

<b>Reference no:</b>	23/02299/PREMAJ	<b>Date of Issue:</b>	11 <sup>th</sup> July 2023
<b>Proposal:</b>	Engineering works to form new berthing quay on the East side of the Inner Dock at the Port of Nigg	<b>Address:</b>	Land 430M NW Of Nigg Welding School Nigg Tain
<b>Case officer:</b>	Gillian Pearson	<b>Email and phone no:</b>	gillian.pearson@highland.gov.uk
<b>Confidentiality Requested</b>	Yes		

This pre-application advice has been specifically prepared for Mabbett & Associates Ltd as the applicant and Mabbett & Associates Ltd as the agent for the proposed development at Land 430M NW Of Nigg Welding School, Nigg

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<b>Description of proposal</b>	
Engineering works to form new berthing quay on the East side of the Inner Dock at the Port of Nigg	
<b>Summary of Key Issues</b>	
Based on the information provided, the principle of development is considered to be broadly acceptable. The key considerations in the assessment of any will be: <ul style="list-style-type: none"> <li>• Ensuring designated sites are satisfactorily protected;</li> <li>• Compliance with NPF4 including with respect to biodiversity</li> <li>• Addressing and mitigating amenity issues particularly noise during construction and operation</li> <li>• Consideration of the transport requirements generated, including construction traffic and by employees, in line with the sustainable travel and investment hierarchies</li> <li>• Addressing the requirements of the National Marine Plan</li> </ul>	
<b>Background Information</b>	
Site Area	<b>1.6 hectares</b>
Land Ownership	<b>Global Energy Ltd</b>
Existing Land Uses	<b>Graving Dock</b>

Grid Reference	279399 (E)	869247 (N)
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**Consents Required**

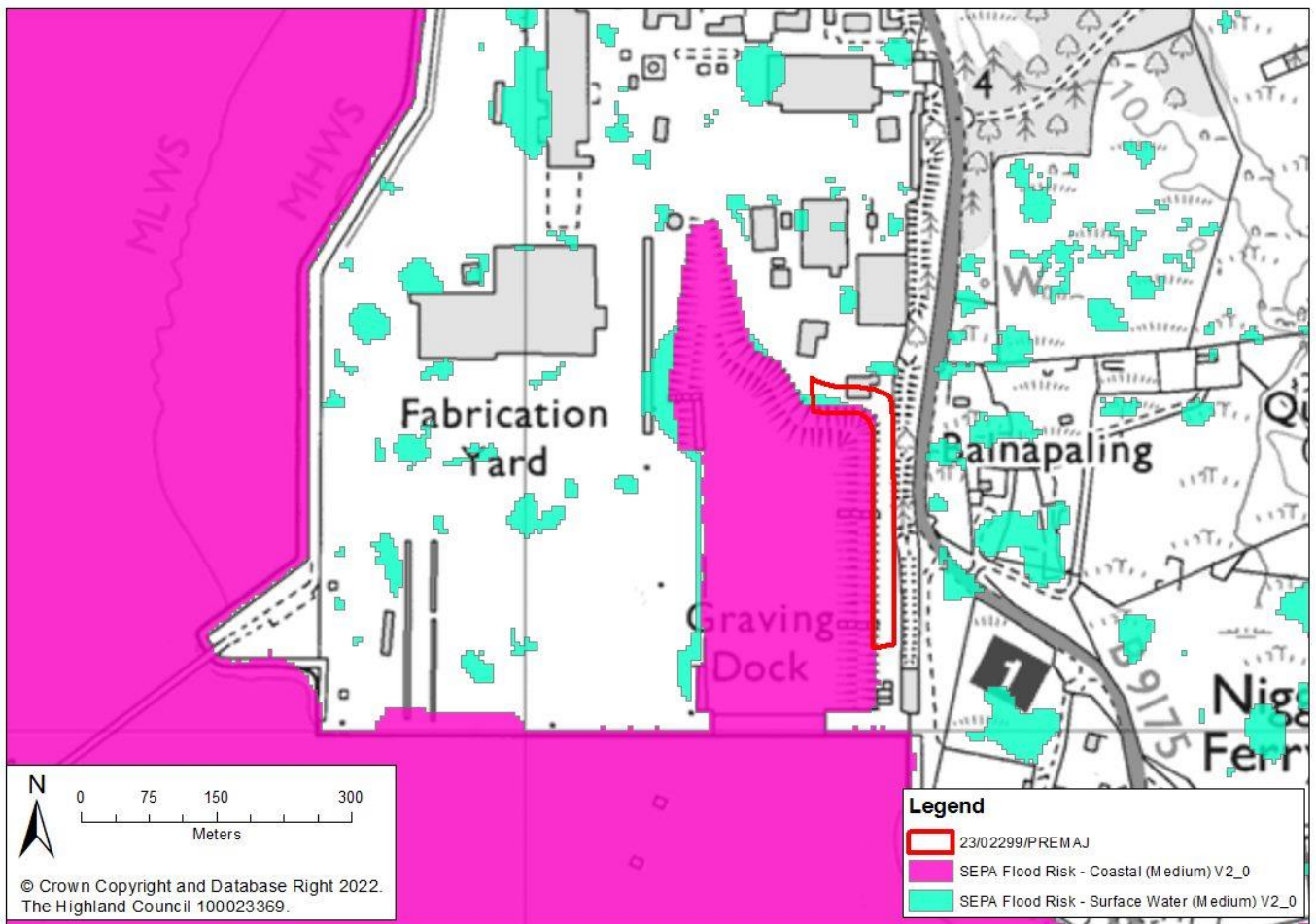
You are advised that the following consent(s) will be required for the proposed development:

Planning Permission

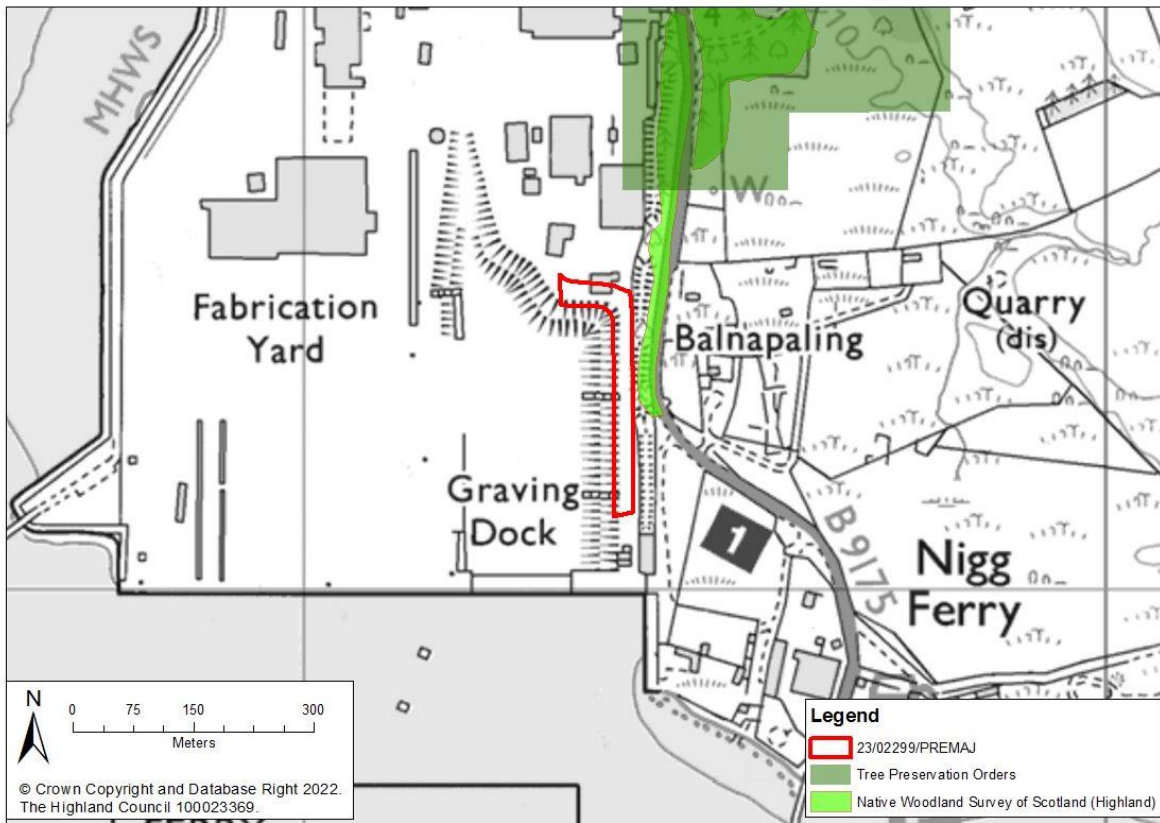
Marine Licence (TBC with Marine Scotland)

