

PERTH AND KINROSS COUNCIL

25 September 2019

PERTH TRANSPORT FUTURES PROJECT PHASE 2 – CROSS TAY LINK ROAD COMPULSORY PURCHASE ORDER

Report by Depute Chief Executive, Chief Operating Officer (Report No. 19/276)

PURPOSE OF REPORT

This report seeks authority to acquire land either by negotiation or by compulsory purchase to facilitate the construction of Phase 2 of the Perth Transport Futures Project. Phase 2 is the Cross Tay Link Road.

1. BACKGROUND / MAIN ISSUES

Background

- 1.1 The Cross Tay Link Road (CTLR) is a vital component of the Perth Transport Futures Project (PTFP) for delivering sustainable growth in the Tay Cities region. It is an essential road infrastructure project that will address major congestion and air quality issues within Perth and enable significant housing and employment land to be developed in the northwest area of the city.
- 1.2 Investment in additional roads infrastructure to support this northwest expansion of Perth has been identified as a priority for the Council, and it is anticipated that such investment will also improve national connectivity to the north and east. The PTFP forms an integrated series of measures over four phases and will be delivered over a number of years:
 1. A9/A85 Junction Improvement and Link Road to Bertha Park (funded by the Council and currently under construction with completion in Spring 2019);
 2. Cross Tay Link Road (connecting the A9, A93 and A94 and partly funded through the Tay Cities Deal);
 3. Bertha Park connection road (linking Phases 1 and 2 and will be taken forward by the developer); and
 4. Associated city centre improvements (designed to lock in the benefits from the new infrastructure).
- 1.3 The background to the PTFP along with key decision dates are detailed in numerous previous Council reports. This report considers only Phase 2, and is specifically in relation to the land required to facilitate the construction of the CTLR.

Preferred Route

- 1.4 In 2010 a comprehensive review of all the relevant transport related issues in and around Perth was undertaken. This was followed in 2011 by a Stage 1 Design Manual for Roads and Bridges (DMRB) Assessment which identified a 'corridor' for the CTLR.
- 1.5 A DMRB Stage 2 Assessment was then undertaken and included a detailed technical assessment of various routes within the 'corridor' to determine the optimal route. Due to the very sensitive nature of the area under consideration in terms of natural landscape, impacts on Scone Palace and the multitude of protected and listed sites of special interest, the environmental assessment as part of the Stage 2 Assessment was comprehensive.
- 1.6 The preferred route for the CTLR was approved by the Council at its meeting on 14 December 2016 (Report 16/560 refers), and is based on the assessment of compliant technical standards, a range of environmental and engineering factors and dialogue in particular with Historic Environment Scotland and Mansfield Estates (Scone Palace).
- 1.7 A review of the preferred route (between the A93 and A94 only) was undertaken earlier this year in response to concerns, primarily relating to air quality and road safety, raised by Scone & District Community Council. The findings of this review were considered by the Council at its meeting on 19 June 2019 (Report 19/189 refers) with the Council voting to retain and take forward the preferred route.

Specimen Design

- 1.8 Engineering Consultants were appointed by the Council in July 2017 to progress the CTLR scheme through the DMRB Stage 3 (leading to a Specimen Design), statutory procedures, procurement and finally construction, with a final completion date anticipated in the Spring of 2024.

2. PROPOSALS

Alignment

- 2.1 The CTLR involves the realignment of a 2km section of the A9 dual carriageway (between Perth and Luncarty), a new bridge crossing over the River Tay and Perth-Inverness railway line, the creation of a new grade separated junction on the A9, a new 6km link road connecting the A9 with Stormontfield Road, the A93 and the A94, and new footways and cycle paths linking to existing routes. The scheme also involves the stopping-up and redetermination of a section of Stormontfield Road south of its junction with the A93.
- 2.2 The Council's consultant engineers have undertaken a review of the DMRB Stage 2 design, finalised the Specimen Design and are now

in the process of preparing the DMRB Stage 3 Report. A number of key activities have been undertaken and include:

- All site surveys (including the substantial Ground Investigation)
- Consultations with statutory consultees
- Public Exhibitions
- Landowner discussions
- Review of the public utility estimates
- Due diligence review of the Stage 2 cost estimate
- Development of the Specimen Design
- Options Appraisal of the River Tay structure
- Land referencing
- Non-motorised user assessments
- Early contractor involvement through the Scape Framework (involving buildability, value engineering and risk workshops)
- Submission of the Environmental Scoping Report
- Review of the alignment between the A93 and A94
- Preparation of the Environmental Impact Assessment
- Preparation of the Planning Application

- 2.3 Significant progress has been made and as a result the design has been refined such that there is now very limited scope to vary the road alignment. The current alignment is shown on Drawings: 119046-SWECO-HML-000-DR-D-10011 Rev P03.2 (Appendix 1A) and 119046-SWECO-HML-000-DR-D-10012 Rev P03.2 (Appendix 1B).

