

## **18 Policies and Plans**

The Policies and Plans assessment considers the proposed Scheme's compliance with national, regional and local planning policy and strategy documents considered material to the proposed Scheme. The assessment identifies areas of policy conflict or compliance, with detailed commentary on each provided in Appendix A18.2 (Assessment of Development Plan Policy Compliance).

The proposed Scheme embodies a Ministerial commitment to improve connectivity to the local and regional area which would promote opportunities for regeneration and social and economic growth. The proposed Scheme and wider improvements to the A96 are outlined in national policy, including National Planning Framework 3.

The proposed Scheme also supports regional transport policy objectives to assist in providing enhanced connectivity to deliver prosperity and connect communities across the region.

It is recognised that some residual significant adverse impacts, particularly in terms of landscape, would occur during the construction and operation of the proposed Scheme. There is also a significant amount of material required during construction and operation that would result in a Major impact in relation to the carbon footprint of the development. These matters have the potential for non-compliance with specific policy aims.

However, as set out in Chapter 20 (Schedule of Environmental Commitments), extensive mitigation measures have been proposed to ensure that the long-term impacts would be reduced. Furthermore, in relation to the amount of material required to construct and operate the proposed Scheme, it should be noted that equivalent scale roads infrastructure projects throughout Scotland and the UK that have a similar Major impact have been approved on the basis of the suggested mitigation and the acceptance that essential road infrastructure schemes of this scale would normally require a significant amount of materials to construct. The potential non-compliance should also be balanced against the overarching benefits of the proposed Scheme, such as improving connectivity, enhancing safety for all users, and promoting social and regional economic opportunities.

### **18.1 Introduction**

18.1.1 The Design Manual for Roads and Bridges (DMRB) Stage 3 Environmental Impact Assessment (EIA) for the A96 Dualling Inverness to Nairn (including Nairn Bypass) (hereafter referred to as the proposed Scheme) in the context of relevant planning policies is summarised in this chapter. This includes a review of national, regional and local planning policy and guidance documents, and consideration of potential policy conflicts or compliance of the proposed Scheme.

18.1.2 This chapter is supported by the following appendices:

- Appendix A18.1 (Planning Policy Context for Environmental Assessment); and
- Appendix A18.2 (Assessment of Development Plan Policy Compliance).

#### **Scottish Planning System**

18.1.3 The Town and Country Planning (Scotland) Act 1997 ('the 1997 Act') (as amended by the Planning etc. (Scotland) Act 2006) ('the 2006 Act') provides the framework for land use planning and the development of planning policy in Scotland. The 2006 Act is an enabling Act with the purpose of amending existing planning legislation and providing a mechanism for the delivery of a modernised planning system.

18.1.4 A key feature of the 2006 Act is the statutory role and application of the National Planning Framework (NPF). The National Planning Framework 3 (NPF3) (Scottish Government 2014a) contains a statement of priorities and a strategy for the long-term spatial development of Scotland. The approved NPF3 was published by the Scottish Government in June 2014 and identifies national developments including major strategic transport proposals. It highlights that the transport proposals would strengthen connections between cities, sustain lifeline rural links and reduce congestion to support productivity.

18.1.5 The Scottish Government's influence on the planning system also extends to the production of Scottish Planning Policy (SPP), Circulars, Planning Advice Notes (PANs) and approval of strategic

planning documents. Each of these policy documents is material to the development of local and regional policy and provides thematic guidance on planning for a broad range of land uses and developments.

- 18.1.6 Under the 1997 Act, each planning authority in Scotland has a responsibility to publish a development plan, the content of which is informed by national policy. The development plan forms the basis on which decisions about development and future land use are made, and incorporates the requirements of national planning policy within a strategic and local framework.
- 18.1.7 Following on from amendments to the planning system in the 2006 Act, the development plan is comprised of a Strategic Development Plan (SDP) (prepared only for the four largest city regions), and a Local Development Plan (LDP) (prepared by each local authority for its area). SDPs set out a vision and context for the long-term development of the city regions and deal with cross boundary issues including transport. For those authorities outside the city regions the LDPs set out the area's strategic priorities and must be replaced every five years. LDPs are concise, map-based documents focusing on specific proposals for a time horizon of a minimum of 10 years (where they are also covered by an SDP) or 20 years (outwith SDP areas). To enable the LDP to remain concise, they are accompanied by a suite of supplementary guidance which provides detailed policy and advice.
- 18.1.8 The development plan is material to decisions about development and future land uses, including major infrastructure works such as the proposed Scheme. The proposed Scheme is located within The Highland Council administrative area, which is not part of any of the city regions requiring an SDP. The Highland Council has adopted the Highland-wide Local Development Plan (The Highland Council 2012) (hereafter referred to as HwLDP) to set out strategic objectives and policies for the whole administrative area. In addition, sitting alongside the HwLDP, the adopted Inner Moray Firth Local Development Plan (The Highland Council 2015b) (hereafter referred to as IMFLDP) is also of relevance as it sets out the policies and land allocations to guide development in the Inner Moray Firth area, where the proposed Scheme is situated. A small part of the wider study area for the proposed Scheme is within the administrative area of the Moray Council, and this is reflected where applicable in this chapter. The relevant development plan documents are listed in Table 18.1.

**Table 18.1: Development Plan Documents**

Document	Title	Status
Local Development Plan	Highland-wide Local Development Plan (The Highland Council 2012)	Adopted April 2012
Local Development Plan	Highland-wide Local Development Plan 2 – Main Issues Report (MIR) (The Highland Council 2015a)	Published for consultation September 2015*
Area Local Development Plan	Inner Moray Firth Local Development Plan (The Highland Council 2015b)	Adopted July 2015
Local Development Plan	The Moray Local Development Plan (MLDP) (Moray Council 2015)	Adopted July 2015

\*Interim position on issues raised during consultation period has been agreed by the 17 August 2016 Planning, Development and Infrastructure Committee.

- 18.1.9 The two main relevant policy documents listed in Table 18.1 are the HwLDP and the IMFLDP, with consideration given to The Moray Local Development Plan (MLDP) where appropriate. In addition, as noted below in paragraph 18.3.29, the process of replacing the HwLDP is currently being undertaken, with the Highland-wide Local Development Plan 2 – Main Issues Report (MIR) (The Highland Council 2015a) being published for consultation in September 2015. While the MIR is not draft policy, it does provide an indication of the direction The Highland Council are taking with the next LDP and should be given consideration.

## **18.2 Approach and Methods**

- 18.2.1 This assessment has been undertaken with reference to DMRB Volume 11, Section 3, Part 12: Impact of Road Schemes on Policies and Plans (Highways Agency, Scottish Office Development Department, The Welsh Office and The Department of Environment Northern Ireland 1994) and Interim Advice Notice 125/15: Environmental Assessment Update (Highways England 2015)

(hereafter referred to as IAN125/15). IAN125/15 replaced Interim Advice Notice 125/09: Supplementary Guidance for Users of DMRB Volume 11 Environmental Assessment (IAN125/09) (Highways Agency 2009) in October 2015 and continues to set out a revised structure for the policies and plans assessment in so far that it advises that the reporting of the impact of road schemes on policies and plans is absorbed into each of the topic chapters.

- 18.2.2 It should be noted that some of the policy documents referenced in DMRB Volume 11, Section 3, Part 12: Impact of Road Schemes on Policies and Plans (Highways Agency, Scottish Office Development Department, The Welsh Office and The Department of Environment Northern Ireland 1994) are now outdated and, as such, are not referred to in this chapter.
- 18.2.3 In accordance with IAN125/15, policies and plans were reviewed in the context of each of the topic chapters of this Environmental Statement (ES) and policies and plans relevant to each topic chapter are presented in Appendix A18.1 (Planning Policy Context for Environmental Assessment). As many of the policies and plans are relevant to more than one topic chapter, the assessment of compliance of the proposed Scheme against each policy and/or plan is provided in Appendix A18.2 (Assessment of Development Plan Policy Compliance), with reference to the relevant topic chapters. A summary of the compliance of the proposed Scheme with policies and plans is provided in this chapter.
- 18.2.4 The methodology used for this DMRB Stage 3 assessment has included the following aspects:
- describing the existing and, where appropriate, emerging planning policy guidance and development plan framework as applicable to the proposed Scheme;
  - assessing the likely impacts of the proposed Scheme on the achievement of the objectives and policies identified; and
  - reporting the likely conflicts or compliance of the proposed Scheme with strategic and local planning policy objectives.

### **18.3 Summary of Policies and Plans**

#### **National Guidance**

- 18.3.1 A summary of the national policy and government framework documents of relevance to the proposed Scheme is provided below in chronological order.

#### Scotland's Transport Future (Scottish Executive 2004b)

- 18.3.2 The Government's vision and objectives for transport in Scotland are set out in the White Paper, Scotland's Transport Future (Scottish Executive 2004b). This provides the policy framework for transport in Scotland with an overall aim to '*...promote economic growth, social inclusion, health and protection of our environment through a safe, integrated, effective and efficient transport system.*' (page 17).

#### Strategic Transport Projects Review Final Report (STPR) (Jacobs, Faber Maunsell, Grant Thornton and Tribal Consulting 2009)

- 18.3.3 The STPR supports the delivery of the National Transport Strategy (NTS) (since refreshed, see paragraphs 18.3.12 to 18.3.13). Maintaining safe, efficient and effective links on strategic corridors is seen as one of the key challenges of the STPR.
- 18.3.4 The STPR sets out 29 transport investment priorities within an investment hierarchy over the period to 2032. Intervention 18 (Upgrade A96 to Dual Carriageway between Inverness and Nairn) and Intervention 22 (Bypass at Nairn) consider the dualling and wider improvements to the A96. In relation to this, the STPR states the following:

*'Upgrading the A96 to dual carriageway between Inverness and Nairn is expected to reduce accident rates (by around 40 per cent) by providing a higher standard of road. It would also reduce journey times along this section of the corridor, improving connectivity between Inverness and communities to the east (including the planned developments in this corridor at*

*Tornagrain), and helping to increase the labour catchment area for Inverness. Improvements would also be felt on longer distance road journeys between Aberdeen and Inverness.'* (Annex A: Summary of Draft Investments, paragraph A.177).

*'Enhancements to the A96 such as a bypass around Nairn would reduce the conflict between local and strategic traffic and improve journey times and journey time reliability along the route'* (Annex A: Summary of Draft Investments, paragraph A.226).

18.3.5 In terms of future network performance, the review categorises the strategic transport network into 20 corridors, four urban networks (Glasgow, Edinburgh, Dundee and Aberdeen), and two strategic nodes (Perth and Inverness). Effective transport is identified as being key to support the delivery of Scotland's Economic Strategy (paragraphs 18.3.10 to 18.3.11). The review concluded that generally the network was performing to a high standard, however a number of significant areas would require specific attention. These include the following objectives in relation to 'Corridor 4 – Aberdeen to Inverness':

- *improve connectivity, particularly by public transport between Inverness city centre and the growth area to the east including Inverness Airport;*
- *improve journey time and increase opportunities to travel, particularly by public transport, between Aberdeen and Inverness; and*
- *reduce the accident rate and severity rate to current national average.* (Annex B: Summary of STPR Work Packages, page 142).

Scotland's Cities: Delivering for Scotland (Scottish Government 2011e)

18.3.6 This document complements the Government's Economic Strategy (paragraphs 18.3.10 to 18.3.11) and sets out how to develop and enhance the most productive resources of our cities. It highlights that the successful cities are linked by key growth supporting characteristics including being '*connected cities, with strong digital and transport infrastructure*' (page 21). Scotland's Cities also recognised that there is a '*need to work collaboratively [between cities] to optimise growth for the benefit of the whole of Scotland*' (page 10) and that the '*investment in infrastructure....is a key driver of both short-term and long-term economic growth and performance*' (page 10).

Fitting Landscapes: Securing More Sustainable Landscapes (Transport Scotland 2014)

18.3.7 Transport Scotland has produced 'Fitting Landscapes' guidance which has the overarching vision to promote the more sustainable design, implementation, maintenance and management of the transport estate and ensure that the landscapes that are created and managed are of high quality, well integrated, bio-diverse, adaptable and deliver a meaningful contribution to national sustainability targets. Fitting Landscapes is further referenced in Chapters 9 (Landscape) and 10 (Visual). It is considered that the proposed Scheme would accord with overarching vision and strategic aims of the guidance.

Infrastructure Investment Plan (IIP) (Scottish Government 2015b)

18.3.8 The current Infrastructure Investment Plan (IIP), published in 2015, provides a refresh to the previous IIP (Scottish Government 2011b) and gives an overview of the Scottish Government's plans for infrastructure investment. The vision is to deliver '*sustainable economic growth through increasing competitiveness and tackling inequality, managing the transition to a lower carbon economy, enhancing public services, and supporting employment and opportunity across Scotland*' (page 1).

18.3.9 The IIP is focused on improving connections across, within and to/from Scotland. The previous IIP (2011) committed to the dualling of the road network between Scotland's cities by 2030, including between Inverness and Aberdeen, a commitment which is continued in the current IIP. The IIP states that the Scottish Government's strategy is to '*...underline the commitment to connecting Scotland's cities with a high quality transport system that will generate economic growth and will ensure the road network between all Scottish cities is of dual carriageway standard*' (page 69).

Scotland's Economic Strategy (Scottish Government 2015e)

- 18.3.10 The current Economic Strategy was published in 2015. This strategy states that the purpose of the Scottish Government is to create a more successful country through increasing sustainable economic growth and tackling inequality. The Strategy was initially published in 2007, revised in 2011 in cognisance of the economic downturn and further updated in 2015. The update focuses on creating a more successful country through increased competitiveness and sustainability of the Scottish economy. The Strategy is based on the principle that investing in infrastructure (including transport) is key to helping businesses to grow, innovate and create good quality employment opportunities.
- 18.3.11 The Strategy acknowledges the importance of Scotland's cities and towns as centres of growth and prosperity. The Strategy states that *'investment – whether in our people, infrastructure or business is key to driving long-term improvements in competitiveness and in creating opportunities for everyone in society to benefit from these improvements'* (page 37).

National Transport Strategy (NTS) (Scottish Government 2016)

- 18.3.12 The National Transport Strategy (NTS) (Scottish Government 2016) is a refresh to the previous NTS from 2006 which considers Scotland's transport needs and outlines the long-term strategy to meet the aims identified in Scotland's Transport Future (Scottish Executive, 2004b). The Strategy sets out the following strategic outcomes:
- Improve journey times and connections, to tackle congestion and the lack of integration and connections in transport which impact on high level objectives for economic growth, social inclusion, integration and safety.
  - Reduce emissions, to tackle the issues of climate change, air quality and health improvement which impact on high-level objectives for protecting the environment and improving health.
  - Improve quality, accessibility, and affordability, giving people a choice of public transport where availability means better quality services and value for money, providing an alternative to the car.
- 18.3.13 The NTS also reaffirms the Scottish Ministers' commitment to investing in the A96 dualling between Inverness and Aberdeen by 2030.

**Planning Policy**

National Planning Framework 3 (NPF3) (Scottish Government 2014a)

- 18.3.14 The Scottish Government published NPF3 in June 2014. NPF3 is a statutory document and a material consideration in planning decisions.
- 18.3.15 NPF3 guides Scotland's spatial development over the next 20 to 30 years, setting out strategic development priorities to support the Scottish Government's central purpose to *'create a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth'* (paragraph 1.1). One of the key drivers for the revision of NPF has been to emphasise place-making. With focus on the following four outcomes for Scotland:
- a low carbon place;
  - a natural place to invest;
  - a successful and sustainable place; and
  - a connected place.
- 18.3.16 NPF3 describes spatial priorities for change in improving connections. It states that *'the road network has an essential role to play in connecting cities by car, public transport and active travel... We will complete dualling of the trunk roads between cities, with dualling of the A9 from Perth to Inverness complete by 2025 and dualling of the A96 from Inverness to Aberdeen by 2030'* (paragraph 5.20).

- 18.3.17 NPF3 also states that ‘...dualling of the A96 between Inverness and Aberdeen, including bypasses of towns along the route, will provide opportunities to link the energy sectors in the two city regions as well as improving the quality of place within the towns’ (paragraph 5.32).
- 18.3.18 NPF3 identifies 14 major transport, energy and environmental infrastructure projects that are of national significance to Scotland, and which are considered by Scottish Ministers to be essential to the delivery of the spatial strategy set out in NPF3. These nationally significant projects build on existing ministerial commitments such as the dualling of the A96. They are considered to assist in contributing to the Scottish Government’s objective of building a Scotland that is wealthier and fairer, greener, safer and stronger, and smarter and healthier.
- 18.3.19 The ‘National Long Distance Cycling and Walking Network’ is a national development identified within NPF3 which has direct relevance to the study area for the proposed Scheme. The network will link key outdoor tourism locations across the country and is considered a tourism asset in its own right.

Scottish Planning Policy (SPP) (Scottish Government 2014c)

- 18.3.20 The current Scottish Planning Policy (hereafter referred to as SPP) was published in June 2014 and accompanies other documents such as Creating Places (Scottish Government 2013a), Designing Streets (Scottish Government 2010a), Planning Circulars and NPF3 (Scottish Government 2014a) as national land use planning guidance in Scotland. It directs the form and content of development plans, and is a material consideration in the assessment of planning applications. SPP sets out the core values and vision of planning set against the same four planning outcomes as NPF3 (paragraph 18.3.15). The outcomes are consistent across NPF3 and SPP and focus on creating a place which is sustainable, low carbon, natural, resilient and more connected. The principal and relevant subject policies contained in the consolidated SPP are summarised in Table 18.2.

**Table 18.2: Scottish Planning Policy (SPP)**

Subject	SPP Paragraph	Summary
Introductory Sections	Paragraph 1 to 23	The introductory sections of the SPP set out a brief statement on the purpose of planning and detail the core principles that should underpin the modernised planning system. SPP states that successful operation of the planning system will only be achieved if all those involved commit themselves to engaging as constructively as possible in development planning and development management, so that the planning system contributes effectively to increasing sustainable economic growth.
Sustainability	Paragraph 24 to 35	SPP’s central purpose is to focus government and public services on creating a more successful country through increasing sustainable economic growth. This can be achieved through the planning system by supporting economically, environmentally and socially sustainable places and responding to economic issues, challenges and opportunities. SPP states that policies and decisions should be guided by a number of key principles, which include the following: <ul style="list-style-type: none"> <li>• supporting delivery of energy infrastructure;</li> <li>• supporting climate change mitigation and adaptation including taking account of flood risk activity;</li> <li>• protecting, enhancing and promoting access to cultural heritage, including the historic environment;</li> <li>• protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment; and</li> <li>• avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.</li> </ul>
Placemaking	Paragraph 36 to 57	Placemaking is a creative, collaborative process that includes design, development, renewal or regeneration of our urban or rural built environments. Planning should take every opportunity to create high quality places by taking a design-led approach through the joint consideration of the relationships between higher quality places. Placemaking is supported through, amongst others, optimising the use of existing resources, using land within or adjacent to settlements for a mix of uses, developing brownfield land and locating development where investment in growth or improvement would have most benefit.

Subject	SPP Paragraph	Summary
Promoting Rural Development	Paragraph 74 to 83	<p>NPF3 sets out a vision for a vibrant rural, coastal and island areas, with growing, sustainable communities supported by new opportunities for employment and education. To aid the delivery of this, the planning system should seek to conduct the following:</p> <ul style="list-style-type: none"> <li>• promote a pattern of development in rural and island areas that is appropriate to the character of the particular rural area and the challenges it faces;</li> <li>• encourage rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality; and</li> <li>• support an integrated approach to coastal planning.</li> </ul> <p>In relation to prime agricultural land, or land of lesser quality that is locally important, development should not be considered except where it is essential as a component of the settlement strategy or necessary to meet an established need, for example for essential infrastructure, where no other suitable site is available.</p>
Supporting Business and Employment	Paragraph 92 to 108	<p>The planning system should continue the need for diversification of our rural economy to strengthen communities and retain young people in remote areas. Planning should address the development requirements of businesses and enable key opportunities for investment to be realised. It can support sustainable economic growth by providing a positive policy context for development that delivers economic benefits.</p> <p>LDPs should locate development which generates significant freight movements, such as manufacturing, processing, distribution and warehousing, on sites accessible to suitable railheads or harbours or the strategic road network. Through appraisal, care should be taken in locating such development to minimise any impact on congested, inner urban and residential areas.</p>
Valuing the Historic Environment	Paragraph 135 to 151	<p>SPP recognises that the historic environment is a key cultural and economic asset which planning has an important role to play in maintaining and enhancing the distinctive and high-quality, irreplaceable historic places. Planning authorities should safeguard designated and non-designated historic environments including individual assets such as Scheduled Monuments and archaeological resources; related settings and the wider cultural landscape. The Government's Scottish Historic Environment Policy (SHEP) (Historic Scotland 2011) and the Managing Change in the Historic Environment Guidance Notes (Historic Environment Scotland 2016) should also be taken into account for development.</p>
A Low Carbon Place	Paragraph 152 to 174	<p>The need to ensure that terrestrial and marine planning facilitate development of renewable energy technologies, link generation with consumers and guide new infrastructure to appropriate locations. Efficient supply of low carbon and low cost heat and generation of heat and electricity from renewable energy sources are vital to reducing greenhouse gas emissions and can create significant opportunities for communities.</p> <p>Renewable energy also presents a significant opportunity for development, investment and growth of the supply chain, including infrastructure.</p>
Planning for Zero Waste	Paragraph 175 to 192	<p>NPF3 recognises that waste is a resource and an opportunity, rather than a burden. Scotland has a Zero Waste Policy, which means wasting as little as possible and recognising that every item and material we use, either natural or manufactured, is a resource which has value for our economy. Planning plays a vital role in supporting the provision of facilities and infrastructure for future business development, investment and employment. To aid the delivery of this, the planning system should seek to conduct the following:</p> <ul style="list-style-type: none"> <li>• promote developments that minimise the unnecessary use of primary materials and promote efficient use of secondary materials;</li> <li>• support the emergence of a diverse range of new technologies and investment opportunities to secure economic value from secondary resources, including reuse, refurbishment, remanufacturing and reprocessing;</li> <li>• support achievement of Scotland's zero waste targets: recycling 70% of household waste and sending no more than 5% of Scotland's annual waste arisings to landfill by 2025; and</li> <li>• help deliver infrastructure at appropriate locations, prioritising development in line with the waste hierarchy: waste prevention, reuse, recycling, energy recovery and waste disposal.</li> </ul>
Valuing the Natural Environment	Paragraph 193 to 218	<p>SPP advises that planning authorities should conserve and enhance international, national and locally designated sites and protected species, taking account of the need to maintain healthy ecosystems and work with</p>

Subject	SPP Paragraph	Summary
		the natural processes which provide important services to communities. Plans should address potential effects of development on the natural environment and authorities should apply the precautionary principle where the impacts of a proposed development on nationally or internationally significant landscape or natural heritage resources are uncertain but there is sound evidence indicating that significant irreversible damage could occur.
Maximising the Benefits of Green Infrastructure	Paragraph 219 to 233	NPF3 aims to significantly enhance green infrastructure networks, particularly in and around our cities and towns. Green infrastructure and improved access to open space can help to build stronger, healthier communities. It is an essential part of our long-term environmental performance and climate resilience. Improving the quality of our places and spaces through integrated green infrastructure networks can also encourage investment and development. To aid the delivery of this, the planning system should seek to conduct the following: <ul style="list-style-type: none"> <li>• consider green infrastructure as an integral element of places from the outset of the planning process;</li> <li>• assess current and future needs and opportunities for green infrastructure to provide multiple benefits;</li> <li>• facilitate the provision and long-term, integrated management of green infrastructure and prevent fragmentation; and</li> <li>• provide for easy and safe access to and within green infrastructure, including core paths and other important routes, within the context of statutory access rights under the Land Reform (Scotland) Act 2003.</li> </ul>
Flood Risk and Drainage	Paragraph 254 to 268	SPP sets out a precautionary approach to flood risk from all sources by safeguarding flood storage and conveying capacity. Planning authorities are required to take into account probability of flooding and associated risks when determining planning applications and preparing development plans, and developers should take flood risk into account prior to committing to development.
Promoting Sustainable Transport and Active Travel	Paragraph 269 to 291	Sets out the planning policy on sustainable transport to optimise the use of existing infrastructure and reduce the need to travel by providing safe and convenient opportunities for walking, cycling and travel by public transport. Development plans and development management decisions should also take account of the implications of development proposals on traffic, patterns of travel and road safety.

### Planning Advice Notes (PANs) and Circulars

18.3.21 Planning Advice Notes (PANs) support SPP and provide advice on good practice. A summary of PANs of relevance to the proposed Scheme is provided in Table 18.3.

**Table 18.3: Relevant Planning Advice Notes (PANs)**

PAN	Title	Description
PAN 33	Development of Contaminated Land (Scottish Executive 2000a)	Provides advice on the implications of the contaminated land regime for the planning system and the development of, and approach to, contaminated land in development plans. It also contains guidance on the determination of planning applications when the site is, or may be, contaminated.
PAN 51	Planning, Environmental Protection and Regulation (Scottish Executive 2006a)	Supports the existing policy on the role of the planning system in relation to the environmental protection regimes. Also summarises the statutory responsibilities of the environmental protection bodies, as well as informing these bodies about the planning system.
PAN 60	Planning for Natural Heritage (Scottish Executive 2000b)	Provides advice on how development and the planning system can contribute to the conservation, enhancement, enjoyment and understanding of Scotland's natural environment. Encourages developers and planning authorities to be positive and creative in addressing natural heritage issues. It complements the SPP, with examples of good planning practice in relation to natural heritage drawn from across Scotland highlighted in a number of case studies.
PAN 61	Planning and Sustainable Urban Drainage Systems (Scottish Executive 2001)	Provides good practice advice for planners and the development industry on the implementation of Sustainable Urban Drainage Systems (SUDS) to aid the introduction of more sustainable developments.
PAN 65	Planning and Open Space (Scottish Government 2008)	Provides advice on the role of the planning system in protecting and enhancing existing open spaces and providing high quality new spaces. The advice relates to open space in settlements (villages,

