
HAWICK FLOOD PROTECTION SCHEME

Report by Service Director Assets & Infrastructure

SCOTTISH BORDERS COUNCIL

2 November 2017

1 PURPOSE AND SUMMARY

- 1.1 This report requests that the Council makes a Preliminary Decision to confirm the proposed Hawick Flood Protection Scheme 2017 (the Scheme) with no modifications, under the Flood Risk Management (Scotland) Act 2009 (the FRM) and the Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010; as the Scheme requires an Environmental Impact Assessment. It also proposes the delegation of further authority to continue the Statutory Approvals Processes, the Scheme's Detailed Design and preparation for the Advanced Works.**
- 1.2 Hawick town has a history of damaging floods from both the River Teviot (which runs through the length of the town) and the Slitrig Water (which enters the Teviot by the town centre via Drumlanrig Bridge).
- 1.3 In 2013, the Project Team obtained Council approval to develop the Preferred Scheme through the Outline Design stage and the publication of the Scheme through the statutory process.
- 1.4 The key principles of the Preferred Hawick Flood Protection Scheme (the Scheme) have been maintained through the development of the Outline Design Process.
- 1.5 On 23 February 2017, Scottish Borders Council approved the Outline Design and authorised the commencement of the Statutory Approvals Process.
- 1.6 As part of the Scheme being approved under the FRM it was required to give notice of the Scheme in accordance with Paragraph 1 of Schedule 2 of the FRM. The date the notice was published under Paragraph 1 (1) (a) was 18 April 2017. The 28-Day Objection Period concluded on 29 May 2017.
- 1.7 Forty eight objections were received to the Scheme. All objections were deemed to be a 'valid objection' as defined within the FRM. The project team, including the Chief Legal Officer, undertook a detailed analysis and consideration of the topics within the objections.
- 1.8 The Project Team provided a detailed reply to every topic identified in every objection and then engaged with the objectors who had expressed

an interest in further discussions and meetings.

- 1.9 It was clear from the meetings with objectors that there were some common misinterpretations of what was being proposed by the Scheme, so the Project Team undertook a series of public events to enable the community to obtain a clear understanding of the proposals and raise any topics of concern. The Project Team believed that these evenings were successful and gave objectors and supporters the chance to express their views in a public forum.
- 1.10 The Project Team believe that all of the points raised in the objections are answered by the mitigation strategies in the suite of published document to provide a balanced scheme to meet all of the project objectives from a national, Council and local perspective. The way forward for the scheme has been developed following the strong interest within the community to be part of the detailed design phase, so Design Working Groups and a Traffic Management Working Group will be formed. The Project Board agree that the Project Team has fully and robustly considered the objections and determine that no modifications are required.
- 1.11 The parallel processes of Deemed Planning and the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (i.e. CAR licence) have progressed well with the CAR licence being issued on 18 September 2017.
- 1.12 Before making a Preliminary Decision on a flood protection scheme with an Environmental Statement the Council must consider the environmental information to comply with Regulation 10 (3) of the FRM's 2010 Regulations. They must also state in their decision that they have done so.

2 RECOMMENDATIONS

2.1 It is recommended that the Council:

- (a) Notes the progress made with the project since the update in February 2017; and**
- (b) Makes a Preliminary Decision to confirm the proposed Hawick Flood Protection Scheme 2017 with no modification, under the Flood Risk Management (Scotland) Act 2009 and the Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010; as the Scheme requires an Environmental Impact Assessment; and**
- (c) Confirms that it has taken into account the environmental information as detailed in section 7 of this report; and**
- (d) Provides the Scheme's Project Executive with the authority to commence the preparations for the Advanced Works and the Detailed Design stages to allow the project to stay on programme.**

