



Economic Development & Infrastructure Services Committee

Tuesday, 10 September 2019

NOTICE IS HEREBY GIVEN that a Meeting of the **Economic Development & Infrastructure Services Committee** is to be held at **Council Chambers, Council Office, High Street, Elgin, IV30 1BX** on **Tuesday, 10 September 2019** at **09:30**.

BUSINESS

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Consider any oral question on matters delegated to the Committee in terms of the Council's Scheme of Administration.

Summary of Economic Development and Infrastructure

Services Committee functions:

Roads Authority; Lighting Authority, Reservoirs Act 1975, Public Passenger Transport; Flood Prevention; Twinning; Piers and Harbours and Coast Protection; Industrial and Commercial Development; Environmental Protection; Burial Grounds; Assistance to Industry or Commerce; Public Conveniences; Council Transportation; Catering & Cleaning; Land Reform (Scotland) Act 2003; Countryside Amenities; Tourism, monitoring funding from European Programmes, youth training and employment creation scheme and provide Architectural, Quantity Surveying, Maintenance and Allied Property Services.

Any person attending the meeting who requires access assistance should contact customer services on 01343 563217 in advance of the meeting.

GUIDANCE NOTES

* **Declaration of Group Decisions and Members Interests** - The Chair of the meeting shall seek declarations from any individual or political group at the beginning of a meeting whether any prior decision has been reached on how the individual or members of the group will vote on any item(s) of business on the Agenda, and if so on which item(s). A prior decision shall be one that the individual or the group deems to be mandatory on the individual or the group members such that the individual or the group members will be subject to sanctions should they not vote in accordance with the prior decision. Any such prior decisions will be recorded in the Minute of the meeting.

** **Written Questions** - Any Member can put one written question about any relevant and competent business within the specified remits not already on the agenda, to the Chair provided it is received by the Proper Officer or Committee Services by 12 noon two working days prior to the day of the meeting. A copy of any written answer provided by the Chair will be tabled at the start of the relevant section of the meeting. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than 10 minutes after the Council has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he or she can submit it in writing to the Proper Officer who will arrange for a written answer to be provided within 7 working days.

*** **Question Time** - At each ordinary meeting of the Committee ten minutes will be allowed for Members questions when any Member of the Committee can put a question to the Chair on any business within the remit of that Section of the Committee. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than ten minutes after the Committee has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he/she can submit it in writing to the proper officer who will arrange for a written answer to be provided within seven working days.

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THE MORAY COUNCIL

Economic Development & Infrastructure Services Committee

SEDERUNT

Councillor Graham Leadbitter (Chair)
Councillor Theresa Coull (Depute Chair)
Councillor David Bremner (Member)
Councillor John Cowe (Member)
Councillor Gordon Cowie (Member)
Councillor John Divers (Member)
Councillor Claire Feaver (Member)
Councillor Marc Macrae (Member)
Councillor Maria McLean (Member)
Councillor Shona Morrison (Member)
Councillor Ron Shepherd (Member)
Councillor Sonya Warren (Member)
Councillor Walter Wilson (Member)

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**Minute of Meeting of the Economic Development & Infrastructure Services
Committee**

Tuesday, 11 June 2019

Council Chambers, Council Office, High Street, Elgin, IV30 1BX

PRESENT

Councillor David Bremner, Councillor Gordon Cowie, Councillor John Divers, Councillor Ryan Edwards, Councillor Graham Leadbitter, Councillor Marc Macrae, Councillor Maria McLean, Councillor Shona Morrison, Councillor Ron Shepherd, Councillor Sonya Warren

APOLOGIES

Councillor Theresa Coull, Councillor John Cowe, Councillor Claire Feaver

IN ATTENDANCE

Head of Direct Services, Transportation Manager, Roads Maintenance Manager, Consultancy Manager, Environmental Protection Manager, Legal Services Manager and Mrs Lissa Rowan, Committee Services Officer as Clerk to the Meeting.

1 Chair

Councillor Leadbitter, being Chair of the Economic Development and Infrastructure Services Committee, chaired the meeting.

2 Declaration of Group Decisions and Members Interests

In terms of Standing Order 20 and the Councillors' Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Members interests in respect of any item on the agenda.

3 Resolution

The Committee resolved that, in terms of Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting during consideration of the items of business appearing at the relevant paragraphs of this minute as specified below, so as to avoid disclosure of exempt information of the class described in the appropriate paragraphs of Part 1 of Schedule 7A of the Act.

Paragraph Number of Minute	Paragraph Number of Schedule 7A and Reason
15	6 and 8 - Information relating to proposed terms and/or expenditure to be incurred by the Authority and information relating to the financial or business affairs of any particular person(s)

4 Written Questions

The Committee noted that no written questions had been submitted.

5 Minute of Meeting dated 16 April 2019

The minute of the meeting of the Economic Development and Infrastructure Services Committee dated 16 April 2019 was submitted and approved.

6 Staff Car Parking

Under reference to paragraph 6 of the minute of Moray Council dated 26 September 2018, a report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee of the responses to the advertisement of the Car Park Order Amendment relating to Grayfriars Street Car Park and The Annexe Car Park.

During discussion surrounding the consultation process, concern was raised that members of the public had found it difficult to take part in the consultation as the detail as to how the charging would be administered was not available.

In response, the Legal Services Manager advised that the purpose of the statutory consultation was based on the Car Park Order Amendment however it had been advertised that the means by which the charging would be administered would be by a season ticket and that this had been a budget decision.

The Chair, having considered the responses to the statutory advertisement of the Car Park Order Amendment, moved that the Committee approve the implementation of the Order as advertised. This was seconded by Councillor Morrison.

Councillor Macrae was of the opinion that administering car park charges by means of a parking permit would place a considerable administrative burden on the Council and moved that the Committee do not approve the implementation of the order and pursue an alternative solution.

In response, the Legal Services Manager advised that the recommendation from Officers was to approve the implementation of the Order and that Councillor Macrae's motion not to approve implementation of the Order and pursue an alternative solution would have to be more specific so that Officers knew what the view of the Committee was.

Councillor Macrae stated that, in his opinion, it would be less burdensome for the Council if the machines in the car parks were programmed to collect a charge of £1 per day, Monday-Friday between the hours of 8:00 am - 6:00 pm.

In response the Transportation Manager advised that this had been considered by Officers however in choosing that method of charging, there were implications in terms of equalities and the Car Park Order Amendment.

The Legal Services Manager further advised that if the Committee were minded not to approve the Car Park Order Amendment, the process would have to be stopped and a new Car Park Order Amendment advertised on the basis of £1 per day, Monday-Friday between the hours of 8:00 am - 6:00 pm. She further advised that the consultation had raised some issues in terms of equalities in that people who cannot start work early are disadvantaged as the parking spaces would be on a first come first served basis. Furthermore, as Moray Council had agreed to the administration of staff car parking charges by way of a parking permit then a report would require to be brought to a future meeting of Moray Council to vary this decision.

On hearing the advice from the Legal Services Manager, Councillor Macrae amended his motion to reflect that a further report be submitted to a future meeting of Moray Council recommending that further consultation be carried out on a new Car Park Order Amendment based on charging £1 per day, Monday-Friday, 8:00 am – 6:00 pm for Moray Council staff. This was seconded by Councillor M McLean.

On a division there voted:

For the Motion (4) Councillors Leadbitter, Morrison, Bremner and Warren

For the Amendment (6) Councillors Macrae, M McLean, Cowie, Divers, Edwards and Shepherd

Abstention (0) Nil

Accordingly, the amendment became the finding of the Committee and it was agreed that:

- i. the process to approve the current Car Park Order Amendment is stopped; and
- ii. a further report be submitted to a future meeting of Moray Council recommending that further consultation be carried out on a new Car Park Order Amendment based on charging £1 per day, Monday-Friday, 8:00 am – 6:00 pm for Moray Council staff.

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee with regard to matters of Marine Safety and compliance with the Port Marine Safety Code (PMSC) for 2018/19. The report stated that the Council is currently considered to be compliant with the PMSC, however work is still required to stabilise the Council's position in relation to marine safety, which will be evidenced through future reports to, and scrutiny from, this Committee.

During discussion surrounding incident statistics and lessons learned, attention was drawn to the incident that had occurred at the harbour at Buckie on the 6 August 2018 where an angler had lost their balance and slipped and it was queried why the report stated that no lessons had been learned from this incident.

In response, the Transportation Manager advised that the harbour staff had been the first responders to this incident however the floatation devices used were not suitable for rescue as they were too bulky and that a slimmer device would have been more suitable therefore additional, more suitable floatation devices had been purchased should these be required in the future. The Transportation Manager agreed that this was a lesson learned and should have been included in the report.

During further discussion surrounding the increased use of harbours during the summer months, it was queried whether consideration had been given to promoting harbour safety via social media platforms?

In response, the Transportation Manager advised that the Council worked closely with the Coastguard and the Royal National Lifeboat Institution (RNLI) on a number of safety issues and agreed to share coastal safety information via the Council's social media forum to promote harbour safety.

Thereafter, the Committee agreed:

- i. to note the safety performance for 2018/19, fulfilling their function as Duty Holder under the Port Marine Safety Code; and
- ii. that coastal safety information be promoted online via the Council's social media forum.

8 Sanquhar Loch and Woodland Management Plan

Under reference to paragraph 12 of the minute of this Committee dated 20 March 2018, a report by the Corporate Director (Economic Development, Planning and Infrastructure) asked the Committee to approve the Sanquhar Loch and Woodland Management Plan and agree to fund the improvements from revenue reserves. The report stated that the Management Plan will provide a medium to long term vision for the important open space asset and benefit the local community and visitors whilst building on the strong partnership with the volunteers known as the Sanquhar Dam Restoration Group.

The Committee joined the Chair in commending the work undertaken by the volunteers known as the Sanquhar Dam Restoration Group for their valuable contribution and dedication to Sanquhar Loch and thereafter agreed:

- i. to approve the Management Plan as set out in Appendix 1 of the report: and
- ii. that £ 30,000 of the £53,938 legacy funding which is classed as revenue

reserves that have been earmarked for the upkeep of the Sanquhar Estate may be accessed over a five year period between 2019 and 2024 to be spent on the recommendations of the Management Plan for the Loch & Woodland including associated upgrade and maintenance measures.

9 Pilmuir Pump Station Operation and Maintenance

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee of the proposed changes to the scope of operation and maintenance of Pilmuir Pump Station. The report stated that the current operation and maintenance of Pilmuir Pump Station is undertaken in line with the Operation and Maintenance Manual for the Forres (River Findhorn and Pilmuir) Flood Alleviation Scheme at a cost of £40,000 per year, and that the proposed changes could save the Council up to £20,000 per year.

Following consideration the Committee agreed the proposed change to the scope of operation and maintenance of Pilmuir Pump Station, as set out in paragraph 3.5 of the report.

10 Lossiemouth Seatown and Portgordon Flood Studies

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee of progress on the proposed Flood Protection Schemes at Lossiemouth Seatown and Portgordon. The report stated that, following completion of the studies the proposed Flood Protection Scheme at Lossiemouth Seatown has a strong business case and would consist of a flood retaining embankment between the estuary and the properties and caravan park at Seatown. No positive business case had been identified to reduce wave overtopping at Portgordon therefore the Flood Protection Scheme at Portgordon was not recommended for progression.

During discussion surrounding the estimated cost detailed in the report of between £18m-£26m to build a rock armour embankment, a stepped revetment and new wave return wall at Portgordon, clarification was sought as to whether an actual quote had been received for this work as concern was raised that the Committee was making a decision based on an estimated cost.

In response, the Consultancy Manager advised that the estimated cost of between £18m-£26m was based on current market value.

Following consideration, the Committee agreed:

- i. to take forward development of the proposed Flood Protection Scheme at Lossiemouth Seatown as detailed in paragraph 3.3-3.7 of the report; and
- ii. that a Flood Protection Scheme for Portgordon is not progressed further as detailed in paragraphs 3.8-3.11 of the report.

11 Moray Employment Land Audit 2019

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee of the key findings of the Moray Employment Land Audit 2019 and asked that the Committee agree the Moray Employment Land

Audit 2019. The audit identified that there is 79.84 hectares (net) of marketable/effective employment land, of which 39.15 hectares (net) is immediately available and that it had identified issues with the restricted choice of sites across settlements and a shortage of industrial land in Forres and Speyside.

Following consideration, the Committee agreed to note:

- i. the employment land supply in Moray, as summarised in Section 4 and Appendix 1 of the report; and
- ii. that the Moray Employment Land Audit 2019 at Appendix 2 has been agreed by the Planning and Regulatory Services Committee on 21 May 2019.

12 Direct Services and Development Services (Economic Development) Capital and Revenue Budget Monitoring to 31 March 2019

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee of the current position regarding Direct Services and Development Services (Economic Development) Capital and Revenue Budget Monitoring to 31 March 2019.

During discussion surrounding council car parks, the car park income surplus was noted however concern was raised that council car parks still appeared to be under occupied therefore it was queried whether future reports could include vehicle movement and ticket sales information.

In response, the Transportation Manager assured the Committee that, in budget terms, all of the car parks were performing well and that there were no significant changes in terms of usage and agreed that future reports would include the number of tickets sold, where this information is available.

During further discussion surrounding the Elgin Parking Strategy and the ongoing issue with on street parking, concern was raised that there was no mention of this in the report.

In response, the Head of Direct Services advised that a new Transportation Bill was currently being considered by the Scottish Parliament which would address issues such as double parking and pavement parking and that a report would be brought to a future meeting of this Committee, in terms of implications the Bill will have to the Council, once the new Transportation Bill has progressed through the Scottish Parliament.

The Committee joined the Chair in commending Officers for their effort in providing a closely balanced budget on a considerable budget line and thereafter agreed:

- i. to note the budget monitoring report for the period to 31 March 2019;
- ii. that, in terms of car park income, future reports include the number of tickets sold, where this information is available; and
- iii. that a further report be brought to a future meeting of this Committee in relation to parking enforcement, once the new Transportation Bill has progressed through the Scottish Parliament.

13 Performance Report (Direct Services) - Half Year to March 2019

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee of the performance of the service for the period from 1 October 2018 to 31 March 2019. The report stated that at the end of March 2019, 69% of Direct Services performance indicators have shown good performance against target and that the Service Plan for 2018/19 is currently 79% complete with only 3 actions overdue by the end of the year.

During his introduction, the Head of Direct Services advised that further analysis had been carried out on the performance indicator that measured waste management which revealed that the recycling rate is actually 57.4% and not 53.1% as stated in the report. This was noted.

Following consideration, the Committee welcomed the good performance indicated in the report and thereafter agreed to note:

- i. the performance against Economic Development, Planning and Infrastructure Performance Indicators, Service Plan and Complaints to the end of March 2019 as outlined within the report;
- ii. the actions being taken to improve performance where required; and
- iii. that the recycling rate detailed at paragraph 5.24 of the report should be 57.4% and not 53.1%.

14 Question Time

There were no questions raised.

15 Buckie Development [Para 6 & 8]

A report by the Corporate Director (Economic Development, Planning and Infrastructure) advised the Committee of an offer which had been received to purchase the North part of Buckie shipyard.

Following consideration, the Committee agreed:

- i. the sale of the north part of the Buckie Shipyard site as shown in red in Appendix 1 of the report for £65K as detailed in Section 5 of the report; and
- ii. to delegate to the Legal Services Manager, in consultation with the Acting Head of Housing and Property and Head of Direct Services, to conclude missives and conditions of sale as described in this report.



**REPORT TO: ECONOMIC DEVELOPMENT AND INFRASTRUCTURE
COMMITTEE ON 10 SEPTEMBER 2019**

SUBJECT: WILDFOWLING IN FINDHORN BAY

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING AND INFRASTRUCTURE)**

1. REASON FOR REPORT

- 1.1 The Committee is asked to review the current progress towards seeking a voluntary agreement to control wildlife shooting on the Findhorn Bay Local Nature Reserve (FBLNR)
- 1.2 This report is submitted to Committee in terms of Section III F(8) of the Council's Scheme of Administration relating to exercising the functions of the Council in relation to countryside amenities.

2. RECOMMENDATION

2.1 It is recommended that the Committee:

- (i) **note the outcome of the external mediation process as outlined in paragraph 4 of this report; and**
- (ii) **reject the petition (in whole/part) stating reason as detailed paragraph 6; or**

3. BACKGROUND

- 3.1 The Council received a petition on the 21 December 2015 from Friends of Findhorn Bay (FoFB) titled "Ban the killing, injuring and maiming of geese and ducks in the FBLNR. A further conflicting online petition was received from Martin Gauld titled "A fair Fight for Findhorn Fowlers Now" .
- 3.2 A preliminary hearing was heard on the 8 March 2016 at this Committee where the Petitioner Lisa Mead made her case on behalf of the FoFB (paragraph 8 of the Minute refers).
- 3.3 During consideration the Committee noted that an on-line counter petition had been submitted by Martin Gauld titled "A fair Fight for Findhorn Fowlers Now". It should be noted that while this petition was not validated, that due

consideration was given to this petition in order for members to understand the range of views that will influence what role the Council should take.

- 3.4 The decision of the Committee was to pass the petition to the Corporate Director (Economic Development, Planning & Infrastructure), the Chair and Local Members to facilitate discussions between all interested parties which included the counter petitioner to reach a compromise, including consideration of an option to extend the voluntary no shooting zone southwards.
- 3.5 An initial meeting was held on Monday 11 April 2016 where 21 representatives were invited to attend representing the Council, Petitioners, FBLNR Management Committee, Findhorn & Kinloss Community Council, Wildfowlers, Scottish Natural Heritage, the Head of Local Wildfowling Club, RSPB, FoFB, British Association for Shooting & Conservation (BASC), and Scottish Association for Country Sports (SACS).
- 3.6 While no voluntary agreement was reached at this meeting there was a willingness from the various stakeholders to seek further dialogue.
- 3.7 A mediation event was held on the 8 June 2016 which delivered a proposal for a voluntary agreement (**APPENDIX A**) however it became apparent in early August 2016 that the agreement may not be supported by all interested parties including (BASC) and the Forres and Nairn Wildfowlers.
- 3.8 The Economic Development and Infrastructure Committee of the 20 September 2016 considered a report which outlined the process to date and that despite the best endeavours of the Council a voluntary agreement was not able to be achieved at that time.
- 3.9 The Committee did agree however to defer the report to allow a newly formed sub-committee of the FBLNR Management Committee under the chair of Roy Dennis to try and get an agreement with the interested parties (para 6 of the minute refers).
- 3.10 A report was submitted to this Committee on the 5 September 2017 to consider a proposal from the chair of the FBLNR Management Committee (**APPENDIX A**) which outlined the progress made to date and a proposal for a voluntary permit scheme for the season 2017/18, starting 1 September 2017. The Committee agreed to defer further consideration of the petitions until after the 2017/18 season in order to assess the success or otherwise of the voluntary scheme and that signage be displayed on Council owned land stating that no shooting is permitted above the foreshore (para 5 of the minute refers).
- 3.11 A report was submitted to a Moray Council meeting on the 6 June 2018 that highlighted that the voluntary scheme for the 2017/18 season had not been adhered to, this was supported by evidence from a consultation exercise. At the meeting it was agreed to further mediation being undertaken by an external mediator (para 6 of the minute refers).
- 3.12 A summary of the timeline above is shown in **APPENDIX B**.

4. MEDIATION PROCESS

- 4.1 A summary of the negotiations by the consultant is shown in **APPENDIX C**.
- 4.2 From the September 2018 to February 2019 there were 6 meetings held by the consultant with a wide range of stakeholders. The contract ended in February 2019 due to the agreed contract price for the work being reached.
- 4.3 While an agreement on a voluntary scheme had not been reached by all parties, progress had been made with an agreement to carry out a community engagement exercise that sought feedback on 3 options (**APPENDIX D**) that related to days and times of the week where shooting was allowed. The outcome of this exercise would result in a preferred option that could be piloted for the 2019/20 season.
- 4.4 Given that the consultant was no longer employed by the Council, it was agreed that the community engagement exercise was to be facilitated by the Council's Community Support Unit (CSU).
- 4.5 It was envisaged that the work by the CSU would be in the order of 4 days, however it soon transpired that not all parties had agreed on the options and 4 days turned out to be 3 weeks without an agreement being reached on the options for community engagement.
- 4.6 At this stage the CSU could no longer continue with this exercise given other Council priorities. Given that there was no one available to continue with the process which would have required further negotiation to try and reach an agreement on the options, the Head of Direct Services called a meeting on the 4 June 2019 with various stakeholders to confirm that the Council could no longer support the group as the existing council mandate for action had been exhausted .

5 PETITIONS PROCESS

- 5.1 In terms of the process for considering petitions this Committee held a preliminary hearing on the 8 March 2016. That petition process is still live and will continue to be live until the Committee makes a decision on whether to reject the petition, goes to full petition hearing or both parties agree to withdraw their petition. The list of options for Committee to consider as part of the petition process are shown below:
- (a) direct that the petition (in whole or part) proceed to a full hearing, at the next available date; or
 - (b) reject the petition (in whole/part) stating reason; or
 - (c) for simple issues instruct immediate action by the council without any further hearing or report; or
 - (d) pass the petition to the relevant director and chairperson to look into, with or without any specific direction as to action.

5.2 A flow chart of the process is shown in **APPENDIX E**.

5.3 **OPTION 1 - FULL HEARING:** Should the issues proceed to a full petition hearing then the intention would be to invite the 2 petitioners to speak at the hearing with supporting information (maximum 2 sides of A4) from the other consultees listed below:

- BASC
- SACS
- FBLNR Management Committee
- Findhorn and Kinloss Community Council
- Findhorn Angling Club
- Findhorn Fairway Committee
- Findhorn Foundation
- Findhorn Heritage Centre
- Dyke Community Council
- Highlands and Island Enterprise
- Landowners of the reserve
- Local businesses (B&B, Hotels)
- MOD (as occupier of the former RAF Kinloss Base)
- Police Scotland
- Royal Findhorn Yacht Club
- RSPB
- SNH
- Wildfowlers (local and visiting)
- Forres Community Council

5.4 Going to a full petition hearing would hear views from the original petitioners FoFB and Martin Gauld. While this potentially would give members a greater understanding of the issues from the perspective of these parties, There are numerous factional interests in this case as shown by the list at para 5.3 above and there is a risk that those interests not recognised as petitioners will claim that they are being marginalised or otherwise disadvantaged in the petitions process. Whilst it would be wrong to prejudge the outcome of a petition hearing, prior experience suggests that due to the formal and prescriptive nature of the process it is highly unlikely that a petitions hearing would help to identify a compromise solution acceptable to all factions. This would make any preference for bye-lawbye-laws allowing some shooting but under conditions very hard to progress because a bye-law which was not broadly supported would lead to protracted and costly proceedings. Instead a decision either maintaining the status quo or instructing bye-laws to ban shooting outright would appear to be the more likely outcome if a petitions hearing is the next stage of this dispute.

