

## CHAPTER 4: PLANNING AND LEGISLATION



## 4. PLANNING AND LEGISLATION

### 4.1 Introduction

This chapter of the Environmental Statement (ES) describes the policies and legislation that regulate the consenting, construction, operation and maintenance of the Aberdeen Harbour Expansion Project.

This chapter describes the international regulations which influence and drive the national legislation and leads on to discuss the regulatory framework and consenting regime for both the onshore and offshore elements of this project. The requirement to undertake an Environmental Impact Assessment (EIA) and Habitats Regulations Appraisal (HRA) are also discussed.

### 4.2 Regulatory Overview

Harbour developments are governed by a number of regulatory and legislative instruments. Table 4.1 summarises the key legislation and provides details of requirements and implications for the Aberdeen Harbour Expansion Project application process.

**Table 4.1: Overview of key legislation and consents required for the Aberdeen Harbour Expansion Project**

Legislation	Requirement and Implications
Harbours Act 1964	A Harbour Revision Order (HRO) will be required from Transport Scotland to empower Aberdeen Harbour Board to undertake the works and vary its existing harbour powers under Section 16 of the Harbours Act 1964.
Town and Country Planning (Scotland) Act 1997 (as amended)	Planning Permission for certain works is required from Aberdeen City Council under the Town and Country Planning (Scotland) Act 1997 (as amended). The onshore works are classified as a 'National Development' under the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 on the basis that they are specifically referenced as such in National Planning Framework 3 (The Scottish Government, 2009).
Marine (Scotland) Act 2010	A Marine Licence is required from Scottish Ministers for activities listed under Part 4 of the Marine (Scotland) Act 2010, which includes proposals to construct, alter or improve any works within the Scottish marine area. The Marine Licence(s) will be issued by Marine Scotland Licensing Operations Team (MS LOT) on behalf of the Scottish Ministers.
Conservation (Natural Habitats, &c.) Regulations 1994 (the Habitats Regulations) (as amended)	When consenting projects under the Marine (Scotland) Act 2010, the competent authorities (in this case Transport Scotland, Marine Scotland and Aberdeen City Council) must consider potential impacts on European designated sites and species of nature conservation importance.  A European Protected Species (EPS) Licence may be required (from Scottish Natural Heritage (SNH) or Marine Scotland, depending on the species (animal or plant) and type of activity) for proposed activities that could impact protected species (or cause damage or destroy breeding or resting places or obstruct access to resting or sheltering place) as listed in the Habitats Regulations.

### **4.3 Consenting and Licensing Legislation**

#### **4.3.1 Environmental Impact Assessment**

European Council Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (the EIA Directive) (codification) (as amended by Directive 2014/52/EU), provides that European Union authorities giving consent for specific projects must take into consideration any significant environmental or socio-economic impacts the proposed project may cause.

The associated transposing regulations for the EIA Directive that are relevant to the Aberdeen Harbour Expansion Project are:

- The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011;
- The Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended); and
- Schedule 3 of the Harbours Act 1964.

The Aberdeen Harbour Expansion Project has been identified as a “trading port for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes” as listed in Paragraph 8 of Annex I of the EIA Directive. The EIA Directive requires a full EIA be undertaken in respect of development listed in Annex I. The competent authority (Transport Scotland (TS)) advised in its Scoping Opinion (ES Appendix 1-D: Scoping Opinion 2014) that a full EIA and associated ES are required through production of a Scoping Opinion. The process by which an EIA is undertaken is described in greater detail in Chapter 5: Environmental Impact Assessment Process.

### **4.4 Other Consents and Licences**

In addition to the primary consents and licences listed in Table 4.1, a range of other consents will be required. Although not directly relating to the requirement of EIA, and therefore not falling under its scope, these are indicated below.

Receptor-specific legislation and policy guidance is also incorporated into each individual chapter as relevant.

#### **4.4.1 Natural Heritage Interests**

Natural heritage interests will require consideration under:

- European Habitats Directive 92/43/EEC updated and consolidated in 2007;
- European Birds Directive 2009/147/EC and UK implemented Regulations; and
- Conservation (Natural Habitats, & c.) Regulations 1994 (as amended).

These are implemented through wildlife licences issued under the Wildlife and Countryside Act 1981 and the Nature Conservation (Scotland) Act 2004 as amended, which strengthens wildlife enforcement legislation. The Wildlife and Natural Environment (Scotland) Act 2011 amends the Wildlife and Countryside Act 1981 and the Nature Conservation (Scotland) Act 2004; it provides

further protection for certain species and improves the administration of licensing under the Wildlife and Countryside Act 1981. The Nature Conservation (Scotland) Act 2004 is the enabling legislation for Sites of Special Scientific Interest (SSSIs).