3 CURRENT APPROVAL BY COUNCIL

- 3.1 Hawick town has a history of damaging floods from both the River Teviot (which runs through the length of the town) and the Slitrig Water (which enters the Teviot by the town centre via Drumlanrig Bridge). The following events are noted:
1. In October 2005 flooding of the River Teviot caused extensive inundation of the urban areas adjacent the River Teviot. This was an approximate 1 in 50 year flood event: it affected hundreds of properties and caused millions of pounds of damage;
 2. Major flood events on the Slitrig Water were recorded in 1767 and 1846 amongst other events.
 3. More recently, December 2015 (storm Desmond) caused flooding of the River Teviot, causing extensive inundation of the urban areas adjacent to the river corridor and the erosion of infrastructure, particularly in the Duke Street area. This was an approximate 1 in 35 year return period event.
- 3.2 On 4 September 2007, the Council approved an Implementation Strategy for the delivery of flood protection schemes in the Borders. The prioritisation of schemes was to be for: (1) Galashiels; (2) Selkirk; and (3) Hawick, in that order. The Galashiels FPS was approved in 2010 and was complete in 2014. The Selkirk FPS was approved in 2012 and was completed in 2017.
- 3.3 On 28 March 2013, at the end of the Option Appraisal Process, Scottish Borders Council agreed to:
1. Acknowledge progress in advancing the design of the proposed Hawick Flood Protection Scheme since June 2012;
 2. Approve the Preferred Hawick Flood Protection Scheme as detailed in the report; and
 3. Delegate authority to the Scheme's Project Board to authorise the Project Team to commence Stage 4 (Outline Design) and Stage 5 (The Statutory Approvals Processes) of the Scheme's design.
- 3.4 The approval of the Preferred Scheme allowed the Project Team to progress the Outline Design stage over the course of 2015 and 2016 based on the Preferred Scheme of 2013, adhering to the original objectives, where possible, as below:
1. *The Scheme will protect against flooding from the River Teviot through the length of the town of Hawick;*
 2. *The Scheme will protect against flooding from the Slitrig Water between Drumlanrig bridge and when it joins the Teviot;*
 3. *The Scheme will not protect against the Slitrig Water above Drumlanrig Bridge;*
 4. *A uniform level of protection will be provided to all areas of the town that are being protected. This will be against the 1 in 75 year flood event. This does not include an allowance for climate change;*
 5. *The foundations of the flood defences will be designed such that the defence heights can be increased to protect against the 1 in 100 year flood event;*
 6. *The total length of flood defences will be approx. 5.5km;*
 7. *The average height of the flood defences will be approx. 1.5m above*

existing ground level;

8. *Where the height of the new flood defences is greater than 1.4m it is intended to raise the existing ground level behind the new defences to restrict the height to no greater than 1.4m;*
9. *It will be required to provide seven new flood gates; and*
10. *New flood walls and embankments will be provided, however wherever it is possible the Scheme will incorporate the walls that currently exist at the edge of the river.*

3.5 During the development of the Outline Design the following amendments have been made to the Project Objectives:

Project Objective (Reference is to section 3.4 of this report)	Updated Project Objective Text (Text in italics is original text, and text that is not italics and is underlined is new/revised)
3.4.4	<i>A uniform level of protection will be provided to all areas of the town that are being protected. This will be against the 1 in 75 year flood event. This does not include an allowance for climate change, thereby <u>protecting 930 residential and commercial properties at risk.</u></i>
3.4.6	<i>The total length of flood defences will be <u>approximately 5.93km, with 5.6km of walls and 0.33km of embankments.</u></i>
3.4.7	<i>The average height of the flood defences will be <u>approximately 1.63m above existing ground level, with a maximum of 2.55m at the High School.</u></i>
3.4.8	<i>Where the height of the new flood defences is greater than 1.4m it is intended to raise the existing ground level behind the new defences <u>where possible, or use strategically placed glass panels to retain the visual connection with the River Teviot.</u></i>
3.4.9	<i>It will be required to provide <u>a maximum of seven new flood gates.</u></i>
New Objective	<u>The walls will be designed for a lifespan of 100 years minimum.</u>
New Objective	<u>Maximise the cultural, heritage, educational, environmental, energy and health opportunities that a major civil engineering project can deliver in partnership with the community and external organisations.</u>
New Objective	<u>Structural analysis of the existing riverside walls has shown that in virtually all cases, the existing walls must be replaced with new structures in order to achieve the 100 year design life.</u>

- 3.6 On 23 February 2017, at the end of the Outline Design stage, Scottish Borders Council agreed to:
1. Approves the Proposed Final Outline Design for the Scheme that had been developed over the previous two years.
 2. Authorises the project team to commence the Statutory Approvals Processes identified in the Flood Risk Management (Scotland) Act 2009 (the FRM), and the Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010.
 3. Instruct the Project Team to present the Scheme to Council for a decision, as detailed in the FRM and the 2010 Regulations, as soon as possible after the end of the formal 28-Days objection period.

4 STATUTORY APPROVAL PROCESSES

- 4.1 The Statutory Approvals Process consists of a number of discrete processes through which the Scheme can obtain legal powers for the delivery of the works. The main approvals are:
1. **The Scheme Approval:** under the FRM; and the Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Districts) (Scotland) Regulations 2010 (2010 Regulations);
 2. **Deemed Planning Consent:** under the FRM; the 2010 Regulations; and section 57 of the Town and Country Planning (Scotland) Act 1997;
 3. **The CAR Licenses:** under the Water Environment (Controlled Activities) (Scotland) Act 2011, also known as a CAR Licence; and
 4. An **Appropriate Assessment** under the Habitat Regulations Appraisal (HRA).

Footnote to section 4 of this report: The Scottish Government issued additional regulations to supplement the FRM and the 2010 Regulations in May 2017. These 2017 Regulations came into force after the publication of the Scheme therefore this Scheme does not take into account the Regulations contained within these new Regulations as is appropriate in this type of situation.

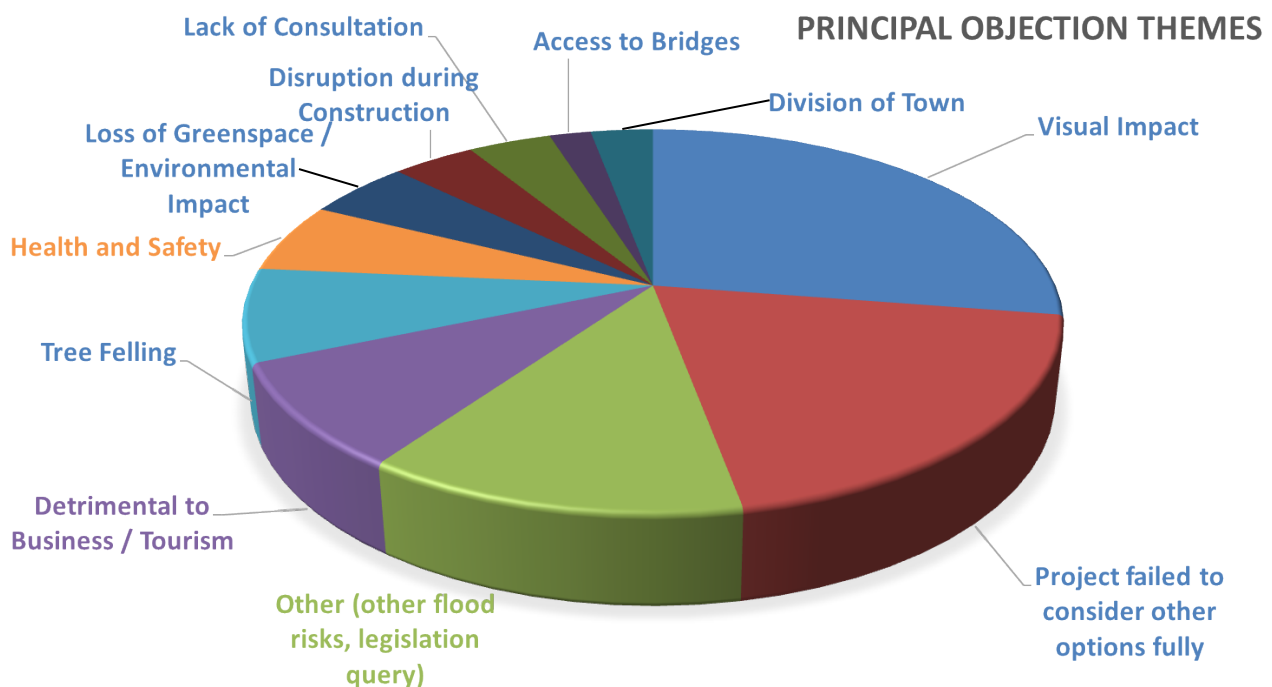
5 PROGRESS UPDATE - SCHEME APPROVAL PROCESS