6 OPTION 2 - REJECT THE PETITION - recommended option

6.1 See recommendation 2.1 (ii). The Committee could reject the petition and decide that given the extensive time and resources applied over the past

three years to attempt to resolve this issue without success, that further resources cannot be allocated to this issue in the current financial climate as doing so would divert these from corporate priorities. In doing so, while having declared its position, such a decision would do little to resolve this local issue and could therefore be seen as supporting the status quo. A further petition could be submitted after 6 months from the decision. This option would continue to place a burden on staff resources to respond to complaints, enquiries and further requests from the Council to intervene and facilitate a bye-law but the scale of this cannot accurately be predicted.

- 6.2 If the petition was to be rejected, there are some existing controls which would remain applicable. Members of the public have a duty to exercise their rights to use the bay reasonably, with due care and attention to others and with respect for the land. Most outdoor pursuit organisations have codes of conduct and there are the overarching principles contained in the Scottish Outdoor Access Code. Behaviour and activities are therefore currently controlled by a variety of codes and laws. Inappropriate behaviour may constitute a breach of the peace or break anti-social behaviour laws. Equally other criminal acts – such a firearms offences or assault can be dealt with under existing law by Police Scotland.

7. OPTION 3 - OTHER ACTION - BYE-LAWS

- 7.1 Currently there are no bye-laws enacted which regulate activities on FBLNR. In Scotland, the public have a right to use the foreshore for recreational purposes. This includes wildfowling. Bye-laws are the only means by which the Council can ban or regulate wildfowling on the foreshore in Findhorn Bay.
- 7.2 Bye-laws must be agreed as necessary and reasonable by the Council. Creating bye-laws is a lengthy and costly process, involving consultation, drafting, Council consideration, and advertising. The process culminates in the bye-laws being considered by the Scottish Ministers who will either approve or reject them. If approved, bye-laws require to be reviewed every 10 years.
- 7.3 The Council would need to decide the details of a bye-law that it would want to promote, unless it decided to ban wildfowling altogether in the bay which would be much more straight forward in detail but would almost certainly be objected to. Currently there are two draft schemes which the Council could decide to either promote or amend. These are contained in **APPENDIX A**. It should be noted that neither of these schemes had full support during the previous mediation and it is likely that these would also be objected to by the wildfowling community. It is therefore not recommended that the Council go straight to promoting a bye-law without seeking further mediation at this stage, however further mediation would be subject to the same difficulties as the previous mediation..
- 7.4 If there is a substantial body of objection to any proposed bye-laws the Scottish Ministers may cause a public inquiry to be held. This would be likely if any of the proposals promoted by the Council fails to deliver a workable solution supported by all parties. Any public inquiry would place considerable demands on Council resources. See paragraph 8(c) for the financial implications of pursuing a bye-law.

8. **SUMMARY OF IMPLICATIONS**

(a) Corporate Plan and 10 Year Plan Local Outcomes Improvement Plan (LOIP)

The introduction of bye-laws to either ban or regulate wildfowling on FBLNR would not directly relate to the priorities in the Moray Council Corporate Plan 2018-2023.

(b) Policy and Legal

Details are included in the report.

(c) Financial implications

The cost of procuring external mediation including room hire was £8913.60. A contribution of £3900 was received from Scottish Natural Heritage.

The process for the creation of bye-laws is summarised in section 7 of this report. The estimated cost for this if work can be carried out from current staff resources and if the bye-laws are unchallenged is in the region of £10 - £15k. The costs of out-sourcing the work would be considerably higher, but no firm estimate is available. If challenged and the Ministers call for a public enquiry, it could cost a further estimated £20k. Given that there are conflicting views on this, an inquiry would be likely. In addition, if enacted, bye-laws require to be reviewed at least every 10 years.

It is estimated that a review of wildfowling bye-laws will likely cost between £10k - £35k as same issues are likely to resurface.

In addition to these initial costs, and the costs of review if bye-laws were approved, there would be ongoing management, administration and enforcement costs. There is currently no budget for this and the amount of work required is beyond the capacity of existing staff and so the work would either require to be outsourced or priority work deferred.

There is no current provision in budgets for the financial implications identified in this report. The Council is seeking to achieve significant savings and any additional recurring costs approved increase the pressure on the council's finances.

(d) Risk Implications

There is a significant risk to the Council in pursuing a bye-law because without having confidence that any bye-law would be unanimously supported by the stakeholders and community it would likely go to a public inquiry, thus incurring increased costs. Therefore if this route were to be favoured every effort should be made to assess the success of a voluntary scheme before consideration should be given to implementing a bye-law.

If the petition is dismissed, there is a risk that there will be continued community discontent until this issue is fully resolved recognising that further dedicated staff resources have not been assigned to continue efforts to facilitate an agreement.

(e) Staffing Implications

There have been significant staffing resources applied to this petition to date in particular supported by the Head of Direct Services, Head of Legal services, Democratic Services Manager, Employee Development Adviser, Community Support Unit and members support. This has been accommodated because the support although intense was provided over short periods and so the impact on existing priority work was limited. If the Council is to pursue a bye-law and seek consultation then the demands on staff resources are likely to increase and continue over a significant period of time. Outsourcing would be likely to incur costs well in excess of those indicated at paragraph (c) above.

If the Council is to reject the petition on the basis that every reasonable effort has been made over a period of three years to support a resolution and that to do otherwise would divert resources away from recognised corporate priorities at a time when significant savings require to be identified, it should be made clear that this is likely to be its stated position for the foreseeable future otherwise there will be continual expectation from interested groups that the Council will intervene at a future date resulting in continued pressure on the Council to deal with complaints, enquiries and demand for a bye-law placing continual pressure on staff resources. In addition petitions would potentially be lodged every 6 months.

(f) Property

There are no property implications arising from this report.

(g) Equalities/ Socio Economic Impact

There are no equalities issues arising from this report.

(h) Consultations

Corporate Director (Economic Development Planning and Infrastructure), Head of Financial Services, Head of Legal and Democratic Services, the Equal Opportunities Officer, L Rowan, Committee Services Officer have been consulted and any comments have been incorporated in the report.

9. CONCLUSIONS

- 9.1 There have been 3 separate attempts by the Council to seek to try and resolve this issue and all have failed to get a unanimous agreement. Therefore there is no confidence that a further attempt is going to be any more successful than previous attempts and certainly not without considerable resources being applied either internal and/or external to**

support a further process. Even in the medium to long term any mediated solution would be highly likely to require the support of a bye-law which would incur further expense in promoting and regulating the bye-law.

- 9.2 If the Council choose to reject the petition, this is unlikely to do anything to resolve the local unrest that this issue has caused and there is the potential that a further petition is lodged in 6 months time with a view to reopening the debate. It would be envisaged that the council will continue to receive ongoing complaints and enquiries and to minimise the work load in dealing with these a standard response would be developed that reflects the Council decision should it decide to reject the petition. If this decision is based on council spending priorities and this is clearly articulated at the time the decision is made, this may help to manage expectations that the council will intervene at a future date.
- 9.3 Since December 2015 there have been 5 committee reports including a preliminary petition hearing, 3 separate mediation exercises, a consultation exercise, and numerous stakeholder meetings all without achieving an agreement. It is therefore concluded that there would be no new information that would inform a committee decision if it sought to seek a full petition hearing.

Background Papers

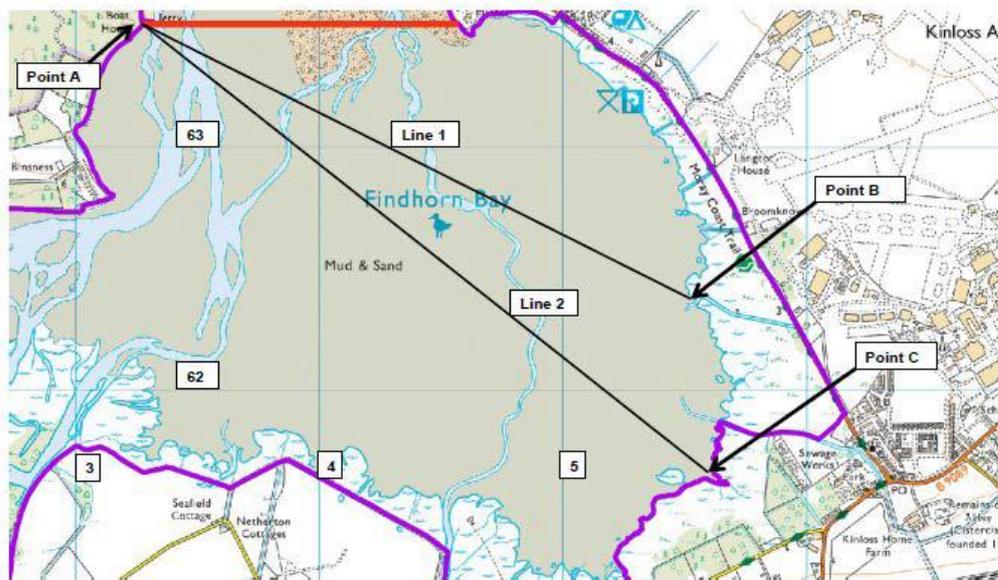
Shooting Agreement (Not implemented for 2016/17 Season)/	
The Wildfowling Agreement for FBLNR for 2017/2018	APPENDIX A
Timeline – Wildfowling in Findhorn Bay	APPENDIX B
Catalyst Mediation Report	APPENDIX C
Outline Permit Options	APPENDIX D
Petition/Bye-law Flowchart	APPENDIX E
Findhorn bay local nature reserve – Status	APPENDIX F

Author of Report: Stephen Cooper, Head of Direct Services

Ref:

APPENDIX A

**FINDHORN NATURE RESERVE
SHOOTING AGREEMENT (Not implemented for 2016/17 Season)
The map**



Page 3 of 3

Point A is OS Grid Ref. NJ 03275 63512)
Point B is OS Grid Ref. NJ 05525 62352)
Point C is OS Grid Ref. NJ 05575 61650)

Mondays and Tuesdays:

No shooting at any time North and East of Line 2, which runs from Point A to Point C on attached map. This includes no shooting from/on all places North & East of Line 2 as if continued overland.

Wednesday, Thursday, Friday and Saturday:

No shooting at any time North and East of Line 1 which runs from Point A to Point B on the attached map. This includes that land on the North side of the caravan park burn. (That is, all places North & East of Line 1 as if continued overland.)

Monday to Saturday

No Shooting after 10am

Sunday

No shooting at anytime

The Wildfowling Agreement for FBLNR for 2017/2018

During 2016/2017 I held a range of meetings with Findhorn Bay wildfowlers, including BASC, other interests, including Friends of Findhorn Bay, members of Findhorn Bay LNR Management Committee (two of the quarterly meetings which also included public sessions), Moray Council officials and the Forres police inspector. In the end, a general agreement was reached after prolonged and sometimes difficult debates, which forms the basis of a voluntary permit system for the coming season. The Findhorn Bay LNR management committee supports the approach as fair but both the wildfowlers and Friends of Findhorn Bay are unhappy about certain aspects and regard the proposals as a trial for the forthcoming wildfowling season. All are agreed that in the end there should be Byelaws for Findhorn Bay but there are disagreements about the content. It seems necessary to keep the process rolling by attempting to use a voluntary system in 2017/2018.

In consequence, a voluntary permit system will be started in 2017/18. This will be overseen by a 5 person wildfowling sub-committee comprising the following members of the FBLNR management committee; two wildfowlers, one representing public interests, one bird conservation and the Chairman, with secretary assistance (which has already held its first meeting).

1. Local wildfowlers resident in Moray & Nairn, within 20 miles of Forres will receive a season permit on application – in the first season it will be free. They will be able to wildfowl on all days except Sundays and Mondays, and have exclusive wildfowling on Saturdays.

2. Visitor wildfowlers can apply for day permits, up to a maximum of 5 visiting wildfowlers per day, for Tuesday, Wednesdays, Thursdays and Fridays only – this will also be free in the first year.

3. Kinloss Bay, delineated from the Mosset Burn eastwards, would be open for goose shooting **only** during the months of September, October and November. There would be no shooting there in December, January and February.

4. Shooting times are restricted to one hour before sunrise to 10am and 2 hours before sunset to one hour after sunset. Outside these hours there will be no shooting. The Findhorn Bay LNR will host a wildfowling page with all relevant information for wildfowling in the Bay. It will outline a wildfowling good practice guide for Findhorn Bay, relevant maps and advice on good relations with local residents . Drop down menus will allow locals and visitors to apply for permits which will be free in the first year. Permits will be issued by email and can be

used on mobile phones and as a printed version. Individual wildfowlers' use of the LNR, including their bag returns, may form the basis of permit renewals in subsequent years. The FBLNR website will also contain advice for the local people and visitors to avoid conflict with wildfowling.

It has been a long and difficult road to get to this point. I am most grateful to all for engaging constructively in the formulation of a resolution and encourage everyone to support and test the voluntary scheme. It will inform the future bye-laws

I submit this recommendation as an attempt to bring peace to a fraught situation and seek Moray Council's approval to continue with the voluntary scheme.

Roy Dennis, Chairman Findhorn Bay LNR Management Committee
July 2017

APPENDIX B

Timeline – Wildfowling in Findhorn Bay

Action	Date	Outcome
Council received a petition from Friends of Findhorn Bay “Ban the killing, injuring and maiming of geese and ducks in the FBLNR”	21 December 2015	Go to Preliminary hearing
A preliminary hearing held by Economic Development & Infrastructure Committee	8 March 2016	Facilitate discussions to reach a compromise agreement
Discussions/Mediation took place between Interested parties	11 April 2016 8 June 2016	Despite a proposal being drawn up no consensus achieved
Economic Development & Infrastructure Committee – Process to date	20 September 2016	Sub – Committee of FBLNR Management Committee to try and get agreement
Economic Development & Infrastructure Committee – Consider proposed voluntary scheme	5 September 2017	Defer further consideration of the petitions until after the 2017/18 season in order to assess the success or otherwise of the voluntary scheme and that signage be displayed on Council owned land stating that no shooting is permitted above the foreshore
Consultation to stakeholders to assess 2017/18 season	March 2018	Consensus from all parties that voluntary scheme not adhered to
Special Moray Council - Review results of consultation	6 June 2018	Seek external mediation/negotiation to facilitate agreement
Negotiation events	October 2018 - April 2019	3 options devised on community consultation
Consultation with working group on options	May 2019	No agreement reached on 3 options. Council withdrew officer support.
Economic Development & Infrastructure Committee – Consider outcome of external mediation exercise	September 2019	TBC

“Conflict is natural, inevitable, necessary and normal. The problem is not it’s existence but how we handle it”

Bernard Mayer,
The Dynamics of Conflict Resolution. 2000

*“How are we going to solve this?”
(us against the problem)*

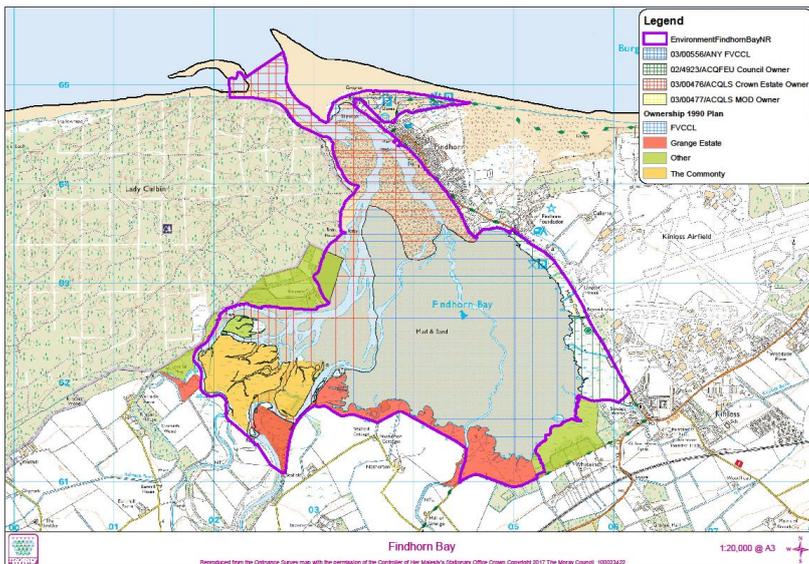
is much easier to hear than

*‘What are you going to do differently?’
(you are the problem)*

or worse

*‘Surely you can see you need to change?’
(I know the solution)”*

Dan Dana,
‘Conflict Resolution’ (2001)



REPORT TO MORAY COUNCIL

THE FINDHORN BAY WILDFOWLING NEGOTIATIONS

BACKGROUND & OUTCOMES

Catalyst Mediation Ltd 2019

1) BACKGROUND TO THE NEGOTIATION PROJECT

History

Some 20 years ago local wildfowling clubs expressed a desire for a byelaw and regulated permit scheme as a way of controlling numbers and visiting wildfowlers whose behaviour on the Bay was considered unacceptable.

In 2016 a petition was presented representing those residents close to the bay for whom the noise of shooting, the behaviour of some wildfowlers and for some the practice of wildfowling, was unacceptable.

As with any community, on almost any topic there will be a range of views, some of which might be termed “extreme” at either end of the debate. In this debate those extremes came to be represented by:

- ✦ a small number of individuals who sought to disrupt the activity of wildfowlers and
- ✦ some wildfowlers, mostly visitors, whose behaviour exacerbated the situation.

Accusations of bad behaviour on all sides increased, many local wildfowlers ceased to visit the Bay because of the atmosphere and some residents felt unsafe in their own homes.

An attempt to arrive at a voluntary permit scheme agreed by all parties nearly succeeded in 2017, but failed on two main issues:

- 1) Voluntary schemes would not guarantee the control and eventual eradication of unacceptable behaviour from either end of the debate.
- 2) The details of the permit scheme were not acceptable to all elements of the wildfowling community.

Key Problems

In any community where new residents move in from outside the area, differences of opinion on many traditionally accepted activities will develop. Frequently this has been characterised as the difference between metropolitan values and those of the countryside.

The debate around wildfowling was a good example of this.

- ✦ A traditional sport, practiced for hundreds of years and recognised in law, was regarded by many new to the area as creating an unexpected and unacceptable level of disturbance, while some regarded it as morally unacceptable and believed strongly that it should be banned.
- ✦ Wildfowlers resented what they saw as an unreasonable attempt to ban their sport, accepted that disturbance could be ameliorated through a permit scheme, but wanted reassurance that the “extreme” behaviour of the small group of protesters, would stop.

Not unexpectedly, there was neither trust nor respect between the various communities.

2) CURRENT PROJECT

In spring 2018 the Head of Direct Services won support for a different approach, of engaging an external negotiator to form a group representing those communities most affected by the debate, with the objective of reaching an outcome all the communities could support to achieve:

1. a cessation of the unacceptable behaviour from all sides
2. ameliorating the noise impact on nearby residents
3. reducing disturbance to wildlife, especially those protected species such as the curlew

Catalyst Mediation Ltd were appointed in August 2018 after a competitive tender and contacted the following representatives to form a Negotiating Group:

Binsness Estate (as a Landowners representative)	British Association for Shooting and Conservation
Findhorn and Kinloss Community Council.	Findhorn Bay Ecovillage
Findhorn Bay Local Nature Reserve Management Committee	Findhorn Wildfowling & Conservation Assoc
Forres Nairn and District Wildfowling Association	Friends of Findhorn Bay

The Findhorn Village Conservation Company asked to be informed but not involved in the discussions.

2. THE NEGOTIATING GROUP

Group Function

The Group were invited on the basis they agreed to negotiate (not mediate) in good faith, a set of improvements to any permit scheme, to maintain confidentiality during the negotiations and to maintain a respectful attitude to one another in the meetings. The facilitator would have no decision making power, but could suggest and advise the Group on any points raised and liaise with any organisation the Group felt would be useful to contact.

Three stages were outlined:

- 1) To agree the goals common to all communities.
- 2) To agree the most effective method of achieving those goals.
- 3) To negotiate the detail of the agreed method.

Based on this, meetings were held approximately every three to four weeks, with a clear agenda, notes from any previous meetings and any additional information the facilitator felt would be useful for the discussions. This included experiences from other wildfowling areas, the views of Police Scotland and other groups not necessarily represented at the meetings.

Members of the Group were encouraged to share experiences and views on any topic. The level of mistrust and suspicion meant that from time to time members had to be reminded of the benefits of demonstrating respect and there were two breaches of the confidentiality agreement, but on the whole most members accepted the wisdom behind these rules.

There were also issues with the unrealistic negotiating position adopted by some members, but these modified and became more realistic with time and encouragement.

Progress Achieved : The Common Goal & Method

Gradually a common view evolved that for both sides of the argument, enforceable legislation would be the only platform which would control unacceptable behaviour from both extremes of viewpoint. An associated permit scheme would allow for amelioration of disturbance to residents and wildlife.

Knowing this would involve a byelaw and associated costs, the Facilitator discussed possibilities with Moray Council and a way forward was proposed: that the communities involved would be consulted on three topics

- 1) Did they wish for a byelaw with a permit scheme to control unacceptable behaviour, ameliorate noise and disturbance and aid conservation of wildlife?
- 2) Would they be prepared to fund such a scheme?
- 3) Which of three possible permit scheme rules for year 1 they would prefer.

The Communities would be consulted by the Group using Scottish Government's Community Engagement (CE) guidelines with guidance from Moray Council staff.

Assuming positive responses to all three questions, fund raising would then begin to cover the costs of preparing a byelaw and submitting it to Scottish Government. At the same time funding would be raised so that a Warden could be employed on the Bay, possibly by more than one organisation, including a new fund raising body associated with the LNR and the Findhorn Village Conservation Company.

There were several reasons for adopting the Community Engagement approach:

- 1) This is an issue between communities representing different value systems, so the democratic approach is to put decisions in their hands. The level of response will show the level of their concern.
- 2) This also removes from the decisions any emotion between the members of the Group, especially around elements of the Permit Scheme.
- 3) If all the communities involved are sufficiently concerned, as they are reported to be, then it is not unreasonable for them to fund the necessary legislation.

- 4) In the event Scottish Government was approached to confirm a Byelaw and Permit Scheme, the likelihood of a Public Inquiry would be significantly reduced.

