AGENDA ITEM NO 17

REPORT NO 181/11

ANGUS COUNCIL

INFRASTRUCTURE SERVICES COMMITTEE - 1 MARCH 2011

BRECHIN FLOOD ALLEVIATION SCHEME – SOUTH ESK
UPDATED POSITION

REPORT BY THE DIRECTOR OF INFRASTRUCTURE SERVICES

ABSTRACT
This report provides an update on the progress being made on the proposed flood alleviation scheme for the River South Esk at Brechin and makes recommendations with respect to the progression of various matters. This report also seeks approval for the procurement of consultant services and directs the Head of Roads to select tenderers from those responding to public advertisement, issue invitations to tender, evaluate said tenders, and award a contract in line with Section 16 of the Council’s Financial Regulations.

1 RECOMMENDATION

1.1 It is recommended that the Committee:

(i) notes the current state of development of the project, including design development and statutory approvals;

(ii) notes that a Flood Prevention Scheme under the Flood Prevention (Scotland) Act 1961 (FPS) consistent with the currently envisaged scope of the scheme was published between 27 August 2010 and 27 November 2010;

(iii) notes that the FPS has not yet been confirmed by the Scottish Ministers, as there is a requirement for further environmental information and an objection to the scheme has been received;

(iv) authorises the Head of Roads to negotiate with the objector to the FPS to reach agreement to remove the objection;

(v) notes the current state of development of the assessment of short-term protection measures including the assessment of their significance and identification of funding (supplementary capital) and resources (within available staff budgets) as set out in section 4.2 of this report;

(vi) notes the review of issues around the removal of the established gravel bank and agrees that this proposal does not represent value for money or merit further progress due to the impact on the Special Area of Conservation and associated governing legislation as set out in section 4.3 of this report;

(vii) notes the current position in respect of discussions with Scottish Water on progress made to commission a joint hydraulic modelling study for the drainage and sewerage systems in Brechin and their interdependency with the proposed river defences;

(viii) notes the financial implications as set out in section 7 of this report and that the funding of this scheme will require further consideration once information becomes available regarding future funding for flood prevention schemes located in the Angus Council administrative area, noting that in the event that the currently envisaged project is not capable of delivery that much of the work undertaken to date will be used in taking forward other options, thereby minimising potentially abortive costs;
notes that a planning application for the works scheme will follow on from the FPS and consistent with the proposed Scheme only once the acceptability of the scheme is confirmed through the statutory process and once the affordability of the project has been determined, and the required funding for the project has been confirmed;

notes that further detailed hydraulic modelling and drainage studies of the Brechin city drainage system will follow on from the FPS to allow design solutions to be fully developed which are likely to affect Scottish Water's drainage system;

notes that further environmental assessments to complete an Appropriate Assessment will follow on from the FPS to all design solutions to be fully developed and support statutory approvals;

notes that consideration to the phasing of the works to meet the requirements of the planning approval, affordability and funding shall be given by the Head of Roads, to maximise the level of protection from each phase of works and to minimise any detrimental impacts on other areas, which have not yet at each stage of implementation been afforded protection;

authorises the Head of Roads to procure the proposed consultant services for hydraulic modelling and environmental assessments on the basis set out in this report.

INTRODUCTION

The previous update on this project was reported to Angus Council in August 2010 (Report No 603/10). The project has continued to progress in the interim primarily by Roads staff with a view to:

- continue the promotion of a Flood Prevention Scheme (FPS) for the project, which would be designed to provide protection against a 1 in 200 year flood from the River South Esk;

- continue the development of alternative approaches to the main Brechin Flood Prevention Scheme, including measures which may afford lower levels of protection but could be taken relatively quickly and at relatively lower costs – short-term measures to serve as an amendment and/or alternative to the full Scheme.

DETAILS

The project is multi-faceted and has a number of major interdependent strands. The current position on each of these major strands is set out with appropriate sub-headings in this section of the report.

Statutory Process and Relevant Legislation

A commencement order by the Scottish Government was made on 17th November 2010, which relating to local authority functions for flood risk management, including flood protection schemes, under Part 4 of the Flood Risk Management (Scotland) Act 2009 (FRMA2009). Provisions came into force on 29th November 2010 relating to flood prevention schemes and the majority of the provisions came into force on 24th December 2010. Duties to carry out clearance and repair works, as detailed in section 59 of the FRMA2009, will come into force on 1st June 2011. This repealed the majority of previous primary legislation which has governed the promotion of flood prevention works, the Flood Prevention (Scotland) Act 1961 (the 1961 Act), subsequently supplemented by the Flood Prevention and Land Drainage (Scotland) Act 1997 (the 1997 Act), save provisions in relation to flood prevention schemes that were first published under the 1961 Act.