#### 4.4.1.1 Requirement to Undertake a Habitats Regulation Appraisal

In addition to the requirement to undertake an EIA, European Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive) and the transposing Habitats Regulations require development projects to consider the impacts of potential developments on sites and species of international nature conservation importance. Where any plan or project is likely to significantly affect features of a nature conservation site which has been designated under the Habitats Regulations, a Habitats Regulations Appraisal (HRA) is required.

Due to the proximity of the development area to sites and species of international nature conservation importance, a Habitat Regulations Appraisal (HRA) under the Conservation of Habitats and Species Regulations 2010 will be undertaken by the Competent Authority. In this case, the Competent Authorities are Transport Scotland, Marine Scotland and Aberdeen City Council (ACC). Should the HRA identify the potential for Likely Significant Effects (LSE) on the Special Area of Conservation (SAC), then the Competent Authority will be required to undertake an Appropriate Assessment.

A signposting document accompanies this ES (the HRA can be found within Volume 4: Habitats Regulations Appraisal and Information to Support the Appropriate Assessment) which identifies where information is provided to assist the Competent Authority in undertaking the HRA, by making it easier to undertake and consult on the HRA and act as a checklist that can be used to ensure that the relevant information needed for a HRA is contained in the ES.

#### 4.4.2 **Water and Sediment Quality**

Water and sediment quality interests will require consideration under:

- Water Framework Directive 2000/60/EC (WFD). The project is located within the Scotland River Basin, where the competent authorities are the Scottish Ministers and the Scottish Environment Protection Agency (SEPA). The initial Scotland River Basin Management Plan was produced in 2009 and is currently in the process of being updated, with consultation on its development having closed in April 2015;
- Water Environment and Water Services Act 2003. The WFD is transposed into Scottish law by the Water Environment and Water Services (Scotland) Act (WEWS) 2003. The Scotland River Basin District (Standards) Directions 2014 provide an updated and expanded set of environmental standards for water bodies;
- Water Environment (Controlled Activities) (Scotland) Regulations (CAR) 2011. The Regulations apply regulatory controls over activities that may affect Scotland's water environment and cover discharges, diffuse pollution, abstraction, engineering works in inland waters and groundwater;
- Marine Strategy Framework Directive 2008/56/EC (MSFD). The MSFD requires Member States to put in place measures to achieve or maintain Good Environmental Status in their waters by 2020 and incorporates a number of water and sediment quality descriptors; eutrophication and contaminant concentrations; and

- Environmental Protection Act, 1990. The Scottish contaminated land regime is set out in Part IIA of the Environmental Protection Act (EPA) 1990 as inserted by Section 57 of the Environmental Act 1995, which came into force in Scotland on 14 July through the introduction of the Contaminated Land (Scotland) Regulations 2000. The 1990 Act and 2000 Regulations were amended in 2005 with the implementation of the Contaminated Land (Scotland) Regulations 2005, which inter alia replaced the term 'controlled waters' with that of 'the water environment'. The amendment was to ensure that the contaminated land regime was consistent with regards to protection of water resources in Scotland, as defined by the Water Environment and Water Services (Scotland) Act 2003. The Act introduces a risk assessment methodology to be used in assessing whether a site is 'contaminated' or 'suitable for use'.

Furthermore, dependent on the types and quantities of substances to be stored at the new facility, Hazardous Substances Consent (HSC) may be required under the Planning (Hazardous Substances) (Scotland) Act 1997, as amended. ACC acting as the Hazardous Substances Authority is responsible for granting a HSC. The Health and Safety Executive would also be consulted on the application for the City Council to make a decision.

Further information on the relevant legislation and guidance can be found in Chapter 7: Marine Water and Sediment Quality.

#### **4.4.3 Other Interests**

Other consents and licences that may be required to implement and operate the new harbour include:

- Landowner consent;
- Drainage consent;
- Roads construction consent;
- Consents under the Health and Safety Act 1974; and
- Utilities consents and licences from water companies and power providers.

#### **4.4.4 Climate Change Act 2008**

The 2014 EIA Directive has yet to be transposed into law in the UK, therefore the current legislation regarding climate change is the Climate Change Act 2008, which is a UK Act of Parliament under which it is the Secretary of State's duty to ensure that the UK meets its greenhouse gas targets. Further information, where applicable, can be found in individual chapters.

