

ANGUS COUNCIL

INFRASTRUCTURE SERVICES COMMITTEE

21 APRIL 2009

**SUBJECT: RIVER BASIN MANAGEMENT PLANNING**

- 1. DRAFT RIVER BASIN MANAGEMENT PLAN FOR THE SCOTLAND RIVER BASIN DISTRICT AND**
- 2. TAY DRAFT AREA MANAGEMENT PLAN 2009 - 2015**

REPORT BY DIRECTOR OF INFRASTRUCTURE SERVICES

**Abstract: This report comments on and provides the suggested basis for the Council's response to recent consultation publications by the Scottish Environment Protection Agency dealing with the River Basin Management Planning process in Scotland.**

## **1 RECOMMENDATION**

It is recommended that the Committee -

1. note the publication of both the Draft River Basin Management Plan for Scotland River Basin District and Tay Draft Area Management Plan 2009 - 2015;
2. agree this report as the basis of the Council's response to the Scottish Environment Protection Agency (SEPA).
3. note the publication of two consultation papers by Scottish Government on Implementing the Water Environment and Water Services (Scotland) Act 2003 – (a) Scotland's Water: Future Directions and (b) Restoration of the Water Environment.

## **2 INTRODUCTION**

- 2.1 Scotland's water resource – rivers, lochs, groundwaters, estuaries and seas - are generally noted for having a high quality water environment and recognised as an important economic and social asset. In addition to supporting a wide range of natural heritage species and habitats and an important feature in attracting tourists it is significantly relied upon for drinking water, recreation and by industries such as whisky manufacture, hydropower and farming. Although there are some problems and pressures from water abstraction, impoundments, engineering works and invasive non-native species, the majority of Scotland's rivers are of good quality.
- 2.2 The Water Environment and Water Services (Scotland) Act 2003 (WEWS) transposed the requirements of the European Water Framework Directive (2000/60/EC) into Scots law and introduced a new framework to manage our rivers, lochs, estuaries, groundwater and coasts. This requires an integrated 'source – to-sea approach' and is a significant shift in water resource management in Scotland. This process is known as River Basin Management Planning (RBMP). The Scottish Environment Protection Agency (SEPA) is the lead agency in this process.

- 2.3 The Scottish Government's aim is to establish an integrated policy framework where there is an appropriate balance between the protection and improvement of the water environment and its use for sustainable social and economic development. The overarching aim of RBMP is to improve the ecological quality of our water resources where improvement is needed whilst avoiding deterioration in ecological quality. The key objective is to achieve good ecological status by 2015 and if more time is needed, then by the longer timescales of 2021 and 2027.
- 2.4 The following consultation documents relating to improving water quality in Scotland have recently been published:
- **Draft River Basin Management Plan for the Scotland** River Basin District; SEPA - December 2008); (a Draft RBMP has also been published jointly with the Environment Agency for the Solway and Tweed areas)
  - **Tay Draft Area Management Plan 2009 – 2015**; one of eight area management plans published covering Scotland which provide the regional information and describe local actions; SEPA - December 2008;
  - Implementing the Water Environment and Water Services (Scotland) Act 2003 – **Scotland's Water: Future Directions**; Scottish Government - January 2009; and
  - Implementing the Water Environment and Water Services (Scotland) Act 2003 – **Restoration of the Water Environment**; Scottish Government – January 2009
- 2.5 Consultation on the Draft River Basin Management Plan for the Scotland and the Area Management Plans extends to 22 June 2009. This provides an opportunity for statutory agencies, private organisations, public sector bodies and individuals with an interest in the water environment of Scotland to review these draft plans, contribute to the river basin planning process and help shape the final plan that is intended to be published in December 2009.
- 2.6 Running concurrently with the RBMP exercise are Scottish Government consultations on Scotland's Water: Future Directions and Restoration of the Water Environment. Consultation on both of these documents extends until 3 April 2009.
- 2.7 This report sets out a synopsis of the key points arising from the above publications and provides a suggested consultation response. A copy of the Draft River Basin Management Plan for Scotland; the Tay Draft Area Management Plan; Scotland's Future Water Directions; and Restoration of the water environment is available in the Members Lounge.

### 3 REVIEW OF PUBLISHED DOCUMENTS

#### **Draft River Basin Management Plan for Scotland**

- 3.1 This document was published in December 2008 and describes the condition of Scotland's water environment covering groundwater, rivers, lochs, estuaries and coastal waters and sets out the actions needed to deliver environmental improvements up to 2027.
- 3.2 The national plan collates all the information at the Scotland level (excludes Tweed and Solway catchments which are included with northern England) and provides an overview of the current (2007) and projected status of the water bodies in Scotland

for the next three river basin planning cycles to 2015, 2021 and 2027. The overall aim is to achieve good status for all water bodies by 2027.

