

## PERTH AND KINROSS COUNCIL

## Environment Committee

1 June 2016

**The Flood Risk Management (Scotland) Act 2009  
Publication of Local Flood Risk Management Plans****Report by Director (Environment)**

The Council's duties with regard to flooding are set out within the Flood Risk Management (Scotland) Act 2009. This report presents the final drafts of the Council's Local Flood Risk Management Plans that are required to be published by 22 June 2016. The report also provides an update on the recent publication of SEPA's Flood Risk Management Strategies and seeks the Committee's approval of the content of the Local Flood Risk Management Plans.

**1. BACKGROUND / MAIN ISSUES**

- 1.1 The Flood Risk Management (Scotland) Act 2009 (the 2009 Act) has introduced a more modern, coordinated and sustainable approach to flood risk management at both national and local levels.
- 1.2 Although public authorities are expected to take a proactive role in managing and, where achievable, lowering flood risk, the primary responsibility for avoiding or managing flood risk still remains with land and property owners. The 2009 Act does not alter this. Individuals, businesses and communities must, therefore, play a critical role in making themselves more resilient and helping to reduce the impact of flooding.
- 1.3 The 2009 Act sets out a framework designed to manage and reduce flood risk across Scotland over time. Local authorities, the Scottish Environment Protection Agency (SEPA) and Scottish Water have duties to work together to produce a national flood risk assessment, flood risk and hazard maps, Flood Risk Management Strategies and Local Flood Risk Management Plans. This process of risk assessment, mapping and planning is to be repeated in cycles every six years.
- 1.4 The progress made on the Flood Risk Management (FRM) process was reported to the Environment Committee on 9 September 2015 (Report No. 15/359 refers). The selected actions to manage flood risk and their prioritisation were approved by the Environment Committee at that time. The report also provided an update on the response to the previous public consultation on the draft FRM Strategies and Local FRM Plans.

## Update on Prioritisation

- 1.5 Since that time, SEPA has produced the final version of the national prioritised list of actions. There have been some minor changes to the national rankings of some of the selected actions within Perth and Kinross due to the inclusion of schemes and studies in other areas of Scotland. The final rankings for Perth and Kinross are shown in Tables 1 and 2 on a local authority, Local Plan District (LPD) and national basis.

Local Plan District (LPD)	Location	Ranking		
		Perth & Kinross	LPD	National
Tay	Comrie	1 of 4	1 of 2	7 of 42
Forth Estuary	Milnathort (surface water)	2 of 4	3 of 7	19 of 42
Forth Estuary	South Kinross	3 of 4	5 of 7	28 of 42
Tay	Scone (Annaty Burn)	4 of 4	2 of 2	34 of 42

**Table 1 - Flood Protection Schemes**

LPD Local Plan District (LPD)	Location	Ranking		
		Perth & Kinross	LPD	National
Tay	Pitlochry	1 of 6	2 of 7	25 of 168
Tay	Aberfeldy	2 of 6	3 of 7	41 of 168
Forth	Blackford	3 of 6	3 of 5	43 of 168
Tay	Dunkeld	4 of 6	4 of 7	67 of 168
Tay	Scone	5 of 6	5 of 7	72 of 168
Tay	Perth (Craigie Burn)	6 of 6	6 of 7	116 of 168

**Table 2 - Flood Protection Studies**

- 1.6 The selected actions and their prioritisation have been developed in partnership with SEPA and the responsible authorities. They have been included in the published Flood Risk Management Strategies.

### Publication of Flood Risk Management Strategies

- 1.7 Following approval by the Scottish Ministers, SEPA published the FRM Strategies on 22 December 2015. These documents cover the 14 local plan districts across the whole of Scotland. They describe the objectives and actions that will be implemented by SEPA and responsible authorities over the first six year cycle from 2015-2021.
- 1.8 Perth & Kinross is located within four of these local plan districts, i.e. the Tay district (which covers the majority of Perth & Kinross) as well as parts of the Tay Estuary & Montrose Basin, the Forth and the Forth Estuary.
- 1.9 The published documents can be viewed on the following page of SEPA's website - <http://apps.sepa.org.uk/FRMStrategies/>.

