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## **SELKIRK FLOOD PROTECTION SCHEME 2012**

**Report by Director of Environment & Infrastructure**

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### **SCOTTISH BORDERS COUNCIL**

**27 February 2014**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 This report is to present an update on progress of the Selkirk Flood Protection Scheme (the Scheme) further to submission of an Application for Funding to the Scottish Government in January 2014. It is also to request delegate authority to commence project's Stage 7 (Construction Stage Procurement) and Stage 8 (Construction Works) without further recourse to Council for approval upon receipt of grant funding confirmation.**
- 1.2 The Scheme will provide 595 properties, including approx. 120 businesses, in Selkirk with a very high level of flood protection. With this Scheme the Council now has a major engineering project that is fully approved, fully designed and ready to commence the delivery stages. The Scheme was approved by Council in June 2012. It has since developed the detail design (project Stage 6). The project must now commence Stage's 7 and 8 and requires Council authority to do so.
- 1.3 The Scheme submitted an Application for Capital Grant Funding (Application for Funding) in January 2014 further to an invitation from the Scottish Government in December 2013. This funding is for 80% of the Total Scheme Cost estimate of £31.4M. It is expected that confirmation on whether or not the application has been successful will be received by early March 2014.
- 1.4 Throughout 2013, and during Stage 6, the project team developed strategies to deal with the key aspect of project delivery. These strategies are now in place and include: Land & Compensation; Financial Management; Risk Management; Opportunity Management; Construction Procurement and Project Team Resourcing; amongst others.
- 1.5 A high-level review of the Scheme's Financial Management Strategy, by KPMG, reported that the Scheme has established a robust set of: project management; scheme design and approval adherence to regulations; financial management including cost estimation; and risk management procedures that adhere to the appropriate guidelines.
- 1.6 A full review of the Scheme's estimated Project Programme and Total Scheme Cost estimate was undertaken as part of the Application for Funding. The revised estimated Project Programme has only minor changes in the current revision. The revised Total Scheme Cost estimate has increased by £2.6M from £28.8M to £31.4M of which the Council portion is £0.413M.

- 1.7 With the completion of the Detail Design the project is now required to commence Stage 7 (Construction Stage Procurement), subject to funding. The Procurement Strategy will be approved by the Project Board in early March and all contracts required to deliver the Scheme through Stage 8 will then be procured in accordance with this strategy. This stage is programmed to commence in March 2014 and will be completed by October 2014.
- 1.8 Stage 8 (Construction Works) consists of a number of discrete contracts, namely: (1) The Advanced Works; (2) the Public Utility Diversions; and (3) the Main Works Contract. The Main Works Contract is disproportionately the single largest element of the Scheme. It is programmed to commence in late 2014 and expected to be completed by December 2016. The formal OJEU procurement process for this contract will commence in March 2014. The Advanced Works and Public Utility Diversions Contracts will undertake some works (e.g. an archaeology survey; moving a gas mains in Riverside Road etc.) that substantially reduce major risks to the project / Council when undertaken in advance of the Main Works Contract. Stage 8 is required to commence at this time in parallel to Stage 7, and subject to funding.
- 1.9 There are a number of major risks to the Scheme however the project team have developed a Risk Management Strategy and have allocated an estimated cost to each risk through the Project Risk Register. The main risk to the Scheme is that the Total Scheme Cost estimate included in the Application for Funding cannot be revised post Main Works Contract tender acceptance (approx. September 2014). KPMG identified this risk and the Scheme has mitigated the risk in accordance with their suggestions. A full review of the estimated Programme and Total Scheme Cost estimate and will undertaken once the tenders have been returned and this risk no longer exists.
- 1.10 Further to section 1.2: the Scheme is fully approved, fully designed, and ready to commence delivery and with the submission of the Application for Funding to the Scottish Government: the Council is on the cusp of having full funding confirmed for this project.