I offered to work with the Group to implement the CE program at an agreed to be community funded.

Current Position

Our contract ended in February 2019 with the agreement to proceed with the Community Engagement (CE) process and a “hand over” to the Moray Council CE team. The Group decided to carry on working with the CE team from Moray Council.

While my understanding is that the Community Engagement plan is still the preferred option, the details were taking so long for the Group to agree, that the limited time allocation available to the Moray Council CE team was more than used up without final agreement being reached by the Group on all points.

Given the lack of progress, on June 4th, Steven Cooper, Head of Direct Services for Moray Council, called an emergency meeting of the Group and explained that the Council could no longer support the Group CE plan as no agreement had been reached on the details of the program.

I attended that meeting and afterwards encouraged the Group to find ways of progressing the CE program and offered what help I could.

As yet I have had no response.

Conclusion

Moray Council were correct in allowing a negotiation to proceed, even with a group with such diverse views.

Achievements include:

-  An improved understanding from all sides of the others positions.
-  A degree of respect and trust between some members of the Group where none existed before.
-  A common goal in conserving the Bay and regulating unacceptable behaviour from all users.
-  A method by which this goal could be underpinned through a Byelaw and underlying Permit scheme.
-  A method by which the Communities involved could be canvassed for their support in funding a Byelaw and associated permit.

Recommendation

These elements still exist and could be made to work.

Rather than lose the investment put in by the Council and the effort put in by the Group, we would recommend that other local groups are canvassed to see if they would progress the existing plan.

OUTLINE PERMIT SCHEME OPTIONS FOR COMMUNITY ENGAGEMENT PROGRAM

Area A: North part of the Bay opposite Findhorn Village (See Map)

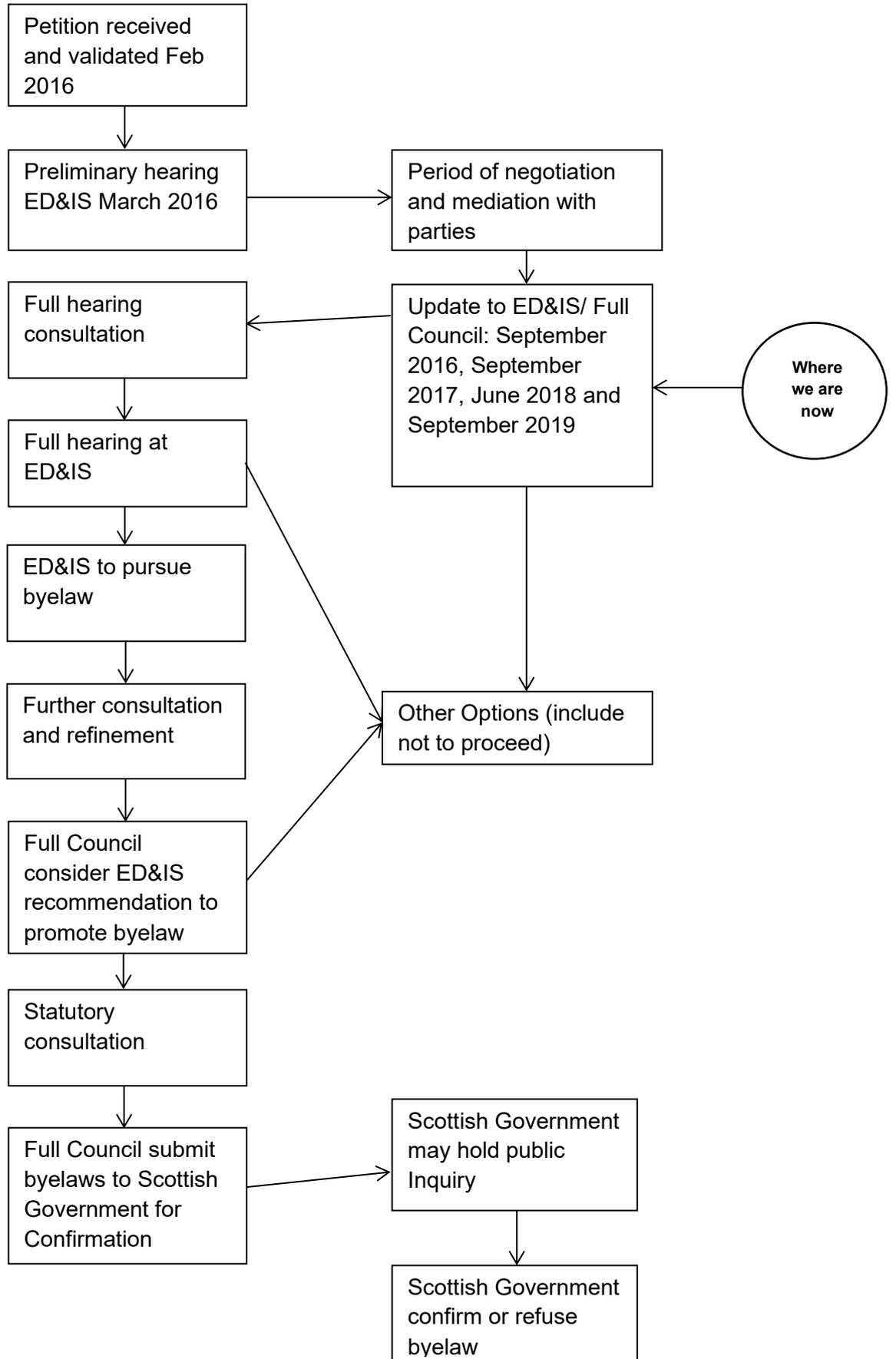
Option 1 (Residents)	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
AREA A	No Wildfowling at anytime						
Rest of the Reserve	No Wildfowling at anytime	No Wildfowling at anytime	No Wildfowling at anytime	Wildfowling am & pm	Wildfowling am & pm	Wildfowling am & pm	No Wildfowling at anytime

Option 2 (LNR)	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
AREA A	No Wildfowling at anytime	No Wildfowling at anytime	No Wildfowling at anytime	No Wildfowling at anytime	No Wildfowling at anytime	No Wildfowling at anytime	No Wildfowling at anytime
Rest of the Reserve	No Wildfowling at anytime	No Wildfowling at anytime	Local wildfowling clubs only at anytime	Wildfowling am & pm	Wildfowling am & pm	Local wildfowling clubs only at anytime	No Wildfowling at anytime

Option 3 (Wildfowlers)	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
AREA A	No Wildfowling at anytime	No Wildfowling at anytime	No Wildfowling at anytime	No Wildfowling at anytime	No Wildfowling at anytime	No Wildfowling at anytime	No Wildfowling at anytime
Rest of the Reserve	No wildfowling in the South East Corner at anytime.	Wildfowling am & pm	Local wildfowling clubs only at anytime	Wildfowling am & pm	Wildfowling am & pm	Local wildfowling clubs only at anytime	No Wildfowling at anytime
	Wildfowling in the rest of the Reserve am & pm						

APPENDIX E

COMMITTEE PETITION/BYELAW PROCESS



APPENDIX F**FINDHORN BAY LOCAL NATURE RESERVE - STATUS**

Findhorn Bay was designated as a Local Nature Reserve by the Council in 1998. This designation, under the National Parks and Access to the Countryside Act 1949, places the reserve under the Council's management and gives the Council the option to promote bye-laws to regulate activities on the reserve.

The reserve land is owned by various owners who have all agreed that their land forms part of the reserve.

Wildfowling has taken place in Scotland in its present form (i.e. shooting birds in flight) since the mid-18th century and we would assume that this is when it started in the Findhorn Bay. The wildfowling season for foreshore wildfowling in Scotland is 1 September to 20 February.

Management has been passed to the FBLNR Management Committee whose members represent formal bodies such as the Council, HIE and Scottish Natural Heritage (SNH), as well as groups who have an interest in the bay such as the local community councils, Findhorn Foundation, conservationists, wildfowlers and water sports groups.

The FBLNR Management Committee Constitution allows the Committee and those with a legitimate interest in FBLNR to recommend bye-laws to the Council. Since designation there have been requests from the Management Committee to introduce bye-laws to regulate wildfowling by introducing a monitored permit system. Reports on this subject have been considered and rejected by the Council's former Environmental Services Committee on two previous occasions in 2004 and 2006. The Council refused both requests in the light of financial and health and safety implications essential for the enactment, supervision and enforcement of bye-laws.

If FBLNR's status was to change to that of National Nature Reserve (NNR), the responsibility for promoting byelaws would be SNH's. A NNR may be run by SNH or by a range of public, private, community and voluntary organisations. To be designated a NNR, an application must be made to SNH, demonstrating that SNH's NNR selection criteria and standards have been met. Any landowner, community or organisation interested in attaining the NNR accolade may apply to SNH. Whoever manages the NNR must either own or have sufficient control over the land. This would mean that new agreements would have to be entered into between the NNR managers and the constituent landowners.

There are over 40 designated NNRs in Scotland with SNH having made byelaws on just one occasion in 2006 relating to the NNR at Caerlaverock, in Dumfries and Galloway. NNRs generally tend to be located remotely, some distance from population centres. Designation of Findhorn Bay as an NNR would be an SNH decision, and the LNR would require to be de-designated

prior to this. De-designation would be a formal process , similar to that of designation, and would have resource implications for the Council, as well as the potential for public enquiry if there were significant objections to the Council de-designation and FBLNR losing its Local Nature Reserve Status..

Initial discussions with SNH would suggest that they would be unwilling to support the re-designation and would require significant resources by the Council not only to go through legal process but also to demonstrate that the reserve meets the national reserve criteria.



REPORT TO: ECONOMIC DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE ON 10 SEPTEMBER 2019

SUBJECT: ROAD ASSET SAFETY INSPECTION POLICY

BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT, PLANNING AND INFRASTRUCTURE)

1. REASON FOR REPORT

- 1.1 To inform the Committee of changes to the policy on road safety inspections to comply with the 'Well-Managed Highway Infrastructure - A Code of Practice' (October 2016).
- 1.2 This report is submitted to Committee in terms of Section III (F) (15) of the Council's Scheme of Administration relating to the function of the council as Roads Authority

2. RECOMMENDATION

- 2.1 **The Committee is asked to recommend, to the Policy and Resources Committee, the adoption of the Road Safety Inspection Policy to fulfil the requirements of the Code of Practice in implementing a risk based approach.**

3. BACKGROUND

- 3.1 The Roads (Scotland) Act 1984 states that a local roads authority shall manage and maintain all such roads in their area that are included in the list of public roads held by the authority. These are commonly referred to as "adopted roads" and the inspection policy referred to in this paper applies only to these.
- 3.2 The policy does not apply to Trunk Roads, which are the responsibility of the Scottish Ministers and currently maintained by BEAR Scotland.
- 3.3 The Council's current inspection policy, approved on 13 March 2012, was prepared in accordance with the previous guidance contained in "Well-Maintained Highways' the Code of Practice for Highway Maintenance Management" however the new "Well-Managed Highway Infrastructure - A Code of Practice" (October 2016) recommends a risk based approach to

managing all aspects of the road network which includes inspection and repair.

- 3.4 Within the new Code of Practice, one of the recommendations is that roads authorities should adopt a Risk Based Approach to all aspects of road maintenance. This policy specifically relates to a risk based procedure for conducting road safety inspections - the area of service that results in the greatest number of insurance claims against the Council.
- 3.5 A Risk Based Approach is also recommended by the Institute of Highway Engineers in their guidance on managing risk and liability, 'Well Managed Highway Liability Risk'
- 3.6 The policy for approval refers to the suite of guidance documents provided by The Society of Chief Officers for Transportation in Scotland (SCOTS) for the management and implementation of road safety inspections, which have been revised to accommodate the local context of Moray. These are:-
- Road Asset Safety Inspections - Strategy
 - Road Asset Safety Inspections – Operations Manual

Both documents can be viewed electronically on CMIS along with the electronic agenda and will be published on the Council's website once approval has been given.

- 3.7 SCOTS has also provided a reference document: SCOTS Rationale for guidance on a Risk Based Approach to Asset Management. This document outlines the approach and rationale for specific content within the guidance. It also details the competencies of those involved in its development.
- 3.8 Road Safety Inspections are designed to identify and make the necessary arrangements for the repair of any defects. This will minimise, as far as reasonably practicable, the exposure to danger or serious inconvenience to users of the road network or the wider community. Such defects include those that require immediate attention, as well as those where the defect locations and nature are such that longer periods of response are possible. Having a robust process for prioritising responses to identified defects is therefore crucial.
- 3.9 It is recognised by the Courts that having a robust inspection regime is the Council's first line of defence in relation to road safety defect claims.
- 3.10 One of the key fundamental changes in adopting a risk based approach is a move away from the prescriptive descriptions of defects (such as pothole depth < 40mm) in previous codes and the tendency for 'worst case scenario' thinking when assigning categories of response. The revised policy includes a risk assessment process whereby a defect is analysed with regard to the context in which it exists. Using a risk matrix tool to evaluate the hazard in terms of the likelihood of encountering it, and then the most probable consequence of doing so, the risk posed is objectively categorised and the corresponding required level of response determined.

- 3.11 As an example, consider two identically sized defects that exist on “Road A”. One of those defects is in the centre of the footway, immediately outside the gate to a Primary School while the other defect is at the rear of the footway at the opposite end of the street which is solely residential and has low footfall. Under the current prescriptive regime both of those defects would be considered equal, so categorised with the same priority and allocated the same repair timescale. However, under this new risk based approach, the defect at the school would be assessed as being a greater risk and allocated an appropriate repair category, and the other would be a lesser risk and given a lower (but also appropriate) repair category.
- 3.12 The Council has finite resources for managing and maintaining the road network. As well as its critical safeguarding purpose, the implementation of this risk based approach will improve efficiency and provide greater value for money through more appropriate categorisation of defects and responses based on risk to road users. This is likely to lead to a reduction in the number of reactive repairs and an increase in the number of planned repairs, which are proven to be more cost effective. Adopting this policy should have a positive impact on network road condition in the longer term, assuming current levels of investment are retained.
- 3.13 The Road Safety Inspection methodology allows Councils to demonstrate that their legal responsibilities with regard to the inspection and maintenance of adopted roads are fulfilled. While the number of claims made against the Council may not necessarily be reduced, through the implementation of this risk based policy, the Council will be better placed to defend claims by demonstrating compliance with the current Code of Practice and being in line with SCOTS recommended practice.
- 3.14 The Road Authority must ensure that all Road Asset Safety Inspectors are competent in carrying out safety defect inspections. The policy adopts the SCOTS Risk-based Approach to Safety Defect Inspections Training and Assessment provision for this purpose. Road Asset Safety Inspectors will also receive Institute of Highway Engineers (IHE) accredited training.
- 3.15 Currently, the Council has an adopted road length of over 1,558km and over 599km of footways, footpaths and cycle tracks.
- 3.16 An effective inspection regime requires having an appropriate hierarchy to which the local network assets are categorised. Guidance on the appropriate hierarchy for carriageways, footways and cycle tracks is given in the Code of Practice which this policy adopts. Inspection frequencies are then set for each level of the hierarchy and, as a result, a programme of inspections is developed for the stated asset types.
- 3.17 Performance against set standards for repairing defects is currently reported to Committee. This will continue after the implementation of this policy.

4. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

Several objectives of these plans are influenced by the condition of the public roads network.

A Growing, Diverse and Sustainable Economy – the public road network is used by all sections of society, to access shops and services and to transport goods within and to and from Moray.

Building a better future for children and young people in Moray - encouraging active travel options of walking and cycling require well maintained facilities.

Empowering and connecting communities – the road and footway network provides an essential link between communities, and a robust inspection and maintenance regime is vital to its continued safe use.

(b) Policy and Legal

The Council is responsible for the maintenance of over 1558km of roads and over 599km of footways, footpaths and cycle tracks which have been adopted by the Local Authority in terms of the Roads (Scotland) Act 1984 onto the List of Public Roads.

The Act places a duty on the Local Authority to manage and maintain all roads entered on the List of Public Roads but does not prescribe the level of maintenance to be delivered.

The Well-Managed Highway Infrastructure Code of Practice identifies good practice and consideration has to be given to this advice.

(c) Financial implications

There are no financial implications as a result of this report.

(d) Risk Implications

Failure to adopt the proposals and operate in line with the current Code of Practice and the SCOTS recommended guidance would expose the Council to a higher level of risk

Safety defects that represent a medium to low risk to road users will be included in planned programmes. Defects of this nature are likely to remain visible for a longer period of time before repair, which may result in some negative public perception.

(e) Staffing Implications

There are no staffing implications as a result of this report.

(f) Property

There are no property implications as a result of this report.

(g) Equalities/Socio Economic Impact

There are no equalities implications as a result of this report.

(h) Consultations

The Corporate Director (Economic Development, Planning & Infrastructure), Legal Services Manager, Equal Opportunities Officer, Assistant FMS & Banking Manager (Insurance Team), Committee Services Officer (L Rowan) have been consulted and any comments taken into consideration.

5. CONCLUSION

5.1 The recommendations from the new national Code of Practice and guidance produced by SCOTS enables the Roads Maintenance section to implement a risk based approach for road safety inspections and categorise any necessary repairs identified. It is anticipated that this will:

- **minimise the exposure of danger or serious inconvenience to users of the network or the wider community,**
- **mitigate the Council's exposure to risk and enable a robust defence to claims of loss,**
- **ensure compliance with Statutory requirements and**
- **increase best value by reducing the number of defects allocated to the incorrect category/priority and potentially increase the number of planned repairs.**

Author of Report: Mark Atherton, Roads Maintenance Manager

Background Papers:

Ref:



**REPORT TO: ECONOMIC DEVELOPMENT AND INFRASTRUCTURE
SERVICES COMMITTEE ON 10 SEPTEMBER 2019**

**SUBJECT: SCOTTISH PARLIAMENT CALL FOR VIEWS – PRE-
BUDGET/FINANCIAL SCRUTINY ON ROADS MAINTENANCE IN
SCOTLAND**

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING AND INFRASTRUCTURE)**

1. REASON FOR REPORT

- 1.1 In June 2019 the Rural Economy and Connectivity Committee of the Scottish Parliament, as part of their Pre-Budget/Financial scrutiny on roads maintenance in Scotland issued a Call for Views.
- 1.2 It is important that the views of local authorities should be made known to the Scottish Parliament so the Committee is requested to review and approve the response on behalf of Moray Council so that it can be submitted as close to the deadline of 6 September as possible. Due to the timing of Committee, an extension to the deadline has been requested and subsequently approved to allow Moray Council to share its views.
- 1.3 This report is submitted to Committee in terms of Section III (F) (15) of the Council's Scheme of Administration as Roads Authority.

2. RECOMMENDATION

- 2.1 The Committee is asked to approve the response set out in Appendix 1 to the Call for Views by the Rural Economy and Connectivity Committee of the Scottish Parliament for their Pre-Budget/Financial scrutiny on roads maintenance in Scotland.**

3. BACKGROUND

- 3.1 The information the Council has included within the Call for Views, (**Appendix 1**), makes reference to work on managing and maintaining the local road network by Audit Scotland and the Society of Chief Officers for Transportation in Scotland (SCOTS). Audit Scotland has published several reports into road maintenance in Scotland since 2004. These have been referred to in previous reports to this Committee; (23 Nov 16, para 5 and 31 Oct 17, para 11).

- 3.2 Following the 2011 Audit Scotland report, Transport Scotland, working with local authority partners, undertook a review of road maintenance in Scotland. This National Road Maintenance Review set out 30 options for consideration and implementation, with a strong emphasis on the development of shared road maintenance functions amongst local authorities. As part of the output from that work, the Council has played a leading role in establishing the Northern Roads Collaboration Joint Committee, which provides a governance structure to facilitate collaborative working on roads functions in the area.
- 3.3 SCOTS have also recently commissioned a piece of work to consider the wider value of the local road network to society. This initial report is due to be published in the coming weeks and will most likely form part of the submission by SCOTS to the Rural Economy and Connectivity Committee.
- 3.4 This work has engaged over 30 organisations, over 200 community councils and a wide range of industry leads, to show the various aspects of social value of the local roads network. It has links to approach set out in the Scottish Government's National Performance Framework and reflects the commitments in the draft National Transport Strategy as published on 31 July.
- 3.5 In addition, it will draw on criteria used in Scotland to inform approaches to placemaking, inclusive growth, and social value as a whole. As this work progresses, it will be brought back to this Committee for future consideration.

4. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

Several objectives of these plans are influenced by the condition of the public roads network.

A Growing, Diverse and Sustainable Economy – the public road network is used by all sections of society, to access shops and services and to transport goods within and to and from Moray.

Building a better future for children and young people in Moray - encouraging active travel options of walking and cycling require well maintained facilities.

Empowering and connecting communities – the road and footway network provides an essential link between communities, and a robust inspection and maintenance regime is vital to its continued safe use.

(b) Policy and Legal

The Council is responsible for the maintenance of over 1558km of roads and over 599km of footways, footpaths and cycle tracks which have been adopted by the Local Authority onto the List of Public Roads in terms of the Roads (Scotland) Act 1984.

The Act places a duty on the Local Authority to manage and maintain all roads entered on the List of Public Roads but does not prescribe the level of maintenance to be delivered.

(c) Financial implications

There are no direct financial implications arising from this response to the call for views. However, if the Scottish Parliament were to instigate a change in the arrangements for the management and maintenance of Scotland's road network, this could have significant financial implications for all Councils

(d) Risk Implications

There is no risk involved in responding to this call for views. However, if Councils did not respond, there would be a risk that the views of local government might not be fully taken into account by the Scottish Parliament.

(e) Staffing Implications

There are no direct staffing implications arising from this response to the call for views. However, if the Scottish Parliament were to instigate a change in the arrangements for the management and maintenance of Scotland's road network, this could have significant staffing implications for all Councils.

(f) Property

There are no property implications as a result of this report.

(g) Equalities/Socio Economic Impact

There are no equalities implications as a result of this report.

(h) Consultations

The Corporate Director (Economic Development, Planning & Infrastructure), Legal Services Manager, Equal Opportunities Officer, Committee Services Officer (L Rowan) have been consulted and any comments taken into consideration.

5. CONCLUSION

5.1 The Committee is asked to consider and approve the proposed response to the Call for Views by the Rural Economy and Connectivity Committee of the Scottish Parliament.