Subordinate regulations were made by the Scottish Government on 30th November 2010, laid before the Scottish Parliament on 2 November 2010 and came into force on 24 December 2010, for the promotion of flood prevention schemes under the FRMA2009 and requirements
for environmental protection, under the Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010. Relevant transitional arrangements for promotion of a flood prevention scheme under the provisions of the 1961 Act as amended were anticipated with these subordinate regulations, however, no arrangements were included. The Head of Roads will review any future release of regulations for flood prevention scheme under the provisions of the 1961 Act, and report this to the Infrastructure Services Committee.

3.3 **Flood Prevention Scheme Submission**

3.3.1 As has been reported previously, the project has been progressed under the 1961 Act and the 1997 Act. This will ensure that the scheme is considered under the 1961 Act and the 1997 Act before they were repealed in December 2010 and the new statutory process under the FRMA2009 came into force.

3.3.2 The proposed scheme was published on 27 August 2010 and submitted for confirmation to the Scottish Government as the statutory process of obtaining statutory consent for the project under the 1961 Act, notwithstanding the uncertainties regarding the affordability and funding of the project to the council.

3.4 **City Drainage System and Scottish Water Infrastructure**

3.4.1 As has been reported previously, the city drainage system comprises:

- Scottish Water sewerage system, taking combined foul flows and surface water (including roads run-off);
- watercourses and culverts, taking surface water flows, emergency combined sewer overflows and roads run-off, which are the responsibility of the landowner, along with the council's overarching powers to prevent or mitigate the flooding of non-agricultural land, previously under the 1961 Act and 1997 Act, and now under the FRMA2009, which also includes duties for agricultural land; and
- road drainage, which is the responsibility of Angus Council as the Roads Authority under the Road (Scotland) Act 1984.

3.4.2 The effectiveness of a flood alleviation scheme in the vicinity of River Street, Brechin is interdependent upon Scottish Water's sewer network which has combined storm overflows that feed into the river. Since the last committee report, further discussions with Scottish Water about the existing sewerage network have taken place with a view to reaching an agreement to share both existing network information and future hydraulic modelling results. Scottish Water have reiterated at the recent Community Sounding Panel meetings that it is committed to working with Angus Council towards developing a drainage solution which would mitigate the potential flood risk and also provide environmental benefits from water quality improvements. It is understood that funding for the water quality modelling study is available to Scottish Water, and that a hydraulic modelling exercise is due for completion by June 2011. It envisaged that Angus Council supports the development of this hydraulic model, which will be made available to the council for further development under a separate study procured by the council to meet the specific needs of the FPS, as detailed in 3.4.4 below and section 6 of this report. This approach would avoid duplication of effort.

3.4.3 There is however no further commitment to funding any capital works required until these are properly defined. The Head of Roads will continue to liaise with Scottish Water to reach agreement on these matters and will report on progress to a future meeting of the Infrastructure Services Committee.

3.4.4 In order to confirm and develop the preliminary design solutions proposed in the 2008 report from specialists HR Wallingford, commissioned by Angus Council, to mitigate the impact of riverside flood defences on the city drainage system, and possibly develop less costly alternative solutions, the hydraulic model of the city drainage system needs to be upgraded.
The hydraulic model, prepared by HR Wallingford, has now been passed to Angus Council in order to provide Scottish Water with this information to develop their study, as detailed in 3.4.2 above, and to allow for the completion of the brief for further modelling required and the procurement of a specialist consultant, as detailed in section 6 of this report.

3.5 Land Acquisition

3.5.1 Letters to all landowners whose property would potentially be affected by the proposed flood prevention scheme have been issued, including drawings of the proposed accommodation works necessary, as part of publishing the FPS and submitting the FPS application to the Scottish Government. Substantive discussions are ongoing with the aim of securing outline agreements with directly affected landowners regarding the scheme and the proposed accommodation works.

3.6 Environmental Assessment

3.6.1 A Preliminary Environmental Appraisal has been completed and was submitted in support of the FPS application.

3.6.2 In order to augment the preliminary environmental assessment to meet the requirements of an Environmental Statement, including an Appropriate Assessment, further work is required by a specialist consultant, which would satisfy all future statutory approvals, namely:

- Planning Permission to Angus Council
- Licence under the Wildlife and Countryside Act to Scottish Government (advised by SNH)
- Licence under the Controlled Activities Regulations to SEPA

A brief for these further environmental assessments, which include an ecological Impact assessment, is being prepared and the procurement of a specialist consultant is required as detailed in Section 6 of this report.