- 5.1 The Statutory Approvals Process was commenced on 18 April 2017 with the publication of the Scheme under Paragraph 1 of Schedule 2 the FRM and the requirements of Regulation 7 of the 2010 Regulations. There was a 28-Day objection period where any person was entitled to object to the Scheme in accordance with Paragraph 3 of Schedule 2 of the FRM.
- 5.2 The publication process involved the issuing of approximately 4000 letter to owners/occupiers/tenants of land affected by flooding or the proposed works. This was supplemented with on street notices, which were regularly checked by the Project Team and press notices in defined publications (including local press).
- 5.3 Under Paragraph 3 of Schedule 2 of the FRM any person is entitled to object to a proposed scheme. The process through which this is to be achieved is further detailed in Regulation 12 of the 2010 Regulations and a full description of the process was included in the new notice. There are various criteria that determine whether or not an objection is valid and the objections period expires 28 days after the date notice of the Scheme is first published.
- 5.4 The 28-Day objection period closed on 29 May 2017. Forty-eight objections

to the Scheme were received during the objection period and the status of those objections was as follows:

- 5 were non-valid, however the team categorised them as valid so that the themes of the objections could be considered further by the project;
- 43 were valid, as they stated their names and contact details and were submitted within the 28-Day period; and
- There were no objections from statutory stakeholders or other project consultees that have been involved in the development of the Environmental Statement. This means that there is no automatic referral to Scottish Ministers to determine if a Public Local inquiry is required.

5.5 Following the initial consideration of the objections, they were split into eleven key themes which are relatively weighted within the pie chart that is provided below:



5.6 Of the forty eight objections, eight came from individuals directly affected by the 1 in 75 year flood event or the proposed works. Should any of the objections from this group not be withdrawn before the Preliminary Decision is made by the Council, the project will have to be referred to the Scottish Ministers to decide if a Public Local Inquiry is required.

5.7 In relation to the other forty objections, if they cannot be removed it will be a Council decision to determine if a local hearing is required, if the basis of their objections have not been considered robustly and mitigated by the Proposed Scheme.

5.8 The Project Team, including the Chief Legal Officer, undertook a detailed analysis and consideration of the topics within the objections and undertook the following actions:

1. 15 June 2017 - a detailed response was provided to each of the eight objectors (i.e. that are directly affected by works or flooding) responding to the specific points in their objection. A redacted version of a response letter is provided in **Appendix A** (as an example);
2. 19 June 2017 - an interim letter to the thirty-five objectors (i.e. not

directly affected by works or flooding) to inform them that their objection is being considered and a full response will be provided in due course.