**Site Constraints Map**

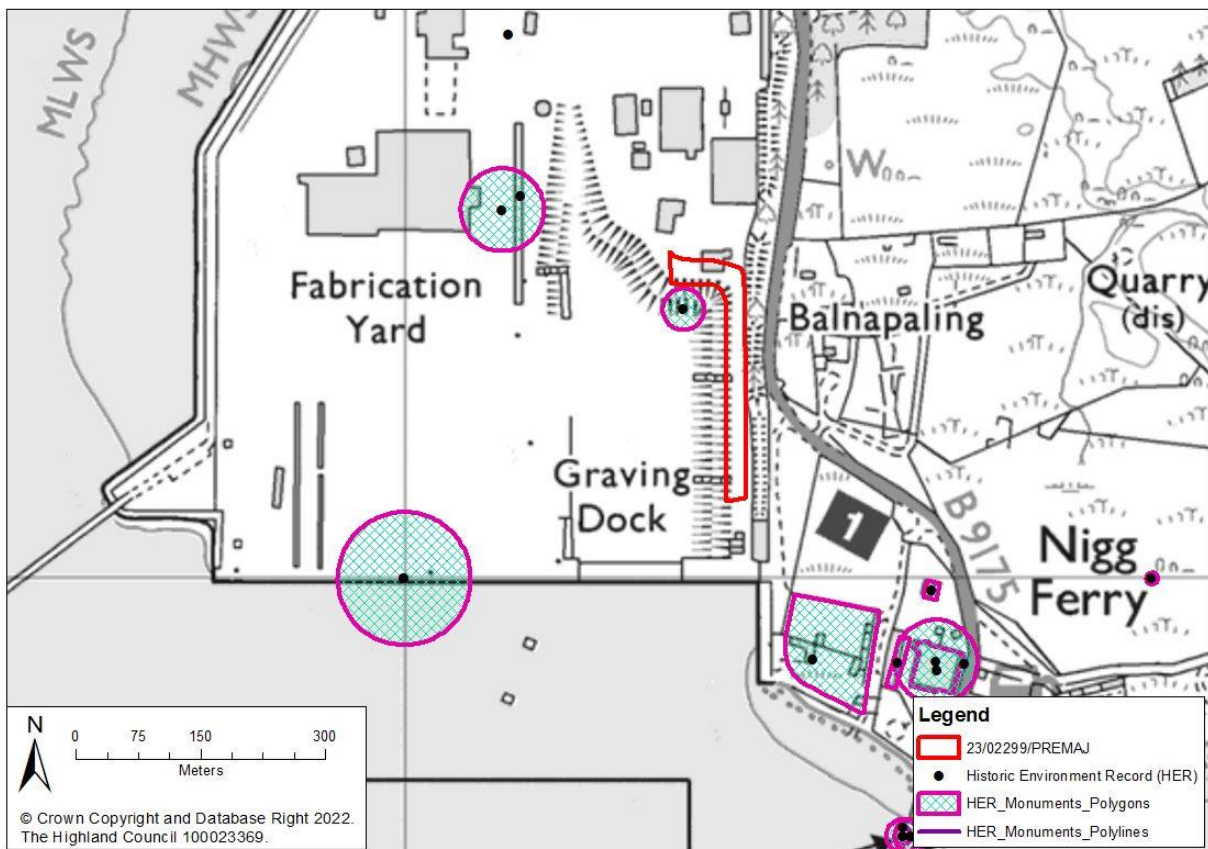
**Flood Risk**



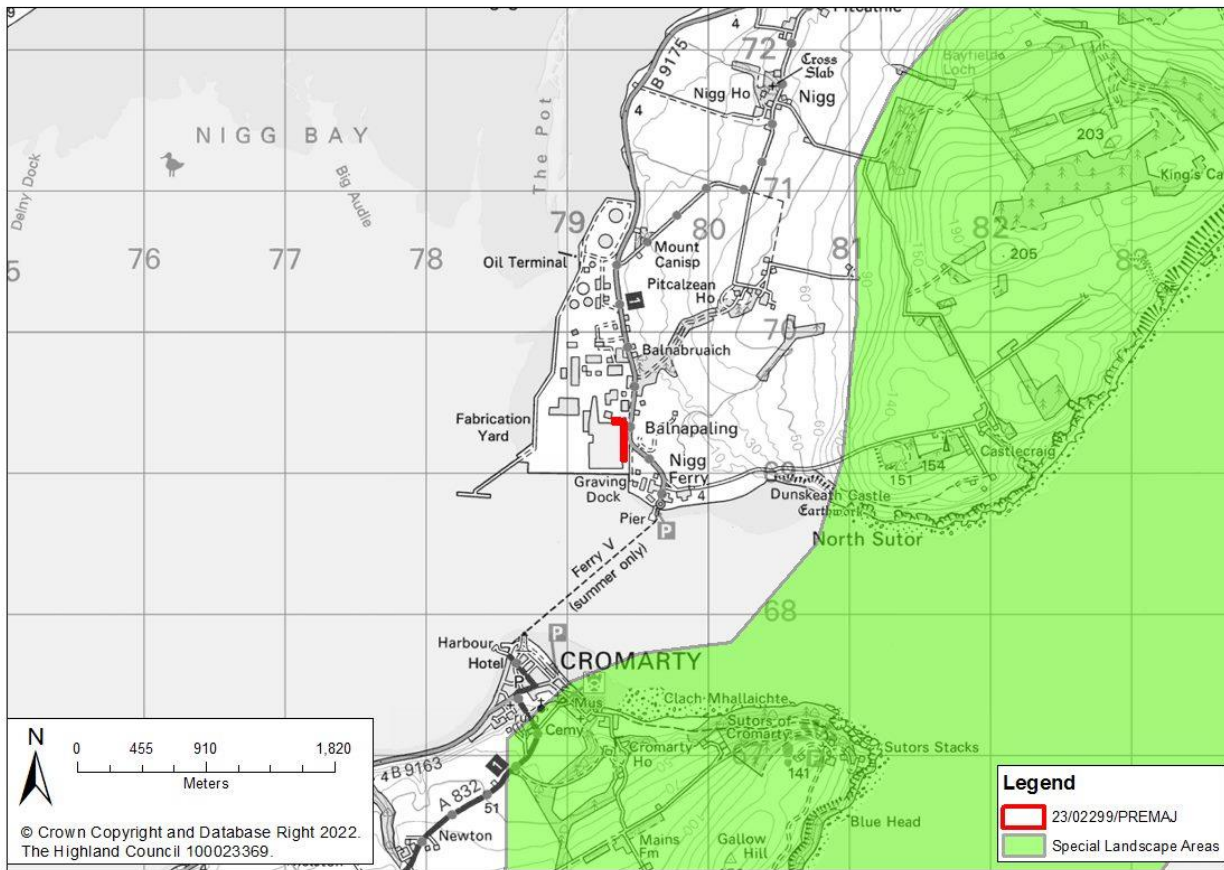
## Forestry



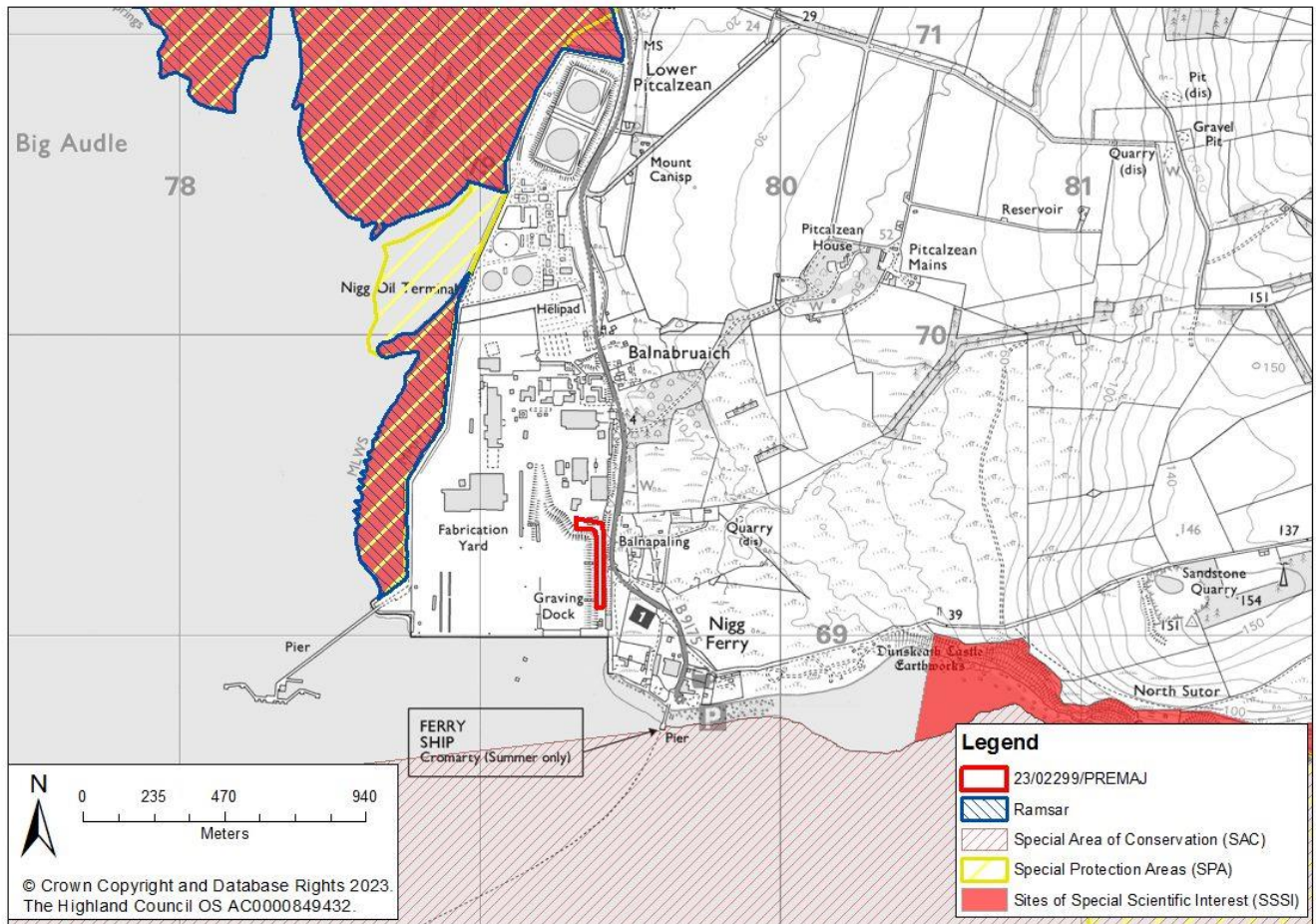
## Historic Environment



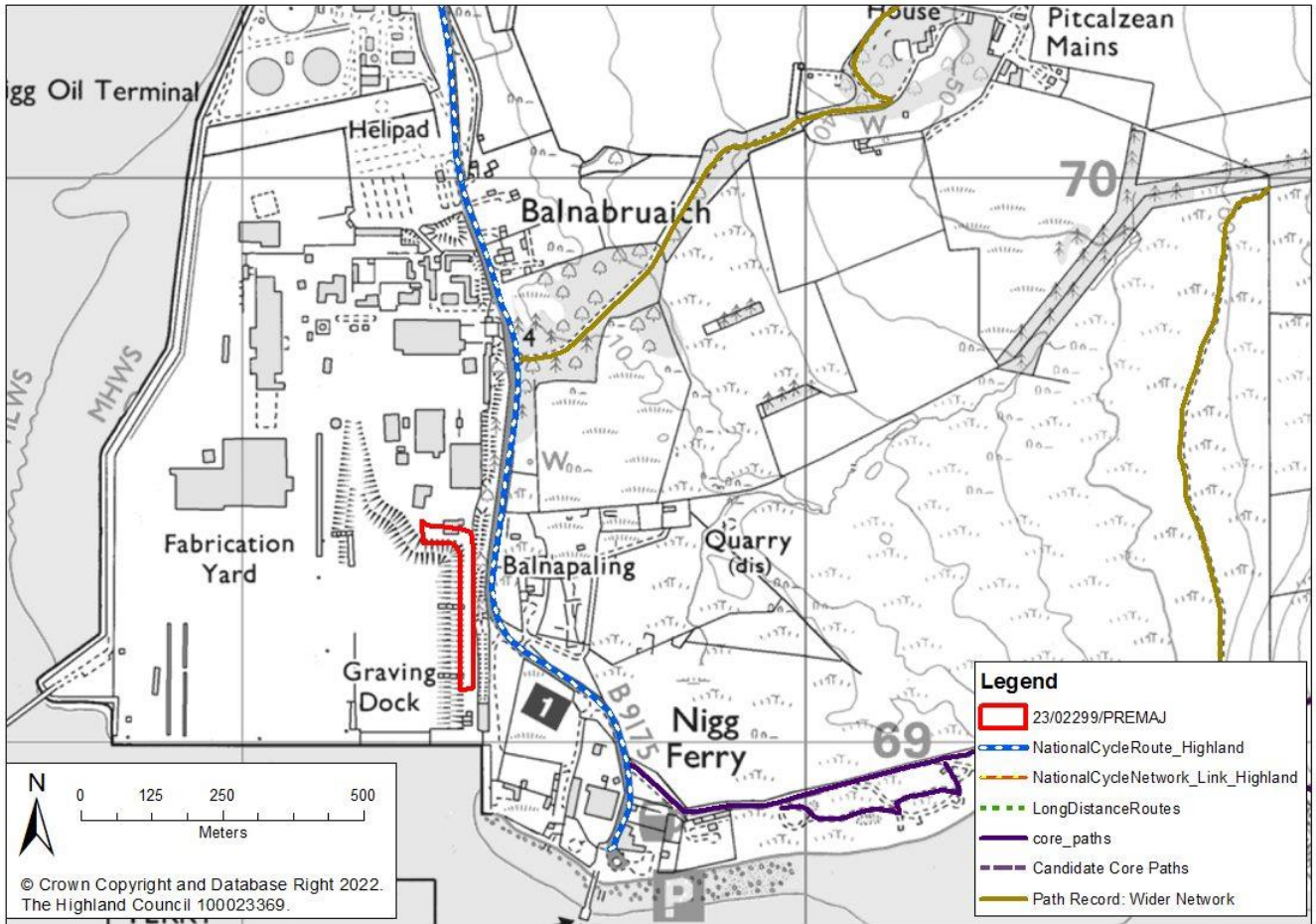
## Landscape



## Natural Heritage



# Outdoor Access



<b>Supporting Information Requirements</b>			
Abnormal Load Assessment	x	Open Space Strategy	
Access Management Plan		Operational Noise Assessment	X
Arboricultural Impact Assessment		Peat Management Plan	
Archaeological Site Investigations		Planning Statement	
Assessment of Impact on Historic Environment		Pre-Application Consultation Report	
Aviation Impact Assessment		Private Water Supplies/Mitigation scheme	
Borrowpit Management Plan		Protected Habitat Survey	X
Carbon Balance Assessment		Protected Species Survey	X
Compensatory Planting Plan		Restoration / Decommissioning Plan	
Construction Noise Assessment	X	Retail Impact Assessment	
Construction Traffic Management Plan	X	Schedule of Mitigation	X
Contaminated Land Report	X	Shadow Flicker Assessment	
Design and Access Statement		Street Elevations	
Development Brief		Structural Survey	
Drainage Impact Assessment	X	Sustainable Design Statement	
Dust Survey	X	Swept Path Analysis	X
Electric Car Charging Strategy		Transport Assessment	
Flood Risk Assessment		Transport Statement	X
Forest Residual Waste Strategy		Tree Constraints Plan	
GWDTE Assessment		Tree Protection Plan	
Habitat Management Plan		TV / Radio Impact Assessment	
Landscape and Visual Impact		Vibration Assessment	
Landscape Maintenance/Management Plan		Visualisations	
Landscape Plan		Waste Strategy	
Masterplan		Other (Please Specify): Biodiversity Enhancement and Management Plan Operational Assessment Marine Mammal Protection Plan Shadow HRA, including mitigation to reduce potential impacts to SAC & SPA features. Planning Statement addressing National Marine Plan	

Planning history			
Previous Reference	Description	Date of Decision	Outcome

None specific to the site

## Planning Policy

### Policy Appraisal

#### **Proposal:**

The proposal is for a new berthing quay on the East side of the Inner Dock at the Port of Nigg. It is understood this additional berthing space is required to accommodate ongoing expansion of renewable energy projects, in particular shipping of high voltage cable manufactured at the planned new factory to the north of site.

#### **Development Plans:**

The relevant Development Plans are identified below, within each a range of policies apply, with the most relevant policies of each explored as part of this consultation response.

- [National Planning Framework 4 \(NPF4\) 2023](#)
- [Highland-wide Local Development Plan \(HwLDP\) 2012](#)
- [Inner Moray Firth Local Development Plan \(IMFLDP\) 2015](#)
- [Inner Moray Firth Proposed Local Development Plan 2 \(IMFpLDP2\) 2022](#)

#### **National Planning Framework 4 (NPF4) 2023**

NPF4 was adopted on 13 February 2023 and is now part of the Development Plan. It replaces National Planning Framework 3 and Scottish Planning Policy. Full details of NPF4 are available on the [Scottish Government website](#).

NPF4 comprises three distinct parts:

**Part 1** - sets out an overarching spatial strategy for Scotland in the future. Outlining that Scotland is facing unprecedented challenges and that we need to reduce greenhouse gas emissions and embrace and deliver radical change so we can tackle and adapt to climate change, restore biodiversity loss, improve health and wellbeing, and build a wellbeing economy while striving to create great places. Therefore, NPF4 sets out that choices need to be made about how we can make sustainable use of our natural assets in a way that benefits communities.

The spatial strategy also reflects existing legislation by setting out that decision making requires to reflect the long-term public interest. However, in doing so, it is clear that the decision maker must make the right choices about where development should be located, ensuring clarity is provided over the types of infrastructure that need to be provided and the assets that should be protected to ensure they continue to benefit future generations. To that end, the Spatial Priorities support the planning and delivery of sustainable places, which will reduce emissions, restore and better connect biodiversity; create liveable places, where residents can live better, healthier lives; and create productive places, with a greener, fairer, and more inclusive wellbeing economy.

**Part 2** - sets out detailed planning policies for the development and use of land that are to be applied in the preparation of local development plans; local place plans; masterplans and briefs; and for determining the range of planning consents. The most relevant policies are outlined below.

**Part 3** - provides a series of annexes that provide the rationale for the strategies and policies of NPF4, which outline how the document should be used, and set out how the Scottish Government will implement the strategies and policies contained in the document. With Annex A: 'How to use this document' noting that the policies within Part 2 should be read as a whole and '...it is for the decision maker to determine what weight to attach to policies on a case-by-case basis....' It goes on to state that '...where a policy states that

development will be supported, it is in principle, and it is for the decision maker to take into account all other relevant policies....'.

The most relevant subsections and NPF4 Policies to this proposal include:

NPF4's Regional Spatial Priorities explains that the North East area will evolve through a just transition, to move industry and business away from the oil and gas sector towards a cleaner, greener future. It recognises that the North East, along with the wider Moray and Cromarty Firths, has built on its oil and gas experience to pioneer new technologies. It also explains that the North area has experienced outmigration, with further population decline a risk. It recognises that the North area can make a strong contribution towards meeting the ambition for net zero.