PAN	Title	Description
		towns and major urban areas).
PAN 75	Planning for Transport (Scottish Executive 2005)	Aims to create greater awareness of how linkages between planning and transport can be managed. It highlights the roles of different bodies and professions in the process and points to other sources of information on the overlap of the two sectors.
PAN 77	Designing Safer Places (Scottish Executive 2006b)	This sets out the positive role that planning can make in terms of creating attractive and well managed environments that help to prevent antisocial and criminal behaviour.
PAN 78	Inclusive Design (Scottish Executive 2006c)	Supports the Government's aim of promoting more equality in the areas where we live and work. Its aims to explain the importance of inclusive design, identify the nature of the problems experienced in designing inclusive environments and describe the legislative context. It also outlines the roles of the different stakeholders in delivering inclusive design and identifies the particular challenges of applying inclusive design to the historic environment.
PAN 79	Water and Drainage (Scottish Executive 2006d)	Clarifies the role of the planning authority in setting the direction of development to inform the planning and delivery of new water infrastructure in a coordinated way. It explains the roles of Scottish Water and the Scottish Environment Protection Agency (SEPA) and encourages joint working in order to ensure a common understanding of capacity constraints and agreement on the means of their removal. It advises on the appropriateness of private schemes and the handling of Scottish Water developments.
PAN 81	Community Engagement "Planning with People" (Scottish Government 2007b)	Sets out the minimum requirements for consultation and engagement in the planning system. Established through legislation, it provides advice on community engagement in the planning system and is linked to the National Standards for Community Engagement.
PAN 3/2010	Community Engagement (Scottish Government 2010b)	Provides advice to communities on how they can get involved and provides advice to planning authorities and developers on ways of effectively engaging with communities on planning matters. It advocates the use of ten National Standards for the delivery of effective community engagement in land use plan, providing detailed advice on each standard as follows: Involvement; Support; Planning; Methods; Working Together; Sharing Information; Working with Others; Improvement; Feedback; and Monitoring and Evaluation.
PAN 1/2011	Planning and Noise (Scottish Government 2011c)	Promotes the principles of good acoustic design and a sensitive approach to the location of new development. It promotes the appropriate location of new potentially noisy development, and a pragmatic approach to the location of new development within the vicinity of existing noise generating uses, to ensure that quality of life is not unreasonably affected and that new development continues to support sustainable economic growth.
PAN2/2011	Planning and Archaeology (Scottish Government 2011d)	Accompanies SPP, SHEP (Historic Scotland 2011) and the Managing Change in the Historic Environment Guidance Notes (Historic Environment Scotland 2016), which together set out the Scottish Ministers' policies for planning and the historic environment. It is intended to inform the day-to-day work of a range of local authority advisory services and other organisations that have a role in the handling of archaeological matters within the planning process.
PAN1/2013	Environmental Impact Assessment (Scottish Government 2013b)	Replaces the outdated PAN 58 and brings EIA guidance fully into line with the latest regulations. It contains new guidance on the integration of EIA procedures into the development management process, as a step towards more efficient and effective EIA.

18.3.22 Table 18.4 contains relevant Planning Circulars which provide statements of Scottish Government policy and guidance on implementation and/or procedural change.

**Table 18.4: Planning Circulars**

Circular	Title	Description
18/1987	Development Involving Agricultural Land (amended by 29/1988 and 25/1994) (Scottish Executive 1987)	Defines the general policy aim as being to conserve agricultural land in a situation of considerable shortfalls in basic commodities. That policy has been implemented through development plans and development control under the Town and Country Planning (Scotland) Act 1972.
8/2007	The Environmental Impact Assessment Regulations 1999 (Annex E - Environmental	Provides guidance on EIAs of trunk road projects. Although the Environmental Impact Assessment (Scotland) Regulations 2011 (see below) consolidated, updated and replaced Part II of the

Circular	Title	Description
	Impact Assessment of Trunk Road Projects) (Scottish Government 2007a)	Environmental Impact Assessment (Scotland) Regulations 1999, Parts III and IV of the 1999 Regulations concerning Roads, Bridges and Land Drainage, remain extant.
3/2011	The Town and Country Planning (EIA) (Scotland) Regulations 2011 (Scottish Government 2011a)	Provides guidance on the Environmental Impact Assessment (Scotland) Regulations 2011, which update the 1999 Regulations.

18.3.23 An overview of other national planning policy and guidance is provided in Table 18.5.

**Table 18.5: Other Relevant National Policy and Guidance**

Title	Description
Scottish Historic Environment Policy (Historic Scotland 2011)	Sets out Scottish Ministers' policies for the historic environment, provides greater policy direction for Historic Environment Scotland and provides a framework that informs the day-to-day work of a range of organisations that have a role and interest in managing the historic environment. Complements and has the same authority as the SPP series and other relevant Ministerial policy documents, and is a material document in the statutory planning, EIA and Strategic Environmental Assessment (SEA) processes.
Managing Change in the Historic Environment Guidance Notes (Historic Environment Scotland 2016)	Explains how to apply the policies contained in the SHEP and SPP documents.
Scotland's Zero Waste Plan (Scottish Government 2010c)	Sets out the Scottish Government's vision for a zero waste society. This vision describes a Scotland where all waste is seen as a resource; waste is minimised; valuable resources are not disposed of in landfills, and most waste is sorted, leaving only limited amounts to be treated.
Planning and Waste Management Advice (Scottish Government 2015d)	Complements NPF3, SPP and Scotland's Zero Waste Plan. A low carbon place and 'circular economy' are alternatives to the 'make, use, dispose' culture which means re-using products and materials continually and growing a low carbon economy.
Online Planning Advice on Flood Risk (Scottish Government 2015c)	PAN 69: Planning and Building Standards Advice on Flooding (Scottish Executive 2004a) has been superseded with Online Planning Advice.
Our Place in Time - The Historic Environment Strategy for Scotland (Scottish Government 2014b)	Scotland's first ever Historic Environment Strategy is a high level framework which sets out a 10 year vision for the historic environment. The key outcome is to ensure that the cultural, social, environmental and economic value of Scotland's historic environment continues to make a strong contribution to the wellbeing of the nation and its people. It was developed collaboratively and identified the need for strategic priorities to help align and prioritise sector activity towards a common goal.

### Regional and Local Planning Policy

18.3.24 The relevant LDPs are the HwLDP, IMFLDP and the MLDP. Details of the policy aims can be found in Appendix A18.1 (Planning Policy Context for Environmental Assessment).

#### *Highland-wide Local Development Plan (HwLDP) (The Highland Council 2012)*

18.3.25 The HwLDP, adopted by The Highland Council in April 2012, sets out the overarching vision statement, spatial strategy and general planning policies for the whole of The Highland Council area. It seeks to diversify the economy of the area, and the 'Vision and Spatial Strategy' for the Inner Moray Firth area states that by 2030 the area will:

- have increased the number of jobs, people and facilities;
- have a growing city;
- have safeguarded and enhanced its special places;
- have made it easy for people and wildlife to move about through a green network;
- have more efficient forms of travel;

- have resolved its infrastructure constraints;
- have diversified its economy; and
- be regenerated and renewed.

18.3.26 The primary objective is to protect and enhance the area's environmental assets whilst promoting beneficial development. The policies aim to achieve a more sustainable pattern of development by providing a framework within which the key elements of the built and natural environment can be protected and enhanced.

18.3.27 The HwLDP supports a competitive, sustainable and adaptable Highland economy. It aims to do this through the following:

- Helping to deliver, in partnership with Transport Scotland and other transport bodies, transport infrastructure improvements across the area in line with the Council's Local Transport Strategy and the Scottish Government's Strategic Transport Projects Review.
- Providing opportunities which encourage economic development and create new employment across the area focusing on the key sectors of life sciences, energy, tourism, food and drink, higher education, inward investment, financial and business services, creative industries, aquaculture and renewable energy, whilst at the same time improving the strategic infrastructure necessary to allow the economy to grow over the long term.

18.3.28 The HwLDP seeks to resolve key infrastructure constraints by 2030 through various improvements including the proposed Scheme.

*Highland-wide Local Development Plan 2: Main Issues Report (The Highland Council 2015a)*

18.3.29 As per the requirements of the 2006 Act, The Highland Council aims to replace the HwLDP by 2017. Prior to the adoption of HwLDP 2, as part of the process of consultation, the Council has published a Main Issues Report (MIR) which identifies key development and land use issues facing the area and sets out preferred options and reasonable alternatives for guiding future development.

18.3.30 The report sets out at Section 10 (The A96 Corridor – Phasing and Infrastructure) an 'A96 Corridor Strategy Map' and highlights within the text that the majority of growth of the city (Inverness) during the period 2016 to 2031 should be directed to the corridor between Inverness and Nairn. It also points out that this is in line with the growth strategy set out in the A96 Corridor Development Framework (The Highland Council 2007). The 'Strategy Map' indicates the key growth areas along the A96 route, such as East Inverness, Culloden Moor, Tornagrain, the Airport Economic Development Initiative Area, Nairn and a number of other areas. It further states that later phases of development in the A96 Corridor will be dependent on major infrastructure upgrade, particularly transport.

18.3.31 The MIR includes a proposed strategy to address the growing renewable heat sector, which is in response to the Scottish Government's Heat Policy Statement (HPS) (Scottish Government 2015a). The HPS is reflective of the aims of SPP which sets out that LDPs should support the development of heat networks in as many locations as possible and may include a requirement for new development to include infrastructure for connections to and use of heat networks. As this proposed strategy broadly accords with the existing HwLDP Policy 28 (Sustainable Design) it would be considered that the proposed Scheme would support opportunities to enhance this network should it become adopted.

