

CONSULTATION ON NATIONAL POLICY STATEMENTS FOR PORTS AND ENERGY INFRASTRUCTURE – WIRRAL RESPONSE

1. EXECUTIVE SUMMARY

- 1.1 The Government has recently issued draft National Policy Statements for Ports and Energy Infrastructure, on which responses are required by 15th February 2010 (Ports to Department for Transport) and 22nd February 2010 (Energy Infrastructure to Department for Energy and Climate Change).
- 1.2 The National Policy Statements are prepared under section 5(9b) of the Planning Act 2008, to provide the context for decisions to be made by the Infrastructure Planning Commission, which was formally established on 1st October 2009. The Infrastructure Planning Commission administers development consent for nationally significant infrastructure, including ports, airports and major energy infrastructure such as power stations, windfarms and major pipelines.
- 1.3 Cabinet is asked to agree that this report forms the basis of responses to the Department for Transport and the Department for Energy and Climate Change on the National Policy Statements for Ports and Energy Infrastructure.

2. Introduction

- 2.1 The Planning Act 2008 introduced an Infrastructure Planning Commission (IPC, formally established on 1st October 2009) to make decisions on nationally significant infrastructure:
 - Energy – Nuclear power stations and strategic disposal facilities, large-scale renewable electricity generation facilities (eg wind farms), electricity networks, fossil fuel electricity generation (eg gas and coal-fired power stations) and oil and gas infrastructure (eg pipelines and storage facilities);
 - Transport – ports, airports and national transport networks (eg strategic roads, railways and strategic rail freight interchanges);
 - Water and waste – waste water treatment (eg sewage treatment infrastructure), hazardous waste (eg high temperature incineration), water supply (eg reservoirs)
- 2.2 National Policy Statements (NPS) will establish the national need and set out policy infrastructure, explaining how they take account of the Government's relevant social, economic and environmental policies and show how they contribute to tackling climate change. Each draft NPS will be subject to an appraisal of its sustainability, be subject to public consultation and then scrutinised by Parliament before being finalised.
- 2.3 The IPC will make its decisions, taking into account the following factors (as set out at section 104 of The Planning Act 2008):
 - The relevant NPS;

- Other matters prescribed in relation to the type of development (as set out in secondary legislation);
 - The local impact report; and
 - Any other matters which the IPC thinks both important and relevant to its decision.
- 2.4 Unless a finalised NPS for the relevant type of infrastructure is in place, the IPC will not be able to make the decision on the application. Instead it will make a report to the relevant Government Minister with a recommendation of what the decision should be. It will do this using existing Government planning policy. Where a draft NPS has been issued for consultation, the IPC can take this into account in formulating its recommendation.
- 2.5 Under the new system, the Government will set out the policy for each type of infrastructure, including the need for it nationally, in the NPS. Once it is finalised, the IPC will then use the NPS as its framework for deciding relevant applications. This means that when an application comes forward the IPC will not look again at the need for that infrastructure but will only look at the particular issues, including local impacts, associated with that individual application. This highlights the importance of consultation on the content of the NPSs.
- 2.6 This report considers the first two groups of NPSs – for Ports and Energy Infrastructure (although the Energy Infrastructure NPS is sub-divided into a number of energy-infrastructure specific NPS). Further NPS will be issued on the other transport issues, water and waste in due course.
- 2.7 The introduction of the IPC will leave the balance between national and local decisions on large infrastructure projects largely unchanged. In practice, all the projects that will be dealt with by the IPC are already handled by central government. Some current consent regimes require this, for example because infrastructure projects such as electricity lines, railways or major highways are linear and cut across many local authority areas. Even with proposals currently falling under the Town and Country Planning Act 1990 that would otherwise be decided locally, the larger ones are generally determined by the Secretary of State, via ‘call-in’ or recovered appeal procedures.
- 2.8 In the new regime, all local authorities with an interest will be properly consulted and by law, local impacts must be balanced against national benefits. Local authorities will have a role that is integrated into the system at all stages, including:
- Government will consult local authorities on National Policy and NPSs;
 - Promoters of schemes must consult local authorities, as well as other bodies and the local community before they submit an application to the IPC;
 - Promoters must consult the local authority on their proposals for engaging with the local community;
 - Commissioners must take account of the views of the local authority and others on the adequacy of the promoter’s publicity and consultation in deciding whether an application can be accepted as valid.
 - The local authority may submit a Local Impact Report (LIR) to the IPC. The LIR describes the likely effects of the proposed development on the local authority’s area;
 - Commissioners must have regard to the LIR in deciding an application and may reject the application, even if it is in accordance with a relevant NPS, if the adverse impacts outweigh the benefits.