Annex C provides more detail on Spatial Planning Priorities. It outlines for the North that key ports include the Cromarty Firth (including Nigg). It recognises that through Opportunity Cromarty Firth and other projects, new facilities and infrastructure will help ports adapt, unlocking their potential to support the transition from fossil fuels through oil and gas decommissioning, renewable energy (including the significant opportunities for marine energy arising from Scotwind) and low carbon hydrogen production and storage, and the expansion of supply chain and services. It expects that this will in turn benefit communities by providing employment and income for local businesses.

Many of NPF4's policies are relevant to consideration of the proposal, should it come forward as an application, but attention is particularly drawn here to the following policies:

**Policy 1 (Tackling the climate and nature crises)** is an overarching policy that requires 'significant weight' to the global climate and nature crises. The 8th February 2023 [Chief Planner letter](#) provides specific advice on this policy and notes '...it will be for the decision maker to determine whether the significant weight to be applied tips the balance in favour for, or against a proposal on the basis of its positive or negative contribution to the climate and nature crises....'.

**Policy 3 (Biodiversity)** requires all forms of development, to include appropriate measures to conserve, restore and enhance biodiversity proportionate to the nature and scale of development. The requirement to deliver biodiversity enhancement is a new duty, with further advice on the proportionate requirements for achieving biodiversity enhancement for local developments being outlined in NatureScot 'Developing with Nature Guidance' (2023).

**Policy 4 (Natural Places)** intends to protect, restore and enhance natural assets making best use of nature-based solutions.

- Part (a) does not support proposals that will have an unacceptable impact on the natural environment;
- Part (b) requires development proposals that are likely to have a significant effect on an existing or proposed European Site to be subject to an "appropriate assessment" of the implications for the conservation objectives.
- Part (f) only supports development proposals that are likely to have an adverse effect on species protected by legislation where the proposal meets the relevant statutory tests.

**Policy 5 (Soils)** seeks to protect prime agricultural land from development.

**Policy 6 (Forestry, woodland and trees)** intends to protect and expand forests, woodland and trees. Part (b)(ii) does not support development proposals where they result in: adverse impacts on native woodlands, hedgerows and individual trees, or identified for protection in the Forestry and Woodland Strategy and/or (iii) Fragmenting or severing woodland habitats, unless appropriate mitigation measures are identified and implemented in line with the mitigation hierarchy.

**Policy 7 (Historic assets and places)** intends to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places. Part (o) explains that non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible.

**Policy 9 (Brownfield, vacant and derelict land and empty buildings)** intends to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and empty buildings, and help to reduce the need for greenfield development. Part (c) explains that where land is known or suspected to be unstable or contaminated, development proposals will demonstrate the land is, or can be made suitable for the

proposed new use.

**Policy 10 (Coastal development):** intends to protect coastal communities and assets and support resilience to the impacts of climate change. Part (a) explains that proposals in developed coastal areas will only be supported where they don't increase the risk to people of coastal flooding or erosion and that they take into account long term projected climate change.

**Policy 12 (Zero waste)** intends to encourage, promote and facilitate development that is consistent with the waste hierarchy. Part (b) supports development proposals that (i) reuses existing buildings and infrastructure and (ii) minimises demolition and salvage materials for reuse.

**Policy 13 (Sustainable transport)** intends to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably. Part (b) supports development proposals where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies.

**Policy 14 (Design, quality and place)** requires developments to encourage, promote and facilitate well designed developments that make successful places by taking a design-led approach and applying the Place Principle. Part (a) supports development proposals that are designed to improve the quality of an area and part (b) supports development proposals where they are consistent with the six qualities of successful places.

**Policy 18 (Infrastructure first)** intends to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking. Part (a) supports proposals which provide (or contribute to) infrastructure in line with that identified as necessary in LDPs and their delivery programmes will be supported.

**Policy 20 (Blue and green infrastructure)** intends to protect and enhance blue and green infrastructure and their networks. Part (a) only supports development proposals that result in fragmentation or net loss of existing blue and green infrastructure where it can be demonstrated that the proposal would not result in or exacerbate a deficit in blue or green infrastructure provision, and the overall integrity of the network will be maintained.

**Policy 22 (Flood risk and water management)** intends to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding. Part (a) supports development proposals at risk of flooding or in a flood risk area if they are for ii. Water compatible uses.

**Policy 23 (Health and Safety)** intends to protect people and places from environmental harm, mitigate risks arising from safety hazards and encourage, promote and facilitate development that improves health and wellbeing. Part (e) does not support development proposals that are likely to raise unacceptable noise issues. A Noise Impact Assessment may be required where the nature of the proposal or its location suggests that significant effects are likely.

**Policy 26 (Business and Industry)** - intends to encourage, promote and facilitate business and industry uses and to enable alternative ways of working such as home working, live-work units and micro-businesses. Part (a) supports proposals for business and industry uses on sites allocated for those use in the Local Development Plan.

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

The HwLDP sets out a range of planning policies applicable for the whole Highland Council area. The HwLDP will continue to be used alongside NPF4, until it is replaced by a new style LDP. The Council notes that legislation and planning law indicates that if there is incompatibility between the LDP and the NPF, whichever is the more recent shall prevail. That requirement does not take away from the fact that the HwLDP must, whilst still part of the adopted Development Plan, be part of the consideration and, as such the following policies are considered relevant:

- **Policy 28 Sustainable Design** - assesses proposals on the extent to which they are compatible with a range of factors, including impacts on individual and community residential amenity and demonstrating high quality siting and design. There is Supplementary Guidance related to this policy.
- **Policy 23 Nigg** - allocates the existing Nigg Yard, Oil Terminal and three areas of land to the east of the B9175 for business and industry uses. It explains that the Council will support the development of Nigg Yard and proximal lands in line with its approved Nigg Development Masterplan.
- **Policy 30 Physical Constraints** - explains that where a proposed development is affected by any of the constraints set out in Physical Constraints: Supplementary Guidance developer must demonstrate compatibility with the constraint or outline appropriate mitigation measures to be provided.
- **Policy 31 Developer Contributions** - may seek developer contributions when a development would

result in a deficiency in public services. There is Supplementary Guidance related to this policy.

- **Policy 41 Business and Industrial Land** - directs proposals for new business to sites allocated for this use.
- **Policy 51 Trees and Development** - supports development which promotes significant protection to existing hedges, trees and woodlands on and around development sites. There is Supplementary Guidance related to this policy.
- **Policy 56 Travel** - requires development proposals that involve travel generation to include sufficient information with the application to enable to Council to consider any likely on- and off- site transport implications of the development.
- **Policy 57 Natural, Built and Cultural Heritage** - requires all development proposals to be assessed taking into account the level and importance of these features, the form and scale of the development and any impact on the feature and its setting.
- **Policy 61 Landscape** requires new development to reflect the landscape characteristics and special qualities identified in the relevant SNH (now known as NatureScot) Landscape Character Assessments.

Other policies from HwLDP that will be relevant include:

- Policy 58 - Protected Species
- Policy 59 - Other Important Species
- Policy 60 - Other Important Habitats
- Policy 63 - Water Environment
- Policy 64 - Flood Risk
- Policy 66 - Surface Water Drainage
- Policy 72 - Pollution

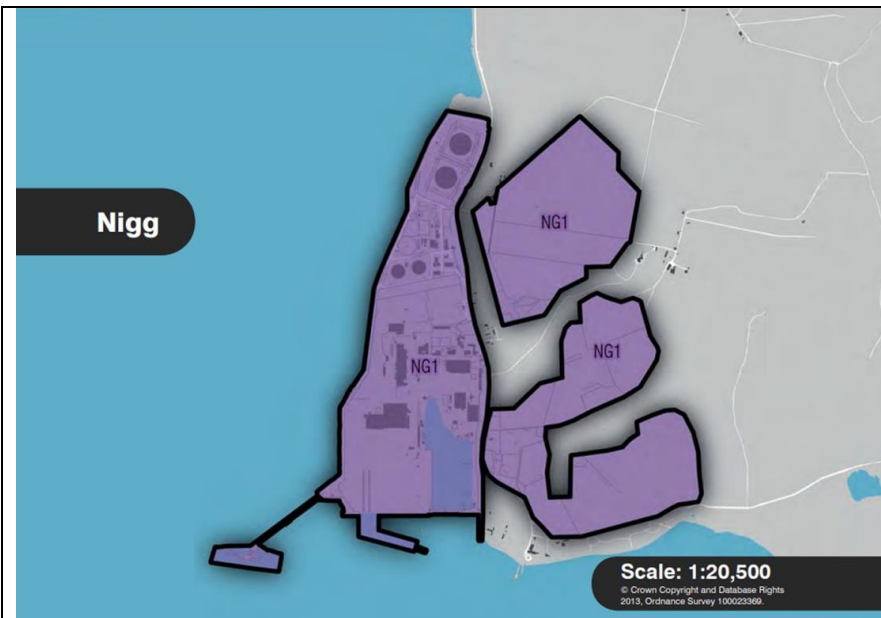
### **The preparation of a new-style Highland Local Development Plan (HLDP)**

The [March 2023 Development Plans Newsletter](https://www.highland.gov.uk/info/178/development_plans/1069/development_plans_newsletter) is now available on the Council's website. [https://www.highland.gov.uk/info/178/development\\_plans/1069/development\\_plans\\_newsletter](https://www.highland.gov.uk/info/178/development_plans/1069/development_plans_newsletter)

It sets out The Highland Council intentions for the preparation of a new, single Highland Local Development Plan. It is the Council's intention to undertake the evidence-gathering stage of the new LDP throughout 2023, with the tentative programme including an Evidence Report in 2024 and subsequent Gate Check, with Proposed Plan stage in 2025. The HLDP will, once adopted, replace all our current LDPs. As part of this programme of work, the Council will review the coverage and content of its current suite of Supplementary Guidance, to establish which aspects should be covered within the new Local Development Plan itself, which aspects should be covered within non-statutory planning guidance and any aspects no longer required.

### **Inner Moray Firth Local Development Plan (IMFLDP)**

The area plan covering the site is the IMFLDP which was adopted by the Council in 2015. This Plan includes Nigg as one of a number of Strategic Employment Sites in the plan area. The Nigg inset map (below) allocates land for industry (site reference NG1 Nigg Yard).



The developer requirements listed for NG1 are as follows: Development in accordance with the adopted Nigg Masterplan including its Habitats Regulations Appraisal; consideration of the natural, built and cultural heritage of the wider area. Contamination Assessment; Flood Risk Assessment; Coastline Management Plan; Landscape and Visual Impact Assessment.

IMFLDP also defines boundaries (including any refinements) of the Special Landscape Areas (SLAs) across the plan area. The [SLA citations webpage](#) provides the most up to date information on SLAs. In this instance Sutors of Cromarty, Rosemarkie and Fort George Special Landscape Area sits approximately 1.5km east and south of the site.

The following policy from IMFLDP may also be relevant to the determination of any future applications application:

- **Policy 2 Delivering Development** - supports the delivery of allocated development sites subject to the provision of necessary infrastructure, services and facilities.

### **Inner Moray Firth Proposed Local Development Plan 2022 (IMFpLDP2)**

The Council is currently working to replace IMFLDP. The consultation closed on the proposed plan stage in summer 2022, officers have since reviewed comments received and reported these and the Council's response to them to relevant Council Committees. The Plan was submitted to Scottish Ministers for Examination on 24 March 2023 and the Examination began on 22 May 2023.

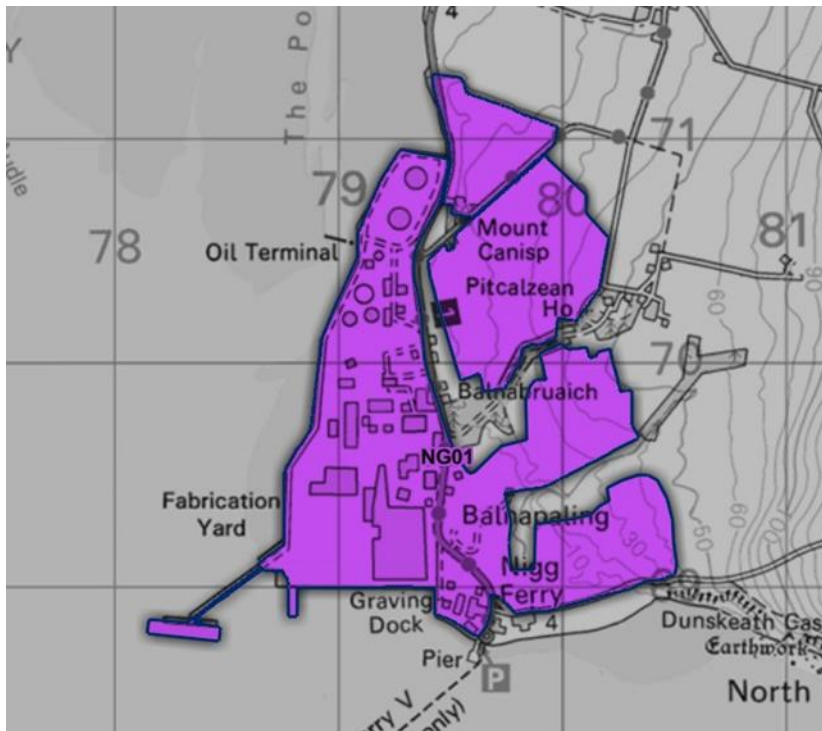
This plan's focus is again on identifying specific site allocations but includes a number of overarching 'general policies' which will apply to all developments:

- **Policy 2 Nature Protection, Preservation and Enhancement** - this policy requires development to assess, conserve and provide biodiversity enhancements within and adjacent to the site.
- **Policy 7 Industrial Land** - all sites allocated for industry are safeguarded for Classes 4, 5 and 6 uses only.
- **Policy 9 Delivering Development and Infrastructure** - explains that the Council will assess each development proposal in terms of its impact on each relevant infrastructure network and community facility capacity.

These policies currently carry limited weight as a material consideration given they were written prior to the publication of NPF4 and there were a number of objections to them during consultation on the Proposed Plan. The level of consideration given to these policies will be dependant upon the timing of any future application and the outcome of the Plan's Examination.

This Plan recognises Nigg as one of the UK's most important energy facilities that provides multi sector capability that combines some of the largest dry dock and construction and assembly workshops in Europe with a large deepwater quayside. It outlines future potential and ambitions of the wider Cromarty Firth area, including Opportunity Cromarty Firth's bid for Green Freeport Status.

It allocates Nigg Energy Park as NG01 for industrial use. The boundary was essentially carried forward from the IMFLDP with the addition of land to the north between the B9175 and single track road at Lower Pitcalzean. The allocation contains numerous developer requirements, including a developer masterplan.



A number of objections were received on allocation NG01 during the Plan's consultation period. The original objections can be viewed on the Council's [consultation portal](#), and the Council's summaries of objections and the Council's response to them can be viewed within the [Easter Ross Area Committee Papers](#) dated 8 November 2022.

Notably, the Council has agreed there is some merit in a number of objections to the Plan, and, if the Scottish Government Reporter is minded to agree then the Council would support a number of additional developer assessments to help limit impacts on residential amenity and ensure appropriate access arrangements.

Additionally, the Council supported an expansion of the site to reflect the Green Freeport boundary (boundary illustrated in the [Opportunity Cromarty Firth – Green Freeport Bid](#) paper presented to Full Council on 30 June 2022). It is at the Reporter's discretion whether to recommend any changes the Council is supportive of.

### **Nigg Development Masterplan**

The [Nigg Development Masterplan](#) outlines a vision and feasible options for the development of Nigg, including the fabrication yard, oil terminal and land to the east of the B9175. Its aim is to maximise the site's strategic development potential and employment opportunities over the next 15 to 20 years. It was adopted as supplementary guidance to the HwLDP in 2013. The IMFpLDP2 does not intend to carry forward the Nigg Development Masterplan as supplementary guidance. Nevertheless, this document does continue to provide useful background information and currently, where relevant, proposals should be consistent with its content.

### **Development Plan Assessment**

#### **Principle of Development**

The Council strongly welcomed the announcement that Opportunity Cromarty Firth has been chosen as one of the UK's new Green Freeports in early January 2023. The Council recognises the potential of freeport status to help alleviate socio-economic issues facing the region and in addressing the local and national transition to net zero, help to create sustainable high-quality jobs in a green economy, while regenerating and strengthening communities and reversing depopulation.