## **Development and Publication of Local Flood Risk Management Plans**

- 1.10 The 2009 Act requires lead local authorities to publish Local FRM Plans by 22 June 2016. As the lead authority for the Tay district, Perth & Kinross Council is responsible for publishing this plan. The Council also has an involvement in the three other Local FRM Plans for the districts noted at 1.8.
- 1.11 The 2009 Act also requires the Local FRM Plans to be consistent with, and supplement, the published FRM Strategies. The FRM strategies have characterised the existing flood risk, set objectives for managing that risk, put forward the selected actions to achieve the objectives and prioritised those actions. The Local FRM Plans have, therefore, been drafted to take account of this information and have been developed based on a national template.
- 1.12 The Local FRM Plans are also required to provide more detail on the proposed implementation arrangements for the selected actions over the first cycle between 2016 and 2022. A description of how the actions will be implemented has, therefore, been developed including the proposed timetable, responsibilities and funding arrangements. A description of how the functions of the responsible parties will be coordinated to achieve this has also been included.
- 1.13 Given that the documents are intended to be public facing, they have also been developed to provide a more local perspective than the FRM Strategy documents.
- 1.14 The responses to the previous public consultation of December 2014 – June 2015 have been taken into account in producing the FRM strategies and Local FRM Plans.
- 1.15 In order to finalise any Local FRM Plan, the 2009 Act requires the lead authority, every other responsible authority and SEPA to agree to its content. The other partners in each district are, therefore, arranging formal agreement in accordance with their respective governance arrangements.
- 1.16 The process of developing the final Local FRM Plans has been delayed by the recent flooding in December 2015 and January 2016. However, the four Plans are currently at a final draft stage and only require minor amendments prior to publication on 22 June 2016.

## **2. PROPOSALS**

- 2.1 The final draft Local FRM Plans have been developed in partnership with SEPA and the relevant responsible authorities (for the Tay district this includes local authorities, Scottish Water, Forestry Commission Scotland, the Loch Lomond & the Trossachs National Park Authority and the Cairngorms National Park Authority). In preparing the Local FRM Plans, the Council has also taken advice from the Tay and Forth Local Advisory Groups.

- 2.2 The published FRM Strategies and final draft Local FRM Plans contain both general actions which apply across the local plan district and actions that are specific to Potentially Vulnerable Areas (PVAs). A full summary of all the general and specific actions that were considered is provided in the table in Appendix 1, together with a detailed description of those actions.
- 2.3 The selected actions which are specific to the PVAs within the four local plan districts are shown (with a green box and tick) in the tables in Appendix 2.
- 2.4 The detailed implementation arrangements for these actions are set out within the final drafts of the Local FRM Plans. The timetable for the implementation of any existing and new actions has been set out, taking account of the prioritisation process and available resources at the current time. These actions will be delivered by SEPA, the relevant local authorities, Scottish Water, other responsible authorities or Transport Scotland as appropriate. The Local FRM Plans describe how the functions of these parties will be coordinated to implement the actions. The arrangements for funding the actions have been based around available or potential sources of funding at the current time.
- 2.5 The final drafts of the Local FRM Plans can be viewed at the following links:
- Tay: <http://www.pkc.gov.uk/CHttpHandler.ashx?id=36139&p=0>
  - Tay Estuary & Montrose Basin:  
<http://www.pkc.gov.uk/CHttpHandler.ashx?id=36140&p=0>  
<http://www.pkc.gov.uk/CHttpHandler.ashx?id=36151&p=0>
  - Forth: <http://www.pkc.gov.uk/CHttpHandler.ashx?id=36141&p=0>
  - Forth Estuary: <http://www.pkc.gov.uk/CHttpHandler.ashx?id=36142&p=0>
- 2.6 The key outputs from the FRM process have already been subject to public consultation and the FRM Strategies were published in December 2015. In order to allow the public to re-engage with this process at the earliest opportunity, the final drafts of the Local FRM Plans have therefore been placed on the web sites of the relevant lead local authorities, ahead of final publication. The final draft of the Tay Local FRM Plan has also been placed on the Council's website.

