operation of the Refined Design would reinforce the existing severance of the battlefield by the existing A9. The residual significance of impact has been assessed as Moderate. This is the same significance of impact assessed for the DMRB Stage 3 Design and presented in the ES.

#### Battlefield Impacts (Generally)

1.111 Transport Scotland has provided clear evidence as to the reasons why impacts on the Battlefield cannot be avoided altogether. Following from that starting point, and considering that the existing A9 already bisects the battlefield, Transport Scotland has produced expert, objectively considered evidence in order to demonstrate that potential impacts were identified and appropriately considered in the DMRB Stage 2 and Stage 3 Assessments. In this regard attention is drawn to:

- The Development of the Scheme Report (TS 206); and
- The Battle of Killiecrankie Factual Report (TS 205).

1.112 The importance of the Battle of Killiecrankie in a national and international context was taken into consideration throughout the entire design development of the proposed scheme. There is no evidence which would even begin to suggest that Transport Scotland failed to understand the importance of the battle or its historical associations. There is no explanation of the basis for this criticism contained within Mr Millen's precognition. There is nothing contained within Mr Millen's evidence which, on objective consideration, backs up an assertion that the national and international context for the Battle of Killiecrankie has been overlooked by Transport Scotland.

1.113 The Combined Group contends that Transport Scotland has "failed to assimilate policy protecting the historic environment at the outset of planning. As a result Transport

Scotland failed to identify the most sensitive part of the battlefield and failed to avoid unnecessary impacts." The Combined Group's position is that the Battlefield should take priority over all other matters. There is nothing in Scottish Planning Policy which provides for impacts on a battlefield being a key consideration which trumps all other matters.

1.114 Transport Scotland has lodged a report explaining the approach taken to planning policy in roads schemes (TS 211). Mr Dempsey explained the sensitivity which had been attributed throughout the DMRB process to the battlefield. There is nothing to support the Combined Group's position that all impacts on what they perceive to be the 'most sensitive part of the battlefield' should be avoided.

1.115 Paragraph 149 of Scottish Planning Policy [CD 208] states: "Planning authorities should seek to protect, conserve and, where appropriate, enhance the key landscape characteristics and special qualities of sites in the Inventory of Historic Battlefields".

1.116 Transport Scotland accepts that impacts on the battlefield are unavoidable, and policy non-compliance has been identified [CD 011]. Transport Scotland's detailed response to this ground of objection is contained in Mr Dempsey's precognition, which clearly explains the manner in which the proposed scheme was developed in accordance with Scottish Planning Policy and the HES Managing Change guidance. The proposed scheme has avoided impacts on most of the Special Qualities and Key Landscape Characteristics of Killiecrankie Battlefield. Where avoidance of these Special Qualities and Key Landscape Characteristics is not feasible, the proposed scheme has reduced impacts through design.

1.117 The objectors drew attention to the comments of PKC and its feedback on the draft DMRB Stage 2 Report [TS 411.6]. In this, PKC commented that no assessment of the archaeological potential of the battlefield had been undertaken, and it wished this to be covered at DMRB Stage 3. In response, Transport Scotland notes this comment and confirms that such areas will be identified at DMRB Stage 3. It is important to consider the context in which this feedback was given, i.e. it was feedback on a draft DMRB Stage 2 report, and amendments were made to that as a result, or future actions were noted for the DMRB Stage 3 assessment, as is standard process.

1.118 Mr Millen states that he will "demonstrate how battle events were concentrated in the area under risk from the northbound carriageway." Mr Millen does not produce any analysis of how he considers this will occur, with reference to the draft CPO boundary for the Refined Design. At no point in his precognition does he make any reference to specific planning policy or HES Guidance (such as has been relied upon by Transport Scotland) to justify his criticism of Transport Scotland's assessment of potential impacts upon the battlefield.

1.119 Mr Dempsey has explained the key landscape characteristics and special qualities of Killiecrankie Battlefield identified for the purposes of undertaking the EIA and agreed with HES [TS 205]. It should also be borne in mind that "battlefield" is defined in statute [Ancient Monuments and Archaeological Area Act 1979, Section 32B] as:

- (a) an area of land over which a battle was fought; or
- (b) an area of land on which any significant activities relating to a battle occurred (whether or not the battle was fought over that area).

1.120 In the case of Killiecrankie Battlefield, its extent is defined by the boundary map included in the Inventory of Historic Battlefields [CD 424]. HES Managing Change Guidance confirms that all parts of the Inventory Battlefield are to be protected. That Guidance states:

1.121 "Including a battlefield in the Inventory is not intended to be simply a barrier to development. The intention is to identify an area of added protection where particular consideration must be given to impacts on the site. This should focus on the special qualities and landscape characteristics of the battlefield".

1.122 Consideration of the totality of evidence for Transport Scotland on this matter makes it abundantly clear that it has complied with this policy and guidance. The three stage development management process has been undertaken and, indeed, the proposed scheme has avoided impacts on most of the Special Qualities and Key Landscape Characteristics of Killiecrankie Battlefield. Where avoidance of these Special Qualities and Key Landscape Characteristics is not feasible the proposed scheme has reduced impacts through design. This has been confirmed by HES and PKHT. Mitigation through archaeological recording has also been committed to, along with opportunities to offset the impacts on Killiecrankie Battlefield. These will be explored with interested parties including HES, the National Trust for Scotland, and PKHT and this approach accords with Stage 3 of HES Managing Change guidance.

1.123 This policy driven, objective assessment of the potential impacts of the proposed scheme upon Killiecrankie Battlefield contrasts markedly with the approach taken by the Combined Group. In that regard and giving evidence for the Combined Group, Dr Johnston stated that the view of the Scottish Battlefields Trust was that Killiecrankie, as an Inventory Battlefield, should have an elevated status and should have been considered to be of "uniquely high value" by Transport Scotland in its assessment of impacts of the proposed scheme. He went on to criticise Transport Scotland for failing to consider the area of the battlefield where actual fighting took place to be the most sensitive.

1.124 Dr Johnston did not comment at all on the evidence produced by Transport Scotland setting out the manner in which the assessment of impacts on the battlefield had been taken into account and, in particular did not make any mention of the assessment of impacts upon the key landscape characteristics and special qualities of Killiecrankie Battlefield. While accepting that the HES Managing Change Guidance considers all parts of the battlefield to be of equal importance, Dr Johnston stated that it was "extraordinary" to suggest that special status should not be given to "the area which the battle collides", by which he meant the areas at which the armies met, where there were highest casualty numbers and areas of potential burials.

1.125 Whilst Transport Scotland notes this position, this is not the test which Scottish Ministers must apply.

1.126 Mr Rattray was prepared to identify the Government line in the battle itself, but refused to countenance any suggestion that what he considered to be the first stepped terrace (being key to his assessment of where the Government line would have been found) was in fact a large man-made structure to support the carriageway of the existing A9 at the time of its construction in the 1980s. It is contended for Transport Scotland that this is conjecture to overcome an inconvenient matter of fact which undermined the Combined Group's case. Mr Rattray disagrees with the conclusion of Pollard and Oliver, upon which Mr Dempsey has explained his assessment of the choreography of the battle, but did

accept that the line of the Government forces, which he advocates, was outwith the boundary of the draft CPO.

1.127 The contrast between the battlefield evidence presented on behalf of the Combined Group, and that presented on behalf of Transport Scotland could not be more clear. Mr Dempsey has presented compelling, objectively considered evidence regarding Killiecrankie Battle and its choreography, all as explained in the Battle of Killiecrankie Factual Report [TS 205]. While Transport Scotland clearly submits that this evidence should be preferred to that presented on behalf of the Combined Group, it is accepted that absolute certainty regarding the exact location of the Government line cannot be stated. However, for the purpose of the question of determining whether impacts upon the battlefield itself have been properly assessed, this is not the test.

1.128 The assessment required by policy and guidance is based upon the agreed key landscape characteristics and special qualities of the battlefield. The actual area where the opposing forces met is not elevated to any special status in that assessment. To suggest, as the Combined Group does, that focus should be placed almost exclusively on the position of the Government line is to disregard all other features of the wider battlefield, which is contrary to law, policy and guidance, and is to fail to recognise the importance of the battlefield and its interpretation as a whole.

1.129 The Combined Group argues for southbound widening, but refuses to acknowledge the greater adverse impacts the Alternative Scheme would have upon the battlefield [TS 206] and specifically upon its Special Qualities and Key Landscape Characteristics.

#### The Siting of Lay-bys on Killiecrankie Battlefield

1.130 This aspect of the proposed scheme is one of the most controversial insofar as the Combined Group and House of Urrard are concerned, with attempts to criticise Transport Scotland for failing to demonstrate to them what the proposed scheme would look like without lay-bys in the battlefield.

1.131 Transport Scotland's position on this aspect of the design of the proposed scheme is simple. The need for lay-bys within the battlefield is matter of driver safety. In consideration of this aspect of the Transport Scotland's case, and despite assertions to the contrary:

- There are no enhanced lay-bys included within the proposed scheme within the extents of Killiecrankie Battlefield;
- The inclusion of frequent and appropriately sized lay-bys is considered necessary for driver safety;
- Transport Scotland's position on lay-bys is reinforced by Police Scotland [TS 420.2];
- The siting of lay-bys within the proposed scheme has been based upon what is permissible in terms of design standards, rather than being influenced by views from the road or lay-by itself;
- DMRB Guidance recommends regular lay-by spacing every 2.5km [CD401.13, Table 3-2, page 10];

- Without the inclusion of lay-bys within the battlefield, the spacing between successive lay-bys in the northbound direction is approximately 13km, and in the southbound direction is approximately 7.5km, both of which are far beyond the spacing recommended by DMRB;
- The spacing of lay-bys on a dual carriageway is not determined by traffic flows; and
- There is no better alternative location for the lay-bys proposed within the extent of Killiecrankie Battlefield or elsewhere, if lay-bys were not to be located within the extents of the Inventory battlefield.

1.132 Transport Scotland does not agree with the unsupported assertion on the part of the Combined Group that "the planners failed to recognise at DMRB Stage 1 that the 3.3km length of road in the Inventory battlefield was not suitable for lay-bys. Had they done so, other locations in the Killiecrankie to Pitagowan stretch would have had to have been explored fully at DMRB Stage 2". For the avoidance of doubt, at DMRB Stage 2 lay-bys were identified which did not require departures from standard. This would still apply if the battlefield extents had been identified as not appropriate for lay-bys.

1.133 For completeness, even if southbound widening were the preferred option, the Alternative Scheme would still require lay-bys to be sited within the battlefield extents, for safety reasons [TS 206, section 9.1.9 to 9.1.11].

1.134 The Combined Group stated that the safety reasons for the inclusion of lay-bys were understood, however it was queried what would have happened if Mr Dempsey, as the cultural heritage expert for the proposed scheme, had said there should be no lay-bys within the battlefield. It is Transport Scotland's position that the positioning of lay-bys within the battlefield calls for a balancing exercise to be undertaken. This is explicitly referenced by HES in its letter to Transport Scotland dated 22 January 2019 [TS 408.47], which states:

1.135 "We also withdraw our objection to: • Lay-by locations within the Inventory battlefield.....you have taken the view that driver safety is the over-riding consideration in their spacing and location. We note the proposed lay-bys are not intended to be the enhanced lay-bys which were initially being considered for inclusion within the scheme. Although these elements of the road add to the overall footprint of the road within the Inventory site, we recognise that there is a balance to be struck with other issues..."

1.136 It is submitted that the approach to lay-bys accepted by HES, in withdrawing this aspect of its objection, is correct and should be followed by Ministers.

#### Impact on the Setting of Urrard House and its Walled Garden

1.137 Of particular concern in the House of Urrard objection, and also a matter which concerned the Combined Group, is the impact of the proposed scheme on the setting of Urrard House and its Walled Garden. In its Statement of Case, House of Urrard stated that it was not persuaded that proper weight had been given to the listed status of Urrard House and its Walled Garden in the design of the proposed scheme.

1.138 House of Urrard presented no positive evidence to demonstrate any failure on the part of Transport Scotland to give "special regard" to the setting of Urrard House and its Walled Garden. In consideration of the impacts of the proposed scheme upon Urrard House and its Walled Garden, including the setting thereof, Transport Scotland refers to:

- the precognitions of Mr Lancaster, Dr Palmer and Mr Dempsey;
- the Plans and Policies Compliance Report; and
- the Development of the Scheme Report.

1.139 In respect of the criticism that Transport Scotland has failed to take into account the provisions of Section 59(1) of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 ("the LBCA"), Mr Dempsey's evidence sets out how this has been achieved in detail in his precognition [sections 4.20.23 to 4.20.35]. This includes an acknowledgement that whilst section 59(1) of the LBCA is not directly applicable under the Roads (Scotland) Act 1984, it is appropriate for Scottish Ministers to consider whether there are material considerations which would have required particular weight to be given as a matter of law.

1.140 The only objectively considered, expert evidence before the inquiry regarding the assessment of the impacts of the proposed scheme upon the setting of Urrard House and Walled Garden is that of Mr Dempsey. This concludes that the residual impact on these heritage assets is of 'Slight' significance during construction and operation of the proposed scheme. The proposed scheme is not assessed to have a significant effect on the setting of either of these assets. Mr Dempsey explained that his assessment conclusion has been reached using professional judgement and consideration of the HES Managing Change Guidance, as well as considering the likely temporary disruption during construction, and the manner in which these works will affect the key elements of the setting of Urrard House and its Walled Garden.

1.141 Appropriate weight - special regard - was given to the desirability of preserving the building and its setting through attributing importance/ value to receptors identified in the baseline which, in combination with the predicted impact, informed the assessment of significance of impact resulting from the proposed scheme. No contrary expert view is before the inquiry, and Ministers are therefore invited to accept, in whole, the evidence of Mr Dempsey as to the manner in which the listed status of Urrard House and its Walled Garden and the setting of the listed building was considered throughout the design development of the proposed scheme.

1.142 It is not accepted that Mr Dempsey had ignored the setting of the listed building, and had failed to have special regard also to the desirability of preserving the setting, as is clear from his evidence when read as a whole. It is worth noting the approach which has been confirmed as appropriate by the Court of Session to the application in a planning context of section 59 of the LBCA. In the Petition of John Simson for Judicial Review of a decision of Kincardine and Mearns Area Planning Committee of Aberdeenshire Council, the Court explained that section 59(1) provides for a two-stage exercise by the planning authority.

1.143 The first stage is to decide if a development for which planning permission was sought would affect a listed building or its setting. It is only if the building or its setting would be so affected that the duty to "have special regard" arises. Whether that gateway criterion is met is a matter of planning judgment.

## Conclusion on Cultural Heritage Impacts

1.144 In regard to the table of responses provided by PKC in relation to the DMRB Stage 2 draft report, there appears to have been some confusion regarding their purpose during the inquiry. These were comments from PKC, in particular, on the draft DMRB Stage 2 Report, prior to its finalisation and publication of the preferred route. Comments received from statutory consultees at this time either informed revisals to the text of the DMRB Stage 2 Report itself, or were noted for future assessment/ consideration at DMRB Stage 3. It was contended for Transport Scotland that the information contained in the DMRB Stage 2 Report was sufficient and appropriate to allow a cultural heritage assessment to be undertaken and fed into the balancing exercise which resulted in the eventual decision to proceed with northbound widening.

1.145 Insofar as the letter from PKHT is concerned [TS 409.75], while it states that its view that DMRB consultation was inadequate and that the process set out in DMRB is flawed, Transport Scotland's view is that such an assertion is ill-conceived. Transport Scotland has detailed the consultation which has taken place with all statutory consultees both prior to and throughout the design development of the proposed scheme. Transport Scotland has set out the information which was available to it and taken into account at DMRB Stage 2. This information was sufficient and appropriate in order to have allowed a preferred route to have been selected at DMRB Stage 2. That this decision was correct and robust is confirmed by the results of the 2018 archaeological investigations requested by and agreed with HES and PKHT to help them inform their understanding of potential impacts on the battlefield. DMRB, although non-statutory, is the guidance utilised in trunk road design development and delivery, throughout the UK. It is a tried and tested process with safety at its heart.

1.146 In conclusion, it is clear that impacts of the proposed scheme upon cultural heritage assets have been properly considered and assessed throughout the design development of the proposed scheme. From a starting point whereby impacts upon Killiecrankie Battlefield could not be avoided, and bearing in mind that it is already bisected by the existing A9, the proposed scheme has been designed to minimise adverse impacts as much as possible.

## Noise impacts of the proposed scheme

1.147 Assessment covers noise impacts of the proposed scheme both during construction and operation of the proposed scheme. Objections were maintained by both House of Urrard and the Combined Group. Site specific noise impacts of the proposed Scheme on Urrard House and its Steadings were considered during Inquiry Session 1, although all other site specific noise objections were considered during Hearing Session 4.

1.148 In respect of noise, the Combined Group stated that Transport Scotland's response to their objections was unsatisfactory. Their dissatisfaction may have arisen due to the technical nature of the subject matter, for which the oral inquiry (and hearing) sessions provided the opportunity for Dr Palmer to largely repeat the information previously provided and offer clarification where necessary. The Combined Group criticise the methodology used to undertake the operational noise assessment, albeit it has been explained that their confusion appears to have partly arisen from a typographical error within the ES. While this is to be regretted, this error has been highlighted, accepted and spoken to in evidence by Dr Palmer. The noise impact assessment methodology follows good practice and guidance, is based on a tried and tested methodology to predict and



assess road traffic noise impacts associated with new and/ or altered trunk road schemes throughout the UK and is robust.

1.149 With reference to the Combined Group's closing submission, Transport Scotland does not understand what is meant by their assertion that there is "a difference between predicted noise levels and the perception of an individual." To clarify, objective road traffic noise levels are based on the LA10,18h noise metric, which in turn is used because it has been shown empirically to correlate well with perceived noise annoyance/ nuisance. Moreover, in the context of the DMRB noise impact assessment, when considering noise perceptibility, Dr Palmer's evidence is clear that this relates to the difference between two objective noise levels, for example, a noise level difference of 1dB is just perceptible in the short term, whilst in the long term a 3dB noise level change is just perceptible, both of which are based on experimental evidence.

### Operational Noise Impact Objections

1.150 In respect of the House of Urrard, its objection in respect of operational noise related to a desire for southbound widening which it claimed "would better attenuate the noise, since it would both be further away and leave the existing bund in place." That said, this objector did concede that "...Urrard is not a particularly quiet place because of the hum of background traffic is usually present, but it is in no sense disturbing to amenity." Dr Palmer's evidence confirms, on the basis of noise monitoring previously undertaken there, that the existing acoustic environment at Urrard House is presently dominated by road traffic noise.

1.151 This objector has also raised issues regarding noise from lay-bys in the vicinity of Urrard House and in respect of noise impacts at Tomb Clavers. In response to all of these matters, Transport Scotland relies upon the objectively considered, expert evidence of Dr Palmer. The most contentious issue for this objector at Inquiry Session 1 was in relation to the inclusion of two natural stone walls in the Refined Design, which replaced the bund included in the DMRB Stage 3 Design. Dr Palmer has given clear uncontradicted evidence regarding the operational noise impacts of the Refined Design, and has confirmed residual significance of noise impacts for House of Urrard dwellings resulting from the Refined Design are no greater than those of the DMRB Stage 3 Design as reported in the ES. Indeed Dr Palmer's conclusion is that the Refined Design's natural stone walls result in residual least beneficial noise impacts at House of Urrard dwellings that are better or no greater than those for the DMRB Stage 3 Design with its replacement bund.

1.152 House of Urrard also state that they wish the 1.6 metre high stone wall to be extended towards Urrard Steadings, and increased in height to 1.9 metres to provide further noise attenuation. Dr Palmer was very clear in his evidence that while any increase in the height and length of this wall would serve that purpose, there was no justification for doing so as the wall, as included within the Refined Design, results in residual noise impacts at House of Urrard dwellings that already comply with the significant effects criteria and, thus, the noise mitigation strategy.

1.153 As has been clear throughout the evidence of all of Transport Scotland's environmental experts, the aim in making refinements to the DMRB Stage 3 Design was to keep the assessed significance of residual environmental impacts, be they noise, LVI, cultural heritage or whatever, the same as (or better/ less than) those reported in the ES. In respect of noise impacts at Urrard House, Dr Palmer explained that the height and length of the natural stone wall was dictated by the need for the residual significance of noise

impacts to be no worse than those reported in the ES. A natural stone wall was chosen to achieve this purpose, rather than a timber fence noise barrier, for aesthetic LVI reasons.

1.154 In his cross-examination of Dr Palmer, Mr Campbell appeared to be suggesting that in coming up with the Refined Design, the aim should have been to improve the noise impacts associated with the DMRB Stage 3 Design. Whilst it is unclear why this should have been the objective of refinements to the proposed Scheme, and no such explanation was forthcoming in this objector's evidence, Dr Palmer was clear in his response that if he had been starting to consider noise impacts of the proposed Scheme from scratch, without regard to the DMRB Stage 3 Design, there would actually be no requirement, from a noise perspective, for the inclusion of the 1.6 metre high natural stone wall for noise attenuation purposes. Accordingly, House of Urrard actually benefits from the DMRB Stage 3 Design having been prepared as a pre-cursor to the Refined Design.

1.155 In consideration of the operational impacts of the Refined Design on House of Urrard from a noise perspective, when compared to the Do-minimum scenario (i.e. without the proposed Scheme), Dr Palmer was clear that all properties, bar two, are predicted to experience noise level increases below that which is considered perceptible to the human ear. In respect of the remaining two properties, the predicted noise level increase at the least beneficial façade of each property was predicted to be just perceptible (1.0 and 1.1 decibels, respectively). This objector has confirmed that the existing road traffic noise level is "in no sense disturbing to amenity" within Urrard Estate. On this basis, Dr Palmer's clear evidence was that since the noise climate at Urrard Estate is currently "in no sense" disturbing, an increase of noise at the cusp of perceptibility would make little material difference to individuals at Urrard Estate. Accordingly, Transport Scotland submits that the operational noise impacts will, objectively considered, be unlikely to disrupt amenity once the proposed Scheme is operational.

1.156 In respect of operational impacts associated with the Alternative Scheme, when compared to the Do-Minimum scenarios, Dr Palmer accepted that from a noise perspective, southbound widening would result in least beneficial noise level changes at Urrard Estate dwellings that are better than for the Refined Design. However, the least beneficial noise level changes for the Alternative Scheme are predicted to be imperceptible at Urrard dwellings. For the Refined Design, except for two dwellings where the predicted least beneficial noise level change are at the cusp of perceptibility (1.0 and 1.1 decibels, respectively), all other dwellings are predicted to have noise level changes that are also imperceptible. Accordingly, noise impacts at Urrard Estate dwellings are not considered to be a differentiator between the Refined Design and the Alternative Scheme.

1.157 With respect to the criticisms contained in the Combined Group's Closing Submission, these are not merited. Dr Palmer's precognition is clear that noise associated with the use of a lay-by should be construed as relating to activities undertaken by vehicle users whilst their vehicle is parked, which is an issue for the local authority (PKC). Also, it is incorrect to state that DMRB "noise assessments ignore noise of speed variations of vehicles entering a lay-by or junction". Dr Palmer's precognition quotes the relevant DMRB guidance (Paragraph A5.23 of HD 213/11): "Speed variations at junctions should generally be ignored in assessing noise nuisance as there is a trade-off between the effects of reducing speed and the additional engine noise generated by deceleration and acceleration." Accordingly, the noise associated with decelerating and accelerating in to and out of junction is offset by assuming that the traffic flow maintains a constant speed, as if the junction did not exist.

1.158 It is Transport Scotland's submission, based on Dr Palmer's expert evidence, that the driving characteristics of a lay-by and a junction are similar and, as such, the noise associated with vehicles using lay-bys has been satisfactorily assessed in accordance with DMRB. Moreover, it is worth noting that a natural stone wall will be erected along the length of the northbound lay-by which will provide attenuation of acceleration and deceleration vehicular noise for properties that lie to the south, and in their vicinity.

1.159 In respect of the Combined Group's Closing Submission regarding noise impacts at Tomb Clavers it is agreed that due to northbound widening some of the road traffic will move closer to the memorial cairn. However, the relatively small noise level increase due to this change is offset through the use of Low Noise Road Surfacing and the inclusion of the 1.6m high natural stone wall located in the vicinity of Urrard House, which will reduce the noise contribution from the adjacent section of road to the overall road traffic noise level at Tomb Clavers. Also, the Objector's contention that "due to traffic moving closer to the memorial cairn ... perception of traffic noise is more likely than not to increase", is not borne out by the objective assessment of the road traffic noise impacts, which shows a beneficial noise impact at Tomb Clavers with the Scheme in place (Do-Minimum Baseline versus Do-Something Baseline and Do-Minimum Baseline versus Do-Something Future).

1.160 In respect of the House of Urrard Closing Submission on noise impacts, for the reasons given in Paragraphs 9.4.1 and 9.4.2 of Dr Palmer's precognition, lawful use of lay-bys should not give rise to adverse impacts at Noise Sensitive Receptors and noise associated with vehicles driving in to and out of lay-bys has been assessed in accordance with DMRB guidance. In the House of Urrard Closing Submission, the statement that "no noise survey or predictions have been carried out to demonstrate the effectiveness of the proposed stone wall", is clearly wrong standing the written and oral evidence presented by Transport Scotland. Dr Palmer's precognition concludes that "the Refined Design's natural stone walls are more effective at reducing Do-Something A9 noise at Urrard Estate dwellings than the DMRB Stage 3 design's replacement bund.

1.161 As a final point of clarification in respect of operational noise impacts and in respect of the Combined Group's cross-examination of Dr Palmer, it should be noted that while Dr Palmer accepted that a 10dB increase in noise levels represented a doubling of the perception of noise to the human ear, and quite properly accepted that such an increase could still be below the level at which noise mitigation would be applied, it should be noted that there are no noise sensitive receptors on this scheme where such a situation arises. Indeed, as evidenced in the Noise and Vibration Section of Appendix N of the Development of the Scheme Report, the table (Page 143/191) that summarises the residual noise impacts for the year of the proposed Scheme's opening shows that perceptible noise level changes are predicted to occur at 53 dwellings with predicted noise level increase of between 1.0dB and 2.9dB and 1 property has a predicted noise level increase of 3dB to 4.9dB. In the Future Year (2041), only one dwelling is predicted to have a long term perceptible noise level increase, and is predicted to be an increase of 3dB to 4.9dB. Accordingly, it can be concluded that no dwelling is predicted to have an adverse noise level increase greater than or equal to 5dB with the proposed Scheme in place.

#### Construction Noise Impacts of the Proposed Scheme at Urrard Estate

1.162 Dr Palmer also gave detailed evidence regarding construction noise impacts at Urrard Estate in order to answer the House of Urrard's concern that it would be subject to "staccato", "pervasive" noise and "klaxons" for two years or more during construction. In his evidence, Dr Palmer accepted that it was natural for the House of Urrard, and other

objectors, to be concerned about construction noise. However, he stressed that, while no formal assessment of this could take place now, there is guidance in place to limit construction noise impacts, and also methods by which potential adverse construction noise impacts could be controlled. Dr Palmer also made reference to construction noise mitigation which is outlined in the ES.

1.163 Dr Palmer clearly explained that during the construction phase, best practical means will be adopted to mitigate potential construction noise impacts, noise limits will be agreed with the local authority having regard to existing ambient noise levels and working hours will be limited. By way of an example, Transport Scotland can confirm that the contractual working hours permitted by Perth & Kinross Council on the Luncarty Scheme are Monday to Friday between 07.30 and 18.00 hours and Saturday between 08.00 and 13.00 hours, with no working on Sundays and public holidays.