3.6.3 The Scottish Government’s response to the submission of the FPS has stipulated that further environmental information in support of our application is required. This will allow the Scottish Government to carry out an Appropriate Assessment on the FPS so as to advise the Scottish Ministers to confirm the scheme. Such a requirement was not stated in any pre-submission consultations with the Scottish Government, or advised to the council by any other government bodies, i.e. SEPA and SNH. Discussions have been taking place with the Scottish Government and SNH on the validity of the already submitted environmental information in satisfying the requirements for the Scottish Government’s Appropriate Assessment. Should it be confirmed that further environmental information in support of our application is required, this would be included in the outputs of the further environmental assessments detailed in section 3.6.2 of this report, which will be required in preparing a planning application.

3.6.4 In order to inform the design with respect to the contaminated land in the caravan park and also the structural design of the defences, a ground investigation, which will be funded from Environmental Health contaminated land budgets, has been undertaken during November 2010. The investigation included the installation of seven boreholes, which will be used for sampling, monitoring and laboratory testing of groundwater. The results of the investigation will be available shortly and will be used to determine the risk posed by contamination and any mitigation measures required independently or as part of the construction of the FPS.

3.7 Consultation

3.7.1 Formal consultations were undertaken with the following stakeholders through the submission of the FPS:

- Angus Council’s Planning & Transport Division
- SEPA
The feedback received for the scheme has continued to be positive, however, the Scottish Government have stipulated that further environmental information in support of our application is required, as detailed in section 3.6 of this report.

3.7.2 Landowners and occupiers directly affected by the proposed Scheme, including its construction or temporary works requirements, were also issued with notices under the formal process of publishing the FPS. The feedback received for the scheme was largely positive, with one notable exception, which is detailed in section 4.1.2 of this report.

3.7.3 The Brechin Flood Prevention Scheme Community Sounding Panel met on Wednesday 15 September and Wednesday 20 October 2010 at which the decisions of this committee from the 24 August 2010 were described and the future courses of action outlined in further detail. This provided an opportunity to receive early views back from community representations on the promotion of the formal scheme.

3.7.4 A public meeting and exhibition was undertaken on 27 October 2010 at the Damacre Centre, Brechin, during the three month FPS application consultation period, to explain and promote the proposed scheme. The meeting was attended by around 20 people affected by or interested in the published scheme. An exhibition of the details of the FPS in Brechin Library also ran for the duration of the consultation period.

3.7.5 Additional meetings have been held with SEPA, SNH and Scottish Water, to discuss approvals and authorisations required for the Short-Term Measures proposals, and also to review the proposal to remove the gravel bank, as detailed in section 4.3 of this report.

4 DESIGN CONSIDERATIONS

4.1 Flood Defence Design

4.1.1 As noted previously by this committee, to date the proposals for intervention have been based on a full flood prevention scheme compliant with the requirements of a FPS (under the 1961 Act) with the associated level of protection, geographical coverage and cost benefit ratio. These have all been pre-requisites for the confirmation of a scheme and historically, the confirmation of Scottish Government grant.

4.1.2 As noted previously by this committee, the recommended design for the FPS includes a raised footway and flood wall along River Street and an earthen levee (i.e. flood embankment) within the East Mill Caravan Park grounds. A formal objection to the FPS was submitted by the owners of the caravan park, which included a specific objection to the proposed flood embankment on the grounds of the required land take and the impact on the viability of the business. There will be an opportunity for the Head of Roads to discuss the matter with the objector with a view to reaching agreement that the objection be withdrawn. This would then allow the scheme to be confirmed. Should such an agreement not be reached then this would require the council to ask the Scottish Government to take the objection to a Public Local Inquiry (PLI). The Recorder of the PLI, will evaluate the objection and rule for or against the objection.

4.1.3 The detailed design of the flood defences will then be further developed to meet the requirements of planning and other statutory approvals, seeking to accommodate responses received through the statutory process, and on to procurement and construction.

4.2 Short-Term Protection Measures

4.2.1 As instructed previously by this committee, the Head of Roads is to progress the short-term protection measures once their significance has been assessed and as funding and resources are available.
4.2.2 It is considered that all of these measures will reduce flood risk to Brechin and could be incorporated into a longer term flood alleviation scheme. The measures can be developed in parallel with the completion of the scheme design and approvals. It is therefore considered that these measures represent a sustainable approach to commencing implementation of measures ahead of the main scheme. The implementation of these measures will though be subject to approvals and agreements with landowners and other bodies.