## **2 RECOMMENDATIONS**

### **2.1 It is recommended the Council:**

#### **(a) Acknowledges progress since the last report to Council:**

- **That the project has put in place bespoke strategies to deal with project delivery;**
- **The KPMG audit of the Financial Management Strategy;**
- **That an Application for Capital Grant Funding was submitted to the Scottish Government on 21 January 2014 for 80% of the Total Scheme Cost estimate; and**
- **That the revised estimated Project Programme, Total Scheme Cost estimate and associated spend profile was included in the application.**

#### **(b) Delegates authority to the Director of Environment & Infrastructure to commence Stage 7 (Construction Stage Procurement) and Stage 8 (Construction Works) of the Scheme in accordance with the Project Programme and subject to funding confirmation by the Scottish Government.**

### **3 BACKGROUND**

- 3.1 In June 2010 after considering the revised *Strategy for Implementation of Flood Protection Schemes* the Council approved Selkirk Flood Protection Scheme (the Scheme) to be advanced to the end of Stage 5 (termed "Order Stage" at the time and since more correctly termed the "Statutory Approvals Stage") and that thereafter the project be progressed in discrete elements within the funding available.
- 3.2 The Scheme was approved by the Council in June 2012 under the Flood Risk Management (Scotland) Act 2009 (the FRM Act). It then became operative under the FRM Act in August 2012 and was granted its Deemed Planning Permission by the Scottish Ministers in October 2012.
- 3.3 The Scheme will provide 595 properties in Selkirk with a very high level of flood protection. This includes approx. 120 businesses employing over 1,500 people. It also includes critical infrastructure including: the A7; the Sewage Treatment Works; an Electricity Sub-Station; Philiphaugh Community School; and Selkirk Rugby Club. It will also reduce flood risk along the length of the Yarrow Valley and to the community at Lindean downstream of Selkirk through the St. Mary's Loch Flood Storage Option.
- 3.4 The Scheme's Project Board provided authority to commence project Stage 6 (the Detail Design) in December 2012 based upon approvals provided to the Project Board by Council in March 2012. This stage was initiated by Project Board further to completion of the approvals processes and their approval of the Stage 6 Plan.
- 3.5 The Detail Design involves developing the detail of the outline design that was completed for the approvals processes. It also involves securing agreements with landowners regarding land occupation / access, and preparing draft construction plans. The output from this stage is the documentation / detail that can be provided to contractors for pricing through the tendering processes (project Stage 7 – Construction Stage Procurement). The detail design is currently on programme to be completed in February 2014.
- 3.6 During Stage 6 the project team developed strategies that mapped out how the project would advance and deliver the Scheme through to the completion of the Construction Works in December 2016. The development of these strategies was regularly reviewed by, and ultimately approved by, the Project Board. Section 5 provides further detail on the strategies.
- 3.7 With the completion of Stage 6 (the Detail Design) the Council now has a project that is fully approved, fully designed and ready to commence the delivery stages. With the submission of an Application for Funding to the Scottish Government (as detailed in section 4) the Council is on the cusp of having full funding confirmed for this project.
- 3.8 Further to section 3.1, the Scheme does not however currently have delegated authority from Council to commence the project's Stage 7 or Stage 8. It is now required to commence and advance Stage 7 and Stage 8, without further recourse to Council subject to confirmation of Scheme funding from the Scottish Government and acceptable tender prices, so that the project can maintain progress to the approved Project Programme.