1.164 Dr Palmer explained that while construction may take place over an extended period, that does not mean that construction noise would occur continuously in the vicinity of House of Urrard properties, or any other receptor, throughout that period, as the project is linear in nature. With regards to construction noise generating activities, some activities are noisier than others. Accordingly, if a particularly noisy activity (such as rock blasting) was to occur, residents would be advised in advance so as to minimise any surprise or inconvenience to them. Dr Palmer also explained that reversing klaxons on construction vehicles tend not to be used now as these do not constitute best practice. Such reversing alarms now tend to consist of a "Broadband" noise which will not be as intrusive to nearby residents. Again, if House of Urrard, or any other resident was not satisfied with the levels of construction noise being generated, and considered these to be excessive, they could refer matters to the local authority for investigation; and enforcement should it be discovered that best practice means to reduce construction noise were not being implemented.

1.165 Transport Scotland is of the view that adequate mitigation will be incorporated in the construction contract, and the impacts will not be to the extent anticipated by the objectors. As none of the objectors have stated that they are opposed to the dualling of the A9 between Killiecrankie and Glen Garry, of necessity, there will be construction noise impacts associated with that work, regardless of whether the road is widening to the northbound or the southbound carriageway. Transport Scotland's position is that such impacts will be temporary in nature, will be mitigated as far as is reasonably practicable and are justified to allow for the construction of the proposed Scheme, in the public interest.

#### WHO Guidelines 2018

1.166 One issue in respect of which Transport Scotland wishes to comment further is the applicability of the 2018 WHO Noise Guidelines to the proposed Scheme. Dr Blewett explained in evidence why these Guidelines have not been adopted by Transport Scotland in respect of the proposed Scheme, and that this is a consistent position across the various A9 Dualling Schemes, and in respect of the proposed improvements to the A96 between Inverness and Nairn. Indeed, in the Report to Ministers for the Tomatin to Moy Scheme, the Reporter stated "With regard to the updated WHO guidance, I agree that until such time as the Scottish Ministers have had an opportunity to consider how the updated guidance might apply to future road schemes, little importance can be attached to it. Furthermore, as argued by Transport Scotland, the information contained in the ES provides sufficient information to properly inform the Scottish Ministers on this matter." For the avoidance of

doubt, it is Transport Scotland's position that the WHO Guidelines 2018 are not enforceable, and are not applicable to the proposed Scheme.

1.167 As explained by Dr Palmer, the WHO Guidelines do not refer to the same metric as has been used for the calculation of road traffic noise in the proposed Scheme. To compare one with the other is not a like for like comparison and could result in confusion. For these reasons, while the Transport Scotland is fully aware of WHO 2018, it is not appropriate for that guidance to be imposed upon the proposed Scheme until this is fully considered by Government and its adoption approved or otherwise, as a matter of policy.

1.168 The proposed Scheme's DMRB noise assessment has been undertaken in accordance with appropriate guidance and is therefore robust.

### Conclusions on Environmental Impact Assessment

1.169 It has been demonstrated for Transport Scotland that:

- a comprehensive environmental assessment and environmental inputs to route selection process has been undertaken;
- environmental issues have been considered throughout the design process in order to avoid, reduce or offset/ remedy potential adverse impacts on the environment;
- the proposed scheme would have no adverse effects on site integrity of the River Tay SAC;
- the proposed scheme would have no significant residual impacts on the Pass of Killiecrankie SSSI or the Aldclune and Invervack Meadows SSSI;
- loss of woodland is not considered to be a differentiator between route options, and the proposed scheme does not represent the maximum woodland loss because measures have been incorporated within the design of the proposed scheme to reduce woodland loss;
- the Refined Design would cause no additional significant impacts when compared to those reported in the ES and a new ES is not required; and
- while northbound widening would be closer to most homes in Killiecrankie than southbound widening, the differences in noise, visual and air quality impacts at residential receptors are not sufficient to be considered a differentiator between route options.

1.170 Consequently it has been demonstrated that the proposed scheme has been designed in accordance with published guidance, best practise and has taken cognisance of the impacts on affected parties.

### **Main points of the case for the Combined Objector Group**

#### The design process

1.171 In the course of cross-examination, it was explained on behalf of Transport Scotland that there is no hierarchy for the various policies and topics that are considered in developing the road. The battlefield was not singled out for special consideration. There is

no weighting given to the Inventory battlefield in the planning process and no higher ranking was given to the battlefield in the balancing of competing interests. There was said to be “a weighting effectively built in to the assessment of each topic area”. Without elucidation, it is submitted that this is virtually meaningless.

1.172 One of the key considerations when trying to balance competing interests is the ability to mitigate the effects of the proposal on particular topic areas. According to Transport Scotland, the battlefield was one material consideration among a number of material considerations. All material considerations are listed in document TS211. Dr Blewett explained that the status of the battlefield is the same whether a development is proposed within the planning system or as a road project, such as this one, as both are effectively governed by the EIA Regulations.

1.173 It was confirmed that the inclusion of an Inventory battlefield did not alter the approach to roads planning. The battle site was just another factor, another receptor in the EIA process. It was explained that the relevant specialist assesses each topic area. These individual assessments are provided to a team who examine how the assessments fit together and are mitigated. The Transport Scotland team are responsible for balancing competing interests.

1.174 At paragraph 4.3.9 of TS211 it is stated that it is open to Scottish Ministers to determine what weight to give to different considerations (subject to the terms of applicable policies and related legislation) before they reach a decision. It was explained that there is no scoring system for weighting. Balancing competing interests, the statutory requirements, policy and guidance comes down to professional judgment of the project team.

1.175 The COG considers that the battlefield should have been given greater weighting when balancing competing interests. Had that happened, the judgment would have been different at DMRB Stage 2. A more sensitive plan would have been progressed through DMRB Stage 3, obviating objections from the statutory consultees and the likelihood of a public local inquiry.

1.176 In regard to the role of the statutory consultees in the planning of the Killiecrankie section of the A9 project, it is contended for Transport Scotland that “Whilst the Statutory Bodies are not the decision makers they have been embedded in the development process and provided with the information they have requested to allow them to form a view.” COG believes that his statement highlights a fundamental weakness of the planning of a new road through a battlefield. The input of statutory consultees is only as good as the information that they are given. HES made its position clear in January 2018 [TS408.23 page 72 of 278] that it objected to the scheme that was being proposed due to a lack of information in the Environmental Statement.

1.177 As non-engineers, PKHT and HES have found themselves in a position of being given insufficient information or not knowing what information to request in order to make an assessment. PKHT went on to object to the scheme which was presented after Stage 3. At that time, [TS409.65 page 300 of 453] PKHT stated: “The information presented in the ES is not comprehensive enough to allow for PKHT to reach a conclusion as to whether widening the northbound or the southbound carriageway between ch700 and ch3890 has a similar impact as stated in Section 15.4.51 of the ES.”

1.178 The then Historic Scotland considered the SEA Environmental Report Addendum as a Consultation Authority in May 2014 [KFCC12]. HS noted, then at Stage 1, that

although it had received clarification on some issues there were still a number of strategic level issues to be addressed. These included a number of issues which were highlighted again by HES after the conclusion of Stage 3, such as:

- the need for TS to engage with HS at key stage 2 to ensure that impacts on the historic environment are avoided as far as possible;
- the need to ensure that the relevant Local Authority Archaeologists are included in discussions on route options at an early stage to ensure that their input is meaningful;
- the usefulness of having LiDAR survey results assessed by an archaeologist at the route alignment stage;
- where avoidance of impact on historic environment is not possible, there is a need for TS to demonstrate why not;
- a clear exposition of mitigation measures in a hierarchy from ‘best’ i.e. prevention of impacts at source to ‘worst’ offsetting impacts by providing improvements elsewhere; and
- Preservation by record is a strategy that should only be pursued once all other options for mitigation have been exhausted.

1.179 HES took up its full statutory role from 1 October 2015 and was named as a statutory consultee in the planning system. It was contended for Transport Scotland that this made no material difference in the planning process from the point of view of managing or engaging in the programme. Scottish Historic Environment Policy 2011 was taken into account at each DMRB stage. Historic Environment Policy for Scotland (2019) was published after the DMRB 3 assessment and is therefore not incorporated into the Environmental Statement. A review of how the proposed scheme complies with current policies is included in an appendix. [TS211 page 25 to end]. There it is stated that the proposed Refined Scheme does not wholly comply with HEPS’ requirement that decisions affecting the historic environment should ensure that its understanding and enjoyment as well as its benefits are secured for present and future generations. This is because the proposed scheme will result in Moderate (significant) residual impact to the battlefield.

1.180 COG considers that the assessment of compliance with other HEPS recommendations is questionable. For instance, HEP5 requires that: “Decisions affecting the historic environment should contribute to the sustainable development of communities and places.” TS states that the proposed scheme is consistent with the terms of this policy. The COG hearing statement on tourism specifically objects to how the proposed scheme will undermine the development of this community and place.

1.181 Transport Scotland has not demonstrated to us that consultation with HES was always effective or that the process of assessment was correct or that balancing competing interest was done in a way which reflected the Scottish Ministers’ intentions when establishing Historic Environment Scotland. Far more emphasis is put on the Landscape Review, with input from Scottish Natural Heritage (SNH) and the Cairngorms National Park Authority (CNPA), which aimed to identify a range of particularly impressive views along the A9 [page16 CD106]: “The aim is to incorporate opportunity view locations into ongoing studies”. The opportunity view locations were to inform the emerging Lay By Strategy.

1.182 Mr Lancaster, the landscape team leader responsible for the landscape and visual assessment and preparation of the landscape mitigation design, states in his precognition that the designated battlefield area does not correspond to a discreet Landscape Character Area so did not justify consideration as such in the landscape assessment. It was explained that the battlefield contributes to the value of the Landscape Character Area but has a separate Cultural Heritage assessment. The difference in disciplines is illustrated by the fact that the memorial cairn (Tomb Clavers) was not identified as a specific visual receptor location for the landscape assessment.

1.183 However, the footpath which runs alongside the northbound carriage of the existing A9 to connect the village with the memorial cairn was identified as a visual receptor. It is number 015 on the Visual Impact Receptor map [CD013 Figure 14.4a]. The visual impact is assessed to be Moderate on the year of opening, falling to Slight after 15 years of operation.

1.184 One of the main points of HES's objection to the Stage 3 design was the extent of the imprint that earthworks would make on the battlefield because of the embedded landscape mitigation [TS408.23 page 87], suggesting that information that was given to the consultees at Stage 2 was either not good enough for them to form a view or that their interests were not balanced well enough to satisfy their needs. Whichever it was, it resulted in a huge effort to accommodate the demands from HES and revalue the importance of the battlefield in 2018 when TS was refining the scheme. At a meeting on 15 November 2018 with HES and PKHT, it was explained for Transport Scotland that the revised earthworks design had been proposed to balance the competing objectives: to reduce the footprint in the battlefield with landscape impacts and views from the road in the National Park as well as concerns from residents about noise and visual impacts [TS408.43 page 158].

1.185 The objectors maintain that the process did not take adequate account of the comments of statutory consultees at the correct time. Had that been the case, there would have been no necessity for a recalibration of competing interests after the Stage 3 design was published.

1.186 HES has explained the role of consultees to COG: the responsibilities of Historic Environment Scotland as a statutory consultee are limited to the provision of advice and comment on historic environment matters relating to the proposals that are required by law to be put before them. The advice and comment which HES (and PKHT) provided throughout the planning process did not constitute a change in external circumstances, the reason which Dr Blewett suggests would be most likely to cause TS to rethink a planning decision. It seems to COG to be important to understand fully that the statutory consultees have no authority to insist on their advice being taken at any stage of the planning process. Like local residents, the only time that they have the ability to object is when the draft Orders are published.

1.187 Consequently HES repeated the view it had already expressed to local residents that it can only comment on the proposals being consulted on and can only look at each case on its own merits. HES's withdrawal of its objection at Refined Scheme stage is not confirmation that the Refined Scheme is the best possible for the battlefield. It merely confirms that – in terms of the historic environment – it is better than the previous plan.

1.188 The Combined Group of Objectors does not feel as constrained as HES or any other statutory consultee. Objections to the DMRB 3 Design were lodged because the scheme did not meet the standards demanded by statutory and non-statutory bodies. The



Refined Scheme was developed in response to particular objections of HES and PKHT about the battlefield and, subsequently, they withdrew their objections. The Feedback Form asked Killiecrankie residents if the design refinements were an improvement compared with the previous plan. We submit that this is the wrong question. It is better to ask if this is the optimum plan that can be devised. In our opinion, it is not.

1.189 The Combined Group of Objectors maintains that its comments about the role of CNPA in the planning process are valid and demonstrate a less than complete assessment of the road scheme from the standpoint of an important Planning authority.

### Route alignment

1.190 The Development of the Scheme, Objector Report [TS206] was prepared to explain the background to decision-making with details about the critical DMRB Stage 2 when the route alignment was chosen, the progress of DMRB Stage 3 when northbound widening was developed and the stage that followed when the Refined Scheme was created. It also contains a chapter on what is termed the Alternative Design, a southbound widening design that TS says has been developed to an equivalent level of detail as the Refined Scheme.

1.191 Transport Scotland contends that TS206 shows that even when the DMRB Stage 2 work has been revisited with the benefit of further base data and ground investigation information, this has simply served to strengthen its view that southbound widening is not better than the proposed Scheme. At DMRB Stage 2 southbound widening had been assessed to have the same impact on the battlefield as northbound widening. Thus, Cultural Heritage was not a differentiator when choosing route alignment. The new assessment compares a theoretical design for southbound widening with the proposed Refined Scheme. Due to the wide, steep nature of the cutting from about ch1600 to ch2160, the significance of the residual impact of the Alternative Design has been assessed to be Large. At DMRB Stage 2 the significance of residual impact predicted for all options was assessed to be Moderate [CD018 Table 14.8]. The impact, therefore, of the DMRB Stage 3 design and the Refined Scheme is Moderate.

1.192 Our view is that the Alternative Design is not a valid comparison. It has been done retrospectively to justify decisions already taken rather than a clean start-to-finish process to arrive at an optimum design. It also raises questions as to the thoroughness of the assessments at Stage 2:

- The Alternative Design has not gone through the same process;
- It has not been scrutinised by outside specialists;
- It has not been put forward to the local community for public feedback; and
- It was developed using early assumptions that we challenge.

1.193 We do not agree with assessments that have been made on the, nor do we agree with the assessments that have been made on archaeological remains, historic buildings and historic landscape in the Alternative Design. These are fundamental differences and highlight why we believe that the process and decision to widen on the northbound carriageway is flawed.

1.194 When considering alignment options at DMRB Stage 2, there was no indication in Chapter 14 on Cultural Heritage that southbound widening would result in a more adverse impact. The cutting that would be required is shown at DMRB Stage 2 on CD019 and CD020. HES commented on the draft DMRB Stage 2 report that the intervisibility between the base of the glen, looking upslope and the view from the upper terraces downslope had to be made clear. The Inventory states that these views are key to understanding the manoeuvres of both armies.

1.195 Jacobs response to that was that the results of the cultural heritage assessment presented in the relevant chapter were also informed by the results of the landscape and visual assessments presented in Chapter 12 (Landscape) and Chapter 13 (Visual) [TS411.5 page 7] and it included a paragraph about the importance of intervisible views at 14.3.36 of the DMRB Stage 2 report but did not include them as part of the assessment at that time.

1.196 PKHT also commented on two related aspects. First it said that the existing A9 appears to have a larger impact to the north of the battlefield area. PKHT suggested that the impact of widening on the southbound carriageway might therefore be less despite earthworks for these options being more substantial. Jacobs response was that all route options have cuttings and/ or embankments. The overall significance from all options was assessed to be the same. PKHT then commented that there will be further truncation of the intervisible view upslope and downslope, a key element noted in the Inventory [TS411 at paragraph 14.4.7]. Jacobs responded that the text was to be revised in the DMRB Stage 2 report to state that the existing visual severance which results from the presence of the existing A9 would be reinforced: "This is considered to be the same for all the options."

1.197 Severance is a term that is used for interpretation of battlefields but not in landscape and visual assessments, as explained Mr Lancaster during the inquiry. It means the visual connection between different parts of the landscape and severance thereof. A large cutting or bund, for example, could create severance, he said. In his precognition at paragraph 7.42, Mr Lancaster stated that he does not agree with residents that the Refined Scheme would look more prominent or that there would an increased sense of severance in landscape and visual terms.

1.198 However, TS admitted to HES when it provided updated assessment tables comparing the operational impacts on the Key Landscape Characteristics of the Stage 3 Design with the Refined Scheme [TS408 page 182] that there would be additional severance. Not only would the more prominent northbound carriageway cause increased severance of the southern slopes of Creag Eallaich and interrupt the views from the slopes but there would be additional severance of the terraces to the south of Mains of Orchil from the level ground to the south of the A9.

1.199 According to the new analysis of southbound widening, the Alternative Design during operation would reinforce the physical and visual severance between the northern and southern parts of 'the southern slopes of Creag Eallaich,' and 'the terraces to the south of Mains of Orchil and the level ground to the south of the A9. These are key landscape characteristics. In addition, the presence of the large cutting immediately to the south of 'North- East of Roan Ruarridh' between ch1580 and ch2150 would impact on the visual relationship between this key landscape characteristic and 'the southern slopes of Creag Eallaich' key landscape characteristic [TS206 page 143].

1.200 The significance of the residual impact in the Alternative Design has been assessed to be Large and this is considered to be a differentiator. [TS206 page 71]. The reason for the change is due to the way that various elements of the assessments of Stage 2, Stage 3 and the Refined Scheme now compare with the Alternative Design [10.1.24 of TS206]. At DMRB Stage 2 no differentiator had been identified because the steeper earthworks that were planned at that stage for northbound widening between ch1600 and ch1950 would have been countered by the impact of cutting between ch1600 and ch2160 for southbound widening. It had been considered at the time of the ES that there was potential to impact on unknown archaeological remains along the northbound corridor. But thanks to the survey work done in 2018, the presence of unknown remains is considered to be lower now than stated earlier. This has resulted (it is said) in the Refined Scheme having, on balance, a lesser impact than the Alternative Design.

1.201 There are a number of aspects that we challenge in the assessment. There is an assumption that the rock cutting that would be required for southbound widening would result in the loss of a feature of great importance that would reduce the legibility of the battlefield. As HES stated in January 2018 [TS408.23 page 84]: no particular feature within the broad area identified as the key landscape characteristic such as the terraces to the south of Mains of Orchil has greater importance than another. Indeed HES indicated that the terraces between the probable Government line and the current A9 which are found in the corridor of proposed northbound widening in the central and eastern part of the battlefield, have a marked character and play a central role in understanding and appreciating events during the battle [TS408.23 page 84].

1.202 Although the notion of severance was recognised at DMRB Stage 2, the intervisibility of views upslope and downslope was not included in the assessment. By the time of the Refined Scheme, it was recognised that northbound widening would reinforce severance on the southern slopes of Creag Eallaich and the terraces to the south of Mains of Orchil and the level ground to the south of the A9 [TS408 page 182]. Mr Dempsey said that the severance that would be caused by the cutting on the southbound carriageway under the Alternative Design contributed to his change of assessment and Cultural Heritage becoming a differentiator.

1.203 We do not agree that the severance from southbound widening would be greater than that which will be caused by the Refined Scheme and note that no change was made to the visual and landscape assessment when preparing the Alternative Design. Comparative cross section drawings and photomontages are provided [TS206 Appendix K and L]. The most striking difference between the two plans is the number of assets that lie alongside the existing northbound carriageway which are either going to suffer a physical impact or deterioration of setting under the current proposal. This could be avoided by southbound widening. The most cursory examination of the map of archaeological remains and historic buildings [CD013 Figure 15.1a] shows the concentration of the assets south of the existing A9 between Allt Girnaig and Allt Chluain.

1.204 Metal detecting has been done on both sides of the existing road [TS205 page 60 Figure 2b]. However, trial trenching and geophysical work has been done only in preparation for northbound widening [TS205 page 59 Figure 2a]. It is not surprising, therefore, that the potential for the presence of unknown remains has been lowered for northbound widening in the latest impact assessment. The fact that fair comparisons cannot be made is one reason why we do not accept that the Alternative Design has been developed to the same level as the Refined Scheme.

1.205 Finally, we believe that respect for the area where the fighting was concentrated defines our society's commitment to respecting battlefields and recently formulated historic environment/battlefield policy. TS has moved the line of Government forces further from the existing A9 than we believe is likely. If it were correct, it would happen to move the location of some of the fighting out of the line of the CPO for northbound widening. We submit that the archaeological evidence and our understanding of military movement, tactics and manoeuvres put the Government forces closer to the existing A9 and therefore most hand to hand combat would have occurred in the very area that northbound widening threatens.

1.206 As a result, we do not agree with TS's conclusion that southbound widening is no better than northbound widening. In a mature and balanced assessment of the impacts upon established interests, the COG submit that northbound widening is the more damaging design. The question of cost was not examined.

### Lay-bys

1.207 The question of lay-bys on the Killiecrankie section has turned into a flashpoint in the discussion of the road scheme. Local residents were informed of the proposed locations for lay-bys during DMRB Stage 3. HES knew about them earlier. Everyone understands the overarching principle of driver safety, that this governs the entire scheme and that the provision of lay-bys is conducive to improving safety.

1.208 The Combined Group submits that the planners failed to recognise at DMRB Stage 1 that the 3.3km length of road in the Inventory battlefield was not suitable for lay-bys. Had they done so, other locations in the Killiecrankie to Pitagowan stretch would have had to have been explored fully at DMRB Stage 2. By treating the Inventory battlefield like every other part of the scheme, TS considered lay-by locations at Killiecrankie during DMRB Stage 2, resulting in confirmation of their siting in Killiecrankie at DMRB Stage 3. Their removal from the plan now would result in an excessive length of carriageway, northbound and southbound, without lay-bys.

1.209 In her precognition at 5.5.9 to 5.5.15, Ms McMillan wrote that northbound widening would allow the retention of the existing underbridges while southbound widening would necessitate their demolition. Demolition of the Allt Girnaig and Allt Chluain Underbridges was a differentiator in terms of route choice.

1.210 The consideration of lay-by locations at DMRB Stage 2 identified that section of the northbound carriageway in the vicinity of the Allt Girnaig watercourse crossing as a potential opportunity to site a lay-by. It was explained for TS that a lay-by is classed in DMRB as a junction and on the immediate approach to and throughout junction extents, the DMRB states that Departures and Relaxations from Standard with respect to Stopping Sight Distance SSD are not permitted because the majority of accidents occur in the vicinity of junctions.

1.211 The consequence of this is that for the southbound widening route option there would be a Departure from Standard for non-compliant SSD in the vicinity of a lay-by that would not exist for the northbound widening route option.

1.212 Ms McMillan explained that the Stopping Sight Distance (SSD) of 295m was applied to both northbound and southbound widening options so that a fair comparison could be made. Asked if they could have applied for a relaxation in order to retain the

bridge (for southbound widening), Ms McMillan replied that they could. Asked if that would have meant that there would be no lay-by there, Ms McMillan replied, “We would have assessed it and could have applied for a Departure from Standard for a lay-by if the requirement for a lay-by outweighed other safety considerations.”

1.213 In his precognition paragraphs 7.30 to 7.45, Mr Robertson gives details of locations of standard Type A lay-bys that were considered during DMRB Stage 2. The locations were considered in relation to junction options. No ‘Type A’ lay-by was proposed in the northbound direction in proximity to Killiecrankie at DMRB Stage 2. It had been identified that provision of a northbound lay-by within this section would have required either a Departure from Standard for weaving length between the lay-by and the slip road of the Aldclune grade separated junction or a Departure from Standard for siting the lay-by on the inside of the bend, if positioned in advance of the minimum weaving distance permissible. At DMRB Stage 2 lay-bys were provided only where Departures from Standard were not required.

1.214 Mr Robertson’s precognition paragraphs 7.46 to 7.55 explains that planners returned to Killiecrankie as a location for southbound and northbound lay-bys at DMRB Stage 3 because the distance between the identified lay-by locations was excessive at the southern part of the project: “It was acknowledged that at DMRB Stage 2 a lay-by was considered on the southbound carriageway at ch2540, however, only in combination with Junction Option A due to the resultant weaving distance for Junction Option B. This lay-by site was then re-considered in greater detail and it was noted that provision of a lay-by on the southbound carriageway at this location would require a Departure from Standard for nonstandard weaving length. Early in the DMRB Stage 3 assessment a potential location on the northbound carriageway was also identified at ch1600, again noting that provision of a lay-by on the northbound carriageway at this location would require Departures from Standards for nonstandard weaving length and also siting the lay-by on the inside of a bend.”

1.215 We submit that the location of lay-bys at Killiecrankie was an implicit differentiator in the decision to choose northbound alignment. Engineering relating to the demolition or retention of the Allt Girnaig underbridge is a known differentiator [TS160.17 page 47]. We submit that consideration of the potential lay-by location for the northbound lay-by at DMRB Stage 2 informed the decision. It should be noted that the local community knew nothing about the consideration of lay-bys throughout DMRB Stage 2. Residents only learned of the siting of lay-bys in Killiecrankie in November 2016, some 8 months after DMRB Stage 3 had started. Moreover, residents only started to comprehend the process of consideration and assessment from mid-2017.

1.216 In response to community concern, Jacobs held a meeting in the village hall on 13 June 2017 to discuss the two most worrying topics, namely, the Battlefield and Lay-bys. At that time, residents understood that enhanced lay-bys were proposed at Killiecrankie and were surprised to hear and read on arrival, that following a more detailed review at DMRB

1.217 Stage 3 no enhanced laybys are proposed at Killiecrankie. Jacobs explained the rationale for enhanced lay-bys was to allow road users to take advantage of key views and opportunities. Potential locations had been identified at the early stage of Strategic Environmental Assessment. In his precognition 7.21 to 7.30, Mr Robertson wrote how the Enhanced Layby Strategy was developed; how a single possible location in the Killiecrankie area at the tie-in to the existing dual carriageway [TS414.29] was considered at DMRB Stage 2; and how technically challenging such construction would be in that location. As a

result this enhanced lay-by site was removed from further consideration whilst the DMRB Stage 2 assessment was being progressed, in 2015.

1.218 The Enhanced Layby Strategy document [CD250 page 83] indicates locations for possible northbound and southbound lay-bys at the tie-in with existing dual carriageway at Killiecrankie. We now understand from Mr Robertson's evidence that only one enhanced lay-by had been considered at Killiecrankie and that the idea was dropped at least 18 months earlier.

1.219 We submit that the evidence provided by TS with regard to lay-bys is contradictory. We maintain that consideration of lay-bys did influence route alignment at DMRB Stage 2 because of the impact on costs resulting from the need to demolish the existing underbridge at Allt Girnaig. Lay-bys also underline what we regard as the lack of proper consideration or weighting given to the battlefield at the earliest stage of the process. The additional land take and infrastructure that they require should have excluded lay-bys from this 3km stretch at the very beginning of the planning process.

## Noise

1.220 We wish to address the World Health Organisation (WHO) guidance that was published on 10 October 2018 [CD416]. The new guidelines are not adopted. In her precognition 8.1, Dr Blewett wrote: "These new guidelines recommend a greater reduction in noise levels from road traffic noise than the previous WHO guidelines, which could result in more onerous noise mitigation thresholds being adopted. The noise mitigation strategy for the Scheme was developed taking account of the previous, less onerous, guidelines that had been in existence since 1999" [Document CD411].

