

The Highland Council

**Transport, Environmental and Community Services Committee
11 August 2011**

Agenda Item	
Report No	

**Flood Risk Management (Scotland) Act 2009
Flooding in Scotland: A Consultation on Potentially Vulnerable Areas and Local Plan Districts**

Report by Director of Transport, Environmental and Community Services

Summary

This report invites Members to approve the Council's response to SEPA's consultation on Flooding in Scotland: A Consultation on Potentially Vulnerable Areas and Local Plan Districts, which contains additional proposed regulations under the new Flood Act.

1. Introduction

- 1.1 SEPA has published a consultation paper on sustainable Flood Risk in Scotland. This builds on previous guidance issued to implement the new The Flood Risk Management (Scotland) Act 2009.
- 1.2 This consultation document sets out statutory guidance to SEPA, local authorities, and Scottish Water on fulfilling their responsibilities under the Act and in particular on the steps that should be taken to manage flooding in a sustainable manner.
- 1.3 The consultation can be found on the SEPA web site at:
http://www.sepa.org.uk/about_us/consultations.aspx
- 1.4 The closing date for the consultation is 15 August 2011

2. Details of Consultation

- 2.1 The consultation provides guidance within 6 sections:

Sections 1 & 2: Background information on sustainable flood risk management in Scotland.

Section 3: A new approach to the assessment and planning for floods.

Section 4: The approach adopted for assessing flood risk in Scotland at a national level.

Section 5: The approach adopted to identify areas of significant flood risk i.e. potentially vulnerable areas (PVAs).

Section 6: Proposals for the geographical boundaries of Local Plan Districts used for the production of Flood Risk management plans.

2.2 Included within the consultation in Section 5 and Section 6 are a number of questions where SEPA are seeking the views of individuals and organisations as part of the consultation. The proposed response to these questions is set out in **Appendix A** to this report.

3. Key Issues

3.1 The consultation has a structured approach to assessing flood risk however this may on occasions omit critical rural areas where low cost measures can provide effective solutions to flooding.

3.2 It is not clear how SEPA will balance their duties under the Water Framework Directive with their responsibilities under the new Flood Act.

3.3 There is no mention of Member involvement in the flood mitigation process within the consultation.

3.4 The issue of health hazard with foul water systems flooding should be given higher attention as should strategic infrastructure.

3.5 There should be more transparent links to the planning authorities and their duties within the Development Plans and the National Planning Framework.

3.6 Shared services and integrated working across public bodies should have a higher profile within the consultation. The proposal shows a separate Local Plan area for Moray which includes parts of Highland including the Nairn catchment and Speyside which form the upper catchment for the River Spey. There is the opportunity here for sharing services by having a unified Local Plan Area covering Moray, Argyll and Highland.

3.7 It is considered that the above key areas are important to Highland Council as a responsible body and have therefore been incorporated within the proposed response to SEPA contained in **Appendix A**.

4. Implications

4.1 Implementing the new flood act has significant financial implications. The Scottish Government has provided specific funding to cover these costs, and the Council is in the process of setting up a Flood Team to cover these duties. Participating in 2 Local Plan areas will place an additional burden on the Council and add to these costs.

4.2 There are no legal implications arising from this report.

4.3 There are no equality implications arising from this report.

- 4.4 In relation to climate change the new guidelines contained in the consultation encourage the use of sustainable flood management and solutions which will reduce the carbon footprint.
- 4.5 There are no risk implications arising from this report.

5. Recommendation

- 5.1 Members are invited to approve the Council's response to SEPA's consultation on Flooding in Scotland: A Consultation on Potentially Vulnerable Areas and Local Plan Districts, as set out in **Appendix A**.

Signature:

Designation: Director of Transport, Environmental and Community Services

Date: 29 July 2011

Report Authors: Martin Boshoff / S MacNaughton

Background papers: Flooding in Scotland: a consultation on potentially vulnerable areas and local plan districts – published by SEPA on their web site.

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Dear Sirs,

Flooding in Scotland: a Consultation on Potentially vulnerable areas and Local Plan Districts

Your consultation document “Flood Risk Management (Scotland) Act 2009 Flooding in Scotland: a Consultation on Potentially Vulnerable Areas and Local Plan Districts” was considered by the Highland Council’s Transport, Environmental and Community Services Committee on 11 August 2011, and Members have asked me to respond to you with the following comments in response to your questions.

- 1. Do you support the setting of a significant threshold that will capture the majority of flood impacts and subsequent action in a comprehensive planning system) ie. based around the Medium risk level***

Yes in principle, with the following comments

Within the wider public who are subject to flood inundation there is an expectation that their flood risk will be mitigated at some date in the future. While there should be a priority list of catchments for attention the low risk properties should not be forgotten about and should be provided with some level of hope for a flood solution within the timescale of the plans.