### **Next Steps**

- 2.7 As noted at 1.16, the Local FRM Plans are at a final draft stage and may still require minor amendments prior to final publication on 22 June 2016. The amendments will relate to the presentation of the final documents. As such, the content (as presented in this report) will not change prior to publication.
- 2.8 The 2009 Act requires the Council as lead authority for the Tay district to publish the final Tay Local FRM Plan. Following agreement from all other members of the Tay LPD Partnership, the final Tay Local FRM Plan will therefore be published on the Council's website on, or before, 22 June 2016. The proposed publicity surrounding this will be as follows:

- (i) The Council's web site will be updated to include the final Tay Local FRM Plan and to provide links to the other relevant published Local FRM Plans.
- (ii) A copy of the final Tay Local FRM Plan will be provided to SEPA and the Scottish Ministers.
- (iii) Notices will be placed in *the Courier*, *the Stirling Observer* and *the Edinburgh Gazette*.
- (iv) Letters will be issued to each community council that falls within a PVA to notify them of the publication of the Local FRM Plans and how to access them.
- (v) Hard copies of the documents will also be made available in the Council's Perth and Area Offices.
- (vi) Announcements will be posted on social media (the Perth & Kinross Council Facebook and Twitter pages).
- (vii) An article will be placed in the August 2016 issue of PKC News.
- (viii) Community Watch website
- (ix) Local resilience groups within a PVA
- (x) Any other publications which are considered appropriate

2.9 It should be noted that it will not be possible to carry out all of the selected actions to manage flood risk within the resources available to the Council at this time. Although the FRM strategies have been published and the local FRM plans are to be published by 22 June 2016, the implementation of the actions thereafter will be based on a number of factors, including: priority; availability of funding; capacity within delivery bodies and third parties to develop the actions; coordination and agreements between partners; statutory processes and permissions; design or other preparatory time required.

2.10 The 2009 Act sets out a 6 year cycle between subsequent FRM Strategies and Local FRM Plans. While SEPA and the responsible authorities are required to implement the actions set out in the Strategies and Plans, the process of reviewing and updating the national flood risk assessment and flood maps, as well as producing the next generation of FRM Strategies and Local FRM Plans, will also re-commence.

2.11 Within 3 years of finalising the Local FRM Plan, the Council is also required to publish a further interim report on the progress made in implementing the selected actions. A final report on progress must also be published no later than 6 years after the Local FRM Plan is finalised.

### **3. CONCLUSION AND RECOMMENDATIONS**

- 3.1 This report provides an update on the publication of SEPA's Flood Risk Management Plans (or Strategies) in December 2015 and the Council's Local Flood Risk Management Plans in June 2016.
- 3.2 The report seeks the Committee's approval of the content of the Local Flood Risk Management Plans for the Tay, Forth, Forth Estuary and Tay Estuary & Montrose Basin districts.

3.3 The report also seeks the Committee's approval to officers carrying out final minor amendments to the presentation of the Local Flood Risk Management Plans prior to final publication on 22 June 2016.

3.4 It is recommended that the Committee:

- (i) Notes the progress on the flood risk management planning process set out by the 2009 Act.
- (ii) Approves the content of the Local Flood Risk Management Plans for the Tay, the Forth, the Forth Estuary and the Tay Estuary & Montrose Basin districts, subject to funding.
- (iii) Approves that the Head of Environmental & Consumer Services will carry out final minor amendments to the presentation of the above Local Flood Risk Management Plans prior to final publication on 22 June 2016, if required.
- (iv) Approves the proposed arrangements for publication of the Local Flood Risk Management Plans.

