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**REPORT TO: ECONOMIC GROWTH, HOUSING AND ENVIRONMENTAL SUSTAINABILITY COMMITTEE ON 1 DECEMBER 2020**

**SUBJECT: FLOOD RISK MANAGEMENT (SCOTLAND) ACT 2009 – DRAFT LOCAL FLOOD RISK MANAGEMENT PLANS CYCLE 2**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND FINANCE)**

**1. REASON FOR REPORT**

- 1.1 To inform the Committee of the consultation proposals for the Draft Flood Risk Management Strategies and Plans.

This report is submitted to the Economic Growth, Housing and Environmental Sustainability Committee following a decision of Moray Council on 17 June 2020 to agree a simplified committee structure as a result of the COVID-19 pandemic. In the case of this committee the combining of the delegated responsibilities of Economic Development and Infrastructure, Community Services (Housing and Property) and Finance (budget, capital and revenue monitoring) (para 9 of the minute refers).

**2. RECOMMENDATION**

- 2.1 It is recommended that Committee:-

- (i) note the delays to SEPA's consultation on the Flood Risk Management Strategies due to COVID 19;
- (ii) agree to publish the Draft Local Flood Risk Management Plan for the Findhorn, Nairn and Speyside Local Plan District on 21 March 2021.
- (iii) agree to give the Flood Risk Management team delegated authority to respond to SEPA's consultation in December 2020 and March 2021; and
- (iv) note a further report on the final Flood Risk Management Strategies and Plans will be brought to the committee, after the public consultation closes on 21 June 2021.

### 3. **BACKGROUND**

- 3.1 The Flood Risk Management (Scotland) Act 2009 (the Act) requires SEPA, working in partnership with Responsible Authorities, including Local Authorities, Forestry Commission Scotland and National Parks Authority to deliver Flood Risk Management Strategies and Plans.
- 3.2 Under the Act Scotland has been split into 14 Local Plan Districts (LPDs) and each of these LPDs has a Lead Local Authority. SEPA is responsible for publishing strategies nationally and each LPD has a designated Lead Local Authority that is responsible for publishing the Local Flood Risk Management Plan for that district.
- 3.3 Moray Council is Lead Local Authority for the Findhorn, Nairn and Speyside Local Plan District, working in partnership with the authorities listed in paragraph 3.1 and Highland Council. Moray is also part of the partnership for the North East Local Plan District, for which Aberdeenshire Council is the Lead Local Authority.
- 3.4 During 2016-2022 Moray Council have been implementing the Actions identified in the Local Flood Risk Management Plans for Cycle 1 as agreed at the Economic Development and Infrastructure Services (EDIS) Committee on 3 May 2016 (paragraph 7 of the minute refers).
- 3.5 During the implementation phase for Cycle 1 the Strategies and Plans for Cycle 2 are developed for publication in December 2021 and June 2022 respectively. The development process is shown in Figure 1.