## **4 APPLICATION FOR FUNDING**

- 4.1 An invitation to submit an Application for Capital Grant Funding (Application for Funding) for 80% funding for eligible flood protection schemes was distributed by the Scottish Government to Local Authorities in December 2013. This invitation had been widely expected, and the associated guidelines that defined the criteria for eligibility and the information that must be submitted were in accordance with expectation. The letter of invitation and the associated guidelines are included in Appendix A. The Scheme meets all of the eligibility criteria and is considered by the project team to have a high probability of successfully receiving the funding it requires to deliver the project.
- 4.2 Notwithstanding the fact that the guidelines contained within the invitation are as per expectations, there is one Funding Criteria within the guidelines that is new and a significant risk to the Council. This confirms that funding will be provided, not greater than 80% of the value stated in the application, only on actual costs incurred, and regardless of whether the project costs increase. This effectively caps the Scottish Government's financial exposure to the Council at 80% and leaves all residual risk of a cost overrun with the Council. This risk was also identified in the KPMG Report on Financial Management and is further discussed within section 6.2 and section 10.2.
- 4.3 The project team has been on standby to submit an Application for Funding for over 12 months. Furthermore, the project team were aware from the lesson learned by the Galashiels Flood Prevention Scheme in December 2011 that the Scottish Government has previously issued such invitations with very challenging preparation timescales. The project team, therefore, set up defined processes through which an application would be prepared in late 2012 and undertook as much as the preparation work as was possible throughout 2013.
- 4.4 Further to section 3.5, it is noted that the Detail Design was not completed when the Application for Funding was submitted. Furthermore, the Scheme does not receive actual tender prices until approx. July / August 2014. Any estimate of Total Scheme Cost before actual tender prices are received, and accepted, will therefore be based on the latest best estimate only. Such an estimate will always be subject to the risk that such an estimate could be incorrect. The project team believe that they have done everything within their abilities to define these risks and include them within the Scheme's monetised Project Risk Register. This is further detailed in section 7 and section 10.1.
- 4.5 When the invitation to submit an Application for Funding was received on the project team initiated the processes that had been set-up. Initially this involved a number of external organisations revising Scheme productions e.g. the District Valuer required to revise the Land & Compensation estimate. These external documents were all returned over the Christmas break and the project team commenced the revision of the Scheme's estimate Project Programme, Total Scheme Cost estimate, and associated Spend Profile on Monday 6 January 2014.
- 4.6 The revised Scheme documents were presented to the Scheme's Project Board for review and approval on Monday 13 January 2014 and Department Management Team (with the Chief Financial Officer in attendance) on Wednesday 15 January 2014. These revised Scheme documents contain the data from which the Application for Funding was

drafted. A summary of the revised Scheme documents is included in section 7.

- 4.7 It is expected that the Scottish Government will confirm whether or not the Application for Funding has been successful by early March 2014.

## **5 DEVELOPMENT OF THE STAGE 6 STRATEGIES**

5.1 The Scheme identified through the Stage 6 Plan that it would develop bespoke strategies to manage the delivery of the project. This was felt to be appropriate given the scale of the project within the context of the Council's Capital Plan and as the first flood protection scheme to be advanced under the new FRM Act. The main strategies are:

- (a) Land & Compensation;
- (b) Opportunity Management;
- (c) Financial Management;
- (d) Risk Management;
- (e) Construction Procurement;
- (f) Project Team Resourcing Strategy; and
- (g) Asset Management.

5.2 The Financial Management Strategy covers all aspects of financial management associated with the Scheme. This includes development of the Total Scheme Cost estimate and funding of the Scheme. This strategy was developed in partnership with the Council's Finance Function. This report reviews the KPMG evaluation of the financial strategy in section 6.

5.3 Within the Risk Management Strategy the project team completed a significant body of work to understand and quantify in financial terms the risks associated with the Scheme. This is to ensure that the project team is capable of minimising the future risk to the Scheme / Council. The approach was reviewed by KPMG and this is covered in section 6.

5.4 The Construction Procurement Strategy is currently being finalised and is on programme to be completed by early March 2014. This will cover all aspects of the procurement process during project delivery and is being developed in partnership with the Council's Procurement Service. It is noted that the intention is to deliver the Main Construction Works through one large contract.

5.5 The Land & Compensation Strategy covers the Scheme's requirements to access and use land and the associated compensation that may be claimed by land owners in accordance with the FRM Act. The "Purpose" and "Summary" sections of the Land & Compensation Strategy report are provided in Appendix B. This strategy was developed in partnership with the Council's Estates Section and the District Valuer.