*Inner Moray Firth Local Development Plan (The Highland Council 2015b)*

18.3.32 The IMFLDP was formally adopted on 31 July 2015 and provides policies and proposals for delivering sustainable economic growth in the Inner Moray Firth area.

18.3.33 The purpose of the plan is to accompany the HwLDP, which contains the general policies that will be used in determining planning applications in the Highlands, and sets out plans and proposals for delivering development reflecting the characteristics of the area.

- 18.3.34 The IMFLDP sets out strategies for growth. The 'Inverness to Nairn Growth Area' is supported by a strategy which includes investing in infrastructure to support growth and improve connectivity, including the proposed Scheme.

*The Moray Local Development Plan (MLDP) (Moray Council 2015)*

- 18.3.35 A small part of the wider study area for the proposed Scheme is within the administrative area of Moray Council, and whilst no development would take place within the Moray Council area, the proposed Scheme is cognisant of the high level planning policy aims and objectives for this neighbouring local authority.

- 18.3.36 The MLDP was adopted by Moray Council in 2015 and sets out the overarching vision statement, spatial strategy, and general planning policies for the whole of the Moray Council area.

- 18.3.37 During the plan period the MLDP seeks to enhance sustainable economic development. The MLDP 'Vision and Spatial Strategy' states that during the next 10 to 20 years it will seek to have the following:

- a growing population, which retains more of its younger people and attracts new residents to the area;
- a broad business base with stable, well paid employment; a focus on high quality jobs in engineering, science and technology and growth of established tourism, food, drink sectors;
- sufficient housing land to meet the 'Housing Need and Demand Assessments', that will facilitate the provision of affordable housing, and to ensure high quality residential developments;
- attractive, sustainable environments where people will wish to live and work, which incorporate high quality design; green and blue corridors and open spaces;
- a policy context which supports growth and development, whilst at the same time protecting and enhancing the natural and built heritage, which are amongst Moray's prime assets;
- good, efficient transport links to the rest of the country, with the encouragement of active travel and enhancement of rail as alternatives to journeys by car and truck; and
- renewable energy technologies; reduced carbon emissions; embedded within all development.

- 18.3.38 The Primary Policies (PP) of the MLDP include (inter alia) PP1 Sustainable Economic Growth and PP3 Placemaking. These primary policies reflect the priorities of SPP and aim to support the Scottish Governments aims in terms of sustainable economic growth and placemaking.

### **Local and Regional Transport Policies**

Regional Transport Strategy for the Highlands and Islands 2008 to 2021 (Highlands and Islands Transport Partnership (HITRANS) 2008)

- 18.3.39 The Regional Transport Strategy (RTS) (HITRANS 2008) is a statutory document which sets out a framework for taking forward transport policy and infrastructure. The RTS outlines the objectives and programme of action to enhance transport in the HITRANS area, which includes the area in the vicinity of the proposed Scheme.

- 18.3.40 The primary objective for the RTS is to improve the interconnectivity of the whole region to strategic services and destinations in order to enable the region to compete and support growth. Actions and investment to deliver the RTS are focused on a range of themes including the following:

- active travel;
- congestion and urban issues;
- locally significant network and maintenance of the area's roads;
- cost of transport and travel; and
- environmental impacts.

## **18.4 Assessment of Compliance**

18.4.1 This section summarises the assessment of compliance of the proposed Scheme with the relevant national, regional and local policies, plans and strategies described in Section 18.3 (Summary of Plans and Policies). Key development plan policies that are relevant to the proposed Scheme are described in Appendix A18.2 (Assessment of Development Plan Policy Compliance) with a detailed assessment against each policy.

### **National Policy**

18.4.2 As noted in Section 18.3 (Summary of Plans and Policies), both SPP and NPF3 focus on achieving four outcomes:

- a low carbon place;
- a natural place to invest;
- a successful and sustainable place; and
- a connected place.

18.4.3 The proposed Scheme, as part of the wider A96 Dualling Programme, is a commitment of Scottish Ministers referenced in national policy and plans including NPF3 and the IIP. It would contribute to the overall objectives of reducing journey times, improving operational effectiveness and increasing safety, which in turn is consistent with national policy in NPF3 and SPP, seeking to improve connectivity between places and support sustainable economic growth.

18.4.4 In preparing LDPs the Council must take into account national planning policy and guidance which is prepared by the Scottish Government. As such it is considered that in assessing the proposed Scheme for compliance against local policy it would, in turn, accord with aspirations of national guidance.

### **Regional Policy**

18.4.5 There are no regional planning policy documents relevant to the proposed Scheme.

18.4.6 The principle of the proposed Scheme is supportive of the objectives of the RTS, which highlights the need for the proposed Scheme.

### **Local Policy and Site Allocation**

18.4.7 The preparation of the HwLDP has been supported by supplementary documents including the A96 Corridor Transport Study (The Highland Council 2009) which was developed to inform future growth and development decisions. The study summarises a number of essential developments required to accommodate future development both in the city and in the A96 Corridor, including the A96 Dualling to Airport and East Link.

18.4.8 Chapter 8 (Inner Moray Firth) of the HwLDP sets out the vision for the Inner Moray Firth which seeks to ensure growth of jobs and population, including in the A96 corridor, and identifies the A96 upgrade as resolving infrastructure constraints and removing one of the barriers to growth. The need for the proposed Scheme is also referenced in Policy 9 (A96 Corridor – Phasing and Infrastructure) of the HwLDP which seeks to ensure that any developments along the A96 Corridor are done so in consideration of infrastructure improvements. This overarching aspiration is also reflected in IMFLDP Policy 1 (Promoting and Protecting City and Town Centres).

18.4.9 Furthermore, the dualling of the A96 is identified in the IMFLDP as being a significant investment in major infrastructure which is required to alleviate constraints in the network and enable developments of key growth areas including Tornagraim, the Inverness Airport and adjacent Business Park.

18.4.10 MLDP Policy T1 (Transport Infrastructure Improvements) sets out that '*The Council will promote the improvement of road, rail, air and sea routes in Moray and priority will be given to (inter alia): a*

*dualling the A96 Aberdeen to Inverness route with early delivery of bypasses for settlements prioritised* (page 69). As noted above, while the footprint of the proposed Scheme is not within the Moray Council area, it does highlight the importance of the A96 Dualling and the priority placed on its delivery.

- 18.4.11 In conclusion, the A96 is identified in local planning policy as being key infrastructure. Therefore, it is considered that the need for the proposed Scheme fully aligns with the aspirations and delivery of the HwLDP, the IMFLDP and the MLDP.

#### Air Quality

- 18.4.12 Key local policy themes of relevance to this topic include maintaining and improving air quality (including designated Air Quality Management Areas), and protection of residential amenity. The main policies associated with this are HwLDP Policy 28 (Sustainable Design), Policy 72 (Pollution) and Policy 73 (Air Quality).
- 18.4.13 In relation to air quality, Policy 28 (Sustainable Design) sets out that the Council will assess developments in relation to the extent that they impact on individual and community residential amenity.
- 18.4.14 Policy 72 (Pollution) states that any proposals that may result in significant pollution, including air quality, would only be approved where a detailed assessment report on the levels, character and transmission and receiving environment of the potential pollution is provided by the applicant to show how the pollution can be appropriately avoided and if necessary mitigated. The policy also notes that 'Major Developments' and developments that are subject to an Environmental Impact Assessment (EIA) would be expected to follow a robust project environmental management process following the approach set out in the Construction Environmental Management Process for Large Scale Projects Guidance Note (The Highland Council 2010b) or a similar approach.
- 18.4.15 Policy 73 (Air Quality) states that any developments that have the potential to adversely affect the air quality in an area to a level which could cause harm to human health and well-being or the natural environment must be accompanied by appropriate provisions, such as an air quality assessment which demonstrates how impacts would be mitigated.
- 18.4.16 Chapter 7 (Air Quality) of this ES concludes that as the proposed Scheme would generally be located further away from existing settlements than the existing A96, there would be a general reduction in air pollution to existing properties adjacent to the existing A96 and overall more properties would receive an improvement in air quality than those which experience a worsening. The assessment also highlights that in order to minimise any potential emissions of fugitive dust during the construction phase, a Construction Environmental Management Plan (CEMP) would adopt comprehensive measures to control fugitive dust. Upon mitigation, implemented through the CEMP, it is predicted that no residual impacts would occur from the construction phase. With the above measures in place, it is considered that the proposed Scheme accords with Policy 28 (Sustainable Design), Policy 72 (Pollution) and Policy 73 (Air Quality).