3.3 It is principally a technical document which has four main components:

- an overview document explaining how organisations involved in the management of the water environment will work together to deliver the plan;
- a series of annexes provides technical detail on each of the key aspects of the river basin planning process and forms the basis of the plan;
- a web-based interactive map powered by a geographical information system (GIS) which offers information on individual rivers lochs, lakes, estuaries, coastal water and groundwater and provides details on the condition of each water body and the proposed environmental objectives for that water body; and
- area management plans (eight) (published separately) which supplement the draft basin district plans and provide regional information and describe local actions. ( a summary of the Tay area is set out at paragraph 3.10)

3.4 At present some 57% of Scotland's water is in good condition, or better. The purpose of the river basin management planning process is to improve the overall quality and it is expected through the implementation of planned actions identified as part of this process that this will result in 67% of the water bodies achieving at least good status by 2015.

3.5 Five national water management issues are identified for those water bodies not achieving good status/ecological potential or better, viz:

- abstraction and flow regulation for electricity generation, drinking water supply and agricultural abstraction;
- diffuse pollution from rural and urban land;
- point source pollution from sewage, mining and quarrying and aquaculture;
- changes to the physical habitat (morphology) of a water course from engineering activities and agriculture; and
- invasive non native species.

3.6 Environmental objectives for river basin management together with a range of actions are established. Together they seek to improve the overall water quality.

3.7 Environmental objectives for surface water bodies – lochs, rivers, estuaries and coastal water bodies – are to:

- prevent deterioration in status;
- aim to achieve good ecological status and chemical status by 2015;
- aim to achieve good ecological potential for artificial and heavily modified water bodies by 2015;
- achieve the objectives and comply with the standards for protected areas, where relevant;
- reduce pollution from priority substances and cease discharges, emissions and losses of priority hazardous substances;
- promote sustainable water use; and contribute to mitigating the effects of floods and droughts.

- 3.8 The environmental objectives for ground waters are to:
- prevent deterioration in status;
  - achieve good quantitative and chemical status by 2015;
  - reverse any significant and sustained upward trend in pollutant concentrations;
  - comply with objectives and standards for protected areas, where relevant; and
  - prevent or limit input of pollutants into groundwater.

#### **Tay Draft Area Management Plan 2009 – 2015**

- 3.9 The Tay river catchment area has a high quality environment supporting a diverse range of nationally and internationally important habitats and species, including salmon, otter and freshwater pearl mussel. The range of waters are important for drinking water, recreation, tourism, energy, farming and industry. The Tay Draft Area Management Plan has been prepared by an Advisory Group, led by the Scottish Environment Protection Agency (SEPA) with support from a wide range of partner agencies with an interest in the Tay aquatic environment; this includes Angus Council.

- 3.10 There are seven major river catchments within the Tay area, as set out below; each with its own characteristics and issues.

River North Esk  
Dighty Water  
River Earn

River South Esk  
River Eden

Lunan Water  
River Tay

- 3.11 The key issues in the Tay area relate to the following:
- Nutrient enrichment in our rivers and lochs and high levels of nitrates in groundwater;
  - Changes to the physical habitat of rivers and burns (including artificial barriers to fish passage); and
  - Changes in river flow and water levels in rivers and groundwaters.
- 3.12 Almost 50% of rivers in the Tay area are of good status or better. In Angus, in relation to rivers, several particularly in the coastal plain and Strathmore illustrate the issues identified above and are therefore classified as ranging from moderate, poor or bad. In broad terms those water courses in the upland areas are by contrast classified mostly as good with only a few examples of high classification.
- 3.13 In the Tay area, only 25% of loch areas meet good status. In Angus, Rescobie is classified as moderate.
- 3.14 In relation to estuaries and coasts, five of the six coastal waters meet high status. In relation to estuarine areas Montrose Basin and Barry Links lagoon are moderate.
- 3.15 In terms of groundwater, many are affected by poor chemical quality and reduced levels of water. However some 74% of groundwater meet good status in relation to chemical tests while 82% meet the test with regard to water quantity.