5.6 It is noted that the Asset Management Strategy is not required to be completed until the end of the Construction Work in approx. December 2016. The project team have however commenced developing this strategy and will continue to liaise with the Council's Flood Officer and Asset Management Section over the coming years in finalising this strategy.

## **6 REVIEW OF SCHEME FINANCIAL MANAGEMENT BY KPMG**

- 6.1 The Scheme engaged KPMG to undertake a high-level review of the Scheme's financial management structures in November 2013. This was primarily in recognition of the very large cost of this complex engineering project and such that the Project Board could be satisfied that all possible efforts had been undertaken in ensuring the robustness of the Total Scheme Cost estimate.
- 6.2 KPMG submitted their report to the project team in January 2014 and the Executive Summary is included in Appendix C. In summary:
- (a) In their opinion, and based on the information provided, the Scheme have established a robust set of project management, Scheme design and approval, financial management and risk management procedures that adhere to the appropriate guidelines and best practices;
  - (b) That, specifically the procedures comply with the recommendations of HM Treasury's Green Book for complex projects;
  - (c) That in having appropriate procedures the Scheme can be assumed to have undertaken everything possible to ensure that the Scheme and its Total Scheme Cost estimate are as accurate and robust as possible; and
  - (d) That there is one risk that at the time of preparing their report the project team had not appropriately dealt with. This is the risk identified in section 4.2 and detailed further in section 10.2
- 6.3 It should be noted that the KPMG report does not confirm that the Scheme's Total Scheme Cost estimate, or any cost within it, is correct; merely that the Scheme has followed guidelines and best practices in developing the estimate.

## **7 REVISED PROJECT PROGRAMME AND TOTAL SCHEME COST**

### **7.1 The revised estimated Project Programme:**

A schematic of the Scheme's revised estimated Project Programme is included in Appendix D. In summary:

- (a) There were no changes of substance to the programme during the revisions that the project team undertook in January 2014, indeed this estimated programme has effectively been in place for over 12 months now;
- (b) The project is on programme to complete Stage 6 (Detail Design) in February 2014;
- (c) The project team are comfortable that the estimated timescale for Stage 7 (Construction Stage Procurement) remains accurate and that the project will be in a position to award the Main Construction Contract towards the end of 2014; and
- (d) The project team note that Stage 8 (Construction Works) has been estimated at 26 months. This is considered to be a robust estimate of the time required to construct the Scheme. Once the tenders are returned during the summer of 2014 the project team will be in possession of the proposed construction programme of the successful tenderer / contractor. It will then be possible to revise this programme and to be definitive about the likely construction completion date. Until that point this programme is only a latest best estimate regardless of how accurate the project team believes it to be.

7.2 The revised Total Scheme Cost estimate:

The Total Scheme Cost estimate within the Capital Financial Plan 2014/15 until 2023/24 is £28.8M. This estimate was developed by the project team in June 2013. This estimate was also reported to the Scottish Government / COSLA / SCOTS, further to a request for an update from them. They were trying to determine the process for the current round of funding applications at that time. It is noted that all of those organisations were entirely satisfied with that cost estimate at that time.

7.3 **The Total Scheme Cost estimate presented in this report is £31.4M. This is an increase of £2.6M to the June 2013 estimate of £28.8M.** Within this £2.6M the Council will have to fund an additional £0.473M. This is further detailed in section 10.1 (b).

7.4 On 1 April 2014, when Scottish Government Capital Grant Funding should commence, the Council will have incurred approx. £1.9M in costs. The risk associated with incurring these costs before Scottish Government funding is confirmed is detailed in section 10.1 (h). It is noted:

- (a) A Scheme must be approved to be eligible to apply of Capital Grant Funding;
- (b) When the Scheme was approved it had incurred approx. £1.2M;
- (c) Over the past year, during detail design, an additional approx. £0.7M has been incurred. These costs were incurred to ensure the design within the Application for Funding was as robust as possible thereby minimising the risk to the Council that the Scottish Government will not revisit the Total Scheme Cost estimate as detailed in section 4.2 and 10.2; and
- (d) The advancement of the project, and thereby the incurring of these costs was undertaken in stages with Council being consulted and approving each step forward.