The proposal for a new quay on the east side of the existing Inner Dock at Nigg is wholly within the aIMFLDP allocation NG1 Nigg Yard Strategic Employment Site and within the IMFpLDP2 NG01 Economic Development Area and therefore the principle of the development is supported by both the adopted and emerging development plan.

In terms of being sympathetic to existing patterns of development and compatibility with landscape character and capacity there is already an existing large scale industrial facility, including quays, on the site. The pre-application site lies within Landscape Character Type 344 Lowland Farmed Plain. Landscape Character Assessments produced by NatureScot (formerly SNH) identify and explain the combination of elements and features that make landscape distinct from one another and how the landscape is perceived and experienced by people. The Sutors of Cromarty, Rosemarkie and Fort George Special Landscape Area lies approximately 1.5km to the east and south. Given the nature, location and appearance of the development it is unlikely to have a significant visual or landscape impact.

There are a number of residential properties relatively nearby to the site. Information on potential noise, odour, vibration and volume and route of heavy traffic movements should be provided to support any future application to ensure compatibility with the wider area.

### **Masterplan**

The IMFpLDP2 developer requirements list a developer masterplan as a requirement for NG01. Whilst the IMFpLDP is not yet adopted, it does carry some weight as a material consideration. It is important that an indicative masterplan of the wider allocation is provided to support any future applications to ensure that no piecemeal development occurs that may prejudice future development opportunities at Nigg. In particular access, amenity and landscape and visual impact are important considerations for the wider allocation.

### **Natural Heritage**

The site is located in a sensitive location close to a number of natural heritage sites that could be affected by the development, particularly during its construction phase. These are listed below and further information is provided within this pre-application pack from NatureScot.

- Cromarty Firth SPA/Ramsar
- Moray Firth SAC
- Moray Firth SPA
- Dornoch Firth and Morrich More SAC
- Cromarty Firth SSSI
- Rosemarkie to Shandwick Coast SSSI

### **Accessibility**

National and local planning and transport policy has evolved in recent years and there is now a much sharper focus on responding to the climate change emergency by reducing the need to travel unsustainably. It is important for any future application to demonstrate that the transport requirements generated, including construction traffic and by employees, have been considered in line with the sustainable travel and investment hierarchies. The National Cycle Network runs along the B9175 to the east of the site. Maintaining access to this will need to be considered during any construction periods.

### **Trees/Biodiversity**

The Native Woodland Survey of Scotland shows a linear strip of native woodland running parallel to the west side of the B9175 close to the site. However, Google Streetview images from April 2022 show there does not appear to be any woodland at this location. Despite this, consideration should be given to biodiversity enhancement at this location. This would also have the potential to improve the appearance of the bund that runs parallel to the Yard's security fencing.

### **Historic Environment**

A number of sites contained in the Council's Historic Environment Record lie close to the site, including Saltings, W of Balnapaling. The Council's Historic Environment Team and Historic Environment Scotland will advise if any assessments are required in respect to the historic environment.

## Sustainability

The [Council's Sustainable Design Guide: Supplementary Guidance](#) provides advice and guidance on a range of sustainability topics, including design, building materials and minimising environmental impacts of development.

A Sustainable Design Statement is not required.

## Natural Heritage

### Impact on Landscape

There are unlikely to be significant landscape issues arising directly from this proposal, however, the proposed development may provide an opportunity to address the interface between the Port of Nigg site generally and the Public realm.

The present bunding between the site and the Minor road which provides local residential access, access to the Nigg ferry and carries the NCR 1, is in a poor condition, showing evidence of colonisation by rabbits which contributes to an eroding bund surface and lack of complete vegetation cover and projects an image of lack of care, which is detrimental to both the landscape and visual environment locally.

### Visual Impact

As for Natural Heritage- Landscape.

### Designated Sites

#### Moray Firth Special Area of Conservation (SAC)

The most sensitive receptor linked to this Protected Area are bottlenose dolphins which regularly use the waters within the Outer Cromarty Firth, often in proximity to Nigg Port and the Sutors. However, we recommend that the subtidal sandbank feature is also included for assessment.

Underwater noise is likely to be the most important factor in context to piling and subsequent construction within the dock. We note the use of a temporary piling platform/bund involving granular material to aid the piling works, which may assist reducing underwater noise effects. The use of Marine Mammal Observers, soft starts and consideration of other potential disturbance factors, such as additional vessel movements (see below), should be considered as part of Marine Mammal Protection Plan for SAC dolphins.

It would also be helpful to outline the duration of noise periods through piling, in what months will they occur in context to Protected Area sensitivities and effort to consider these issues in a mitigation context to reduce impacts. Experience built-upon through construction of previous quays and mitigation methods used there should assist with this proposal.

Changes in the movements, numbers and distribution of vessels associated with construction and operational aspects should be assessed. Earlier work on modelling vessel movements associated with the east and south quay developments may be helpful in this regard. Cumulative effects should be considered, taking into account other port and harbour developments in the Inner Moray Firth area.

For further information, see the Conservation & Management Advice document for this SAC, <https://apps.snh.gov.uk/sitelink-api/v1/sites/8327/documents/59>. If there is available time, we welcome further pre-application discussion on underwater noise mitigation if you feel that would be helpful.

#### Moray Firth Special Protection Area (SPA) and Cromarty Firth SPA

Both these SPA's are relatively close to Nigg Energy Park (i.e., within a couple of km's), and include mainly non-breeding waterbirds. Efforts to reduce disturbance, displacement & avoidance effects to non-breeding SPA birds would be welcomed as the project takes shape, including any best practice protocols to avoid pollution during construction and operations.

In addition to servicing the proposed cabling factory, NatureScot understands from the pre-app meeting, that the new Inner Dock quay is also likely to facilitate offshore floating turbine developments. In this regard, we

recommend that any potential effects from these new operations are also included for assessment. For example, we are led to believe that offshore turbines will require to be assembled onto bases that are floating port-side. In addition, is it also possible that turbine testing will take place at port-side? If so, some assessment of collision risk may be required for a specific turbine testing zone. Will floating turbines require 'wet storage' somewhere within the Cromarty Firth before being deployed offshore and if so, could these towering structures cause displacement effects on SPA birds (even when turbines are non-functional)?

We would welcome further engagement on these 'new issues', just in case specific survey work is required to marry-up areas of low SPA importance with turbine testing and storage, for example.

For further information, see the Conservation & Management Advice document for the Moray Firth SPA, <https://apps.snh.gov.uk/sitelink-api/v1/sites/10490/documents/59>. As yet, there is no such document for the Cromarty Firth SPA, but the following may be of some assistance; <https://www.nature.scot/doc/habitats-regulations-appraisal-hra-moray-firth-guide-developers-and-regulators>.

NatureScot is aware that breeding common terns occasionally nest at Nigg and therefore it would make sense that this issue is considered in terms of construction and operational procedures.

For example, it would help to reduce likelihood of this species (& other terns) nesting, if ground conditions are largely unsuitable, especially in context to crucial areas identified to ensure that the development work can proceed as smoothly as possible. In this regard, please see our guidance on Disturbance Distances in Selected Bird Species <https://www.nature.scot/doc/disturbance-distances-selected-scottish-bird-species-naturescot-guidance>, which identifies a maximum disturbance avoidance zone of 400m for common terns.

However, perhaps Nigg could identify and offer a specific predator-proof tern nesting area (e.g. mink proof) in the hope that nesting terns might be proactively managed, with benefits to both port operations and the Cromarty Firth SPA. If this is of interest, we know that RSPB staff have valuable experience of tern nesting colonies and can be contacted for further advice. For more information on Developing with Nature (NPF4) , see; <https://www.nature.scot/doc/developing-nature-guidance>.

### **Dornoch Firth & Morrich More SAC**

This development is approximately 42km from this SAC & therefore it can be considered to have connectivity for harbour seal at this distance. Therefore, potential impacts of underwater noise should also be considered in context to this SAC harbour seal population.

### **European Protected Areas (as above)**

For all of the above Protected Areas, we recommend that a shadow Habitats Regulations Appraisal (HRA) is provided as part of this application for all SAC & SPA features, outlining potential impacts on the above European Protected Areas & their Conservation Objectives.

We can provide further advice on specific Protected Area features during this pre-application period, if required.

### **Ecology – Highland Council Ecology Officer**

#### **Ecology Assessment**

At this stage no ecological/environmental information has been submitted and therefore I cannot give detailed advice on the ecological/environmental aspect of the proposal. Further advice will be given at the scoping stage of the development but as a general guide the following information is recommended:

A full assessment of the marine ecology of the site and a suitable buffer around the site needs to be undertaken to determine if there are any ecological/environmental constraints associated with the proposed development. The assessment should include (but not be limited to):

- Desk study records, from NatureScot Sitelink, the NBN atlas and local biodiversity record groups;
- Specific surveys of the site to identify any protected species, priority habitats and priority species, including those listed within the Highland Nature Biodiversity Action Plan to fulfil Policies 57-60 of the Highland Wide Local Development Plan;
- Assessment of ecological effects; and
- Relevant mitigation and compensation measures.

Notes:

Surveys should be undertaken by a suitably qualified and experienced Ecologist.

Naturescot's guidance on surveying protected species should be followed:

<https://www.nature.scot/professional-advice/planning-and-development/planning-and-development-advice/planning-and-development-protected-species>

Policies 57-60 of the Highland Wide Local Development Plan (HwLDP) pertain to the protection of certain species and habitats within the Highland region that must be considered for any developments.

[https://www.highland.gov.uk/info/178/development\\_plans/199/highlandwide\\_local\\_development\\_plan](https://www.highland.gov.uk/info/178/development_plans/199/highlandwide_local_development_plan)  
The Highland Nature biodiversity Action Plan (HNBAP) lists priority species and habitats that are considered to be important within the Highland region. These priority species and habitats must be given consideration for any developments.

<https://www.highlandenvironmentforum.info/biodiversity/action-plan/>

### Biodiversity Enhancement

National Planning Framework 4 (NPF4) was formally adopted on the 13th of February 2023 and is a material consideration for this development. As this is a major development, Policy 3b is applicable and requires biodiversity enhancement of the site post-construction in addition to mitigation and compensation measures.

### Biodiversity Enhancement and Management

In order to satisfy Policy 3b a Habitat Management Plan that details how criteria i to v will be met, will be required in addition to the EIA/EcIA. This will demonstrate that the development will significantly enhance the biodiversity of the surrounding area, from its pre-development state. Where the Habitat Management Plan is unable to demonstrate to the satisfaction of the planning authority that the development will conserve, restore and enhance biodiversity, the proposal will not be supported.

The Habitat Management Plan must demonstrate to the satisfaction of the planning authority that the development will accord with Policies 57-60 of the HwLDP.

The enhancement measures may be linked in to the wider green freeport.

## **Amenity**

### Contaminated Land Issues

This application is in close proximity to an area of previous hydrocarbon contamination of the groundwater. Remediation and ongoing monitoring was carried out on a voluntary basis, with the final monitoring (submitted to Highland Council) in 2016 in a document entitled "Nigg Energy Park - Combined Factual and Interpretative Report; Routine Groundwater Monitoring Event; July 2016" by ERS.