1.221 The noise mitigation strategy that is proposed for this scheme is based on WHO Community Noise 1999, WHO Night Noise Guidelines for Europe 2009 and DMRB. It is stated for TS that these guidelines were in place at the time the environmental assessment was undertaken, and have been accepted as suitable and appropriate for other road schemes subject to the Public Local Inquiry process. Therefore, there is no need to reconsider the adopted noise mitigation strategy for the proposed Scheme. [TS208 1.2]

1.222 The 2018 WHO guidance has been developed to provide recommendations to protect human health from exposure to noise originating from a number of sources, one of which is road traffic. It provides public health advice which can translate into policy that would protect communities from the adverse effects of noise [CD416 page 2]. For traffic noise, WHO strongly recommends reducing noise levels produced by road traffic below 53 decibels Lden as road traffic noise above this level is associated with adverse health effect. For night noise exposure, WHO strongly recommends reducing the nighttime noise below 45 decibel Lnight as noise above that is associated with adverse effects on sleep. [CD416 page 18].

1.223 In his precognition 4.24, Dr David Palmer, Acoustics and Vibration Technical Director for Killiecrankie to Glen Garry A9 Dualling, wrote that the classification of magnitude of noise level changes was informed by DMRB and the significance of noise effects from the government's Technical Advice Note. For identifying noise mitigation requirements, impacts were considered significant where the noise significance was predicted to be Slight/Moderate adverse or worse and where the predicted absolute noise level also exceeds 59.5 decibels LA10,18h. Nighttime noise level impacts were considered

significant where the predicted level was Slight/Moderate adverse or worse and where the noise level exceeds 55.0 decibels L night, outside.

1.224 During the inquiry, Dr Palmer explained that the metric used for road traffic in his assessment is not the same as the metric used in WHO's 2018 guidance. Effectively, this would be a comparison of apples and pears, he said. He described WHO's Lden metric as "a very strange beast" that does not correlate with the metric used for the assessment for this project. Dr Palmer went on to explain that there is a way to convert one metric to the other and that the new guidelines may lower the threshold for mitigation if it were accepted that WHO 2018 guidance should become UK policy. As it is not current policy WHO 2018 guidance is not appropriate, he said.

1.225 WHO describes its Lden and Lnight metrics as "the most frequently used average noise indicators in Europe." [CD416 2.2.2]. WHO advises that countries that do not use WHO's metric in noise regulation can still make use of the guidelines using a conversion method. TS states that there is unlikely to be a rapid conclusion as to when, or indeed if, the recommendations for road traffic noise levels contained in WHO 2018 would be adopted in their current form [TS208 4.1]. It also notes that mitigation that may be required would not be done in isolation but still have to be balanced with other conflicting factors such as visual intrusion caused by an acoustic barrier.

1.226 The objectors submit that Scottish Ministers have a responsibility for the protection and improvement of the population's health. The National Transport Strategy (NTS2) which was published in February 2020 reaffirms this. The threshold for mitigation for the proposed scheme as stated in the Environmental Statement is, in our opinion, high at 59.5 decibels LA10,18h.

1.227 There is a difference between predicted noise levels and the perception of an individual. The noise statistics in the Environmental Statement are those that have been generated by the noise model. During construction, residents will have to rely on the contractor following best practice in order to keep noise levels within manageable levels. To set those noise limits, cognisance needs to be taken of "existing ambient noise levels". We understand that this is a different metric as it would be a recording of an actual noise level rather than a computer-generated noise statistic. The difference between the modelled noise, the measured noise and the perceived noise could be significant as they are not all measuring the same thing. For instance, noise associated with the use of lay-bys is outwith the scope of the noise assessments. Likewise, noise assessments ignore the noise of speed variations of vehicles entering and exiting a lay-by or a junction. Yet these noises would undoubtedly be experienced by someone close to the source.

1.228 We remain sceptical that the noise assessments contained in the Environmental Statement and, by extension, the Refined Design accurately predict what people living and working in Killiecrankie will hear. Auditory perception is not recognised. We understand that noise mitigation measures are most effective when placed nearest to the source or receptor. As the residents of Killiecrankie are mostly outside these two extremes, it holds that, for most, noise will increase.

### Battlefield impacts

1.229 There are 3 elements to the COG case in this regard: a) failure to avoid damage to assets; b) interpretation and archaeology; and c) setting impacts.

1.230 TS has produced a document called the “Battle of Killiecrankie Factual Report” [TS205] and a report on southbound widening which claims to have been developed to an equivalent level of detail as the proposed scheme. This is included in chapter 9 of the Development of the Scheme [TS206].

1.231 It is stated for TS that guidance on the assessment of impact on cultural heritage was provided mainly by Managing Change in the Historic Environment: Historic Battlefields published in 2011 [CD434], the version of the same document, updated in 2016 [CD423] and Managing Change in the Historic Environment: Setting [CD248]. During the inquiry, Mr Dempsey explained that battlefields were identified as important historic assets before the Inventory of Historic Battlefields was created. After the Inventory was launched, the (Killiecrankie) battlefield became a statutory designation. As such it was assessed as high value at DMRB Stage 2 and 3. The Environmental Impact Assessment (EIA) regulations would cover battlefields anyway but the Inventory gave extra weight to its protection, he said.

1.232 In his evidence and cross-examination, Mr Dempsey dismissed objections concerning particular assets close to the northbound corridor of the A9 which is to be developed. At 4.5.5 of his precognition, Mr Dempsey wrote that there is little evidence that Lagnabuaig existed at the time of the battle or was associated with the battle. Pollard and Oliver excavated a structure in 2003 in one corner of the area that is denoted as the approximate location of Lagnabuaig on TS 414.31. The structure was dated to the 19th century and Mr Dempsey deemed that Lagnabuaig was unrelated to the battle. Although the place had been identified in the Inventory as a specific quality, it was not included as a key battlefield landscape element at DMRB Stage 2.

1.233 Mr Dempsey contends that as none of the proposed route options would have a physical impact on the possible location of Lagnabuaig, no potential impact was identified. The extent of the Lagnabuaig settlement is not known. Maps such as the one on TS414.31 can only be indicative. Lagnabuaig Cottage (Asset 350) appears on the ES map of historic buildings [CD013 Figure 15.1a] and there is a note stating that its walls were identified in a Jacobs walkover survey in July 2016. However, Lagnabuaig Redoubt which was identified as Asset 351 at DMRB Stage 2 [CD018 14.3.14] has been airbrushed from the ES map [CD013 Figure 15.1a] presumably because the Cultural Heritage team is satisfied that no redoubt existed.

1.234 Figures 2a and 2b of the Factual Report [TS205] show that the area known as Lagnabuaig has had no metal detecting, trial trenching or geophysical survey. The bulk of the area is subject to a CPO and therefore – in terms of historical research – will be lost. Lagnabuaig was undoubtedly damaged during the construction of the original A9. The proposed scheme fails to avoid further disturbance and will only compound damage.

1.235 Mr Dempsey contends that there is little to associate Lagnabuaig with the battle; the area has been heavily disturbed and it contains dumping and spoil of between 0.5m and 3m in depth. The disturbance that has already taken place significantly reduces the potential for remains and, he suggests, any extant remains would be of comparable date to those discovered by Pollard and Oliver in 2003 and therefore not associated with the battle.

1.236 It was not until the Combined Group highlighted in their Statement of Case that Guard Archaeology Ltd had recovered munitions possibly relating to Lagnabuaig that Mr Dempsey checked the Guard report. Guard confirmed in November 2019 that the report



should have stated Croftcarnoch rather than Lagnabuaig [TS419]. Mr Dempsey said that he had “probably always read it as Croftcarnoch” even though Lagnabuaig was written.

1.237 As a memorial cairn, Tomb Clavers was identified as a key battlefield landscape element at DMRB Stage 2 and it was identified as a Special Quality of the battlefield at DMRB Stage 3. Mr Dempsey wrote that the setting was understood to contribute to the value of this Special Quality as the location of a yearly commemoration. He went on to set out what factors he considered to make a professional judgement and concluded at 4.6.17 that there would be no impact on Tomb Clavers or its setting during construction and operation.

1.238 The memorial cairn is outside of the Land Made Available and the CPO of the scheme. However, access to the cairn from both directions is via the path which runs alongside the CPO boundary. [CD013 Figure 14.4a] The access path from the village has to be realigned to allow for northbound widening and it has been identified as visual impact receptor 015 on the map. The impact assessment is Moderate in the year of opening and Slight after 15 years.

1.239 The most recent edition of Managing Change in the Historic Environment: Battlefields [CD423] does not stipulate that the value to a Special Quality of a memorial comes from its location for a yearly commemoration. Rather it is the fact that such a physical feature within the battlefield area can be a focus for commemoration or remembrance. One aspect of Cultural Association, listed in the Inventory of Historic Battlefields [CD424 page 18] is Commemoration. While it is true that there is a good attendance at the annual commemoration at Tomb Clavers, the local community is also conscious of visitors arriving at the memorial cairn throughout the year for moments of quiet reflection.

1.240 Based on professional judgment, Mr Dempsey understands that the setting of Tomb Clavers comprises: a) its location within the battlefield b) a sense of isolation and c) its association with Urrard House. As none of these will be changed, Mr Dempsey concludes that its setting is intact [precognition 4.6.9].

1.241 According to the HES guidance [CD248] setting can be important to the way in which a historic structure or place is understood, appreciated and experienced. Setting can extend beyond the property boundary or curtilage of an individual asset into a broader landscape context. Tangible and less tangible elements can be important, such as function, sensory perceptions, scenic associations of places or landscapes. Setting can also incorporate a ‘sense of place’: the overall experience of an asset. Mr Dempsey writes that there will be a view of the proposed Aldclune junction northbound diverge embankment and illustrates this with photomontages of the scheme 15 years after opening [TS206 Appendix H]. He states that there would be temporary noise impacts during construction but that there will be a Slight/Moderate Beneficial noise impact predicted for the year of opening.

1.242 The objectors maintain that those who visit Tomb Clavers will experience the place differently not just during construction but once the road is in operation. The proximity of the additional infrastructure changes the ambience of the place. The visual impact assessment confirms that there will be an adverse impact on the access path. The Combined Group believes that the experience of visitors to Tomb Clavers will change because of the combination of the visual impact, the additional infrastructure in the vicinity

of the memorial cairn, a different 'sense of place' and a change in sensory perceptions including auditory perceptions.

1.243 Mr Dempsey writes in his full precognition 4.7.13 regarding Raon Ruairridh Settlement and Redoubt that no evidence for a redoubt or any other archaeological features within the proposed scheme was identified by the archaeological geophysical survey undertaken in 2018. No impact on the site of Raon Ruairridh Redoubt is therefore predicted.

1.244 The Combined Group of Objectors agrees that the original Raon Ruairridh dwelling is located in the place where Urrard House now stands. The precise location of the settlement and redoubt has not been established. The Combined Group of Objectors has produced evidence of nine other dwellings located on lands belonging to Alexander Stewart at Run Rorie (sic) [KFCC56]. The location of the original wall surrounding Raon Ruairridh dwelling is unknown but, according to his Memoirs, General Mackay considered using an enclosure near where he was positioned at the centre of the Government line after discovering that many on his left flank had run away.

1.245 Roy's map [KFCC39] shows a house called Ranrourie (sic) surrounded on three sides by a wall. The ES for DMRB Stage 3, [CD011 15.4.37] stated that as the value of Raon Ruairridh Redoubt (Asset 344) is derived from its physical remains rather than its setting, no impact during operations has been identified.

1.246 It is thought that Raon Ruairridh dwelling could be the one mentioned in the Memoirs of Lochell "marching all in a body towards the enemy, they found them possessed of a gentleman's house that was near the field of battle ..." [TS441 page 27]. Asset 344 was assigned a Low value in the ES [CD012 Appendix 15.1]. Jacobs rejected PKHT's suggestion, made twice, at DMRB Stage 2 that Asset 344 be upgraded to medium if not high value given its prominent role in the Battle of Killiecrankie [TS411.6 page 15 and page 17]. PKHT made a third suggestion at DMRB Stage 2 about the impact on Asset 344 [TS411.6 page 17]: "Asset 344 is a key element of the battlefield and is listed as such in the Inventory. The landscape setting of this asset is key to understanding the battle. Suggest moderate magnitude at least with moderate significance." Jacobs noted the comment but rejected the suggestion.

1.247 Checking how setting was said to have been assessed in the ES, no other comments can be found. Raon Ruairridh dwelling (Asset 344) does not appear in the relevant impact table [CD012 Appendix A15.4]. The Combined Group of Objectors challenge the low value assigned to this asset and the assessment of no impact. TS's approach to assessment is to concentrate on physical impact and archaeological remains even if consultees advise otherwise. There is a mismatch between the guidance on determining the setting of an asset together with the impact of a development on it and the assessment of setting that was actually undertaken.

1.248 Such assessments are matters of professional judgment. However, it is essential that all facets of historical association and battlefield landscape be taken into account. The Gaelic name of the battle is Raon Ruairridh, the name of Asset 344. It is associated with the location of a dwelling, settlement, garden and/ or enclosure in front of which General Mackay centred his battle line. The mound within the walled garden is called Dundee's Mound because of the association with the place where Dundee fell.

1.249 The Hearth Tax records for 1691-92 [KFCC56] show that nine other dwellings had a relationship of some sort with Run Rorie (sic). Consideration of battlefield landscape includes historic settlements that had a relationship with the battlefield [KFCC115 page 19]. This is an important criterion for setting. As HES guidance makes explicit, setting may not involve anything physical at all. It could be a non-visual factor such as place name or an intellectual relationship or a visual perception. [CD248 page 7].

1.250 The present day Urrard House and walled garden are identified as Asset 341 in the ES. These are clearly not the same assets as Raon Ruairridh and/ or a redoubt and settlement. However, given the location of Urrard House and Walled Garden, they serve as good markers in the historic landscape. We disagree that the value of Raon Ruairridh (Asset 344) is derived from its physical remains, as asserted in the ES [CD011 15.4.37]. The value of Raon Ruairridh is in the role it played in the battle, its location, its name and what it represents. Using the modern structures as a guide, today's visitor can read the battle site more easily, forming an idea of the extent of Raon Ruairridh which was at the epicentre of the battle.

1.251 A re-evaluation of the setting of Raon Ruairridh within the battlefield landscape would facilitate better compliance with a part of guidance where TS acknowledges that the proposed scheme falls short. Historic environment guidance expressly requires that decisions affecting the historic environment should ensure that its understanding and enjoyment as well as its benefits are secured for present and future generations [TS211 page 26].

1.252 Urrard House and Walled Garden (Asset 341) are Category B Listed and rated as Medium value that will suffer Slight impact during construction and Slight impact when the road is in operation [CD012]. We agree with House of Urrard LLP (OBJ078) on how this asset was evaluated and the impact assessed.

1.253 Mr Dempsey presented evidence in his precognition paragraph 4.9. that the stepped terrace in the field identified by TS as F6 is an artificial mound used as a service ramp for construction of the existing A9. The Combined Group accepts that the ground here appears to have been used for that purpose. Nonetheless, the Combined Group remains of the view that the step identifiable in Field F6 is a continuation of the terracing visible in Field F7, as is indicated by the contour lines in Ordnance Survey mapping in the early 20th century prior to the intrusion of the A9. Mr Dempsey accepted the evidence provided by Pollard and Oliver that the terracing in this area was highly significant.

1.254 Mr Dempsey asserted in his evidence to the Inquiry that he could conceive of no natural way that the stepped landscape in Field F6 could have been formed with the depth of the present topsoil, concluding that it was therefore artificial. Mr Rattray presented evidence for the Combined Group based on his own professional geological experience in the mining industry that natural explanations were indeed possible. The Combined Group therefore submits the use of the terrace in Field F6 during construction of the A9 does not automatically confirm it is an entirely man-made feature; nor does this detract from the fact that this area was fought over at a critical stage of the battle, as is illustrated in TS's own interpretation [TS205 Figure 4]. One artefact relating to the battle was also found here [TS205 Figure 2b].

1.255 In regard to interpretation and archaeology, TS has presented its interpretation of the Battle of Killiecrankie and the results of the archaeological geophysical survey, trial trenching and metal detecting undertaken [CD037, CD038, CD039] in the "Battle of

Killiecrankie Factual Report” [TS205]. This document was prepared by Mr Dempsey and along with its appended figures and associated maps it was discussed in detail during the Inquiry. Dr Johnston presented the concerns of the Combined Group about the promoter’s understanding of the battle during his evidence to the Inquiry, following references to it by Mr Dempsey. Important amongst these concerns was the presentation of a map, dated May 2019 and submitted to the Inquiry as TS414.12, which identifies with apparent precision the location of each individual regiment at the battle and the firing zones of the Williamite muskets (labelled as “optimum range” and based on General Hugh Mackay’s statement on the distance at which his troops opened fire).

1.256 This map [TS414.12] should be read alongside those which show the artefact scatters identified by the successive phases of archaeological survey, such as TS205 Figure 2b. The synoptic problem becomes apparent: the majority of munitions recovered from the battlefield lie outside the firing zones indicated by Mr Dempsey’s interpretation. Dr Johnston presented the Combined Group’s belief that whilst some of this can be attributed to Jacobite munitions falling short at long range or Williamite musketballs overshooting (the likelihood of which is further reduced by the fact that they were firing uphill), the high concentration of munitions and the presence of impacted munitions, buckles and other broken equipment fittings [TS205 Figure 2b] are clear indications of volleys striking targets well within effective range.

1.257 The optimum range of the Williamite volleys presented by Mr Dempsey is accepted by the Combined Group. Dr Johnston’s presentation to the Inquiry of his own understanding of the effective ranges of 17th century firearms broadly confirms it.

1.258 The conclusion must therefore be that, in taking the optimum firing range as an approximate guide and working backwards from the areas of concentrated impacted munitions, the Williamite battle line must have been closer to the existing A9 than has been asserted by TS. TS attempted to suggest that the CPO area did not incorporate areas of archaeological yield relating to the Battle of Killiecrankie but this is refuted with specific reference to Field F5 [TS205 Figure 2b]. Furthermore, it is the clear conclusion of the archaeology that musket-fire was exchanged across the entire CPO area within the battlefield and that the Jacobite army charged across the CPO in the final approach to the Williamite line. This is therefore where the highest likelihood of casualties being inflicted occurred.

1.259 The archaeological finds indicative of close-quarters firing, the concentrations of munitions outside the indicated firing zones, the requirement to leave adequate space behind to allow for a walled enclosure at Roan Ruairidh and the steepness of the slope to the south, all indicate that the Williamite line was probably considerably closer to the CPO boundary than has been proposed by TS. Mr Dempsey’s placement is one possible interpretation but not the one which best fits all the evidence when taken in the round.

1.260 The significance of the placement of the Williamite line is that it indicates the areas of the most intense firing in the corridor of the existing A9, and of the hand-to-hand fighting in the strip running immediately south of it, either within or very close to areas that will be directly affected by the scheme. This significantly heightens the sensitivity of the areas most impacted by northbound widening. This in turn affects the assessment of the impact of the scheme on the battlefield.

1.261 It remains the view of the Combined Group therefore that the Alternative Design (southbound widening) which was assessed by TS as having greater impact on the

battlefield, came to that conclusion by assessing impact only on topographical features and not locations of strong cultural association nor in line with the most faithful interpretation of the archaeological results as these emphatically increase the significance of the area immediately south of the current A9. Whilst the Combined Group repeated their acceptance that any widening scheme would inevitably compound damage to the battlefield already caused by the current A9, it submits that the area of highest sensitivity is to the left of the northbound carriageway.

1.262 This is also how the battlefield is understood and appreciated by most visitors/tourists although TS asserts that they experience the battlefield by visiting the NTS visitor centre in the Pass of Killiecrankie [TS411.6 14.4.7]. As the amenity value of the battlefield has been attributed entirely to the visitor centre and it will suffer no physical impact, no impact on amenity has been assessed. Visitors' experience has not therefore been taken into consideration. This may explain why no serious attempts have been demonstrated to compensate for battlefield impacts by seeking opportunities to enhance the historic environment or increase the amenity value of the battlefield through increasing access or interpretation. TS pointed to the development of a mobile app for the whole A9 corridor with a dedicated Battlefield section. The Combined Group considers this inadequate as mitigation for this level of impact.

1.263 We agree that 'preservation by record' should be the last resort and only countenanced if all other attempts to mitigate damage have failed. HES referred to this on a number of occasions. The Combined Group has suggestions on how to improve battlefield access and interpretation for visitors. These were highlighted during the hearing session on tourism.

1.264 Since the original DMRB Stage 3 scheme was suboptimal in terms of its treatment of the battlefield – as evidenced by the objections of statutory consultees and the subsequent revisions which led to the Refined Scheme – there may be potential for improvement in the Alternative Design for southbound widening. It was, after all, produced only in 2019 for the Inquiry and has not been subjected to the same scrutiny by statutory consultees as the previous schemes. We submit that it is, therefore, unreasonable to present the Alternative Design as a fair choice against the DMRB Stage 3 scheme to which objections were lodged.

1.265 While recognising that the area known as Skirmish Fields does not form part of the core strip of the battlefield where the hand to hand fighting was concentrated, the Combined Group of Objectors submits that TS has done little to understand the historical context of the fields before asking for the Compulsory Purchase Order to be made.

1.266 TS's focus in the Skirmish Fields has been on physical remains and archaeological potential. Historic environment policy recognises the importance of historical association on an Inventory battlefield. Historical association includes documentary evidence that may enhance our understanding of historic events [KFCC115 page 18]. The aim of the Inventory is to raise awareness of the significance of nationally important battlefield sites and to assist in their protection and management for the future.

#### Conclusions for the Combined Objector Group

1.267 The Combined Group maintains its objection to the proposed scheme and submits that the Scottish Ministers should reject the proposals. The battlefield was not given the weighting that its nature and significance merited in the planning process. This

was demonstrated by, amongst other factors, the decision to locate lay-bys within the short 3.6km stretch of new road required in Killiecrankie. Moreover, the preference for northbound rather than southbound widening has not been proven by the late production of the Alternative Design. It remains the view of the Combined Group that northbound widening by its closer proximity to where the fighting was concentrated is insensitive; does not comply with the spirit of policy to protect our historic battlefields; and represents a greater risk to future understanding of the battle than would be the case with southbound widening.

### **Main points of the case for House of Urrard**

1.268 House of Urrard LLP agrees with the case made on behalf of the Combined Objector Group.

#### Route design and selection –southbound widening

1.269 Land take to the north of the current A9 Trunk Road represents a better and more successful engineering solution, neither affecting nor damaging any established interests, and providing a better transport and engineering solution for the A9 dualling proposals in this section. That is because

- the cost of land acquisition would be reduced substantially; and
- the land has been offered for use by these Objectors free of charge, and the principal features of the Battlefield site, the listed interests at Urrard Estate, the residential amenity of Urrard House and its setting and the amenity of the adjacent six residences, the encroachment into the SAC at the Allt Gurnaig, the existing tree cover, particularly to the south of the existing carriageway, and the overall noise impacts on residents and their paying visitors would all be reduced.

1.270 These objectors do not acknowledge the claimed significance of any disbenefits asserted by the promoters in respect of the need for a new bridge structure at the Allt Gurnaig, and any possible difficulties of traffic management during construction. These are marginal issues and of little significance in the wider scheme. They are engineering issues which can be overcome. Detailed costed proposals are not before the Inquiry.

1.271 The DMRB process has shown that the choice of northbound/ south side dualling was chosen many years ago on grounds of cost, balance of the cut and fill of earthworks and facility of construction. The promoters have taken into account only engineering considerations and disregarded the amenity of existing interests. The Refined Design purports to have eliminated the above perceived advantages to an extent. It was created out of a belated recognition of the need to focus more clearly on the historic environment. These Objectors remain unpersuaded that the reasons given for maintaining the northbound/south side alignment shows convincing benefits over and above those which would flow from a readily achievable southbound/northside alignment.

1.272 The explanations given in the Refined Design in relation to the Allt Girnaig bridge structure and the longitudinal joint are all well understood. However, by moving the Aldclune junction slip beyond the Allt Girnaig underpass, it becomes easier to visualise widening on the southbound carriageway to accommodate a crossover before the point at which the underpass is proposed. A new structure may then be subordinated within the

landform and as these Objectors perceive it, the trees growing on the south side and sheltering the House and Steadings, and the acoustic bund may largely be retained.

1.273 In addition, the core of the Inventory Battlefield may be retained undisturbed, and (from Urrard's point of view) the Walled Garden wall may be entirely removed from the construction "danger zone". In addition, there would be no need to have lay-bys so close to Urrard House and on the edge of the battlefield; no need for the underbridge (through) the SAC, and the ambience and setting of the Memorial Cairn (Tomb Clavers), which is on Urrard House land, can be maintained.

1.274 Two 'Type A modified' lay-bys are proposed to be sited on this same section of the battlefield site with (it is submitted) adverse visual and noise impacts for visitors and residents alike. Lay-bys encourage litter disposal, and worse. There will be lay-bys both northbound and southbound on the existing dualled section of the A9 road between Killiecrankie and Pitlochry and there are all-ways junctions proposed both at Pitlochry and Aldclune. These should allow ample opportunity for tired drivers to leave the road.

### **Relevant points raised in other objections**

1.275 Additional points of objection on route design and general impacts raised in other objections are:

- Scottish Ministers ought not to be contemplating further road building in the context of the climate emergency and the related priority to improve public transport provision;
- A9 dualling is not required; the proposal is an outdated response: the introduction of autonomous vehicles will render dualling redundant;

### **Reporter's conclusions**

#### The policy context for proposed scheme

1.276 Based on the evidence contained within the A9 Dualling - Perth to Inverness - Need and Justification Report, I find that the proposed scheme is an integral part of the wider Scottish Government commitment to upgrade the A9 between Perth and Inverness to dual carriageway by 2025. It is clear to me also, based on Ministers' decisions on other stretches of proposed A9 dualling, that the Scottish Government remains committed to the dualling of the A9. Support for the A9 dualling programme between Perth and Inverness is found within national transport, economic and planning policy.

1.277 In that context, I find that objections to the principle of road investment, favouring instead public transport and active travel investment in the overall context of the climate emergency, are contrary to that policy commitment.

#### Outstanding objections

1.278 A total of 183 objections were received by Transport Scotland following publication of the draft Orders and ES. Following discussions with objectors, and refinements to the proposed scheme, a number of objections were withdrawn; 164 objections remained extant by the commencement of the inquiry. It is significant to note that Historic Environment Scotland (HES), Cairngorms National Park Authority (CNPA),

Perth and Kinross Council (PKC) and Network Rail have all withdrawn objections. No objections remain outstanding from statutory consultees.

### Consultation and the role of the DMRB process

1.279 The Combined Objector Group and House of Urrard object to the detail of the proposed scheme, but not to the principle of dualling. In doing so they criticise many procedural aspects of the scheme development process, culminating in criticism of the manner in which the preferred route was selected. I find no convincing evidence to lead me to reasonably conclude that the consultation process departed from the requirements of environmental impact assessment or DMRB or was otherwise flawed, nor that responses from local residents and wider consultees were disregarded.

1.280 That is not to say that consultation and engagement during the iterative design process would have placed a challenging burden on local residents, especially as it became apparent that the southbound dualling favoured by the Combined Objector Group and House of Urrard was ultimately not selected by Transport Scotland.

1.281 I do not find the change in status from Historic Scotland to Historic Environment Scotland during the design development of the proposed scheme to be significant. It is clear to me that significant consultation took place with Historic Scotland and then with Historic Environment Scotland throughout all stages of the design development of the proposed scheme, ultimately concluding with the withdrawal of the HES objection.

1.282 Scottish Ministers, in deciding whether to make the Orders, are required to take into consideration the Environmental Statement and “any opinion on that statement or the project which is expressed in writing “... “by any of the consultation bodies or by any other person and is received by the Scottish Ministers within any period specified for the purpose by them”. I find that process to have been followed appropriately by Transport Scotland and that accordingly Ministers are entitled to rely on the position ultimately expressed by HES and other consultees, none of which remain as outstanding objectors.

1.283 I find that Transport Scotland has followed a robust process by which it selected the preferred route and, through that process, considered alternatives. This process is set out in the Design Manual for Roads and Bridges (DMRB), which provides standards, advice notes and other documents relating to the design, assessment and operation of trunk roads, followed across the United Kingdom, relied upon and accepted in other roads inquiries. The DMRB process has at its heart the safety of road users. I find there to be no evidence to suggest that the DMRB has not been followed in this case.

1.284 Nor do I find any evidence to lead me to reasonably conclude that there has been a failure to comply with the EIA Regulations.

### Objections to the DMRB process

1.285 I am satisfied that Transport Scotland has explained the staged development process it has followed in identifying and designing the proposed scheme. Document TS211 sets out how the design development of the proposed scheme takes account of planning policy. To be clear, the decision of Scottish Ministers whether to make the draft Orders is not bound by planning legislation; it is, however, a decision akin to one under the planning regime. Accordingly, there is no specific hierarchy of the various policies and topics which require to be balanced in assessing an overall scheme.



1.286 I find that there is no legislative or policy requirement to suggest that consideration of the impact of the proposed scheme upon Killiecrankie Battlefield should be given paramount consideration, above all other environmental considerations. Paragraph 149 of Scottish Planning Policy states: “Planning authorities should seek to protect, conserve and, where appropriate, enhance the key landscape characteristics and special qualities of sites in the Inventory of Historic Battlefields.” I take that obligation to apply to consideration of this scheme, although clearly not being considered under planning legislation.

1.287 Impact on the battlefield was, rightly, one of many considerations weighed in the iterative design process, and it is clear to me that the importance of the battlefield was appropriately recognised by the design team. Based on the evidence before me, I find that the weighting of the battlefield receptor was undertaken in a reasonable manner. As the battlefield was assessed to be of high value it was considered to be more sensitive to a magnitude of change than receptors of lower value and was therefore regarded by the design team as a priority for mitigation should a significant impact be predicted.

1.288 Transport Scotland contends that in taking forward the proposed scheme, its approach to engagement and consultation has been no different from that which has applied across other projects within the A9 Dualling Programme. Based on my experience of other road schemes and the evidence before me I find that to be the case.

#### Objections to route choice/ alignment of the proposed scheme

1.289 As stated above, 164 objections remain outstanding during the inquiry, many of which, at least partly, relate to impact on the Killiecrankie Battlefield. Both the Combined Objector Group and House of Urrard contend that southbound widening of the A9 (at least as it passes through Killiecrankie Battlefield in the vicinity of Killiecrankie) would be preferable to the northbound widening proposed at this location.

1.290 As I have found above, Transport Scotland’s evidence sets out that from the outset of the Strategic Environmental Assessment Report, the importance of Killiecrankie Battlefield was recognised, as well as the potential for significant impacts on it. Despite this early recognition and appreciation of the potential for such effects upon the battlefield, at DMRB Stage 1 it was concluded that online design options were preferable due to the scale of environmental disbenefits associated with offline options, including potentially significant impacts on Ancient Woodland, the Pass of Killiecrankie Site of Special Scientific Interest (SSSI) and Loch Tummel National Scenic Area (NSA), as well as property demolition.

1.291 It seems to me that this was a reasonable approach to take, reflecting the fact that the existing A9 runs through the Inventory site, with a consequent impact on its key landscape characteristics and special qualities.

1.292 At DMRB Stage 2, route and junction options were sifted and thereafter developed into whole route options. These route options were subject to consultation with the members of the Environmental Steering Group and members of the public. I find that Transport Scotland undertook a robust assessment before selecting northbound widening of the existing A9, as it passes through Killiecrankie Battlefield.

1.293 Transport Scotland explains that option to result in the best earthworks balance; northbound widening would allow for the re-use of the existing Allt Girnaig and Allt Chluain Underbridges, rather than requiring their demolition; and the above issues have an impact

on cost, with southbound widening more expensive than northbound widening (between £29.0M and £32.9M more). None of the environmental issues, especially the impact upon Killiecrankie Battlefield in respect of which the objectors' concerns are focussed, was considered a differentiator in respect of route choice at DMRB Stage 2. That seems to me to accord with the ultimate position set out by HES.

1.294 Transport Scotland contends that southbound widening of the existing A9 as it passes through Killiecrankie Battlefield would have a more significant adverse impact on it than the proposed scheme. I consider that matter later in this chapter.

### Objections to the proposed scheme and refinements to the DMRB Stage 3 design

1.295 Given that impact on the battlefield is unavoidable with an online dualling option, concerns regarding the impact of the proposed scheme on the battlefield were raised by three statutory consultees: HES, CNPA and PKC. It is clear to me based on the evidence before me that these bodies' responses were taken into account by TS in the design development leading to the DMRB Stage 3 design. During 2018 archaeological investigations were undertaken and agreed with HES and Perth & Kinross Heritage Trust (PKHT) on behalf of PKC. With reference to the Battle of Killiecrankie Factual Report, the 2018 archaeological investigations confirmed the baseline and assessment of residual impacts upon the battlefield as presented in the ES, and reinforced Transport Scotland's confidence that the mitigation committed to in the ES was appropriate insofar as impacts upon the battlefield were concerned. As a result of this confirmation having been obtained, all overseen by PKHT and in agreement with HES, Transport Scotland developed refinements to the proposed scheme, specifically to address the objections of the statutory consultees.

1.296 Those refinements slightly reduced the footprint of the proposed scheme within the battlefield, and introduced some changes to the mitigation proposed, in order to address concerns expressed by objectors and statutory consultees. An ES addendum was not required because the significance of residual impacts of the Refined Design are the same or reduced when compared to those presented in the ES, and the mitigation strategy adopted remained unchanged. On this basis I find that the EIA process was appropriately conducted and that the ES adequately addresses predicted impacts.

### Environmental Impact Assessment

1.297 At DMRB Stage 3, I find that an EIA was undertaken in accordance with the EIA Regulations and as informed by guidance contained within Volume 11 of the DMRB. This iterative process identified predicted impacts and embedded mitigation to avoid potential impacts where possible. Where those could not be avoided, mitigation was identified and the residual impact significance determined. The EIA process was informed by extensive consultation with statutory and non-statutory organisations, including consultation with the ESG.

### Residual impacts

1.298 Residual impact sections within the ES chapters report the significance of residual impacts remaining after proposed mitigation identified in the ES has been applied. In accordance with the requirements of the EIA Regulations, where significant impacts remain as a result of the proposed scheme, this is identified in Section 7 of each topic

chapter of the ES and summarised in Chapter 22 (Summary of Significant Residual Impacts) of the ES.

1.299 Transport Scotland contends that the subsequent Refined Design resulted in no additional significant impacts in terms of the EIA Regulations; the significance level of all residual impacts would be no worse than reported in the ES.

1.300 Other than for the topics of cultural heritage, landscape and visual impact and noise which I consider in more detail below, and specific property impacts considered in the following chapters, I have reviewed the predicted significant impacts set out in Table 22.1. Having considered those against objections received and against relevant consultation responses, I have no evidence to disagree with the scope and significance of those impacts identified.

1.301 I note that, having considered that the project has the potential to significantly affect the River Tay Special Area of Conservation (SAC) and Tulach Hill and Glen Fender Meadows SAC, and that the project is not directly connected with or necessary to the management of the site, an appropriate assessment has been undertaken of the implications of the proposals in view of the conservation objectives for both sites. This concluded that, subject to adherence to the mitigation measures set out in the report, the project will not have an adverse impact on the conservation objectives or integrity of the two Natura sites. The then Scottish Natural Heritage (SNH) was formally consulted under Regulation 48(3) for its view as the statutory nature conservation authority in relation to the potential effects of the works on both SACs. SNH considered that the works would not have an adverse impact on the integrity of the Natura sites. This view is set out in their correspondence of 23rd January 2018. The Appropriate Assessment has concluded that the project as proposed will not adversely affect the integrity of the River Tay SAC or Tulach Hill and Glen Fender Meadows SAC. Based on the evidence before me, I have no reason to disagree with this conclusion. Ministers will, however, require to undertake their own appropriate assessment.

#### Residual landscape and visual impacts

1.302 For the refined design, and in the winter of the year of opening, it is predicted that significant impacts would occur on the Pass of Killiecrankie LLCA and the Glen Garry: Lower Glen LLCA. In summer 15 years after opening, the impact on the Glen Garry: Lower Glen LLCA would remain significant (Moderate) due largely to the Aldclune Junction.

1.303 People at 16 built receptor locations and four sections of footpath would experience significant visual impacts during construction. People at 15 built receptor locations and four sections of footpath would experience significant visual impacts in the winter of the year of opening. The majority of the significantly affected receptors would be located around Aldclune Junction, with four located close to the A9 south of the proposed scheme in and around Aldclune and Killiecrankie. In the summer 15 years after opening, people at five built receptor locations to the north of the A9 would remain significantly affected. Four of these are close to Aldclune Junction.

1.304 Significant impact on views from the road are predicted during the winter of the year of opening where it passes through Glen Garry: Lower Glen LLCA. In the summer 15 years after opening the impact would not be significant.

1.305 Having considered the evidence before me, and with the benefit of extensive accompanied and unaccompanied site inspections, I find these predicted impacts to be realistic.

1.306 I accept, as I think the objectors now do, that neither lay-by within the battlefield boundary is an enhanced lay-by, but are proposed to address road safety requirements.

1.307 I consider that the two natural stone walls which replace the bund proposed at Stage 3 would maintain screening, while also reducing the proposed scheme's footprint within the battlefield. Such considerations often entail a trade-off between considerations; in this context I consider the desire to reduce the scheme footprint within the battlefield to be worthy of support.

1.308 I agree with the Combined Objector Group that the Refined Design will increase the sense of severance of the battlefield over that currently experienced, but not that it would result in a greater sense of severance than the Stage 3 Design would.

#### Residual cultural heritage impacts

1.309 The ES assesses an overall residual impact of Moderate significance on Killiecrankie Battlefield, arising from reinforcement of the existing severance of the battlefield caused by the existing A9. This impact is considered significant in the context of the EIA Regulations. No other significant impacts on cultural heritage assets are predicted.

1.310 Potential impacts on Urrard House, Walled Garden and Urrard Steading were assessed and set out in ES Appendix A15.4. No physical impact on these historic assets was identified. The ES assessed residual impacts of Slight significance on the setting of these historic buildings during construction and operation. After mitigation no significant impacts were identified on the cultural heritage assets in Skirmish Fields 1 or 2.

1.311 I accept that Transport Scotland has provided clear evidence as to the reasons why impacts on the battlefield cannot be avoided altogether. I accept also that the importance of the Battle of Killiecrankie in a national and international context was taken into consideration throughout the design development of the proposed scheme. I note also that TS engaged in an iterative design process to reduce impacts within the Inventory site, culminating in HES withdrawing its objection.

1.312 The HES response of 22 January 2019 sets out the conclusion of HES that "...alignment options to either the north or south of the existing carriageway within the Inventory boundary would be likely to have comparable adverse impacts on key landscape characteristics and special qualities of the battlefield regardless of whether the overall alignment is to the north or southbound side of the carriageway."

1.313 There is nothing in the DMRB or in planning policy, including Scottish Planning Policy, to lead me to conclude that the battlefield should take priority over all other matters when seeking to weigh competing interests.

1.314 Paragraph 149 of Scottish Planning Policy states: "Planning authorities should seek to protect, conserve and, where appropriate, enhance the key landscape characteristics and special qualities of sites in the Inventory of Historic Battlefields". I accept that impacts on the battlefield are unavoidable as online widening has been justified for the reasons referred to above. In that regard I find that the scheme was developed in

accordance with Scottish Planning Policy and the HES Managing Change guidance. The proposed scheme has avoided impacts on most of the Special Qualities and Key Landscape Characteristics of Killiecrankie Battlefield. Where avoidance of these Special Qualities and Key Landscape Characteristics is not feasible, the proposed scheme has reduced impacts through design, such as reducing the scheme footprint at Refined Design stage.

1.315 The desire of objectors to seek to protect those parts of the battlefield that they consider to be most important or sensitive, such as the scene of the most intensive engagement between the opposing forces, is understandable. However, HES Managing Change Guidance advises that all parts of the Inventory Battlefield are to be protected: “Including a battlefield in the Inventory is not intended to be simply a barrier to development. The intention is to identify an area of added protection where particular consideration must be given to impacts on the site. This should focus on the special qualities and landscape characteristics of the battlefield”.

1.316 Whether or not the first stepped terrace (being key to the COG assessment of where the Government line would have been found) was a large man-made structure to support the carriageway of the existing A9 at the time of its construction in the 1980s was a subject of much debate during the inquiry. It was however, conceded for COG that the line of the Government forces which it advocates, is located outwith the boundary of the draft CPO. I note that in response to concerns raised by HES and PKHT, the design of the proposed scheme has been refined through this section to reduce or, where possible, avoid impacts on the battlefield. This includes removal of the eastern SuDS feature and reduction of earthworks into an area of land previously disturbed by the construction of the existing A9, which would have removed or truncated any archaeological remains that may have been present, and which would have changed the original topography of the battlefield. In this way I find that the refined design avoids changes to battlefield topography in this area.

1.317 In The Inventory of Historic Battlefields – Battle of Killiecrankie under Archaeological and Physical Remains and Potential it is noted in regard to Lagnabuaig that:

“Roy’s map shows two farmsteads on the battlefield as little clusters of buildings. One of these settlements, Lagnabuaig, partially survives adjacent to the A9 (NN 907 637), which has destroyed the majority of the settlement. One of the structures was excavated in 2003 and proved to be a barn used into the 19th century. This building is likely to post-date the battle, and it indicates that the settlement indicated on Roy’s map survived for some considerable time. However, it is not known whether Lagnabuaig as a whole was present in 1689, although the skirmish relating to the Jacobite snipers indicates that the accounts only mention buildings where they took an active part in the battle. As the only contemporary accounts come from men who had to flee the battlefield to escape, it is possibly unsurprising that details of farm settlements were not recorded.”

1.318 I also note that, in addition to this lack of evidence for a settlement dating to the 17th century in this area, Lagnabuaig as the location for a redoubt does not match the description from contemporary accounts which locates the snipers opposite Mackay’s regiment, to the east of Urrard House. The entry for Lagnabuaig Settlement in the Perth & Kinross Historic Environment Record states that:

“Two sites which may have been positions used by Jacobite forces to fire on the Government line during the battle of Killiecrankie. Lagnabuig ... has been largely discounted due to its position and the lack of any metal finds during fieldwork on the site.

Croftnacaroach..., on the other hand, has produced a range of small finds which may complement the theory that it was used as a sniping position on the 27th of July 1689.”

1.319 As indicated in the Inventory excerpt above and confirmed by the results of the Lidar analysis and further site inspection, I accept that little now remains of Lagnabuaig Settlement. Historical Ordnance Survey mapping shows two structures in this area and of these only one now survives above ground (identified as Lagnabuaig Cottage (Asset 350) in the ES). This cultural heritage asset, along with any unknown remains associated with Lagnabuaig Settlement that may survive are located within an area of woodland that is to be retained.

1.320 Tomb Clavers is identified in the ES as Asset 348 and its location is shown on Figure 15.1a of the ES. This cultural heritage asset is located approximately 70m from the extent of proposed construction works. I note that Tomb Clavers is located outwith the land required to construct the proposed scheme and therefore there would be no direct impact on it. The presence of woodland screening between the memorial cairn and the A9 would mean that there would only be partially filtered views of the proposed Aldclune junction northbound diverge embankment to the north-west of the memorial cairn and so there are predicted to be no impacts on its setting (Chapter 15, paragraph 15.4.39 of the ES). Despite its relatively close proximity to the northbound widening, and based on my site inspection, I find this conclusion to be reasonable.

1.321 Raon Ruairidh is identified in The Inventory of Historic Battlefields as Roan Ruiridh and is the name of an earlier house which was located on the site of the present Urrard House. It is identified in the ES as Roan Ruairidh House Redoubt (Asset 344). It is shown on Roy’s military map along with an enclosure which I accept is likely to be the walled garden that Mackay briefly considered using as a defence. This is not the current walled garden at Urrard House, which was built later. The shot that killed Dundee was traditionally said to have been fired from Roan Ruiridh, and there is historical evidence that it was occupied by Government troops towards the end of the battle, and therefore it has been identified as the site of a redoubt. Neither The Inventory of Historic Battlefields or Roy’s map identifies a settlement in this location, and I note that no remains of a settlement was identified by the geophysical survey undertaken in 2018.

1.322 Archaeological investigation undertaken for the television series “Two Men in a Trench” established that Roan Ruiridh is located on the site of the present Urrard House, which itself is located approximately 140m from the edge of the land required to construct the proposed scheme. There would therefore be no direct impact on any remains associated with Roan Ruiridh and therefore no impacts during construction are identified in the ES. In addition, as the value of this cultural heritage asset is derived from its physical remains, its setting does not contribute significantly to this value. Therefore, no impacts during operation are predicted in the ES, which I accept as a reasonable conclusion.

1.323 I conclude that Ministers are entitled to place reliance on the Battle of Killiecrankie Factual Report, albeit Transport Scotland reasonably concede that absolute certainty regarding the exact location of the Government line cannot be stated. However, I agree that for the purpose of the question of determining whether impacts upon the battlefield itself have been properly assessed, this is not the test.

1.324 I find that the assessment required by policy and guidance is based upon the agreed key landscape characteristics and special qualities of the battlefield. The actual area where the opposing forces met is not elevated to any special status in that

assessment. To suggest that focus should be placed almost exclusively on the position of the Government line is to disregard all other features of the wider battlefield.

1.325 The Combined Objector Group prefers southbound widening as that is contended to reduce impacts on the battlefield. In turn, Transport Scotland contends in TS206 that greater adverse impacts upon the battlefield, and specifically upon its Special Qualities and Key Landscape Characteristics, would result from the Alternative Scheme (southbound widening).

1.326 Considering the evidence before me, informed by site inspections, I prefer the position of HES, which is that there would be likely to be comparable adverse impacts on key landscape characteristics and special qualities of the battlefield regardless of whether northbound or southbound widening is pursued.

1.327 The proposed siting of lay-bys within the Inventory site necessarily extends the footprint of the scheme within it. Transport Scotland contends that the need for lay-bys within the battlefield is a matter of driver safety. That contention is reinforced by Police Scotland. I find that the siting of lay-bys within the proposed scheme has been based upon what is permissible in terms of design standards, rather than being influenced by views from the road or from the lay-by itself. I note that DMRB Guidance recommends regular lay-by spacing every 2.5km. Without the inclusion of lay-bys within the battlefield, the spacing between successive lay-bys in the northbound direction would be approximately 13km, and in the southbound direction approximately 7.5km, both of which are well in excess of the spacing recommended by DMRB.

1.328 I can well understand why objectors would seek to have the lay-bys sited outwith the battlefield, and especially so as only 3.6km of the dualled route would run through the battlefield. It might in fact seem perverse not to have done so. Transport Scotland argues that the positioning of lay-bys within the battlefield calls for a balancing exercise to be undertaken. This is explicitly referenced by HES in its letter to Transport Scotland dated 22 January 2019: “We also withdraw our objection to: • Lay-by locations within the Inventory battlefield.....you have taken the view that driver safety is the over-riding consideration in their spacing and location. We note the proposed lay-bys are not intended to be the enhanced lay-bys which were initially being considered for inclusion within the scheme. Although these elements of the road add to the overall footprint of the road within the Inventory site, we recognise that there is a balance to be struck with other issues...”.

1.329 I accept this conclusion as reasonable. Should, however, Ministers disagree and wish to further reduce the footprint of the scheme within the Inventory site, this matter may offer a potential means of addressing that aim.

1.330 The same issue is relevant to consideration of the impact of the proposed scheme on the setting of Urrard House and its Walled Garden. In this regard I do not agree that Transport Scotland has failed to take into account the provisions of Section 59(1) of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 (LBCA). Mr Dempsey's evidence is persuasive as to how this has been achieved. This includes an acknowledgement that whilst section 59(1) of the LBCA is not directly applicable under the Roads (Scotland) Act 1984, it is appropriate for Scottish Ministers to consider whether there are material considerations which would have required particular weight to be given as a matter of law.

1.331 The only expert evidence before the inquiry regarding the assessment of the impacts of the proposed scheme upon the setting of Urrard House and Walled Garden is that of Mr Dempsey. With the benefit of a detailed site inspection, I agree that the residual indirect impact on these heritage assets is unlikely to be significant.

1.332 In conclusion, I find that impacts of the proposed scheme upon cultural heritage assets have been reasonably minimised, taking into account that the battlefield is bisected by the existing A9. As stated above, however, I do accept that the proposed scheme would reinforce the severance of the battlefield caused by the existing A9, a significant effect as identified in the ES.

### Residual noise impacts

1.333 I note the Combined Objector Group's criticism of the methodology used to undertake the operational noise assessment. I also appreciate that the perception of an individual will vary from case to case, as will their sensitivity to noise. I do accept, however, that the adopted methodology follows good practice and guidance and is widely deployed to predict and assess road traffic noise impacts associated with trunk road schemes throughout the UK. It has in previous inquiries been found to be robust and I have no evidence in this case to challenge that approach.

1.334 In regard to the House of Urrard objection, it is logical to expect that operational noise resulting from southbound widening, further from the property than the northbound widening proposed, might better attenuate the noise, since it would both be further away and leave the existing bund in place.

1.335 There is, however, clear evidence regarding the operational noise impacts of the Refined Design, indicating that residual significance of noise impacts for House of Urrard dwellings resulting from the Refined Design (incorporating natural stone walling) are no greater than those of the Stage 3 Design as reported in the ES. Indeed those walls are predicted to result in residual least beneficial noise impacts at House of Urrard dwellings that are better or no greater than those for the Stage 3 Design with its replacement bund. Any increase in the height of the 1.6 metre high stone wall to 1.9 metres would clearly improve noise attenuation, however I accept that predicted noise levels would not justify such an increase in height.

1.336 I accept the argument made on behalf of Transport Scotland that noise associated with the use of a lay-by should be construed as relating to activities undertaken by vehicle users whilst their vehicle is parked, which is an issue for the local authority (PKC). That is not to say that the unpredictability of such noise is not a valid concern of nearby residents.

1.337 In regard to traffic entering and leaving lay-bys, DMRB guidance is clear: "Speed variations at junctions should generally be ignored in assessing noise nuisance as there is a trade-off between the effects of reducing speed and the additional engine noise generated by deceleration and acceleration." I therefore accept as reasonable that noise associated with decelerating and accelerating into and out of junction is offset by assuming that the traffic flow maintains a constant speed, as if the junction did not exist.

1.338 I note also that the proposed natural stone wall to be erected along the length of the northbound lay-by will provide attenuation of acceleration and deceleration vehicular noise for properties that lie to the south, and in their vicinity.



1.339 As a result of northbound widening some of the road traffic will move closer to the Tomb Clavers memorial cairn. However, the relatively small noise level increase due to this change is to be offset through the use of Low Noise Road Surfacing and the inclusion of the 1.6m high natural stone wall located in the vicinity of Urrard House. The ES assessment of road traffic noise impacts shows a beneficial noise impact at Tomb Clavers with the Scheme in place (Do-Minimum Baseline versus Do- Something Baseline and Do-Minimum Baseline versus Do-Something Future).

1.340 In regard to construction noise, it was explained for Transport Scotland that, while no formal assessment of this could take place at present, there is guidance in place to limit construction noise impacts, and also methods by which potential adverse construction noise impacts could be controlled. During the construction phase, best practical means will be adopted to mitigate potential construction noise impacts, noise limits will be agreed with the local authority having regard to existing ambient noise levels and working hours will be limited. By way of an example, Transport Scotland confirmed that the contractual working hours permitted by Perth & Kinross Council on the Luncarty Scheme are Monday to Friday between 07.30 and 18.00 hours and Saturday between 08.00 and 13.00 hours, with no working on Sundays and public holidays.

1.341 PKC would be responsible for investigation and enforcement should it be discovered that best practice means to reduce construction noise were not being implemented. Transport Scotland would also ensure that adequate mitigation will be incorporated in the construction contract. I accept this mitigation strategy as an appropriate response to potential disturbance during the construction phase.

1.342 I accept the evidence of Transport Scotland in regard to the applicability of the 2018 WHO Noise Guidelines. These Guidelines have not been adopted by Transport Scotland in respect of the proposed scheme; the same has been the case across the various A9 Dualling Schemes. I agree that until such time as Scottish Ministers have had an opportunity to consider how the updated guidance might apply to future road schemes, I am not in a position to attach weight it.

1.343 Overall I find that the DMRB noise assessment has been undertaken in accordance with appropriate guidance and can therefore be relied upon to accurately predict effects.

#### Modification of the Orders

1.344 Transport Scotland has lodged a Schedule of Agreed CPO Modifications and modified Side Roads Order and requests that the draft Orders should be made, but modified in accordance with that Schedule and modified Side Roads Order. There is no evidence before me to suggest that those modifications ought not to be made should the scheme be permitted.

1.345 At the close of the inquiry, I sought clarification from Transport Scotland as to the powers available to Scottish Ministers at the stage of making the Orders. It is Transport Scotland's position that any modifications (other than those invited by Transport Scotland and referred to above) would risk frustration of the proposed scheme, and in turn the A9 Dualling Programme as a whole. It is Transport Scotland's position that the land included within the draft CPO is the land over and above that already vested in Scottish Ministers considered necessary for the construction and maintenance of the proposed scheme, including any mitigation identified in the ES.

1.346 Transport Scotland advise that Scottish Ministers may, following the inquiry and having considered this report, make the CPO either with or without modifications. However, the power to modify the CPO is subject to significant limitations. Paragraph 5 of Part I of Schedule I to the said Act provides: “5. The order as confirmed by the confirming authority shall not, unless all persons interested consent, authorise the acquiring authority to purchase compulsorily any land which the order would not have authorised that authority so to purchase if it had been confirmed without modification”.

1.347 Typically, it is stated, modifications relate to removing typographical errors, the description, or exclusion of land not deemed necessary to the scheme following negotiations or revisions. Any modifications beyond those could, at least, delay the progress of the proposed scheme by a substantial period, would require additional consultation with statutory consultees, and could require an addendum to the ES to be published.

1.348 Should Ministers conclude that the proposed scheme requires further amendment they would, of course, wish to seek their own legal advice.

## CHAPTER 2: TOURISM IMPACTS

### Main points of the case for Transport Scotland

2.1 While the objectors consider that the importance of tourism to the local economy has been overlooked throughout the design development of the proposed scheme, having regard to the volume of evidence produced by Transport Scotland, this is clearly not the case. Professor Lennon explained at the Hearing Session the manner in which visitor figures were collected and collated by the Moffat Centre. That work confirms that "...growth in tourism output and GDP continues in the A9 corridor despite infrastructure development works."