### **FLOOD RISK MANAGEMENT PLANNING PROCESS**

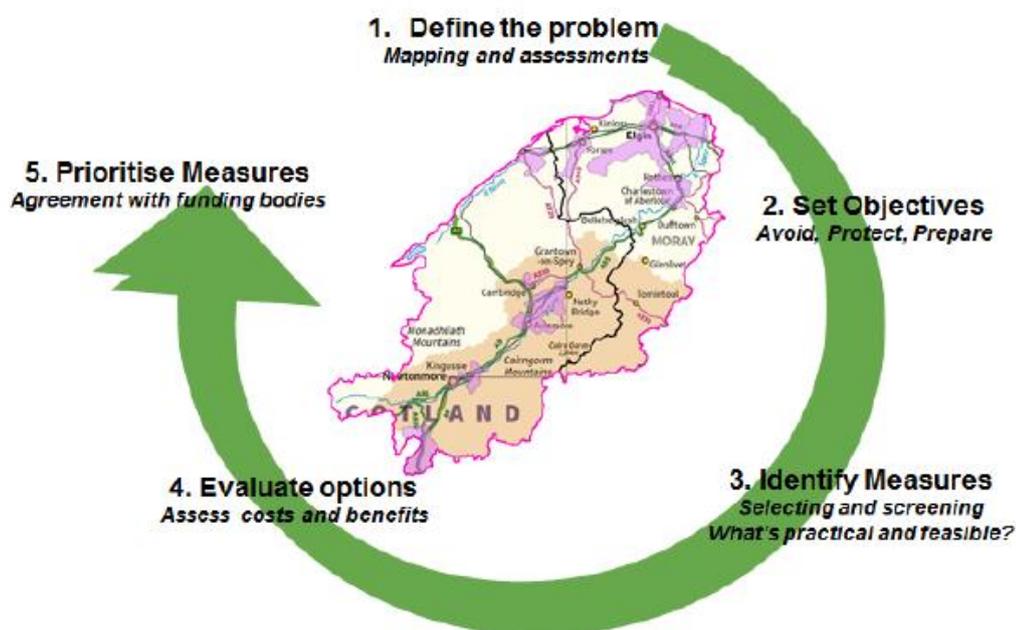


Figure 1: FRM Planning Process

- 3.6 Stage 1 of this process, Mapping and Assessment, which identified Potentially Vulnerable Areas (PVAs) was completed, publicly consulted on and concluded on 31 July 2018. Moray Council's response to this consultation was reported to the EDIS Committee on 15 May 2018 (paragraph 7 of the minute refers).
- 3.7 SEPA has now completed Stage 2, Setting Objectives and Stage 3 Identifying Measures.
- 3.8 In Stage 2 flooding hotspots in each PVA have been identified and these are called Objective Target Areas (OTAs). Specific Objectives are set for each OTA, based on the principle of Prepare, Reduce, Avoid and Improve Understanding. The Objectives must be considered in relation to the national principles to manage flood risk, which are provided below.
- Take a long term, risk-based approach to flood risk management decisions and one that considers the impacts of and adaptability to climate change.
  - Deliver coordinated and integrated flood risk management by engaging with communities and working in partnership, sharing data, expertise, services and resources.
  - Consider whole catchments and coastlines and work with natural processes and the environment to deliver multiple outcomes.

**Appendix A** details the Objectives set for each OTA in the Moray area.

- 3.9 For each OTA Objectives and Actions to address flood risk must be identified. The Actions for Moray can be found in the spreadsheet in **Appendix A**.
- 3.10 The OTAs, Objectives and Actions will be included in the Draft Flood Risk Management Strategies that SEPA is required to consult on. SEPA has completed the work to identify the OTAs but due to the impact of COVID 19, the work to identify Objectives and Actions has been delayed. While the Objectives and Actions for Moray have been identified, this is not the case for all local authority areas in Scotland. Under the Act SEPA is required to publish the Draft Strategies on 21 December 2020 for public consultation. At the time of writing this report, SEPA propose to achieve this by having a two stage consultation. The consultation published in December will contain details of OTAs only and the second stage will be published in March with details of the Objectives and Actions.
- 3.11 Subject to agreement of this Committee, Moray Council's Flood Risk Management Team would be given delegated authority to respond to this consultation on behalf of Moray Council.
- 3.12 Under the Act, Moray Council is required to publish the Local Flood Risk Management Plan for the Findhorn, Nairn and Speyside Local Plan District and support Aberdeenshire Council in the publication of the Plan for the North East Local Plan District. These Plans must demonstrate how the Actions identified in the Strategies will be delivered.

- 3.13 **Appendix A** identifies potential Actions for Moray and a description of how they should be delivered. As stated in paragraph 3.10 this information is not sufficiently complete to include in the consultation in December. This is because not all of the Actions for all of the Local Plan Districts have been identified.
- 3.14 Under the Act, each Lead Local Authority must consult on the Local Flood Risk Management Plans before 22 June 2021. All of the Lead Local Authorities in Scotland, including Moray, have agreed to publish the Local Flood Risk Management Plans on 21 March 2021, to coincide with the SEPAs second consultation.
- 3.15 On completion of the consultation on 21 June 2021, all representations will be considered and any modifications required to the Strategies and Plans will be made before the consultation on the final Strategies and Plans is undertaken on 22 December 2021 and 22 June 2022 respectively.
- 3.16 It should be noted that delays in progressing the work required to inform the Strategies have been experienced due to COVID-19. It is hoped that the remaining work required for the Strategies will be complete by March 2021 but this may be subject to additional delays if a future lockdown is imposed.

#### **4. SUMMARY OF IMPLICATIONS**

**(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

Flood Risk Management is a key priority in the 10 year plan “Growing, diverse and sustainable economy.”

**(b) Policy and Legal**

There are statutory deadlines for the consultation as set out in the report.

**(c) Financial implications**

Unless budgetary provision already exists, the finalised Plans will require to be considered for funding through the Council's normal financial planning processes. Consultative drafts of the Local Plans will not include specific financial commitments unless these are already agreed by the Council, e.g. are defined within the existing Capital Plan. Any significant Flood Risk Management schemes or works would be subject to securing grant funding from Scottish Government.

**(d) Risk Implications**

The recommendations are intended to reduce the risk that the Council fails to meet deadlines for statutory consultation. There are on-going risks in this process which is running considerably behind schedule. Local Strategies must be finalised and approved by Scottish Ministers by 22 December 2021. The Local Plan must be finalised within six months of that date.

**(e) Staffing Implications**

There are no staffing implications associated with the recommendations in this report. The delays mean that there will be added pressure on staff in meeting statutory deadlines.

**(f) Property**

There are no property implications for the Council.

**(g) Equalities/Socio Economic Impact**

There are no equalities implications arising from this report.

**(h) Consultations**

The Depute Chief Executive (Economy, Environment and Finance), Head of Environmental and Commercial Services, Legal Services Manager, P Connor, Principal Accountant, L Rowan, Committee Services Officer and the Equal Opportunities Officer have been consulted and comments have been taken into account

**5. CONCLUSIONS**

**5.1 SEPA must consult on the Draft Flood Risk Management Strategies by 21 December 2020.**

**5.2 Delays in producing the information required to complete the Strategies mean the consultation will be undertaken in two stages. The first consultation will be on 21 December 2020 and the second will be on 21 March 2021.**

**5.3 Moray Council must consult on the Draft Local Flood Risk Management Plan for the Findhorn, Nairn and Speyside Local Plan District and this will coincide with the second consultation by SEPA on 21 March 2021.**

Author of Report: Will Burnish Senior Engineer (Flood Risk Management)

Background Papers:

Ref: