

**ANGUS COUNCIL**

**COMMUNITIES COMMITTEE – 19 JANUARY 2016**

**FLOOD RISK MANAGEMENT (SCOTLAND) ACT 2009 - UPDATE**

**REPORT BY STRATEGIC DIRECTOR - COMMUNITIES**

**ABSTRACT**

This report updates the Committee on the publication of the Flood Risk Strategies by SEPA and progress of the draft Local Flood Risk Management Plans under the Flood Risk Management (Scotland) Act 2009.

**1. RECOMMENDATIONS**

It is recommended that the Committee:-

- (i) notes the publication of the Flood Risk Management Strategies for Tay Estuary and Montrose Basin and Tay and the obligations contained for the delivery of the actions in the period 2016-2022, as detailed in this report;
- (ii) notes the progress of the draft Local Flood Risk Management Plans for Tay Estuary and Montrose Basin and Tay, which sets out the delivery of the actions in the period 2016-2022, as detailed in this report; and
- (iii) approves the further development of the Local Flood Risk Management Plans to deliver the actions in the period 2016-2022, subject to funding from Scottish Government capital funding allocations and council revenue and capital budget setting over the period 2016-2022.

**2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/COPORATE PLAN**

This report contributes to the following local outcomes contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- Our communities are prosperous and fair;
- Our communities are safe and strong;
- Our communities are sustainable; and
- Our natural and built environment is protected and enjoyed.

**3. BACKGROUND**

3.1 The Flood Risk Management (Scotland) Act 2009 places duties on the council as a responsible authority for the Tay local plan district, and lead authority and responsible authority for the Tay Estuary and Montrose Basin local plan district (reference Report No. 463/14).

3.2 As approved at Communities Committee 18 November 2014 (reference Article 5), the committee agreed to approve the measures to be assessed in the development of Flood Risk Management Strategies and Plans. These measures, now referred to as 'actions', have been developed and will be detailed in the draft Local Flood Risk Management Plans in accordance with the governance arrangements, i.e. guidance by the member/officer working group, and in partnership with SEPA and all responsible authorities.

## 4 CURRENT POSITION

### 4.1 Flood Risk Management Strategies

- 4.1.1 The Flood Risk Management Strategies, which describe the actions to be undertaken by responsible authorities including local authorities over the first six-year flood risk management plan cycle from 2016 was published by SEPA in December 2015, following formal approval of the content by the Scottish Minister. SEPA flood hazard maps were also updated in December 2015. A formal ministerial launch of the Strategies is to follow in January 2016.
- 4.1.2 Angus lies in two local plan districts: Tay Estuary and Montrose Basin (TEAMB), which covers the majority of Angus as well as parts of south Aberdeenshire, north Fife, eastern Perth & Kinross and the whole of Dundee, and Tay, which includes Forfar and Kirriemuir and east into the Tay catchment.
- 4.1.3 On-line access to the Strategies can be found at [www.sepa.org.uk](http://www.sepa.org.uk). Paper copies of the Tay and TEAMB Strategies are available in the Members' Information Hub.

### 4.2 Actions within the Strategies

- 4.2.1 The Strategies commit the council, SEPA and all other responsible authorities, to the delivery of the actions, however this will be conditional on the funding allocation for flood risk actions included in local government financial settlement 2016/17 and thereafter
- 4.2.2 The following actions (see Tables 1 and 2) have been prioritised for delivery in Angus within the first six-year flood risk management plan cycle from 2016-2022. This prioritisation was a development of the National Flood Risk Assessment published in 2011, led by SEPA working collaboratively with all other responsible authorities, and as reviewed by the member/officer working group. The actions are therefore sustainable and risk-based, and through the publication of the Strategies in December 2015 and Local Flood Risk Management Plans in June 2016 will the plan-led.

**Table 1 – Summary of actions included in Flood Risk Management Strategies that apply across the local plan districts with a focus on the identified Potentially Vulnerable Areas**

<b>Action List</b>	<b>Location</b>	<b>Description</b>
<b>Self help</b>	Applies across Tay Estuary and Montrose Basin and Tay Local Plan Districts	Everyone is responsible for protecting themselves and their property from flooding. Property and business owners can take simple steps to reduce damage and disruption to their homes and businesses should flooding happen. This includes preparing a flood plan and flood kit, installing property level protection, signing up to Floodline and Resilient Communities initiatives, and ensuring that properties and businesses are insured against flood damage. Further details will be set out in the Local FRM Plan.
<b>Awareness Raising</b>	Applies across Tay Estuary and Montrose Basin and Tay Local Plan Districts	SEPA and the responsible authorities have a duty to raise public awareness of flood risk. Improved awareness of flood risk and actions that prepare individuals, homes and businesses for flooding can reduce the overall impact. SEPA will engage with the community and promote Floodline. This will be achieved through property level protection events delivered by the Scottish Flood Forum and SEPA-led education events. Local authorities will be undertaking additional awareness

		raising activities. Further details will be set out in the Local FRM Plan.
<b>Emergency plans/response</b>	Applies across Tay Estuary and Montrose Basin and Tay Local Plan Districts	Providing an emergency response to flooding is the responsibility of many organisations, including local authorities, the emergency services and SEPA. Effective management of an emergency response relies on emergency plans that are prepared under the Civil Contingencies Act 2004 by Category 1 and 2 Responders. The emergency response by these organisations is co-ordinated through regional and local resilience partnerships. This response may be supported by the work of voluntary organisations. Further details will be set out in the Local FRM Plan.
<b>Maintain flood warning</b>	Continue to maintain flood warning areas across Tay Estuary and Montrose Basin and Tay Local Plan District	SEPA maintains flood warning systems for coastal and river flooding. Further details will be set out in the Local FRM Plan.
<b>Flood forecasting</b>	Applies across Tay Estuary and Montrose Basin and Tay Local Plan Districts	The Scottish Flood Forecasting Service is a joint initiative between SEPA and the Met Office that produces daily, national flood guidance statements which are issued to Category 1 and 2 Responders. The service also provides information which allows SEPA to issue flood warnings, giving people a better chance of reducing the impact of flooding on their home or business. Further details will be set out in the Local FRM Plan.
<b>Maintain existing flood protection schemes</b>	Applies across Tay Estuary and Montrose Basin and Tay Local Plan Districts	Local authorities have a duty to maintain existing flood protection (prevention) schemes. Further details will be set out in the Local FRM Plan.
<b>Maintenance</b>	Applies across Tay Estuary and Montrose Basin and Tay Local Plan Districts	Local authorities have a duty to assess watercourses and carry out clearance and repair works where such works would substantially reduce flood risk. They produce schedules of clearance and repair works and make these available for public inspection. Scottish Water undertake inspection and repair on the public sewer network. Asset owners and riparian landowners are responsible for the maintenance and management of their own assets including those which help to reduce flood risk. Further details will be set out in the Local FRM Plan.
<b>Planning policies</b>	Applies across Tay Estuary and Montrose Basin and Tay Local Plan Districts	National planning policies set out Scottish Ministers' priorities for the operation of the planning system and for the development and use of land. In terms of flood risk management, the policy supports a catchment-scale approach to sustainable flood risk management and aims to build the resilience of our cities and towns encourage sustainable land management in our rural areas, and to address the long-term vulnerability of parts of our coasts and islands. Under this approach, development in areas with medium to

		high likelihood of flooding should be avoided. Further details will be set out in the Local FRM Plan.
<b>Strategic mapping and modelling</b>	Applies to several areas across Tay Estuary and Montrose Basin and Tay Local Plan Districts	SEPA will seek to develop flood mapping and modelling. Further details will be set out in the Local FRM Plan.