#### **Scotland's Water: Future Directions**

- 3.16 The Scottish Government in January 2009, published a consultation paper entitled 'Implementing the Water Environment and Water Services (Scotland) Act 2003 – Scotland's Water: Future Directions'. The purpose of this consultation paper is to set out proposals for continuing action to support progress towards the successful

delivery of long term ambitions for Scotland's water environment. The paper considered measures which are within the scope of existing legislative provisions and levels of funding to assess the extent to which these can help achieve Government's vision for Scotland's water environment; and highlight where there may be gaps in either the policy or funding framework. When finalised, Scottish Ministers will provide guidance to SEPA on the extent to which the final River Basin Management Plan should take into account the potential improvements which could be delivered by that document.

#### **Restoration of the water environment**

- 3.17 Scottish Government, in January 2009, also published a consultation paper entitled 'Implementing the Water Environment and Water Services (Scotland) Act 2003 – Restoration of the water environment'. The purpose of this consultation paper is to set out how to take forward restoration measures aimed at addressing the legacy of adverse impacts on the water environment resulting from past human activities, in a proportionate and cost effective way over successive planning cycles; it discusses the introduction of additional legal mechanisms to support that framework; and the benefits of pooling funding streams to deliver multiple objectives

## **4 DISCUSSION**

- 4.1 The water resources - rivers, lochs, ground water and coastal waters - are important to the landscape, economy and environment of Angus. Their range and quality contributes to the overall attractiveness of the County and supports a wide range of activities – sporting, recreational, industry, drinking water, etc. Several of the water bodies in Angus are particularly important for their natural heritage qualities – eg River South Esk; Lintrathen Loch; Montrose Basin - and are recognised at national and international level. In broad terms therefore the River Basin Management Planning (RBMP) process is welcomed and supported. The objectives of the RBMP process also supports the wider Angus community planning partnership aims of sustainability of the environment, economy and communities.
- 4.2 Land use planning can make a significant contribution to maintaining and improving the overall water quality in Angus and Scotland. The development plan system provides the framework and key policies for both enabling development and protecting the environment. The recently adopted Angus Local Plan Review (February 2009) identifies the location of areas for new housing and employment use and also establishes a range of policies that are used for assessing development proposals. These include the following policy areas specific to water resource management.
- Foul drainage – public drainage systems and private drainage systems;
  - Surface water management – sustainable urban drainage systems;
  - Water supply – protecting public and private water supplies;
  - Flood risk – recognising the impact of climate change and adopting a precautionary principle and a presumption against locating built development in areas of known significant flood risk; and
  - Coastal management – protecting the undeveloped coast from development; assessing proposals against the Angus Shoreline Management Plan; and supporting the opportunity to develop an integrated approach to coastal management through the preparation of a Coastal Zone Management Plan as part of the Tay Estuary Forum.

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- 4.3 In addition there are polices dealing with the location of development and the protection of natural heritage value of important sites and areas in Angus. A copy of the policy titles are set out in Appendix 1.
- 4.4 Although many parts of the river systems and other water features in Angus are in 'good' condition other parts reflect problems set out in paragraphs 3.12 – 3.16 above. While the land use planning system can contribute to managing the water quality, partnership projects between statutory organisations, non-governmental organisations, private companies and individual land owners will be a particularly important way forward to fulfill the objectives of the Tay area management plan and meet the desired water quality measures within the timescale established by Government.
- 4.5 An example of such an approach has been undertaken in Angus with the establishment of the River South Esk Catchment Partnership. The catchment management planning process aims to bring together all of the users of the River South Esk catchment to firstly discuss and agree the main environmental, social and economic issues affecting the catchment and then agree an action plan of measures that will guide the future management of activities within the catchment in a sustainable way. The project commenced in April 2008, with the appointment of a Project Officer, and an Issues document was drawn up and consulted on during November and December 2008. Issues identified included – water quality and pollution; water abstraction; flooding, river engineering; habitats and species including non native intrusion eg giant hogweed, signal crayfish; recreation, tourism and access matters. The project is now at the stage of drawing up actions for the draft catchment management plan (CMP) which is expected to be out for consultation in summer 2009. The final CMP is due to be launched by December 2009.
- 4.6 Angus Council also supports the Tay Estuary Forum which is a voluntary and non statutory Local Coastal Partnership 'dedicated to promoting the wise and sustainable use of the Tay Estuary and adjacent coastline'. The interest of the Forum extends from the Firth of Tay at Scone, to Fife Ness and to the River North Esk on the open coastline; it extends to a distance of 5km offshore. A Management Plan for the Tay area and adjacent coastline will be launched at the Annual Tay Estuary Forum Conference on 30 April 2009 and will form the basis for promoting and guiding 'integrated sustainable management of the Tay Estuary. It seeks to bring together social, economic and environmental strategies relating to the Tay Estuary and establishes an Action Plan for the period to 2014. Implementation of the latter is dependant on securing appropriate funding and support from partners and the community.
- 4.7 Parts of Angus, principally around lochs, rivers and watercourses are prone to localised flooding as a consequence of periods of heavy rainfall or rapid snow melt. In addition some areas may be at risk from flooding due to tidal influence and wave action. Climate change is likely to have an increasing impact on both flooding and sea level rise over coming years. While flood events are most likely to occur along the North Esk, South Esk, Brothock water, parts of the Elliot Water, and catchment of the Dighty Water and its tributaries, low-lying areas adjacent to other watercourses, such as the Barry Burn, can also be prone to localised flooding.