Author of Report: Mark Atherton, Roads Maintenance Manager

Background Papers:

Ref:

APPENDIX 1

MORAY COUNCIL RESPONSE

**The Scottish Parliament Rural Economy and Connectivity Committee
Pre-Budget/Financial scrutiny on roads maintenance in Scotland
Submission from Moray Council**

1 How have recent spending decisions on roads maintenance affected the quality of Scotland's roads, road users, businesses, public services and the economy?

Local authority road budgets compete with Education and Social Care and other budget areas which are given a higher priority and have been for many years. As a consequence Roads budgets are disproportionately reduced and this has been a worrying trend for Moray Council and across many Scottish Authorities for the last number of years. This has had a direct impact on the quality of the roads network which we would consider to be the most valuable and largest asset owned by Moray Council with a replacement value of £1.6 billion. The evidence from the Scottish Road Maintenance Condition Survey (SRMCS) shows that the overall quality of Scotland's roads as represented by the Road Condition Indicator (RCI) has been generally held at the same level despite recent reductions in expenditure. However, faced with unprecedented financial challenges and in order to meet budget saving targets, in 2014 Moray Council made the decision to allow Moray's road condition to deteriorate, with a target to be at mid-point in the national table across the network as a whole by the end of the following 5 year period. This target was revised in 2017 in light of the condition of Moray's roads at that point. A reduced capital investment since then has caused our network condition to deteriorate.

Following the completion of the road condition surveys undertaken in 2018, we have now received our latest RCI % figures. Table 1 below details the current RCI % figures and ranking position in comparison with other Scottish Authorities.

Table 1: RCI (%) and ranking position

Network	2015-17		2016-18		2017-19	
	RCI	Ranking	RCI	Ranking	RCI	Ranking
Whole Network	26.9%	4	27.9%	4	29.1%	4
A Class	25.2%	17	25.9%	15	28.6%	21
B Class	22.8%	8	23.5%	7	25.6%	13
C Class	21.9%	5	24.9%	5	28.1%	8
A,B,C Class	22.9%	5	24.6%	5	27.3%	9
Unclassified	31.4%	5	31.6%	5	31.1%	6

The above table shows our current RCI % figures are against each road classification type. It is clear that these figures are now increasing more aggressively than in previous years. Moray's road network is now deteriorating at a pace which will likely result in us being either at or below mid table before the end of the revised 5 year period, which commenced April 2017.

It can be noted that our A class roads have already surpassed the mid table point following the completion of this year's surveys and we are now placed 21st and a significant %

increase is noted of 2.7% from the previous condition surveys. It is clear that additional investment on A Class roads will be necessary over the next few years to arrest that deterioration and maintain the current condition.

B class roads have also deteriorated with a 2.1% increase this year, changing our national ranking from 7th place last year to 13th place this year, which is getting close to the targeted 16th place mid table position.

C class roads have deteriorated the most in the last year, with a 3.2% increase in the RCI. This has moved our national ranking for these from 5th place last year to 8th place this year. It is clear that the combination of A, B and C class roads rankings and condition is seeing a significant change from the earlier survey results recorded. This reinforces that the lack of investment is beginning to be noticeable in the condition of Moray's roads network, and our RCI figures are heading towards the targeted mid table position.

The most significant change in Moray when dealing with reduced road maintenance budgets has been a transfer of resources from resurfacing and reconstruction towards the greater use of surface dressing. Surface dressing is a low cost treatment that seals the surface of the road against the ingress of water thereby helping to reduce frost damage over the winter. However, it does not deal with the longer term damage to the lower layers of the road caused by repeated loading from heavy vehicles. It will not, therefore, prolong the life of a road indefinitely and more substantial treatment will eventually be required. The reduction in more substantial resurfacing treatment also appears to have been associated with an increased need for reactive patching in Moray.

Worryingly, since 2012/13, there has been an annual decrease in the amount of revenue funds allocated within roads maintenance. For 2019/20, this amounts to a 40% reduction since 2012/13.

2013 – 6%
2014 – 18%
2015 – 19%
2016 – 21%
2017 – 23%
2018 – 36%
2019 – 40%

In financial terms this has been a cumulative reduction of £8.63m since 2013. This year's budget is a £2.135m reduction from 2013.

With regards to capital funding, since 2012/13, there has been an annual decrease in the amount of capital funds allocated within roads maintenance. For 2019/20, this amounts to a 34% reduction since 2012/13.

2013 – 14%
2014 – 33%
2015 – 33%
2016 – 36%
2017 – 26%
2018 – 31%
2019 – 34%

In financial terms this has been a cumulative reduction of £11.57m since 2013. This year's budget is a £1.89m reduction from 2013.

	<p>Reduced budgets are having an impact in relation to insurance claims. Councils are open to third party liability if someone is hurt or suffers a loss as a result of the Council not undertaking work it has a duty to do.</p> <p>The total number of Road insurance claims are noted below:</p> <p>2014/15 – 33 2015/16 – 34 2016/17 – 45 2017/18 – 35 2018/19 – 62</p> <p>It can clearly be noted that the Council is seeing an increase in the number of insurance claims that are received in respect of roads maintenance and this trend is likely to continue in the face of continuing budget pressures.</p>
2	<p>If spending on roads maintenance continues at current levels, what could be the likely effects on the above groups?</p>
	<p>The forecast is not just spending at current levels but can be expected to be reduced further as pressure to make further savings while protecting some services continues. This will continue to affect these groups by our roads further deteriorating. Recent financial modelling undertaken suggests a significant cash injection will be required to recover the roads asset. Moray has a maintenance backlog of £40.7m and a £7.5m steady state budget requirement. In simple terms, the maintenance of the road asset can be compared to that of wooden windows. The effective way to maintain the wooden windows is to varnish them annually, periodically it is sometimes required to sand the windows down, apply some filler to repair and then re varnish. Unfortunately, after a period of time the wood will deteriorate beyond varnishing and the windows will eventually need replacing.</p> <p>At the present time, to make best use of the available budgets we are very much doing the equivalent of ‘applying varnish’ to our roads. This treatment is referenced as surface dressing, which doesn’t add strength to the road but is based on preventing damage from water getting into the road layers, and restoring surface texture to improve skid resistance. After a period of time the road will eventually crumble underneath and will require wholesale reconstruction, which comes at a significant increase in cost.</p> <p>In the short term, if spending continues at current levels then, even with an emphasis on surface dressing which can minimise the level of substantial deterioration in carriageway surface condition in the first few years, modelling suggests our roads will continue to deteriorate and need significant cash injection to return to a reasonable condition.</p> <p>In the medium term it would be necessary to reinstate resurfacing and reconstruction programmes to address the longer term deterioration in the multiple layers of the road network, but this will need increased financial investment.</p> <p>However, Moray Council, along with other local authorities, are having to address a projected overall shortfall in both capital and revenue budget in future years. Our teams have managed the available budgets very effectively whilst also working collaboratively to develop new approaches with other authorities. The Audit Scotland Reports of 2013 and 2016 highlight this work.</p> <p>Recent modelling undertaken and supported by our RCI ranking show that any further financial reductions would result in a sustained deterioration in the condition of the council’s road network. This would clearly have an adverse impact on road users, businesses, public</p>

	<p>services and the economy. There would be more potholes, more insurance claims, more emergency road closures and more disruption. Good road connections are particularly important for an outlying rural area such as Moray where remoteness from markets can be an issue for the economy. In the event of further reductions, priority would have to be given to A and B class roads, so C class and unclassified roads would be likely to be disproportionately affected.</p>
3	<p>How could any negative effects of reduced road spending best be addressed?</p>
	<p>Work undertaken through the National Road Maintenance Review, Roads Collaboration and the input to the draft NTS have considered how other nations allocate and prioritise funding for the development and maintenance of their transport networks. The Committee should include this as part of its considerations.</p> <p>The best outcome would be achieved if there were no further reductions in road spending and recognition of the maintenance backlog figures that Councils have identified and an injection of much needed funds in this vital asset.</p> <p>Consider ring fencing budget allocations to Local Authorities which would allow Moray to commit to a longer term 5year financial plan of investment to allow roads engineers to plan the best investment to recover the roads asset. Clearly this would intensify the gearing effect on unprotected budgets, but it would go some way to mitigating challenges with roads infrastructure.</p> <p>The Scottish Government provides an annual Strategic Timber Transport Fund, that co-finance localised small-scale road improvements for rural authorities like Moray. The opportunity to bid for strategic timber transport fund co-finance has helped secure local authority investment in some otherwise non-priority roads but a longer-term financial commitment to maintenance and improvement is required.</p> <p>The poor condition of rural roads is related to the fact that much of the rural road network is of an age, condition, and construction that is less than ideal for the haulage requirements of modern communities and land uses.</p> <p>Consideration should be made that other large scale users of our road network such as the distillery industry contribute to the investment of rural roads and Scottish Government could replicate the annual STTS funding stream that is available and has been widely drawn on by Moray Council.</p>
4	<p>Is the current model of funding and delivering roads maintenance, which is split between Transport Scotland and local authorities, the most economic and efficient option?</p>
	<p>No. There is an element of duplication with trunk roads and local authority roads within the same area. Consideration should be given to transfer responsibility for all trunk roads with the exception of Motorways and dual carriageways to local authorities along with appropriate budgets. Consideration should be given to create a wider geographical area for Roads authorities than currently exists.</p> <p>It is felt that, operationally there needs to be close co-ordination at the interface between the trunk and local road networks for optimum efficiency of the road system as a whole.</p> <p>The previous funding model, pre1996 whereby each Council managed the sections within their own boundaries on behalf of the trunk road authority was found to be more efficient with each Council able to integrate the management of these with adjoining local roads. In the case of single carriageway all-purpose trunk roads, the interaction is very strong with frequent junctions and frontage development. Council vehicles very often travel along the</p>

trunk roads as a means of getting from point A to B when undertaking maintenance activities such as gully cleaning, winter maintenance provision etc and is felt a return to this model would be a more efficient way of undertaking these functions.



REPORT TO: ECONOMIC DEVELOPMENT & INFRASTRUCTURE SERVICES COMMITTEE ON 10 SEPTEMBER 2019

SUBJECT: INDUSTRIAL PORTFOLIO ANNUAL REPORT 2018/19

BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT, PLANNING & INFRASTRUCTURE)

1. REASON FOR REPORT

- 1.1 This report sets out the annual performance of the Council's Industrial Portfolio in 2018/19.
- 1.2 This report is submitted to Committee in terms of Section III (F) (3) of the Council's Scheme of Administration relating to industrial and commercial development.

2. RECOMMENDATION

2.1 It is recommended that the Committee:-

- (i) considers and notes the Annual Report for 2018/19; and**
- (ii) welcomes the good performance of the Council's Industrial Portfolio.**

3. BACKGROUND

- 3.1 Annual reports have been presented to the Environmental Services Committee and this Committee since 2002; the last report was presented to this Committee on 14 August 2018 (paragraph 11 of the Minute refers). The Annual Report on Moray Council's Industrial Portfolio for 2018/19 is attached to this report as **APPENDIX I**, together with supporting **APPENDICES II – IX**. The main issues are summarised below.
- 3.2 The special meeting of the Moray Council on 12 December 2018 considered a report by the Corporate Director (Economic Development, Planning and Infrastructure) on a proposed Property Asset Management Appraisal (paragraph 5 of the minute refers) and amongst a range of measures agreed to consider and decide whether it wants to retain all or part of the industrial portfolio and if retained, introduce an annual review of individual units to

consider their retention or possible sale.

3.3 This Committee, at its meeting on 16 April 2019 (paragraph 14 of the Minute refers), considered a report by the Corporate Director (Economic Development, Planning and Infrastructure) and agreed that:-

- (i) the Council retains the Industrial Portfolio; and
- (ii) the Estates Manager carries out an annual review of the portfolio and its individual properties to consider their retention or possible sale and reports the findings to the Economic Development and Infrastructure Services Committee as part of the annual industrial portfolio performance report.

3.4 It is intended that the decision of this Committee on 16 April 2019 will be reported to the Policy and Resources Committee and/or Council as part of a report on progress of the Council's Property Asset Management Appraisal.

4. PERFORMANCE

Rental income

4.1 The rental income generated by the industrial portfolio increased by £174,000 in 2018/19 to £1.93M. This continues growth which has seen the portfolio's annual income increase by £883,000 over the last 10 years.

4.2 The net rental income after deduction of property running costs, staff, administrative and capital financing costs increased by £250,000 in 2018/19 to £1,103,000. This was due principally to an increase in gross rents and reduction in historic borrowing costs.

Occupancy

4.3 At 31 March 2018 the occupancy rate in terms of buildings occupied was 93% compared to the target of 80%.

Development

4.4 In 2018/19 a number of refurbishment/upgrades of existing units and sites were carried out at various locations throughout Moray to ensure they remain responsive to future business needs.

Annual Review

4.5 A review of the portfolio has been carried out concluding that all the portfolio's constituent properties should be retained with the exception of the following properties which will be considered for sale subject to suitable terms of sale being agreed:-

Former Abattoir, 9 Linkwood Place, Elgin
Former Sawmill, Waterford, Forres
Site at March Road West, Buckie
Garage, Edgar Road, Elgin

- 4.6 Once detailed proposals are fully developed they will be brought forward to committee as appropriate for approval.
- 4.7 In addition officers are negotiating a cash settlement with the Council's insurer for the loss of Unit W Isla Bank Mills Industrial Estate, Keith in a fire in November 2018.

5. CHALLENGES

- 5.1 The industrial portfolio is continuing to meet its objectives of:-
- (i) minimising the number of vacant properties as far as is consistent with current market conditions; and
 - (ii) maximising overall rental income and thereby minimising the cost of the service.
- 5.2 As detailed in **APPENDIX I** (Section 4) the leases of the two properties with the highest rents are due to terminate in 2018/19. Although officers are working to secure new occupiers of these properties, significant void periods are expected for both and the portfolio's rental income is likely to decrease in 2019/20. It is unclear if sale or leases of these properties is most likely, which will impact on future rental income streams. It is difficult to predict accurately, but at this stage the rental income for 2019/20 is forecast at £1.86M.
- 5.3 There are concerns about the portfolio's ability to fulfil the objective of maintaining an adequate supply of affordable premises in appropriate locations within Moray, in particular a shortage of industrial development land and units in locations throughout Moray.
- 5.4 The following actions are aimed at addressing these concerns:-
- (i) a major extension of March Road Industrial Estate in Buckie has been completed;
 - (ii) sites surplus to the flood scheme in Elgin have been made available and are under offer to local businesses/subject to firm interest;
 - (iii) there has been significant recent private sector interest in developing small business units for lease and officers are working with private developers to facilitate the provision of new business units;
 - (iv) monitor the availability of sites in Speyside with a view to providing serviced sites and business units as demand and finances dictate;
 - (v) monitor ongoing demand for sites/units in Forres and finance available to purchase land to provide serviced sites and business units;
 - (vi) potential further opportunities to acquire and develop land and buildings will be considered as part of the Council's asset management rationalisation programme;

- (vii) existing properties will be repaired and refurbished as required; and
 - (viii) proposals for funding future development of the Industrial Portfolio will be brought forward through the Council's asset management, capital planning and economic development capital fund processes.
- 5.5 The Council's current budget pressures are limiting opportunities to further develop the portfolio. Although the provision of further serviced sites (particularly in Forres and Speyside) is currently considered as a priority requirement, work on this is currently on hold until the Council is on a firmer financial footing and capital spending restraints can be lifted. Lack of capital or revenue investment in the future could result in the industrial portfolio being unable to provide suitable units and sites to meet business needs, thereby stifling economic growth in the area.
- 5.6 The level of rent/insurance arrears was 6.99% in 2018/19 and the Estates team is working corporately with Legal Services and Finance to reduce these arrears. Estates and Legal Services put in place new arrangements in March/April 2019 to monitor and pursue outstanding debt where discussions with tenants have been unsuccessful and a system of charges to recover the Council's costs of pursuing outstanding rent has also been implemented.
- 5.7 A significant deterioration in the local economy could reduce demand for industrial units and new sites, which would increase voids and reduce rental income. However it is anticipated that there will continue to be demand for small industrial premises in Moray for the foreseeable future. Officers will monitor the impact of proposed significant developments of private sector units on demand and rentals for Council properties.
- 5.8 Officers will continue to monitor potential opportunities in properties vacated by businesses relocating to Elgin Business Park.

6. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

The management and development of the Industrial Portfolio supports the LOIP priority of "a growing, diverse and sustainable economy" as well as the priority of the Corporate Plan of promoting economic development and growth. It also accords with the aim of the Moray Economic Strategy of facilitating economic growth and diversification of the local economy.

(b) Policy and Legal

The policy objectives of the Industrial Portfolio are set out in **APPENDIX I** (Section 2).

(c) Financial Implications

The financial implications are outlined in **APPENDIX I** (Section 4).

Gross rental income increased by £174,000 and net rental income by £250,000 in 2018/19.

Revenue expenditure in 2018/19 was within budget, whilst capital expenditure was within the capital allocation, with £24,000 carried forward into 2019/20.

Looking forward, revenue expenditure on repairs and maintenance is forecast to be within the current budget of £70,185 in 2019/20.

Although there is an allocation of £3.079M in the 2019/20 capital plan for the acquisition and servicing of land, as well as the construction of new business units in Forres, the project has been postponed due to the Council's financial pressures.

£247,000 is allocated in the 2019/20 capital plan for refurbishments to the portfolio. Condition surveys of the portfolio were expected to have been completed to assist Estates officers devise a programme of prioritised works. However, the surveys have been delayed due to staffing difficulties. Consequently the refurbishment programme for 2019/20 is on a lesser scale than anticipated and a budget underspend is expected in 2019/20. Officers will likely seek carry forwards of the remaining monies into 2020/21 by which time condition surveys are anticipated to be in place to inform officers of future priority works.

Proposals for future years' capital developments will be taken forward through the Council's financial planning process.

(d) Risk Implications

The main risks are detailed above in Section 5 of this report and in **APPENDIX I**.

(e) Staffing Implications

The Estates Team manage the Industrial Portfolio on behalf of the Council. Workload within the team is at capacity and timescales are having to be extended on priority tasks.

Legal Services staff continue to be involved in formalising lease agreements and pursuing rent arrears where necessary.

(f) Property

The property implications are outlined in **APPENDIX I**.

(g) Equalities/Socio Economic Impact

There are no equalities or socio economic issues arising from this report.

(h) Consultations

The Acting Head of Housing and Property Services, Paul Connor, Principal Accountant, the Design Manager, the Legal Services Manager, the Head of Development Services, Rowena MacDougall, Planning Officer, the Equal Opportunities Officer and Lissa Rowan, Committee Services Officer have been consulted and their comments incorporated in this report as appropriate.

Discussions continue to take place regularly with Highlands and Islands Enterprise (HIE) and private sector developers to ensure a co-ordinated and complimentary approach to property provision. HIE concentrates on the provision of larger, higher specification/amenity properties, whereas the Council focuses on smaller more general industrial properties.

It is thought there is a gap between these two markets for higher specification small units. These types of units would carry greater risk of voids for longer periods. However if budgets are available officers intend to investigate such provision and bring forward proposals for consideration through the Council's capital planning process where there is a justification in economic and/or financial terms for doing so.

7. CONCLUSIONS

- 7.1 The Industrial Portfolio has exceeded the target for rental income.**
- 7.2 The Industrial Portfolio has exceeded the target for occupancy levels and the underlying trend is for high occupancy levels to continue.**
- 7.3 The provision of further business units is considered a priority and officers will continue to work to facilitate private developers seeking to provide new business units in Moray. Officers will monitor requirements for future investment/development in new units by the Council.**
- 7.4 The provision of further serviced development sites is on hold.**
- 7.5 To ensure the portfolio continues to meet business needs a programme of works is in place to improve the condition of the Council's existing industrial buildings. The projects have been delivered within budget and ensure the Council's portfolio continues to support economic development in Moray.**

Author of Report: Stuart Beveridge, Estates Manager

Background Papers: None

Ref: GEN/Annual Industrial Portfolio Report 18-19



APPENDIX I

INDUSTRIAL PORTFOLIO

ANNUAL REPORT 2018-19



1. **Introduction**

Over the past 5 decades Local Authorities, Central Government Agencies and other public organisations have provided and managed industrial land and buildings in Moray as part of a strategy to retain job opportunities and attract inward investment.

The public sector became involved because of the inability of the private sector to provide serviced industrial land and buildings to lease. This market failure arose as a result of the low returns on capital investment and the relatively high risks involved in the provision of industrial land and buildings to let, especially those for smaller businesses. Private developments are usually specialist buildings for owner occupation and there has traditionally been very little private speculative industrial development in Moray. However, there have been several small scale speculative private developments in recent years and a significant upturn in such interest in the last 12 months - facilitated by the Council providing serviced sites.

By providing industrial buildings for lease the Council gives new and existing businesses an opportunity to secure premises at reasonable cost in comparison to buying or building their own premises. This encourages economic growth in Moray by enabling businesses to secure premises without incurring substantial capital investment thus releasing capital to fund growth.

The Moray Local Development Plan incorporates Scottish Government Planning Policy guidelines on industrial land and sets targets for the allocation and provision of marketable land in the main towns (see Section 5 of this Report).

The Moray Local Outcomes Improvement Plan and the Council's Corporate Plan identify promoting sustainable economic growth as a priority. The Council is assisting people and businesses in locating or growing in Moray by ensuring there is an adequate supply of business units and sites in suitable locations.

The Moray Economic Strategy 2019 -2029 sets out the vision and a high-level series of actions required to deliver a successful and vibrant economy in Moray. One of the key measures is an increase in immediately available employment land.

2. **The Objectives of the Industrial Portfolio**

The policy objectives of the industrial portfolio are as follows:-

- a) To maintain an adequate supply of affordable premises in appropriate locations within Moray;
- b) To minimise the number of vacant properties as far as is consistent with current market conditions; and
- c) To maximise overall rental income and thereby minimise the cost of the service.

3. The Industrial Portfolio

The Moray Council's industrial portfolio comprises a range of industrial land and buildings throughout Moray including all of the principal settlements. At 31 March 2019, the Council's industrial portfolio comprised 176 industrial buildings with a total floor area of 34,361m²; 128 development and ground leases with a total site area of 20.09 hectares (49.6 acres) and a stock of serviced and unserviced land for future development totalling 22.07 hectares (54.5 acres). An analysis of the distribution of industrial buildings, industrial sites and development land in Moray is detailed in **APPENDIX II**.

The asset value of the portfolio at 31 March 2019 has been estimated at £21M.