3. 21 June 2017 – a detailed response to each of the thirty-five objectors responding to the specific points in their objection. The responses to all issues brought up in the objections is contained in **Appendix B**;
 4. 7 July 2017 - An interim acknowledgement letter was issued to five objectors that were subsequently considered valid (and which are not directly affected by works or flooding);
 5. 13 July 2017 – a detailed response to each of the five objectors, identified in section 5.8.4 of this report, responding to the specific points in their objection;
 6. In parallel with the objection process, three of the objectors were not content with the response to their objection and they issued a complaint through the Council’s internal complaint process. All of these complaints have followed the full process.
 7. 18 August 2017 – Publication of 48 objections via the Scheme’s Website and the Hawick Contact Centre. These are provided in **Appendix C**;
 8. The project team have undertaken as many meetings as possible with objectors who are willing to meet the team to discuss their objection. The face-to-face meetings have taken between two to three hours each, but are understood to have been productive for both parties.
 9. Following this initial set of meetings one objector, within the land affected by flooding or the works, voluntarily removed their objection to the Scheme.
- 5.9 It was felt by the Project Team after this initial set of meetings that there was a degree of misinterpretation about how the key Scheme parameters (route, height and finish) would impact on the town and the community. In order to provide the objectors and wider community with an opportunity to gain clarity on the Scheme proposals, a series of evening meetings was arranged for 29th, 30th & 31st August 2017.
- 5.10 All of the forty-eight objectors were provided a direct invitation to this series of community events and this was supplemented with press adverts, notices placed on street and an email distributed to the Scheme’s Stakeholders who are on the Scheme’s emailing database.
- 5.11 The first public meeting focused on the area of the town between the High School and Teviot Crescent. There were approximately fifty people who attended this Scheme walk and it was clear that the community believed that the walls were two metres high throughout the town and were going to box in the watercourse. The Project Team were able to respond to queries regarding wall heights, dredging and visual impact. The Project Team also highlighted the opportunities the Scheme has that could enhance the water corridor and deliver a cycle path linking Wilton Lodge Park with Weensland.
- 5.12 The second public meeting focused on the area of the town between Laidlaw Terrace and Weensland. There were approximately ninety people who attended this Scheme walk and they appeared to share the same misconceptions of the Scheme that were identified on the first night. The Project Team were able to respond to queries regarding wall heights, dredging and visual impact. The visual impact was a particular area of concern in this area of the town due to the density of residential properties adjacent to the watercourse. The Project Team used visual aids to demonstrate the height of walls along

the Scheme and highlighted the mitigation measures to continue to allow visual and physical connection with the River Teviot.

- 5.13 The third meeting was a formal event in the Town Hall, chaired by Andrew Farquhar, where the Project Team (Project Executive, Project Manager & Design Manager) undertook a formal presentation and were available to answer any questions from the audience. Approximately one hundred and twenty five people attended the meeting. The meeting lasted three hours, with a forty-five minute presentation and over two hours of questions from the audience. The team provided answers to the following key question themes (amongst many others):

- Wall heights;
- Visual impact;
- Dredging;
- Natural Flood Management; and
- Alternative solutions to fixed walls;

The most poignant moment of the evening was when a resident from Duke Street reminded the audience in the room the emotional and mental trauma when your home has been devastated by flooding and still remains unprotected.

It was felt that just as during the two Scheme walks the Project Team were able to robustly defend the Proposed Scheme and the processes that it has followed to date as it has travelled from a concept through the Option Appraisal Process and Outline design.

- 5.14 At the end of the meeting members of public were encouraged to submit a ballot paper to confirm whether they 'I support the scheme', 'I am undecided' or 'I do not support the scheme'. The results showed:
- 58 people at the meeting supported the scheme;
 - 4 people at the meeting were undecided; and
 - 3 people at the meeting still did not support the scheme.
- 5.15 Following these community meetings the Project Team received confirmation from two objectors who reside within the area affected by the works and/or flooding, that they wished to voluntarily remove their objection to the Scheme. This left five objectors within this boundary and forty objectors out with this boundary at that point.
- 5.16 The Project Team re-engaged with the objectors following the evening meetings to continue to answer the concerns and identify if any further information regarding the proposed scheme, or commitments around the community involvement in the detailed design process, was required to allow the removal of individual objections.
- 5.17 Through the engagement process with the community there has been a clear desire from the community to be involved in the detailed design phase to help shape the hard and soft landscaping of the scheme. The Project Team will publish a Design Statement and are committed to the community being involved in the Detailed Design phase.
- 5.18 The Project Team have also committed to creating a community Traffic Management Working Group for the development of the plans for the Advanced Works and the Main Construction Period to enable public and business input into agreeing the best balance for the works and to keep the town functioning during these periods.