It is understood that the bedrock will be near to ground surface in the northern part of site, and piling will be required to 10m depth. The closest piles are understood to be approximately 30m from the previous monitoring boreholes.

Given the potential for disturbance and mobilisation of groundwater contaminants (if present) during piling, it is recommended that the monitoring wells are checked and utilised for a further round of groundwater monitoring for hydrocarbons. If the previously installed monitoring wells are no longer serviceable, it is recommended that new boreholes are installed, and the groundwater sampled. Groundwater sampling shall take note of the tide times, with samples collected during low tide conditions. If contamination is encountered in groundwater, suitable risk assessment and, if necessary, mitigation measures shall be required to ensure that the development does not adversely impact the water environment.

### Construction Noise

Generally, people are more tolerant of construction noise during normal working hours however; should the proposed development include weekend, evening and night time working. I have concerns that such

intensive construction activities may give rise to complaints particularly with regard to weekend piling and night time dredging.

This Service has powers to control all aspects of construction noise under the Control of Pollution Act 1974 (COPA). As such we would not usually impose controls through Planning conditions. The applicant has submitted a construction noise assessment which suggests that relevant noise criteria can be complied with. Therefore, if the work can be undertaken without complaints arising, I would not seek to impose restrictions for the sake of it.

It is expected that the best practicable measures will be employed at all times to reduce the impact of noise. Particular consideration should be given to reducing noise from piling and reversing alarms. I would also advise that the applicant ensures good communication with neighbouring residents.

However, for the avoidance of doubt, if this Service were to receive complaints about construction noise activities, we would be required to investigate in terms of COPA and if the levels were found to be unreasonable, there may have to be changes to working hours or practices.

### **Operational Noise**

The development should include a Noise Impact Assessment to be submitted to, and approved in writing by, the Planning Authority. The assessment shall be carried out by a suitably qualified and competent person and shall assess the likely impact of noise emanating from the development on neighbouring properties. Furthermore, the following should comprise part of the assessment:-

- i. A description of the proposed development in terms of noise sources and the proposed locations and operating times of the same;
- ii. A description of any noise mitigation methods that will be employed. The effect of mitigation methods on the predicted levels should be reported where appropriate;
- iii. A detailed plan showing the location of noise sources, noise sensitive premises and survey measurement locations;
- iv. A survey of current ambient (LAeq) and background (LA90) noise levels at appropriate locations neighbouring the proposed site;
- v. A prediction of noise levels resultant at neighbouring noise sensitive premises, for the operational phase of the proposed development. The raw data and equations used in the calculations should be provided; and
- vi. An assessment of the predicted noise levels in comparison with relevant standards.

Development shall progress in accordance with the approved Noise Impact Assessment and all approved mitigation measures shall be implemented prior to the first occupation/use of the development, or as otherwise may be agreed in writing by the Planning Authority.

The application should include a baseline noise survey which confirms the results of previous monitoring that suggests noise levels in this area are already elevated due to existing activities associated with this site and neighbouring industrial premises. Typically, new industrial development is usually assessed by comparing before and after noise levels however, in this case that could just lead to a self-perpetuating creeping background which would keep increasing with each new development.

I am of the opinion that a more reasonable approach is to consider the noise cumulatively. Historically, this Service has received several complaints about noise from rigs moored off Cromarty. However, very few, if any have been about noise from the on-shore site activities. That being the case, I would advise that the applicant's initial target should be to ensure that this development results in little or no increase in operational noise levels to minimise the likelihood of complaints in future.

I also understand that it is the applicant's intention to prepare an operational noise management plan to identify measures to reduce cumulative noise levels from this development and from the existing site. I would agree that this is the best approach to minimise the impact of noise from this development and the site in general.

### **Pollution Prevention**

Depending on the proximity of the working area to houses etc. the applicant may require to submit a scheme for the suppression of dust during construction. Particular attention should be paid to construction traffic

movements.

## **Transport and Wider Access**

### **Impact on the Trunk Road Network Transport Scotland**

The proposal comprises engineering works to form new berthing quay on the east side of the Inner Dock at the Port of Nigg. The site is located approximately 10km south of the A9(T) / B9175 trunk road junction.

The supporting information submitted with the pre-application does not include any indication as to the likely trip generation or distribution associated with the development. Transport Scotland will require a threshold assessment be carried out on the A9(T) / B9175 junction to determine if there is likely to be any significant increase in the volume, or a material change in the character of traffic entering or leaving the trunk road and any requirement for further trunk road assessment.

Depending on the result of the threshold assessment, Transport Scotland would seek a Transport Assessment be prepared and submitted with the planning application. Transport Scotland should be consulted on the Scoping for the Transport Assessment to agree the parameters, including the traffic surveys, assessment year, traffic growth factors, trip generation and distribution and network impact.

In the absence of more detailed information, Transport Scotland has no further comment to make and will not be in attendance at the Pre-Application meeting in this instance.

### **Impact on the Road Network, Highland Council Transport Planning Team**

#### **Construction Impacts**

Unless considering bringing in all plant, materials and the workforce by sea, this development will generate new construction traffic on the existing local public roads. We recommend any submission includes a Framework Construction Traffic Management Plan (CTMP) setting out the anticipated type, quantum and profile of construction-related vehicles likely to be generated by the proposed development. This should be broken down by at least Abnormal Loads (AILs) if required, large goods vehicles (HGVs) and cars / small goods vehicles.

The Framework CTMP should also include an assessment into the capability of the local public roads serving this site to physically accommodate those predicted construction vehicles, whilst remaining safe for other general road users. Where physical mitigation or traffic management measures are deemed necessary from that assessment to maintain safety and effective network management of the local public road(s) impacted, any submission should set out what those mitigation measures are likely to be, why they'd be needed and should be deemed acceptable, whilst also clarifying if those measures will be temporary or permanent.

To be clear, we would expect any submission to confirm that all roads-based construction access to and from this site will be taken along the B9175 local public road from the roundabout junction with the A9(T). We would not support any other local public road being used for construction access purposes and the Framework CTMP should set out how this will be managed and enforced.

The Framework CTMP should recognise that the B9175 is used for the movement of AILs. If there is the possibility of AIL's from other developments being moved along the B9175 whilst these works are being undertaken, the CTMP should justify how any works to or traffic management measures on the local public road will not prevent such AIL movements.

Similarly, if any AILs will be required for this development, the Framework CTMP will need to justify the capability of the local public roads impacted to physically and safely accommodate such movements.

The National Cycle Network (NCN) Route 1 runs through Nigg along part of the B9175. Any submission should recognise this and demonstrate how users of that route can be safely accommodated during the time when the construction traffic for this development will also be making use of this route.

Depending on the scale of goods vehicle movements that this proposal would generate, there is a possibility of the public roads incurring damage over and above the general wear and tear levels that could be expected. To protect The Council from extraordinary expenses in having to repair any such damage inflicted, we would expect any application to confirm that the Promoter would be willing to enter into a formal 'wear and tear' agreement with The Council as the Local Roads Authority. Any such agreement would be to cover the requirements of Section 96 of the Roads (Scotland) Act 1984 and may require a suitable road bond or other form of financial security.

The proposed inspection regimes required for any 'wear and tear' agreement should be used to determine if there are any sections of the existing local public road network that have the potential to require repair work during the intended construction access needs of this development. Where such situations exist, the Promoter may want to consider investing in getting those repairs done in advance of the main development works commencing. This could help avoid disruption to the planned use of the proposed construction access routes by any works being required to undertake emergency repairs to the public road.

Parking or loading / unloading of construction-related vehicles will not be supported on the local public road network. Suitable facilities for such activities should be provided within the development, with the CTMP clarifying where they will be and how such activities will be discouraged on the public road.

The Framework CTMP should also clarify how the local public road will be kept clear of mud and other construction-related materials from this development.

#### **Impact on Local Road Network:**

The proposed points of access for both the construction and the ongoing operation of the proposed development should be clarified in any submission, along with setting out any changes required. This will include justifying the adequacy of the access(es) to physically and safely accommodate the vehicle movements that will need access into and out of this development. Any such changes will need to have been designed in accordance with the requirements from our published Roads and Transport Guidelines for New Developments.

To be clear, we will not support any construction or ongoing operational vehicular access needing to either reverse onto or off the local public road network when manoeuvring in and out of the proposed access(es).

The achievable visibility splays in both directions along the points of egress from the local public road will need to be clarified and justified against the requirements from our above linked Guidelines. If reduced visibility splays are being sought, these should be justified with suitable data on the actual speeds of traffic in the vicinity of the proposed access(es).

If this development will generate a lasting change to the traffic movements to and from this site after the construction works are complete, any submission will need to quantify the predicted scale of such changes and justify that the local public roads impacted will or can be made capable of physically and safely accommodating such changes. Such information should be set out in a Transport Statement or Transport Assessment document, depending on the predicted scale of any predicted lasting impacts. The scope of any such assessment should be agreed with both Highland Council and Transport Scotland as the Trunk Roads Authority prior to works commencing to undertake such assessment work.

Should this development be creating a lasting material change to the traffic movements on the local public roads serving this site, any submission should give consideration to how those changes will safely interact with the NCN Route 1 that runs through this area. This may require giving consideration to providing suitably designed segregated facilities along part of the B9175 in the vicinity of this development.

Any ongoing operational parking or servicing needs for the proposed development should be set out in the submission, with the adequacy of such provisions being justified. We don't have specific parking standards for ports, so any need for parking generated by the proposed development will need to be assessed on merit.

If this development will generate a demand for new car parking, the proposals should also include suitable

facilities for both disabled and cycle parking. We have minimum standards for such things within Section 6 of our published Roads and Transport Guidelines for New Developments.

### **Impacts on Public Access**

No comments on this application

## **Water Environment**

### **Flood Risk**

The Highland Council Flood Risk Management Team has reviewed the information provided and has the following advice for the Applicant at this stage. We would be happy to provide comment on any further draft proposals prior to the formal submission of the planning application.

The development proposal would appear to fall under the 'Water Compatible Use' classification under SEPA's Flood Risk and Land Use Vulnerability Guidance. This means that they can be located in a flood risk area as defined under NPF4. The site is already an established dock and so there would be no increase in the vulnerability of the site. The flood risk management team are therefore very unlikely to object to a planning application of this type at this location.

Development or landraising within any flood plain should be avoided and proposals should generally follow SEPA's Standing Advice for Flood Risk. Should any permanent infrastructure be located within close proximity to a watercourse a Flood Risk Assessment should be submitted to demonstrate that the development is not at risk from flooding and will not increase flood risk elsewhere. SEPA's Technical flood risk guidance for stakeholders outlines the information require to be submitted as part of a Flood Risk Assessment:

<https://www.sepa.org.uk/media/162602/ss-nfr-p-002-technical-flood-risk-guidance-for-stakeholders.pdf>

Small watercourse crossings should be oversized and larger scale watercourse crossings should be demonstrated to be adequately designed to accommodate the 1 in 200 year flow (including an allowance for climate change and freeboard) to avoid increasing the risk of flooding. Further information must be provided to justify any smaller structures.

A minimum buffer strip of 50m should be kept free from development from the top of bank(s) of any watercourse or waterbody. Storage of materials within this area during construction is not permitted.