4. Performance of the Industrial Portfolio

a) Rental Income

In recent years the rental income generated from the portfolio has increased steadily. The total gross rental income for the past 5 years is set out below:-

2014/2015	£1,422,000
2015/2016	£1,607,000
2016/2017	£1,753,000
2017/2018	£1,756,000
2018/2019	£1,930,000

APPENDIX III illustrates the gross rental income generated by the industrial portfolio over the period 2008-2018.

As forecast in last year's annual report rental income increased significantly in 2018/19. However, as also highlighted in the last annual industrial portfolio report, there will be a number of pressures on rental income in 2019/20. Principally the leases of the two units with the highest rents (9 Linkwood Place, Elgin & the former Sawmill, Waterford, Forres) are due to terminate and although Estates are in discussions with interested parties significant void periods are expected for both. A temporary lease of the former Sawmill to a contractor which would have generated £14,500 rent (as well as rates savings of £12,500) was jeopardised by the presence of travellers on the site. Unit W at Isla Bank was destroyed by fire and no longer produces rental income. In addition the lack of new industrial developments by the Council means new income streams in 2019/20 will be limited to a small number of sites. Although rents are continuing to increase at rent review and new lettings the portfolio's rental income is likely to decrease slightly in 2019/20.

The use of 3 properties at Chanonry Business Centre as a store for aid to Syrian refugees has reduced the portfolio's net income by around £15,000 per annum. This arrangement is to be included in an annual report on reviewing concessionary rents due to be considered by the Policy and Resources Committee on 3 September 2019.

It is very difficult to compare the rental of the industrial portfolio objectively over a number of years as its composition changes due to the sale of properties, addition of new properties and the refurbishment and repair of existing properties. However, **APPENDIX IV** shows the increases in rental achieved at rent review for industrial premises (3 yearly rent reviews) and for industrial sites (5 yearly rent reviews), compared to the Retail Prices Index over the corresponding periods.

The level of rent at review is assessed in accordance with the provisions of the rent review clause of each lease, which invariably refers to the level of market rental at the rent review date.

The level of rent and insurance (over 28 days old) outstanding at financial year end (2018/19) was £135,437. The % debt on this basis for the last five years is:-

2018/19 - 6.99%
2017/18 - 4.66%
2016/17 - 4.55%
2015/16 - 4.9%
2014/15 - 4.2%

The % debt increased in 2018/19 due to an increased number of tenants encountering financial difficulties. Estates staff are monitoring the situation and are working constructively with tenants to minimise arrears and assist businesses tackle the issues causing arrears. Nonetheless in March/April 2019 Estates and Legal Services put in place new arrangements to monitor and pursue outstanding debt where discussions with tenants have been unsuccessful. This has borne a number of initial successes and officers are confident that the level of debt will reduce in 2019/20 as debt recovery actions intensify.

A system of charges to recover the Council's costs of pursuing outstanding rent was introduced in June 2018. This is primarily designed to persuade habitual late payers to pay timeously, improve the Council's cash flow and cut staff resources required to pursue debts, rather than generate significant additional revenue to the Council. Analysis indicates that around one third of tenants served with such charges have cleared their debts soon after.

Net Rental Income

This has been reported previously after deduction of property running costs, plus staff and administrative costs. However, it is now reported after also deducting capital financing.

The industrial portfolio has been funded in a variety of ways over a number of years. This has included capital grants from Government and the European Union, as well as by borrowing. The borrowings are at different stages of repayment with historic loans having been paid off.

Loan charges are pooled at a high level across numerous projects and it can be difficult to extrapolate accurately amounts attributable to the industrial portfolio. Some loans have been paid off, but the amount remaining in the

loans pool which could be attributed to the industrial portfolio is estimated at approximately £8.9M. It is further estimated that loans charges in 2018/19 included around £413,000 which could be attributed to borrowing to fund the industrial portfolio.

On this basis the net rental income in 2018/19 was £1,103,000 **APPENDIX III** illustrates the net rental income generated by the industrial portfolio over the period 2014-2019.

b) Occupancy Levels

Occupancy levels of industrial land and buildings in Moray continue to remain high with 12 buildings vacant at 31 March 2019, giving a floor area occupancy level of 93.18% compared to a target of 80%. The occupancy levels of Council industrial buildings in recent years are set out below:-

Year	% of floorspace occupied	% of buildings occupied
2014/15	84.8%*	93.9%
2015/16	98.66%	97%
2016/17	96.1%	95.4%
2017/18	94.4%	92.7%
2018/19	83.57%	93.18%

* The floor area occupancy figures for 2014/15 and 2018/19 are skewed as a result of the former sawmill at Waterford Circle in Forres (which is by far the largest in the portfolio) becoming vacant. There is, however, strong interest in the property and officers are hopeful that a new letting will be secured later in 2019/20.

With the present high levels of occupancy, there are very few vacant properties available to meet the demand of new and incoming businesses throughout Moray.

APPENDICES V, VI and VII give an analysis of vacant/occupied floor space by settlement and size, as at 31 March 2019.

APPENDIX VIII identifies all the buildings that were vacant as at 31 March 2018, their current status and the length of time they have been unoccupied.

c) Capital Receipts

The sale of industrial land and buildings has generated capital receipts to the Council over the past 5 years as follows:-

2014/15 -	£112,000
2015/16 -	£21,500
2016/17 -	£0
2017/18 -	£70,500
2018/19 -	£0

d) Expenditure

In recent years the Council has invested in general upgrading works to the Industrial Portfolio. During 2018/19 the Council invested £65,000 of revenue and £200,000 of capital in the Industrial Portfolio and in supporting industrial development in Moray through the following projects:-

1. Completion of snagging items at March Road (Rathven Industrial Estate) Buckie
2. Progressing designs for potential development in Forres
3. Refurbishment of Unit Y Isla Bank, Keith including new roof, floor, doors and fencing
4. Estate road upgrades at Dufftown, Newmill Road, Keith and Isla Bank, Keith
5. Site preparation at former go kart track site, Chanonry, Elgin
6. Refurbishment of former Balloch Road Depot, Keith
7. Upgrading of Unit A Isla Bank Mills, Keith
8. Flat roof replacements at 7, 9, 10 & 12 West Road, Forres
9. New doors, fences and gates at various properties in Buckie, Elgin and Keith
10. Miscellaneous repairs, maintenance and minor improvements at various locations

e) Empty Property Costs

For many years vacant industrial properties received 100% empty property rates relief. However, the regulations changed with effect from 1 April 2016, so that vacant industrial property now receives 100% rates relief for 6 months, but thereafter is liable for 90% of the full rates. In addition, from 1 April 2017, empty industrial properties are no longer exempt from water service charges. The Council has very few vacant industrial properties and most that are vacated are quickly re-let. Therefore, to date, the changes have had only a small financial impact and it is envisaged this will continue to be the case for the portfolio in the short term. However officers will closely monitor the situation and the potential additional costs of meeting the objective of the portfolio of providing a supply of affordable properties.

5. Industrial Land Supply in Moray - Public and Private Sector

Development rates over the past 5 years have shown a steady take up of land and sufficient industrial land was allocated in the Moray Local Development Plan 2015 to satisfy the medium to long term economic growth in most of the main settlements. However, a number of sites have not been developed because of constraints and/or landowners' unwillingness to sell sites for prices reflecting industrial use/values and as previously forecast there is now an acute shortage of serviced land ready for development in a number of locations throughout Moray.

Scottish Planning Policy (SPP) requires that the supply of marketable employment sites be regularly reviewed. The aim is to ensure there is sufficient supply of land to meet current and anticipated market requirements. SPP requires Planning Authorities to ensure that there is a range and choice of marketable sites and locations for businesses allocated in the local development plan. The levels of effective/marketable employment land and take up of land are National Headline Indicators returned annually in the Planning Performance Framework to the Scottish Government.

The latest Moray Employment Land Audit, which was considered by the Planning and Regulatory Services Committee on 21 May 2019, highlights that whilst there is a reasonable area available (private and public) there continues to be a lack of choice of sites across all settlements, and in some towns only one or two sites are considered to be effective. 47% (72.54 ha) of the established supply has some form of constraint that is likely to prevent the land being developed in the next five years. The immediately available supply has increased by around 21 hectares compared to 2018 and now represents 49% (39.15 ha) of the land supply available for development in the next 5 years. Whilst sufficient land and buildings require to be available to facilitate wider economic development and to support the vision of the Moray Economic Strategy, including diversifying the economy, as highlighted by previous audits there is a particular shortage of industrial land in Forres and Speyside. The Proposed Local Development Plan looks to address supply issues through the identification of new sites.

A review of Employment Land designations and policy were carried out as part of the review of the Local Development Plan and the settled view of the Council is set out in the Proposed Local Development Plan. The Proposed Plan will be subject to examination prior to adoption in 2020.

The Moray Economic Strategy 2019 -2029 identifies as a key measure the level of immediately available employment land across Moray to meet business needs.

The provision of new industrial development sites is not generally viable in purely financial terms, particularly when there is little existing infrastructure in the vicinity, hence the private sector has been reluctant to get involved, except with substantial public sector support. The Council's predecessors acquired substantial areas of land with potential for commercial development in the 1970s and 1980s which were developed as demand dictated and funds were made available. Given the current severe shortage of serviced industrial development land in Moray officers have worked to identify opportunities to secure a supply of land for the short, medium and long term.

The assessments of the market for industrial property in Section 6 below give details of local situations, whilst Sections 8 and 9 give details of proposals to address matters.

6. Local Reports

Buckie

3 units were vacant at 31 March 2019. One is now let, with another under offer and expected to be occupied soon.

The first phase of the new Rathven Industrial Estate provides 8.2 hectares of serviced sites and a new business unit (3 Newtonhill Spur) extending to 319m². The new unit has been let to a local food processing firm, whilst 1.37 hectares has recently been sold to a local manufacturing firm and 2.75 hectares is under offer to a local food processing company. There are options for further development of unserviced lands in future phases and this now provides a short, medium and long long-term supply of development land in East Moray, with potential to accommodate a large inward investment development of a commercial/industrial nature.

A 0.39 hectares development site at March Road West is constrained both by proximity to housing and by required landscaping areas, which reduce the developable area to approximately 0.32 hectares. The site has been vacant for a number of years, but officers are in negotiations with a local firm seeking to purchase the site to facilitate business expansion.

Elgin

Demand for industrial buildings in Elgin has remained strong over the past year, as at 31 March 2019 only 1 of the Council's units was vacant, which is now under offer.

A lease has now been concluded with a local developer seeking to develop 18 units, comprising 576m² of general industrial and 1,578m² of storage space, for lease on a speculative basis on a Council owned site at Chanonry. Works have commenced and completion is expected by the end of the year. In addition another local developer is nearing completion of the construction of 4 new business units for speculative let at Chanonry, again on a site leased from the Council.

Although the Council invested significantly in recent years in upfilling and servicing land at Chanonry as a result of developer interest (including a new regional depot for Scottish and Southern Electricity and a new HQ/depot for a local developer) all 1.44 hectares of its remaining serviced development land is under offer, which includes 1.25 hectares at Chanonry which is under offer to a building supplies company.

Privately sites at Linkwood East have been developed and occupied by Grampian Furnishers and Costa Coffee. It is understood that negotiations are at an advanced stage for the sale of the remaining site of approximately 0.66 hectares.

The provision of a Business Park for Elgin is a key feature of the Moray Economic Strategy and the Moray Local Plan 2015 makes designations for Business Parks, the largest being at Barmuckity. A local developer with support from Highlands and Islands Enterprise has constructed infrastructure at Barmuckity (branded as Elgin Business Park) creating 12.8 hectares (31.7

acres) of immediately available serviced development land suitable for a variety of uses including general industrial/commercial as well as retail, leisure and hotel uses nearer the A96. Officers are aware of significant initial developer/occupier interest.

Although the Council has no immediate proposals to invest at Barmuckity officers will monitor the development of the Park and consider any opportunities that may arise there, as well as properties vacated in the town by businesses relocating to Barmuckity.

A smaller site in Council ownership (Elgin Common Good) opposite the Eight Acres Hotel is also zoned as a Business Park. Studies previously indicated that the very high servicing/infrastructure costs would make development of the site uneconomic. However, the use classification in terms of the new Proposed Local Development Plan has been widened to include business, hotel and/or residential. There may also be reduced new junction requirements with the A96 than previously envisaged – these factors could potentially improve the financial viability of the site.

The Moray Local Development Plan 2015 designates approximately 12 hectares of privately owned land to the north of the town for business uses of an office/research and light industrial nature. The site is being marketed. However, officers are not aware of any current proposals to develop the area.

Operations at the abattoir at 9 Linkwood Place ceased in April 2018, although the lease is not due to expire until 27 September 2019. With the agreement of the tenant the facility has been marketed for lease or sale and officers are in discussions with a number of interested parties (including a meat processing company). However, viewings and negotiations were until very recently being hampered by outstanding dilapidation works required to be carried out by the tenant. Officers are continuing to work with the tenant and interested parties to try and bring the property back into productive use, although at this stage it is hard to gauge timescales. Substantial dilapidations have been identified at the property and the tenant has advised that it is seeking to negotiate a financial settlement in lieu of carrying out the works. Officers will proceed with the tenant on this basis and consider how much of a settlement sum would subsequently be required to be spent on the property to facilitate its reuse.

Officers have continued to work on improving pedestrian access (particularly for school children) through Pinefield Industrial Estate, Elgin. The provision of an active travel route between Pinefield residential area and East End Primary School forms part of the Elgin Transport Strategy and will be implemented where feasible when funding is available. Within the Pinefield Industrial Estate there are land constraints which mean that land purchase would be required for significant sections of any such route. As a general principle going forward, the provision of walking and cycling facilities within industrial estates for employees and other members of the public to access or pass through the area would be considered at the initial design phases in line with planning policy.

Forres

There has been more turnover of tenants than usual recently and at 31 March 2019 5 units were vacant. Whilst there has been considerable interest in the

large former sawmill, demand for smaller industrial units in Forres is not as strong as in recent years.

All development sites at Waterford Circle and Greshop Industrial Estates are now let, with the exception of the former sawmill at Waterford whose lease to Network Rail expired at the end of March 2019. The Council is in discussions with a number of local companies interested in securing leases of the property.

The new road bridge constructed over the railway to the west of the former sawmill by Network Rail has improved access to the existing businesses at Waterford.

The owner of land directly to the north of the Council's former sawmill, in conjunction with a local developer, investigated proposals to develop 19 new small commercial units on its land. Access is constrained and although officers explored options (with the land owner) for access through the Council's former sawmill the developer interest in new units on this site has dissipated.

The lease to Network Rail of the former sawmill at Waterford expired in March 2019. Officers are in discussions with a number of companies interested in leasing all or part of the property. A report on these interests is due to be considered by the Policy and Resources Committee in September 2019.

Although large areas of land to the north of the town have been designated for industrial development/use in terms of the new Proposed Local Development Plan the proposed route for the A96 dualling cuts across that area and would limit the amount of land potentially available for industrial development.

Highlands and Islands Enterprise (HIE) has invested heavily in the Enterprise Park at Forres, part of which has Enterprise Zone status. Around 13 hectares of land is available for development and HIE has prepared a masterplan for the area which includes provision for light industrial uses, subject to suitable screening/landscaping. Officers prepared designs/costs and had provisionally agreed main terms for the purchase from HIE of 4 hectares of land for the development of serviced sites and units for lease to small businesses. Although there are monies in the capital plan the project has been put on hold due to the Council's acute financial pressures.

Land to the south of the Enterprise Park has been identified in the Proposed Local Development Plan for use as an industrial estate in the long term.

Keith

There is continuing strong demand for smaller industrial premises in Keith. 3 units were vacant at 31 March 2019, which are all now let.

Minor refurbishment works to the former Council's depots at Balloch Road were completed in autumn 2017 and approximately half was let to a distribution company. The remainder has now been let to an electrical component manufacturer.

Isla Bank Mills Estate historically lagged other industrial estates in terms of occupancy levels. However, following completion of various minor works to

mitigate flood risk, as well as upgrading of individual units and common areas, demand is strong. The estate has been near to full occupancy for the last 4 years and significant rental growth has been seen for the first time in many years. The Council funded major upgrading of Unit Y including new roof, floor, fencing, gates and surfacing of the yard which facilitated a let of that property and adjacent Unit Z to a whisky barrel company. The company is employing 12 staff at the properties with intentions to expand to 15.

Unit W which was let to a laundry company was completely destroyed by a fire in November 2018. The roofs and adjoining walls of the adjacent properties were also damaged and are currently being repaired. The adjacent brewery has had some disruption but has managed to continue to operate at reduced capacity, whilst the Council's records store has been relocated while repair works are carried out. Officers are liaising with the loss adjuster regarding an insurance claim, including accepting a cash settlement for the loss of Unit W.

Officers have been investigating options to bring void areas beside Unit P (which was occupied by the Council as a records store prior to decanting to the Buckie Drifter following the fire in adjacent Unit W) into productive use and agreement has been reached for an adjoining tenant to lease an area for storage. The remaining larger void area could be cost effectively adapted for use with Unit P, but is not well suited to separate occupation. In order to facilitate enhance the property's suitability for business use, as well as increase rental income, new vehicle doors are being incorporated as part of the fire damage repair works. A private business which already leases property at Isla Bank Mills from the Council is keen to secure a lease of Unit P to facilitate expansion of its business and officers are minded to proceed on this basis, whilst retaining the Council's records store in the Buckie Drifter.

As a result of the high levels of occupancy at Isla Bank there is pressure on existing vehicle parking provision. An additional 7 spaces were provided in 2018/19 and officers are investigating the feasibility of further new parking provision.

The Council completed the construction of a new road and services to provide serviced development land at Westerton Road South in 2015. Two sites totalling 0.38 hectares (0.94 acres) are currently let on a short term basis and the other two are under offer and due to be occupied soon. The sites continue to be marketed with a view to securing developer interest/long term tenants.

The unserviced land at Isla Bank extending to 1.84 hectares is subject to flooding and is likely undevelopable without major investment in terms of servicing and flood protection, which is considered unviable.

Land to the east of Westerton Road has been identified in the new Proposed Local Development Plan for use as an industrial estate in the long term.

Lossiemouth

Demand for standard industrial buildings in Lossiemouth, has remained strong over the past year, with all of the Council's units occupied as at 31 March 2019.

A local business is nearing completion of a large workshop unit at Coularbank Industrial Estate on a site leased from the Council, which will allow him to release 3 or 4 of his smaller units, also built on Council land, for lease to small businesses. Another business is nearing completion of two small workshop units for its own use on a site leased from the Council.

As part of proposals to consolidate waste facilities the current Council operation at Unit 7 Coularbank would relocate to Moycroft in Elgin in early 2020. Unit 7 is a much larger than normal units and may be difficult to re-let. Officers will monitor the situation and investigate options to maximise the likelihood of re-letting.

The supply of serviced industrial development land is now exhausted and although there has been a reduction in enquiries for industrial land in recent years, this is believed to reflect the lack of sites ready for development more than a slowing of the market. A site (in private ownership) to the south of the town is designated in the Moray Local Development Plan for industrial, business park and retail uses. It is unlikely to be developed for industrial or business park use unless it is serviced as a result of adjacent retail development.

The provision of additional development land in Elgin would assist meeting demand for sites in the Lossiemouth area.

Other Settlements

All the Council's industrial units in Burghead, Dufftown, Rothes, Mosstodloch and Lhanbryde were occupied as at 31 March 2019 and demand remains strong, particularly in Lhanbryde and Rothes.

Following the development of a new complex needs facility 1.69 hectares of unserviced development land remains adjacent to Lhanbryde Industrial Estate which is suitable for wider uses including residential due to its Local Development Plan designation as an Opportunity Site. The site is currently being marketed for sale for residential purposes and the provision of additional development land in Elgin will assist meet demand for sites in the Lhanbryde area.

Recent discussions with businesses in Speyside have indicated demand for serviced sites and units.

A large local business has acquired land to the north of Rothes and has developed part for its own purposes. The company has indicated that it would in principle be amenable to selling adjacent land to the Council to facilitate small scale commercial/industrial development. Officers were investigating this and another site owned by the same company to the south of Rothes, but the work has been put on hold pending improvement in the Council's finances. Meantime another local developer is contemplating the provision of small industrial units on a site to the south of Aberlour.

Land to the north of Rothes has been identified in the new Proposed Local Development Plan for industrial use, whilst additional land has identified for long term industrial use to the west of Mosstodloch in the same document.

In Mosstodloch a large manufacturing company is investigating proposals for major expansion of its operations which may potentially include a number of properties at the Council's industrial estate and works to alleviate surface water flood risks in the vicinity.

7. **Future Trends for the Council's Industrial Portfolio**

- a) Occupation levels in the industrial portfolio remain at a very high level with demand for premises in most settlements in Moray outstripping supply. Although for decades there has been very little private sector provision of industrial property to let in Moray, 22 units for speculative let are currently under construction and around 18 more are being planned by private developers, primarily in Elgin. The majority are facilitated by public sector investment in infrastructure to provide serviced sites. Officers will monitor their progress and take account of this activity in assessing future property needs and their impact on occupation and rentals of Council properties.
- b) Rental levels have increased steadily in recent years although there has been a levelling of the rate of rental growth. Officers will monitor the impact of the proposed significant increased supply of private sector units on rentals, but at this stage they are expected to continue to outstrip inflation. The rental income generated by the industrial portfolio has been boosted in previous years by the development of new business units and the letting of new development sites.

The abattoir at 9 Linkwood Place has a rent of £63,600 per annum, which is the highest in the portfolio and the lease is due to terminate on 27 September 2019. Given the property's size and specialist fit out, re-letting is likely to be difficult and a void period is anticipated. Officers expect that the rent will need to be reduced and/or works carried out to strip out the specialist fittings and fixtures in order to attract a tenant for an alternative use of the property. Consideration is also being given to the potential sale of the property.

In addition the lease of the former Sawmill at Waterford Circle, Forres to Network Rail which has a rent of £59,000 per annum, the second highest in the portfolio expired on 29 March 2019. Officers are in discussions with a number of local businesses interested in expanding their operations and are hopeful that a new tenant(s) can be secured. However, given the property's size and "basic" specification, this will take some time and there will be a significant void period in 2019/20.

The Council's Waste Management Service is due to relocate from Unit 7 Coularbank Industrial Estate, Lossiemouth, to new facilities at Moycroft in early 2020. This property has a current rent of £24,400 per annum. Officers will start marketing in advance of the move, but again given its size there is a risk of a significant void period.

Given the likelihood of voids at these three large properties reduced rental income is anticipated in 2019/20.

- c) A number of the Council's properties are occupied by Council services as detailed in **APPENDIX IX**. A number of these are within the scope of a review of depots and storage currently being carried out by the Head of Housing and Property in terms of the Council's Property Assessment Management Appraisal. Where opportunities arise officers will seek to relocate Council services to free the properties for letting to private enterprises.
- d) There is a shortage of serviced land ready for development in Moray, although the purchase and servicing by the Council of land in Buckie provides a long term supply in East Moray.
- e) Meanwhile proposals to secure additional industrial land in Forres and exploring opportunities to expand industrial land provision in Speyside have been put on hold due to the severe pressure on Council budgets. There is a critical shortage of serviced development land in Elgin; however the development of a Business Park at Barmuckity will greatly improve the situation.

New Industrial land designations have been made as part of the review of the Local Development Plan.

- f) A significant amount of the portfolio was provided during the 1960s and 1970s and condition surveys are used to identify backlog maintenance/repair. Although tenants are obliged to carry out some of the outstanding repairs/maintenance where their leases include an obligation to maintain and repair their properties, some of the outstanding works, particularly those of an inherent nature, due to the age of the property require to be addressed by the Council - an ongoing refurbishment programme is in place to ensure the portfolio continues to meet the needs of businesses.
- g) Whilst the revenue repairs budget is sufficient at present to meet ongoing repairs and maintenance needs, as the portfolio expands and the newer units age, there will likely be a future requirement to increase the revenue repairs budget.
- h) Over the last 5 years a prioritised programme has seen the roadways at industrial estates in Buckie, Dufftown, Elgin, Forres, Keith, Lossiemouth and Mosstodloch upgraded to ensure businesses on estates can continue to access their properties and to avoid claims against the Council for damage to vehicles. Works to finish the Dufftown estate road are scheduled for 2021/22 once an adjacent Council social housing development is completed. Resurfacing works are expected to be required within 5 years at Waterford Way Forres, West Road Forres and the car parks at Tyock Industrial Estate.

In the medium to long term it is expected that more substantial investment will be required to maintain the integrity of the estate roads.

- i) Currently Energy Performance Certificates (EPCs) are required for properties for lease above 50m² which meet certain criteria (mainly the presence of heating systems in buildings). However the Energy Act 2011 enables regulations to be passed which would prohibit the letting of

properties with poor EPC ratings (currently thought likely to be set at ratings above E). In England and Wales the new regime came into effect in 2018, however it is less clear at present as to when the Scottish Government will introduce the regulations. Officers are monitoring the development of these regulations, which would potentially impact on approximately 35 units and are investigating cost effective means of complying.

The Scottish Government recently consulted on draft proposals to make non-domestic properties more energy efficient and is planning further consultation in 2019 ahead of new regulations in 2021. Officers will monitor developments closely.

- j) Mosstodloch Industrial Estate has suffered flooding on several occasions during periods of exceptional rainfall, despite significant investment by the Council in upgrading the surface water drainage system. The Council, working collaboratively with Highlands and Islands Enterprise and a major adjacent business in the vicinity commissioned specialist consultants to carry out a flood risk assessment, including potential costed solutions. The consultant advised that the potential solutions identified would require major expenditure and would possibly disrupt the adjacent business. That business is now investigating options to expand its operations in Mosstodloch and encompass flood solutions within its proposals. Officers are liaising closely with the company.
- k) In ensuring the portfolio remains responsive to needs, the Council will continue to consider acquiring/adding property which assists the objectives of the industrial portfolio. Although this would obviously be subject to the availability of funding.
- l) The Council will consider the sale of properties in limited circumstances in accordance with its existing policy - where retaining a property is no longer in the Council's best interests and/or a property no longer supports the objectives of the industrial portfolio.
- m) New Rateable Values of non-domestic properties came into effect on 1 April 2017 and officers made all tenants aware of their right to appeal. The Council's Rating Consultant examined the new Rateable Values of certain let properties where it was felt there was a particular risk of the Council being exposed to significant empty property rates liability. The Consultant advised that the Assessor's figures were reasonable.
- n) The Council continues to work closely with Highlands and Islands Enterprise (HIE) and private sector developers to ensure a co-ordinated and complimentary approach to property provision. HIE concentrates on the provision of larger, higher specification/amenity properties, whereas the Council focuses on smaller more general industrial properties.
- o) From 1 April 2019 the Council changed insurance provider for its leased properties including the industrial portfolio. Unlike the previous policy the new policy does not provide cover for loss of rent and includes more onerous conditions on the management of vacant properties. It is understood this was part of a general strategy to reduce costs by accepting more risk.

8. Development Projects

Updates on current projects previously approved by the Economic Development and Infrastructure Services Committee are provided below.

1. Continue to make provision for refurbishment and maintenance works to the Industrial Portfolio.

The Industrial Estates Revenue Budget contains an element of £70,185 for repairs, maintenance, minor development and improvement works in the revenue plan for 2019/20 and a programme of minor works is being progressed. This includes upgrading outdated electrical and water services, repairs/maintenance of building fabric and improving energy performance of heated buildings. Modernised, wind and watertight buildings are easier to let, minimise voids and command higher rents.

2. Consideration should be given to the provision/acquisition and servicing of land for further industrial development in Forres.

As stated in the Council Employment Land Audit there is a shortage of general industrial land in Forres. Although 20.5 hectares on the north-eastern edge of town is identified in the Moray Local Development Plan 2015 there is little likelihood of it being developed in the foreseeable future and the new Proposed Local Development Plan removes this designation in favour of sites in the Waterford area.

Officers had discussions with land owners in Forres to identify opportunities to acquire land, however they have either sought land values well above industrial use value or been otherwise reluctant to facilitate development at this time. Subsequently the proposed route of the new dualled section of the A96 was announced, which would cut through and sterilise a lot of potential development land in the Waterford area.

Highlands and Islands Enterprise (HIE) has approximately 13 hectares of serviced land available at the Forres Enterprise Park suitable for businesses with higher design and amenity requirements than traditional industrial uses. Officers agreed provisional terms for the acquisition of 4 hectares of land from HIE for more general light industrial uses. Costed designs were prepared, including a higher standard and specification of unit than normally provided in order to be compatible with the general design standards at the Enterprise Park and also to widen the variety of accommodation available to businesses. Although there are monies allocated for this project in the capital plan Estates/Design Services have been instructed to postpone work due to the Council's acute financial pressures.

3. Provision of serviced industrial development land in Elgin

Accommodation works have been carried out to provide serviced industrial development sites, utilising the Council's sites which became available after completion of the Elgin Flood Scheme - both have been marketed and are now under offer.

Options for the provision of a long term supply of industrial development land in Elgin are limited at present, although the development of a business park at Barmuckity will greatly improve the situation.

4. Provision of serviced industrial development land in other locations

Land to the north of Rothes has been acquired and developed by a large manufacturing business. Officers held discussions with the company about utilising any land it does not require at that location, as well as at a site to the south of Rothes owned by the same firm. In addition officers have liaised with a local development company which has plans to provide industrial property on land it owns land to the south of Aberlour. This work has however been postponed as a result of the Council's financial pressures.

9. Annual Review

Officers keep the performance of the portfolio and its constituent parts under constant/ongoing review to ensure it continues to fulfil the objectives of the Portfolio (as detailed in section 2 above) and give consideration to proposals to maintain its ability to meet those objectives.

The main criteria are income generation compared to costs/risks (such as repairs, void periods, empty property rates) and potential to release development value.

The merits of retaining individual properties have been reviewed as part of the preparation of this report.

The sale of a 1.37 hectare site at Rathven Industrial Estate to a major local manufacturing company concluded in late May 2019 and officers are currently in discussions with prospective purchasers in respect of the following four properties for which sales are considered to be potentially in the Council's best interests for a variety of the criteria stated above:-

Former Abattoir, 9 Linkwood Place, Elgin
Former Sawmill, Waterford, Forres
Site at March Road West, Buckie
Garage, Edgar Road, Elgin

Information on these is provided in Section 6 of this report above and once detailed proposals are fully developed they will be brought forward to committee as appropriate for approval.

10. 2019/20 Projects

Monies have been allocated in the current capital programme for refurbishment of the portfolio. Although updated condition surveys are awaited officers have meantime identified the following projects:-

- a) Improve drainage of yard of Units Y & Z Isla Bank, Keith.
- b) Provide new roller door at Unit F Isla Bank, Keith
- c) Drainage works at Isla Bank, Keith.
- d) Fencing at March Road East, Buckie.
- e) Site works at Chanonry, Elgin

Detailed proposals on the industrial development programme for future years will be taken forward through the Council's budget setting process.

11. Future Projects

There is a need for the provision of more serviced industrial land and small business units in various locations in Moray.

Officers will continue to work with private developers who are planning to provide business units. This will influence assessments of whether there is a future need for the Council to develop more units, including whether there is a need to provide units of a size/specification which is not being provided by the market.

Many of the industrial development projects in Moray are financially viable because they utilise previous public sector investment in infrastructure at the Council's industrial estates and it is unlikely that there will be any significant new provision of serviced development land, to address current shortages, without further major public sector investment, as the returns are not sufficient for the private sector compared to the costs and risks. Proposals for the Council to provide more serviced development sites are currently on hold due to financial pressures.

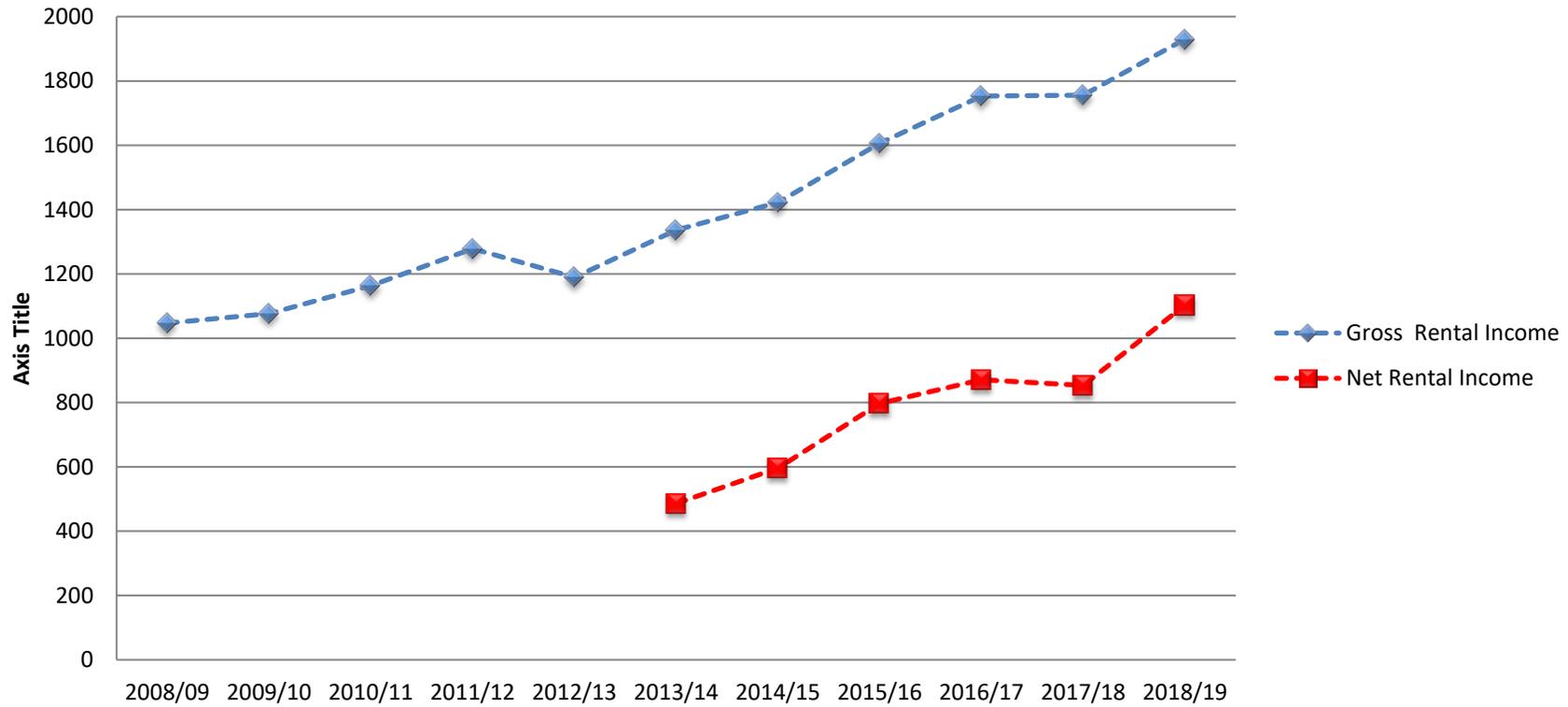
Officers will continue to assess the need for refurbishment of the Council's existing stock of properties to ensure the portfolio continues to meet business needs and condition surveys of the portfolio would assist inform this process.

The Council will continue to explore opportunities with private/public sector partners and proposals for future development of the industrial portfolio will be brought forward through the Council's asset management and capital planning processes.

ANALYSIS OF PORTFOLIO AS AT 31 MARCH 2018

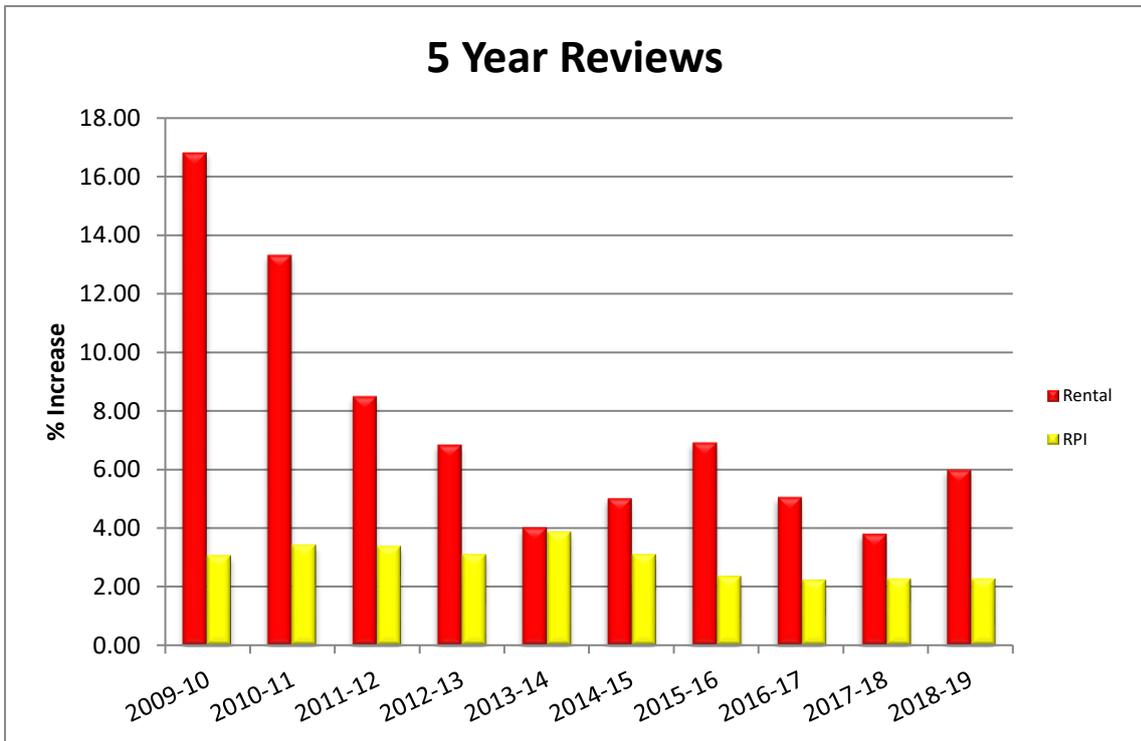
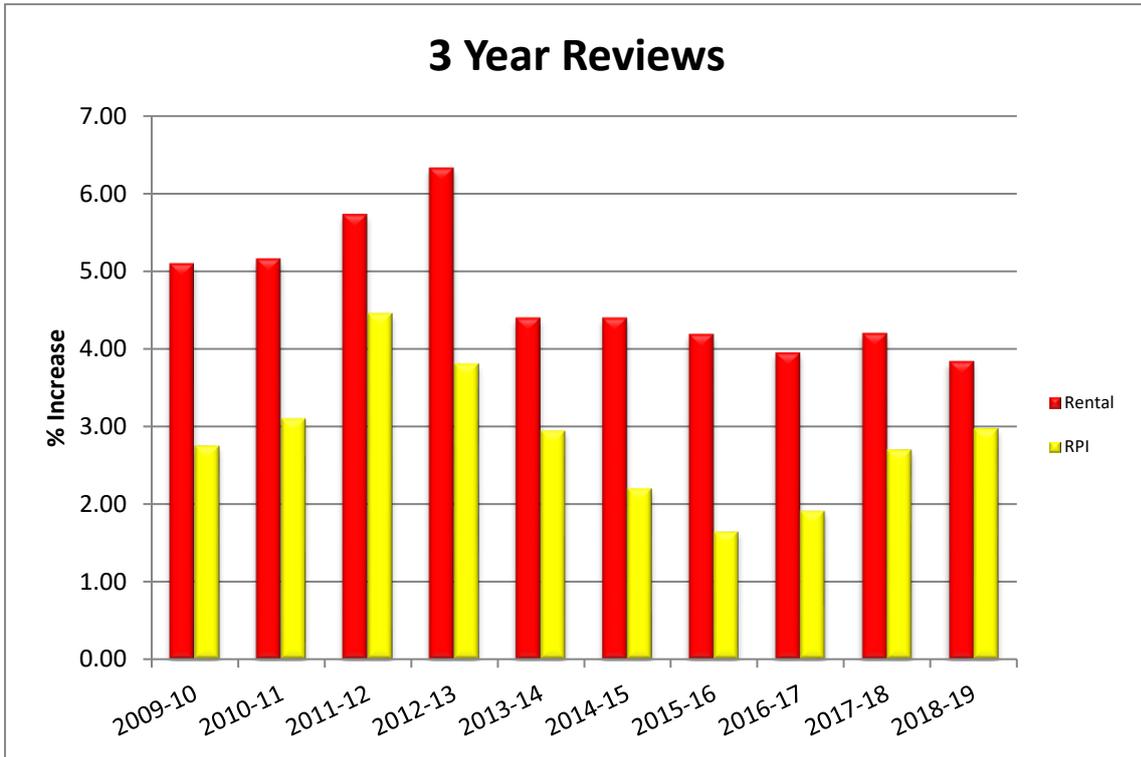
ALL INDUSTRIAL BUILDINGS			LET INDUSTRIAL SITES		FUTURE INDUSTRIAL DEVELOPMENT LAND	
Settlement	No.	Floor Area (m ²)	No.	Total Area (Ha)	Serviced (Ha)	Unserviced (Ha)
Elgin	66	10,601	71	9.50	1.44	0.94
Forres	25	7,142	13	3.37	0.00	0.00
Buckie	20	2,894	10	2.43	10.70	7.96
Keith	37	10,708	12	1.42	1.03	0.00
Lossiemouth	13	1,394	9	0.97	0.00	0.00
Others	15	1,622	13	2.40	0.00	0.00
TOTAL	176	34,361	128	20.09	13.17	8.90