- 5.19 At the time of writing this report the status of objections is as follows:
1. The eight objectors within the area affected by the 1 in 75 year flood event and/or the works have removed their objections. Therefore there is no automatic referral to Scottish Ministers for a Public Local Inquiry;
 2. From the forty objectors, out with the affected zone, not all have removed their objections (4 removed and 36 upheld), however the Project Team have provided a considered and robust response to their concerns and there is no need to modify the scheme to address their objections. Some of these objectors have confirmed that they will not remove their objection despite the information provided and the remainder have not indicated that they wished to be contacted further.
 3. The Council can now make a Preliminary Decision without the need for a local hearing or a modification to the Scheme.

A full schedule of the engagement with the objectors is provided in **Appendix D**.

- 5.20 In accordance with the FRM, at the end of any 28-day objection period there are a number of different routes through which a Scheme can achieve approval. The route chosen is not optional but dependant on the specifics of, initially, the objections and, thereafter, the actions taken in dealing systematically with the objections. For example:

1. In the event that no valid objections were received then the Council must make a decision as detailed in Paragraph 4 of Schedule 2 of the FRM. For this Scheme, as forty-eight valid objections were received this route was not possible.
2. Paragraph 5 of Schedule 2 of the FRM provides for a situation where at least one valid objection is received. In this instance the Council must make a Preliminary Decision. This is the current position for this Scheme, therefore this report requests that the Council make that Preliminary Decision. This process is fully detailed in section 8 of this report.

6 PROGRESS UPDATE - DEEMED PLANNING CONSENT

- 6.1 Where a Scheme is confirmed under the FRM, the Council must request that the Scottish Ministers direct that planning permission for any development described in the Scheme is deemed to be granted. This is detailed in Section 65 of the FRM and Regulation 14 of the 2010 Regulations.
- 6.2 In order that the requirements of Regulation 14 of the 2010 Regulations are adequately addressed, the Project Team are currently assembling the information required by the Scottish Ministers. Scottish Borders Council Regulatory Services are also currently undertaking a full review of the Scheme from a planning perspective and will produce a report for submission to the Scottish Ministers to assist them in their consideration.
- 6.3 At this point there is no action required of the Council in relation to the Deemed Planning Permission part of the Statutory Approvals Process, therefore it is not proposed to discuss it further within this report.

7 PROGRESS UPDATE - THE CONTROLLED ACTIVITIES REGULATIONS LICENCES

- 7.1 Following detailed discussion between the Project Team and SEPA, it was determined that one Engineering licence under the Water Environment

(Controlled Activities) (Scotland) Regulations 2011 would be required. The key dates are as follows:

- This application was submitted to SEPA on 27 March 2017 and was confirmed as received by SEPA on 30 March 2017;
- The notice was published on 12 May 2017 and the associated objection period closed on 9 June 2017; and
- The draft licence was received from SEPA on 28 August 2017.
- The final licence was received from SEPA on 18 September 2017.

7.2 There is no further action required of the Council in relation to this CAR Licence part of the Statutory Approvals Process therefore it is not proposed to discuss it further within this report.

8 MAKING A PRELIMINARY DECISION FOLLOWING OBJECTIONS

8.1 The process through which the Scheme is being approved is contained within the FRM and its 2010 Regulations. There is no clear path through these pieces of legislation and at each stage the next step needs to be determined on the basis of the outcome of the previous step. The process is summarised in the Scheme's notice and the legislation legal process flow chart, a copy of both are provided in **Appendix E** of this report. In arriving at a point where the Council must make a Preliminary Decision the following points are noted:

- (1) The Scheme has been notified and has had a 28 day objections period, as is required of the process;
- (2) If no valid objections had been received then the local authority must make a 'decision where no valid objections are received' in accordance with Paragraph 4 (1) of Schedule 2 of the FRM;
As forty-eight valid objections have been received this is not possible;
- (3) Therefore the local authority (the Council) must make a 'Preliminary Decision following objections' in accordance with Paragraph 5 (1) of Schedule 2 of the FRM and as indicated in section 5.20 of this report;
- (4) Once the Preliminary Decision is made the Council must notify the objectors and offer them the opportunity to withdraw their objection in writing.