2.2 Whilst the historical significance of Killiecrankie Battlefield has been well understood, appreciated and taken into account in the design development of the proposed scheme, despite the objectors' assertions, that does not automatically translate into the Battlefield itself presently being a significant draw for tourists visiting Killiecrankie. Presently, the majority of visitors to the National Trust for Scotland (NTS) Visitor Centre within Killiecrankie Village do not necessarily go on to explore the Battlefield itself. This is accepted by the objectors, as is the fact that visitor numbers to the NTS Centre itself are falling.

2.3 There is little in the way of signage from the Visitor Centre, for example to Tomb Clavers, and no interpretation aids on the Battlefield itself. There was an acknowledgement on the part of the objectors that the NTS Visitor Centre focussed more on the natural heritage aspects of Killiecrankie and the surrounding area rather than its cultural heritage.

2.4 In developing the A9 Dualling Programme as a whole, Transport Scotland was fully aware of the link between the A9 and tourism. From an early stage the potential "bypass effect" of the dualling was understood on a corridor-wide level, and the development of the Highland Discovery App has been a response to that, with a view to drawing tourists off the main A9 corridor in order to find "hidden gems", be they specific villages, locations or tourism businesses via mobile devices which are increasingly central to tourist orientation and destination awareness. The App provides market intelligence and space to promote the food, beverage and tourism sector.

2.5 Objectors raised concerns that Killiecrankie was not considered a specific tourism destination in the design development of the proposed scheme. That is not correct in respect of the list of receptors contained in the ES. In addition, local considerations included changes to access and land use. It is clear that, although tourism impacts were not considered as a discrete topic for EIA purposes (and there was no requirement for such impacts to be considered in the context of the preparation of an Environmental Impact Assessment delivery of a trunk road scheme), tourism impacts have, indirectly been considered throughout a number of the environmental topic assessments.

2.6 While Transport Scotland understands the objectors' concerns, its position remains, that traffic difficulties do not impact decisions taken by people in respect of potential holiday destinations. The objectors' position on tourism impacts is entirely speculative, based on a belief that the natural environment will be spoiled and cultural heritage assets degraded.

2.7 Professor Lennon explained the use which could be made of the Highland Discovery App in increasing awareness of tourism offerings in Killiecrankie and its vicinity. While the objectors criticise the information regarding Killiecrankie on the App at the outset, it is Transport Scotland's position that while Killiecrankie itself was not included in the 'Towns of the Highlands' section, a search on 'Killiecrankie' provided a variety of responses. Since the Inquiry, Killiecrankie is now shown as a 'town and village' on the Highland Discovery App and there is a description of the village and the surrounding area. Professor Lennon has explained the potential use of this technology in assisting small tourism businesses.

2.8 For the avoidance of doubt, however, the development of this App is not mitigation for the proposed scheme, nor is it intended to replace marketing functions which individual businesses or tourist attractions may wish to undertake on their own account. It is, simply put, an additional channel whereby information on attractions in the Highlands is available, and is fully funded by Transport Scotland. It is not the case that Highland Perthshire has no voice in this as Visit Scotland and PKC were involved in discussions around the development of the App. In addition, steps are being taken to assist visitors in understanding the interpretation of Killiecrankie Battlefield through the ongoing development of a further specific Battlefield Walking App.

2.9 These technological developments are being undertaken by Transport Scotland in its capacity as Roads Authority. Transport Scotland is not however responsible for the development of tourism as a whole in Highland Perthshire. Until the Hearing Session, Transport Scotland was unaware of what the objectors actually wanted in raising their concerns about tourism impacts in Killiecrankie. The items listed in paragraph 27 of the objectors' Tourism Closing Submission (including, but not limited to investment in a new visitor centre, coordination of events with Blair Castle and development of a Jacobite trail) may well be of economic benefit to tourism within Killiecrankie and the surrounding area, but none of these items are within the statutory powers of Transport Scotland as Roads Authority in undertaking the design development of the proposed scheme.

2.10 It is of course understood, that the objectors' major concerns are impacts on tourism during construction, particularly in relation to noise impacts. That said, the objectors' concerns are speculative. Such information as is available to Transport Scotland does not indicate that the dualling works undertaken in August 2015 to September 2017 at Kincaig had any adverse impact on tourism in the vicinity. Transport Scotland cannot of course, at this stage predict how or when the various dualling schemes will be constructed, but, as was explained during the inquiry, robust plans are in place with a view to mitigating construction impacts as far as practicable. Transport Scotland cannot however build the dualled A9 without creating construction impacts altogether.

2.11 The objectors have raised unsubstantiated concerns regarding the loss of jobs in tourism during construction. There is no evidence that such concerns will be realised. While Transport Scotland understands the objectors' concerns regarding compensation that is not a matter for this Inquiry, although Transport Scotland would wish to point out that it does not specify who is and is not entitled to such compensation. That is a matter set out by law, and Transport Scotland has no power to alter parties' entitlement thereto.

2.12 In any event, Transport Scotland does not accept that tourism businesses will experience a 40% reduction in turnover. Transport Scotland is aware that a 40% figure has been used in the community but that has no basis in evidence. Insofar as the by-passing of Killiecrankie is concerned, it is not clear why the objectors consider that the dualling will

have such an impact any more than the current A9 presently does. The objectors, in raising this concern, fail to acknowledge that Killiecrankie will benefit from a full movements grade separated junction, thus improving accessibility to the village itself.

2.13 Insofar as positive steps for tourism in Killiecrankie is concerned, Transport Scotland has explained that quarry traffic will be removed from the village, which will be a significant benefit to tourists and resident alike. In addition, the proposed scheme will include maintenance of the local path to Tomb Clavers, the construction of the Tulach Hill underpass and a crossing over the River Garry at Pitaldonich, near Bruar. It is understood that these measures are also welcomed by the objectors.

2.14 In conclusion, it is clear that tourism impacts of the proposed scheme have been taken into account at all stages of its design development. Transport Scotland remains committed to working with the local community and businesses to minimise adverse effects, particularly during construction, balancing the interests of the objectors with the clear public interest of having the proposed scheme built. In doing so, Transport Scotland reiterates the following commitments:

- To reiterate the offer to add Killiecrankie and surrounding area businesses to the Highland Discovery App and to continue dialogue locally around any other useful local information that should be included.
- To continue to fund the development of the "Killiecrankie Battlefield Walking App to assist in raising awareness of the site, its importance and improving accessibility.
- To continue to work with relevant tourism agencies to produce joined up messaging to reinforce "Scotland is open for business" during construction phases of the dualling.
- To develop an accommodation register for those businesses which may wish to access the construction workforce as a client base.

### **Main points of the case for the Combined Objector Group**

2.15 The Combined Group of Objectors understand that one of the objectives of the project to dual the A9 is to provide economic benefits to the food & drink and tourism sectors. We submit that the scheme which TS proposes will fail to fulfil this objective in Killiecrankie, It is our submission that the proposed scheme will undermine the integrity of the battlefield and of the natural environment in such a way that it will have an adverse impact on the development of this community and place which depends heavily on tourism.

2.16 The first discussion that residents had with Jacobs/ TS about the impacts on local tourism was in November 2017. At that meeting it was agreed that: Jacobs would arrange for a specialist to speak to the KWG (Killiecrankie Working Group)/ local businesses in the area about tourism. Accordingly, Professor Lennon visited a number of businesses in the area and also gave evidence to the Inquiry. Professor Lennon clarified at the Inquiry that "Nobody at the moment has commissioned us to undertake an A9 tourism strategy." He went on to explain he is leading route-based marketing so that information is delivered to visitors in cars. Thus the development of the Highland Discovery app is key to informing visitors about destinations along the A9.

2.17 In response to this, we submit:

- The Statement of Reasons states that A9 dualling will make the surrounding areas more attractive as short-term tourism destinations;

- Killiecrankie was not included in the app as a destination but Professor Lennon said it was not overlooked;
- The app is inadequate to compensate for the downturn in tourism that we fear the A9 construction will cause;
- An app will not mitigate the damage that the proposed scheme will do to the integrity of the battlefield and the natural environment which are the two main drivers of tourism in Killiecrankie and Highland Perthshire.

2.18 Professor Lennon showed figures [CD255] that, he said, demonstrated that tourism output along the A9 corridor has been increasing since monitoring started in 2014 and that there is no evidence of negative impact since commencement of works. Those figures were for the period from January 2014 through to December 2018. They show that the rate of growth slowed down in 2017/18 to 1.9% from a previous increase of 5.3% in 2016/17. The figures do not give any comfort about likely impact at Killiecrankie during construction of the A9 in this section or from any nearby section as the 2018 figures include a maximum of 2 months of construction work in the Luncarty to Birnam section. Construction officially started there in October 2018 and is unlikely to have had any bearing on the 2018 figures.

2.19 The figures for earlier years reflect the construction period at Kincaig to Dalraddy from August 2015 to September 2017. However, the objectors do not think that the disruption there would have discouraged tourism in Killiecrankie as visitors arrive here predominantly from the south whether originating in the UK or abroad.

2.20 Professor Lennon says that there is nothing to suggest that construction on the A9 affects visitors' decision-making about where to holiday. As objectors with experience of greeting new arrivals to the area who have driven through Luncarty to Birnam roadworks, we know that it affects visitors' experience of accessing the location, the perception that they form on the road, and can influence the decision about returning.

2.21 TS is said to be exploring ways of packaging schemes as they come out of statutory processes. Some of the repackaging will be influenced by how schemes might be funded. Accordingly, TS is looking at capital funding or private finance. This would allow TS to group adjacent schemes into longer sections of road. Dr Blewett clarified that the Killiecrankie scheme has been assessed as a standalone scheme in the Environmental Statement. However, it may be that if it were grouped with an adjacent stretch to cover a greater distance, the construction period could well extend beyond the 2 years that is currently envisaged. In the objectors' opinion, any extension of the duration of roadworks would worsen the impact on tourism during construction.

2.22 Professor Lennon challenges an account in our Hearing Statement that he warned a local businessman (who is also an objector) of a possible downturn of up to 40% of turnover in his self-catering holiday homes. Dr Blewett agreed at the Inquiry that she has had conversations with the objector about this predicted impact on his business. The objectors are concerned, in general, about the prospects for businesses operating in the tourism sector that will be impacted during the construction phase given that few are in receipt of CPOs. The lack of a CPO renders the business owners ineligible for compensation. We submit that this feature of the process is iniquitous.

2.23 The objectors are aware that tourism was considered at the strategic level and is encompassed in the Environmental Statement's section on People and Communities – Community and Private Assets [CD011]. That may have been adequate for large,

urbanised centres that have active backing of Visit Scotland or the Cairngorms National Park Authority (CNPA). It has been inadequate for Killiecrankie which has not been a high priority for CNPA and has no identifiable relationship with Visit Scotland.

2.24 Professor Lennon highlighted that a) visitor numbers to the Killiecrankie battlefield were poor compared with other battlefields b) visitor numbers have been falling in recent years c) Killiecrankie's relationships with tourism agencies could be improved. We would not disagree but would suggest that the lack of investment by the NTS is the major contributory factor to the drop in visitor numbers rather than a lack of appeal as such.

2.25 The objectors submit that northbound widening will damage the battlefield and the landscape to an unnecessary extent. These are the two drivers of tourism to Killiecrankie. The objectors now understand that there is no tourism strategy within the A9 dualling project. We also note that there is no ambition to enhance tourism in Killiecrankie, save for what the Highland Discover app may offer.

We would like the A9 project to take this opportunity to advance the community and place through a coordinated approach to develop Killiecrankie and Highland Perthshire as a destination. A solution would include:

- Investing in a new visitor centre at Killiecrankie with educational and business outreach;
- Replacing the NTS as the operator of a new visitor centre;
- Establish a café, rest area and toilets in the visitor centre;
- Provide electric car charge points in the car park within a welcoming visitor complex;
- Ensure high speed broadband on site;
- Link the new visitor centre with the core path network by creating an underpass to facilitate access to Skirmish Field;
- Create a new visitor path from the Skirmish Field along the shadow of the A9 to the memorial cairn via a new pedestrian bridge across the Allt Giraig in the vicinity of the road bridge;
- Improve all signage and navigation of the area;
- Develop heritage and cultural tourism by offering a high quality battlefield experience with digital enhancements and exhibition space;
- Facilitate ancestry tourism;
- Coordinate the initiative with Blair Castle and the Clan Donnachaidh museum;
- Incorporate the Jacobite Trail into the experience.

2.26 We submit that this kind of investment would create jobs, improve footfall, encourage the day visitor and develop a new business-visitor market.

### **Relevant points raised in other objections**

2.27 Having reviewed other outstanding objections, I am satisfied that all main points have been addressed in the main points of objection set out above.

### **Reporter's conclusions**

2.28 I find it credible that tourism within the Killiecrankie area is dependant to a considerable degree on the attractions on the natural environment, but probably less so on battlefield tourism. That is not to say that the latter could not be developed to greater

significance. The evidence before me indicates that currently, not many of the visitors to the NTS visitor centre go on to explore the battlefield itself.

2.29 I have found in the preceding chapter that the predicted impacts of the proposed scheme have been appropriately assessed through the EIA process. That includes an assessment of predicted impacts on People and Communities. I have no substantive evidence before me to indicate that this assessment cannot be relied upon.

2.30 Based on the evidence before me I find it credible that battlefield tourism is presently centred on the NTS visitor site, located some way from the Skirmish Field. There is undoubtedly opportunity to better link the two. The wide-ranging set of initiatives set out above by the COG would undoubtedly provide the foundations on which a significant increase in tourism within the locality could be built. I accept, however, that this is not the responsibility of Transport Scotland as roads authority. In developing the A9 Dualling Programme, TS clearly considered the link between the A9 and tourism. Whilst not designed as scheme mitigation, the Highland Discovery App was developed in response to that linkage, aiming to draw tourists off the main A9 corridor to specific villages, locations or tourism businesses. Following the inquiry, Killiecrankie is said to have been identified as a specific destination within the app.

2.31 During scheme operation, and based on my conclusions in the preceding chapter, I find it unlikely that there would be significant adverse impact on tourism in the locality. There may be some limited benefits arising from: maintenance of the access path to the Tomb Clavers memorial; the removal of quarry traffic from the village; the construction of the Tulach Hill underpass and a crossing over the River Garry at Pitaldonich; and potentially also from development and promotion of the Highland Discovery App.

2.32 There is, however, greater potential for adverse impacts on tourism during construction, particularly in relation to noise impacts but also to some degree arising from accessibility during construction works. I do not find the evidence submitted in regard to construction impacts in previous stretches of A9 dualling to be entirely convincing; as the objectors say, for example, those figures reflect only a very short period of construction work in the Luncarty to Birnam section.

2.33 I accept, however, that Transport Scotland cannot at this stage predict how or when the various dualling schemes will be constructed, but, as was explained during the inquiry, it aims to mitigate construction impacts as far as practicable.

2.34 All of that said, I accept that here is no substantive evidence before me that there is likely to be a significant adverse effect on local tourism during construction, and certainly nothing to indicate that tourism businesses would experience a 40% reduction in turnover.



## CHAPTER 3: HOUSE OF URRARD ESTATE IMPACTS

### Main points of the case for House of Urrard

3.1 The Category B Listed Urrard House sits at the centre of a defined and typical highland estate location and at its nearest point is some 180m from the proposed new northbound carriageway of the A9. There are six other estate houses within close proximity, all under the control of the owners of Urrard. These are either let, or used as a holiday house. All the buildings and the houses' amenity grounds lie to the south of the present A9.

3.2 The road dualling programme as proposed will be more likely than not to

- irreparably damage the visual amenity of Urrard;
- create an unacceptable noise burden on the house and amenity areas;
- damage its economic prospects and its residential amenity, and
- harm the estate's interests overall.

3.3 Such damage is unnecessary and destructive and ultimately contrary to the public interest, since it will make Urrard House an intolerable place within which to live. The objective of dualling the road can be achieved without the damage to estate interests which is inevitable.

### Direct impacts

3.4 The Walled Garden is most at risk under the current proposal and its importance must be underlined. Mr Dempsey has it as a later addition to the estate, and that will be correct, but it is nonetheless part of the Category B listing. Sloping southwards, it lies generally to the north of the House, and by repute contains the location where Graham of Claverhouse ("Dundee"), was wounded at the Battle of Killiecrankie. The Walled Garden is also reputed to contain a mass grave. That remains unproven. A stone wall in sound condition with coping stones in place surrounds it on three sides, while the southernmost boundary allows a view of the interior of the Walled Garden from the house. The house and Walled Garden are shielded from the existing road by a substantial tree belt, and a bund which is scheduled to be removed.

3.5 Visibility of the great bulk of passing northbound traffic is occluded from the House itself, although viewing from the upper floors of course increase it. It is proposed that the Refined Design will bring the new northbound carriageway nearer to the Walled Garden and the House. Extensive tree felling is described in the works programme which will leave the House and the subordinate houses more exposed to view from the northbound carriageway.

3.6 The Walled Garden itself will not in theory be physically impacted upon by the construction works, nor by the operational phase, provided that a sufficient margin or buffer is maintained between the limit of works and the north-most face of the wall. At the northeast corner of the Walled Garden, the margins are very tight, and the objectors remain sceptical that they can be maintained in the maelstrom of construction works. Ministers must pay "special regard" to the preservation of the asset.

## Setting

3.7 Any listed building has a setting, and a large house or group of buildings may have an extensive setting. The extent of that setting is a matter of judgment, informed by the topography, the size and extent and character of the listed asset, and the landscape within which the asset is experienced. Under listed building legislation, setting is protected by means of a mechanism which requires any decision maker to pay special regard to the desirability of preserving features of architectural or historic interest which the buildings possess. Because the project in this case is for a road and not for alterations to a listed building, a question may arise as to whether this legislation has any application at all.

3.8 It is contended for TS that there would be no significant effect upon the listed assets and unlisted ancillary houses either during construction or during operation. The Act protects listed buildings and their settings when any determination is made under the Planning Acts, by sounding the cautious note requiring the decision maker to “pay special regard.” The question is whether or not the setting of the house and the walled garden are entitled to protection from the inevitable encroachment of the new northbound carriageway and earthworks in such a way as to damage their historical or architectural integrity. It is plain that the works which are required for the northbound carriageway are bound to be so extensive and overwhelming as to make it inevitable that the setting will be materially diminished, if not destroyed in part by the new road.

3.9 Consent is sought from Scottish Ministers for a new Trunk Road against existing Scottish Government Policy parameters. The listed interests at the House of Urrard have important significance at a national level. They fall to be fully taken into account and weighed in the decision about whether or not to confirm the Draft Orders.

## Noise

3.10 The wall at the roadside as proposed is not continuous and objections have been raised as to how it can possibly be effective as a partial acoustic barrier alongside Urrard House and the Steadings. As matters stand, no noise survey or predictions have been carried out to demonstrate the effectiveness of the proposed stone wall (lower than an average person’s height) as a noise barrier, as opposed to an earth bund. No additional provision appears to have been made to protect the House or steadings from enhanced traffic noise. Noise disruption, particularly random chaotic noise from slowing and accelerating vehicles, will prove to be a serious impact on Urrard’s amenity and more particularly on the amenity of those seven houses.

3.11 Dr Palmer of Jacobs was asked a number of a questions about the effectiveness of the stone wall barrier as a mechanism for attenuation traffic noise either at the house or the ancillary houses. He explained its construction and partial reflective qualities. He agreed that any increase in overall height would serve to enhance the effectiveness of a stone wall barrier and that in addition any extension of the stone wall barrier further northwards along the new northbound carriageway would serve to improve the acoustic performance of the road so far as the ancillary houses at Urrard were concerned.

3.12 If the Draft Orders are confirmed, then the new northbound carriageway will be correspondingly closer to both the House and the ancillary houses. With the removal of the bund, noise impacts will be likely to be greater than they are now. Walls of a greater length and height than those now proposed must be brought forward as a relatively inexpensive

preventive measure for the partial noise protection of the listed assets, the ancillary buildings, and the overall setting.

### Economic impacts

3.13 Urrard Estate is a commercial operation. It is used to accommodate paying visitors who engage in fishing on that part of the River Garry, and who take part in managed pheasant shooting on land owned by Urrard. Urrard House is an economic asset which can only be exploited if its salient features are properly conserved and managed so as to retain their attractiveness to paying visitors, whatever the activities to be undertaken.

3.14 It is fully recognised that there is no effect on activities on the river Garry from either the construction or operational phases, guests (many from overseas) who pay high prices for salmon fishing in Scotland are likely to look elsewhere if the standard and serenity of their accommodation at Urrard is compromised by the works. That means visual as well as noise disturbance.

3.15 Shooting activity takes place all over the Estate, including the Battlefield Site. Most shooting is to the north of the A9, on land rising to the north. If a part of the objectors' overall land interest cannot be used to its normal extent for rearing and driving birds, the Estate will sustain a loss. At least one drive, habitually in the lower field adjacent to the B8079 road will be taken out of use. The pheasant hatchery adjacent to the Battlefield Site will not be able to be used, owing to construction disturbance. Evidence was given to show how shoots are organised and what steps may have to be taken to alter the manner in which provision for shooting will need to be managed for the duration of the works, and when the road is in operation.

3.16 TS has accepted that there will be an increased sense of severance on the battlefield, dividing the Battlefield Area into two very distinct areas. Of course that has consequences in terms of the historic environment, but also it has similar consequences in terms of Urrard Estate's business and economic interests. The division of the estate into two parts will be further marked by the inevitable visual intrusion that the design of the new road will cause. That, in turn, will affect the management of the business and the quality of the experience for paying guests. Urrard considers that there will inevitably be an adverse effect on the income stream derived from short and long term tenancies. That assertion is given force by the Estate having been exposed for sale in 2018 and 2019. There is evidence that all interested buyers stopped short of a legal commitment as they were unwilling to commit to a substantial financial investment knowing that road construction works and the operation of the new road closer to the house would have a long lasting effect on value, and the economic performance of the asset.

### Conclusion

3.17 The proposed scheme will impinge on the totality of these objectors' interests. The proposed land take and northbound alignment of the Refined Scheme is neither necessary nor justified in the public interest. The objective of dualling this part of the A9, and providing all other necessary transport benefits may be achieved by the southbound widening proposed by these objectors. The Draft Orders should not be confirmed.

## **Main points of the case for Transport Scotland**

3.18 Site specific impacts of the proposed scheme upon Urrard Estate were considered at Inquiry Session 1 in respect of noise, landscape and visual impacts and setting. In regard to the impacts of the proposed scheme upon Urrard Estate's commercial interests, evidence was led regarding a draft Undertaking having been offered to House of Urrard with view to resolving a number of its concerns. No response to it has ever been received. TS considers House of Urrard's objections to be overstated. That said, as a responsible public authority it did consider what could be provided to House of Urrard with a view to providing comfort regarding the proposed scheme works, with a view to allowing it to withdraw its objection.

3.19 The draft Undertaking makes a number of proposals to House of Urrard including:

- Removal of certain plots from the draft CPO altogether;
- Downgrading of certain plots from compulsory acquisition of land to compulsory acquisition of servitude rights only, supported by agreements between the parties in terms of Section 53 of the Roads (Scotland) Act 1984 for the purposes planting for environmental/ecological/habitat mitigation;
- Measures to be implemented to minimise the risk of accidental damage to the Urrard House Walled Garden;
- The specification of mixed woodland planting along the length of the proposed scheme within Urrard Estate;
- The specification of the surface of the access track to the north of the Walled Garden; and
- Steps to be taken in respect of the screening of the proposed northbound layby.

3.20 Given the refinements made to the design of the proposed scheme allowing for the reduction of the scheme footprint within Killiecrankie Battlefield (the Refined Design), and taking on board the House of Urrard concerns, it is Transport Scotland's position that it will commit to and implement all matters included within the draft Undertaking, except the downgrading of Plots 114C and 201D from acquisition of land to acquisition of servitudes accompanied by a Section 53 agreement. The Schedule of CPO modifications has been prepared on this basis, while other matters such as the protection of Urrard House Walled Garden, planting and screening of the northbound lay-by will be included within the construction contract in due course.

3.21 Insofar as the impact of the proposed scheme upon the commercial interests of Urrard Estate, there is no evidence before the Inquiry that commercial and/ or residential lettings at Urrard Estate will fall away as a result of the construction of the proposed scheme. There is no evidence as to the current demand for lettings of Urrard House itself, this being a relatively new venture for the Estate.

3.22 Whilst concern was expressed regarding the impact of construction works upon the Estate's shooting business, there may be two or three drives only, out of an available twenty, that may be impacted during construction. It is Transport Scotland's position that, while understanding the Estate's concerns, these expressed concerns are presently speculative in nature, and may well be overstated having regards to mitigation committed to within the ES. Transport Scotland remains committed to continue discussions with the House of Urrard regarding further mitigation, such as the possible safeguarding of dates for

sporting interests. Transport Scotland has been able to reach such agreements with other sporting estates along the length of the A9 Dualling Corridor.

3.23 Ultimately, all of the Estate's commercial concerns are matters which may be the subject of a compensation claim in due course, outwith the scope of this inquiry.

### **Reporter's conclusions**

3.24 I have considered cultural heritage impacts in Chapter 1. There would be no direct impacts on Category B listed Urrard House or on the Walled Garden which forms part of the listing. The proximity of the proposed scheme to the latter does, however, raise legitimate concern in regard to the potential for accidental damage to the integrity of the walls. I find that TS has sufficient mitigation in place to avoid this eventuality.

3.25 Based on the evidence before me, informed by an accompanied site inspection, I consider that the setting of the House and Walled Garden would be affected by the proposed scheme. It is inevitable that northbound widening as proposed would reduce the limited separation further still. That needs, however, to be placed within the context of the proximity of the current A9 to those assets. Within that context I do not consider that there would be a significant impact on setting.

3.26 Ministers' decision on the proposed scheme will not be a determination under the Planning Acts. Accordingly the statutory duty to pay special regard to the preservation of listed buildings and their setting is not engaged. I am satisfied, however, that the scheme design has been appropriately informed by those considerations.

3.27 Noise impacts are also considered in Chapter 1, where I have concluded that there would be no significant effect on the noise environment at Urrard. Any elongation or heightening of the proposed stone wall cannot be justified in that context.

3.28 In regard to economic impacts, it seems to me that TS has properly assessed likely impacts within the ES and has engaged appropriately with the objectors. There is no objective evidence before me to suggest that impact on the estate operation would be significant. I accept the evidence of the relatively recent marketing exercise as genuine and find it unsurprising that potential buyers were reluctant to invest given ongoing uncertainty around the proposed scheme.

3.29 I agree that severance of the estate would be intensified by the proposed scheme, but not to a significant degree given the severance already resulting from the existing A9. There would no doubt be disruption to the estate operations during the construction phase but in this regard I note the intention of TS to engage with the estate operators to limit this. Ultimately of course, impact on estate operations would be a matter to be considered for compensation, outwith the scope of this inquiry.

3.30 I note that the Schedule of CPO modifications reflects the majority of the measures set out in the Draft Undertaking, while other matters such as the protection of Urrard House Walled Garden, planting and screening of the northbound lay-by would be included within the construction contract in due course.

## CHAPTER 4: OLD FASKALLY HOUSE IMPACTS

### Main points of the case for Old Faskally House

4.1 Old Faskally House is a Category B listed property in the village of Killiecrankie. There has been a property on this site since the mid-17th century and was part of the “Robertson for Faskeile” estate (which included the current buildings designated Old Faskally Cottage and Old Faskally Lodge).

4.2 This objection focuses only on the impact of the A9 Dualling programme on Old Faskally House, its access and perceived long-term outlook.

4.3 Old Faskally House (OFH) faces directly onto the current A9 and is screened by a narrow woodland of coniferous trees. Access to OFH is via an unclassified road from the B8079. This is a single-track road which passes under the current A9 through a single carriage underpass. This tunnel, and the plans for this, is one of the key considerations within this objection.

4.4 The objectors have raised concerns at each stage of the design of the new road. Whilst acknowledging that dualling of the road is necessary to improve the safety of the traveling public, the objectors have noted with some alarm inconsistencies in the design as it affects them. In particular, the appearance of a new road in the Refined Scheme which was not in DMRB 3 or any previous iterations. What this road is for has not been made clear as it was not seen to be a requirement in previous SuDS designs.

4.5 The current A9 underpass is an S-shaped design. Pedestrians and motor vehicles approach the tunnel from the B8079 up a hill which bends to the right. The underpass itself does not provide vision of what is coming in the other direction as the exit from the tunnel turns immediately left and continues up the hill. During periods of darkness, it is expected that the approaching vehicle will be able to see the headlights of the cars coming down, but in daylight there is no way to see what is ahead until you are either in, or just about to exit the tunnel. There is a very narrow, single file, pedestrian pavement on the eastern side of the tunnel, but very few, if any, pedestrians use this and prefer to walk on the road. Once again, spotting these pedestrians is difficult as there is only a short period where they can be seen.

4.6 During summer months, at the height of the tourist season, this track is heavily used by hill walkers taking advantage of the route up the hill and over Ben-y-Vrackie. Current plans for the underpass are that it will be doubled in size, but not be reset in such a way that it is aligned straight to the approach road. The objectors believe that this will magnify the current unsafe nature of the tunnel itself, as being at an angle the actual time spent in the tunnel will be increased, and the current limited approaching traffic view will be more disadvantaged as the S-shape will be exaggerated.

4.7 During the construction of this section of the A9 dualling, access and egress from the OFH area will be restricted for an unknown period of time. It has been proposed that southbound access will be through a new route which will diverge north of the current and proposed underpass, directly on to the A9 where the current dual carriageway exists. The objectors have grave concerns as to the safety of this as they would be forced to join the A9 to continue towards Pitlochry at one of the points where the traffic flows quickly.

Conversely, to access the OFH area, motorised users will have to join the A9 at the Aldclune junction (B8079/A9) and travel in the direction of Pitlochry and take a still-to-be agreed new turn-off to join the access road north of the current tunnel. Again, the objectors have grave concerns about motorised safety.

4.8 The objectors have concerns that their peaceful enjoyment of their home will be adversely affected by the underpass and two road access construction period. They are aware that no noise mitigation has been planned in this area. Noise levels are expected to increase, according to the Transport Scotland calculations for 2026 (estimated end of construction) and 2041 (construction end +15); noise levels which exceed “WHO Guidelines for Europe” recommended road traffic noise of 53dB (day) and 45dB (night). Bedrooms in OFH all face south onto the A9 route and are on the first floor. Windows are single glazed and cannot be replaced by double glazing due to listed building restrictions, so the nighttime noise levels estimated for 2026 and 2041 are of particular concern.

4.9 The unquantifiable intrusion to the home working environment is also a significant concern due to the working pattern of George MacLean, who is the CEO of an NGO with Special Consultative Status at the United Nations. It is important that background noise levels are minimised in order to facilitate understanding during virtual meetings especially.

### **Main points of the case for Transport Scotland**

4.10 The Refined Design does not result in increased significance of noise impacts at Noise Sensitive Receptors (NSRs), including the objectors' property, when compared with the DMRB Stage 3 design. Appendix I of the Development of the Scheme Report [Document TS206] details the comparison of predicted noise levels of the Refined Design versus the DMRB Stage 3 design. The Refined Design also results in small predicted noise level decreases at the least beneficial receptor point at Old Faskally House with the scheme in place in both 2026 and 2041. As with the DMRB Stage 3 design, these predicted noise level reductions are not likely to be perceptible to the human ear. Also similar to the DMRB Stage 3 design, based on the foregoing Refined Design least beneficial receptor point noise level reductions, additional site specific noise mitigation is not required at Old Faskally House as a consequence of the Refined Design.

4.11 It was construction impacts which caused most concern to the objectors, albeit that Mr Maclean accepted that they are already affected by noise within their property. Chapter 17 (Noise and Vibration), of the ES [CD011] states that “Assuming that the appropriate noise mitigation measures (Mitigation Items SMC-S1 to SMC-S4, SMCNV1, SMC-NV2 and P05-NV3) are employed, it is anticipated that any potentially significant adverse impacts associated with construction of the proposed scheme are unlikely to arise and any that do would be short-term in nature.”

4.12 Transport Scotland’s position on WHO 2018 is as stated in Chapter 1.

4.13 The main concern of these objectors is the design of the Old Faskally Underpass. Mr Robertson explained why it was decided to retain the existing underpass and the steps taken early in the DMRB Stage 3 design process to ensure that larger vehicles could be accommodated by it in the future. Mr Robertson explained with reference to the Old Faskally Underpass Extension and Access Track Realignment Report why the structure has been designed as it has and why this does not result in the minimum visibility achievable being further reduced from that which exists for the present underpass beneath the A9 at this location.

4.14 It was further explained for TS the steps that will be taken to maintain access to the properties including Old Faskally House, during the period when the existing underpass requires to be closed. Having regard to a combination of access track realignment, the 0.5 metre kerb on either side through the underpass, the maintenance of visibility standards and the low vehicle speeds appropriate for this location, the design of the Old Faskally Underpass is appropriate. On the contrary, to increase the hardstanding area within the Underpass would require its complete demolition, leading to additional works, construction complexities and traffic management. This is not justified in the public interest.

### **Reporter's conclusions**

4.15 Having carefully considered the location of Old Faskally House in relation to the existing A9 and the proposed scheme, together with landscaping proposals incorporating planting along the full extent of the SuDS feature adjacent to the boundary with Old Faskally House, I conclude that the setting of this Category B listed building would not be adversely affected.

4.16 During operation, the Refined Design is predicted to result in small predicted noise level decreases at Old Faskally House with the scheme in place in both 2026 and 2041. These predicted noise level reductions are not likely to be perceptible to the human ear. I accept that additional site specific noise mitigation is not, therefore, required at Old Faskally House as a consequence of the Refined Design.

4.17 I can well understand that the objectors would be concerned at the prospect of construction noise impacts on their living and home-working environment. I have already concluded that Chapter 17 (Noise and Vibration) of the ES sets out appropriate noise mitigation measures in order to ensure that any potentially significant adverse impacts associated with construction of the proposed scheme are unlikely to arise and any that do would be short-term in nature.

4.18 My conclusions on the applicability of WHO 2018 Noise Guidance is also stated in Chapter 1 above.

4.19 Based on the evidence before me, informed by an accompanied site inspection, I accept that the proposed modification of the Old Faskally Underpass would not result in the minimum visibility achievable being further reduced from that currently existing. I also agree with the objectors that care clearly has to be exercised on the part of motorised and non-motorised users when navigating the underpass. However, having regard to alignment, the 0.5 metre kerb on either side through the underpass, the maintenance of visibility standards and low vehicle speeds at this location, I accept that the design of the Old Faskally Underpass is appropriate.

4.20 TS has undertaken to ensure that access to the objectors' property will be maintained during the period when the existing underpass requires to be closed.



## CHAPTER 5: DRUIMUAN HOUSE IMPACTS

### Main points of the case for Druimuan House

5.1 We disagree with the assertion TS makes in its Hearing Statement that TS has been in consultation with the objectors regarding the design of the development of the proposed scheme and the need for compulsory purchase of land from them since 2014. The first that we knew of the compulsory purchase of the only access to Druimuan House was in November 2017. We received the CPO documents by post on 27 November 2017. In our opinion, this is another example of TS/ Jacobs' failure to consult genuinely with members of the community.

5.2 There is no land take from Druimuan House. However, we have a servitude right of access over the track and, because TS requires access, the track has been included in the compulsory purchase order. As a result, we are considered statutory objectors in this process. This status may entitle us to compensation in accordance with the compensation code, in due course. TS argued that as Druimuan House is not losing land and all elements within Druimuan House's listed garden wall will remain intact that there is no impact on its setting. In considering setting, TS considered visual impact. No argument was offered on impact of amenity.

5.3 In our opinion, the amenity value will be diminished by the change of ownership of the access track. At the moment, traffic on the track is limited to accessing our home, our neighbour's home and Urrard land. With a change of ownership to an outside party, it is impossible to predict how the track will be used in future. A new owner is free to use the track however and whenever they please. The change in ownership also compromises privacy at Druimuan House. At its closest point, the house is about 20m from the CPO boundary and the adjoining cottage is about 160m from construction of the new A9.

5.4 We submit that we will hear more noise during construction than at present. Construction noise will not just be louder but be of such different characteristics compared with the usual ambient noise that this will amount to appreciable disturbance. Even though construction noise may be intermittent, it will impact on our working environment at home and it will impact on the experience of visitors to our holiday cottage. Secret Bothy is marketed as a secluded retreat that enjoys a high rate of return visitors and routinely collects 5 star reviews for its quiet location. In our experience, guest reviews are one of the most potent ways of attracting new business.

5.5 The duration of construction could, we understand, exceed 2 years if this section of the programme is joined with another to create a super-contract as described by Dr Blewett during the tourism hearing and in the Background to Scheme Development report. Any increase in duration of construction increases the disturbance to us, living and working at Druimuan House, and would have a more severe impact on the holiday cottage business. Dr Blewett said that the Killiecrankie section has been assessed as a single, standalone project in the Environmental Statement (ES). We question how the ES assessments would apply for such an enlarged project.

5.6 With reference to evidence concerning the new World Health Organisation (WHO) guidance on noise mitigation thresholds, we are disappointed that these are not being adopted. We note that any change to adopted mitigation is likely to result in a change to

land take which would require the publication of a new draft compulsory purchase order. We submit that the perceived noise at Druimuan House or cottage will increase once the new road is in operation.

### **Main points of the case for Transport Scotland**

5.7 During the inquiry, a discussion took place regarding the impact of the CPO boundary on Druimuan House. Mr Robertson confirmed that there is no widening of the access track being undertaken along the boundary of the objectors' property. Beyond that boundary, the existing trees within the CPO boundary will be removed and the existing access track will be formalised at 3.5 metres in width, albeit that widening and felling will be kept to the minimum required. Relevant mitigation commitments for this purpose are contained in the ES.

5.8 In respect of operational noise impacts, the objectors clearly disagree with the objectively considered, expert evidence of Dr Palmer, whose position was that any change in noise levels at Druimuan House will be imperceptible. Construction noise was of significant concern to these objectors. Mr Robertson gave evidence that it is likely that the construction of the Allt Girnaig underbridge will take about 15 months from the commencement of constructing foundations and earthworks to the laying of bridge beams and casting the bridge deck. Mr Robertson's position was that none of these activities of themselves was particularly noisy. Dr Palmer's evidence on construction noise impacts applies to these objectors' concerns as it does for all objectors who have raised construction noise as a concern.

5.9 Mr Robertson confirmed that during the construction of the Allt Girnaig underbridge the access track past Druimuan House would not be used for construction vehicles as it was not suitable for this purpose. The onus will therefore be on the contractor to identify an alternative means of access for the construction of this structure.

5.10 In respect of The Secret Bothy business, Mr Kerr has explained the manner in which this was assessed. It remains the Transport Scotland's position that the objectors' concerns are understood, but that they are speculative and overstated. Matters of compensation are outwith the scope of this PLI.

5.11 Transport Scotland has explained why the draft CPO was not presented to the objectors until November 2017. These objectors (and others affected by the draft CPO) were informed of the CPO extents only once these were confirmed. It is Transport Scotland's submission that this is a practical approach in order to avoid confusion to landowners where the iterative stages of design development can lead to changes in the emerging CPO boundary.

5.12 In respect of amenity, Transport Scotland's evidence is clear that that there will be no adverse visual impact on the setting of Druimuan House as a result of the proposed scheme. The existing area of established trees and boundary wall between Druimuan House and the access track are outwith the CPO boundary. Accordingly, the existing levels of privacy offered by these trees and the wall will be unchanged as a result of the proposed scheme. It is not anticipated that the number and type of maintenance/ inspection vehicles and movements on the access track will increase significantly and that access required for maintenance of the proposed scheme is expected a couple of times annually.

5.13 Access will be maintained to the objector's property during construction of the proposed scheme.

5.14 In respect of the concerns expressed regarding the combination of schemes for construction purposes, these are speculative as there is no evidence before the inquiry that this will happen. Dr Blewett gave clear evidence that nothing is decided on this aspect of procurement at this time. That said, as has been explained by Transport Scotland, each ES published for each of the other A9 dualling programme projects contains an assessment of cumulative impacts for receptors relevant to other projects, with mitigation committed to during construction. Chapter 20 of the Killiecrankie to Glen Garry ES presents the potential for cumulative impacts of the proposed scheme, and of the proposed scheme in combination with 'reasonably foreseeable' developments (committed developments and other major development proposals, including those forming part of the wider A9 dualling programme). The detailed design and construction programmes will continue to be considered at a strategic level by Transport Scotland and in future scheme assessments as more information becomes available.

### **Reporter's conclusions**

5.15 I note that no widening of the access track is proposed along the boundary of the objectors' property. Beyond that boundary, the existing trees within the CPO boundary are to be removed and the existing access track is to be formalised at 3.5 metres in width, albeit that widening and felling is intended to be kept to the minimum required. I find that appropriate mitigation commitments for this purpose are contained in the ES.

5.16 In respect of operational noise impacts, based on the evidence before me and an accompanied site inspection during which I noted the relative distance of Druimuan House from the proposed scheme and the intervening topography, I accept the expert evidence of Dr Palmer that any change in noise levels at Druimuan House is likely to be imperceptible.

5.17 In regard to construction noise, I note that construction of the Allt Girnaig underbridge will take about 15 months from the commencement of constructing foundations and earthworks to the laying of bridge beams and casting the bridge deck, but that none of these activities of themselves are predicted to be particularly noisy. I accept that appropriate mitigation will be put in place to safeguard against unacceptable construction noise impacts.

5.18 The access track past Druimuan House would not be used for construction vehicles during the construction of the Allt Girnaig underbridge; it is not suitable for this purpose. I find it significant also that it is not anticipated that the number and type of maintenance/inspection vehicles and movements on the access track will increase significantly and that access required for maintenance of the proposed scheme is expected a couple of times annually. Access will be maintained to the objector's property during construction of the proposed scheme.

5.19 I agree with Transport Scotland's evidence that that there is unlikely to be any adverse visual impact on the setting of Druimuan House as a result of the proposed scheme, as the existing trees and boundary wall will be unaffected by proposed scheme.

5.20 My conclusions on the impacts at this location apply also to The Secret Bothy holiday accommodation business. I can appreciate that a peaceful environment will be crucial to attracting new and repeat customers to accommodation such as this. I am satisfied in this

regard that there would be no significant impacts arising during scheme operation. Appropriate safeguards are also to be put in place during scheme construction, but any matters of compensation are outwith the scope of this inquiry.

5.21 In regard to the objectors' concerns about the potential combination of schemes for construction purposes, I accept that there is uncertainty as to whether or how this might be done during scheme procurement. That said, I accept that each ES published for each of the other A9 dualling programme projects contains an assessment of cumulative impacts for receptors relevant to other projects, with mitigation committed to during construction. Chapter 20 of the Killiecrankie to Glen Garry ES presents the potential for cumulative impacts of the proposed scheme.

## **CHAPTER 6: OLD MANSE OF BLAIR IMPACTS**

### **Main points of the case for Old Manse of Blair**

#### Visual impact

6.1 Where there are models and visuals presented at open door meetings, they have not specified what scope there is to reduce the visual impact. We know that there will be further refinements when the contractor is appointed. We do not know how far these will vary from the plan that is proposed. The impact, value of the view and sensitivity of visual impact at our location is high, whilst the prediction of TS is that the visual impact will be Moderate (significant) during construction.

6.2 When the road opens, the visual impact is rated as Moderate, falling only to Slight after 15 years. For a business that depends on a beautiful, historic setting, this is devastating. If the carriageway were to be elevated, as suggested, in the section that is visible from our property, there would be insufficient tree cover or other vegetation to protect our outlook.

#### Noise impact

6.3 There is no direct correlation and a discrepancy with the impact that is being proposed by TS, to the findings of our own noise assessment which was undertaken at The Old Manse of Blair. Noise is predicted to increase and I am aware from our own noise studies that we currently operate with a background level of 48.4dB. As World Health Organisation Guidelines for Europe recommend road traffic noise be kept below 53 dB for daytime "as road traffic noise above this level is associated with adverse health effects" and 45 dB for night time as "above this level is associated with adverse effects on sleep", we are very concerned about any forecast increase in noise for our clientele. Noise is one of the most sensitive factors in the hotel business which we cannot afford to overlook.

6.4 We remain utterly unconvinced by the calculations Dr Palmer attempted to decipher for us during the hearing session. We have our own noise assessment which was carried out by an independent professional body which is based on factual evidence at our precise location. We believe sound mitigation measures could help – replacing glass to laminate glass for example which would improve noise disturbance without changing the appearance of the building. Further and denser planting of non-deciduous trees between our site and the river bank would be welcomed.

#### Loss of earnings

6.5 There would be a predicted downfall in revenue up to 40% as advised by Professor John Lennon to an operator of self-catering holiday accommodation in Killiecrankie. There was an acknowledgement when we met that the operation of a wedding venue during the A9 construction would be difficult due to noise and visual impacts.

#### Loss of opportunity

6.6 There is a lack of clarity on proposals and timings of the project. The hospitality business in general and exclusive venues in particular are affected by uncertainty and there is a lack of understanding about the impacts that this will have on our heritage focused

business offering. Our unique selling point as a Category C listed heritage venue within the Cairngorms National Park.

6.7 The most iniquitous part of this process is that because there is no land take from our property, we are not considered statutory objectors. Our status is similar to anyone running a business, say, 40 miles from the A9. We are within sight of the A9 and will suffer a direct impact. As non-statutory objectors there is no prospect of compensation for adverse impact to the business.

6.8 We have already adapted our business model to try and mitigate the effects and uncertainty the project is bringing. We've adopted a boutique hotel model which has wider appeal and opened a restaurant on site. The message that is being portrayed through the media is that Highland Perthshire is closed. Local press headlines boast chaos on the A9 and sensationalise closure periods. This is already affecting the closure of contracts for functions and travel trade contracts as no certainty can be given about the impact or timing of works. Deposit income should be coming into our operation now in the form of deposits for future year events.

6.9 It seems that within the A9 development there is a lack of ambition for tourism, certainly within Highland Perthshire. Professor Lennon tried to demonstrate that construction work on the A9 has not affected tourism to date. The figures he showed failed to do so as they reflect very little, if anything, about construction work at Luncarty to Birnam. We want our business to survive the construction period and the matter of hours of operation/ quiet working/ night time & weekend working are of real concern. Whilst we have been advised this needs to be agreed with the local authority and the contractor we have no guarantee and this has a severe impact on our ability to operate the business.

6.10 We agree with the argument made in the tourism hearing statement that commercial businesses in the tourism sector have had little recognition so far in the planning process and have not been advised how to survive construction or rebuild after completion of the new road.

#### Commercial viability/ loss of rural jobs

6.11 The outlook in commercial terms is bleak if our natural environment is not protected during the construction phase of the project and post completion. The new jobs that have been created will be lost in a fragile rural economy. The supply chain benefits from our business to other businesses, worth to date hundreds of thousands of pounds, will disappear with visitors choosing other locations. This will result in closure of the hotel business.

#### Community and heritage assets

6.12 There has been tremendous drive and effort put into establishing this fledgling small business and restore this heritage building to its place in a historic community. It has been a success story for the area promoting the destination and also won a Thistle Award for the region (across Central, Fife & Tayside) for 'The best hotel experience'. Its place will be lost if the A9 project renders it financially unviable. As it stands, that is the risk we run if the significant income stream we receive from premium overseas clients who value the offering and unique features of our location are discouraged from the area.

## Mitigation

6.13 Whilst Professor Lennon suggested that the property could be leased by the appointed contractor during his private site visit, it is unclear to what extent this could help. We operate on a high level of forward booking. It is imperative that we secure income by confirming business now for the period 2020-2025. We are caught in a dilemma: if we fail to declare the uncertain situation about the A9, we jeopardise future trading relationships with other members of the travel trade. This could risk a costly legal event and could compromise our intellectual property, our brand and reputation. The real estate value, and the commercial value of the business will decline sharply if its commercial revenue drops because of the A9.

6.14 If the contractor were to book the premises for a long period, it is unlikely that it would be at the current tariff. Also, it may require a disproportionate amount of time to re-establish our place in our niche market if we had no visibility there for a significant period of time.

## **Main points of the case for Transport Scotland**

6.15 The draft Orders include a section of localised offline alignment for the proposed Scheme past Invervack Farm, approximately 350 metres from the objectors' property at its closest point. The increase in level between the existing A9 carriageway and the proposed scheme at this location is approximately 3.5 metres. Dualling at this location will be on the northbound side of the existing A9 carriageway and will, accordingly, be approximately 20 metres further away from the objectors' property than the existing road.

- The alignment design at this location is influenced by:
- the continued erosion of the southern bank of the River Garry;
- the need to provide additional working space to allow for new infrastructure to be constructed which will prevent undermining of the A9 dual carriageway by the River Garry;
- the course and level of minor watercourses that will need to be culverted under the A9 within the flood plain;
- the need to comply with flood risk legislation, policy and guidance including the Flood Risk Management (Scotland) Act 2009, Scottish Planning Policy, DMRB Volume 11; and
- the need to achieve sufficient headroom under the new Allt Bhaic Underbridge.

6.16 Insofar as the objectors' concerns regarding alterations to alignment by the contractor in due course, it is contended for TS that the contractor will be required to develop the detailed design for the construction of the proposed scheme within the land boundary contained in the CPO, any land secured by agreement by the promoter, and land already in the ownership of the Scottish Ministers. The contractor's detailed design will require to comply with the requirements of the ES, including full compliance with Schedule 21 (Schedule of Environmental Commitments) of the ES. The contractor must build the proposed scheme within the physical extents of the CPO without increasing the significance of residual impacts narrated in the ES. These two factors combine to limit the extent by which carriageway alignment could be further raised. This is not something which the Transport Scotland anticipates would be desirable anyway as increased earthworks would increase the contractor's construction costs.

6.17 As can be seen from the cross sections even if the carriageway were raised above the current proposed level, the existing trees unaffected by the proposed scheme would likely still provide screening. While the objectors have expressed desire for more planting on the banks of the River Garry nearest the Old Manse of Blair, there are no works proposed at that location, such areas being either outwith the CPO boundary, or included for flood risk mitigation where the existing woodland is to be retained with the proposed Scheme.

6.18 With the proposed scheme in place, the least beneficial ground floor noise impact at The Old Manse of Blair is no greater than an increase of +0.5dB, which occurs in the Future Year (2041); having regard to Appendix A17.3 of the ES (Receptor R5.298), which has a Do-Minimum Baseline noise level of LA10,18h 47.1dB. Such an increase in noise level change is imperceptible to the human ear. Accordingly, additional site specific noise mitigation is not required for Old Manse of Blair.

6.19 In respect of operational noise impacts, there is no evidence before the Inquiry regarding alleged background noise levels at Old Manse of Blair. There is nothing before the Inquiry which details the methodology utilised to obtain such a noise level, however Dr Palmer has clearly explained that it is likely the case that this is a different metric than that which requires to be utilised for the calculation of road traffic noise.

6.20 In respect of WHO 2018, Transport Scotland's position is clearly stated in Chapter 1 above.

6.21 Insofar as impacts during the construction of the proposed scheme are concerned, Chapter 17 (Noise and Vibration) [CD011] states: "Assuming that the appropriate noise mitigation measures (Mitigation Items SMC-S1 to SMC-S4, SMC-NV1, SMCNV2 and P05-NV3) are employed, it is anticipated that any potentially significant adverse impacts associated with construction of the proposed scheme are unlikely to arise and any that do would be short-term in nature." This is particularly true for the Old Manse of Blair because the draft construction boundary, known as the 'Land Made Available', is located approximately 350 metres from the objectors' property, at its closest; clearly the further a property is from any noisy construction activity the lower is the likelihood of significant adverse construction noise impacts arising.

6.22 While appreciating the objectors' concerns regarding potential business impacts, it remains the case that this is a new business which has been developed by the objectors in full knowledge of the existence of the A9 Dualling Programme. Transport Scotland does not accept that changes to the objectors' business plan have been caused by the dualling process. The objectors do not oppose the dualling, and indeed, they welcome the improvements to the Bruar junction. As previously stated, Transport Scotland cannot build the proposed scheme without creating some construction impacts. These will be mitigated as far as is reasonably practical.

6.23 The objectors' commercial concerns are speculative and overstated. There is no empirical evidence before the Inquiry which would lead to the conclusion that the objectors' business will require to close as a result of the proposed scheme.

### **Reporter's conclusions**

6.24 The proposed scheme is located approximately 350 metres from the objectors' property at its closest point. The proposed increase in level between the existing A9



carriageway and the proposed scheme at this location is approximately 3.5 metres. Dualling at this location would be on the northbound side of the existing A9 carriageway and would, accordingly, be approximately 20 metres further away from the objectors' property than the existing road. I find that TS has appropriately evidenced the design rationale for the increase in road level at this location. I also find that the significant distance between the Old Manse of Blair and the proposed scheme, together with intervening woodland, will serve to minimise visual impacts on the property.

6.25 I also accept that the contractor will be required to develop the detailed design for the construction of the proposed scheme in compliance with the requirements of the ES, including the Schedule of Environmental Commitments. That, together with increased costs associated with any further ground raising seems to me to render any further increase in road level unlikely.

6.26 I find that with the proposed scheme in place, the least beneficial ground floor noise impact at The Old Manse of Blair is no greater than an increase of +0.5dB, which occurs in the Future Year (2041); having regard to Appendix A17.3 of the ES (Receptor R5.298), which has a Do-Minimum Baseline noise level of LA10,18h 47.1dB. Such an increase in noise level change is imperceptible to the human ear. Accordingly, I accept that additional site specific noise mitigation is not required for Old Manse of Blair.

6.27 My conclusions on the applicability of WHO 2018 is set out in Chapter 1 above.

6.28 I accept that appropriate mitigation will be put in place to safeguard against unacceptable construction noise impacts, and that as the proposed scheme would be located approximately 350 metres from the objectors' property, the likelihood of significant adverse construction noise impacts arising would not be significant.

6.29 I do, however, find the objectors' concerns regarding potential business impacts to be genuinely held. I do not underestimate the uncertainty caused to this relatively young business. I also acknowledge the particular impacts which construction of the proposed scheme may have on a business dependant on an attractive rural location. However, the business is currently affected by the current A9 alignment and I think it unlikely, due to intervening distance and screening, that the proposed scheme would significantly undermine the attractiveness of the location. Construction impacts are, of course, inevitable with a scheme of this scale but I am satisfied that these would be mitigated as far as is reasonably practical.

## CHAPTER 7: THE KILLIECRANKIE HOTEL IMPACTS

### Main points of the case for Killiecrankie House/ Hotel

7.1 I understand the case made by the combined group of objectors and agree with them in their entirety. Before setting out the reasons why the A9 upgrade is already undermining my business, I would like to place on record my dissatisfaction with the design process and the manner in which the local community was able to become involved.

7.2 It is significant that the design team declined to meet us collectively. Subsequently we discovered that different parties had been given different information throughout the planning process and even after the plan was finalised, when Professor Lennon came to visit. For instance, Professor Lennon suggested the proposed works would have “minimal impact on occupancy rates” at the Killiecrankie Hotel, while telling a self-catering operation on the other side of the A9 that he could expect a 40% drop in bookings during construction.

7.3 I am not against the upgrading of the A9. I share the view that it is vital for the development of the north of Scotland. But I have argued from the outset that the new carriageway should be constructed on the southbound side of the existing road. It would be further from my house and hotel; would be further from the rest of the Killiecrankie community; would reduce the impact on the Skirmish Field and battlefield archaeology and would result in far fewer trees being felled. The present scheme impacts on many properties and threatens several businesses; building by the southbound carriageway would impact on only one.

7.4 The Killiecrankie Hotel has been operating since 1939. It has only ten bedrooms but, by providing the best experience possible, without compromise, we have increased our turnover each year for the past decade and picked up many awards along the way. We charge a premium rate for a premium service and the serene setting. The progress achieved so far is now in jeopardy, certainly in the short term and, unless the scheme changes, probably for the foreseeable future.

7.5 I am deeply concerned about noise, disruption and visual impact during construction and once the road is in operation. The visual impact map acknowledges the impact on the property for the year that the road opens and 15 years later. It does not indicate the more serious problems the business will face during construction. Both my business and my home are Site No 4. The intention to use the Skirmish Field (immediately above the hotel) as a depot threatens the tranquillity of the setting.

7.6 In the hospitality business, the setting is an essential element for success. There will be constant heavy vehicle movement, reversing alarms etc. – all of it quite justifiable but, within hearing distance of a country house hotel whose reputation is built on peace and tranquillity. It will have a serious impact. With 60% of our occupancy coming from repeat bookings, it would quickly undermine the loyalty of our guests. Professor Lennon suggested that we could benefit from letting rooms to staff involved in the A9 construction, thereby offsetting any drop in our traditional business. It is, with due respect, absurd to imagine that the construction staff’s overnight allowance would come anywhere close to the current hotel tariff, or that construction staff shift patterns would marry with the hotel’s operation or, indeed, with our traditional “guest profile”. In a ten-bedroom, high-end

operation the ongoing presence of construction staff would change the ambiance of the hotel, further undermining what has been achieved.

7.7 I have been assured that “mitigation measures” will be put in place to include maintenance of access to the hotel and the ability to “liaise” with the contractor through an appointed liaison person. Both of these are but window dressing: the contractor will have no scope to reduce the noise pollution to the house setting if they are to carry out their work.

7.8 When the construction is complete, if the new carriageway is built on the northbound side (as planned) there will be a continuing detrimental impact on the hotel and its grounds. The Low Noise Road Surface will help but it cannot remove the noise, nor will it decrease the visibility of the road above Killiecrankie. The planned steeply-sloped embankment will prohibit the planting of trees to mask both the sight and sound of the traffic - indeed it will require the removal of screening trees planted when the current road layout was built some 40 years ago.

7.9 With the hotel’s setting being eroded, people will just cruise straight past. The A9 project will go a long way to transforming travel to and from the Highlands but it should not be done at the expense of businesses along the route – certainly not when there is a straightforward alternative. At the moment The Killiecrankie Hotel offers a haven of peace and tranquillity in an historic setting. The erosion of that setting will fundamentally affect the viability of my business, both during the construction and after it. Indeed, it has already affected it: It was our original intention to grow the business for ten years then sell. It is currently on the market and, although there has been significant interest, we have irrefutable proof that the upgrading of the A9 is putting buyers off. The impact is severe and is already blighting the business – and we are still only at the planning stage.

7.10 The business will not survive anything like the level of drop in occupancy that Professor Lennon has predicted – even if he is only half-right, our business model will be unsustainable.

### **Main points of the case for Transport Scotland**

7.11 Despite the objectively considered expert evidence provided and presented by Mr Lancaster, the objector still expressed doubts about the landscape and visual impact assessment in respect of Killiecrankie House/ Hotel. It became apparent during this Hearing Session, that the focus of objector concerns was very much on construction noise impacts. In addition to construction noise mitigation measures, it has been explained in evidence that the physical distance between the construction works, and Killiecrankie House/ Hotel would attenuate noise during construction. Working hours would require to be agreed with the local authority. In respect of the current construction works at Luncarty, PKC permitted working hours are Monday to Friday between 07.30 and 18.00 hours and Saturday between 08.00 and 13.00 hours, with no working on Sundays and public holidays.

7.12 At the ground floor level of Killiecrankie House/ Hotel, in the scheme year of opening (Do-Minimum Baseline versus Do-Something Baseline), the noise level magnitude of impact is +1.0dB at the least beneficial façade (Receptor is R5.023), which has a Do-Minimum Baseline noise level of LA10,18h 51.2dB. In accordance with DMRB Volume 11, such a noise level increase is the short term threshold of noise level change perceptibility to the human ear and equates to a slight/ moderate adverse noise impact. However, as the predicted absolute noise level at the least beneficial façade at Killiecrankie House/Hotel is

at least 7dB below the absolute noise mitigation threshold, no additional site specific noise mitigation is required to supplement the proposed scheme's embedded noise mitigation low noise road surface ("LNRS").

7.13 TS recognises the potential for temporary noise and vibration, air quality, landscape and visual disturbance during construction in the locality in which works are being carried out. It has been explained that Chapter 21 (Schedule of Environmental Commitments) of the ES collates all mitigation measures identified within the ES that are considered necessary to avoid, reduce or offset potential impacts of the proposed scheme, including impacts during construction.

7.14 These mitigation measures will be bound into the construction contract and the obligation to deliver these commitments will be placed upon the contractor. The draft CPO boundary is located approximately 125 metres from the objector's land, at its closest point. The corresponding distance from the draft CPO boundary to the closest building within the objector's land is approximately 200 metres. There are no construction activities, nor any depot proposed in the immediate vicinity of Killiecrankie House/ Hotel.

7.15 The current A9 carriageway sits to the north and east of Killiecrankie House/ Hotel, at a higher elevation. Killiecrankie House/Hotel lies approximately 250 metres from the existing A9 and is visually separated from it by a combination of woodland and landform, the carriageway being located at approximately 20 metres above the ground level at the hotel. The visual effect of the proposed scheme on views from the property is reported in Chapter 14 (Visual) of the ES. Killiecrankie House/ Hotel is Receptor 4 as detailed in Appendix A14.1 of the ES [Document CD012] The visual impact on the property during construction and during the winter of the year of opening is predicted to be 'Slight' (not significant).

7.16 While the property is considered to be of high sensitivity, the magnitude of change resulting from the proposed scheme is predicted to be low, resulting from visibility of vehicles, the road embankment, a new access track, the extended bridge over Glen Girnaig, mammal proof fencing and the loss of roadside trees. Visibility of these elements is predicted to be limited due to the slope of topography up towards the proposed scheme and screening afforded by existing trees and intervening landform, and the principal views from the Hotel, which are away from the proposed scheme.

7.17 In summer, 15 years after opening, following establishment of species rich grassland, mixed woodland and riparian woodland planting, the level of visual impact at Killiecrankie House/ Hotel is predicted to remain as 'Slight' (not significant). Insofar as the visual impact of the Refined Design upon Killiecrankie House/ Hotel, there would be no difference in visual impacts from those of the DMRB Stage 3 design as the visible section of the proposed scheme to the north-east of the Hotel would be unchanged.

7.18 In respect of impacts of the proposed scheme upon the hotel business, Mr Kerr explained the manner in which this had been assessed. Transport Scotland's position is that the concerns highlighted by the objector are speculative and may well be overstated. It is anticipated that the overall indirect socio-economic impacts of the proposed scheme during construction are likely to be mixed for businesses in Killiecrankie with the potential impact on businesses dependant on their type, sensitivity to construction impacts and their ability to adapt their business during the construction period.

7.19 Transport Scotland understands the objector's concerns in respect of the impacts of the proposed scheme upon The Killiecrankie Hotel to be largely financial, relating to an anticipated reduction in occupancy rates as a result of the proposed works. Any such effects, should they occur, are likely to be temporary during the construction of the proposed scheme. This point of objection purely relates to questions of compensation which may be due to the objector in due course. This matter is outwith the scope of the inquiry.

### **Reporter's conclusions**

7.20 Based on the evidence before me, informed by an accompanied site inspection, I find that at the ground floor level of Killiecrankie House/ Hotel, in the scheme year of opening, the noise level magnitude of impact is +1.0dB at the least beneficial façade, which has a Do-Minimum Baseline noise level of LA10,18h 51.2dB. In accordance with DMRB Volume 11, I am satisfied that such a noise level increase is at the short term threshold of noise level change perceptibility to the human ear and equates to a slight/ moderate adverse noise impact. However, as the predicted absolute noise level at the least beneficial façade at Killiecrankie House/ Hotel is at least 7dB below the absolute noise mitigation threshold, I accept that no additional site specific noise mitigation is required to supplement the proposed scheme's embedded noise mitigation of a low noise road surface.

7.21 TS recognises the potential for temporary noise and vibration, air quality, landscape and visual disturbance during construction in the locality in which works are being carried out. I find that Chapter 21 (Schedule of Environmental Commitments) of the ES appropriately sets out all mitigation measures identified within the ES that are considered necessary to avoid, reduce or offset potential impacts of the proposed scheme, including impacts during construction. The appointed contractor will require to adhere to these mitigation measures.

7.22 The draft CPO boundary is located approximately 125 metres from the objector's land, at its closest point. The corresponding distance from the draft CPO boundary to the closest building within the objector's land is approximately 200 metres. There are no construction activities, nor any depot proposed in the immediate vicinity of Killiecrankie House/ Hotel. In these circumstances I find that all reasonable measures have been designed to minimise construction impacts on the hotel.

7.23 The current A9 carriageway sits to the north and east of Killiecrankie House/ Hotel, at a higher elevation. Killiecrankie House/Hotel lies approximately 250 metres from the existing A9 and is visually separated from it by a combination of woodland and landform, the carriageway being located at approximately 20 metres above the ground level at the hotel. While the property is considered to be of high sensitivity, the magnitude of change resulting from the proposed scheme is predicted to be low. Visibility of the scheme is predicted to be limited due to the slope of topography up towards the proposed scheme and screening afforded by existing trees and intervening landform, and the principal views from the Hotel, which are away from the proposed scheme. I confirmed those characteristics during my site inspection.

7.24 The visual impact on the property during construction and during the winter of the year of opening is predicted to be 'Slight' (not significant). In summer, 15 years after opening, following establishment of grassland, mixed woodland and riparian woodland planting, the level of visual impact at Killiecrankie House/ Hotel is predicted to remain as 'Slight' (not significant). I consider this to be a reasonable prediction of likely impacts.

7.25 I am in no doubt that the serious concerns of the objector in regard to likely impacts of the proposed scheme upon the hotel business are genuinely held. The objector has significant experience of the hospitality trade and that ought to be afforded weight in the consideration of likely impacts. It is inevitable, however, that construction impacts are likely to be experienced at this location, albeit subject to appropriate mitigation where necessary and possible. Any consideration of a consequent compensation claim is outwith the scope of the inquiry.

## **CHAPTER 8: OTHER SITE-SPECIFIC IMPACTS**

### **Main points of the case for Mr and Mrs Rattray (OBJ082)**

8.1 We are not opposed to the upgrading of the A9 and realise it has to pass through the battlefield. We continue to object to the Proposed Scheme as:

We do not understand why there is still a compulsory purchase order on our drive and roads. We had understood it was for the maintenance of the SuDS in the field above the Coach House. The SuDS have now been removed, so why is it proposed to purchase our land?

### **Main points of the case for Transport Scotland**

8.2 The existing access track leading to the property, which is located within the extents of draft CPO plots 115 and 116, was included in the draft CPO for the following reasons:

- to provide access to plant and maintain an area of compensatory planting mitigation, including deciduous woodland planting, as indicated in the ES Figure 13.5b (Landscape and Ecological Mitigation);
- to provide access to install and maintain ecological mitigation consisting of Red Squirrel and Bat boxes as indicated in the ES Figure 13.5b (Landscape and Ecological Mitigation);
- to provide access to inspect and maintain the Allt Girnaig Underbridge, Sustainable Drainage System (SuDS) Feature B and other infrastructure associated with the A9 dual carriageway; and
- to undertake improvements to the track construction if required.

8.3 Design refinements remove the need to use the access track for the purpose of accessing the SuDS feature, however the other requirements that are noted above would still remain.

8.4 No construction works, such as widening of the existing access track, are anticipated within draft CPO plots 115 and 116. It is however proposed that the condition of the existing access track surface would be monitored and, if necessary due to the construction of the project, repaired if particularly rutted or un-even. Access rights are protected by the new means of access shown in the draft side road order.

### **Reporter's conclusions**

8.5 Even with deletion of the proposed SuDS feature, access is still required for other landscape and ecological mitigation works. I am satisfied that access to the property would be maintained and that no works to the access are proposed, other than maintenance of the surface should that prove necessary.

### **Main points of the case for Mr and Mrs Kay, Mrs McKenna (OBJ090)**

8.6 We object in relation to the effects of the construction of the new road as well as during its operation. There would be adverse physical effects on the remainder of the property and disturbance to the business in relation to leasing the property as holiday lets. Specific concerns are:

- How will access be managed during the construction works? We understand that the appointed contractor will be required to maintain the existing access or provide alternative access to the property during all stages of the construction works. We would require further clarification in that regard.
- Run off water from the A9 freezes during winter and causes skidding on the property access which has a steep gradient. We are concerned about the effects of further drainage issues impacting on the access and indeed, over the property caused by the construction of a further dual carriageway higher up.
- Lorries require to have access to the subjects for septic tanks /oil/ wood delivery. A sufficient access will be required for large vehicles to turn.
- We require clarification in relation to who will be responsible for maintaining and gritting the new access road during the winter months. This is a long stretch for a private property. We understand that this will be the responsibility of Transport Scotland in its capacity as land owner of the access track.
- Bin collection arrangements will require to be clarified.
- We require confirmation that there will still be access from the side of the property to the footbridge over the River Garry during and after works extending the existing core path/ right of way on either side of the site.
- Provision of proposed cycle path and new access to the property: currently there are a number of vehicles which stop at the access route to our property as it is popular vantage point. This causes a substantial amount of littering by the general public. We require clarification as to who will be responsible for environmental cleaning of litter in relation to the new access road and the proposed cycle path.
- We have concerns in relation to the maintaining of the present supply of water to our premises and if there is damage occasioned due to road construction. Access will be required to pipe work in case of blockages.
- Signage - we would expect that the new access road is clearly marked as a private road.
- We are concerned about an increase in noise at the property and have concerns about the destruction of trees forming part of the boundary currently which act as a noise barrier. Are any noise abatement measures envisaged?
- Our property is let out as a holiday let. We have been unable to take on any bookings in the immediate future given the uncertainty and accordingly, this has had an adverse effect on the ongoing business use and we would wish to claim in that regard for compensation in relation to the effect on holiday lettings.

### **Main points of the case for Transport Scotland**

8.7 There is no direct land take from this objector's property for the proposed scheme. However, they are included as an occupier in the CPO in relation to the following plots; 313, 319, 338, 355, 357, 401, 406, 407 and 409, over which they retain a right of access to the property via the track included in these plots.

8.8 Transport Scotland have committed to mitigation measures in the published Environmental Statement (ES) which the appointed contractor will be contractually obligated to implement. Mitigation measures have been identified that specifically address potential impacts on access during construction. For this property these include:

- Mitigation measure SMC-CP1: 'Access to/ from residential, commercial and industrial and agricultural, forestry and sporting assets will be maintained throughout the construction period by means of signed diversions, where necessary. The estimated



duration and location of these diversions will be communicated to affected parties, a minimum 2 weeks in advance, before they are put in place.'

- Mitigation measure SMC-CP2: 'Existing access arrangements to agricultural and forestry land outwith the land made available (LMA) boundary will not be prevented by the construction works during or post construction, unless alternative access is provided.'
- Mitigation measure SMC-CP3: 'Consultation with affected landowners and occupiers will be undertaken on the location and timing of planned construction works to reduce disturbance, as far as practicable, taking into account the overall construction programme.'

8.9 In line with the above mitigation, the appointed contractor will be contractually obliged to provide suitable access throughout the construction period. If, during construction, the access road to the Garrybank property needs to be closed, the contractor will provide an alternative access route.

8.10 The proposed scheme will include new road drainage for the A9 dual carriageway which will form part of a Sustainable Drainage System (SuDS). This will follow current guidance which requires all water run-off from the trunk road to be intercepted at the edge of the carriageway to be captured in drainage filter drains before being released into a secondary level of treatment to attenuate rainfall before being discharged into a nearby watercourse. The proposed new length of access track will also allow for rainfall which lands on the track to run-off into the verges.

8.11 Scottish Ministers will be the owner of the proposed access track and will be responsible for the maintenance of the track in line with their duties as landowner. The new access will be approximately 160 metres long in comparison to the current length of approximately 90 metres. As the existing access track is also privately owned a similar maintenance regime is likely to be applied in the future.

8.12 Refuse collection is the responsibility of Perth & Kinross Council (PKC). We have been consulting with PKC regarding refuse collection who envisaged that the refuse will be collected from the end of the access track as per the current arrangement.

8.13 Access to the footbridge over the River Garry from the existing access road may be temporarily impacted by certain construction activities such as earthworks movements, however the appointed contractor will have an obligation to provide a means for pedestrians and other non-motorised users (NMUs) to cross the working area to reach the bridge. Mitigation measure P05-AT2 outlined in Chapter 21 of the ES states that:

'Where practicable, temporary diversion routes and/or assisted crossings will be provided to maintain safe access for NMUs throughout the construction works. Any closure or re-routing of routes used by NMUs will take cognisance of the 'Roads for All: Good Practice Guides for Roads' (Transport Scotland, 2013). These will be agreed in advance with the relevant local authorities and will be clearly indicated with signage as appropriate.'

8.14 The Extinguishment of Public Rights of Way Order plan ROW3, outlines the proposal for a new underpass and path from the area immediately west of Garrybank up to Tulach Hill. This is a realignment of the existing Perth & Kinross Council Core Path/ Right of Way and is provided to facilitate a safer segregated crossing of the A9 and to remove the at-grade crossing (over the stile) in the vicinity of Garrybank. Access to the footbridge over the River Garry from the existing estate road may be impacted by certain construction

activities such as earthworks movements. However, the appointed contractor will have an obligation to provide a means for pedestrians to cross the working area to reach the bridge.

8.15 Scottish Ministers as landowner of the land being compulsory purchased will be responsible for its ongoing maintenance (including litter picking). As the existing access track is also privately owned, a similar maintenance regime is likely to apply in the future. The A9 Trunk Road will continue to be maintained by the Operating Company following completion of construction works with Perth and Kinross Council being responsible for litter picking.

8.16 The ES identifies your private water supply as PGG-S2, a surface water supply captured in a tank and piped under the A9 to the property at Garrybank. Given its location, uncertainty remains as to whether the source is surface water or groundwater fed. Potential impacts on the private water supply are therefore assessed in both Chapter 10 (Geology, Soils, Contaminated Land and Groundwater) and Chapter 11 (Road Drainage and the Water Environment) of the ES which consider groundwater and surface water impacts respectively. Mitigation has been outlined in the ES to protect the private water supply during construction works and provide an alternative source in the event of disturbance. Access to the existing or any new water supply facility will be maintained and this is covered via the new means of access labelled '82' on Side Road Order plan SR4.

8.17 The new means of access will provide access to the property at Garrybank, the SuDS detention basin to the west of the property and the access track along the River Garry. It is not intended that a 'Private Road' sign will be provided, as per the existing situation. No destination signage is proposed on the southbound carriageway on approach to the proposed left in/ left out at Garrybank. However, for safety reasons, a triangular warning sign is proposed on approach to the left in/ left out in accordance with current design standards in order to alert drivers of the upcoming hazard of a junction/ access.

8.18 A noise impact assessment has been undertaken in accordance with the Design Manual for Roads and Bridges (DMRB) Volume 11, Section 3, Part 7 HD 213/11 Revision 1 Noise and Vibration (The Highways Agency et al., 2011) and this is presented in Chapter 17 (Noise and Vibration) of the ES. With regard to your concerns regarding the potential effect on noise levels of the loss of trees at your boundary, DMRB HD 213/11 details that the use of shrubs or trees as a noise barrier is effective only if the foliage is at least 10m deep, dense and consistent for the full height of the vegetation. Therefore, the noise modelling does not include any attenuation for tree lines, in order to represent a worst case scenario which is described below.

8.19 A summary of the forecast noise levels and associated significance of impacts for the ground floor level at Garrybank are presented in Appendix A17.3 (Predicted Noise Levels at Noise Sensitive Receptors) of the ES and are provided in Table 2 below for ease of reference. The noise impact assessment shows that there is predicted to be a reduction in noise in both 2026 and 2041 with the A9 dualling in place. In 2026 the reduction in noise level is forecast to be -1.0dB compared to the corresponding noise level without the dualling in 2026, and in 2041 the reduction is forecast to be -0.7dB compared to the corresponding noise level without the dualling in 2026.

8.20 A Slight Beneficial significance of impact is forecast where the reduction in noise levels is between -0.1 and -0.9dB when assessed for DMB vs DSB (short term) and between -0.1 and -2.9dB when assessed between DMB vs DSF (long term). These beneficial impacts are a result of the introduction of a low noise road surfacing (LNRS)

material on the proposed carriageways of the proposed scheme as an embedded noise mitigation measure. Given that noise levels are predicted to decrease, no further noise mitigation has been proposed at the Garrybank property.

8.21 In general, terms compensation is not payable until the vesting of the land is complete and usual advice from the District Valuer is to continue with “business as usual” as far as possible until a scheme is confirmed.

### **Reporter’s conclusions**

8.22 I note that there is no direct land take from this objector’s property but that they are included as an occupier in the CPO in relation to plots over which they retain a right of access.

8.23 Based on the foregoing evidence of TS, I am satisfied that reasonable mitigation is proposed in regard to access to the property during construction and during scheme operation; surface water drainage arrangements; maintenance of the access track; refuse collection (which is the responsibility of PKC); and access to the footbridge over the River Garry from the existing access for road non-motorised users.

8.24 I note that the ES identifies this private water supply as PGG-S2, and that given its location, uncertainty remains as to whether the source is surface water or groundwater fed. I find that reasonable mitigation has been outlined in the ES to protect the private water supply during construction works and indeed to provide an alternative source in the event of disturbance. Access to the existing or any new water supply facility will also be maintained.

8.25 I note that it is not intended that a ‘Private Road’ sign will be provided, the same as the situation at present.

8.26 The noise impact assessment predicts a reduction in noise in both 2026 and 2041 with the A9 dualling in place. In 2026 the reduction in noise level is forecast to be -1.0dB compared to the corresponding noise level without the dualling in 2026, and in 2041 the reduction is forecast to be -0.7dB compared to the corresponding noise level without the dualling in 2026. A Slight Beneficial significance of impact is forecast due to the introduction of a low noise road surfacing material on the carriageways of the proposed scheme as an embedded noise mitigation measure. I find that as noise levels are predicted to decrease, no further noise mitigation is necessary at the Garrybank property.

8.27 Matters relating to compensation claims are outwith the scope of this inquiry.

### **Main points of the case for Ms Heather Perry (OBJ 140)**

8.28 I wish to object to the A9 plans from Pitagowan to Glen Garry covering all aspects listed below:

- The access to my water supply is unclear as to whether it is for vehicle access, as it is now. I do need to have vehicle access for maintenance & checking, as I have at present.
- I am very concerned about the lack of access at the top of the village of Calvine. If this access is closed it reduces the opportunity for regeneration in the community by more than 50% & totally restricts access to present & potential businesses. I would encourage a left turning further along the road towards Clunes, as there is plenty of

waste ground. I notice that these plans offer an A9 layby at the top of the village, instead of an access to Calvine. I object to this & feel it would be a greater improvement to move the layby further towards Clunes.

- There appears to be no firm statement regarding the Old A9 which will service the hamlets, businesses and the top side of the village. I object to this, particularly as the plans deny these locals access immediately onto the A9 as they have at present.
- At the end of the village of Calvine (Clunes side), the plans state there is to be a new body of water. I am unsure of its purpose, it is higher than the rest of the village, which could be a flood risk & it appears to be sitting on bedrock which is a common feature of this area, therefore there would be no natural draining or ground absorption. To create such an area would mean felling all of the natural woodland area inhabited by red squirrels.
- I am not aware of any reassurance/risk assessments to villagers that surface water whilst developing the A9 will not be flowing through the village of Calvine as it did in the last A9 development, flooding properties.
- There is no indication of sound-proofing. The inhabitants of the village of Calvine have had to work hard for their homes and I feel there should be an element of respect which would address the issues of visibility, noise and air pollution.

### **Main points of the case for Transport Scotland**

8.29 The proposed scheme would result in closure of the PWS access. The draft Orders above protect your access to the PWS by making provision for a new access track along the southbound side of the A9 from the B847 local road west of Pitagowan to the existing access track at Tomchitchen property. Additionally, a non-motorised user (NMU) underpass is to be provided in the approximate location of the existing circular concrete 'sheep creep' pipe under the A9 at Calvine. This will avoid severing the Core Path and Right of Way and will provide non-vehicular access under the A9 to the PWS.

8.30 It is understood that the PWS to Braeside property includes a capture tank on the north side of the A9 and a pipe running from the tank under the A9. The private water supply is identified as PPG-PWS5 in Chapter 10 (Geology, Soils, Contaminated Land and Groundwater) of the Environmental Statement (ES). Mitigation measures have been specified to protect the PWS and provide an alternative source in the event of disturbance.

8.31 The DMRB Stage 1 Report considered the junction arrangements for the area around Bruar and Calvine and concluded that a grade separated junction should be provided and that it may be possible to combine the junctions due to their close proximity. The proposals for this area were developed further as part of the DMRB Stage 2 route options design and assessment work which proposed that the grade separated junction be located at Bruar. Further traffic modelling undertaken during the DMRB Stage 2 Assessment period determined that locating the grade separated junction in proximity of the existing at-grade Calvine Junction as opposed to at the existing at-grade Bruar Junction would potentially result in trunk road traffic diverting off the A9 onto local roads. Some northbound vehicles which currently leave the A9 at the existing at-grade Bruar Junction would potentially leave the A9 further south at Aldclune and divert through Blair Atholl (an extra 800 vehicles on the B8079 in a 12 hr period in 2026 compared to existing). The remainder of vehicles would use a new grade separated junction at Calvine and would then have to travel back through the village of Calvine on the B847, past the village of Pitagowan to ultimately arrive back at Bruar (an extra 1200 vehicles on the B847 in a 12 hr period in 2026 compared to existing). This potential diverting of trunk road traffic off the A9 onto local

roads supports the decision to locate the grade separated junction at Bruar rather than Calvine.

8.32 Our assessment concluded that the existing junction at Calvine should be closed as the benefits of rationalising the direct access to the A9 outweighed the disbenefits of increases in local journey times and winter maintenance priorities on the local road network.

8.33 Drainage for the proposed scheme is designed to conform with current design guidance stemming from the Water Framework Directive (WFD) requirements and is subject to approval by the Scottish Environment Protection Agency (SEPA). The current proposals are for two levels of treatment of surface run-off at Calvine:

- Filter drains are to be provided along each side of the carriageway to collect all surface run-off water and filter contaminants. This is a common feature on modern road schemes.
- Collected run-off would be attenuated using a SuDS feature (in most instances a wetland/retention pond) before outfalling into a nearby watercourse. This attenuation regulates the outfall rate into the watercourse during periods of rainfall and helps prevent flash-flooding and damage to local ecology.