Rental Income Appendix III



Annualised Rental Growth

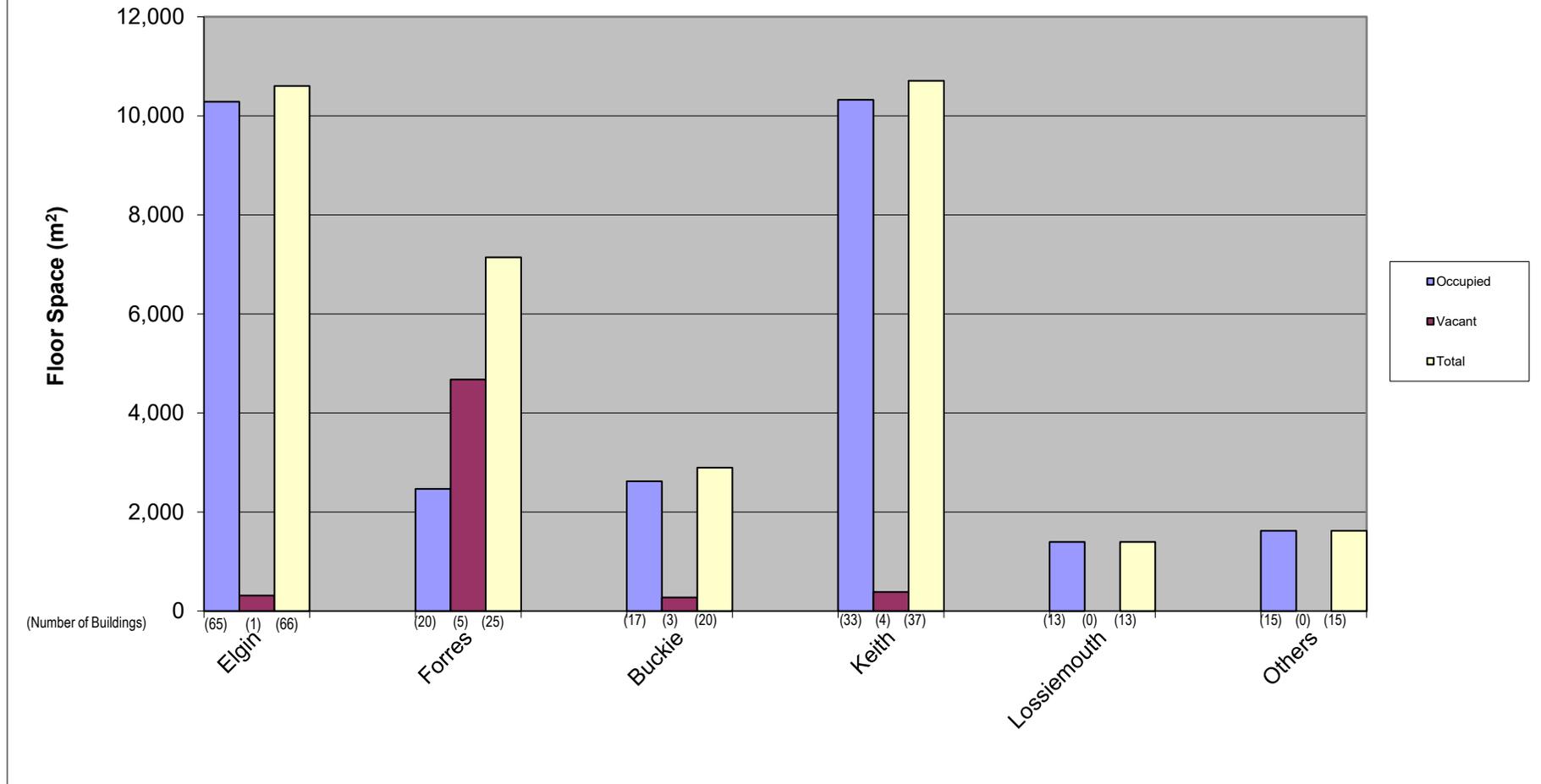
APPENDIX IV



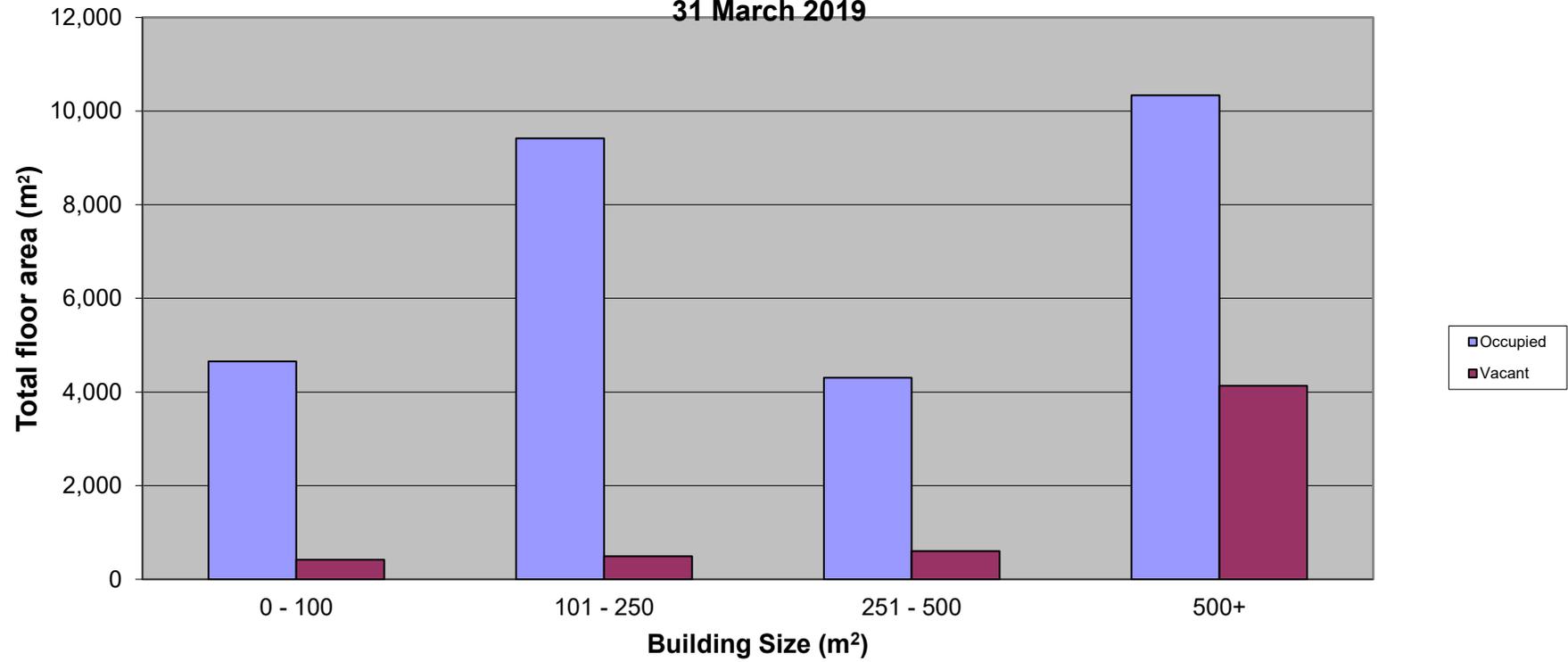
ANALYSIS OF OCCUPIED/VACANT FLOOR SPACE AS AT 31 March 2019

	<u>OCCUPIED</u>		<u>VACANT</u>		Total floor area (m ²)	Total no. of buildings	% of floor area occupied	% of buildings occupied
	Floor area occupied (m ²)	No. of buildings	Floor area vacant (m ²)	No. of buildings				
Elgin	10,287	65	314	1	10,601	66	97.04%	98.48%
Forres	2,466	20	4,676	5	7,142	25	34.53%	80.00%
Buckie	2,622	17	272	3	2,894	20	90.59%	85.00%
Keith	10,324	34	384	3	10,708	37	96.41%	91.89%
Lossiemouth	1,394	13	0	0	1,394	13	100.00%	100.00%
Others	1,622	15	0	0	1,622	15	100.00%	100.00%
TOTAL	28,715	164	5,646	12	34,361	176	83.57%	93.18%

**APPENDIX VI
Analysis of Occupied / Vacant Floor Space
31 March 2019**



APPENDIX VII
Analysis of Occupied / Vacant Floor Space by Size of Building
31 March 2019



ANALYSIS OF TIME SPENT VACANT AS AT 31 MARCH 2019

APPENDIX VIII

Time Vacant	Address	G.I.A. sq.m.	Vacant Date	Comments
0 - 6 Months	8 West Road, Greshop Industrial Estate, Forres IV36 2GW	161.65	15-Jan-19	On market
	Sawmill, Waterford Circle, Forres IV36 3EE	4134.00	29-Mar-19	On market and subject to multiple interests. Part let short term in meantime.
	Unit 12, Greshop Road, Forres IV36 2GU	90.00	20-Mar-19	Under offer
	5 Waterford Circle, Forres IV36 3EF	70.00	28-Feb-19	On market
	1 Waterford Circle, Forres IV36 3EF	220.00	15-Jan-19	On market
	3 March Road East, Buckie AB56 4BY	112.41	13-Nov-18	Let
	4 March Road East, Buckie AB56 4BY	74.97	13-Nov-18	Under offer
6 - 12 Months				
12 Months +	Unit A, Balloch Road, Keith AB55 5EN	285.00	01-Mar-18	Let
	Unit 6, 4 Westerton Road South, Keith, AB55 5FH	49.00	31-May-17	Let
	Unit 5, 4 Westerton Road South, Keith, AB55 5FH	50.00	26-May-17	Let
	11 March Road East, Buckie AB56 4BY	85.00	30-Apr-17	On market
	Site Compound, Grampian Road, Elgin IV30 1XW	314.00	28-Aug-07	Under offer

APPENDIX IX

Industrial Properties Occupied by Council Services

ADDRESS	SERVICE	AREA (m ²)	RENT (per annum)
Units			
Unit P Isla Bank, Keith*	Records Store	338	£9,000
4 Linkwood Lane, Elgin	Environmental Protection	110	£7,575
Unit 10 Tyock, Elgin	Housing DLO	210	£14,450
9 West Road, Forres	Libraries	202	£16,000
Unit H Isla Bank, Keith	Housing DLO	726	£19,830
6 Chanonry Road North, Elgin	Transportation	110	£11,500
9 Chanonry Spur, Elgin	Social Work Integrated Learning Disability Service	86	£5,500
6 Chanonry spur, Elgin	Criminal Justice Service	174	£11,400
7 Coulardbank Ind. Estate	Waste Management	759	£27,650
Sites			
14 March Road East, Buckie	Grounds Maintenance Depot	3,156	£6,200
Site 1 Moycroft Road, Elgin	Recycling	2,471	£7,950
1 Mosstodloch Ind. Estate	Housing DLO	3,560	£10,000
3 Dufftown Ind. Estate	Waste Management	720	£1,300
10 Chanonry Spur, Elgin	Social Work Integrated Learning Disability Service	1,260	£3,800

* Decanted to Buckie Drifter following fire at adjacent unit



**REPORT TO: ECONOMIC DEVELOPMENT & INFRASTRUCTURE SERVICES
COMMITTEE ON 10 SEPTEMBER 2019**

SUBJECT: STAFF CAR PARKING

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING & INFRASTRUCTURE**

1. REASON FOR REPORT

- 1.1 To inform the Committee of the outcome of the consultation on the proposed amendments to the Car Park order.
- 1.2 This report is submitted to Committee in terms of Section III (F) (20) of the Council's Scheme of Administration relating to making traffic regulation orders.

2. RECOMMENDATION

2.1 It is recommended that Committee:

- (i) **considers the responses to the statutory advertisement of the Car Park Order Amendment; and**
- (ii) **approves implementation of the Order as advertised.**

3. BACKGROUND

- 3.1 The Council operates 40 car parks regulated by the Grampian Regional Council (Off Street Car Parks) Order 1989. Greyfriars Street and The Annexe. Car Parks are restricted to council staff only Monday to Friday 0800h – 1800h.
- 3.2 On 26 September 2018 Council made a budget decision to introduce charges for staff parking at the Elgin HQ Campus by the introduction of parking permits for council staff (para 6 of the minute refers). This decision was purely a financial one, and any introduction of charges still has to follow the correct statutory process. The charging mechanism must be detailed in that process and this followed the approach agreed as part of the budget report of 26 September 2018.

- 3.3 The statutory process was duly followed with a consultation on an Amendment to the Car Park Order to allow the Council to charge staff for parking by means of a permit system. The findings of the consultation were taken to a meeting of this Committee on 11 June 2019 (para 6 of the draft minute refers), and subsequently referred on to a meeting of the Council on 27 June 2019.
- 3.4 The decision of the Council was to consult on an amendment to the Car Park Order to introduce charging at £1 per day by pay & display (para 13 of the minute refers).
- 3.5 The consultation on the proposed amendment to the Car Park Order duly commenced on 19 July 2019 through an advert in the Northern Scot and also on tellmesotland.org.uk and concluded on 16 August 2019. As objections have been received to the proposed amendment, the matter is now duly brought to this Committee as it is the committee responsible for considering the objections. However, given the standing budget decision, should the Committee wish to make a decision that does not deliver the agreed budget savings then the matter would need to be referred to the Council to consider the financial implications.

4. CONSULTATION RESPONSES

- 4.1 A total of 17 responses were received. One of these responses was a joint response from 10 members of staff.
- 4.2 In summary:
- One respondent was wholly in favour of the proposal
 - Three respondents were happy with the level and means of charging, but not that it only applied to Greyfriars Street and the Annexe car parks
 - 13 responses were objections
- 4.3 The objections can be summarised as follows:
- 4.3.1 The charges only apply to Greyfriars Street and the Annexe car parks – this was the most common objection in the responses received. The proposal reflects the central location of these car parks, and the fact that there are only 190 spaces for 845 employees so currently no staff are guaranteed a space. For the HQ campus, the majority of employees already make other travel or parking arrangements. There are other locations with no staff parking facilities at all – including Elgin Library.
- 4.3.2 The councillors / directors car park is not included
There is a separate proposal for a voluntary scheme for councillors and directors which recognises the complexity of extending the Car Park Order to the Glover Street car park because of the shared use with the Courts Service.
- 4.3.3 Similarity to Workplace Parking Levy
The Workplace Parking Levy is not yet a legal power for local authorities. When it is introduced it is an option for local authorities to consider, however,

if it were to be introduced it would apply as a levy on employers – it would be up to individual employers as to whether the costs were passed on to employees. The exact details of the legal powers have yet to be set out, and the matter has not been considered by Council. The Council has separate powers to introduce direct charges for parking at car parks that it owns and operates – either as an employer, or under the Road Traffic Regulation Act 1984.

4.3.4 Discriminates against those with no public transport

The provision of public transport is unchanged by these proposals. The challenges of public transport across Moray is one that the council recognises, but is outside the remit of this process.

4.3.5 Impact on nearby residential streets

The total number of employees driving to and/or around Elgin on a daily basis will not increase. The change is to which vehicles are parking in the car parks / in other locations, rather than the total number.

4.3.6 Discriminates against those on low income

This charge is in line with the lowest parking charges made elsewhere in Elgin which many employees already use. Free parking is available on residential streets around Elgin, as currently used by other employees.

4.3.7 A request for personally (named) reserved parking

This consultation response has now been received twice, so for clarity, aside from any Data Protection implications, named reserved parking would add extra costs without any clear benefit in terms of the operation of a car park. In the context of £1 per day pay and display there would be no guarantee of a space for any individual, as is the current position with uncharged parking

4.3.8 Query on the funding and means of enforcement

Enforcement would be carried out by the existing car park attendants who currently patrol all the car parks in Elgin – including Greyfriars Street and the Annexe.

4.3.9 Consultation not carried out correctly

The consultation was a statutory consultation under the Road Traffic Regulation Act, and was carried out in accordance with the requirements of the legislation. Consultations under this Act (including Traffic Regulation Orders) are not placed in the Consultations section of the Council's website, but are advertised in the press and on tellmescotland.gov.uk

4.3.10 Objection based on a belief that the consultation was on permit parking

The consultation was on the introduction of £1 per day pay & display parking for staff.

4.3.11 Part time staff will have to pay for a whole day's parking

This is in line with other car parks in Moray where the charge of £1 is for up to a full day.

4.3.12 No guarantee that if car is taken out of the car park during the day a space will still be available on return

This is correct, and is no different to the current situation.

4.3.13 Query on how to ensure only staff use the car parks

The existing barriers will remain in place. It is not currently proposed to move the barrier in the Annexe car park to enable access to visitor parking, however, this will be monitored and consideration given to moving the entrance barrier if required.

4.3.14 Require easy access to personal car for work purposes

No member of staff who currently uses their personal car for work purposes is guaranteed a parking space in the two car parks.

4.3.15 Should not apply to visiting pool cars and query as to whether cost can be reclaimed through expenses

Expenses remain recoverable if they are incurred in accordance with the Council's Travel and Subsistence Policy.

4.3.16 No choice as an employee to work in a different location

Free parking is available on residential streets around Elgin, as currently used by other employees.

4.3.17 Loss of productivity walking to pool cars / personal cars not parked in the two affected car parks

No member of staff is currently guaranteed a parking space in the two car parks. There is sufficient parking within close proximity of the HQ complex for all employees, whether this is in pay & display car parks or on nearby streets.

5. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

These proposals fit with the objectives of economic development and are part of the Council's identified budget savings.

(b) Policy and Legal

The statutory process for amending the Car Park Order has been followed.

(c) Financial implications

When the Council approved the budget for 2019/20 on 26 February 2019, the three year indicative budget before the Council showed savings required in 2020/21 of £12.2 million and £6.7 in 2021/22. Although the final figures will vary, it is clear that the council will have to reduce its costs significantly across all services in future years. All financial decisions must be made in this context and only essential additional expenditure should be agreed.

The additional income generated if the amendment to the Car Park Order is approved will be £18k less than budget, in line with the decision of Council on 27 July 2019.

(d) Risk Implications

There are no specific risks although the proposal has attracted criticism from some staff and previously from the trade unions.

(e) Staffing Implications

There are no staffing implications.

(f) Property

There are no property implications.

(g) Equalities/Socio Economic Impact

Equalities matters have been considered throughout the process. An Equalities Impact Assessment was not required for this proposal because a) the parking facility is not large enough to be available for all staff, and b) there are uncharged blue badge spaces in the car parks for disabled staff.

(h) Consultations

The Legal Services Manager, Principal Accountant (P Connor), Equalities Officer, and Committee Services Officer (L Rowan) have been consulted and their comments incorporated into this report.

6. CONCLUSION

6.1 Committee is asked to consider the consultation responses and decide whether to approve the amendment to the Car Park Order to introduce £1 per day Pay & Display parking for staff at Greyfriars Street and the Annexe car parks.

Author of Report: Nicola Moss, Transportation Manager
Background Papers: n/a
Ref:



REPORT TO: ECONOMIC DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE ON 10 SEPTEMBER 2019

SUBJECT: PORT MARINE SAFETY – 1ST QUARTER

BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT, PLANNING & INFRASTRUCTURE)

1. REASON FOR REPORT

- 1.1 To inform the Committee with regard to matters of Marine Safety and compliance with the Port Marine Safety Code (PMSC) for the first quarter of 2019/20.
- 1.2 This report is submitted to Committee in terms of Section III (F) (25) of the Council's Scheme of Administration relating to the functions of Council as Statutory Harbour Authority (SHA).

2. RECOMMENDATION

- 2.1 **Committee is asked to consider and note the safety performance, fulfilling their function as Duty Holder under the Port Marine Safety Code.**

3. BACKGROUND

- 3.1 A report was submitted to the meeting of this committee on the 20 March 2018, with the subject Port Marine Safety Code (PMSC).
- 3.2 Paragraph 6 of the minute of that meeting instructs officers to report quarterly to this Committee, as the Duty Holder, on matters of marine safety.

4. COMMITMENT TO THE PMSC

- 4.1 Moray Council, in its capacity as a Statutory Harbour Authority, is committed to undertaking and regulating marine operations to safeguard all its harbour areas, the users, the public and the environment.
- 4.2 The aim of the harbour team is to manage operations safely, efficiently, sustainably and as a benefit to all of the users and wider communities.
- 4.3 The team are committed to:

- a) full compliance with all legal requirements in harbour operations while seeking to meet the changing needs of all harbour users
 - b) ensuring that all personnel are well trained, engaged and committed to improving safety in all processes. Competent skilled personnel backed by an active safety culture are key to a positive safety record.
 - c) undertaking hazard identification and risk assessments when required and implementing improvement measures where necessary.
- 4.4 The team expect that all harbour users recognise the effect that they can have on the harbours operation and reputation and must work to our standards as a minimum. A Permit to Work system is in place to maintain control over hazardous work. The team will ensure that any contractors or others management systems fully support the same commitment to health, safety and environmental performance.

5. VESSEL MOVEMENTS

- 5.1 In the first quarter of 2019 there were 13 cargo movements (arrival and departure) at Buckie. This included 6 acts of pilotage, 5 in and 1 out with 1 of the operations being in the dark.
- 5.2 The prawn fishing has been improving significantly with consistent fishing right along the coast and some of the nicest prawns seen for a while. Some of the bigger squid boats started working the rigs to the north and tows east of Buckie with mixed results but getting better all the time. The crab and lobster fishing as ever for this time of year is improving all the time.
- 5.3 The usual increase of commercial vessels has started with a few different survey boats working from the harbour and more expected through the coming months.

6. CONSERVANCY

- 6.1 The priority areas of current concern are:
- Buckie: entrance channel
 - Burghead: sand bank outside entrance
 - Hopeman: large bank of silt at the end of the pontoon system and another bank in the outer basin limiting access and egress during the season
 - Cullen: removal of sand from the beach side rather than the entrance
 - Findochty: lack of depth between the pontoons and entrance
 - Portknockie: no major issues at this time
- 6.2 There have been digs carried out at both Buckie and Burghead and the harbourmaster has observed improvements at both locations. Further work is currently scheduled prior to the dredger carrying out commercial work. The remainder of the planned dredging for the year will be carried out following Selkie's return from commercial activity.

7. GENERAL SAFETY IMPROVEMENTS

- 7.1 The handrail replacement at Findochty is all but complete, only the last few poles to install and the old wood to remove.
- 7.2 Several projects ongoing with the pilot boat. 2 yearly inspection is pending in the coming months
- 7.3 More pontoon sections and a couple of longer fingers have been purchased from Lossimouth Marina. Although second hand, having these will allow officers to start taking the damaged sections out and work on them while not losing any of the pontoon length. Officers hope to start this work once the boats start to be removed for winter.
- 7.4 Work continues on the fishmarket building in preparation for the new tenant, SSE, who will be taking over the office in the building along with 2 bays. Work has included renewing the flashings and fire, asbestos and legionella inspections
- 7.5 Many new rope ladders were made and most of the ladders cleaned or changed at Buckie, Burghead and Findochty with plans to do Hopeman and Cullen later in the year.
- 7.6 Work continues in Burghead where officers are trying to get buy in from the fishermen to maintain levels of housekeeping. This is proving difficult with no permanent presence.
- 7.7 Training has been carried out by 3rd party trainers on the 360° excavator and abrasive wheels. Pilot and pilot boat coxswain training continue as operations allow.
- 7.8 With the ongoing work in Portknockie to the landslip areas and the work being done to the paddling pool area by the community group, there were a lot of different workforces in the area. Good coordination between them all and harbour staffing allowed both jobs to be carried out simultaneously, efficiently and safely. The Morrisons team have also had to contend with lots of members of the public at the harbour 'dookin' and they are to be commended for the way they have handled themselves and controlled the works to minimise the risk to the public.
- 7.9 Regular pressure washing sessions are required in several areas at all the harbours due to the appearance of green algae on concrete surfaces. The first quarter is often the worst as the sun starts to get a bit of heat but everything is still damp. Officers have now found an environmentally safe product to do this (much like what you would use on a patio or decking) which will not only be safer for the harbours team but mean that more areas can be done quicker with more efficiency.
- 7.10 A lot of work has been done on the Safety Management System including clarifying some of the job descriptions, modifying the organigram, the addition of the 'Mooring Manual' and the new drone and environmental policies.

- 7.11 A new work schedule was started where by the watchmen work 8 hour shifts instead of 6 hours shifts. In terms of welfare this works well as it means that the team get an additional day off while maintaining pay levels. From the harbours point of view it means that the team can be used more effectively

8. INCIDENT STATISTICS

- 8.1 There were no injuries to Harbours personnel in the 1st quarter at any of the harbours.

General

- 8.2 During the night on 19 April 2019 it was reported that 2 vessels had capsized while berthed at Burghead. Both vessels had been in the same location for approximately 6 days due to weather conditions. The day of the incident saw some of the biggest ebbs of the year. Both vessels tipped over at low water. Contractors were called out to respond to the spill which had occurred. Following advice from the MCA, they were stood down once the Harbourmaster got onsite and assessed the situation. Although the spill was out of Harbour staff control, lessons were learned which have been worked into emergency plans such as the watchmen having a mobile phone so that the out of hours team can contact them sooner. The other issue was that if the team had needed to deploy spill booms, this would have been impossible without a boat. The team are looking at ways of transporting the existing boat in the back of the truck or with a trailer so that no matter which harbour the incident is at they can respond efficiently and effectively.
- 8.4 The team received a report through Laggan of an incident which occurred on 20 May 2019 in Burghead beside the Shetland Bus Memorial. Officers were unable to carry out a proper investigation due to the time that had lapsed and a lack of contact details. A gentleman had been taking pictures of the memorial but in order to get both plaques and the prop into the frame he took a further step back without looking or realising that there was a ledge. He fell approximately 2' backwards to the ground resulting in a skull fracture, cuts and bruises. After discussions with the safety department it has been decided that something will have to be put in the area to prevent reoccurrence. Given that this is a local monument of such importance and the harbour of historical importance with the Telford structures, care will be taken to make sure anything put in place is appropriate to the area and fits in with the general look while still eliminating the risk to the public. Suggestions of styles of barrier will be put to the Harbour Advisory Committee meeting and the best way forward decided at that time.
- 8.5 On 24 July 2019 a car drove off the end of the West pier in Hopeman. The car was recovered by Sherriffmill with the help of the coastguard. The harbours team attended the scene along with Police Scotland. Most items were recovered and there was no pollution.