### **4.5 Applicable Policy**

The determination of the consents and licences applicable to this project involve a wide range of considerations, including relevant national, regional and local government policies. This section describes the overarching policies that have been taken into account in the preparation of the ES.

#### **4.5.1 National Policy**

##### **4.5.1.1 UK Marine Policy Statement 2011**

The UK Marine Policy Statement of March 2011 sets out the framework for preparing Marine Plans and taking decisions that affect the marine environment. The Marine Policy Statement identifies

potential impacts on the marine environment resulting from coastal and marine development projects including port developments and marine dredging and disposal, both of which are relevant to this project.

#### 4.5.1.2 National Marine Plan (Scotland)

The National Marine Plan (The Scottish Government, 2015) adopted in March 2015 is guided by the UK Marine Policy Statement (described in Section 4.5.1.1). Like the Marine Policy Statement, the National Marine Plan is relevant to this project as it will sit alongside and interact with existing planning regimes and will be consistent with the strategic priorities set out in National Planning Framework 3. The National Marine Plan states that, as most uses of, and development in, the marine environment also have an onshore component, the alignment between terrestrial and marine planning is important and that it “should be achieved through consistency of policy guidance, plans and decisions” (The Scottish Government, 2015). The National Marine Plan goes on to further state that “marine and terrestrial planning authorities should consult one another formally during plan preparation but also collaborate closely throughout the planning process to ensure consistency in their respective plans” (The Scottish Government, 2015).

The National Marine Plan contains objectives that are directly relevant to the proposed development, with Chapter 13: Shipping, Ports, Harbours and Ferries, being the most relevant and identifying the key impacts associated with such activities. The objectives set out in the plan for this sector are summarised here:

- Safeguarded access to ports and harbours and navigational safety;
- Sustainable growth and development of ports and harbours as a competitive sector;
- Safeguarded essential maritime transport links to island and remote mainland communities;
- Linking of ferry services with public transport routes to help encourage sustainable travel; and
- Best available technology to mitigate and adapt to climate change, where possible (The Scottish Government, 2015).

It is recognised in the plan that trade is essential to Scotland’s economic prosperity, and that shipping is an important element of this trade. The plan emphasises the need to encourage development of Scottish ports and harbours and that this is essential for the continuation and growth of economic prosperity. It is important that marine planning ensures shipping access and navigational safety to the 11 major commercial ports, which includes Aberdeen (The Scottish Government, 2015).

These ports also provide support to other sectors, including oil and gas where the location of Scottish ports in relation to oil and gas reserves in the North Sea means they have strategic importance, with Aberdeen Harbour being one of the ports of particular importance. Ports and harbours are important for supporting other sectors such as renewable energy. The National Renewables Infrastructure Plan (N-RIP) has identified a spatial framework of port and harbour sites, based on best fit locations against offshore renewable industry needs, i.e. construction/installation, manufacturing and inspection, repair and maintenance. Aberdeen Harbour has been identified as an N-RIP site (See Section 4.5.1.5 for further information on the N-RIP). The National Marine Plan also sets out the potential interactions with other users of the marine environment and these include other ports and harbours, and shipping

and ferries. The Marine Plan also discusses the future of the sector where a trend for larger ships and larger ports is expected (The Scottish Government, 2015).

This is strengthened by the marine planning policies identified within Transport 2 which states that “Marine development and use should not be permitted where it will restrict access to or future expansion of major commercial port or, existing or proposed ports identified as National Developments in the current National Policy Framework (NPF) or as priorities in the National Renewables Infrastructure Plan (N-RIP)”, of which Aberdeen is classed as both.

In addition to the specific policies on transport, the plan also includes relevant objectives encompassing tourism, recreation and landscape which are captured within the Recreation and Tourism Objectives 2 and 5:

Recreation and Tourism Objective 2:

- “The extent to which the proposal is likely to adversely affect the qualities important to recreational users, including the extent to which proposals may interfere with the physical infrastructure that underpins a recreational activity;
- The extent to which any proposal interferes with access to and along the shore, to the water, use of the resource for recreation or tourism purposes and existing navigational routes or navigational safety;
- Where significant impacts are likely, whether reasonable alternatives can be identified for the proposed activity or development; and
- Where significant impacts are likely and there are no reasonable alternatives, whether mitigation, through recognised and effective measures, can be achieved at no significant cost to the marine recreation or tourism sector interests”.

Recreation and Tourism Objective 5:

- “Marine planners and decision makers should support enhancement to the aesthetic qualities, coastal character and wildlife experience of Scotland's marine and coastal areas, to the mutual benefit of the natural environment, human quality of life and the recreation and tourism sectors”.

#### 4.5.1.3 National Planning Framework

The National Planning Framework is a strategy for the long-term development of Scotland's towns, cities and countryside over the next 20 years. The National Planning Framework identifies key strategic infrastructure needs to ensure that each part of the country can develop to its full potential.

National Planning Framework 3 (NPF3) (The Scottish Government, 2014), was laid to the Scottish Parliament on 23 June 2014 and sets out the spatial strategy for Scotland's development over the next 20 years to 30 years. It delivers a framework for the spatial development of Scotland as a whole, as well as identifying 14 national developments, to deliver the strategy. NPF3 is accompanied by a strategic environmental assessment, which assesses the impact of the Framework on Scotland's environment, ensuring that issues of environmental sustainability are explicitly addressed throughout. Whilst national development status establishes the need for a project, it does not grant development

consent. Planning permission and any other necessary assessments and consents will still be required at the consenting stage.

NPF3 recognises the significance of the Harbour expansion project, stating that “Aberdeen Harbour is a nationally important facility which supports the oil and gas sector, provides international and lifeline connections and makes significant contribution to the wider economy of the north-east. Expansion of the harbour is required to address current capacity constraints and to consolidate and expand its role” (The Scottish Government, 2014).

The expansion of Aberdeen Harbour is subsequently identified as a ‘National Development’, as defined by the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 (The Scottish Government, 2009). The site is identified as Nigg Bay, with an accompanying location plan identifying the site boundary in line with that included in Chapter 1: Introduction to the Proposed Development, Figure 1.2.

NPF3 states “Aberdeen is the energy capital of Europe. The north-east of Scotland has above-average incomes, low unemployment and a high quality of life. The area’s exceptional economic performance provides a real opportunity to build on its success and benefit Scotland as a whole. The City Investment Plan sets out an ambition “to maintain Aberdeen’s position as one of the world’s key energy capitals and to maximize its growth potential and diversification into other sectors.” Infrastructure provision is a key part of this agenda for growth and investment (The Scottish Government, 2014)”.

NPF3, page 18 states: “Aberdeen and its wider city region is well-placed to take advantage of continued exploitation of North Sea oil and gas reserves and to develop its expertise in serving this sector, and the growing renewable energy sector around the world’. The expansion of Aberdeen Harbour will strengthen its key role in supporting the economy of the north east, as too will continued improvements to infrastructure including the Aberdeen Western Peripheral Route and Aberdeen Airport. The economic significance of the region is recognised through the need for infrastructure capacity enhancement, both within the city region and in terms of wider links.” (The Scottish Government, 2014).

NPF3 includes a section on the Aberdeen city region outlining the successes and opportunities for further growth in the area.

Key actions highlighted to deliver the aims of the spatial strategy in NPF3 of particular relevance to this EIA are:

- “We will continue to take action to help generate the equivalent of 100% of Scotland’s gross annual electricity consumption from renewable sources by 2020, with an interim target of 50% by 2015.”;
- “Working with Scottish Enterprise and Highlands and Islands Enterprise, we will implement the National Renewables Infrastructure Plan with planning enabling development across the locations it identifies.”;

- “We will implement the Scottish Biodiversity Strategy, including completing the suite of protected places and improving their connectivity through a national ecological network centred on these sites.”; and
- “We will deliver the strategic transport projects in the Infrastructure Investment Plan and work with the freight sector to identify priority developments for inclusion in NPF4.” (The Scottish Government, 2014).

Planning authorities are required under the Planning etc. (Scotland) Act 2006 to take NPF3 in to account in development plans and development management decisions. The planning legislation also requires Scottish Ministers to revise the National Planning Framework within 5 years or provide an explanation of why they have decided not to revise it (The Scottish Government, 2014a).

ES Appendix 4-A: Planning and Legislation Supporting Information, outlines the policy statement relevant to the Aberdeen Harbour development.

#### 4.5.1.4 Scottish Planning Policy

Scottish Planning Policy (SPP) (The Scottish Government, 2014b) is a statement of Scottish Government policy on how nationally important land use planning matters should be addressed across the country. The Policy is designed to promote consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It also sets out the policy that will help deliver the objectives of the NPF3. It was approved by Scottish Ministers in June 2014, concurrently with NPF3. This superseded SPP 2010 which informed the preparation of much of the other current planning policy which is of relevance to the Harbour expansion.

SPP outlines a number of statements that support the development. The SPP requires planning authorities across the marine and terrestrial boundaries to work together and introduces a presumption in favour of development that contributes to sustainable development (SPP, page 9, paragraph 27).

ES Appendix 4-A: Planning and Legislation Supporting Information, outlines the relevant subjects and supporting planning guidance documents that require to be considered.

#### 4.5.1.5 National Renewables Infrastructure Plan

The National Renewables Infrastructure Plan (N-RIP) is designed to support the development of a globally competitive offshore renewables industry based in Scotland. The Scottish Government's Renewable Action Plan was published in June 2009 and instigated the development of an investment plan to support appropriate infrastructure for the emerging offshore wind, wave and tidal energy industries. The aim of N-RIP is to establish how port owners can provide sites for offshore renewables use in locations that the industry favours and in a way that fits with the principles of sustainable development and the timescales for use that the industry requires. Aberdeen Harbour has been identified, amongst others, as a Scottish location to support the renewables industry (N-RIP Stage 2, Page 33 to page 34) (Scottish Enterprise and Highlands and Islands Enterprise, 2010).

#### 4.5.1.6 Scottish Offshore Development Sites – Aberdeen City and Shire Cluster

Aberdeen City and Shire is seen as critical to support the delivery of the offshore renewables industry goals in Scotland having built up an experienced and vast supply chain and labour force from oil and

gas, particularly in areas of installation, operation and maintenance of subsea infrastructure. The report by Scottish Enterprise on Aberdeen City and Shire Cluster (Scottish Enterprise and Scottish Development International, 2011) covers two priority sites within the wider renewable strategy: Aberdeen Harbour and Peterhead Port.

The Aberdeen City and Shire Cluster is located for accessing many opportunities on the east coast of the UK and beyond, principally:

- Crown Estate Round 3 Sites; Firth of Forth and Moray Firth;
- Scottish Territorial Waters Offshore Wind Farms: Beatrice, Inch Cape and Nearth na Gaoithe;
- The European Offshore Wind Deployment Centre;
- Kincardine Offshore Windfarm; and
- Crown Estate tidal and wave energy leases in the Pentland Firth and Orkney Waters.

A Scoping Report carried out by Fisher Associates (as discussed within the Directions for Growth report commissioned by Aberdeen Harbour Board (2012) to respond to the recognised need for the expansion of the Aberdeen Harbour facilities) identified significant opportunities for growth in new and existing markets which could be targeted through the expansion of Aberdeen Harbour.

These markets include rising oil production in West Africa, oil and gas decommissioning activities which are expected to increase over the next decade, other oil and gas related shipping growth, offshore wind farm support, marine energy support services, growth in the passenger and car markets and the potential to accommodate larger vessels.

#### 4.5.1.7 Scotland's Oil and Gas Strategy 2012-2020

Scotland's Oil and Gas Strategy 2012 to 2020 (Scottish Enterprise, 2012) describes the priority actions and vision for the sector in Scotland. The vision for the industry in Scotland is for one that is increasingly integral to the Scottish economy but outward looking, with Scottish expertise and products in high demand in the global export market.

One of the key issues highlighted in the strategy is the presence of adequate and effective infrastructure. It is seen as a priority to invest in improvements in Aberdeen City and Shire to ensure that Scotland remains competitive. It is only through investments in infrastructure that Scotland will continue to be an attractive long-term investment location. The development of transport infrastructure in the north-east of Scotland is seen as vital to ensure connectivity between the sector in Scotland and markets in Europe and further afield.

## 4.5.2 **Regional and Local Policy**

### 4.5.2.1 Current Development Plan

The purpose of the development plan is to set the framework for new developments. In addition, planning applications are assessed against the provisions (land allocations and policies) of the development plan.

The current development plan for the Aberdeen City Council area comprises:

- The Aberdeen City and Shire Strategic Development Plan (2014) (Aberdeen City and Shire Strategic Development Planning Authority, 2014); and
- The Aberdeen Local Development Plan (2012) (Aberdeen City Council, 2012), which will be replaced by the new Aberdeen Local Development Plan (2016) (Aberdeen City Council, 2015).

