

ANGUS COUNCIL

COMMUNITIES COMMITTEE – 26 SEPTEMBER 2023

FLOOD RISK MANAGEMENT (SCOTLAND) ACT 2009 - UPDATE

REPORT BY DIRECTOR OF INFRASTRUCTURE & ENVIRONMENT

ABSTRACT

This report provides an update on the requirements of the Flood Risk Management (Scotland) Act 2009, focused on the development of Cycle 2 2022-28 Local Flood Risk Management Plans for the Tay Estuary and Montrose Basin area and the Tay area.

1. RECOMMENDATION

It is recommended that the Committee:-

- (i) notes the delay in proposed publication of the Cycle 2 2022-2028 Local Flood Risk Management Plan for Tay Estuary and Montrose Basin area, as detailed in this report;
- (ii) notes the publication by Perth & Kinross Council of the Cycle 2 2022-2028 Local Flood Risk Management Plan for Tay area, which include areas of Forfar and Kirriemuir, as detailed in this report;
- (iii) notes the funding arrangements and distribution from Scottish Government capital funding allocations for flood risk management schemes and works remain subject to ongoing review by a sub-group directed by COSLA Leaders, as detailed in this report; and
- (iv) approves the publication of the Cycle 2 2022-2028 Local Flood Risk Management Plan for Tay Estuary and Montrose Basin area,

2. ALIGNMENT TO THE ANGUS COUNCIL PLAN AND ANGUS COMMUNITY PLAN

This report contributes to the following priority within the Angus Council Plan 2023-2028:

Caring for our Place

- We will take action to mitigate against climate change by delivering our Transition to Net Zero Action Plan: 2022 to 2030 and leading on the delivery of a Sustainable Energy Climate Action Plan (SECAP) for Angus to reduce area wide emissions.

This report contributes to the following priorities contained within the Angus Community Plan 2017-2030:

Caring for our Place

- Protect and enhance our natural and built environment.
- Enable inclusive, empowered, resilient and safe communities across Angus.

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 Nos. 463/14 and 17/16).

3.2 The actions contained in the draft Local Flood Risk Management Plans will not necessarily impose a resource burden on the Council and will be subject to future funding allocations and further detailed technical feasibility to ensure viability.

- 3.3 The publication date for the development of draft Local Flood Risk Management Plans for the second flood risk management plan cycle from 2022-28 was extended until the end of December 2022. This was to accommodate further delays resulting from the cyber-attack on SEPA and to seek clarity on the funding arrangements and distribution from Scottish Government capital funding allocations over the period 2022-2028 (reference Report No. 51/22).

4. CURRENT POSITION

- 4.1 For the Tay local plan district, Perth & Kinross Council, as lead authority, has published the development of draft Local Flood Risk Management Plan for the second flood risk management plan cycle from 2022-28 (See - <https://www.pkc.gov.uk/article/14723/Flood-risk-management-plans>).
- 4.2 Angus Council are lead authority for the Tay Estuary and Montrose Basin local plan district. Due to senior staff absence the development of drafts and publication of the Local Flood Risk Management Plan for the second flood risk management plan cycle from 2022-28 for the Tay Estuary and Montrose Basin have been delayed beyond the due date of 31 December 2022.
- 4.3 This report presents the draft Local Flood Risk Management Plan for the second flood risk management plan cycle from 2022-28 for the Tay Estuary and Montrose Basin (See Appendix 1).

5. FINANCIAL IMPLICATIONS

- 5.1 There are no specific financial commitments by the Council that are included in the Local Flood Risk Management Plans. The delivery of many of the actions in the Plans are dependent on the availability of funding.
- 5.2 As stated in both the Tay Local Flood Risk Management Plans and draft Tay Estuary and Montrose Basin Local Flood Risk Management Plans, the delivery of many of the actions in the Plans are dependent on the availability of funding.

“The distribution of Scottish Government grant funding for actions in the plan for the period 2022 – 2028 is currently being considered by a flood risk management working group. This group will put forward options and recommendations to Scottish Ministers and COSLA, through the Settlement and Distribution Group, for consideration. A decision will not be made in time for the publication of this plan. As such it should be noted that it may not be possible for all actions identified in the Plan to be grant funded. Inclusion of an action in this plan does not formally commit a Council to implement it, if reasons arise which make any actions undeliverable, including inability to secure adequate funding.

This Plan remains the best understanding of the objectives and actions required over the long term to manage flood risk in the identified high-risk areas within this LPD. The delivery of the Plan, particularly the ambitions on how quickly actions can be delivered, may have to be adapted to reflect wider developments in public funding, the ability of responsible authorities to access funding from other sources, pandemic recovery, and other national priorities.”

- 5.3 The funding arrangements and distribution from Scottish Government capital funding allocations for flood risk management schemes and works remain subject to ongoing review by a sub-group directed by COSLA Leaders.
- 5.4 This may have a significant impact on the delivery of actions in the Plans for the flood risk management schemes and works, which include Montrose, Carnoustie, Barry and Monifieth. Actions other than flood risk management schemes and works remain largely dependent on the allowance in the local government settlement for flood risk management.

6. RISK IMPLICATIONS

- 6.1 Implementation of the Plans ensures that Angus Council has set out a strategic, plan-led approach to managing flood risk and will consider the impacts of climate change. All actions progressed will take cognisance of the impacts of climate change in accordance with contemporary published guidance.
- 6.2 Specific risks have been detailed elsewhere in this report.

7. STRATEGIC ENVIRONMENTAL ASSESSMENT (SEA)

- 7.1 The Environmental Assessment (Scotland) Act 2005 (the '2005 Act') applies SEA to the proposed Local Flood Risk Management Plans. The process requires consideration of whether the public plans, programmes, and strategies (PPS) is likely to have no or minimal environmental effect (called "pre-screening") or is unlikely to have significant environmental effect (called "screening"). The latter requires prior consultation with the Scottish Government's "SEA Gateway" (SEPA, NatureScot and Historic Environment Scotland).
- 7.2 The draft Flood Risk Management Strategies by SEPA have been subject to a screening direction by the SEA Gateway. A Scoping Report has been consulted upon and an Environmental Report to consider the environmental effects of the Strategies forms part of the consultation exercise detailed in this report.
- 7.3 Any additional environmental effects from the Tay Estuary and Montrose Basin Local Flood Risk Management Plan over and above those considered by the SEA of the Strategies are considered to be minimal.

8. EQUALITY IMPACT ASSESSMENT

- 8.1 An Equality Impact Assessment was completed for the previous report (see Appendix 3 of Report No. 119/21), which concluded that there are either no impact or neutral impact on protected characteristic groups for the proposals contained in that report. There are no changes to the assessment resulting from the content of this report.

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. 51/22 - Flood Risk Management (Scotland) Act 2009 – Update, Communities Committee, 22 February 2022
- Report No. 119/21 - Flood Risk Management (Scotland) Act 2009 – Update, Communities Committee, 20 April 2021
- Report No. 17/16 - Flood Risk Management (Scotland) Act 2009 – Update, Communities Committee, 19 January 2016
- Report No. 463/14 - Flood Risk Management (Scotland) Act 2009 - Communities Committee, 18 November 2014

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List of Appendices:

Appendix 1 – Draft Tay Estuary and Montrose Basin Local Flood Risk Management Plan for 2022-28