7.5 The Total Scheme Cost estimate is the sum of the costs estimated within four discrete categories, namely:

- (a) The Works Cost estimate;
- (b) The Land & Compensation Cost estimate;
- (c) The Client Risk Register estimate; and
- (d) The Design & Supervision Cost estimate (i.e. all other costs).

7.6 The revised Total Scheme Cost estimate has increased by £2.6M as detailed in section 7.3. The breakdown of this increase is as follows:

- (a) The Works Cost estimate → increased by £0.3M.
- (b) The Land & Compensation Cost estimate → increased by £0.5M.
- (c) The Client Risk Register estimate → increased by £1.3M.
- (d) The Design & Supervision Cost estimate → increased by £0.5M (this includes approx. £0.11M of additional eligible historic costs incurred between 2004 and 2009) and as identified in section 10.1 (b).

7.7 The Works Cost estimate account for the vast proportion of the Total Scheme Costs. The following points are noted:

- (a) This estimate has been robustly produced by the project's Design Consultant, CH2M Hill (formerly Halcrow Group Limited). The estimate has been reviewed: internally by specialists in CH2M Hill;

by the Council's SBcContracts; partially by an external contractor engaged to spot check some of the more complex / costly aspects of the design; and by the Council's Project Manager. It has also been subjected to a high-level process review by KPMG as detailed in section 6; and

- (b) The Works Cost estimate is however an estimate. It is an early pre-tender estimate developed before the Detail Design is fully completed. This is not ideal but was necessary due to the timescales of the Scottish Government invitation to submit an Application for Funding. Once the tenders are returned during the summer of 2014 the project team will be in possession of the proposed construction costs of the successful tenderer / contractor. It will then be possible to be definitive about the likely construction out-turn cost.

#### 7.8 The revised Spend Profile:

The revised Spend Profile associated with the revision to the Total Scheme Cost estimate has been updated to present the most realistic requirement for funding between now and the completion of the Scheme in December 2016. Completeness of the cost estimate is essential as there is only one opportunity to bid for Government funding under the revised application rules. There were no changes of substance the Spend Profile in the Capital Financial Plan 2014/15 until 2023/24.

- 7.9 The estimated Project Programme, Total Scheme Cost estimate and associated Spend Profile will be revised when a tender has been accepted and a Main Works Contractor has been appointed in the autumn of 2014. At that point when tendered costs are finally known any revisions will be incorporated into the Project Business Case and thereby into the Council's Capital Financial Plan.

## **8 PROJECT STAGE 7 (CONSTRUCTION STAGE PROCUREMENT)**

- 8.1 The project has been managed through a PRINCE2 Project Management System from the beginning. In accordance with this system the design and delivery of the flood protection scheme was set-up to be advanced through eight discrete stages. These stages are highlighted within the Schematic Project Programme which can be referenced in Appendix D.
- 8.2 The project is currently on programme to complete Stage 6 (the Detail Design) in February 2014. The next stage is Stage 7 (Construction Stage Procurement) and the approved Project Programme requires this to commence immediately.
- 8.3 The project team are currently completing the Construction Procurement Strategy. This will be completed in early March and Stage 7 will then be advanced in accordance with this strategy and subject to funding being in place. It is noted that confirmation of the Capital Grant Funding from the Scottish Government is expected by early March 2014 but that until this is confirmed the Scheme is not fully funded. The project team recognise that no activity can commence that does not have funding in place. In general this means that many internal and low cost activities in Stage 7 can be commenced immediately but that the big cost activity to commence the Main Works Contract procurement cannot be commenced until the funding is confirmed.