Further advice and SEPA's best practice guidance is available within the water engineering section of SEPA's website:

<https://www.sepa.org.uk/regulations/water/engineering/>

Guidance on the design of water crossings can be found in Construction of River Crossings Good Practice Guide:

<http://www.sepa.org.uk/media/151036/wat-sg-25.pdf>

### **Drainage**

A Drainage Impact Assessment (DIA), written in accordance with our Supplementary Guidance: Flood Risk and Drainage Impact Assessment, is required to be submitted with the planning application. The DIA should be submitted at the first stage of planning.

The DIA will need to detail the proposed surface water and foul drainage systems and include appropriate drawings and calculations. An allowance for climate change should be included in the calculations and any excess flows up to and including the 1 in 200 year event should be managed within the site boundary without flooding buildings or critical roads. Clear exceedance routing plans should be provided with the planning application.

There would be no restriction on the rate of discharge of surface water drainage to coastal waters. If there is the potential for the drainage outfall to be tide locked during periods of high tide or coastal flooding, the DIA will need to demonstrate that this can be managed without flooding to property or roads.

The DIA will need to consider any existing surface water runoff routes into/through the site and the impact of the proposed development on these flow routes. It shall be demonstrated that any mitigation, such as land raising, will not increase flood risk to others.

Supporting evidence in the DIA should include (but not be limited to) calculations showing drainage network details, contributing area summary, control / storage structure details and simulation results tables for any new network. A site plan showing the type of treatment and location on site, where this will be discharged to, and proposed maintenance arrangements must be submitted in support of the application.

Please refer to the Supplementary Guidance: Flood Risk and Drainage Impact Assessment, available from the Highland Council website, for further detailed requirements for addressing flood risk and drainage.

[http://www.highland.gov.uk/info/178/local\\_and\\_statutory\\_development\\_plans/213/supplementary\\_guidance/14](http://www.highland.gov.uk/info/178/local_and_statutory_development_plans/213/supplementary_guidance/14)

### **Topic Water**

A Drainage Impact Assessment (DIA) is required. The DIA should include details relating to any existing field drains and the management of surface water drainage, which should be designed in line with general Sustainable Drainage Systems (SuDS) principles. The applicant should demonstrate, within the proposals submitted, any mitigation measures to manage the residual risk of overland flow/pluvial flooding.

Natural flood management techniques should also be applied to reduce the rate of runoff where possible. Tracks should not act as preferential pathways for runoff and efforts should be made to retain the existing drainage network. Appropriate drainage is required to restrict runoff to pre-development rates and to minimise erosion to existing watercourses. The DIA should ensure that post development runoff rate is no greater than pre-development runoff rate (i.e. greenfield runoff) for all return periods up to the 1 in 200 year event including an allowance for climate change.

Runoff from all events up to and including the 1 in 200 year plus climate change event should be managed within the site boundary, with no flooding to critical roads or buildings, and evidence as to how this will be achieved should be included within the DIA.

Refer to the Council's Flood Risk and Drainage Impact: Supplementary Guidance for further detailed requirements:

[https://www.highland.gov.uk/downloads/file/2954/flood\\_risk\\_and\\_drainage\\_impact\\_assessment\\_supplementary\\_guidance](https://www.highland.gov.uk/downloads/file/2954/flood_risk_and_drainage_impact_assessment_supplementary_guidance)

### **Marine Environment**

**Marine Plan (2015):** The National Marine Plan (NMP) and the policies it contains cover both Scottish inshore waters (mean high water springs out to 12 nautical miles) and offshore waters (12 to 200 nautical miles). It also applies to the exercise of both reserved and devolved functions.

The Marine Acts require that public authorities must take authorisation or enforcement decisions in accordance with the NMP, unless relevant considerations indicate otherwise. They must also have regard to the NMP in taking other decisions if they impact on the marine area. The NMP therefore provides direction to a wide range of marine decisions and consents made by public bodies, including Local Authorities. The expectation therefore should be that the proposed development appropriately considers and addresses the relevant policies of the NMP.

The NMP contains a number of objectives and policies that are of relevance to and supportive of port development. Due to the nature of the associated development, it is expected that the following objectives will be supported:

“Shipping, Ports, Harbours and Ferries:

Objective 2: Sustainable growth and development of ports and harbours as a competitive sector, maximising their potential to facilitate cargo movement, passenger movement and support other sectors.

Objective 5:

Best available technology to mitigate and adapt to climate change, where possible, supporting efficiencies in fleet management and ensuring port infrastructure and shipping services are able to adapt to the

consequences of climate change. Consideration of the provision of facilities for shoreside power in new developments to allow for this to be provided when markets require it, if it becomes cost effective to do so.”

The NMP contains sector specific policies for ports, notably support is provided via the following policy: “TRANSPORT 4: Maintenance, repair and sustainable development of port and harbour facilities in support of other sectors should be supported in marine planning and decision making”. The NMP also contains a set of general policies likely to apply to most development. Amongst these policies key considerations are set that address natural heritage, noise, visual impact, water quality and risk of non-native invasive species.

The National Marine Plan can be viewed here: [Ministerial Foreword - Scotland's National Marine Plan - gov.scot](https://www.gov.scot/Information/MinisterialForeword/MinisterialForeword-Scotland'sNationalMarinePlan)

Static maps contained within the National Marine Plan may not be up to date. More current information may be available via the National Marine Plan Interactive website. This provides up to date spatial data and evidence that underpins the implementation of NMP policy:

<https://marinescotland.atkinsgeospatial.com/nmpi/default.aspx?layers=1148#>

National Marine Plan 2: In autumn of 2022 Scottish Government announced that work was commencing on developing National Marine Plan 2 (NMP2). Work is currently underway on this with an expected adoption date for NMP2 set for Summer 2025.

Regional Marine Plan: There is no Regional Marine Plan in place for the relevant area.

#### Environmental Impact Assessment

The proposed development appears to match prescribed categories of EIA development within the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. Regarding port development the Regulations include two relevant categories:

- Schedule 1 development, 8 (2) ‘Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes’
- Schedule 2, 10 (g) ‘Construction of harbours and port installations, including fishing harbours (unless included in schedule 1); [Threshold] where the area of works exceed 1 hectare.

It is unclear from the information provided what capacity of vessel the facility will service. Schedule 1 development automatically triggers the requirement for an EIA to be undertaken. If the development falls within schedule 2, then an EIA screening opinion from Highland Council may be required to determine if an EIA is necessary. A request for this should be made prior to submission of any application. However, if by virtue of the complexities or significance of the potential impacts associated with the development the applicant opts to progress automatically to undertake EIA, then this can be understood as to have had the same effect as a screening opinion.

Where development is undertaken within the marine area (below mean high water springs) the provisions of the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 apply in tandem with equivalent EIA development categories included in this set of Regulations. Marine Scotland would be the competent authority for decisions taken under this set of Regulations.

#### Marine Environment

Key impacts for marine habitats and species that are likely to be associated with port development are:

- Physical change/ loss (of habitat or supporting habitat)
- Sub-surface abrasion/ penetration
- Underwater noise (impulsive)
- Disturbance (visual/ noise)
- Barriers to species movement
- Siltation changes
- Spread/ dispersal of contaminants
- Changes to tidal water flow, wave exposure, water clarity

It is noted that the Highland Council Ecology Officer comments already identify and address NPF4 biodiversity enhancement requirements. Consideration should be given to onsite, integrated measures wherever possible, however it is accepted that the marine environment will present challenges and that off

site measures may be more practical. Where possible preference should be given to 'blue' rather than 'green' measures given the nature of the development. Several designated sites adjoin or have connectivity to the proposed development site, including marine designations, which will require consideration when preparing a development proposal for this site. Appropriate assessment may be required but NatureScot will advise further. Early consideration of inbuilt mitigation is advised, for example dry piling.

In addition to those matters already identified regarding general ecology, records indicate the presence of the following priority marine features: Sea grass beds and blue mussels have been recorded as present to the north of the site within Nigg Bay. South of the site in the opening to Cromarty Firth and within the channel between the two Sutors, records show the presence of Horse Mussel Beds.

As well as the bottlenose dolphin population designated as a feature of Moray Firth SAC, other species of marine mammals are known to be present in the coastal waters adjoining the development site. This includes seals with known haul out areas within Cromarty Firth.

Coastal waters are also likely represent transitory routes for migratory fish species including Atlantic Salmon, Sea Trout and Lamprey. Key periods of sensitivity should be considered in relation to construction activities that may result in impacts.

#### Other Marine and Coastal Users

Consideration of other ongoing marine use and users will be necessary. Any shoreside or seaward development should:

- Take account of and avoid disruption to the operation of the Cromarty ferry service
- Avoid impacts upon the Shellfish Waters Protected Area located on the on the southern side of Cromarty Firth and the shellfish aquaculture operations within it
- Limit or avoid impacts upon recreational boating and navigation
- Take account of and avoid disruption to other ongoing port operations
- Avoids need for further coastal protection elsewhere

#### MARINE LICENSING

Marine Scotland - Licensing Operations Team does not intend to comment on the planning application. If any part of the project is located below Mean High Water Springs, a marine licence may be required under the Marine (Scotland) Act 2010. Please advise the applicant to contact us directly at [ms.marinelicensing@gov.scot](mailto:ms.marinelicensing@gov.scot) to seek advice on the marine licensing requirements.

### **Built and Cultural Heritage**

#### **Impact on the Historic Environment, Historic Environment Scotland**

Thank you for your pre-application advice request in relation to the formation of a new berthing quay on the east side of the Inner Dock at the Port of Nigg. Historic Environment Scotland (HES) received this on 30 May 2023 and have reviewed the details for HES' historic environment interests. HES' historic environment interests cover world heritage sites, scheduled monuments and their setting, category A-listed buildings and their setting, and gardens and designed landscapes (GDLs), historic marine protected areas (HMPAs) and battlefields in their respective inventories.

You should also seek advice from your archaeology and conservation service for matters including unscheduled archaeology and category B and C-listed buildings.

#### **Our Advice**

Given the location of the proposed development HES confirm that we do not consider that there is a potential for significant impacts on our terrestrial interests. HES have no further comments to make regarding the proposals at this stage.

We hope this is helpful. Please contact us if you have any questions about this response. The officer

managing this case is Samuel Fox who can be contacted by phone on 01316685421 or by email at [Samuel\\_fox@hes.scot](mailto:Samuel_fox@hes.scot).

### **Impact on Archaeology**

There are no historic environment issues in regard to this proposed development.

### **Developer Contributions**

The Council's [Developer Contributions Supplementary Guidance](#) will be used in the determination of planning applications and requires all development, including single house developments, make proportionate financial developer contributions towards meeting service and infrastructure needs in areas of Highland where clear deficiencies are identified. For the proposed development, the anticipated developer contribution requirements are outlined below. Please note that requirements can change over time and the exact amount payable will be confirmed at the point that a planning application is determined.

Planning obligations are sought to mitigate the impact of any development which cannot be mitigated through the planning process or through planning conditions. Any planning obligations sought must accord with Scottish Government Planning Circular 3/2012 (Planning Obligations and Good Neighbour Agreements).