9. KEY PERFORMANCE INDICATORS

9.1 Pilotage

Pilotage is not compulsory at Buckie harbour, and therefore not all cargo movements require the services of a pilot. The number of pilotage acts carried out in the First quarter of 2019/20 was 6, in relation to 13 vessel movements in and out of the harbour.

9.2 Aids to Navigation

As a Local Lighthouse Authority, Moray Council is required to report the availability of all its navigational lights to the Northern Lighthouse Board in March of each year. The following table gives the detail that is reported on an annual basis. This is the table submitted in March 2019

Table 1: Availability of Navigation Lights

IALA Category	No Of Aids	Total Hours	No Of Failures	OOS Hours	MTTR	MTBF	Availability	Target Availability
Moray Council								
CAT 1	1	26,256	0	0:00	0:00	0:00	100.00 %	99.80 %
CAT 2	15	393,840	5	19576:04	3915:13	74852:47	95.03 %	99.00 %
CAT 3	4	105,024	1	13104:00	13104:00	91920:00	87.52 %	97.00 %
No Category	0	0	0	0:00	0:00	0:00	0.00 %	0.00 %
Totals	20							

Criteria:

Date Range from [01/04/2016 00:00:00 to 31/03/2019 00:00:00]
 Third party Organisations are not included.
 Organisations [Moray Council].
 Filter [LLA AtoN].
 User [DBremner] belonging to Organisation(s) [Moray Council]

Key to headings:

IALA International Association of Marine Aids to the Navigation and Lighthouse Authorities
 OOS hours Out of service
 MTTR Mean Time To Repair
 MTBF Mean Time Between Failures

Table 2 lists all the navigation aids currently managed by the Council. There is only one Category 1 light, which is located on the West Mucks at Buckie harbour, principally to aid cargo vessel movements. There are eleven Category 2 lights and four Category 3 lights of which two are unlit beacons

Table 2: Moray Council - Aids to Navigation

ALLFS No.	AtoN No.	Aton Name	Aton Type	Character	Range	IALA Cat
A3396.1	3396.1	Buckie Harbour. Cliff Terrace.	Sector Light	Iso WG 2s	16	CAT 2
A3394	3394	Buckie Harbour. N Pier. Lts in line 096. Rear. 60m from front	Leading Light	Oc R 10s	15	CAT 2
A3392	3392	Buckie Harbour. North Pier Lts in Line 096. Front	Leading Light	2 F R(vert)	9	CAT 2
A3396	3396	Buckie Harbour. W Pier. Elbow	Light	2 F G(vert)	4	CAT 2
A3391	3391	Buckie Harbour. West Muck	Light	Q R	7	CAT 1
A3429.	3429.	Burghead Harbour. Entrance Groyne	Light	FI G 5s	1	CAT 2
A3428.5		Burghead Harbour. Fishing Transit Light	Light	FG	1	CAT 3
A3424	3424	Burghead Harbour. N Pier. Head	Light	Oc W 8s	5	CAT 2
A3428	3428	Burghead Harbour. S Pier. Head	Light	Q G	5	CAT 2
A3426	3426	Burghead Harbour. Spur. Head	Light	Q R	5	CAT 2
	3383U	Cullen Harbour. North Pier.	Unlit Beacon			CAT 3
A3372	3372	Cullen Harbour. Outer Basin.	Light	FG	1	CAT 3
A3385	3385	Findochty. Ldg Lts 166deg. Front.	Leading Light	F R	3	CAT 2
A3385.1	3385.1	Findochty. Ldg Lts. Rear. Harbour Road. 30m from front	Leading Light	F R	3	CAT 2
	3386U	Findochty. West Pier	Unlit Beacon			CAT 3
A3418.1	3418.1	Hopeman Harbour. Ldg Lts 081deg. Rear. 10m from Front	Leading Light	F R	4	CAT 2
A3418	3418	Hopeman Harbour. N Quay. Elbow. Ldg Lts 081deg.Front	Leading Light	F R	4	CAT 2
A3416	3416	Hopeman Harbour. W Pier. Head	Light	Oc G 4s	4	CAT 2
A3382.1	3382.1	Portknockie Harbour. Ldg Lts 150 30' (Rear)	Leading Light	FI G	2	CAT 2
A3382.	3382.	Portknockie Harbour. Ldg Lts. 150 30' (Front)	Leading Light	FI G	2	CAT 2

Local Lighthouse Authorities are required to manage their Aids to Navigation within international guidelines as determined by the IALA. Aids to Navigation (AtoN) are categorised according to their navigational importance with their 'availability' requirements reflecting this:

Availability	Objective	Definition
Category 1	99.8%	AtoN considered to be of primary navigational significance
Category 2	99.0%	AtoN considered to be of navigational significance
Category 3	97.0%	AtoN considered to be of less navigational significance

The 'Availability Objective' is calculated over a rolling 3-year period. This means that over this period a Cat 1 AtoN needs to be functional for 99.8% of the time.

The Team have the light and are waiting for colleagues in Street lighting to reply regarding the new light for Cullen harbour.

10. GENERAL COMMENTARY

- 10.1 The safety performance at the harbours is improving as the team develops, learns new skills and look for better ways of doing regular activity. Little things like how the market is set up can make a big difference in how safely those jobs are carried out.
- 10.2 The pilot boat is coming to the end of its practical life. Having 2 engineers in the team has paid massive dividends already as they have been able to carry out maintenance and repairs. Unfortunately the age of the vessel and repairs required mean that a replacement needs to be considered. Options are being taken to the next meeting of the Asset Management Working Group on 25 September 2019.
- 10.3 The pontoon systems at Portknockie and Findochty are still a concern. Work has been done to them over the years to try and maximise the lifespan of them but the work scope is getting to the stage where there is little that harbours staff can do by themselves. The second hand pontoons recently purchased will help create a better pro-active maintenance plan for the time being. New decking boards have already been purchased and will be installed when the boats start coming out again.

11. FUTURE OBJECTIVES AND PLANS

- 11.1 Objectives identified for 2019 and beyond include the following:
- Monitor consistent incident reporting, including potential incidents
 - Implement new KPIs
 - Undertake further reviews of Marine Policy, SMS and training requirements Maintain momentum of Pilot training and accreditation
- 11.2 The team intend to carry on with pilot training, however, to facilitate this requires an increase in the number of competent coxswains. Training for this

is planned for later this year. The team will then have 6 coxswains who will all work towards becoming a pilot.

- 11.3 A review of the training requirements for all staff has been held. Some of the internal courses are yet to be developed and external trainers have been used. Pilot and Coxswain training continues with training opportunities being taken when possible.

12. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

Sustainable harbours maintained to operate safely and efficiently contribute to the economic development of Moray

(b) Policy and Legal

Non-compliance with the Code will have legal implications

(c) Financial implications

Non-compliance of the Code may have financial implications

(d) Risk Implications

Prosecution of the authority may result from the failure to comply with the Port Marine Safety Code.

(e) Staffing Implications

Key personnel are to be trained, qualified and experienced.

(f) Property

There are no property implications arising from this report.

(g) Equalities/Socio Economic Impact

There are no specific equalities matters, however, the Equalities Officer has been consulted and comments incorporated into this report.

(h) Consultations

The Legal Services Manager (Property & Contracts), Principal Accountant, Committee Services Officer (L Rowan), and Equalities Officer have all been consulted and their comments incorporated into this report.

13. CONCLUSION

- 13.1 The council is currently deemed to be compliant with the PMSC, however, there is still work to be done to stabilise our position in relation to marine safety. This will be evidenced through future reports to this Committee, and scrutinised by this Committee as Duty Holder.**

Author of Report: Darren Bremner, Harbourmaster
Background Papers:
Ref:



REPORT TO: ECONOMIC DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE ON 10 SEPTEMBER 2019

SUBJECT: DIRECT SERVICES AND DEVELOPMENT SERVICES (ECONOMIC DEVELOPMENT) CAPITAL AND REVENUE BUDGET MONITORING TO 30 JUNE 2019

BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT, PLANNING & INFRASTRUCTURE)

1. REASON FOR REPORT

- 1.1 To inform the Committee of the current position regarding Direct Services and Development Services (Economic Development) Capital and Revenue Budgets.
- 1.2 This report is submitted to Committee in terms of Section III (A) (2) of the Council's Scheme of Administration relating to the consideration of Capital and Revenue Budgets and long term financial plans

2. RECOMMENDATION

- 2.1 **It is recommended that Committee considers and notes the budget monitoring report for the period to 30 June 2019.**

3. BACKGROUND

- 3.1 The revised Performance Management Framework February 2013 agreed by The Moray Council on 22 May 2013 (paragraph 8 (iii) of the Minute refers) requires that progress against Capital and Revenue Expenditure and the Capital Plan is reported to the relevant Service Committee every Committee cycle. Expenditure is reported in the first instance to Policy and Resources Committee quarterly.
- 3.2 The Capital Plan for 2019/20 was approved by a meeting of Moray Council on 27 February 2019 (para 4 of the minute refers). Amendments approved by Council and by Policy and Resources Committee since this date have been incorporated into this report.

- 3.3 The Capital Plan reflects the Council's priorities and is developed adhering to the Council's Capital Strategy. Regular monitoring reports are provided to Policy and Resources Committee and this Committee. Policy and Resources Committee on 10 May 2016 agreed to amendments to the information provided in response to the Audit Scotland report "Major Capital Investment in Councils" (para 7 of the minute refers). Accordingly, this report will give details of expenditure on projects which span more than one financial year, as set out in **APPENDIX IV**.
- 3.4 The Revenue budget was approved at a meeting of the Council on 27 February 2019 (para 10 of the minute refers). The current total Revenue budget for Direct Services is £21.832 million in 2019/20.

4. DIRECT SERVICES REVENUE BUDGET

4.1 **APPENDIX I** details the Direct Services Revenue Budget position to 30 June 2019.

4.2 REVENUE BUDGET POSITION 30 JUNE 2019

Annual Budget	Budget to 30 June 2019	Actual to 30 June 2019	Variance 2019-20
£000s	£000s	£000s	£000s
21,832	4,630	4,513	117

4.3 Direct Services actual and committed budget has an overall underspend to budget, of £117,000, with major revenue variances described in para 4.4 - 4.7 of this report. Underspends or overspends are against projected budgets for the period only.

Position at 30 June 2019

<u>Service</u>	Ref Para	Overspend	Underspend
		£000s	£000s
Lands and Parks/ Countryside Amenities / Access	4.4		12
Fleet Services	4.5		77
Traffic and Transportation Management	4.6		31

4.4 **Major Variance – Lands and Parks** has an overall underspend of £12,000 which is due to burial grounds maintenance (routine and internments) being under budget to date, income is on budget.

- 4.5 **Fleet Services** has an overall underspend of £77,000 made up of the following major variances:- energy costs of £12,000 due to a timing issue of electricity bills. Transport & plant costs £24,000 due to the phasing of tyre road fund and spare part spending, reduced vehicle hire and increased fleet internal recharge income £40,000.
- 4.6 **Traffic and Transportation Management** has an overall underspend of £31,000. The main underspend variance is due to harbours income surplus.

5. DEVELOPMENT SERVICES (ECONOMIC DEVELOPMENT) REVENUE BUDGET

REVENUE BUDGET		Position 30 June 2019	
Annual Budget	Budget to 30 June 2019	Actual to 30 June 2019	Variance 2019-20
£000s	£000s	£000s	£000s
798	262	258	4

- 5.1 Development Services - Economic Development, the variance to budget is a minor underspend of £4,000.

6. DIRECT SERVICES CAPITAL BUDGET TO 30 JUNE 2019

- 6.1 **APPENDIX II** details the Direct Services Capital Budget position to 30 June 2019. The total Capital Plan budget of £30.191 million has an actual spend at the end of June 2019 of £1.758 million against a projection for the period of £1.767 million.
- 6.2 **APPENDIX III** shows the individual projects within the Capital Budget.
- 6.3 Expenditure on Direct Services - Land and Buildings to 30 June totals £257,000. Expenditure of £230,000 has been incurred for the ongoing project to provide integrated waste facilities at Moycroft in Elgin.
- 6.4 Expenditure on Direct Services – Infrastructure assets to 30 June totals £1,017,000. The major items of expenditure are £427,000 on carriageway resurfacing/ reconstruction, £92,000 for new LED street lighting and £330,000 for Portknockie Landslip works.
- 6.5 Expenditure on vehicles, plant and equipment to 30 June totals £484,000. The major item of expenditure being £441,000 on the vehicle replacement programme

7. **PROJECTED OUTTURN**

- 7.1 Budget managers have been requested to update projected estimates of expenditure on capital projects in 2019/20. Projects are graded for confidence of achieving projected expenditure with high confidence rated as green, medium confidence as amber and low confidence as red. A summary of the ratings is given in the table below.

Risk status	RAG	No. of projects	Projected expenditure 2019/20 £000s
High confidence of spend to estimate	G	40	19,175
Medium confidence spend to estimate	A	4	10,159
Low confidence of spend to estimate	R	0	0
		<hr/>	<hr/>
		44	29,334

8. **RISK AND EMERGING ISSUES**

- 8.1 Budget managers have been requested to identify any specific areas of risk for the projects in the Capital Plan for which they are responsible.
- 8.2 The main risk for the vehicle replacement programme is that due to ongoing budget uncertainty some user departmental managers have been unable to commit to the number and specification of vehicles and plant due for replacement. This can lead to manufacturers being unable to deliver within the current financial year.
- 8.3 Land compensation claims remain a risk for the major flood alleviation scheme at Forres.
- 8.4 Poor weather conditions can impact project timescales.
- 8.5 Lack of staff resources and staff turnover can impact on project timescales.
- 8.6 Other emerging work priorities can impact on scheduled works.
- 8.7 No other project risks have been specifically identified by budget managers

9. **SUMMARY OF IMPLICATIONS**

(a) **Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

Effective budget management is an essential component of delivery of Council priorities. This report was informed by Moray 10 Year plan and provides support to enable the following priorities to be delivered: Growing diverse and sustainable economy, Building a better future for our children and young people in Moray, Empowering and connecting

communities and working towards a financially stable council that provides valued services to our communities

(b) Policy and Legal

There are no policy or legal implications arising directly from this report.

(c) Financial implications

The financial implications are highlighted within the report and detailed in **APPENDICES I – IV**.

Direct Services Revenue spend to 30 June 2019 is £4,513,000 against a budget of £4,630,000 giving an underspend of £117,000.

Development Services - Economic Development Revenue spend to 30 June 2019 is £262,000 against a budget of £258,000 giving a minor overspend variance of £4,000.

Direct Services Capital spend is £1.758 million to 30 June 2019.

(d) Risk Implications

Budget managers are aware of their responsibilities for managing budget allocations and approval for variance will be sought from Committee in line with the Financial Regulations.

(e) Staffing Implications

There are no staffing implications arising from this report.

(f) Property

There are no Property implications arising from this report

(g) Equalities/Socio Economic Impact

There are no equalities implications arising from this report because the report informs the Committee on budget monitoring.

(h) Consultations

This report has been prepared in consultation with the Corporate Director (Economic Development, Planning and Infrastructure), Paul Connor, Principal Accountant, Head of Direct Services, Head of Development Services, Legal Service Manager, Lissa Rowan, Committee Service Officer and Direct Services Management Team and Budget Managers. Any comments have been taken into consideration.

10. CONCLUSION

10.1 This report sets out the budget monitoring position and comments on variances for the Direct Services and Development Services (Economic Development) Capital and Revenue Budget for the period to 30 June 2019.

Author of Report: Nichola Urquhart, Quality Management Systems Officer

Background Papers:

Ref:

**DIRECT SERVICES REVENUE BUDGET PROGRESS
PERIOD TO 30 JUNE 2019**

Service	Budget 2019-20	Budget 30 June 2019	Actual 30 June 2019	Variance 2019-20
	£000s	£000s	£000s	£000s
Building Cleaning & Catering	5,011	1,262	1,267	-5
Waste Management	7,714	1,005	1,000	5
Direct Services Admin /Quality Assurance	340	83	89	-6
Lands and Parks/Countryside Amenities/Access	1,292	207	195	12
Roads Management	3,748	1,375	1,373	2
Fleet Services	-1,731	-480	-557	77
Traffic & Transportation Mgmt	5,026	927	896	31
Flood Risk Management	943	206	206	0
Staff Saving Targets	-690	0	0	0
Direct Services Directorate	179	45	44	1
Total Direct Services	21,832	4,630	4,513	117

APPENDIX II DIRECT SERVICES CAPITAL BUDGET PROGRESS – PERIOD TO 30 JUNE 2019

	Number of Projects	Current Capital Plan 2019/20	Actual Expenditure	Projected Expenditure				Total Projected Expenditure
				Q1	Q2	Q3	Q4	
Vehicle Plant and Equipment	11	4,632	484	493	471	1,312	2,356	4,632
Lands and Buildings (Direct Services Only)	7	14,105	257	257	4,214	4,214	4,970	13,655
Infrastructure	27	11,454	1,017	1,017	4,200	3,311	2,519	11,047
Total	45	30,191	1,758	1,767	8,885	8,837	9,845	29,334

CAPITAL PROJECTS

APPENDIX III

Direct Services Capital Programme	Capital Plan 2019-20	Actual Expenditure 30 June 2019	Total Projected Expenditure	R/A/G	
2019 / 2020	£000	£000	£000		
Vehicle & plant replacement programme	3,827	441	3,827	G	Environmental Protection
Facilities Management Equipment	8	0	8	G	Environmental Protection
Traffic Data collection equipment	7	1	7	G	Transportation
Traffic Signal Replacement Forres	5	0	5	G	Transportation
Domestic & Trade Waste Bins	35	28	35	G	Environmental Protection
Materials recovery Facility upgrade	100	0	100	G	Environmental Protection
Replacement Green Waste Shredder at Moycroft	200	0	200	G	Environmental Protection
Upgrade Recycling Centres	275	0	275	G	Environmental Protection
Replacement Baler for recyclable material streams	130	0	130	G	Environmental Protection

Waste Strategy Development	10	0	10	G	Environmental Protection
Childrens Play Areas (Parkland)	35	14	35	G	Environmental Protection

Direct Services Capital Programme	Capital Plan 2019-20	Actual Expenditure 30 June 2019	Total Projected Expenditure	R/A/G	
2019 / 2020	£000	£000	£000		
Replace waterproofing and expansion joints at multi storey car parks	228	0	228	G	Consultancy
Dallachy Landfill Site	657	27	657	G	Environmental Protection
Integrated Waste Facility , Moycroft	2,666	230	2,666	G	Environmental Protection
NESS energy form waste – IAA2, IAA3	9,966	0	9,966	A	Head of Direct Services
Replacement Recycling Centre Elgin	500	0	50	A	Head of Direct Services
Upgrade Recycling Centre facilities	77	0	77	G	Environmental Protection
Replacement burial grounds – ground investigation Elgin Site	11	0	11	A	Environmental Protection

Direct Services Capital Programme	Capital Plan 2019-20	Actual Expenditure 30 June 2019	Total Projected Expenditure	R/A/G	
2019 / 2020	£000	£000	£000		
Disability Adaptions	61	0	61	G	Transportation
New Road Signs and Markings	37	0	37	G	Transportation
Road safety barrier provision	197	77	109	G	Consultancy
Road safety provision	221	15	221	G	Transportation
CWSS	157	6	157	G	Transportation
Carriageway resurfacing/ reconstruction/ surface dressing	2,227	427	2,227	G	Roads Maintenance
Carriageway works re windfarm routes	153	0	153	G	Roads Maintenance
Drainage and other works	915	29	915	G	Roads Maintenance
Footways	300	0	300	G	Roads Maintenance
Timber Traffic Structural Works	490	0	490	G	Roads Maintenance
Replace SOX and SON street lights with LED lights	1,100	92	1,100	G	Roads Maintenance
Replacement columns and lights	618	0	618	G	Roads Maintenance
A941 New Craigellachie Bridge	1,800	2	1,800	G	Consultancy
Arthur's Bridge	86	39	86	G	Consultancy
B9136 Glenlivet Bridge	154	0	250	G	Consultancy

Remote footbridges	92	0	92	G	Consultancy
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Direct Services Capital Programme	Capital Plan 2019-20	Actual Expenditure 30 June 2019	Total Projected Expenditure	R/A/G	
2019 / 2020	£000	£000	£000		
Lossiemouth Seatown Food Risk Management	284	0	100	G	Consultancy
Portgordon Flood risk management	215	0	0	G	Transportation
Porknockie Landslip	1,144	330	1,144	G	Consultancy
Harbours-replacement of life expired elements and upgrades-Buckie	276	0	276	G	Consultancy
Harbours-replacement of life expired elements and upgrades-Burghead	258	0	258	G	Consultancy
Harbours-replacement of life expired elements and upgrades- Cullen	35	0	35	G	Consultancy
Harbours-replacement of life expired elements and upgrades-Findochty	57	0	41	G	Transportation
Harbours-replacement of life expired elements and upgrades-Harbour Offices	20	0	20	G	Transportation
Harbours-replacement of life expired elements and upgrades-Portknockie	397	0	397	G	Consultancy

Harbours – Economic Development	28	0	28	G	Transportation
Harbours Economic Developmnet – Buckie harbour Infrastructure Improvements – Ice Plant & Fuel Tank	132	0	132	A	Transportation

Major Capital Projects spanning more than 1 financial year as at 30 June 2019

APPENDIX IV

Description	Approved Budget	Total Expenditure in previous financial years	Current 2019-20 Budget	Actual spend to 2019-20	Remaining Budget 2019-20	Project Life Spend to 30/06/19	Projected Future Years Budget Required	Estimated Final Cost	Projected Budget Variance
	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s	£000s
LED Street lighting replacement programme	5,000	3,117	1,100	92	1008	3,209	0	4,217	783
Moycroft Integrated Waste Facility	3,032	366	2,666	230	2,436	596	0	3,032	0
NESS Energy from Waste	27,224	660	9,966	0	9,966	660	16,598	27,224	0
Total	35,256	4,143	13,732	322	13,410	4,465	16,598	34,473	783