- 4.8 In relation to the above it is worth noting that Scottish Government are now well into the process of transposing the European Council's Directive on the Assessment and Management of Flood Risk (December 2007) into Scots law – having published the Flood Risk Management (Scotland) Bill. (Report No 410/08 to the Infrastructure Services Committee of 22 April 2008 and Report No 1153/08 to the Infrastructure Services Committee of 25 November 2008 refer). The new legislation (Flooding Bill 2008) seeks to modernise the way in which flooding is managed in Scotland and will introduce a hierarchy of flood risk assessment at regional and local levels which will lead to prioritisation of interventions. The legislation will promote more catchment wide approaches in preference to site specific schemes. A new set of criteria is being developed by which schemes or a series of interrelated measures may be assessed in terms of meeting the needs of those at risk which will replace the current benefit to cost ratio measure. The proposal also seeks to streamline the procedures for promotion of flood prevention schemes by combining the burden of two (Flood Prevention Order (FPO) and Planning approvals) of the three different sets of approval (the third being the Controlled Activity Regulations(CAR) approval). The Scottish Government is planning to bring the Bill to the statute book by 2010. It should be noted that while existing flood prevention legislation will be repealed, existing coastal protection legislation will remain unaltered at present. The above changes together with the river basin management planning process will have general implications for flood management planning and projects in Angus, and particularly on the current projects relating to the River South Esk and Brothock Water.
- 4.9 The Angus Flood Liaison and Advice Group - a non-statutory advisory group of public and private sector representatives, convened by Councils to share concerns and knowledge and provide advice on a wide range of planning and other flooding issues - has considered the potential for flooding in Angus taking into account flood frequency information provided by SEPA which identified those areas most susceptible to flood risk. As a general principle there will be a presumption against locating 'built' development in areas of known significant flood risk. A precautionary principle will be adopted in considering development options or proposals in flood plains and low-lying areas adjacent to watercourses. Projects for Arbroath and Brechin are currently being developed. As indicated above the river basin management planning process and the Flood Bill will have an impact on these particular projects.
- 4.10 Where development is proposed, an assessment of the potential for flooding will be required, taking account of the location of the site and the flow characteristics of the local watercourse. Where appropriate, developers will be required to provide a detailed flood risk assessment in support of a planning application. SPP7: Planning and Flooding includes a Risk Framework based on flood return periods for coastal, tidal and watercourse flooding that provides a basis for assisting the assessment of development proposals in areas known or suspected to be at risk from flooding.
- 4.11 In relation to coastal management, Angus Council has prepared and published a Shoreline Management Plan – for the coastal stretch extending from Milton Ness (north of Montrose) to Dundee. This outlines the risks to people and the environment from coastal erosion and flooding and identifies preferred policies to manage risks. Its aim is to ensure that future land use and development of the shoreline take account of these factors. Again the emerging legislation, policies and plans, identified in the

paragraphs above, are likely to have a bearing on the Council's approach to coastal flooding issues.

- 4.12 It is evident from the above that maintaining and improving the quality of water resources is important to the Angus communities. It is also clear that the Council is involved in a wide range of strategies and initiatives that can contribute to this overall objective.
- 4.13 Broad support should therefore be given to the River Basin Management Planning process. At this stage the technical assessment has broadly categorised the water bodies and without the benefit of detailed knowledge and analysis it is difficult to do other than acknowledge the current condition of the rivers, lochs etc and where improvement is required. The land use planning system (both the development planning and development management processes) has a major role to play in guiding development and changes in land use, in a sustainable manner that can best serve the needs of the communities in Angus and support the objectives of the river basin management planning.
- 4.14 In general, actions to support the objectives of the RBMP process are probably best delivered at the local level, through a partnership approach and the models illustrated above by the River South Esk project and the Tay Estuary Forum are one way of seeking to engage the local communities and interest groups to secure the future of the relevant water bodies. This type of action however can only be successful where sufficient commitment and resources are made available to secure the necessary water quality improvement. It is not a 'quick fix' but by agreeing an overall strategy and action plan a phased approach to sustained improvement can be secured.