3. Ports - the scope of the National Policy Statement for Ports development

- 3.1 The NPS for ports development will apply to development consents where the estimated incremental annual capacity exceeds:
- 0.5 million teu¹ for a container terminal
 - 250,000 movements for roll-on roll-off (ro-ro)
 - 5 million tonnes for other (bulk and general) traffic
 - Or a weighted sum exceeding these figures taken together.
- 3.2 The Port of Liverpool currently handles nearly 700,000 teu (equivalent to a 20 foot container) per year. There is already consent in place for the development of a deep water berth at Seaforth, the post-Panamax development, which will handle an additional 500,000 teu per year (reported to Cabinet 16th November 2005, minute 321 refers). Total ro-ro traffic in 2007 was 528,000 units. Total tonnage at the Port of Liverpool in 2007 was 32,258,000, of which 11,029,569 was bulk (10,100,000 bulk oil through Tranmere Oil Terminal). Current dry bulk cargoes total 4.5 million tonnes per year.
- 3.3 Although there are unlikely to be further port developments in Birkenhead of a scale involving the IPC, development of Port Wirral at Eastham may cross the threshold for IPC involvement, if proposals are advanced by Peel. The development of a further Cruise Liner terminal in Liverpool could also become an IPC determination.
- 3.4 The NPS covers England and Wales and therefore any qualifying development in the Dee Estuary at Mostyn would also be subject to the IPC. The IPC may also have to take into account the views of the Welsh Assembly Government in considering any development in Wales.
- 3.5 The NPS sets out the Government's conclusions on the need for new port infrastructure, considering the current place of ports in the national economy, the available evidence on future demand and the options for meeting future needs. The NPS is therefore critical to ensuring that the role of the Port of Liverpool is reflected in national policy and that the economic value of the port to the North West and national context is recognised.
- 3.6 The NPS sets out national policy for ports (Ports Policy Review 2007, reported to Cabinet 23rd August 2006, Minute 87 refers) and a series of Government objectives for new port development:

National Policy:

- encourage sustainable port development to cater for long-term forecast growth in volumes of imports and exports by sea with a competitive and efficient port industry capable of meeting the needs of importers and exporters cost effectively and in a timely manner;
- allow judgements about when and where new developments might be proposed to be made on the basis of commercial factors by the port industry or port developers operating within a free market environment; and
- ensure all proposed developments satisfy the relevant legal, environmental and social constraints and objectives, including those in the relevant European Directives and corresponding national regulations.

Objectives

- new port infrastructure should preserve, protect and where possible improve marine and terrestrial biodiversity;
- minimise emissions of greenhouse gases from port related development;
- be well designed, functionally and environmentally;
- be adapted to the impacts of climate change;
- minimise use of Greenfield land;
- contribute to local/regional employment, regeneration and development;
- ensure competition and security of supply;
- provide high standards of protection for the natural environment;
- ensure that access to and condition of heritage assets are maintained and improved where necessary; and
- enhance access to ports and the jobs, services and social networks they create, including for the most disadvantaged.

3.7 Additionally, the Government wishes to see port development wherever possible:

- supporting sustainable transport by offering more efficient transport links with lower environmental disbenefits;
- providing a basis for trans-modal shifts from road transport to shipping and rail, which are generally more sustainable;
- supporting sustainable development by providing additional capacity for the development of renewable energy; and
- supporting economic and social cohesion.

3.8 Overall, the Government expects a continuing increase in trade to 2030. Much of the capacity required to achieve that increase is already consented across the country (including the post-Panamax berth at Seaforth), although the timescale over which it could be developed and changes in trading patterns may present opportunities for other proposals to come forward.

Guidance to Decision-makers

3.9 The NPS provides guidance to decision makers (including the IPC) when considering granting development consent in relation to ports:

- the proposal should cater for long-term forecast growth in volumes of imports and exports by sea for all commodities indicated by the demand forecast figures set out in the MDS Transmodal (MDST) research carried out for the Department for Transport in 2006/07. The Government expects that ultimately all of the demand forecast in the 2006 ports policy review is likely to arise, though in the light of the 2008/09 recession, not necessarily by 2030;
- support the development of offshore sources of renewable energy;
- offer a sufficiently wide range of facilities at a variety of locations to match existing and expected trade, ship call and inland distribution patterns;
- ensure effective competition between ports and provide resilience in the national infrastructure; and
- take full account of both the potential contribution port developments might make to regional and local economies.

3.10 The NPS sets out key considerations for decision-makers, to ensure that decisions are consistent with statutory requirements, in accordance with the Government's objectives for transport, Marine Policy Statement and informed by the points raised by consultees and objectors. Decisions should weigh the benefits against any potential

impacts (which may be raised in the LIR from a local authority, from an Environmental Statement or from written or oral representations made).

- 3.11 All proposals that are subject to the EIA Directive will be required to produce an Environmental Statement setting out the likely significant effects of the proposed project on the environment (including the potential need for Habitats Regulations Assessment). In considering any proposal, the decision maker should consider whether any assessment of impacts provided for that proposal takes account of the likely significant cumulative effects across different receptors. Information on cumulative impacts in the Appraisal of Sustainability of the relevant NPS may be both important and relevant to decisions.
- 3.12 There is no requirement under the Planning Act 2008 for the decision-maker to establish whether the proposed project represents the 'best' option amongst the various possible alternatives. However, in many cases, the decision-maker is likely to conclude that it needs to give some consideration to the question of whether the project could be on a better scale, or designed, laid out, constructed or operated in a better way, or located on a better site or route. This issue of alternatives is most likely to occur where there are specific legal requirements for the decision-maker to consider alternatives (for example under the Water Framework Directive or Habitats Directive).
- 3.13 The NPS sets out a range of other considerations to be taken into account by the decision-maker, including defence and national security, health, economic impacts, commercial impacts, competition and tourism.
- 3.14 In terms of environmental impacts, in situations where a full Environmental Statement is not required, applicants should nevertheless provide information proportionate to the project on the likely significant environmental, social and economic effects. The NPS notes that the planning and pollution control systems are separate but complementary and advises applicants to make early contact with relevant regulators, including the Environment Agency and the Marine Management Organisation (MMO).
- 3.15 The consideration given to Biodiversity and Geological Conservation is clearly very important to Wirral's interests and the NPS refers to extant national policy, good practice guidance and 'Working with the Grain of Nature', the Government's Biodiversity Strategy.
- 3.16 A fundamental Government objective is now to mitigate and adapt to climate change, although the impact of international shipping is being addressed through international agreement and standards are not set out in the NPS.
- 3.17 The NPS also refers to the need for Flood Risk Assessment, Transport Assessment, Coastal Change, Waste Management, Water, Air Quality, Noise, Dust and Odour. The NPS also alerts applicants to the possible inclusion in their application of a request for the grant of a defence of statutory authority against nuisance claims. In particular, the application may make reference to the provisions of section 158(1) and (2) of the Planning Act 2008, which confers a defence of statutory authority for the purpose of providing a defence in any civil or criminal proceedings for nuisance (common law definition) for which development consent has been granted. This defence extends to proceedings in respect of nuisances that are statutory nuisances under Part III, Environmental Protection Act 1990.