#### Noise and Vibration

- 18.4.17 Key local policy themes of relevance to this topic include the minimisation of impacts from the proposed Scheme to the local environment, especially the impacts on noise sensitive land uses and receptors. The main policies associated with this are HwLDP Policy 28 (Sustainable Design) and Policy 72 (Pollution), the details of which are set out in paragraph 18.4.13 and 18.4.14.
- 18.4.18 Chapter 8 (Noise and Vibration) of this ES concludes that due to the nature of the construction process of the proposed Scheme, it is predicted to cause temporary adverse noise and vibration impacts for a number of sensitive receptors. However, in compliance with Policy 72 (Pollution) the potential impacts have been assessed using the construction information available at this time, and while it is considered that short-term noise impacts would occur as a result of the construction process, the worst affected areas would be appropriately mitigated by the contractor as part of the CEMP, using the best practice methods as set out in Chapter 8 (Noise and Vibration).

- 18.4.19 During operation, as a result of the proposed Scheme bypassing Nairn, there would be a reduction in noise nuisance on sensitive receptors currently affected by traffic noise from the existing A96. This is primarily the result of moving traffic onto the new bypass and therefore reducing the overall volume of through traffic on the existing A96. The overall benefits result in the proposed Scheme being compliant with Policy 28 (Sustainable Design) and Policy 72 (Pollution).

Landscape and Visual Impact

- 18.4.20 Key policy themes of relevance to this topic are to conserve and protect the landscape character and special qualities, ensure that the proposed Scheme does not adversely impact the setting and character of the surrounding area, and ensure that community and individual residential amenity is protected. This section mainly focuses on landscape impacts, which are directly related to visual, and the main local policies associated with both of these topics are HwLDP Policy 28 (Sustainable Design), Policy 36 (Development in the Wider Countryside), Policy 57 (Natural, Built and Cultural Heritage) and Policy 61 (Landscape).
- 18.4.21 In relation to landscape and visual, Policy 28 (Sustainable Design) sets out that the Council will assess developments in relation to the extent that they impact on the landscape, demonstrate sensitive siting and high quality design in keeping with local character and impact on individual and community residential amenity.
- 18.4.22 Policy 36 (Development in the Wider Countryside) states that development proposals will be assessed for the extent to which they are acceptable in terms of siting and design, are sympathetic to existing patterns of development in the area and are compatible with landscape character and capacity.
- 18.4.23 Policy 57 (Natural, Built and Cultural Heritage) states that development proposals will be assessed taking into account the level of importance and type of heritage features, the form and scale of the development, and any impact on the feature and its setting. It identifies criteria to be applied based on the designation of the feature as either local/regional, national or international importance. These features are set out in Appendix 2 of the HwLDP and in relation to landscape and visual these include Gardens and Designated Landscapes, National Scenic Areas and Special Landscape Areas.
- 18.4.24 Policy 61 (Landscape) outlines that new developments should be designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed. In the assessment of new developments, the Council will take account of Landscape Character Assessments, Landscape Capacity Studies and its supplementary guidance on Siting and Design and Sustainable Design, together with any other relevant design guidance.
- 18.4.25 Chapter 9 (Landscape) of this ES concludes that no significant impacts are expected to occur on any local/regional, national or internationally designated landscapes in compliance with Policy 57 (Natural, Built and Cultural Heritage). However, due to the nature of the proposed Scheme, following mitigation developed to reflect landscape characteristics in accordance with Policy 61 (Landscape), there would be some unavoidable significant residual impacts on the landscape, namely to the setting and resource of non-designated Local Landscape Character Areas, and visual receptors. As such a non-compliance with Policy 61 (Landscape) is expected.
- 18.4.26 While the impact of a road scheme of this nature is unavoidable, it is considered that the proposed Scheme would potentially conflict with the aims of Policy 36 (Development in the Wider Countryside), which seeks to assess proposals to the extent in which they are compatible with landscape character. In relation to compliance with Policy 28 (Sustainable Design), cognisance must be given to the previous STPR (Jacobs, Faber Maunsell, Grant Thornton and Tribal Consulting 2009) and DMRB Stage 2 Scheme Assessment Report (Jacobs 2014) studies. The STPR concluded that no reasonable alternatives exist and the Stage 2 Report selected the preferred option with consideration of collective impacts, including those related to landscape and visual. They also highlight the overarching need for the proposed Scheme, and its strategic benefit, making it broadly in accordance with Policy 28 (Sustainable Design).

Habitats and Biodiversity

- 18.4.27 Key policy themes of relevance to this topic include the protection, conservation and enhancement of the natural environment; protection of the quality and integrity of designated sites of importance from international to local level; and conservation of habitats and species. The main local policies of relevance are HwLDP Policy 28 (Sustainable Design), Policy 51 (Trees and Development), Policy 52 (The Principle of Development in Woodland), Policy 57 (Natural, Built and Cultural Heritage), Policy 58 (Protected Species), Policy 59 (Other Important Species) and Policy 60 (Other Important Habitats).
- 18.4.28 In relation to habitats and biodiversity, Policy 28 (Sustainable Design) states that developments will be assessed on the extent to which they impact on habitats, freshwater systems, species and marine systems.
- 18.4.29 Policy 51 (Trees and Development) states that the Council will support development which promotes significant protection to existing hedges, trees and woodlands on and around development sites. The Council will secure additional tree/hedge planting within a tree planting or landscape plan to compensate removal and to enhance the setting of any new development. This is further supported by Policy 52 (The Principle of Development in Woodland) which states that the Council will maintain a strong presumption in favour of protecting woodland resources and that development proposals will only be supported where they offer clear and significant public benefit. Where this involves woodland removal, compensatory planting will usually be required.
- 18.4.30 Policy 57 (Natural, Built and Cultural Heritage) states that development proposals will be assessed taking into account the level of importance and type of heritage features, the form and scale of the development, and any impact on the feature and its setting. It identifies criteria to be applied based on the designation of the feature as either local/regional, national or international importance. These features are set out in Appendix 2 of the HwLDP and in relation to habitats and biodiversity these include Special Protection Areas (SPA), Special Areas of Conservation (SAC), Ramsar Sites, National Nature Reserve, Sites of Special Scientific Interest (SSSI) and woodland on the Ancient Woodland Inventory (AWI).
- 18.4.31 HwLDP Policy 58 (Protected Species) safeguards protected species that may be present on-site or may be affected by the proposed Scheme. Policy 59 (Other Important Species) and Policy 60 (Other Important Habitats) offer similar protection for other important species and habitats. All policies require appropriate survey work to be carried out to ensure impacts are managed to address adverse effects on protected species or an area designated because of its natural heritage value.
- 18.4.32 As detailed in Chapter 11 (Habitats and Biodiversity) of this ES the proposed Scheme's impact has been assessed against one internationally designated site (Inner Moray Firth Special Protection Area (SPA)) and four nationally designated sites (Loch Flemington SPA, Longman and Castle Stuart Bays Site of Special Scientific Interest (SSSI), Kildrummie Kames SSSI and an area of woodland on the Ancient Woodland Inventory (AWI) (River Nairn Woodland East). In compliance with the aims of Policy 57 (Natural, Built and Cultural Heritage) to protect designated heritage assets, there are no significant long-term impacts on any of these designated features.
- 18.4.33 Species and habitats, including European Protected Species, have been assessed. The assessment concludes that, following successful implementation of proposed mitigation measures, including compensatory planting where woodland is removed, there are no significant long-term residual impacts on any protected species, other important habitats (including woodland), species listed in Annexes I, II and V of Directive 92/43/EEC on the conservation of natural habitats and wild flora and fauna (Habitat Directive), UK and Local Biodiversity Action Plans, or the Scottish Biodiversity List. This is considered to be compliant with the aims of Policy 58 (Protected Species), Policy 59 (Other Important Species) and Policy 60 (Other Important Habitats).
- 18.4.34 The conclusion of the habitats and biodiversity assessment supports compliance with Policy 28 (Sustainable Design), while mitigation measures would enable the proposed Scheme to accord with Policies 51 (Trees and Development) and 52 (The Principle of Development in Woodland).