8.2 The following is a direct copy of Paragraph 5 (1) of Schedule 2 of the FRM:
Where, in relation to a proposed flood protection scheme, the local authority receives a valid objection, it must make a preliminary decision to –

- (a) Confirm the proposed scheme without modifications,*
- (b) Confirm the proposed scheme with modifications, or*
- (c) Reject the proposed scheme.*

8.3 Paragraph 5 (2) of Schedule 2 of the FRM instructs the local authority to consider any valid objections to the Scheme. Consideration of the valid objections by the Project Team was undertaken and this is reported in sections 5 of this report so that the Council can consider whether the project team have considered the objections robustly to support the recommendations of this report.

8.4 The Project Team believe that they have considered all of the objections robustly and provided appropriate responses and evidence to the objectors to answer their concerns, and have demonstrated that the Proposed Scheme is the best solution for the town taking account of all of the constraints and objectives of the project. The Project Team will produce a Detailed Design

Statement that commits to the formulation of groups within the community to help development of the hard and soft landscaping elements of the detailed design process. This position was agreed at Project Board on 19 September 2017.

- 8.5 Regulation 10 of the 2010 Regulations identifies that a local authority may not make a decision in relation to a flood protection scheme with an environmental statement unless they have taken into account the environmental information referred to in Regulation 10, Paragraph (3) of the 2010 Regulations. They must also state in their decision that they have done so.
- 8.6 On 19 September 2017 the Project Board approved the recommendation to Council that the Preliminary Decision should be made without modification to the Scheme. A summary of how the Project Team have met the requirements of the FRM and the 2010 Regulations is provided in **Appendix F**.

9 THE ENVIRONMENTAL STATEMENT

- 9.1 This is a comprehensive document and it is considered to be too detailed and too complex to summarise it in this report. A decision has therefore been taken to make the Environmental Statement available to members such that they can consider the environmental impact of the proposed Scheme before taking a Preliminary Decision. It will be available in the Members Support office for Members to review and at the following website link <http://www.hawickfloodscheme.com/finalscheme/>

10 REPRESENTATIONS

- 10.1 Three representations were made on the Scheme during the 28-Day Objections Period from persons/consultative bodies stipulated in the FRM and the 2010 Regulations and their representation must therefore be considered by members as environmental information as detailed in section 8.3 of this report. These representations are provided in **Appendix G** to this report and were from:
1. The River Tweed Commissioners;
 2. Scottish Natural Heritage; and
 3. SEPA.
- 10.2 In their email of representation the River Tweed Commissioners state: *'The River Tweed Commission (RTC) has engaged in detailed pre application discussions with Scottish Borders Council (SBC), SEPA and SNH, which has included attending SBC's Environmental Consent Working Group. This consultation process on the River Teviot at Hawick has proved to be constructive and extremely positive, and I take this opportunity to thank you for your consultation on the above proposal. The RTC is fully committed to this flexible approach working closely with other Agencies involved in this project.'*
- 10.3 In their letter of representation Scottish Natural Heritage state: *'There are natural heritage interests of national and international importance on the site, but in our view, these will not be adversely affected by the proposal.'*
- 10.4 In their email of representation SEPA state: *'We have no objection to the scheme'*