4.2.3 The following short-term protection measures were identified in Report 603/10:

- The installation of non-return valves at unprotected watercourses and road drainage outfalls at a cost of some £130,000 to prevent backflows to the drainage systems from the river occurring. It should be noted that Scottish Water will be requested to fit such valves at a number of their sewerage outfalls;
- The removal of an apparent partial blockage or constriction in the Den Burn culvert at the junction of River Street and Witchden Road, which has been a cause of surcharging and flooding, at an estimated cost of £66,000;
- Breaching of the levees to fields downstream of Brechin Bridge to reduce the risk of flooding to East Mill Industrial Estate. The estimated cost of the river modelling work and subsequent breaching of the levee is £100,000.
- The raising of low points on the existing embankment at East Mill Caravan Park may raise the level of flood protection to fluvial flooding, at an estimated cost of £30,000.

4.2.4 The delivery timescales for each of the short-term protection measures are as follows:

- Installation of some of the non-return valves would be subject to agreement with Scottish Water, who are currently progressing a modelling study, as detailed in section 3.4.2, that may further inform these proposals. It is envisaged that these works could commence in the second half of 2011/12 and be completed in 2012/13.
- The removal of the constriction in the Den Burn culvert could commence in the summer of 2011 and be completed within 3 months.
- The breaching of the levees will require landowner discussions and agreement, and the results of further river modelling to quantify the reduction in flood risk. It is envisaged that construction works could commence as early as summer 2012.
- Further discussions with the landowner are required before the raising of the low points on the existing embankment could be undertaken. Subject to agreement, these construction works could be undertaken in summer 2011.

4.2.5 The assessment of the significance of these measures is on-going, which will allow for a prioritisation of these measures to be made. As detailed in section 7.3 of this report, resources are available within existing Roads’ budgets to cover staff costs for the development of these assessments through 2010/11. Funding for implementation of these measures in 2011/12 and future years will be subject to further consideration as also detailed in section 7.3 of this report.

4.3 Further Review of Possible Removal of the Established Gravel Bank (opposite River Street)

4.3.1 Further investigations have been carried out on the benefits and costs of removing the gravel bank upstream of Brechin Bridge, adjacent to River Street. Additional meetings have been held with SEPA and SNH to discuss the required approvals, licences and supporting information.

4.3.2 The removal of the gravel bank would give estimated maximum reductions in flood level at the top end of River Street of up to 147mm based on a flood event of 1 in 100 years, and based on a flood event of 1 in 200 years, up to a maximum of 132mm. The average maximum reduction in flood level for the whole section of River Street immediately upstream of Brechin Bridge for the 1 in 17 year event, which is required to inundate the lowest threshold, is 114mm, with a maximum of 188mm at the top end of River Street (as reported to the council in report 800/09). However, it is accepted that the gravel bank would reform over the years and the level of benefit would be reduced to a lesser extent.
As reported previously to this committee, the River South Esk is an internationally important site for nature conservation, holding the highest environmental accolade (a Special Area of Conservation (SAC)), with legislation in place to protect the qualifying interests of the river (Freshwater Pearl Mussel & Atlantic Salmon). SNH and SEPA have engaged actively in further discussions on how these proposals would affect or alter the hydrology of the river, and hence the qualifying interests of the SAC. It is again considered very unlikely that either organisation would endorse or licence any work that the council proposes to remove the gravel bank given the potential adverse effects on the SAC. However, this consideration could only be confirmed with the submission of an application under the Controlled Activities Regulations to SEPA, where SNH would have an advisory role.

A scenario analysis has therefore been undertaken on the possible implementation costs of such a proposal, including construction works, disposal and environmental protection measures, which is presented below in Table 1 and detailed in Appendix 1. Staff costs to submit for statutory approvals, including prepare supporting documentation, and cost of works were reported to Angus Council on 5 November 2009 (Report 800/09). These costs have been reviewed and adjusted, including for inflation, and are shown in Table 2 below.