## **5 FINANCIAL IMPLICATIONS**

- 5.1 There are no financial implications arising directly from the recommendations contained in this report.

## **6 HUMAN RIGHTS IMPLICATIONS**

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

## **7 EQUALITIES IMPLICATIONS**

- 7.1 The issues dealt with in this report have been the subject of consideration from an equalities perspective (as required by legislation). An equalities impact assessment is not required.

## **8 SINGLE OUTCOME AGREEMENT**

- 8.1 This report responds to a consultation document of an external agency and consequently does not directly contribute to the local outcome(s) contained within the Single Outcome Agreement for Angus.

## **9 CONSULTATION**

- 9.1 The Chief Executive, Director of Corporate Services, Head of Finance and Head of Law & Administration have been consulted during the preparation of this report.



## 10 CONCLUSION

- 10.1 The maintenance and improvement of water quality is important to both Angus and Scotland. The rivers, lochs, ground waters, and coastal waters are an integral part of the heritage and future of local communities, and are an important economic and social asset. Although problems of water pollution, pressures from water abstraction, impoundments, engineering works and invasive non-native species do exist, the majority of Scotland's rivers are of good quality.
- 10.2 The development of river basin management planning represents a significant step forward in the way in which Scotland safeguards and improves the quality of the water environment across Scotland. The draft plans have been produced as one of the requirements of the EU's Water Framework Directive and similar plans will be put in place across Europe. Support should therefore be given to the River Basin Management Planning process.
- 10.3 The draft plans set out actions to be taken by a range of agencies, industry, non-governmental organisations and individuals to continue to protect and improve Scotland's waters. The result of implementing the draft plans will be an additional 10% of waters improved by 2014.
- 10.4 Angus Council through establishing development plan policy and working with partners to maintain and improve the water quality of resources in Angus are contributing to the objectives of the Tay area management plan.

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## NOTE

The following 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.

- Draft River Basin Management Plan for the Scotland River Basin District; SEPA - December 2008.
- Tay Draft Area Management Plan 2009 – 2015; SEPA - December 2008;
- Implementing the Water Environment and Water Services (Scotland) Act 2003 – Restoration of the Water Environment; Scottish Government – January 2009
- Implementing the Water Environment and Water Services (Scotland) Act 2003 – Restoration of the Water Environment; Scottish Government – January 2009
- Angus Local Plan Review – February 2009; Angus Council.
- The River South Esk Catchment – Issues Document, October 2008, Angus Council.

- Management Plan – Tay Estuary Forum and adjacent coastline 2009 – 2014; Tay Estuary Forum, February 2009.
- Angus Council Shoreline Management Plan – 2004, Angus Council.
- Angus Council Community Plan, Angus Council;
- Report No 410/08 – Coastal Protection and Flood Prevention – “The Future of Flood Risk Management in Scotland” – A Consultation by Scottish Government (Flooding Bill 2008), Infrastructure Services Committee, 22 April 2008;
- Report No 1153/08 – Flood Risk Management (Scotland) Bill – Financial memorandum A Consultation by the Scottish Parliament Finance Committee, Infrastructure Services Committee, 25 November 2008.

P&T/GDP/IAL  
26 March 2009

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**APPENDIX 1****DEVELOPMENT PLAN POLICIES RELATING TO WATER RESOURCE MANAGEMENT.****Dundee and Angus Structure Plan (2002)**

Environmental Resources Policy 1 Natural Heritage Designations  
Environmental Resources Policy 2 The Wider Natural Heritage  
Environmental Resources Policy 3 Coastal Development and Protection  
Environmental Resources Policy 4 Flooding and Development

**Angus Local Plan Review (2009)**

Policy S4 Environmental Protection  
Policy ER1 Natura 2000 and Ramsar Sites  
Policy ER2 National Nature Reserves and Sites of Special Scientific Interest  
Policy ER3 Regional and Local Designations  
Policy ER4 Wider Natural Heritage and Biodiversity  
Policy ER22 Public Drainage Systems  
Policy ER23 Private Drainage Systems  
Policy ER24 Surface Water Disposal  
Policy ER25 Water Resource Protection  
Policy ER26 Private Water Supplies  
Policy ER27 Flood Risk – Consultation  
Policy ER28 Flood Risk Assessment  
Policy ER29 Coastal Development