

ANGUS COUNCIL

COMMUNITIES COMMITTEE – 15 JANUARY 2019

FLOOD RISK MANAGEMENT (SCOTLAND) ACT 2009 – SECTION 37 INTERIM REPORT

REPORT BY HEAD OF INFRASTRUCTURE

ABSTRACT

This report updates the Committee on the reviews of the local flood risk management plans under section 37 of the Flood Risk Management (Scotland) Act 2009, and the publishing of local flood risk management plans: interim reports.

1. RECOMMENDATIONS

It is recommended that the Committee:

- (i) notes review of actions identified and requirements for publishing a report on the conclusions of the review including information on the progress that has been made towards implementing the measures identified in the Local Flood Risk Management Plans for the Tay Estuary and Montrose Basin and the Tay; under the Flood Risk Management (Scotland) Act 2009, as detailed in this report; and
- (ii) agrees to the content of the local flood risk management plan: interim reports and subsequent publication of the interim report for Local Flood Risk Management Plans for the Tay Estuary and Montrose Basin by Angus Council as lead Authority under the Flood Risk Management (Scotland) Act 2009.

2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE PLAN

This report contributes to the following local outcomes contained within the Angus Local Outcomes Improvement Plan and Locality Plans:

ECONOMY

- An inclusive and sustainable economy

PLACE

- Safe, secure, vibrant and sustainable communities
- An enhanced, protected and enjoyed natural and built environment

3. BACKGROUND

- 3.1 The Flood Risk Management (Scotland) Act 2009 (the “Act”) places duties on the Council, as lead authority and responsible authority for the Tay Estuary and Montrose Basin (TEAM B) and as a responsible authority for the Tay local plan district (reference Report No. 463/14).
- 3.2 As approved at Communities Committee on 1 March 2016 (reference Report No. 87/16), the Committee agreed to the publication of the Local Flood Risk Management Plans (LFRMP) to deliver the actions in the period.
- 3.3 As noted at Communities Committee on 15 November 2016 (reference Article 15 of the Minute, Report No. 402/16) between years two and three of the Flood Risk Management cycle, Angus Council as Lead Authority are required publish a report reviewing the TEAMB LFRMP, including information on the progress that has been made towards implementing the

measures identified in this LFRMP. Angus Council as a responsible authority must also contribute to the review of the Tay LFRMP.

4. CURRENT POSITION

4.1.1 Officers have continued to work towards completion of the actions within TEAM B and Tay Local Plans. This has included the procurement of a number of flood studies across the districts, as well as the progression of the Arbroath (Brothock Water) Flood Protection Scheme 2018 also reported to this Committee (reference Report No 11/19).

4.1.4 The following are those Potentially Vulnerable Areas (PVAs) where Angus Council has actions identified within the plan.

Tay Estuary and Montrose Basin local plan district (19 PVAs in total):

07/03 North of Brechin (shared with Aberdeenshire Council);

07/04 Montrose Basin;

07/05 Brechin;

07/06 Lunan Water;

07/07 Arbroath;

07/08 Coast north of Arbroath;

07/09 Carnoustie and Barry;

07/10 Monifieth (shared with Dundee City Council);

07/11 Downfield and Dundee (shared with Dundee City Council);

07/12 Invergowrie (shared with Dundee City Council and Perth and Kinross Council); and

07/13 Dundee and Broughty Ferry (shared with Dundee City Council).

The following is the Potentially Vulnerable Area (PVA) within the Tay LFRMP where Angus Council have actions identified within the plan:

08/05 Kirriemuir and Forfar

4.1.5 Figure 1 on the next page shows the progress with actions across the PVAs within both LFRMP.

Figure 1: Summary of progress of actions to manage flood risk in the Potentially Vulnerable Areas of the Tay Estuary and Montrose Basin and Tay LFRMP