- 8.4 The main activities / milestones within Stage 7 are all relating to the Main Works Contract and are:
- (a) Lodge OJEU Notice → March 2014.
  - (b) Issue the Invitation to Tenders (ITT) → May 2014.
  - (c) Award the Main Works Contract → October 2014.
- 8.5 The other main activities / milestones within Stage 7 are:
- (a) Procure Archaeology Survey → February & March 2014.
  - (b) Procure Advanced Works Contract → March until August 2014.
  - (c) Procure Public Utilities Contracts → March until May 2014.
  - (d) Any other procurement matters defined in the Procurement Strategy.
- 8.6 There are some additional risks to the Council associated with Stage 7. These are dealt with in section 10.2.

## **9 PROJECT STAGE 8 (CONSTRUCTION WORKS)**

- 9.1 Stage 8 (Construction Works) can be broken down into the following activities / contracts:
- (a) Advanced Works;
  - (b) Public Utility Diversions; and
  - (c) The Main Works Contract.
- 9.2 All Construction Works Contracts will be procured in accordance with the approved Construction Procurement Strategy as detailed in section 8.3.
- 9.3 The estimated Project Programme relating to Construction Works is currently the latest best estimate, as detailed in section 7.1, and will be fully updated at the completion of procurement. The following is a summary of the current estimated delivery timescales:
- (a) Advanced Works → March 2014 until August 2014.
  - (b) Public Utility Diversions → April 2014 until November 2014.
  - (c) The Main Works Contract → November 2014 until December 2016.
- 9.4 There are some additional risks to the Council associated with Stage 7. These are dealt with in section 10.2.

## **10 IMPLICATIONS**

### **10.1 Financial**

- (a) The revised Total Scheme Cost estimate of £31.4M has been generated to submit an Application for Funding to the Scottish Government for 80% funding. The estimate is considered to be robust enough to ensure that there is no further increase in cost to the Total Scheme Cost estimate. This approach is designed to protect the Council as the Total Scheme Cost estimate in the application will be at an 80% / 20% Scottish Government / Council split whereas any increase must be borne 100% by the Council. The project team has dealt with this risk through the developing of a robust estimate and the inclusion of Tender's Risk, Optimism Bias and Client Risk. This is further detailed in section 10.2.

- (b) The Total Scheme Cost funding assuming 80% grant funding within the Capital Financial Plan 2014/15 until 2023/24 is £28.8M. The final estimate in this report is £31.4M which is an increase of £2.6M. This increase results in a specific as yet unbudgeted potential cost increase of £0.413M for the Council and as such is a risk to the 10-Year Capital Plan. This is less than the 20% required of the funding arrangements 80% / 20% split (£0.52M). The reason for this is that of the £2.6M increase £0.11M is for 'eligible' Scheme preparation costs incurred between 2004 and 2009 that were not previously included in the Total Scheme Cost estimate. These costs were identified by a SBC Finance & project team investigation during 2013; these costs have already been 100% incurred; and the Council will receive 80% of these costs back once funding is secured.
- (c) It is noted that £0.473M of the £31.4M in the Total Scheme Cost estimate is for a specific Scheme Operation to undertake strengthening works to the Bridge Street Footbridge, Selkirk. This work is now superseded by a Council project to replace the footbridge. The Scheme will be able to transfer the £0.473k to the Council which can go towards funding the Bridge Street Footbridge Replacement project. This project is currently estimated at approx. £0.879M. The initial design of this project is currently underway and the project team are considering whether or not the project can be delivered within the Scheme's Main Works Contract to deliver best value to the Council.
- (d) It is noted that the project will also be provided with a Lump Sum currently estimated, by the project team, at £0.229M from Scottish Water. This is part of a complex deal with Scottish Water but is essentially due to Scottish Water transferring some responsibilities they currently hold relating to St. Mary's Loch to the Council.
- (e) It is noted that the Council intend to collect Developer Contributions from new residential developments in areas of Selkirk that have specifically benefited from the Scheme. It is understood that the application of these contributions can come into effect on the date the Scheme is confirmed as funded i.e. the date the Scottish Government confirm they will 80% fund the Scheme. This is estimated to be approx. early-March 2014.
- (f) It is noted that the project team are still engaged in discussions with SEPA about the possibility of obtaining some River Restoration Funding towards the Scheme's delivery. The Project Team consider there is a high probability of obtaining some funding during 2014.
- (g) Should the Scheme not attract government support it would not be able to proceed within the approved Council budgets and a portion or all of the £1.9M cost incurred to date would have to be written off. It is assumed that in such a situation some elements of the Scheme cost be advanced within a revised and substantially de-scoped Project Programme. Assuming however that the Application for Funding is confirmed the Council will be able to recover 80% of these costs from Scottish Government. See section 7.4 for further detail.
- (h) In the event that Scheme does not obtain 80% funding from the Scottish Government then the project will not be able to continue to advance its approved Project Programme after approx. March / April 2014.