The Aberdeen City and Shire Strategic Development Plan (SDP) was approved by Scottish Ministers on 28 March 2014. The plan covers the whole of Aberdeen city and Aberdeenshire, except the part within the Cairngorms National Park and represents a shared vision for the future of the area to 2035. The main aims of the Aberdeen City and Shire SDP are to:

- “Provide a strong framework for investment decisions which help to grow and diversify the regional economy, supported by promoting the need to use resources more efficiently and effectively; and
- Take on the urgent challenges of sustainable development and climate change”.

The SDP identifies four strategic growth areas which will be the main focus of development in the area up-to 2035 these include Aberdeen city, Aberdeen to Peterhead, Aberdeen to Huntly and Aberdeen to Laurencekirk. Aberdeen Harbour is noted in the plan as “a vital gateway for the regional economy and provides important passenger and freight links to the Northern Isles. The harbour has been identified as a key port in the National Renewables Infrastructure Plan. Work will be needed to set out in more detail the likely implications of this ... and how the growth of the harbour can be accommodated to inform the next local development plan” (SDP, page 14, paragraph 3.20). The SDP also notes that improvements to the port facilities at Aberdeen will make the most of their opportunities and potential, particularly to support the energy (including offshore wind) and fishing sectors.

The LDP recognises the importance of Aberdeen Harbour and the importance of safeguarding land in “strategic locations”, including beside the Harbour – including land suitable for harbour related uses. The Harbour is described as a “vital hub... (providing)... a service for the region as a whole”.

Policy B14 states “within the operational land applying to Aberdeen Airport and Aberdeen Harbour there will be a presumption in favour of uses associated with the airport and harbour respectively. Due regard will be paid for the safety, amenity impacts on and efficiency of uses in the vicinity of the Airport and Harbour”.

The LDP notes that the Harbour Board Operational Area will be subject to a Masterplan which will provide detailed guidance in respect of land uses, policies, proposals, access and connectivity within it and the adjoining areas. The provision of such guidance was undertaken as part of the Draft Nigg Bay Development Framework (2015) which is currently being consulted upon and if approved will provide supplementary guidance for this area.

The Development Framework outlines the connections between the Harbour and the city and considers how these connections can be improved so that the Harbour can continue to complement and support Aberdeen’s economic and cultural growth. It also provides guidance to ensure that the objective for a greater mix of uses at the Harbour can be delivered without impacting on the operations of the Harbour. It includes guidance on how to avoid adverse effects upon the qualifying features of the River Dee SAC, which runs throughout the Harbour and also upon bottlenose dolphins, which

frequent the outer Harbour and mouth and are qualifying features of the Moray Firth SAC and are an EPS.

#### 4.5.2.2 Proposed Aberdeen Local Development Plan

The adopted Aberdeen Local Development Plan is under review, with its replacement presently being at proposed plan stage. The Proposed Aberdeen Local Development Plan (Proposed LDP) was published for a period of public engagement in March 2015 until 1 June 2015. While this does not form part of the current development plan and the proposed development is likely to be considered by regulators in advance of it becoming adopted, the Proposed LDP is nonetheless a material consideration in the determination of planning applications and should be afforded consideration.

The proposals map identifies land at Nigg Bay as 'Aberdeen Harbour'. Policy B5 - Aberdeen Harbour Proposed LDP, page 45: states:

- "Within the areas zoned for Aberdeen Harbour on the Proposals Map, there will be a presumption in favour of harbour infrastructure and ancillary uses, which are required for the effective and efficient operation of the harbour and which have a functional requirement to be located there. This may include administrative offices, warehousing and storage (including fuel storage), distribution facilities and car/heavy goods vehicle (HGV) parking. Other harbour-related uses will be treated on their merits; and
- Due regard will be paid to any conflicts of use between the harbour and both new and existing developments in its vicinity, in order to preserve the amenity of new development and maintain the operational efficiency of the harbour. Mitigation measures may be required in order to permit uses which may otherwise be unacceptable".

The plan also includes a number of policies relevant to the Harbour expansion, including Policy D2 on landscape which requires that developments have a strong landscape framework which improves and enhances the setting and visual impact of the development, unifies urban form, provides shelter, creates local identity and promotes biodiversity and Policy T1 which identifies land for transport and provides safeguards for transport related projects, one of which is 'Aberdeen Harbour Expansion'.

Further detail on relevant policies within can be found in ES Appendix 4-A: Planning and Legislation Supporting Information.

## 4.6 **References**

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