8.34 The proposed SuDS feature at Calvine forms part of this drainage strategy, and provides capacity to withstand a significant rainfall event (1 in 200 year return period with an additional 20% allowed to take account of climate change). The SuDS feature will be suitably lined to avoid water filtering into the ground, and maintenance of the pond will be undertaken by the Trunk Road Operating Company to ensure its continued effective operation.

8.35 In relation to concerns of surface water flowing through the village during construction, Chapter 11 (Road Drainage and the Water Environment) of the ES outlines a number of construction mitigation measures that would be delivered through a Construction Environmental Management Plan (CEMP). The CEMP would include measures to mitigate potential flood risk, fluvial geomorphology and water quality impacts.

8.36 A traffic noise impact assessment has been undertaken in accordance with DMRB Volume 11; this is presented in Chapter 17 (Noise and Vibration) of the ES. Chapter 17 (Noise and Vibration) of the ES also provides details on measures that have been embedded in the proposed scheme design to reduce noise, which includes the use of low noise road surfacing.

8.37 The predicted noise levels at Braeside indicate a Slight Adverse significance of noise impact at the property, i.e. an increase in noise in both 2026 and 2041 with the A9 dualling in place. In 2026, the increase in noise level is forecast to be 0.1dB compared to the corresponding noise level without the dualling in 2026, and in 2041 the increase is forecast to be 0.4dB compared to the corresponding noise level without the dualling in 2026.

8.38 The visual assessment set out in the ES does not include Braeside as any changes to views from the property, for example resulting from the loss of roadside trees due to the proposed scheme, would not be significant. This is due to the screening provided by a block of existing intervening woodland (approximately 30 metres wide) immediately north of the property, along with nearby buildings. A strip of new mixed woodland planting is proposed to replace trees lost as a result of the proposed scheme alongside the A9 to the north of Braeside as indicated on Figure 13.5j of the ES.

8.39 An assessment of air quality impacts is reported in Chapter 16 (Air Quality) of the ES. The assessment was undertaken in accordance with the guidance in DMRB Volume 11. The impact of the proposed scheme on air quality was assessed for the anticipated first full year of opening (2026), concluding that there would be no significant local air quality impacts at either human exposure locations or ecosystems/ designated sites.

### **Reporter's conclusions**

8.40 Based on the evidence presented above by TS, I find that appropriate vehicle and pedestrian access would be maintained to the objector's PWS. I find also that appropriate mitigation would be in place should the supply be affected by the scheme.

8.41 TS has set out evidence in regard to the decision to provide a grade-separated junction at Bruar, designed also to replace the at-grade junction serving Calvine. It is clear that locating the grade separated junction in proximity of the existing at-grade Calvine Junction as opposed to at the existing at-grade Bruar Junction would potentially result in trunk road traffic diverting off the A9 onto local roads. I accept as reasonable the assessment of TS that the existing junction at Calvine should be closed as the benefits of rationalising the direct access to the A9 outweigh the disbenefits of increases in local journey times and winter maintenance priorities on the local road network.

8.42 There is undisputed evidence that drainage for the proposed scheme is designed to conform with current design guidance stemming from the Water Framework Directive (WFD) requirements and is subject to approval by the Scottish Environment Protection Agency (SEPA). The SuDS feature at Calvine would be suitably lined to avoid water filtering into the ground, and maintenance of the pond will be undertaken by the Trunk Road Operating Company to ensure its continued effective operation.

8.43 In relation to concerns of surface water flowing through the village during construction, I find that the CEMP would include appropriate measures to mitigate potential flood risk, fluvial geomorphology and water quality impacts.

8.44 I note that the predicted noise levels at Braeside indicate a Slight Adverse significance of noise impact at the property, i.e. an increase in noise in both 2026 and 2041 with the A9 dualling in place. This is within appropriate levels as set out in DMRB.

8.45 I note that the visual assessment set out in the ES does not include Braeside as a receptor, as any changes to views from the property, for example resulting from the loss of roadside trees due to the proposed scheme, are not expected to be significant. I find that the existing intervening woodland immediately north of the property would provide effective visual separation between the scheme and the objector's property. A strip of new mixed woodland planting is also proposed to replace trees lost as a result of the proposed scheme alongside the A9 to the north of Braeside.

8.46 I note that an assessment of air quality impacts is reported in Chapter 16 (Air Quality) of the ES; the impact of the proposed scheme on air quality was assessed for the anticipated first full year of opening (2026), concluding that there would be no significant local air quality impacts at either human exposure locations or ecosystems/ designated sites. There is no evidence before me to dispute that conclusion.

## **Main points of the case for Julie Campbell (OBJ011)**

8.47 I would like to state my objection to the A9 Dualling - Killiecrankie to Glen Garry section due to loss of earnings / livelihood. We will not be able to operate our Bed & Breakfast business during construction due to the noise and the eyesore of a major building site directly below.

## **Main points of the case for Transport Scotland**

8.48 The business impacts assessment within the Environmental Statement (ES) is based on guidance presented in the Design Manual for Roads and Bridges (DMRB) Volume 11 which includes consideration of both residential and commercial properties. The Hayloft and The Barn Bed & Breakfast is identified within Chapter 8 of the ES at paragraph 8.3.14 as a commercial business within the study area for the proposed scheme. As vehicle access is anticipated to be unchanged by the proposed scheme and there will be no direct land-take required from the property, direct impacts are not anticipated and therefore not assessed in the ES.

8.49 Indirect socio-economic impacts have been considered within the Community and Private Assets assessment (refer to ES Chapter 8, paragraphs 8.4.16 to 8.4.19). In summary, this states that the overall indirect socio-economic impact during construction is likely to be mixed for businesses in Killiecrankie, Blair Atholl and Calvine due to the likely beneficial impact resulting from additional spend in the local area, but the potential for temporary noise and vibration, air quality and landscape and visual disturbance during construction.

8.50 To mitigate disturbance to businesses during the construction period, Transport Scotland has committed to mitigation measures in the ES which the appointed contractor will be obligated to implement. Mitigation measure SMC-CP1 sets out how access to/from residential, commercial and industrial and agricultural, forestry and sporting assets will be maintained. Mitigation measure SMC-S3 outlines that the appointed contractor will appoint a Community Liaison Officer supported by a liaison team who will be the first point of contact and liaise with local residents and businesses throughout the works.

8.51 In addition, mitigation measure SMC-CP3 sets out how consultation with affected landowners will be undertaken before and during specific construction activities. This can cover situations where construction works could cause disruption to landowners' access, for example the extension to the Glen Girnaig structure on the U171 local road.

8.52 Large scale construction projects require a significant workforce to be accommodated locally for the duration of the construction works. A range of individuals will require accommodation, both professional and construction operatives, and will include staff from the appointed Contractor, sub-Contractors and representatives of Transport Scotland and its consultants. As such, there will be a high demand for short and longer-term accommodation for the workforce.

8.53 It is expected that construction of the 21.6km Killiecrankie to Glen Garry section will take around three and a half years to complete. Although the construction phase programme will be determined by the appointed contractor, it is anticipated that the section between the Pass of Killiecrankie and the Aldclune Junction will take approximately 19 months to construct and will be dictated by the construction of the junction and the major

structures in this area (e.g. Old Faskally Underpass, Allt Girnaig Underbridge, Glen Girnaig Underpass and the Allt Chluain Underbridge).

8.54 Chapter 14 (Visual) of the ES includes details of the visual impact assessment and Chapter 17 (Noise and Vibration) includes details of the noise assessment. It is acknowledged that there will be short-term temporary noise and visual impacts as a result of the construction of the proposed scheme.

8.55 As part of the visual assessment, The Barn & The Hayloft at Lettoch Farm is included within receptor no. 12 (Lettoch), as detailed in ES Appendix A14.1 (Built Receptor Assessment) and shown on ES Figure 14.3a (Visual Impact on Built Receptors). It is recognised in the assessment that the value of the view at the property and the sensitivity to change is 'high'. The visual impact on the property during construction is predicted to be Moderate (significant) due to the visibility of the widened road, traffic, proposed signage at Aldclune junction and proposed earthworks and associated loss of roadside woodland on the northbound side of the A9.

8.56 In views towards the proposed Aldclune Junction and Essangal Underbridge (which would lie approximately 700m and 1600m to the west of the property), it is predicted that in combination with the existing topography, the existing woodland along Allt Chluain to the west of The Barn at Lettoch Farm would help to screen the construction of the Aldclune Junction and Essangal Underbridge. Furthermore, the block of existing woodland to the north-east of House of Urrard on the southbound side of the existing mainline would help to screen longer distance views of the proposed scheme to the south-east.

8.57 Mitigation measures set out in Chapter 21 of the ES will mitigate against a range of noise and visual impacts. In addition, PKC would be consulted regarding any proposed working out-with normal working hours.

### **Reporter's conclusions**

8.58 I note that The Hayloft and The Barn Bed & Breakfast are identified within Chapter 8 of the ES at paragraph 8.3.14 as a commercial business within the study area for the proposed scheme. As vehicle access is anticipated to be unchanged by the proposed scheme and there will be no direct land-take required from the property, I agree that direct impacts would not arise.

8.59 I agree with the assessment of TS that the overall indirect socio-economic impact during construction is likely to be mixed for businesses in Killiecrankie, Blair Atholl and Calvine. There would be likely beneficial impacts resulting from additional spend in the local area, but the potential for temporary noise and vibration, air quality and landscape and visual disturbance during construction. I find that appropriate mitigation measures applicable to scheme construction stage are set out in the ES, which the appointed contractor will be required to implement.

8.60 That being said, I find that there will be short-term noise and visual impacts as a result of the construction of the proposed scheme. I noted during my site inspection that the property occupies an elevated position above the existing A9, with panoramic views of the road within the landscape. I also agree that the visual impact on the property during construction is likely to be Moderate (significant) due to the visibility of the widened road, traffic, proposed signage at Aldclune junction and proposed earthworks and associated loss of roadside woodland on the northbound side of the A9.



## **Main points of the case for Stuart Ramsay (OBJ124)**

8.61 I am also concerned about the disruption to my business during the construction process and the visual impact of the proposed route from my residence. Can I be assured there will be tree planting to screen the new carriageway and reduce noise.

## **Main points of the case for Transport Scotland**

8.62 Indirect socio-economic impacts have been considered within Chapter 8 of the ES (People and Communities – Community and Private Assets). This states that an overall indirect socio-economic impact during construction is likely to be mixed for businesses in Killiecrankie, Blair Atholl and Calvine due to the likely beneficial impact resulting from additional spend in the local area, but recognising the potential for temporary noise and vibration, air quality and landscape and visual disturbance during construction. The business impacts assessment within the ES is based on DMRB guidance, which includes consideration of both residential and commercial properties.

8.63 To mitigate potential disturbance to businesses during the construction period, Transport Scotland has committed to mitigation measures in the ES which the appointed contractor will be contractually obligated to implement. Mitigation measures are specified in Chapter 21 of the ES (Schedule of Environmental Commitments)

8.64 The visual impact assessment for the proposed scheme is reported in Chapter 14 of the ES. Easter Orchilmore is included as Receptor 6 (Orchilmore) as detailed in ES Appendix A14.1 (Built Receptor Assessment) and shown on ES Figure 14.3a (Visual Impact on Built Receptors). It is recognised in the assessment that the value of the view at the property and the sensitivity to change is 'high'. The visual impact on the property during construction and the winter of the year of opening it is predicted to be Slight/Moderate.

8.65 Mitigation measures proposed to reduce potential visual impacts, as indicated on ES Figure 13.5b (Landscape and Ecological Mitigation), include areas of mixed and riparian woodland planting, grading out of the earthworks slopes on the northbound side of the carriageway, and measures to integrate the SuDS feature into the surrounding landscape. Visibility of the proposed scheme is predicted to be limited by the screening effect of an existing cutting slope which will be retained on the southbound side of the A9 between approximate chainages ch1700 and ch2100. Additional planting for screening purposes along this stretch of the route is therefore not proposed.

8.66 In summer, 15 years after opening, once the proposed mixed woodland replacement screen planting has become established (refer to ES Figure 13.5b), the level of impact at Easter Orchilmore is predicted to reduce to Slight.

## **Reporter's conclusions**

8.67 I agree with the assessment of TS that the overall indirect socio-economic impact during construction is likely to be mixed for businesses in Killiecrankie, Blair Atholl and Calvine due to the likely beneficial impact resulting from additional spend in the local area, but with potential for temporary noise and vibration, air quality and landscape and visual disturbance during construction. I find that appropriate mitigation measures applicable to scheme construction stage are set out in the ES, which the appointed contractor will be required to implement.

8.68 Based on the evidence before me, informed by a site inspection, I find that residual visual impact on the property, once the proposed mixed woodland replacement screen planting has become established, would reduce to Slight.

## CHAPTER 9: OVERALL CONCLUSIONS AND RECOMMENDATIONS

9.1 The A9 dualling programme between Perth and Inverness is a long standing commitment of the Scottish Government. It can take considerable support from national transport and planning policy. The programme as a whole would offer considerable benefits to drivers and to the economy, businesses, local communities, travellers and tourists. It is clear to me that without the proposed scheme, the benefits arising from the wider dualling programme would not be fully realised.

9.2 The proposed scheme route alignment and design have been subject to robust environmental impact assessment and an iterative design process in accordance with the Environmental Impact Assessment (Scotland) (Regulations) 1999, the Design Manual for Roads and Bridges, and other relevant guidance and good practice. It is clear to me that they have been informed by considerable consultation with statutory consultees, stakeholders and affected parties. I find it significant to note there are no remaining objections from any of the statutory consultees.

9.3 Any scheme to widen the A9 would clearly result in a range of impacts, both beneficial and adverse. I find that in this case those impacts have been appropriately considered and, where practicable, appropriate mitigation has been incorporated into the scheme design. The proposed mitigation would go some way to addressing many of the predicted significant impacts. It is inevitable with a project of this nature and scale that there will be significant noise, vibration and visual impacts during construction. Mitigation has been proposed which is likely to mitigate these impacts to an acceptable degree.

9.4 The proposed scheme has the potential to significantly affect the River Tay Special Area of Conservation (SAC) and Tulach Hill and Glen Fender Meadows SAC. Notwithstanding that appropriate assessments have been carried out, in accordance with the Conservation (Nature Habitats, &c.) Regulations 1994 (as amended), it is for the Scottish Ministers as the competent authority to undertake the appropriate assessments. I therefore consider that appropriate assessments should be undertaken by Scottish Ministers. I have no evidence before me to disagree with the conclusions already reached in this matter. I find overall that the Environmental Statement accurately predicts effects and that Ministers are entitled to rely on its findings in making their decision on the proposed scheme.

9.5 Based on the evidence before me and for the reasons set out in chapter 1, I find that the decision to opt for northbound widening in the vicinity of Killiecrankie was a reasonable one. The options were appropriately assessed in accordance with the Design Manual for Roads and Bridges, and Transport Scotland has demonstrated in its evidence that none of the other options considered would have less impact overall than the proposed scheme. The current A9 alignment runs through the Killiecrankie Inventory Battlefield site. Scottish Planning Policy states that: "Planning authorities should seek to protect, conserve and, where appropriate, enhance the key landscape characteristics and special qualities of sites in the Inventory of Historic Battlefields". I accept that impacts on the battlefield are unavoidable as online widening has been justified. In that regard I find that the scheme was developed in accordance with Scottish Planning Policy and the HES Managing Change guidance.

9.6 Objectors clearly consider that southbound widening would have better protected the key characteristics of the battlefield. Transport Scotland takes the contrary view. On balance I prefer the position of Historic Environment Scotland, which is that there would be likely to be comparable adverse impacts on key landscape characteristics and special qualities of the battlefield regardless of whether northbound or southbound widening is pursued. There can be no doubt, however, that the proposed scheme would intensify the severance of the battlefield already exerted by the existing A9.

9.7 The adverse impacts of the proposed scheme must, of course, be balanced against the wider scheme benefits. The Environmental Statement predicts, and I accept, that there would be safety benefits for vehicle travellers on the A9 and for non-motorised users in its vicinity. There would be a resultant reduction in driver stress as the proposed scheme would improve opportunities for overtaking which would reduce journey times and frustration.

9.8 The Plans and Policies Compliance Report [TS211] explains how the design development of the proposed scheme, undertaken under the Roads (Scotland) Act 1984 as amended, takes account of planning policy. Based on my overall conclusions I find no evidence to suggest that Ministers are not entitled to rely on its conclusions.

9.9 In conclusion I consider that there is a clear justification for the proposed scheme; that the land identified in the compulsory purchase order is necessary to construct and operate the proposed scheme; that the compulsory purchase order is justified in the public interest and that the orders, taken together, are necessary to achieve the delivery of the proposed scheme.

9.10 On that basis I recommend that the Scottish Ministers confirm the following roads orders:

- The A9 Trunk Road (Killiecrankie to Glen Garry) Compulsory Purchase Order 201[ ] [Document CD001] ("CPO");
- The A9 Trunk Road (Killiecrankie to Glen Garry) (Trunking) Order 201[ ] [Document CD002] ("Trunking Order");
- The A9 Trunk Road (Killiecrankie to Glen Garry) (Side Roads) Order 201[ ] [Document CD003] ("Side Roads Order"); and
- The A9 Trunk Road (Killiecrankie to Glen Garry) (Extinguishment of Public Rights of Way) Order 201[ ] [Document CD004].

9.11 Transport Scotland reached agreements with some objectors which allowed those objections to be withdrawn. Some of these agreements are on the basis of changes being made to the draft CPO and draft Side Roads Order. Accordingly I recommend that that Orders be confirmed subject to the [modifications to the CPO](#) and [modifications to the Side Roads Order](#), both proposed by Transport Scotland.

9.12 Should Ministers disagree with my conclusion that impacts on the Killiecrankie Battlefield have been appropriately considered and mitigated, they may wish to consider instructing Transport Scotland to reconsider layby spacing, so as to reduce the scheme footprint within the battlefield.

*Scott M Ferrie*

Interim Chief Reporter

## **APPENDIX 1: DOCUMENT LISTS**

[Core document list](#)

[Transport Scotland document list](#)

[Combined Objector Group document list](#)

## **APPENDIX 2: PRECOGNITIONS AND HEARING STATEMENTS**

### **Transport Scotland precognitions**

[Dr Jo Blewett](#)

[Elaine McMillan](#)

[David Robertson](#)

[Rory Carmichael](#)

[Jonathan Dempsey](#)

[Mark Lancaster](#)

[Dr David Palmer](#)

### **Combined Objector Group precognitions**

[Dr Arran Johnston](#)

[James Crombie](#)

[James Bax](#)

[Rulzion Rattray](#)

[Graeme Millen](#) (taken as a written submission)

### **Tourism hearing statements**

[Transport Scotland](#)

[Combined Objector Group](#)

### **House of Urrard hearing statements**

[Transport Scotland](#)

[House of Urrard](#)

### **Old Faskally House hearing statements**

[Transport Scotland](#)

[Old Faskally House](#)

**Druimuan House hearing statements**

[Transport Scotland](#)

[Druimuan House](#)

**Old Manse of Blair hearing statements**

[Transport Scotland](#)

[Old Manse of Blair](#)

**The Killiecrankie Hotel hearing statements**

[Transport Scotland](#)

[The Killiecrankie Hotel](#)



## **APPENDIX 3: CLOSING SUBMISSIONS**

[Transport Scotland](#)

[Combined Objector Group – Battlefield impacts](#)

[Combined Objector Group – tourism impacts](#)

[Old Manse of Blair](#)

[Druimuan House](#)

[House of Urrard](#)

## APPENDIX 4: SCHEDULE OF OBJECTIONS

### Remaining Statutory Objections

006	Ms Olivia Bax
030	Ms Evelyn Miller
031	Holiday Lodges @ Old Faskally
032	CFY Design @ Old Faskally
033	Mr Peter Miller
078	Mr Daniel Price, House of Urrard LLP & Mr Daniel Price, Ms Claire Cannon and Ms Bridget Price
082	Mr James Rattray & Mrs Kathleen Rattray (nee Parke)
090	Mr Steven Kay, Mrs Yvonne Kay and Mrs Joan McKenna
109	Ms Pamela Cuthbert
140	Ms Heather Perry
160	Killiecrankie and Fincastle Community Council
161	Mr Myles James Kenneth Bax, Ms Olivia Catherine Bax, Mr Laurence Patrick Alexis Bax, Mr James Edward Ridley Bax and Mrs Loretta Veronica McLaughlan
167	Mr George Alexander MacLean and Mr Anthony Philip Cuthbert

### Remaining Non-Statutory Objections

002	Ms Debra Duncan
003	Ms Aimee L. Furr
004	Mr Hamish Morrison
007	Mr Robin Hastie-Smith & Ms Seonaid Hastie-Smith
008	Ms Rosemary Rattray
009	Ms Susanne Tinzmann
010	Mr Brian Cantwell
011	Ms Julie Campbell
012	Ms Marianne Watt
013	Ms Natasha Donald
014	Mr Philip Reece-Heal
015	Mr Andrew Wynn
016	Ms Yvonne Watson
017	Mr John R Snodin
018	Ms Ann MacMillan
019	Mr Edward Riddell
020	Ms Sandra Parkins
021	Mr Timothy Parkins
022	Dr. Roger G. Sanger
023	Mr Lee Riddell
024	Mr Richard and Mrs Nicola Tranter
025	Ms Talya Cuthbert
026	Mr Brian Parkins
027	Ms Judy Fenush
028	Mrs J. Visser
029	Ms Anne McLaren

034 Mr Daniel Gunn  
035 Mr Laurence Blair Oliphant  
036 Mr Colin MacDonald  
037 Ms Amelia Murray Lindsay  
038 Mr John Fergusson  
039 Mr Steven J Rawson & Mrs Kirsty J Rawson  
040 Mr Peter Worley  
041 Mr Duncan and Mrs Margaret Tannahill  
043 Mr Ronnie and Mrs Eileen Owens  
044 Ms Karen Kerr  
045 Ms Mary Mayo  
046 Mr Peter MacPherson  
047 Mr Alexander Matheson  
049 Mr Donald Ross Lohnes  
050 Mr Hugh Cameron  
051 Mr Fred Rout  
052 Ms Anne Elizabeth Hewat Vaughan  
053 Mr Clarence Ronald MacDonald  
054 Ms Natalie Borden  
055 Mr Rod MacDonald  
056 Mr Robert Walsh  
057 Mr Justin Laing  
058 Dr. John Macdonald  
059 Mr Henry G. Cameron  
060 Ms Shannon Toole  
061 Mr John A Brown  
062 Ms Jeanette Fleming  
063 Ms Jacqui Shaw  
064 Mr Vincent Archibald Charles MacDonald  
065 Mr Dan Sinclair  
066 Ms Nola Crewe  
067 Mr Allan Harries  
068 Ms Fiona Meikle  
069 Mrs Rebecca Blair  
070 Ms Kasandra K Keith  
071 Killiecrankie 1689  
072 Mr John Hugh Calder  
073 Mr Paul and Mrs Ann Phillips  
074 Mr Denis Critchley  
075 Mr Peter Barr  
076 Mr John and Mrs Marnie Gauld  
077 Ms Nora K. Henderson  
079 Soldiers of Killiecrankie  
080 Mr David K. Macdonald  
081 Mr Alasdair Currie  
083 Mr Thayne Douglas MacLean  
084 Mr Graeme B. Fraser  
085 Ms Sonia Cameron Jacks  
086 Ms Jana Wayment (interested party)  
087 Mr Iain Langlands  
088 Mr Paul Ballard

089 Mr Nicolas Maclean- Bristol  
 092 Mr Stuart Graham McLean  
 093 Mr Hector W. Munro  
 094 Mr Roy Park & Mrs Barbara Park  
 095 Ms Katherine MacLean  
 096 Mr Michael R. McLean  
 097 Ms Lucy M. McLean  
 098 Ms Darlene McClain  
 100 Mr Bill and Mrs Denise McLean  
 101 J Simpson  
 102 Scottish Battlefields Trust  
 103 Mr N MacLean  
 105 Mr Robert S. McClane  
 106 Mr Euan Macpherson  
 107 Mr Russel Rankin  
 108 Mr Don Fitzgerald  
 110 Ms Carolyn D Seggie  
 111 Ms Barbara Lyon Gradowski  
 112 Mr Michael P. Dewart  
 113 Mr Sandy Murray  
 114 Ms Alison Murray  
 115 Ms Barbara Rankine  
 116 Mr William McLean  
 117 1745 Association  
 118 Mr Walter L McLean  
 119 Mr Alastair Maclean  
 120 Mr Scott Laing  
 121 Mr Adam Urquhart  
 122 A C Maclean  
 123 Mr Martin Bax MBE  
 124 Mr Stuart P. Ramsay  
 125 Mr Andrew J Lean  
 126 Mr Peter MacLean AM PSM JP  
 127 Mr Malcolm Maclean  
 129 Robertson of Struan  
 130 Councillor Xander McDade, Independent Councillor, Highland Ward  
 134 Ms Jenny Wilton (nee McLean)  
 135 Ms Christine Cheape  
 136 Professor Tony Pollard & Dr Iain Banks  
 137 Ms Morven Fitzgerald  
 139 Mr & Mrs A MacDonald  
 141 Mr John Faid  
 142 Mr Sandy Sutherland  
 143 Ms Mary Beth Sutherland, on behalf of the Canadian Association of Clan  
 Sutherland  
 144 Ms Sarah McLean  
 145 S Campbell  
 146 Mr Trent MacDonald  
 147 Mr Ron MacMillan  
 148 Ms Sherry McNeill  
 149 Dr. Mark Jardine

150	Ms Ruth Courtney-Beck (Mackay)
151	Mr Tom Worthington
152	Ms Lindsay Boudreau
153	Mr David Di Salle
154	Ms Copland M. Schmidt
155	Mr Joseph F. Burke
156	Ms Dianne MacKenzie Landry
157	Mr Keith Douglass
158	Ms Nancy A. Boynton & Ms Patricia M. Beekes
162	Mrs Elizabeth Sanderson
164	Mr Gordon MacKenzie
165	Mr Edward and Mrs Heather Elworthy
166	Ms Henrietta Fergusson
171	Mr Graeme S. Millen
172	Ms Kirstin Armstrong
173	Ms Ann Armstrong
174	Ms Jane Cornwell
175	Mr Michael D Hodgson
176	Mr Simon Marsh (The Battlefield Trust)
178	Wordmatrix Ltd t/a The Killiecrankie Hotel
181	Mr Robert Lobell
182	Mr Michael Holland
183	Mr Landon Black

### **Withdrawn Statutory Objections**

001	Mr Alistair Finlay Fergusson
104	Dalnacardoch Estate /Hunting Stalcair
128	Historic Environment Scotland
132	Cairngorms National Park Authority
133	SSE plc and SSE Generation Limited
159	The Bruar Trust – Atholl Estates
163	Mr Murray G Scrimgeour
168	Mr John Kiddie & Mrs Jean Kiddie
169	Network Rail Infrastructure Limited
170	Mr Thomas Gordon Muirhead
177	Perth and Kinross Council
179	Mulard Renewables Limited
180	Scottish Water

### **Withdrawn Non-Statutory Objections**

005	Ms Veronica Smith-Hopkin
042	Mr Duncan Tannahill
048	Ms Marsha Greenan
091	Mr John McLean (OBE)
099	Mr David Cameron
131	Ms R. Payne & Mr P. Musicka