Geology, Soils, Contaminated Land and Groundwater

- 18.4.35 Key policy themes of relevance to this topic include the protection of the water environment (including groundwater and Private Water Supplies (PWS)), maintaining geodiversity and the suitability of use and remediation of contaminated land. The main local policies of relevance to the proposed Scheme are HwLDP Policy 28 (Sustainable Design), Policy 30 (Physical Constraints), Policy 55 (Peat and Soils), Policy 57 (Natural, Built and Cultural Heritage) and Policy 72 (Pollution).
- 18.4.36 In relation to geology, soils, contaminated land and groundwater, Policy 28 (Sustainable Design) states that proposed developments will be assessed on the extent to which they are affected by physical constraints as set out in Policy 30 (Physical Constraints) (paragraph 18.4.37), impact on freshwater systems and impact on non-renewable mineral deposits of potential commercial value.
- 18.4.37 Policy 30 (Physical Constraints) states that developers must consider whether their proposals would be located within areas of constraints as set out in Physical Constraints: Supplementary Guidance (The Highland Council 2013). This guidance highlights the following constraints as being relevant to this topic; private water supplies (PWS), proven mineral reserves and new, existing or former waste management sites and other contaminated land. Where a proposed development is affected by any of the constraints detailed within the guidance, developers must demonstrate compatibility with the constraint or outline appropriate mitigation measures to be provided.
- 18.4.38 The broad aim of Policy 55 (Peat and Soils) are to ensure the minimisation, management and positive re-use/recycling of minerals and, in the case of peat, should demonstrate how they have avoided unnecessary disturbance, degradation or erosion of peat and soils. Unacceptable disturbance of peat will not be permitted unless it is shown that the adverse effects of such disturbance are clearly outweighed by social, environmental or economic benefits arising from the development proposal.
- 18.4.39 Policy 72 (Pollution), seeks to preserve the quality of the environment, including the water environment and identify any potential risks to it as a result of the proposed Scheme.
- 18.4.40 Policy 57 (Natural, Built and Cultural Heritage) states that development proposals will be assessed taking into account the level of importance and type of heritage features, the form and scale of the development, and any impact on the feature and its setting. It identifies criteria to be applied based on the designation of the feature as either local/regional, national or international importance. These features are set out in Appendix 2 of the HwLDP and in relation to geology it includes SSSIs which are of special interest by reason of their geology.
- 18.4.41 As noted in Chapter 12 (Geology, Soils, Contaminated Land and Groundwater) of this ES there is one identified geological SSSI within the study area, the Kildrummie Kames. It is concluded that no mitigation is required for the superficial and solid geology and as such the proposed Scheme is considered to be compliant with Policy 57 (Natural, Built and Cultural Heritage). Further to the superficial and solid geology, there are three grouped extensive areas of peat that have been identified within and to the north of the Kildrummie Kames SSSI. In compliance with Policy 55 (Peat and Soils), where development on peat has been unavoidable its use would be appropriately managed including reuse and the development of a Peat Management Plan. Furthermore, any peat excavation, storage, and any offsite removal required would be undertaken in accordance with Developments on Peatland: Guidance on the Assessment of Peat Volumes, Reuse of Excavated Peat and the Minimisation of Waste (Scottish Renewables and SEPA 2012) and would comply with relevant waste management practices under The Waste Management Licensing (Scotland) Regulations 2011.
- 18.4.42 The quality of the water supply could be at risk from any pollution incident associated with the proposed Scheme. Chapter 12 (Geology, Soils, Contaminated Land and Groundwater) of this ES concludes that there are no significant impacts on PWS and mitigation would be included to address potential impacts on groundwater, including adherence to SEPA Pollution Prevention Guidelines (PPGs) (SEPA 2016) during construction, and appropriate road drainage and runoff treatment.

- 18.4.43 If areas of contamination are identified during construction, a full risk assessment would be undertaken and the mitigation required would be specified on a site specific basis. Measures may include removal of contaminated soils from site, consolidation for treatment ex-situ and/or treatment in situ.
- 18.4.44 With the above taken into account, it is considered that the proposed Scheme would accord with all relevant policy on these matters.

Road Drainage and the Water Environment

- 18.4.45 Key policy themes of relevance to this topic include water quality and resources and flood risk and drainage. The main policies of relevance are HwLDP Policy 28 (Sustainable Design), Policy 63 (Water Environment), Policy 64 (Flood Risk), Policy 66 (Surface Water Drainage), and Policy 72 (Pollution).
- 18.4.46 In relation to the water environment, Policy 28 (Sustainable Design) states that developments will be assessed on the extent to which they impact on freshwater systems. This is further supported by Policy 63 (Water Environment) which states that the Council will support proposals for development that do not compromise the objectives of the Water Framework Directive (2000/60/EC).
- 18.4.47 Policy 64 (Flood Risk) comments that a Flood Risk Assessment or other suitable information which demonstrates compliance with SPP will be required (where proposals border medium to high risk flood areas) and it also requires that a proposal should not compromise the objectives of the EU Water Framework Directive.
- 18.4.48 Policy 66 (Surface Water Drainage) comments that all proposed development must be drained by Sustainable Drainage Systems e.g. Basin or Pond (hereafter referred to as SUDS) and states that each drainage scheme must include proposals for long-term maintenance.
- 18.4.49 Policy 72 (Pollution) states that any proposals that may result in significant pollution, including to water, would only be approved where a detailed assessment report on the levels, character and transmission and receiving environment of the potential pollution is provided by the applicant to show how the pollution can be appropriately avoided and if necessary mitigated. The policy also notes that 'Major Developments' and developments that are subject to an Environmental Impact Assessment (EIA) would be expected to follow a robust project environmental management process following the approach set out in the Construction Environmental Management Process for Large Scale Projects Guidance Note (The Highland Council 2010b) or a similar approach.
- 18.4.50 Chapter 13 (Road Drainage and the Water Environment) of this ES concludes that following the implementation of mitigation measures through the CEMP, residual impacts on water quality during construction may lead to some short-term significant impacts. However due to the adoption and implementation of appropriate mitigation measures, no significant residual impacts would occur during operation. As such it is considered that overall the proposed Scheme complies with Policy 28 (Sustainable Design), Policy 63 (Water Environment) and Policy 72 (Pollution). Mitigation for the operational phase includes SUDS to manage surface water runoff and minimise pollution in compliance with Policy 66 (Surface Water Drainage). Furthermore, regular maintenance of the SUDS has been identified.
- 18.4.51 As noted in the SPP, a Flood Risk Assessment (FRA) is required where the development may be at 'medium to high risk' of flooding. The FRA undertaken for the proposed Scheme forms a standalone document included as Appendix A13.2 (Flood Risk Assessment) with the key findings summarised in Chapter 13 (Road Drainage and the Water Environment) of this ES. The chapter concludes that, with the proposed mitigation, the vast majority of residual impacts during operation would be reduced to Neutral, with a small number of Slight significance impacts. There are three SWFs where further detailed design is required, but the modelling which has been undertaken demonstrates that the flood risk at these locations can be appropriately managed. This is considered to broadly comply with the flood prevention measures set out in Policy 64 (Flood Risk).

- 18.4.52 Further to mitigation measures set out in Chapter 13 (Road Drainage and the Water Environment) of this ES, there has been significant environmental input to the design process to help inform the most sustainable design and drainage solution. The Scottish Environment Protection Agency (SEPA) has also been consulted at various stages to review the proposals and agree aspects such as the number of treatment levels required. Therefore the proposed Scheme is considered compliant with policies and advice relating to water quality protection, flood risk, and sustainable drainage design.

#### Cultural Heritage

- 18.4.53 Key policy themes of relevance to this topic include seeking to minimise adverse effects on historic and cultural assets (including Scheduled Monuments, Listed Buildings, Conservation Areas and Gardens and Designed Landscapes). The main local policies associated with this are HwLDP Policy 28 (Sustainable Design) and Policy 57 (Natural, Built and Cultural Heritage) which provides criteria that should be applied in regard to features of local/regional importance, national importance and international importance.
- 18.4.54 In relation to cultural heritage, Policy 28 (Sustainable Design) states that developments will be assessed on the extent to which they impact on cultural heritage. Furthermore, Policy 57 (Natural, Built and Cultural Heritage) states that development proposals will be assessed taking into account the level of importance and type of heritage features, the form and scale of the development, and any impact on the feature and its setting. It identifies criteria to be applied based on the designation of the feature as either local/regional, national or international importance. These features are set out in Appendix 2 of the HwLDP and in relation to cultural heritage these include Scheduled Monuments, A, B and C Listed Buildings, Gardens and Designated Landscapes and Sites and Monuments Record Archaeological Sites.
- 18.4.55 Chapter 14 (Cultural Heritage) of this ES identifies 210 archaeological remains, 69 historic buildings, and 19 historic landscape types, dating from the Mesolithic period to the recent past. Potential impacts were identified in relation to aspects such as changes to the setting of cultural heritage sites or the requirement to remove existing features. Both potential construction and operation impacts were assessed. It was concluded that following mitigation, Moderate residual impacts during operation are predicted to remain on one archaeological remain, Isle View Ring Cairn Scheduled Monument (Asset 85) and one historic landscape type, Auldearn Battlefield (HLT 25). These are both considered features of national importance in policy. While these impacts would potentially conflict with Policy 28 (Sustainable Design) and Policy 57 (Natural, Built and Cultural Heritage), the national importance and strategic benefits of the proposed Scheme should be taken into consideration when considering compliance with this policy. As such, it is anticipated that due to the benefits that the proposed Scheme offers, that it would broadly comply with the relevant policies noted above.

#### People and Communities: Community and Private Assets

- 18.4.56 Key policy themes of relevance to this topic include the safeguarding of existing and future land uses, for economic, residential, tourism and leisure, or community purposes, and protection of prime agricultural land. The main HwLDP policies associated with this include Policy 28 (Sustainable Design), Policy 41 (Business and Industrial Land) and Policy 75 (Open Space). In addition, IMFLDP Policy 2 (Delivering Development) is considered to be of relevance.
- 18.4.57 Policy 28 (Sustainable Design) encourages development that will promote and enhance the social and environmental wellbeing of The Highland Council area, with developments being assessed on a number of criteria including the extent to which they impact on non-renewable resources such as prime agricultural land and promote well used environments which will enhance community safety and security and contribute to the economic and social development of the community.
- 18.4.58 Policy 41 (Business and Industrial Land) highlights that the Council will support the development of strategic business and industrial sites/locations indicated on the proposals map and listed within the policy (e.g. Inverness Airport Business Park). In doing so they will safeguard each site from other competing uses unless a development plan review concludes that the site is no longer required or suitable for business and industrial purposes.