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Description</th>
<th>Estimated Construction Cost (£)</th>
<th>Weighted Probability</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Best estimate</td>
<td>109,244</td>
<td>45%</td>
</tr>
<tr>
<td>2</td>
<td>Scenario 1 with 50% disposal cost</td>
<td>82,674</td>
<td>18%</td>
</tr>
<tr>
<td>3</td>
<td>Scenario 1 with free disposal</td>
<td>56,104</td>
<td>9%</td>
</tr>
<tr>
<td>4</td>
<td>Scenario 3 with 50% mitigation cost</td>
<td>41,354</td>
<td>1%</td>
</tr>
<tr>
<td>5</td>
<td>Scenario 1 with 50% mitigation cost</td>
<td>94,494</td>
<td>5%</td>
</tr>
<tr>
<td>6</td>
<td>Scenario 2 with 50% mitigation costs</td>
<td>67,923</td>
<td>2%</td>
</tr>
<tr>
<td>7</td>
<td>Scenario 1 but with all material designated unacceptable</td>
<td>169,739</td>
<td>18%</td>
</tr>
<tr>
<td>8</td>
<td>Scenario 7 with 50% mitigation costs</td>
<td>154,989</td>
<td>2%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Task</th>
<th>Total Estimated Cost (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appropriate Assessment</td>
<td>11,400</td>
</tr>
<tr>
<td>Hydromorphology Report</td>
<td>7,400</td>
</tr>
<tr>
<td>Hydraulic Modelling Report</td>
<td>4,800</td>
</tr>
<tr>
<td>CAR Application</td>
<td>5,850</td>
</tr>
<tr>
<td>Method Statement</td>
<td>6,500</td>
</tr>
<tr>
<td>Schedule 5 Licence under Wildlife &amp; Countryside Act</td>
<td>280</td>
</tr>
<tr>
<td>Planning Application</td>
<td>5,100</td>
</tr>
<tr>
<td>Tendering</td>
<td>4,850</td>
</tr>
<tr>
<td>Ecological Clerk of Works</td>
<td>7,950</td>
</tr>
<tr>
<td>Contract Management</td>
<td>5,600</td>
</tr>
<tr>
<td>Total</td>
<td>59,730</td>
</tr>
</tbody>
</table>

Based on the above analysis, the range of estimated construction costs is from £41,354 to £169,739 and the probability weighted average of the estimated construction cost to remove the gravel bank is £109,240. The estimate of staff costs and costs of submitting for required statutory approvals is £59,730. The total estimated cost to undertake the removal of the gravel bank is £168,970.
4.3.6 If funding were identified to undertake the proposed works, then the delivery timescale would be as follows:

<table>
<thead>
<tr>
<th>Task</th>
<th>Delivery</th>
</tr>
</thead>
<tbody>
<tr>
<td>Design and preparation of applications for statutory approvals</td>
<td>March – June 2011</td>
</tr>
<tr>
<td>(including Appropriate Assessment, Hydromorphology Report,</td>
<td></td>
</tr>
<tr>
<td>Hydraulic Modelling Report, CAR Application, Method</td>
<td></td>
</tr>
<tr>
<td>Statement, Schedule 5 Licence under Wildlife &amp; Countryside Act &amp;</td>
<td></td>
</tr>
<tr>
<td>Planning Application)</td>
<td></td>
</tr>
<tr>
<td>Awaiting Statutory Approvals (CAR application has longest possible</td>
<td>June – October 2011</td>
</tr>
<tr>
<td>approval duration of 4 months, although SEPA have given assurances</td>
<td></td>
</tr>
<tr>
<td>that such an application would be dealt with swiftly. Note:</td>
<td></td>
</tr>
<tr>
<td>statutory approvals run concurrently at risk)</td>
<td></td>
</tr>
<tr>
<td>Tendering (Note: could run at risk concurrently with awaiting</td>
<td>March – April 2012</td>
</tr>
<tr>
<td>statutory approvals) and appointment of environmental Clerk of</td>
<td></td>
</tr>
<tr>
<td>Works</td>
<td></td>
</tr>
<tr>
<td>Construction Phase* (6 weeks duration including Contract</td>
<td>June – July 2012</td>
</tr>
<tr>
<td>Management and Ecological Clerk of Works)</td>
<td></td>
</tr>
</tbody>
</table>

*Construction works in the river are advised to be undertaken between June and October, and would be subject to specific conditions should the statutory approvals be granted. It is therefore considered that should such works be required, the earliest that these could be implemented would be the summer of 2012.

4.3.7 Given the result of the further review of the proposal to remove the gravel bank, with the relatively modest benefit to be realised through the removal of the gravel bank (as previously reported) and what is considered to be the low probability of securing the necessary consents and licences in combination with the cost of pursuing these, it is recommended that this option should not be pursued further by the council.

5 PHASING OF THE WORKS

5.1 As authorised previously by this committee, the Head of Roads will give consideration to the phasing of the works to meet the requirements of the planning approval, affordability and funding, to maximise the level of protection from each phase of works and minimise any detrimental impacts on other areas, which have not yet been protected for flood risk, as discrete phases are constructed, as approved at the Infrastructure Services Committee of 24 August 2010.

6 PROCUREMENT AUTHORITY

6.1 Procurement authority is sought for the commissioning of specialist consultants for hydraulic modelling and for environmental assessments, as detailed in sections 3.4 and 3.6 of this report.

6.2 The sourcing strategy for these services has identified that the services are of a specialist nature, which could not reasonably be provided in-house. There are a large number of specialist consultants who would be able to provide the specified services, some of which are based regionally. No linkages with regional/national/cross-sectoral collaborative procurement opportunities or wider Angus Council requirement and policy issues have been identified. The procurement planning has therefore concluded with the proposals for competitive tendering as set out in this report.

6.3 Briefs and pre-qualification questionnaires have been prepared to be used to invite expressions of interest from specialist consultants for hydraulic modelling and for environmental assessments. The estimated cost of engaging these specialist consultants is £90,000 and £30,000 respectively.
6.4 Expressions of interest have been sought from suitable consultants by public advertisement on the Public Contracts Scotland Portal, in line with the procedures laid out in section 16 of the council’s financial regulations.

6.5 It is proposed that the Head of Roads will evaluate the resulting applications in order to prepare select lists of no more than six consultants for each commission who will be invited to submit tenders for the consultant services.

6.6 For both the hydraulic modelling commission and environmental assessment commissions, it is envisaged that tender documents may be issued to the select list of consultants in March 2011, a contract awarded in April 2011 with services scheduled from May 2011 to February 2012.

6.7 The procurement procedure will be in line with the 2-stage (restricted) procedure.

6.7.1 Stage 1 - Public advertisement and assessment to prepare select lists of tenderers for each commission based on qualification criteria. The evaluation of expressions of interest will be based on a number of minimum qualification criteria, namely: economic and financial standing; technical or professional ability, insurances, equal opportunities and health & safety. All eligible expressions of interest will then be evaluated against the following criteria with weighting shown in brackets:

(i) Relevant experience in delivering comparable services (25%);
(ii) References/Past Customer perceptions (15%);
(iii) Management experience, education and professional qualifications for providing the services (15%);
(iv) Sufficiency of resources and organisational capacity to adequately support the proposal contract (30%);
(v) Adequacy of quality control accreditation and assurance process (5%);
(vi) Adequacy of environmental management accreditation and assurance process (5%);
(vii) Adequacy of business continuity management including accreditation and assurance process (5%).

6.7.2 Stage 2 – Tendering procedure with select lists for each commission with most economically advantageous price/quality tender being the success criteria for each contract award. The basis of the evaluations will be set out in the invitation to tender documents which will specify the price / quality split percentage and evaluation criteria weightings that are as follows:

(i) Detailed methodology for providing the services showing how the Consultant would manage the commission and execute the project (30%);
(ii) Detailed CVs for the individuals who will be providing the services (40%);
(iii) Blank Activity Schedule detailing proposed activities and methods of working, showing proposed number of hours for providing the services in line with the stated methodology (15%);
(iv) Programme for the delivery of the services, which relates to the Activity Schedule (10%).
(v) Management of Risk including early warnings and compensation events, and matters to be included in the Risk Register, which shall detail the description of the risk, likelihood, consequence: time impact, consequence: cost impact, owner, cost risk allowance in total of the Prices, cost risk allowance for events outside the Prices: managed by the Employer as a contingency, predicted risk expiry date, actual risk expiry date, actions to be taken to avoid or reduce the risk and comments (5%)

The price/quality split percentage to be applied will be 70/30. To ensure that application of this weighting does not result in the acceptance of unacceptably low quality tenders, a minimum quality score threshold of 70% will be applied below which tenders will not be accepted.

6.8 The durations of each of the contracts are likely to be in the region of ten months.
6.9 The committee is therefore asked to authorise the Head of Roads to procure the consultant services in accordance with the process stated above. In accordance with Financial Regulation 16.8, approval of this report would mean that, subject to overall costs following receipts of the tenders being within the approved budget then, the contract can be accepted without further approval by this committee. This procurement is not considered to be a “major procurement” in accordance with the new arrangements (i.e. one which would account for a significant part of the Chief Officer’s approved budget or is expected to be of significant public interest), therefore tender evaluation and award information will be provided to the Head of Finance and reported to Committee retrospectively as required in accordance with Financial Regulation 16.8.

7 FINANCIAL IMPLICATIONS

7.1 Cost Estimate

7.1.1 An updated estimate of the cost of the Brechin Flood Prevention Scheme based on the scope of the project as set out in Report 800/09 was reported previously in Report 603/10. The figure of £14.238 million remains the latest estimated cost for the scheme.

7.2 Financial Plan

7.2.1 The funding and expenditure profile for the project was detailed in Report 603/10 and the updated position as detailed in the 2010/2014 Financial Plan (report No109/11 refers) is set out in the table below:

<table>
<thead>
<tr>
<th>Estimated Total Cost</th>
<th>Actual to 31/03/10 £000</th>
<th>Projected Outturn 2010/11 £000</th>
<th>Provisional Budget 2011/12 £000</th>
<th>Estimate 2012/13 £000</th>
<th>Estimate 2013/14 £000</th>
<th>Later Years £000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brechin Flood Prevention Scheme</td>
<td>14,238</td>
<td>1,400</td>
<td>205</td>
<td>259</td>
<td>1,255</td>
<td>4,448</td>
</tr>
<tr>
<td>Additional Funding (to be secure)</td>
<td>(12,038)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>(1,143)</td>
<td>(4,358)</td>
</tr>
<tr>
<td>Net Cost</td>
<td>2,200</td>
<td>1,400</td>
<td>205</td>
<td>259</td>
<td>112</td>
<td>90</td>
</tr>
</tbody>
</table>

7.3 Funding Issues

7.3.1 The funding arrangements for this project are currently the subject of ongoing consideration in light of the revised method of distributing funds to flood prevention schemes, recognising that this project spans a number of financial years and there are a number of key milestones that require to be met to deliver this project. In order to clarify the council’s understanding of the capital funding of flooding schemes beyond the 2011/12 settlement, the Chief Executive has written to the Scottish Finance Secretary, John Swinney MSP to seek clarification in this matter.

7.3.2 Further reports setting out full financial implications associated with this project will be brought forward to a future meeting of Infrastructure Services Committee as they become clear and prior to the timescale for achieving the next key milestone, which will be the submission of the planning application.

7.3.3 To finalise full comprehension of the interactions between the river flows, storm drainage infrastructure and the Scottish Water sewer network it is necessary to undertake further investigation and modelling work as detailed in section 3.4 of this report. This work will allow for the detailed design of the drainage works to be completed.

7.3.4 Further environmental assessments are also required in order to finalise the Environmental Statement for future statutory approvals as detailed in section 3.6 of this report, and may also
be required to allow the Scottish Government to advise the Scottish Ministers to confirm the scheme.

7.3.5 The next key milestone in the project plan is therefore to submit the FPS for planning permission. As approved at the Infrastructure Services Committee of 24 August 2010, given that any planning approval will be time bound, with works needing to commence within three years, and the remaining unresolved issues on funding and affordability, it is proposed that a decision on submitting the planning application be made only once these issues have been resolved, and in particular only once funding for the project has been secured. Further reports setting out full financial implications associated with this project will be brought forward to a future meeting of Infrastructure Services Committee.

7.3.6 The costs associated with the hydraulic modelling, environmental assessments and submission of the planning application relate in the main to staff time and specialist consultancy costs that may be charged against the project and are estimated to be circa £205,000 in 2010/11 and £259,000 in 2011/12. This cost can be contained within the Brechin Flood Prevention allowance within the 2010/2014 Roads Financial Plan (report 109/11 refers). In the event that the currently envisaged project is not capable of delivery due to engineering, planning or affordability issues, it is likely that much of the work undertaken to progress to the FPS will be of use in taking forward other options, thereby minimising potentially abortive costs.

7.3.7 The cost of further investigation of the short-term flood protection measures (£326,000) detailed in section 4.2 of this report can be contained within established Roads budgets. Funding of £200,000 to commence implementation of these measures in 2011/12 will be provided from the 2011/12 Supplementary Capital allocation awarded to the Road’s Division as part of the 2011/12 budget setting process. It is proposed that funding for the remainder of the works, in the amount of £126,000 be sought for further implementation in 2012/13 and future years. Where the short-term measures contribute to a proportionate reduction in the £14.2 million total cost of the scheme, re-profiling of the future capital plan for the scheme would be required to provide for this.

8 RISK MANAGEMENT

8.1 There are no updates to the risk management exercise undertaken to identify where the risks that can impact against achievement of objectives were identified, the consequences evaluated and proposals identified to manage the risks, which was detailed in Report 603/10.