- 3.18 The availability of the defence of statutory authority means that it is very important that at the application stage of a Nationally Significant Infrastructure Project (NSIP), possible sources of nuisance and how they may be mitigated are considered by the decision-maker so that appropriate requirements can be included in any subsequent order granting development consent. The issue of statutory nuisance has been an issue within the Port of Liverpool, particularly with dry bulk cargoes such as scrap metal, coal and bulk powders.

4. Consultation Document Questions - Ports

- 4.1 The NPS consultation on Ports is accompanied by a document containing 36 questions. Many of these questions relate to the process of consultation but the following questions (and a suggested response) are the most relevant to Wirral:

Question 1: Do you think that the draft ports NPS provides suitable guidance to decision-makers on the question of what need there is for new port infrastructure?

- 4.2 The MDS Transmodal Study for the national Ports Strategy set out clearly the demand for port infrastructure across the country. A similar study carried out by MDST for the North West Development Agency highlighted the importance of the Port of Liverpool for the North West (and elsewhere in England and Wales) as the premier west coast deep-water port. It is still not clear however how objective decisions have been on new port infrastructure, with little weight apparently given to the scope for new port infrastructure based on the Port of Liverpool and the Manchester Ship Canal through the Atlantic Gateway proposals. There is concern regionally that ports in the south east have already been allowed to expand, without reference to the sustainability of developing northern ports, which have shorter and less congested transport routes to the North West, North East and West Midlands regions.

Question 2: Do you think that the draft ports NPS provides suitable guidance to decision-makers on considerations relating to inland connections for new port infrastructure and the appropriate modal share of traffic?

- 4.3 Whilst the NPS intends that maximum use should be made of the most sustainable modes of inland transport (canal and railway), other decisions made by Government on funding and the emphasis on competition within a free market have acted against the interests of the Port of Liverpool. In particular, the Government has hindered progress on new rail links to the Port of Liverpool and the use of the Cruise Liner terminal in Liverpool because of fears that grant support to these proposals would be anti-competitive.
- 4.4 It appears that the South East Coast ports are being supported more than the Port of Liverpool through improvements to the strategic highway network in the East of England. The NPS should be clearer on support for the most sustainable and equitable share of transport infrastructure improvements.

Question 3: Do you think the draft ports NPS provides suitable guidance to decision-makers on the economic impacts of port infrastructure?

- 4.4 There is limited reference within the NPS to the economic and social benefits of port infrastructure to adjoining deprived communities. There is no thorough analysis of the need to direct new infrastructure to ports within the most deprived areas. However, it is equally clear that the location of new port infrastructure should be directed to those locations that can benefit from appropriate navigational advantage, potential for landward expansion and good sustainable transport links. The Superport proposals

for the Port of Liverpool and the Manchester Ship Canal present such an opportunity and recent work by the North West Development Agency through the Atlantic Gateway concept shows how the benefits of the Mersey ports can be delivered through a large part of the North West of England and beyond.

Question 9: Do you think the draft ports NPS provides suitable guidance to decision-makers on the impacts of port infrastructure on the natural environment?

- 4.5 Much of the guidance to decision-makers on impacts on the natural environment is already available through other national advice. What will remain unclear is the weight to be applied to such impacts against economic and social benefits and the national interest. This balance has been an issue for Wirral in the past, with developments at the Port of Mostyn, where the Welsh Assembly had a clear view on the strategic importance (to Wales) of providing a deep water harbour in North Wales, even though there was adequate capacity within the Port of Liverpool, 20 miles away.