Land Purchase

- 2.4 The extent of the land required for the CTRLR has been identified and is shown on the drawings in Appendix 2 of this report.
- 2.5 Discussions with a view to purchasing the land by agreement have commenced with all landowners and tenants. However, given the extent of the scheme and the number of landowners affected it is proposed to promote a Compulsory Purchase Order (CPO) in parallel. Scottish Government Guidance (Circular 6/2011) endorses this approach and negotiations with landowners/tenants will continue to ensure that all reasonable endeavours are made to purchase the land by agreement within a reasonable timescale.
- 2.6 It is considered that it would be reasonable and proportionate to acquire the land by compulsory purchase in the event that negotiations for voluntary sale cannot be concluded with all the landowners within a reasonable timescale.
- 2.7 The land which is required is owned by a number of different parties, which potentially reduces the chances of reaching voluntary agreements for the whole site. Acquiring the whole site by means of a CPO will also help ensure that there are no gaps in title affecting the Council's ownership of the land required. Land take will be minimised and, where appropriate, the Council will enter into discussions regarding reasonable accommodation works.

- 2.8 There are compelling arguments for implementing the CTRL and it is therefore considered that, on balance, the public interest outweighs that of the individual landowners involved. It is acknowledged that these landowners will be deprived of their land but the CPO option is favoured because, among other reasons, it reduces the land take as far as is possible. The landowners will receive appropriate compensation and, in addition, many will benefit from the new junction and link road providing better access to their land. In some cases the affected land has development potential but development will only be permitted if this scheme goes ahead.
- 2.9 The District Valuer Service has been instructed by the Council to act as Agent in the negotiation of the land purchase with support from the Council's Estates Team. Brodies LLP have also been instructed to assist Legal and Governance
- 2.10 Services with the legal work associated with the scheme.
- 2.11 The CPO will be promoted under Sections 103, 104 and 106 of the Roads (Scotland) Act 1984 (the 1984 Act) and The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947. Once the CPO is made, it will be submitted to Scottish Ministers for confirmation. It should be noted that, if objections are received from any of the affected landowners and are not withdrawn. Scottish Ministers will arrange a Public Inquiry or Hearing. The likely timescales for confirmation of the CPO are set out below.

Transport Scotland

- 2.12 The scheme interfaces with the trunk road network and consultation is ongoing with Transport Scotland regarding those elements which will connect into the trunk road, particularly the realignment of the A9 and the associated slip roads. Transport Scotland has been involved in the development of the Specimen Design to ensure the proposals meet their required standards and the current design has been agreed in principle with them.
- 2.13 The Council is also working with Transport Scotland to enter into a legal Minute of Agreement to ensure the protection of the trunk road network and to provide for effective traffic management during construction. The legal agreement will also ensure that, in the event that Transport Scotland decides to promote a Trunk Road Order under Section 5 of the 1984 Act, any parts of the scheme which are to be the subject of that Order will be constructed to the appropriate standard. It is anticipated that the legal agreement will be in place prior to the promotion of the CPO.
- 2.14 As it is not possible to acquire land in the ownership of Scottish Ministers by compulsory purchase it is proposed that any areas of land required for the CTRL which are currently held by the Scottish Ministers will be occupied by agreement.
- 2.15 If the CPO is confirmed, it has been agreed with Transport Scotland that they will promote an Order to stop up the existing sections of the A9 which will become redundant once the new road infrastructure is in place.

Programme

- 2.16 It is proposed to make the CPO in October 2019. Thereafter, it will be submitted to the Scottish Ministers for confirmation. If no objections are received, or objections are received and resolved, the Scottish Ministers will decide whether to confirm or refuse to confirm the CPO. The timescale from promoting the CPO to vesting of the land in this instance could take up to a year.
- 2.17 If objections are received and are not withdrawn the Scottish Ministers may arrange to hold a Public Inquiry or Hearing. Should this be the case, it could take significantly longer for the CPO to be confirmed and for the land to be vested. Timescales could be shorter or longer depending on circumstances.
- 2.18 The programme for CTRLR has been revised following the alignment review that was undertaken, and is detailed below. This takes account of the CPO process in the eventuality that there may be a Public Inquiry/Hearing and is detailed below:

PROGRAMME	
Promote CPO	October 2019
Finalise Specimen Design	August 2019
Submission of Planning Application	October 2019
Land Vesting (dictated by timescales for the CPO process and worst case scenario)	August 2021
Contract Award	Autumn 2021
Contract Completion	Spring 2024