8.2 In relation to the procurement of the consultant services, the tender prices that are received will be subject to risk of price fluctuations from those estimated pre-tender. This is due to a number of factors including inflation, availability of resources, the tenderers assessment of contract risk and competition in the market. The Roads Division holds a historical record of previously tendered rates, which include services of this type. These are used and assessed on a contract-specific basis to establish an accurate pre-tender estimate, which is initially used to compare against the available budget and then against the submitted tenders when undertaking the evaluation exercise. The use of a two-stage tender process will ensure that only suitably resourced, qualified and experienced consultants will be selected to submit tenders. This will manage the risk of received tenders being unduly high or potentially uneconomically low and should ensure that the submitted tenders are both competitive and realistic.

8.3 In relation to the delivery of the consultancy services, the only significant risk would be that staff identified by the appointed consultants are no longer available to deliver the specialist services. There are though contract clauses that will ensure that this risk is minimised and managed.

9 HUMAN RIGHTS IMPLICATIONS

9.1 As reported previously to this committee (Report 603/10), the progression of a FPS has potential implications for property owners and for occupiers in terms of alleged interference
with privacy, home or family life (Article 8) and peaceful enjoyment of their possessions (First Protocol, Article 1). However, it is considered that any actual or apprehended infringement of such Convention Rights is justified in the public interest and in accordance with the council’s duty to carry out works to reduce the likelihood of flooding of land.

10 EQUALITIES IMPLICATIONS

10.1 The issues dealt with in this report have been the subject of consideration from an equalities perspective. An equalities impact assessment has been undertaken.

11 SINGLE OUTCOME AGREEMENT

11.1 This report contributes to the following local outcome contained within the Single Outcome Agreement for Angus.

- Communities in Angus are safe, secure and vibrant
- The importance and benefit to society of the environment is recognised

12 CONSULTATION

12.1 The Chief Executive, Director of Corporate Services, Head of Finance, Head of Law and Administration and Head of Property were consulted in the preparation of this report.

13 CONCLUSION

13.1 The development of a scheme for the protection of parts of Brechin from flooding from the River South Esk has progressed to a stage where the Flood Prevention Scheme, required to progress the scheme under the current 1961 Act, was published and submitted to the Scottish Government for confirmation on 27 August 2010, which formally initiated the statutory processes. The publication period concluded on 27 November 2010.

13.2 The FPS has not yet received confirmation by the Scottish Government. One objection was received, which will be reviewed by the Head of Roads with a view to reaching agreement to remove the objection. This would negate the need for a Public Local Inquiry.

13.3 The enactment of Part 4 of the FRMA2009 in December 2010 fully introduced different arrangements for promoting flood prevention schemes and also transitional arrangements to determine the process that follows the FPS, particularly in relation to funding.

13.4 The interaction with Scottish Water’s sewer network is subject to further considered and the interdependencies fully resolved. This will involve further detailed hydraulic modelling and drainage studies of the drainage systems within Brechin.

13.5 In light of the further assessments undertaken, the options to implement flood protection measures either of a lesser level of protection or in a piecemeal manner as recommended as alternative approaches to the flooding issues and short-term flood protection measures, are being progressed, alongside progressing the full Scheme. Implementation of these and the Scheme as a whole will be subject to establishing affordability and funding.

13.6 It is recommended that the committee authorise the proposed procurement of specialist consultants necessary to progress the development of the scheme design in line with the council’s financial regulations.

ERIC S LOWSON
DIRECTOR OF INFRASTRUCTURE SERVICES
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.

- Report 603/10 - Brechin Flood Alleviation Scheme – South Esk – Updated Position - Infrastructure Services Committee 24 August 2010

Roads/JG/WS
Area of gravel bank: 7580 m²
Volume of gravel bank: 8715 m³

1m³ gravel (acceptable material): 1.76 tonnes
1m³ vegetative material (unacceptable material): 1.23 tonnes

### Scenario Analysis for Construction Cost

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<th>Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Rate</th>
<th>Total</th>
<th>Scenario 1</th>
<th>Scenario 2</th>
<th>Scenario 3</th>
<th>Scenario 4</th>
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1 No 20 tonne tipper = 10 trips per day = disposal of 200t. Hire cost £600. (30 min travel and 15 mins load time)

Total to be disposed acceptable = 8336 m³ or 14674 tonnes

Total to be disposed unacceptable = 379 m³ or 466 tonnes

Total to be disposed = 15140 tonnes

75 days, at 200t per day per tipper - or 25 days for 3 tippers

25 days x 3 tippers x £600 = £45,000

"Disposal of unacceptable material" rate includes disposal at tip. Material will be vegetative, roots, grass sods, timber, brashings etc

Probabilities

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Range 41353.69 to 169738.58

Probability weighted average 109239.99