Question 15: To what extent do you think the draft ports NPS as a whole provides suitable guidance to decision-makers to help them make decisions about development consent applications for new port applications? Please consider this in relation to both potential decision-makers:

- a) The IPC for port applications over the NPS threshold; and*
- b) The future Marine Management Organisation for port applications under the NPS threshold*

- 4.6 The NPS has clear relations with other national advice, which are set out in the draft document. The important issue for local authorities is the extent to which their representations will be considered by the IPC or MMO. The draft NPS highlights the importance of the LIR and it is critical to local authorities that this document will carry sufficient weight with the ultimate decision maker, although the draft NPS only states that the NPS 'may also be a relevant consideration for the MMO'. The issue of balancing local environmental, social and economic concerns against national policy is still not clear from the draft NPS. The documentation should be clear as to the materiality of the NPS in MMO decisions.

5. Energy Infrastructure - the scope of the National Policy Statements for Energy Infrastructure development

- 5.1 Much of the background information on the national policy context for ports is of relevance to the NPSs on Energy Infrastructure (for example on environmental and sustainability issues, climate change and social and economic benefits).
- 5.2 The consultation documents consist of:
- Consultation questions document;
 - Draft Overarching NPS for Energy (EN-1);
 - Draft NPS for Fossil Fuel Electricity Generating Infrastructure (EN-2);
 - Draft NPS for Renewable Energy Infrastructure (EN-3);
 - Draft NPS for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4);
 - Draft NPS for Electricity Networks Infrastructure (EN-5);
 - Draft NPS for Nuclear Power Generation (EN-6);
- Overarching National Policy Statement for Energy (EN-1)*
- 5.3 In July 2009, the Government published the 'UK Low Carbon Transition Plan', which was presented to Parliament pursuant to sections 12 and 14 of the Climate Change Act 2008. This sets out the Government's response to the threat of climate change and seeks to limit average global temperature rise to no more than 2°C. This means that global emissions must start falling before 2020 and then fall to at least 50% below 1990 levels by 2050.
- 5.4 The Government intends to get 40% of the country's electricity from low carbon sources by 2020 with policies to:
- Produce around 30% of electricity from renewables by 2020 by substantially increasing the requirement for electricity suppliers to sell electricity from renewable sources;
 - Fund up to four demonstrations of capturing and storing emissions from coal power stations; and
 - Facilitate the building of new nuclear power stations.
- 5.5 The IPC will make decisions on development consents for the following types of nationally significant infrastructure (defined in Part 3 of the Planning Act 2008), which are currently decided by the Secretary of State:
- Onshore electricity generation stations with a capacity of over 50MW;
 - Offshore electricity generation stations with a capacity of over 100MW, including those in a Renewable Energy Zone (up to 200 miles offshore);
 - Certain underground facilities for the storage of gas in natural porous strata by a gas transporter;
 - Certain cross-country pipelines of the kind previously covered in the 1962 Pipelines Act and certain gas transporter pipelines; and
 - Overhead electricity lines of 132kV and above
- 5.6 The IPC will also take over responsibility for deciding on applications for development for the following nationally significant energy infrastructure in England currently consented under the Town and Country Planning Act 1990 by local planning authorities (or by the Secretary of State on call-in):
- Certain liquefied natural gas (LNG) facilities;
 - Certain gas reception facilities;

- Certain underground gas storage facilities.

- 5.7 The IPC will also determine applications for development for similar facilities in Wales, except for offshore generating stations in territorial waters adjacent to Wales, which will be determined under the Transport and Works Act 1992 if applicants apply to the Welsh Assembly rather than to the IPC.
- 5.8 The other five draft 'technology-specific' energy NPS (EN2-6) must be read in conjunction with the Overarching Energy NPS EN-1.

Fossil Fuel Generation (EN-2)

- 5.9 The Government forecasts that the demand for energy in 2020 will be at a similar level to now (60GW), although the generation of that power will change as a significant number of existing oil, coal and nuclear power stations will close and the country move to more low carbon energy such as renewables and nuclear power. Fossil fuel generation will be developed with carbon capture and storage.
- 5.10 Net additional electricity generating infrastructure will be needed, about 43GW of net new capacity by 2020 and about 60GW by 2025 (some 22GW of existing electricity capacity will close in the next 10-15 years). Around 30% of electricity generation will be from renewable sources by 2020 (largely onshore and offshore wind energy). The Government expects a significant amount of the 25GW non-renewable capacity will come from nuclear power.
- 5.11 New fossil fuel electricity generation will be needed to provide additional and flexible supply but will be constructed with carbon capture and storage. Existing fossil fuel power stations are increasingly affected by pollution control regimes, which aim to cut their sulphur and nitrogen oxide emissions and many will be closed as they become life-expired.