3. CONCLUSION AND RECOMMENDATIONS

- 3.1 The implementation of Phase 2 of the PTFP is essential to the future growth of Perth city as it is the means to service the Local Development Plan area. This will support sustainable economic growth and unlock essential housing and employment land throughout the Perth area by relieving pressure on the city centre. The CTRLR is the second phase of the PTFP project and is a further catalyst to opening up land to the northwest of Perth.
- 3.2 The preferred route corridor for the CTRLR was established in December 2016, and the design has now suitably progressed to determine the land required for the road alignment. Negotiations with the affected landowners and tenants have been underway for some time and will continue throughout the CPO process. However, for the reasons set out in this report it is proposed to promote a CPO to run in parallel in case some of the land cannot be purchased by agreement.

- 3.3 In order to ensure that the above programme can be met it is recommended that the CPO process is commenced as soon as possible.

It is recommended that the Council:

1. Agrees to the purchase of the land required for the scheme referred to in this report by negotiation with affected landowners;
2. Instructs the Head of Legal & Governance Services to initiate and, if necessary, complete the statutory procedures to acquire the land by compulsory purchase in parallel with the negotiated process; and
3. Authorises the promotion of the Perth and Kinross Council (Perth Transport Futures Project Cross Tay Link Road) Compulsory Purchase Order 2019 to acquire the land shown on the drawings reference:

119046-SWECO-LSI-000-DR-D-10011 Rev P09
119046-SWECO-LSI-000-DR-D-10012 Rev P10
119046-SWECO-LSI-000-DR-D-10013 Rev P10
119046-SWECO-LSI-000-DR-D-10014 Rev P11
119046-SWECO-LSI-000-DR-D-10015 Rev P12
119046-SWECO-LSI-000-DR-D-10016 Rev P10

all as annexed at Appendix 2 to this report.

Author

Name	Designation	Contact Details
Jillian Ferguson	Roads Infrastructure Manager	01738 475000 TESCommitteeReports@pkc.gov.uk

Approved

Name	Designation	Date
Jim Valentine	Depute Chief Executive (Chief Operating Officer)	11 September 2019

If you or someone you know would like a copy of this document in another language or format, (on occasion, only a summary of the document will be provided in translation), this can be arranged by contacting the Customer Service Centre on 01738 475000.

You can also send us a text message on 07824 498145.

All Council Services can offer a telephone translation facility.

1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	Yes / None
Community Plan / Single Outcome Agreement	Yes
Corporate Plan	Yes
Resource Implications	
Financial	Yes
Workforce	Yes
Asset Management (land, property, IST)	Yes
Assessments	
Equality Impact Assessment	Yes
Strategic Environmental Assessment	Yes
Sustainability (community, economic, environmental)	Yes
Legal and Governance	Yes
Risk	Yes
Consultation	
Internal	Yes
External	Yes
Communication	
Communications Plan	Yes

1. Strategic Implications

Community Plan/Single Outcome Agreement

- 1.1 The wider PTFP supports the Community Plan Vision to “create and sustain vibrant, safe, healthy and inclusive communities in which people are respected, nurtured and supported and where learning and enterprise are promoted.” Specifically this projects encourages sustainable economic growth, an improves and safer environment and healthier choices for sustainable transport.

- 1.2 The PTFP supports the following Outcomes:

- Our area will have a thriving and expanding economy
- Our area will have improved infrastructure and transport links
- Our young people will attain, achieve and reach their potential
- Our communities will be safer
- Our area will have a sustainable natural and built environment

Corporate Plan

- 1.3 The Council's Corporate Plan 2018-2022 lays out five outcome focussed strategic objectives which provide clear strategic direction, inform decisions at a corporate and service level and shape resources allocation. They are as follows:

- i) Giving every child the best start in life
- ii) Developing educated, responsible and informed citizens
- iii) Promoting a prosperous, inclusive and sustainable economy
- iv) Supporting people to lead independent, healthy and active lives
- v) Creating a safe and sustainable place for future generations.

1.4 The project's benefits in respect of the wider objectives of the Corporate Plan are outlined below:

- Giving every child the best start in life – provides access to services, community facilities and the outdoors.
- Promoting a prosperous, inclusive and sustainable economy – assists in the delivery of sustainable economic growth of the Perth area, in particular opening up of economic development land to the northwest of Perth.
- Supporting people to lead independent, healthy and active lives – The project will reduce congestion and therefore reduce traffic emissions, thereby contributing positively to air quality in the corridor and surrounding area. This will have a positive benefit for the health of residents in this area. The project also includes enhanced provision for non-motorised users. This will provide a more positive environment for pedestrians and cyclists and could encourage more people within the area to walk and cycle.
- Creating a safe and sustainable place for future generation – The project will facilitate the delivery of the Local Development Plan strategy to support the sustainable economic growth of the area. In addition, by facilitating the Cross Tay Link Road and delivering the "Shaping Perth's Transport Future" transport strategy, this project can contribute to reducing the carbon footprint of the area and promoting sustainable travel modes. The project will lead to lower journey times and reduce congestion, while providing more travel connections and alleviating the conflict between local and through traffic movements. This will provide for a better environment for this area.