PVA	Flood protections scheme/works	Natural flood management works	New flood warning	Flood protection study	Natural flood management study	Surface water plan/study	Strategic mapping and modelling	Maintain flood protection scheme*	Maintain flood warning	Flood forecasting	Property level protection scheme	Community flood action groups	Self help	Awareness raising	Maintenance	Site protection plans	Emergency plans/response	Planning policies
07/01							Yellow	Green		Green				Green	Green		Green	Green
07/02							Green	Green		Green		Green		Green	Green		Green	Green
07/03							Green	Green		Green		Green		Green	Green		Green	Green
07/04			Green	Green			Green	Green		Green		Green		Green	Green		Green	Green
07/05		Green			Yellow		Green	Green		Green		Green		Green	Green		Green	Green
07/06							Yellow	Green		Green		Green		Green	Green		Green	Green
07/07	Green						Yellow	Green		Green		Green		Green	Green		Green	Green
07/08							Green	Green		Green		Green		Green	Green		Green	Green
07/09				Green			Green	Green		Green		Green		Green	Green		Green	Green
07/10			Green	Green			Green	Green		Green		Green		Green	Green		Green	Green
07/11				Green			Green	Green		Green		Green		Green	Green		Green	Green
07/12					Yellow		Green	Green		Green		Green		Green	Green		Green	Green
07/13	Yellow	Green					Green	Green		Green		Green		Green	Green		Green	Green
07/14				Yellow			Green	Green		Green		Green		Green	Green		Green	Green
07/15							Green	Green		Green		Green		Green	Green		Green	Green
07/16	Yellow		Green	Yellow		Yellow	Green	Green		Green		Green		Green	Green		Green	Green
07/17							Green	Green		Green		Green		Green	Green		Green	Green
07/18			Green	Green			Green	Green		Green		Green		Green	Green		Green	Green
07/19			Green	Yellow	Yellow		Green	Green		Green		Green		Green	Green		Green	Green
08/05				Green			Yellow	Green		Green		Green		Green	Green		Green	Green

- 4.1.6 Descriptions of how each action is to be implemented with details of the progress within each Potentially Vulnerable Area within the Angus provided for each PVA in TEAM B – see **Appendix 1**; and Tay – see **Appendix 2** of this report.
- 4.1.7 The Section 37 interim report providing details of the review of the TEAM B LFRMP Plan needs to be published by the Lead Authority by 30 June 2019, i.e. within 2 to 3 years of the publication of the LFRMP. It is proposed that the interim report is published by 1 March 2018, to coordinate with the publication of all fourteen LFRMP interim reports across Scotland, and made available for public inspection.

5. PROPOSALS

- 5.1 Noting the progress of the actions detailed in the Local Flood Risk Management Plans for the Tay Estuary and Montrose Basin and Tay, under the Flood Risk Management (Scotland) Act 2009, it is proposed that the content of the S37 Interim Report as detailed in this Committee report is agreed.

6. FINANCIAL IMPLICATIONS

- 6.1 As previously detailed in Committee Report 87/16, it is accepted that the requirement for the Council to undertake the actions identified through the Flood Risk Management process needs to be affordable. The delivery of the actions by Angus Council, SEPA and all other responsible authorities in the Local Plan Districts is subject to funding from Scottish Government.
- 6.2 Consideration has been given to the financial implications for the delivery of actions in the budget setting process. This will be subject to further consideration annually and as required, and will be subject to future reporting and Committee approvals as necessary.

7. OTHER IMPLICATIONS (IF APPLICABLE)

7.1 Risks

- 7.1.1 The overall risk identified in this report is that of flooding to people, property and land in Angus. The Flood Risk Management (Scotland) Act 2009 presents the risk-based, plan-led approach to managing flood risk across Scotland and locally. The delivery of actions identified in the review of the Local Flood Risk Management Plans, as detailed in this report, will reduce flood risk.
- 7.1.2 The delivery of the actions in the first flood risk management plan cycle from 2016-2022 will remain subject to revenue and capital funding allocations from Scottish Government to SEPA and responsible authorities; and to revenue and capital budget setting by councils and other responsible authorities over the period 2016-2022.
- 7.1.3 In order to implement all of the actions identified in the Plans, sufficient funding and resources will need to be available and allocated. The revenue and capital budget setting by the Council over the period 2016-2022 must continue to consider the statutory requirements of the Act against all other requirements of the Council.
- 7.1.5 Between years 5 and 6 (June 2021 and June 2022), a report must be published by the lead authority on progress against the Plan actions, those not implemented, with reasons, and any other additional actions that contributed to the objectives set down in the Flood Risk Management Strategies.
- 7.1.6 Our performance and that of other responsible authorities and SEPA will therefore be subject to published scrutiny, which would present a risk should actions not have been delivered where adequate resources have been allocated.

7.2 Human Rights

As reported previously to this Committee (Report No. 602/10), the progression of a Flood Protection Scheme 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.

NOTE: No background papers, as detailed by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above report.

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List of Appendices:

Appendix 1 – Interim Report on the Tay Estuary and Montrose Basin
Appendix 2 – Tay Local Plan District