## 10.2 Risk and Mitigations

- (a) The biggest current risk to the Scheme is associated with the estimate submitted to the Scottish Government in response to their invitation to submit an Application for Funding. This risk was identified in section 4.2 and 6.2.

The risk is:

That the Council submitted an estimate of the Scheme's Total Scheme Cost within the Application for Funding: that this is before actual tender prices are obtained and further that no revision of the Scheme's Total Scheme Cost estimate will be allowed.

The implications of the risk are:

That in the event that the project team have under-estimated the Total Scheme Cost estimate and that the project cost increases above the estimated value either during the tendering process or during the construction stage then that additional cost will have to be borne 100% by the Council. The Scottish Government will only grant fund 80% of the Total Scheme Cost estimate to a cap level equal to that stated in the application.

The mitigating measures against the risk are:

- (i) That this new Council risk is carried by the Scheme and included in the monetised Project Risk Register, as opposed to a higher level Council Risk Register;
  - (ii) That the risk is specifically mitigated by ensuring the Scheme's Financial Management Strategy is as robust as possible. This action is complete as the Project Board assumed this risk would develop and proactively engaged KPMG to undertake a review of the Financial Management Structures: see section 5;
  - (iii) That the risk is further specifically mitigated by estimating the possible financial implications and including them in the monetised Project Risk Register. This action was completed during the Project Board Meeting on Monday 13 January 2014. The risk was estimated at £1M with a 33% probability therefore the actual new financial estimate included within the Total Scheme Cost estimate is £330k; and
  - (iv) That throughout the rest of the Total Scheme Cost estimate, and only where appropriate, that the project team err on the side of the conservative where there is a possibility that tender or construction prices might see an increase to the Total Scheme Cost estimate.
- (b) There is a significant risk that if substantial financial support cannot be obtained from the Scottish Government when required that the Scheme may not go ahead and that the capital costs incurred will need to be transferred to the revenue budget.

The mitigating measures against the risk are:

- (i) This risk was mitigated by submitting an Application for Funding when offered the opportunity to do so by the Scottish Government; and
  - (ii) It is not considered that there is currently any further mitigation that can undertake in relation to this risk.
- (c) The Total Scheme Cost estimate and associated Spend Profile have been developed based on the estimated Project Programme. There is a risk, which the project team has included in the monetised

Project Risk Register that an extension to the programme could lead to increased costs in the Total Scheme Cost estimate. Conversely, it must be noted that in the event that the programme can be shortened: there is an opportunity that it could lead to reduced costs in the Total Scheme Cost estimate.

The mitigating measures against the risk are:

- (i) That the estimated Project Programme is as robust as possible and includes for delays that will most lightly arise during the construction process;
  - (ii) That strategies have been put in place to deal with the key aspects of project delivery and therefore have clarity as to how to advance the project through Stage 7 & Stage 8; and
  - (iii) That the project team are currently advancing the critical path activities on the Project Programme and within the strategies to ensure that this risk to the Council is minimised. This includes advancing some activities so that they occur earlier than originally intended (in accordance with the approval of Capital Management Group from October 2013) i.e.: the public utility diversions; the archaeological survey work; and recruitment of staff for the project team.
- (d) The Scheme is currently required to proceed with delivering a number of Stage 8 Contracts (Advanced Works and Public Utility Diversions) before the tendering process for the Main Works Contract has concluded. There is a risk of unnecessary or abortive works in the event that these "Advanced Works" are ultimately deemed to be unnecessary by the successful contractor.