**Table 2 – Summary of actions included in Flood Risk Management Strategies that apply to locations/Potentially Vulnerable Areas in Angus specifically**

<b>Action List</b>	<b>Location</b>	<b>Description</b>
The second part of the list describes the specific actions		
<b>Flood Warning</b>	Monifieth (Fluvial)	The area under consideration includes properties in Monifieth affected by flooding from the Monifieth Burn. Further feasibility assessment will be required to assess delivery potential. A local authority study has been proposed for this area which can inform the scoping exercise once complete. Further details will be set out in the Local FRM Plan.
	Aberdeenshire Coast (Peterhead to Montrose)	Flood warning is required for communities at risk of coastal flooding along the Aberdeenshire coast from Peterhead to Montrose. A flood forecasting system will be required before the flood warning scheme can be developed. Further details will be set out in the Local FRM Plan.
<b>Surface Water Management Plans</b>	Arbroath, Arbirlot, Auchmithie, Colliston	The areas must be covered by a surface water management plan or plans that set objectives for the management of surface water flood risk and identify the most sustainable actions to achieve the objectives. Further details will be set out in the Local FRM Plan.
	Brechin	
	Carnoustie, Barry, Panbride, Westhaven	
	Montrose, Ferryden Forfar	
<b>Flood Protection Works</b>	Arbroath	A flood protection strategy was developed for Arbroath and identified river and coastal actions to reduce flood risk. The proposed river flood protection scheme will address flood risk from the Brothock Water and include improvements to flood defences and the construction of two flood storage areas. The scheme has been put forward as a priority in the first flood risk management cycle. Coastal flood protection works will be phased in by Angus Council. The scheme will provide a 1 in 200 year standard of protection. Further details will be set out in the Local FRM Plan.
<b>Flood Protection Studies</b>	Forfar	The flood protection study to address flooding from combined sources (river and surface water) has been recommended for Forfar. The study should assess whether flood storage, modification of conveyance, direct flood defences, sediment management and natural flood management could reduce flood risk. Natural flood management options that should be considered include river/floodplain restoration and sediment

		management. The study should also investigate the viability of property level protection. The study should include surface water investigations and should be taken forward in partnership with Scottish Water. It should take a catchment approach and consider the potential benefits and disbenefits and interaction between actions upstream and downstream. Further details will be set out in the Local FRM Plan.
	Monifieth	A flood protection study has been recommended for Monifieth to assess whether flood storage, flood defences and sediment management could reduce flood risk. The study should take a catchment approach and consider the potential benefits and disbenefits and interaction between actions upstream and downstream. Further details will be set out in the Local FRM Plan.
	Dundee (Dighty Water) – shared with Dundee City Council	A flood protection study has been recommended for Dundee to reduce the risk of flooding from the Dighty Water and Fithie Burn. The study should assess whether flood defences, sediment management and natural flood management could reduce flood risk. Natural flood management options that should be considered include river / floodplain restoration and sediment management. The study should also investigate the viability of property level protection. The study should take a catchment approach and consider the potential benefits and disbenefits and interaction between actions upstream and downstream. It should be noted that part of the study requirements may be met by the integrated catchment study for Dundee. Further details will be set out in the Local FRM Plan.
	Montrose	A flood protection study has been recommended for Montrose to assess whether flood defences and natural flood management could reduce flood risk. Natural flood management options that should be considered include wave and surge attenuation. The study should also consider the viability of property level protection. The study should take a sustainable approach and consider the interaction between actions and potential effects on coastal processes along the shoreline. Further details will be set out in the Local FRM Plan.
	Carnoustie	A flood protection study for Carnoustie is being progressed as a local priority. The study is assessing a number of options to manage flood risk including flood storage, modification of conveyance, installation/ modification of fluvial control structures, flood defences, sediment management and the viability of property level