- 18.4.59 Policy 75 (Open Space) sets out the Council's long term aim for open space provision and states that existing areas of high quality, accessible and fit for purpose open space will be safeguarded from inappropriate development. Furthermore, all sites identified in The Highland Council's Audit of Greenspace (The Highland Council 2010a) will be safeguarded unless it can be demonstrated that the open space is not fit for purpose, substitute provision will be provided meeting the needs of the local area or development of the open space would significantly contribute to the spatial strategy for the area.
- 18.4.60 IMFLDP Policy 2 (Delivering Development) states that development of the locations and uses specified in Section 4 of the Plan will be supported subject to provision of the necessary infrastructure, services and facilities required to support new development proposed as indicated in this Plan. Larger sites must be appropriately masterplanned.
- 18.4.61 Chapter 15 (People and Communities: Community and Private Assets) of this ES assesses land-take and relevant impacts that occur on local communities, private assets, agricultural, forestry and sporting land and development land.
- 18.4.62 Chapter 15 (People and Communities: Community and Private Assets) concludes that there is expected to be land-take of approximately 10ha from residential, commercial and industrial land including significant impacts on two existing residential properties; the property with the greatest impact (6 Milton of Culloden) is subject to acquisition. There are also some significant impacts in relation to changes in access (e.g. journey distance) for residents, commercial/industrial properties and communities. However, access to community facilities and services in Nairn is expected to improve due to a reduction in traffic volumes on the existing A96 through Nairn. Socio-economic benefits are also expected due to additional spend and employment during the construction period. Taking this into account, along with its strategic benefits, the proposed Scheme is considered to broadly comply with the overarching aims of Policy 28 (Sustainable Design) in relation to contributing to the economic and social development of the community.
- 18.4.63 The assessment also concludes that approximately 4 ha of land-take from land designated in the IMFLDP for development would occur with some Adverse/Mixed impacts; however it is also noted that in some instances the proposed Scheme would have a Beneficial impact due to its role in alleviating existing infrastructure constraints. Of particular relevance to Policy 41 (Business and Industrial Land), the proposed Scheme is expected to have a Mixed impact on Inverness Airport Business Park development allocation; although land-take of this site would be expected to lead to a partial loss of its development capacity, the approved Planning in Principle application for the site is conditioned in relation to the safeguarding of land to protect the future commitment to upgrade the A96 road, further indicating the Highland Council's commitment to the proposed Scheme. Additionally, the dualling of the A96 is highlighted within the HwLDP and the IMFLDP as an important feature in relation to the future development aspiration of the A96 Corridor. Overall, the proposed Scheme is considered to comply with policies that relate to the A96 Corridor (HwLDP Policies 12, 13, 18, 19 and 41 and IMFLDP Policy 2 (Delivering Development)).
- 18.4.64 In relation to agricultural land-take, approximately 265ha of agricultural land would be required for the proposed Scheme, of this approximately 116ha is classed as prime agricultural land (land class 1, 2, 3.1) (refer to Table 15.27 of Chapter 15: People and Communities - Community and Private Assets). A summary of the residual agricultural and forestry impacts are summarised in Table 15.28 of Chapter 15 with 18 agricultural and 12 forestry interests being significantly impacted. Adverse impacts on likely future farm viability have been identified on two agricultural units (2 Milton of Culloden and Lands at Lochside). Where land-take is required, landowners would be compensated financially in accordance with the District Valuer's assessment. While the need to protect this land is recognised within Policy 28 (Sustainable Design) it is considered that, through the route options assessment undertaken in DMRB Stage 2 Scheme Assessment Report (Jacobs 2014), the preferred option has been chosen in consideration of collective impacts, including loss of non-renewable resources such as prime agricultural land. In addition, as noted in Table 15.23, during the construction phase it is noted that mitigation measures would ensure that, where practically possible, the siting of temporary construction compounds on prime agricultural land shall be avoided (mitigation measure CP-AG13). Furthermore, the national importance and strategic benefits of the proposed Scheme provides compliance with Policy 28 (Sustainable Design), as well

as the wider aims of Scottish Planning Policy to deliver 'essential infrastructure' (see Table 18.2: Promoting Rural Development).

- 18.4.65 The assessment also includes land identified as open space within The Highland Council's Audit of Greenspace (The Highland Council 2010). Due to its primary land use and relevance to the assessment this land is included within either the commercial/industrial, development land or agricultural and forestry land categories. Even though the proposed Scheme would result in land-take of small parcels of land identified as open space, its loss is considered to significantly contribute to the spatial strategy for the area and as such accords with Policy 75 (Open Space).

#### People and Communities: Effects on All Travellers

- 18.4.66 Key policy themes of relevance to this topic include the provision and promotion of all road users, including Non-Motorised Users (NMUs) (pedestrians, cyclists and equestrians), and the improvement of access and rights of way. Key policies associated with this are HwLDP Policy 28 (Sustainable Design), Policy 43 (Tourism), Policy 77 (Public Access) and Policy 78 (Long Distance Routes).
- 18.4.67 In relation to effects on all travellers, Policy 28 (Sustainable Design) seeks to ensure developments include a provision to be accessible by public transport, cycling and walking. Policy 77 (Public Access) sets out to retain existing paths whilst enhancing their amenity and notes that where this is not possible that alternative access should be provided that is no less attractive, is safe and convenient for public use and does not damage or disturb species or habitats. This policy also requires the submission of an Access Plan for Major Developments. Policy 78 (Long Distance Routes) seeks to protect long distance routes and their settings.
- 18.4.68 In regard to Policy 77 (Public Access), Chapter 16 (People and Communities: Effects on All Travellers) of this ES concludes that a small number of NMU routes would be adversely affected by the proposed Scheme including their visual amenity. However, the proposed facilities for NMUs included within the design would permanently enhance links between communities and improve access to outdoor areas in compliance with the aims of the policy. The provision of alternative NMU routes also complies with aims of Policy 28 (Sustainable Design).
- 18.4.69 With regards to HwLDP Policy 78 (Long Distance Routes) the design has been developed to safeguard National Cycle Network 1 (NCN1) which is located within the study area. It is also considered that the proposed NMU facilities provided as part of the proposed Scheme would be utilised for more long distance journeys, ultimately improving the continuity of journeys within the study area.
- 18.4.70 Furthermore, as noted above in paragraph 18.3.19 the 'National Long Distance Cycling and Walking Network' is a national development identified within NPF3 which has direct relevance to the study area for the proposed Scheme. The network will link key outdoor tourism locations across the country and is considered a tourism asset in its own right. As such, in regards to Policy 43 (Tourism), by safeguarding this national network asset in the design the proposed Scheme would comply with policy.

#### Materials

- 18.4.71 Key policy themes of relevance to this topic include new developments being designed and constructed with greater efficiency and a sustainable approach to the handling of materials and resources. The key HwLDP policies associated with this are Policy 28 (Sustainable Design) and Policy 54 (Mineral Wastes).
- 18.4.72 In relation to materials, Policy 28 (Sustainable Design) states that developments which have demonstrated that they have sought to minimise the generation of waste during the construction and operational phases would be supported. This is further supported by Policy 54 (Mineral Wastes) which sets out that the Council will encourage the minimisation and positive re-use/recycling of mineral, construction and demolition wastes. Both policies highlight the importance of addressing waste management and the inclusion of a Waste Management Plan.

- 18.4.73 Chapter 17 (Materials) of this ES sets out that the the appointed contractor would be obliged to minimise waste, re-use as much material as possible on-site, recycle/recover as much waste that cannot be used on site as possible and minimise carbon emissions. The assessment also highlights that a Site Waste Management Plan (SWMP) would be developed and regularly updated during construction of the proposed Scheme. The SWMP would identify the types and likely quantities of wastes that may be generated and how these wastes would be reduced, re-used, managed and disposed of. Where materials cannot be used on the proposed Scheme, opportunities would be sought to re-use materials on other local project. As a result of these measures the proposed Scheme is expected to comply with Policy 54 (Minerals Waste) in this regard.
- 18.4.74 Chapter 17 (Materials) notes that there is likely to be a Major impact in regard to the carbon footprint of the proposed Scheme due to the amount of material resources required for construction and operation. However, in addition to the above, and in compliance with Policy 28 (Sustainable Design), Chapter 17 (Materials) references an example in DMRB guidance (draft HD212/11: Supplementary Guidance for Users of DMRB Volume 11 Environmental Assessment Highways Agency 2011) with a similar Major impact and how mitigation measures have been put in place to compensate for the impacts. It should also be noted that equivalent scale roads infrastructure projects throughout Scotland and the UK that have a similar Major impact in terms of materials have been approved on the basis of the suggested mitigation and the acceptance that essential and strategic road infrastructure schemes of this scale would normally require a significant amount of materials to construct.

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