This assessment is made against NPF4 Policy 18 (Infrastructure First) HwLDP Policy 31: Developer Contributions, our Developer Contributions Supplementary Guidance and our most recently published Inner Moray Firth Delivery Programme (2023). There may be additional obligations that arise during the planning process.

The following developer contributions and/or onsite provision are likely to be required:

- Transport infrastructure improvements as the proposal may result in additional HGV, car, public transport, wheeled and pedestrian trips to the site; and
- Green infrastructure, this should include appropriate measures to conserve, restore and enhance biodiversity. Given the nature of the proposal this could potentially be towards off site enhancements within the wider Nigg Energy Park Tax Site.

For the avoidance of doubt, as the proposal is for industrial uses, contributions towards affordable housing, education and community facilities are not required.

### **Pre-Application Procedures**

#### **Public Consultation**

Public consultation is not mandatory as the proposal does not constitute 'major' development. Consultation could however be undertaken at the discretion of the application as the proposals develop to help both gauging the opinion of the local community and also scoping potential areas of conflict which could be addressed prior to submission of the application.

When carrying out community consultation we recommend that full consideration is taken of Scottish Government Planning Advice Note 3/2010 - Community Engagement. This includes the standards for community involvement which should be adhered to. These standards are:

- Involvement
- Support
- Planning
- Methods
- Working together
- Sharing information
- Working with others
- Improvement
- Feedback
- Monitoring and evaluation

It is advisable to take into consideration all of the comments made by members of the public before a planning application is submitted to ensure that the public feel they have had an influence over the proposals. For public consultation it may be useful to use the SP=EED tool developed by Planning Aid Scotland. This builds on the Standards for Community Engagement set out in PAN 3/2010. This is available online at <https://www.pas.org.uk/>.

### **Environmental Impact Assessment Screening**

The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 requires that construction of harbours and port installations, including fishing harbours (unless included in schedule 1); where the area of works exceed 1 hectare must be screened to determine whether an Environmental Impact Assessment (EIA) is required to support a planning application. *This proposal is therefore required/ to be screened.* A formal request for a Screening Opinion/s should be made in writing to the Planning Authority. An EIA Screening Opinion form can be downloaded from the Councils website [here](#). At present it is not possible to do this online.

### **Community Councils**

In terms of the appropriate Community Councils to consult, the proposal is located within the *Nigg and Shandwick Community Council* area. A development of the nature proposed may affect a number of adjacent Community Councils, as such it is recommended that adjacent Community Councils are also consulted. The Ward Manager *Helen Ross* can provide advice further in this regard if required. Contact details for all community Councils can be found [here](#).

### **Access**

It would be beneficial to at this stage consult with the local Disability Access Panel. The contact details for your local panel are:

Ross & Cromarty Disability Access Group, PO Box 32, Muir of Ord, Ross-shire, IV6 7WE. Telephone: 01349 861956

For general advice in relation to the removal of barriers and the promotion of equal access for all people affected by disability for your development contact the [Scottish Disability Equality Forum](#), 12 Enterprise House, Springkerse Business Park, Stirling, FK7 7UF. Telephone: (01786) 446456.

## **Application Procedures**

### **Processing Agreements**

A processing agreement is a way of helping developers, the Council and relevant stakeholders work together through the planning process. It involves setting out the key stages involved in deciding a planning application, identifying what information is required from whom and setting time scales for the various stages of the process.

The Council actively encourages the use of processing agreements for major applications. You are advised to contact the Council's Major Application Team with a view to agreeing a Processing Agreement at the earliest possible opportunity. Contact details are provided in section 18 towards the end of this pack.

### **Councillors Code of Conduct**

It would be beneficial for you to be familiar with the Councillors' Code of Conduct. This is available online at the Standards Commission for Scotland [website](#).

### **Scheme of Delegation**

All applications will be determined in line with the Council's Scheme of Delegation. It would be beneficial for you to familiarise yourself with the scheme. This is available [online](#).

## **Any Other Appropriate Information**

## **Gaelic**

In line with the Council's ongoing commitment to promote the increased use of Gaelic in developments within the Highlands, you are encouraged to consider the use of bilingual signs - both internal and external - as part of your proposal. Our Gaelic Translation Officers are able to provide additional advice and help with translations, if required.

For further information and guidance, please contact [gaelic@highland.gov.uk](mailto:gaelic@highland.gov.uk)

To download a copy of the Council's 'Using Gaelic in Signs' advice note, please visit:

[https://www.highland.gov.uk/downloads/file/11857/guidelines\\_on\\_the\\_use\\_of\\_gaelic\\_in\\_highland\\_council\\_services](https://www.highland.gov.uk/downloads/file/11857/guidelines_on_the_use_of_gaelic_in_highland_council_services)

For details on grant funding for bilingual signage, please contact Comunn na Gàidhlig on (01463) 724287 or visit [www.cnag.org](http://www.cnag.org).

## **Contacts**

Gillian Pearson - Case Officer	<a href="mailto:gillian.pearson@highland.gov.uk">gillian.pearson@highland.gov.uk</a>
Dafydd Jones - Area Planning Manager North	<a href="mailto:dafydd.jones@highland.gov.uk">dafydd.jones@highland.gov.uk</a>
Flood Risk Management Team – Richard Bryan	<a href="mailto:Richard.Bryan@highland.gov.uk">Richard.Bryan@highland.gov.uk</a>
Access Officer – Philip Waite	<a href="mailto:Philip.Waite@highland.gov.uk">Philip.Waite@highland.gov.uk</a>
Contaminated Land – Esther Macrae	<a href="mailto:Esther.macrae@highland.gov.uk">Esther.macrae@highland.gov.uk</a>
Landscape Officer – Anne Cowling	<a href="mailto:Anne.cowling@highland.gov.uk">Anne.cowling@highland.gov.uk</a>
Historic Environment Team – Kirsty Cameron	<a href="mailto:kirsty.cameron@highland.gov.uk">kirsty.cameron@highland.gov.uk</a>
Ecology Officer - Karen Couper	<a href="mailto:Karen.Couper@highland.gov.uk">Karen.Couper@highland.gov.uk</a>
Coastal Planner – Jethro Watson	<a href="mailto:Jethro.watson@highland.gov.uk">Jethro.watson@highland.gov.uk</a>
Transport Planning – Mark Clough	<a href="mailto:Mark.clough@highland.gov.uk">Mark.clough@highland.gov.uk</a>
Environmental Health Officer – Chris Ratter	<a href="mailto:chris.ratter@highland.gov.uk">chris.ratter@highland.gov.uk</a>
Development Plans - Lynn Mackay	<a href="mailto:Lynn.mackay1@highland.gov.uk">Lynn.mackay1@highland.gov.uk</a>
Nature Scot - David Patterson	<a href="mailto:David.patterson@nature.scot">David.patterson@nature.scot</a>
Marine Licensing - Maureen McIntyre	<a href="mailto:ms.marinelicensing@gov.scot">ms.marinelicensing@gov.scot</a>
SEPA – Laura Seivwright	<a href="mailto:laura.seivwright@sepa.org.uk">laura.seivwright@sepa.org.uk</a>
Transport Scotland – Gerard McPhillips	<a href="mailto:gerard.mcphillips@transport.gov.scot">gerard.mcphillips@transport.gov.scot</a>
Historic Environment Scotland - Samuel Fox	<a href="mailto:samuel.fox@hes.scot">samuel.fox@hes.scot</a>

## **Disclaimer**

This advice is based on the information submitted and is given without prejudice to the future consideration of and decision on any application received by The Highland Council.

Pre-application case files are not publicly available but can be the subject of Freedom of Information and Environmental Information Regulations requests.

## Useful Weblinks

*The Highland Council Development Plans*

[https://www.highland.gov.uk/info/178/local\\_and\\_statutory\\_development\\_plans](https://www.highland.gov.uk/info/178/local_and_statutory_development_plans)

*Highland Council Supplementary and Development Guidance Listed by Category:*

[https://www.highland.gov.uk/directory/52/development\\_guidance](https://www.highland.gov.uk/directory/52/development_guidance)

*Siting and Design Quality:*

THC Sustainable Design Guide

[https://www.highland.gov.uk/directory\\_record/683409/sustainable\\_design](https://www.highland.gov.uk/directory_record/683409/sustainable_design)

*Roads/Access and Transport*

More information on access and parking standards (incl. small housing developments) can be found at:

[https://www.highland.gov.uk/info/20005/roads\\_and\\_pavements/101/permits\\_for\\_working\\_on\\_public\\_roads/4](https://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_for_working_on_public_roads/4)

*Access Panel*

The Council encourages applicants at pre-application stage to engage with the local Disability Access Panel to consider accessibility improvements for physically disabled and sensory impaired people. The Highland Council have published a [Planning Protocol for Effective Engagement with Access Panels](#), which you should take into consideration

Access Panels Contact Info-

[https://www.highland.gov.uk/info/751/equality\\_diversity\\_and\\_citizenship/326/equality\\_and\\_diversity\\_contacts/4](https://www.highland.gov.uk/info/751/equality_diversity_and_citizenship/326/equality_and_diversity_contacts/4)

*Scottish Government*

Scottish Government Building, Planning and Design Pages

<https://www.gov.scot/building-planning-and-design/>

Scottish Government Planning and Architecture Guidance

<https://www.gov.scot/policies/planning-architecture/planning-guidance/>

Scottish Planning Policy

<https://www.gov.scot/publications/scottish-planning-policy/>

*Scottish Water*

Contact Scottish Water for guidance on connections to the public water/drainage network:

<https://www.scottishwater.co.uk/en/Business-and-Developers/Connecting-to-Our-Network/Pre-Development-Information/Planning-Your-Development>

*SEPA*

You can find more information on SUDS at: <https://www.sepa.org.uk/regulations/water/diffuse-pollution/diffuse-pollution-in-the-urban-environment/>

You can view SEPA's small-scale developments guidance here:

<https://www.sepa.org.uk/regulations/water/small-scale-sewage-discharges/>

You can view SEPA's flood risk map here: <https://www.sepa.org.uk/environment/water/flooding/flood-maps/>

CAR Licensing - [https://www.sepa.org.uk/media/34761/car\\_a\\_practical\\_guide.pdf](https://www.sepa.org.uk/media/34761/car_a_practical_guide.pdf)

### *Historic Environment*

The Highland Historic Environment Record (HER) contains detailed information about listed buildings, conservation areas and archaeological sites in the Highland area:

<http://her.highland.gov.uk>

General advice on development affecting historic designations can be found at:

<https://www.historicenvironment.scot/advice-and-support/>

### *Protected Species -SNH*

More information on Scotland's protected species and areas can be found at:

<https://www.nature.scot/professional-advice/safeguarding-protected-areas-and-species/protected-species>

<https://www.nature.scot/professional-advice/planning-and-development/natural-heritage-advice-planners-and-developers/planning-and-development-protected-areas>

### *Trees and Woodland*

The Scottish Government's woodland strategy and associated policies can be found here:

<https://forestry.gov.scot/support-regulations/control-of-woodland-removal>

The Council's guidance on tree/woodland issues can be found here:

[http://www.highland.gov.uk/info/1225/countryside\\_farming\\_and\\_wildlife/63/trees\\_and\\_forestry/](http://www.highland.gov.uk/info/1225/countryside_farming_and_wildlife/63/trees_and_forestry/)