2. Resource Implications

Financial

- 2.1 The scheme cost is currently estimated at £118 million. Funding of £78 million towards it was committed by the Council on 22 June 2016 (Report 16/227 refers). The remaining £40 million will be funded by the Scottish Government.
- 2.2 As part of the process, a Land Cost Estimate Report has been prepared by the District Valuer Service, in liaison with Legal and Governance Services and the Estates team.

Workforce

- 2.3 The CPO process will be undertaken by the Roads Infrastructure Team, Estates and Legal Services with support from the District Valuer Service, Brodies LLP and Sweco.

Asset Management (land, property, IT)

- 2.4 The Investment Team (Estates) have been consulted on the proposals to compulsory purchase land, and future maintenance will be prioritised within the budget available.

3. Assessments

Equality Impact Assessment

- 3.1 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties.
- 3.2 This section should reflect that the proposals have been considered under the Corporate Equalities Impact Assessment process (EqIA) with the following outcome:
- (i) Assessed as **not relevant** for the purposes of EqIA

Strategic Environmental Assessment

- 3.3 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals.
- 3.4 This section should reflect that the proposals have been considered under the Act and no further action is required as it does not qualify as a PPS as defined by the Act and is therefore exempt.

Sustainability

- 3.5 The proposals have been considered under the provisions of the Local Government in Scotland Act 2003 and Climate Change Act using The Integrated Appraisal Toolkit. The proposals will not have a direct impact on sustainable development or climate change.
- 3.6 Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. In terms of the Climate Change Act, the Council has a general duty to demonstrate its commitment to sustainability and the community, environmental and economic impacts of its actions. This report however seeks to acquire land to take forward a key action from the Local Development Plan. There is a statutory duty of the Council to ensure that the LDP contributed towards sustainable development accordingly no further assessment is required.

Legal and Governance

- 3.7 The Perth Transport Futures Project has been under development for a number of years and is fully documented in various reports and plans.
- 3.8 Legal and Governance Services has been involved in the development of the proposals for the acquisition of land, and the CPO will be promoted in accordance with the relevant legislation and guidance.

Risk

- 3.9 A Project Board has been established to oversee the delivery of Phases 1 and 2 of the Perth Transport Futures Project. Membership includes the Council's Procurement Manager, the Head of Finance and representatives of Legal and Governance Services. The Board examines all issues in relation to risk through the Risk Register, and makes the necessary decisions on reports and appraisals put forward.

4. Consultation

Internal

- 4.1 A briefing session on the scheme was held for Elected Members on 14 May 2018, with a further update given on 30 August 2018. These included details of the alignment and the need to acquire land.
- 4.2 This report has been prepared in liaison with Legal and Governance Services and Brodies LLP.

External

- 4.3 Details of the scheme, including regular updates, have been provided to all landowners. The draft land plans were also issued and discussed with each landowner. Discussions will continue throughout the process.
- 4.4 All relevant statutory consultees (e.g. HES, SNH, SEPA, etc.) have been consulted on the scheme.
- 4.5 Public exhibitions were held in May and June 2018 and were very well attended, with the majority of the public supporting the scheme. Following the exhibitions a Question & Answer document was prepared and is available online at www.perthtransportfutures.co.uk.
- 4.6 Further public exhibitions as part of the planning application consultation process took place in August 2019 as follows:
- Luncarty – 21 August
 - Scone – 22 August
 - Coupar Angus – 27 August
 - Perth – 28 August

5. Communication

- 5.1 This is a significant infrastructure scheme which has a detailed programme in place. This includes key dates for consultations and communications with the public and key stakeholders.

2. BACKGROUND PAPERS

Report to Council on 22 June 2016, Composite Capital Budget 2016-2023 (16/227)

Report to Council on 14 December 2016, Perth Transport Futures Project: Phase 2 Cross Tay Link Road Preferred Route (16/560)

Report to Council on 19 June 2019, Perth Transport Futures Project Phase 2 – Cross Tay Link Road Review of Alignment between A93 and A94 (19/189 (Revised))

3. APPENDICES

Appendix 1A and 1B – Alignment

Appendix 2A – 2F – Compulsory Purchase Order Plans