Renewable Energy Infrastructure (EN-3)

- 5.12 The draft NPS addresses biomass and waste combustion, along with onshore and offshore wind energy. Biomass is material of recent biological origin derived from plant or animal matter and can be used for heat or power. It can be sourced from conventional forestry management, agricultural crops and residues or biodegradable waste such as sewage sludge.
- 5.13 Waste and biomass combustion plant considered by the NPS may include a range of different combustion technologies, including grate combustion, fluidised bed combustion, gasification and pyrolysis. Compliance with the Waste Incineration Directive (WID) is enforced through the Environment Agency. Emissions of oxides, particulates, CO₂, heavy metals, dioxins and furans are regulated by the Environment Agency, as are particular technical aspects of plant design to achieve mitigation.
- 5.14 Waste combustion plants should be consistent with the waste hierarchy and the IPC will have reference to the relevant waste strategies and plans.
- 5.15 In terms of offshore wind, the IPC will determine applications for all infrastructure for a qualifying proposal, including wind turbines, all types of foundations, onshore and offshore substations, anemometry masts, accommodation platforms and cabling.
- 5.16 Any consent granted by the IPC may include provision deeming consent under section 34 of the Coast Protection Act 1949 (CPA) for operations carried out wholly in England, Wales, waters adjacent to England and Wales up to the seaward limits of

the territorial sea or in any area designated under section 1 (7) of the Continental Shelf Act 1964. Similarly, any consent granted by the IPC may include provision deeming a licence to have been issued under Part 2 of the Food and Environment Protection Act 1985 (FEPA). As provided in the Marine and Coastal Access Bill, any consent granted by the IPC will be able to include provision deeming the grant of a marine licence (replacing the requirement for CPA consents and FEPA licences).

- 5.17 In addition to the expected range of environmental issues to be addressed by the IPC in determining applications for offshore wind infrastructure, detailed assessment of the effects of installing cable across the intertidal zone should be carried out. In Wirral, this is particularly important due to the important nature conservation value of the majority of Wirral's intertidal zone.
- 5.18 It is unlikely that Wirral will be the subject of qualifying onshore wind energy infrastructure proposals, because of the topography (and therefore wind patterns) and the Green Belt. When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development, which may impact on the openness of the Green Belt. However, the wider environmental benefits associated with increased production of energy from renewable sources may demonstrate the very special circumstances that clearly outweigh any harm by reason of inappropriateness.
- 5.19 The NPS does not consider the potential role to be played by tidal power or hydro-electric generation. The Overarching NPS EN-1 states that it is the Government's intention that wave and tidal applications for sites over 100MW will be decided by the Secretary of State with the IPC providing a recommendation. When a NPS is published which covers wave and tidal technology, the Government intends to transfer decision-making for applications for projects above the relevant threshold to the IPC.

Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4)

Electricity Networks Infrastructure (EN-5)

- 5.20 Although Wirral is unlikely to be the subject of any applications for underground gas storage, there are already extensive oil pipelines between Tranmere Oil Terminal (Shell) and the oil refinery at Stanlow. The IPC would determine any application for a gas pipeline over 40 km in length and over 800 mm in diameter (to serve at least 50,000 potential customers), or shorter pipelines, over 16 km in length that would otherwise require consent under Section 1 of the Pipelines Act 1962, together with diversions to such pipelines regardless of length.
- 5.21 In terms of Electricity Networks Infrastructure, the IPC will not determine an application for networks below 132kV unless it is associated with a NSIP. The proposed Mersey Tidal Energy proposals being considered by Peel Energy are likely to be a NSIP and therefore any related network infrastructure would be determined by the IPC.

Nuclear Power Generation

- 5.21 The NPS on Nuclear Power Generation assesses a number of potential sites for new nuclear power stations. The nearest of these sites to Wirral are at Wylfa on Anglesey and Heysham in Lancashire. As these are the sites of existing nuclear power stations, no further impact on Wirral is envisaged.

6. Consultation Document Questions – Energy Infrastructure

- 6.1 The NPS consultation on Energy Infrastructure is accompanied by a document containing 29 questions. As with the Ports NPS only some of the questions are of direct relevance to Wirral:

Question 1: Do you think that the Government should formally approve ('designate') the draft Overarching Energy NPS?

- 6.2 If NPS are to be the national policy basis on which the IPC places significant weight in terms of decision-making, then the Government should formally approve the NPS. This approval should follow full consultation and open debate about the content of the NPS and a process for updating or replacing the NPS in the light of changing circumstances. The weight to be applied to the LIR in IPC decisions is critical and the way in which the IPC come to their decisions should be open and accountable.

Question 2: Does the draft Overarching Energy NPS provide the IPC with the information it needs to reach a decision on whether or not to grant development consent?

- 6.3 The NPS provides the IPC with some of the information it needs to reach a decision. Other information will come from the LIR, Environmental Impact Assessment, consultation and inquiry on evidence presented to the IPC.

Question 3: Does the draft Overarching Energy NPS provide suitable information to the IPC on the Government's energy and climate change policy?

- 6.4 Given the current level of knowledge, the NPS provides a starting point for information to be used in determining applications to be considered by the IPC.

Question 4: Does the draft Overarching Energy NPS provide suitable direction to the IPC on the need and urgency for new energy infrastructure?

- 6.5 There is a critical need to provide certainty in energy production, given the reduction in fossil fuel availability and the life-expired nature of much power generation infrastructure. However, the current regulatory framework, being market-driven, does not provide an adequate level of flexibility, as energy providers cannot fund and build surplus capacity to provide continuity of supply. A diverse range of energy sources must be maintained to enable flexibility should one source not deliver a consistent supply. For example, reliance on wind energy depends on a narrow window of wind availability.

Question 7: Do you have any comments on any aspect of the draft Overarching Energy NPS not covered by the previous questions?

- 6.6 There is a need for a separate NPS on wave, tidal and hydro-electric power.

Question 19: Do you agree with the Government's preliminary conclusion that effective arrangements will exist to manage and dispose of the waste that will be produced by new nuclear power stations in the UK?

- 6.7 The Nuclear NPS sets out the Government's preliminary conclusion that it is satisfied that effective arrangements exist to manage and dispose of the high level and low level waste that will be produced as a result of the new nuclear power station programme. High level waste is intended to be placed in safe and secure interim storage before geological disposal (Managing Radioactive Waste Safely White Paper, June 2008). Responsibility for planning and implementing geological disposal lies with the Nuclear Decommissioning Authority (NDA).

- 6.8 The NDA already operate at Capenhurst, in Cheshire West and Chester District, to the south of Wirral, where they are engaged in decommissioning the former uranium diffusion enrichment plant, which was operational from 1961 to 1982 and has had a uranic storage facility since 1995. This uranic storage facility contains uranium tails and other uranium materials. An adjoining plant, operated by URENCO still enriches uranium. The decommissioning process is governed by a plan end-dated after 2120 (Capenhurst Site Summary, Lifetime Plan 32, Nuclear Decommissioning Authority, April 2006).
- 6.9 There is no reference to further use of Capenhurst as part of the programme of high level and low level waste storage in the NPS. The Capenhurst Site Summary however states that current uranium storage capacity is 40,000 tonnes and future capacity 60,000 tonnes in a 60,000 sq metre facility. This storage is currently licensed and following decommissioning of the Diffusion plant between 1982 and 2008, the NDA part of Capenhurst will be used for quiescent storage from 2008-2015, uranium deconversion from 2015-2031 and then further quiescent storage from 2031-2120. The deconversion programme converts the uranium from uranium hexafluoride to the chemically stable uranium oxide. By 2120 the site will hold a strategic stock of passively safe uranium oxide for the UK. This reserve is not classified as waste but is to be held for potential use in nuclear power generation.
- 6.10 Waste from the decommissioning process at Capenhurst is characterised, processed and packaged for disposal at the Low Level Repository at Clifton Marsh landfill (west of Preston). Another waste stream consigns waste to Springfield (near Preston). There is no High Level or Intermediate Level waste at the NDA facility at Capenhurst.
- 6.11 The Government is satisfied that existing interim waste storage facilities are adequate pending the development of geological storage. Expressions of interest have been submitted by two District Councils in Cumbria and Cumbria County Council, for the development of geological storage in the longer term.

7. Financial implications

- 7.1 There are no direct financial implications arising from this report. Although Wirral Council has determined port and energy infrastructure applications in the past and these may be determined by the IPC in the future, there will still be resource implications for the Council in preparing a Local Impact Report and reviewing consultation arrangements.

8. Staffing implications

- 8.1 There are no implications arising directly from this report.

9. Equal Opportunities/Equality Impact Assessment

- 9.1 There are no implications arising directly from this report.

10. Community Safety implications

- 10.1 There are no implications arising directly from this report.

11. Local Agenda 21 implications

- 11.1 The provision of sustainable energy infrastructure is essential to mitigating climate change.

12. Planning implications

- 12.1 The determination of applications for the development of major infrastructure projects will remove the local planning authority's power to determine such applications. However, because of their scale, such applications are currently likely to be called-in for the Secretary of State's determination. The local planning authority role will in future be limited to the preparation of a Local Impact Report.

13. Anti-poverty implications

- 13.1 There are no implications arising directly from this report.

14. Human Rights implications

- 14.1 There are no implications arising directly from this report.

15. Social Inclusion implications

- 15.1 There are no implications arising directly from this report.

16. Local Member Support implications

- 16.1 There are no implications arising directly from this report.

17. Background Papers

- 17.1 The following background papers have been used in the preparation of this report:

'North West Ports Economic Trends and Land Use Study', MDS Transmodal for North West Development Agency, July 2009

'Draft National Policy Statement for Ports', Department for Transport, November 2009

'Developing a Ports National Policy Statement: Consultation Document', Department for Transport, November 2009

'Habitats and Wild Birds Directives and Regulations: Assessment of Ports NPS (Incorporating Appropriate Assessment)', Department for Transport, November 2009

'Consultation on draft National Policy Statements for Energy Infrastructure', Department of Energy and Climate Change, November 2009

'Draft Overarching National Policy Statement for Energy (EN-1)', Department of Energy and Climate Change, November 2009

'Draft National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-2)', Department for Energy and Climate Change, November 2009

'Draft National Policy Statement for Renewable Energy Infrastructure (EN-3)',
Department of Energy and Climate Change, November 2009

'Draft National Policy Statement for Gas Supply Infrastructure and Gas and Oil
Pipelines (EN-4)', Department of Energy and Climate Change, November 2009

'Draft National Policy Statement for Electricity Networks Infrastructure (EN-5)',
Department of Energy and Climate Change, November 2009

'Draft National Policy Statement for Nuclear Power Generation (EN-6)', Department of
Energy and Climate Change, November 2009

Capenhurst Site Summary, Lifetime Plan 32, Nuclear Decommissioning Authority,
April 2006

'UK Low Carbon Transition Plan', presented to Parliament, July 2009

RECOMMENDATION

That the content of this report be used as the basis of responses to the Department
for Transport (Draft Ports National Policy Statement) and the Department for Energy
and Climate Change (Draft Energy Infrastructure National Policy Statements).

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