#### Author

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#### Approved

Name	Designation	Date
Barbara Renton	Director (Environment)	23 May 2016

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## 1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

<b>Strategic Implications</b>	<b>Yes / None</b>
Community Plan / Single Outcome Agreement	<b>Yes</b>
Corporate Plan	<b>Yes</b>
<b>Resource Implications</b>	
Financial	<b>Yes</b>
Workforce	<b>None</b>
Asset Management (land, property, IST)	<b>None</b>
<b>Assessments</b>	
Equality Impact Assessment	<b>Yes</b>
Strategic Environmental Assessment	<b>Yes</b>
Sustainability (community, economic, environmental)	<b>Yes</b>
Legal and Governance	<b>Yes</b>
Risk	<b>None</b>
<b>Consultation</b>	
Internal	<b>Yes</b>
External	<b>Yes</b>
<b>Communication</b>	
Communications Plan	<b>Yes</b>

### 1. Strategic Implications

#### Community Plan / Single Outcome Agreement

- 1.1 The proposals relate to the delivery of the Perth and Kinross Community Plan / Single Outcome Agreement by managing flood risk to our residential and business communities in a sustainable manner.

#### Corporate Plan

- 1.2 The Council's Corporate Plan 2013 – 2018 lays out five outcome focussed strategic objectives which provide clear strategic direction, inform decisions at a corporate and service level and shape resources allocation. They are as follows:
- (i) Giving every child the best start in life;
  - (ii) Developing educated, responsible and informed citizens;
  - (iii) Promoting a prosperous, inclusive and sustainable economy;
  - (iv) Supporting people to lead independent, healthy and active lives; and
  - (v) Creating a safe and sustainable place for future generations.
- 1.3 This report contributes to objectives (ii), (iii), (iv) and (v).

## 2. Resource Implications

### Financial

- 2.1 It should be noted that the actions identified in the Local FRM Plans will not be implemented at this time. The implementation arrangements have been set out in the final drafts of the local FRM plans and the actions have been prioritised over the first six year cycle of the Plans from 2016-2022. Following publication in June 2016, the actions will still require further development through the progression of flood scheme proposals or further flood studies. As a result, there are no immediate resource implications arising directly from the recommendations in this report.
- 2.2 However, the flood risk management planning process will have future financial implications. The Local FRM Plans contain the implementation arrangements including the timetable for current and new actions to manage flood risk, who will be responsible for implementing them, as well as how they will be funded and coordinated by SEPA and the responsible authorities over the first six year cycle.
- 2.3 The 2009 Act requires the Scottish Government to have regard to the FRM Strategies and Local FRM Plans when allocating funds to SEPA and responsible authorities. The Scottish Government, CoSLA and SEPA have held further discussions over the distribution of capital funding to the actions identified nationally in the FRM Strategies and Local FRM Plans and the following arrangements will apply:
- (i) Only works and schemes that are prioritised in the FRM Strategies and Local FRM Plans will be eligible for capital funding.
  - (ii) Flood protection schemes may attract capital grant assistance of up to 80% of their estimated cost from the Scottish Government. Local authorities will be required to fund the remainder of the cost of flood schemes.
  - (iii) The Scottish Government allocates capital funding to local authorities engaged in flood risk management across Scotland. 80% of this capital funding will continue to be allocated to flood protection schemes with the remaining 20% to other actions within the FRM Strategies, as detailed in the Local FRM Plans. This 20% will be distributed to the 32 Scottish local authorities based on the number of properties at risk of flooding and the estimated annual average flood damages.
- 2.4 The estimated costs of flood schemes across Scotland were recently reported to the Scottish Government by local authorities.
- 2.5 The preparation of the Local FRM Plans has included consideration of the Council's plans for new capital works. An internal flood mitigation audit was carried out in August 2014 as part of the Council's audit plan for 2014/15. The final audit report was submitted to the Audit Committee on 17 September 2014 (Report No. 14/393 refers). The audit found that previous biennial reports have made it clear that construction of flood schemes will only take

place if sufficient funds are available. In practice, in recent years many projects proposed to, and approved by, the Environment Committee, have not been implemented for this reason.