It is agreed in principle that the threshold can be set at medium but rural and coastal communities at risk of flooding where cost effective measures can be applied should not be excluded from the overall process. Ultimately it should be the most cost effective projects which should get priority and this may include catchments below the medium threshold.

- 2. Are there areas identified as Potentially Vulnerable Areas following this assessment that you believe should not be designated as at significant risk of flooding.***

Yes.

Within Highland the areas in east Loch Shiel and the Island of Rum are designated as PVAs (potentially vulnerable areas). It is considered that this is by reason of their environmental status but in the case of Loch Shiel the rise and fall of the loch

and loch shore flooding gives rise to an environmental habitat that is suited to particular bird life. There are small areas to the west of Loch Shiel and the river shiel where properties are subject to flooding and are worthy of flood assessment and consideration. On the Isle of Rum there are no flood issues of note which require attention. These areas do not merit PVA status.

In addition the areas around Tain and Portmahomack and the area around Nigg are shown as PVAs and it is difficult to reason why these areas should be designated as high risk.

3. Are there areas NOT identified as Potentially Vulnerable Areas following this assessment that you believe should be designated as at significant risk of flooding

Yes.

There are a number of areas in Highland that are subject to flooding on a fairly regular basis and it is considered that they should be included as PVAs with high risk status. These are:

- Dingwall and Conon
- Smithton, Culloden and Balloch, significant dormitory suburbs to the east of Inverness
- Kingussie which included the Secondary School
- Thurso

These are all areas where frequent flooding occurs to property. It may be that since the assessment is only dealing with larger river catchments these have not been picked up. The flooding occurs is pluvial or arises from small water catchments. Even the area to the south of Inverness where there is a major flood scheme under construction encompassing a large number of small burns does not seem to be included within the PVA status. There may therefore be an issue with the national assessment process and if this is the case there may be a need for review to pick up these areas. Especially if it is to be used for directing resources to the most high risk areas.

4. Do you agree that the amendments made to the boundaries of the Local Plan districts are an appropriate response to the consultation exercise held in 2010? If not what changes would you suggest and why?

No.

At a time when resources are scarce and there is a need to encourage shared services it would be appropriate to include Argyll, Highland and Moray within a single Local Plan District. This would reduce bureaucracy, ensure commonality of approach and reduce the number of meetings required. Each local authority would provide its own assessment for incorporation within the Local Flood Risk Management Plan. It would also be possible to share resources between

authorities. HITRANS as a regional transport authority operates strategically within the Highland area and includes Western Isles and Orkney as well as Argyll, Moray and Highland although it is considered that the island authorities have a commonality of coastal flooding that would not be appropriate for the Local Plan District.

5. Do you agree with the broad remit, membership and procedure of the local advisory groups?

The Local Advisory Groups should cover the Local Plan District and be a sub-set of the Area Advisory groups. Again to reduce bureaucracy and duplication and attendance at meetings this should cover Argyll, Highland and Moray. In regard to representation these should be composed from Local Authority Members and Board Members of the respective organisations. This would resolve the issue of the lack of Member involvement in the overall process.

6. Do you support the use of Area Advisory Group boundaries established under the Water Framework Directive as the basis for establishing local advisory groups as required in section 50 of the Flood Act? If not, what are the alternatives arrangements you would suggest and why?

No.

The Area Advisory Group for the Highlands and Islands should cover Argyll, Western Isles, Orkney, Shetland, Highland and Moray again to reduce meetings, save on resources and ensure commonality of approach throughout the area which has many common characteristics. It should be formed from a grouping of the Local Advisory Groups.

7. Other Issues

On a separate note it is considered that Table 2 should include strategic resources and include power, water and foul water infrastructure as key units of plant that need high level protection and figure highly in the assessment criteria. In respect of foul water this can give rise to a health hazard and requires high priority. One further area of infrastructure which should be considered is contractor plant needed for emergencies. These should be located outwith areas of risk or in areas of high protection. It would be worthwhile gleaning lessons learned from Brisbane and their recent problems although it is recognised that this is an altogether different scale.

Also there should be a more transparent link to planning authorities and their Development Plans and the National Planning Framework.

It is not clear how SEPA will balance their duties under the Water Framework directive with their responsibilities under the new Flood Act. Within flood mitigation projects there are occasions when the promotion of flood schemes and CAR

licences seem to be in conflict with one another. No doubt this will be clarified in due course.

I trust you will find the above comments helpful in developing future regulations under the new Flood Act.

Yours faithfully,

Neil A Gillies

(Director of Transport, Environmental and Community Services)