		protection. The potential for natural flood management is also being assessed, including river/ floodplain restoration, sediment management and wave attenuation. The study is taking a sustainable approach and also recognising that existing flood defences may not operate to the design standard. Further details will be set out in the Local FRM Plan.
	Kirriemuir	A flood protection study has been recommended for Kirriemuir to assess whether flood storage, sediment management, modification of conveyance, direct flood defences and natural flood management could reduce flood risk. Natural flood management options that should be considered include floodplain restoration and sediment management. The study should also consider the viability of property level protection and property relocation. The study should take a catchment approach and consider the potential benefits and disbenefits and interaction between actions upstream and downstream. Further details will be set out in the Local FRM Plan.
	South Esk (Natural Flood Management)	The South Esk pilot catchment project aims to identify and prioritise opportunities for delivering improvements to river habitats whilst helping to reduce flood risk. Phase 1 of the study has been completed and SEPA is currently in discussion with landowners with regard to taking forward some sites to options appraisal and outline design. Further details will be set out in the Local FRM Plan.

### 4.3 Scottish Government Funding

4.3.1 The CoSLA approved recommendations for capital funding for flood risk actions are:

- (i) Only works and schemes that are prioritised in the Flood Risk Management Strategies will be eligible for funding. The level of funding of major projects is to stay as 80/20 Scottish Government/local authority.
- (ii) The allocation of the overall capital to be directed to flooding will be 80% to major projects and 20% to other actions within the Strategies, as detailed in the Local Flood Risk Management Plans. The distribution of the 20% for each local authority will be factored based on the number of properties at flood risk and estimated annual average damages.

4.3.2 In terms of revenue, it is understood that this will be distributed on similar lines as previously.

4.3.3 The quantum of the flooding component of the capital grant from Scottish Government to local authorities is dependent on the Spending Review 2015 and local government settlements. The timing of the Spending Review in relation to the publication of the Strategies, which commit the council to delivering actions, and the Plans, which detail the delivery within the first six-year flood risk cycle, is particularly significant.

4.3.4 The actions being published in the Strategies and to be published in the Plans are statutory obligations. The level of obligations included in the Strategies was based on a similar level of

capital grant funding being applied of the first flood risk cycle. Should this level of funding reduce significantly then the delivery of these statutory obligations is placed in jeopardy. However, the Plan must include all of the actions that are in the Strategy. This may result in a deviation between what must be in the Plan and what the post-Spending Review budget settlement will allow for.

- 4.3.5 The above issue is considered by some lead authorities to be a potential risk to the approval of the Plans. However, the delivery of the actions in the Plans will be dependent on necessary funding being available throughout the flood risk plan cycle, which will dependent on a the flooding component of the capital grant from Scottish Government to local authorities, and relative prioritisation by the council for other funding.
- 4.3.6 Detailed advice on the distribution methodology to be applied to capital funding is to be developed. This includes major flood protection works, e.g. Arbroath (Brothock Water) Flood Protection Scheme), as well as the remainder of the flooding component of the capital grant from Scottish Government to local authorities. It is anticipated that the joint Scottish Government/CoSLA working group recommendations will shortly be available.

## **5 PROPOSALS**

### **5.1 Local Flood Risk Management Plans**

- 5.1.1 The Plans will identify the coordination and funding arrangements for implementing the above actions and when in the six year cycle they will be delivered. Under the Act, the Plans must detail the coordination, funding arrangements and delivery dates for each of the actions.
- 5.2.2 The details for each of the actions required in the Plans will be developed with the member/officer working group and in partnership with SEPA and all responsible authorities. A detailed draft will be reported to a future committee for approval in advance of publication in June 2016.

## **6 FINANCIAL IMPLICATIONS**

- 6.1 As detailed in section 5, the Plans must detail the coordination, funding arrangements and delivery dates for each of the actions from 2016-2022. Implementation of the actions included in the Strategies and to be detailed in the Plans, which are statutory obligations, will affect Council budgets, both revenue and capital.
- 6.2 The Act requires Scottish Government to have regard to these Strategies and Plans when allocating funding to SEPA and responsible authorities. The funding methodology is detailed in section 4.3 of this report.
- 6.3 The relative needs for delivery of the actions in the Plans requires to be considered against all other capital and revenue priorities as part of the forthcoming budget setting process, and future processes over the six-year flood risk cycle.
- 6.4 The details of funding arrangements for each of the actions will be reported to a future committee for approval as part of the Plans.