The implications of the risk are:

It is considered that the implications of this risk are predominantly financial in that the project would have incurred costs that were ultimately deemed to be unnecessary. The project team are however advancing these Advanced Works and pre-Main Works Contract Public Utility Diversions as it has been determined that this is the best way to reduced bigger project risks (i.e. relating to unidentified public utilities; unidentified Archaeological discoveries; delay to the Main Works Contractors Programme etc.) It is considered therefore that the implications of this risk are outweighed by the mitigation that such activities deliver to these greater project risks.

The mitigating measures against the risk are:

- (i) The project team have considered in detail when each public utility is best dealt with. The Public Utility Works have been split into two categories (1) those that can be diverted through an advanced works contract; and (2) those that are better dealt with during the Main Works Contract; and
- (ii) The project team have considered each proposed piece of work to ensure that the works undertaken would be deemed sufficient and acceptable by any future Main Works Contractor. This was one of the reasons that a contractor was consulted during 2013 on some of the more technically complex construction activities proposed by the Scheme.

- 10.3 **Equalities**  
The Scheme has been designed over the past four and a half years and has considered equalities implications throughout. There are currently no known equalities implications associated with this report.
- 10.4 **Acting Sustainably**  
The Scheme has been designed over the past four and a half years and has considered sustainability implication throughout. There are currently no known sustainability implications associated with this report.
- 10.5 **Carbon Management**  
The Scheme has been designed over the past four and a half years and has considered carbon management implication throughout. There are currently no known carbon implications associated with this report.
- 10.6 **Rural Proofing**  
N/A.
- 10.7 **Changes to Scheme of Administration or Scheme of Delegation**  
N/A.

## **11 CONSULTATION**

- 11.1 The Scheme was developed within an ongoing framework of consultation with key project stakeholders, Council Officers and the people of Selkirk.
- 11.2 The Scheme was approved under the FRM Act and its associated regulations. This included a formal objections period in February / March 2012, and a separate formal period for appeals in July / August 2012. Both of these periods followed formal notification of the Scheme. The Scheme itself was approved by the Council in June 2012.
- 11.3 The project team consulted the Scottish Government's Flooding Policy Team regularly throughout the design of Scheme. This was particularly useful as the Scheme was the first scheme approved under the new FRM Act. The Scottish Government officers have been satisfied with the Scheme and its objectives throughout and any issues identified by them were dealt with as they arose.
- 11.4 The revision of the Scheme's estimated Project Programme and Total Scheme Cost estimate in advance of the submission of the Application for Funding was undertaken through a process that included the Scheme's partners in the Finance and Estates Departments. It also involved external organisations like the District Valuer and KPMG. The draft revised documents were reviewed by the Project Manager, Project Board, and Department Management Team (DMT) before the application was approved by DMT including the Directors of E&I and Finance.
- 11.5 The Chief Financial Officer, the Head of Corporate Governance, the Head of Audit and Risk, Clerk to the Council, Head of Strategic Policy, HR Manager, Procurement and Corporate Communications have been consulted and their comments have been incorporated into the report.

**Approved by:**

**Director of Environment & Infrastructure**

**Signature.....**

Name	Designation and Contact Number
Steven Renwick	Selkirk FPS – Project Executive – 01835 826687
Conor Price	Selkirk FPS - Project Manager – 01835 826765

**Background Papers:** None

**Previous Minute Reference:** Scottish Borders Council, 21 June 2012

**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Jacqueline Whitelaw can also give information on other language translations as well as providing additional copies.

Contact us at Jacqueline Whitelaw, Environment and Infrastructure, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA, Tel 01835 825431, Fax 01835 825071, email [eitranslationrequest@scotborders.gov.uk](mailto:eitranslationrequest@scotborders.gov.uk).