

ANGUS COUNCIL

PLANNING AND TRANSPORT POLICY COMMITTEE

29 AUGUST 2002

**SUBJECT: RIVER TAY POSSIBLE SPECIAL AREA OF CONSERVATION  
PHASE 3 CONSULTATION**

REPORT BY DIRECTOR OF PLANNING AND TRANSPORT

**Abstract: This report provides the Council's proposed response to consultation by Scottish Natural Heritage on Phase 3 of the possible River Tay Special Area of Conservation which includes the Eastern tributaries of the River Isla, Gairie Burn, Ballindarg Burn, Dean Water and Kerbet Water within Angus.**

**1 RECOMMENDATION**

It is recommended that the Committee:-

1. note the terms of Scottish Natural Heritage's proposal that the Eastern tributaries of the River Tay be classified as a Special Area of Conservation because of its importance for River, Brook and Sea Lamprey, Otters, Clear Water Lochs and Atlantic Salmon;
2. agree to advise Scottish Natural Heritage that Angus Council supports in principle the scientific case for the proposed designation of the Special Area of Conservation, and welcomes the preparation by Scottish Natural Heritage of draft guidance for Competent Authorities when dealing with proposals on SAC freshwater sites.
3. agree, where appropriate, to take account of the proposed designation, together with views from Scottish Natural heritage, in discharging various relevant land use planning and other responsibilities of the Council, including Development Plan and Development Control responsibilities;
4. note that the current proposal is the final part of a phased consultation programme proposing the designation of the entire River Tay and main tributaries as a Special Area of Conservation which has potential implications for development activity in the wider catchment of the river system.

**2 INTRODUCTION**

- 2.1 The River Tay is one of 227 Scottish sites that have been identified as possibly meeting the scientific criteria for designation as Special Areas of Conservation (SAC). This designation is made under the European Commission (EC) Directive on the Conservation of Natural Habitats and of Wild Flora and Fauna, commonly referred to as the Habitats Directive. To date, 222 of these sites have been proposed to the Commission. The remaining sites are currently the subjects of a consultation exercise to assess their suitability for proposal to the European Commission as candidate SAC's.

- 2.2 Report No. 1339/01 to the Planning & Transport Policy Committee, 22 November 2001, advised members of the phased consultation programme to be undertaken by Scottish Natural Heritage relating to specific parts of the extensive River Tay system being proposed as a possible Special Area of Conservation. In addition to the Firth of Tay and Eden Estuary, this included three phases of the River Tay System. The report noted that the consultation process was to be carried out in phases due to the scale of the exercise, and that Phases 1 and 2 of the main River Tay System did not directly affect Angus.
- 2.3 Scottish Ministers have recently decided that Phase 1, the main stem of the Tay to its headwaters on the Dochart, should be proposed to the European Commission as a candidate Special Area of Conservation. Phase 2 of the consultation with interested parties on the Western Tributaries has recently been completed. Comments on Phase 3 of the consultation which directly affects Angus have now been requested by 16 September 2002.

### **3 PHASE 3 CONSULTATION**

- 3.1 The Phase 3 consultation relates to the Eastern tributaries of the Tay including the River Ardle, Black Water, Ericht, Isla, Dean and Kerbet Waters, Gairie Burn, Ballindarg Burn Lunan Burn and St. Martins Burn. Map 1 appended to this report identifies the extent of the Phase 3 Consultation Site, part of which extends into Angus. The proposed boundary of the SAC includes all parts of the river accessible to salmon.
- 3.2 The Phase 3 area has been recommended by SNH as a possible Special Area of Conservation because it contains habitat types and/or species which are rare or threatened within a European context. This includes the following European interests for which the area is considered to support a significant presence:-
- River Lamprey
  - Brook Lamprey
  - Otter
  - Clear Water Lochs
  - Sea Lamprey
  - Atlantic Salmon (for which this is considered to be one of the best areas in the United Kingdom)
- 3.3 Appendix 1 to this report provides a fuller description of the reasons for recommendation as a candidate Special Area of Conservation.

### **4 DISCUSSION**

- 4.1 Members may recall earlier proposals reported to the Planning & Transport Policy Committee to designate the River South Esk, and the Firth of Tay and Eden Estuary as Special Areas of Conservation (Report Nos. 103/01 and 1339/01, 25 January and 22 November 2001 refer).
- 4.2 The current consultation on Phase 3 of the proposed Tay SAC raises some similar general planning issues to these earlier proposals, including the likely implications of various types of proposed development which might be relevant to the proposed SAC. In particular the Development Plan and Development Control framework in Angus includes operational procedures which are already in place to enable

examination of, and facilitate comment by SNH on, development proposals of potential nature conservation significance throughout Angus. In addition to statutory land use planning requirements, this also includes input to partnership arrangements in which both Angus Council and SNH are represented and which extend into adjoining Local Authority areas, including the Tayside Local Biodiversity Partnership.

- 4.3 SNH are also currently preparing guidance and advice on the type of developments which might potentially affect river based SAC's. This may provide additional assistance in identifying the area over which there may be implications for development which could adversely affect the integrity of the site. The preparation of such guidance is to be welcomed where a major issue for the conservation of freshwater sites is that they have a greater potential for damage from management activities and development outwith the site boundary than is generally the case for other SAC's.
- 4.4 Forfar Loch lies just outside the boundary of the possible SAC at the head of the Dean Water. Improvements to water quality in the loch, as a result of the operation of the replacement Forfar Waste Water Treatment Plant, will also be of direct benefit to the possible SAC and, in particular, the upper reaches of the Dean Water.
- 4.5 The Gairie Burn and Ballindarg Burn are also included within the Phase 3 Consultation Site. Report No 90/02 to the Planning and Transport Policy Committee, 24 January 2002, identified the outstanding need for improvements to the Kirriemuir Waste Water Treatment Plant outfall which discharges into the Gairie Burn. That report highlighted concerns over the continued slippage of investment by NOSWA (now Scottish Water) at Kirriemuir, where the required project is not expected to start until 2003-04 at the earliest. Identification of the Gairie Burn and Ballindarg Burn within the possible SAC further re-inforces the need for early investment by Scottish Water with a view to resolving the water quality issues arising from the Kirriemuir WWTP outfall into the Gairie Burn.

## **5 FINANCIAL IMPLICATIONS**

- 5.1 There are no financial implications arising from this report.

## **6 HUMAN RIGHTS IMPLICATIONS**

- 6.1 There are no human rights issues arising from this report.

## **7 CONSULTATION**

- 7.1 The Chief Executive, Director of Finance, Director of Law & Administration and Director of Roads have been consulted in the preparation of this report.

## **8 CONCLUSION**

- 8.1 The proposed designation of the Eastern tributaries of the River Tay System has potential implications for the discharge of planning and other functions of the Council not only in the immediate vicinity of the tributaries but extending over a wider catchment area.

8.2 Angus Council is not in a position to offer detailed scientific evidence in relation to the proposed designation. However, the Council's land use and other policies are directly relevant to the implementation of any future designation within this part of Angus.

**NOTE**

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

AA/CGR/KW  
20 August 2002

Alex Anderson  
Director of Planning and Transport