## **7 OTHER IMPLICATIONS**

### **7.1 Risks**

- 7.1.1 The delivery of the actions published in the Strategies must be detailed and published in the Plans by June 2016. The Plans will be finalised when SEPA and all other responsible authorities in each local plan district agrees to its content. If agreement is not reached then the Plans will not be finalised in which case the lead authority, Angus Council for TEAMB and Perth & Kinross Council for Tay, must notify the Scottish Ministers of this fact. If this were the case the Scottish Ministers must determine the content of the Plans.
- 7.1.2 There have been significant investments of commitment, time and resources from SEPA and all other responsible authorities in each local plan district to develop and publish the Strategies and Plans in the coordinated and collaborative way provided in the Act and

subsequent guidance. Along with the commitment to communicate the development of the actions through to inclusion in the Plans it is considered unlikely that the necessary governance approvals from each responsible authority will not be forthcoming.

## **7.2 Human Rights**

- 7.2.1 As reported previously to this committee (reference Report No. 463/14), The progression of flood protection work has potential implications for property owners and for occupiers in terms of alleged interference with privacy, home or family life (Article 8) and peaceful enjoyment of their possessions (First Protocol, Article 1). However, it is considered that any actual or apprehended infringement of such Convention Rights is justified in the public interest and in accordance with the council's duty to carry out works to reduce the likelihood of flooding of land.

## **7.3 Strategic Environmental Assessment**

- 7.3.1 As approved previously by committee, to comply with the requirements of the Environmental Assessment (Scotland) Act 2005, a screening decision was sought for the Local Flood Risk Management Plan from the SEA Gateway of Scottish Government (reference Report No. 463/15). The decision required that a Scoping Report would be required on the Plans in order to establish the level of significance of environmental impact of the actions that were likely to be included in the Plans. Screening decisions were received for both the TEAMB and the Tay Plans.
- 7.3.2 In order to utilise the information developed for the Strategies and the responses to the public consultation on the Strategies, the Scoping Reports will now be prepared for submission to the SEA Gateway, and subsequent consultation with SEPA, Scottish Natural Heritage and Historic Scotland. The Scoping Reports for both TEAMB and Tay Plans are being developed in partnership with Perth & Kinross Council.
- 7.3.3 It is considered likely, based on direct discussions with the SEA Gateway, that the following Environmental Reporting stage will not be necessary.
- 7.3.4 The determination of the Strategic Environmental Assessment will be reported to a future committee for approval and publication.

## **7.4 Habitats Regulations Appraisal**

- 7.4.1 Angus Council is a competent authority for the TEAMB Plan under The Conservation (Natural Habitats &c.) Regulations 1994 (as amended). These regulations detail the requirements for a Habitats Regulations Appraisal (HRA) for the Plan. HRA is used during the preparation of a plan or project in order to avoid adverse effects on the integrity of European sites.
- 7.4.3 HRA for both TEAMB and Tay Plans are being developed in partnership with Perth & Kinross Council for consultation with SNH (Scottish Natural Heritage). The finalisation of the Plans, which will be reported to a future committee, must have regard for SNH's responses and the HRA findings.

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### **NOTE:**

The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:

Report No 297/15 – Flood Risk Management (Scotland) Act 2009, Arbroath Flood Strategy & Arbroath (Brothock Water) Flood Protection Scheme Updates – 18 August 2015  
Report No 463/14 – Flood Risk Management (Scotland) Act 2009 Update – Communities Committee – 18 November 2014  
Report No 303/14 – Information Report for the Period 27/05/2014 to 19/08/2014 - Communities Committee – 19 August 2014  
Report No 333/12 – Flood Risk Management (Scotland) Act 2009 Update - Infrastructure Services Committee – 14 June 2012