- 2.6 Revenue funding will continue to be distributed in line with current arrangements.
- 2.7 The Council has a duty to have regard to the FRM Strategies and local FRM plans and so the actions set out therein are statutory obligations. The actions included in the Strategies and Plans have been set out assuming that funding levels remain at current levels. However, if funding should prove not to be available throughout the 6 year cycle of the plans then the implementation of those actions is likely to be delayed.
- 2.8 Clearly the issue of funding support from central government will continue to have a significant bearing on when the Council will be able to deliver any actions to manage flood risk in the future. In the meantime, the actions set out in the Council's local FRM plans have been prioritised but will only be implemented as available resources allow.

#### Workforce

- 2.9 There are no workforce implications arising directly from the recommendations in this report.

#### Asset Management (land, property, IT)

- 2.10 The proposals in this report have no IT implications.
- 2.11 The individual actions set out within the local FRM plans may have land and property implications however these will be dealt with on an individual project basis.

### **3. Assessments**

#### Equality Impact Assessment

- 3.1 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties. The Equality Impact Assessment undertaken in relation to this report can be viewed by clicking [here](#).
- 3.2 The function, policy, procedure or strategy presented in this report was considered under the Corporate Equalities Impact Assessment process (EqIA) with the following outcome.

- 3.3 Following an assessment using the Integrated Appraisal Toolkit, it has been determined that the proposal is assessed as **relevant** and the following positive outcomes expected following implementation:
- The selected actions will have the same impact for all equality groups as the reduction in flood risk to communities will provide benefits for all (improved safety, health & wellbeing through the avoidance of flood impacts and damages).
  - The effects and aftermath of flooding could have a greater impact on mobility impaired, sight impaired or blind people, learning disabled people, children, the elderly and infirm, pregnant women or nursing mothers in relation to adverse psychological, physical and health impacts. The selected actions to reduce flood risk described in the report will reduce or remove these impacts.

#### Strategic Environmental Assessment

- 3.4 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals.
- 3.5 There are likely to be significant environmental effects associated with the Tay local FRM plan and the other three local FRM plans that the Council will contribute to. As a consequence an environmental assessment is necessary. SEPA have completed an environmental assessment for their FRM Strategies and their environmental report has been published. Following a review of this assessment, it has been confirmed that this will cover the local FRM plans and that no further assessment is required. Screening reports submitted to the SEA Gateway have confirmed this.

#### Habitats Regulations Appraisal

- 3.6 As the lead authority for the Tay district and a competent authority the Council also undertook a Habitats Regulations Appraisal to ensure that the Tay Local FRM Plan will not adversely affect the integrity of Special Areas of Conservation and Special Protection Areas. Scottish Natural Heritage was consulted on the appraisal and their views have been taken into account. Mitigation has been applied where required to ensure that the Tay Local FRM Plan will not adversely affect the integrity of Special Areas of Conservation and Special Protection Areas.

#### Sustainability

- 3.7 Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. Under the Climate Change (Scotland) Act 2009 the Council also has a duty relating to climate change and, in exercising its functions must act:

- In the way best calculated to delivery of the Act's emissions reduction targets;
- In the way best calculated to deliver any statutory adaptation programmes; and
- In a way that it considers most sustainable.

3.8 Following an assessment using the Integrated Appraisal Toolkit, it has been determined that the proposal is likely to contribute positively to the following corporate sustainable development principles:

- Climate Change:-
  - Efficient use of resources now and in the future in the built environment and service provision (e.g. energy efficiency, land, water resources, flood defence, waste minimisation) (Principle 2)
  - Mitigation and adaptation to manage the impact of climate change and reduce the production of greenhouse gases (Principle 3)

Justification:

3.9 The selected actions will help to manage the increased flood risk brought about by climate change.

- Community:-
  - A sense of civic values, responsibility and pride (Principle 20)
  - Creating a sense of place (e.g. a place with a positive 'feeling' for people, and local distinctiveness) (Principle 22)

Justification:

3.10 The proposed measures will help to make communities safer, through a reduction in flood risk. The draft Flood Risk Management (FRM) Strategies and Local FRM Plans have been subject to public consultation.

- Equality & Diversity:-

Refer to Item 3.3 (above).

3.11 Following an assessment using the Integrated Appraisal Toolkit, it has been determined that the proposal is likely to contribute negatively to the following corporate sustainable development principles:

- Consumption & Production:-
  - Efficient use of resources now and in the future in the built environment and service provision (e.g. energy efficiency, land, water resources, flood defence, waste minimisation) (Principle 2)

- Mitigation and adaptation to manage the impact of climate change & reduce the production of greenhouse gases (Principle 3)

Justification:

- 3.12 There may be a short term increase in consumption during the implementation of the selected actions, e.g. the construction of new flood defences, but a future reduction due to reduced flood risk.

Mitigation:

- 3.13 The efficient use of resources is to be considered on an individual project basis.
- 3.14 Under the 2009 Act, the Council has a duty to manage flood risk in a sustainable way and to act in the best way calculated to contribute to the achievement of sustainable development. The actions identified in the Council's local FRM plans comply with these requirements.

Legal and Governance

- 3.15 The Head of Legal and Governance and the Head of Democratic Services have been consulted on this report.
- 3.16 The legal basis for the proposals set out in this report is the Flood Risk Management (Scotland) Act 2009.

Risk

- 3.17 The risks associated with any actions to manage flooding will be identified and managed through individual projects.

**4. Consultation**

Internal

- 4.1 The Head of Legal and Governance, the Head of Democratic Services and the Head of Finance have been consulted in the preparation of this report.

External

- 4.2 The key outputs from the Flood Risk Management process were subject to public consultation between December 2014 and June 2015. This was a joint web-based consultation carried out by SEPA and local authorities. The responses to the public consultation was previously reported to the Environment Committee on 9 September 2015 (Report No. 15/359 refers) and have been used to inform the final FRM strategies and local FRM plans.
- 4.3 The local flood risk management plans have been developed through Local Plan District Partnerships by SEPA and the relevant responsible authorities

(local authorities, Scottish Water, Forestry Commission Scotland, the Loch Lomond & the Trossachs National Park Authority and the Cairngorms National Park Authority). The Council has also taken advice from the Tay and Forth Local Advisory Groups.

- 4.4 Consultation will be carried out with relevant external stakeholders on any individual proposals in future.

## **5. Communication**

- 5.1 The communications arrangements for the publication of the local flood risk management plans have been set out at 2.8 in the main report.
- 5.2 Communication with relevant external stakeholders will take place on any individual actions proposed to manage flood risk in the future.

## **2. BACKGROUND PAPERS**

- 2.1 The following background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (and not containing confidential or exempt information) were relied on to a material extent in the preparation of the above report;

- PKC – Environment Committee – 27 January 2010, Flood Risk Management (Scotland) Act 2009 (Report No. 10/51)
- PKC – Environment Committee – 20 November 2013, Progress Report, Flood Risk Management (Scotland) Act 2009 (Report No. 13/544)
- PKC – Environment Committee – 12 November 2014, The Flood Risk Management (Scotland) Act 2009, Short List of Potential Measures to Manage Flood Risk (Report No. 14/483)
- PKC – Environment Committee – 21 January 2015, The Flood Risk Management (Scotland) Act 2009, Public Consultation Arrangements (Report No. 15/16)
- PKC – Environment Committee – 9 September 2015, The Flood Risk Management (Scotland) Act 2009, Selected Actions and Prioritisation (Report No 15/359)

## **3. APPENDICES**

- 3.1 Appendix 1 – Summary of All Actions
- 3.2 Appendix 2 - Local Plan Districts – Summary of Actions in Potentially Vulnerable Areas
- 3.3 Appendix 3 - Previous Approvals Granted for Capital Flood Schemes