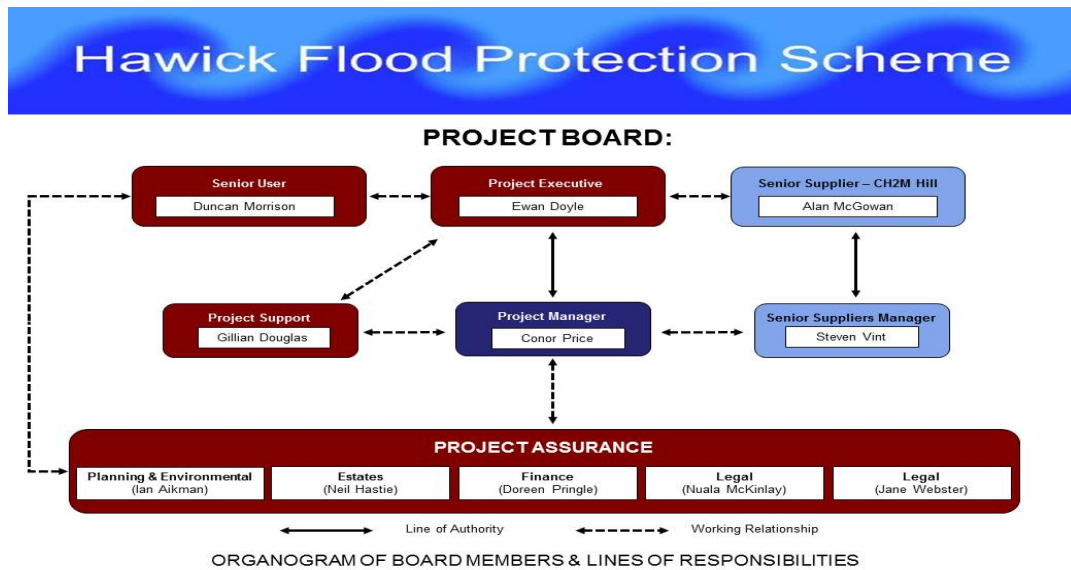
11 THE NEXT STEPS

- 11.1 Once the Preliminary Decision is made by the Council, notice must be given to every person who submitted an objection and which is considered by the Council in making their Preliminary Decision. This is in accordance with Paragraph 5 (3) of Schedule 2 of the FRM. In this instance there were forty eight objections received: of these thirty-six remain as four have been withdrawn, therefore notice will be provided to these remaining thirty-six.
- 11.2 It is within these notices issued to the objectors after the Preliminary Decision that the offer to withdraw their objection will be made. This is in accordance with Regulation 13 of the 2010 Regulations. It is the response of the objectors to that offer that will determine the remaining processes prior to the Final Decision under Paragraph 9 (1) of Schedule 2 of the FRM being made.
- 11.3 Further to section 11.2 of this report it is noted that there are effectively two categories of objectors, namely:
 1. Those from within the flooding and/or works areas (i.e. the 1 in 75 year flood event area and/or the construction works area). There are no - such objectors remaining; and
 2. Those from outside of the flooding and/or works areas (i.e. the 1 in 75 year flood event area and/or the construction works area). There are now thirty-six such objectors remaining.
- 11.4 Further to the definitions in section 11.3 of this report, as there are no objectors remaining within the 1 in 75 year flood event area and/or the construction works area, the Final Decision, in accordance with Paragraph 9 (1) of Schedule 2 of the FRM, can be made by the Council.
- 11.5 Further to section 11.4 it anticipated that the Project Board will authorise the project to advance a recommendation to Council to make a Final Decision under Paragraph 9 (1) at the Council meeting on 14 December 2017.
- 11.6 Further to section 11.4 of this report, it is noted that notwithstanding the rights of Council to take a Final Decision, there may remain outstanding objections from the 40 other objectors. The Council must therefore reflect on whether or not these objections and/or the themes identified within them have been appropriately considered by the Scheme before making a Final Decision.

12 COMMENCING THE NEXT STAGES

- 12.1 The project is being run through the PRINCE2 System for managing projects and in accordance with this system a Project Board is in place to manage the project.
- 12.2 The Project Board was established in early 2012 and has been there to manage the project since that point. The Board formally meets approximately every two months but members of the Board meet on an ad-hoc basis as required to allow the Project Executive and/or Project Manager to advance the project. A schematic of the Project Board's structure is provided in figure 12.2 below.

Figure 12.2 – The Project Board Organogram



12.3 The project is being advanced in discrete stages, which is in accordance with the PRINCE2 System, and these stages have been designed to align with the major stages in advancing a flood protection scheme. A schematic programme is provided in figure 12.3 that both illustrate the six discrete stages, but also the timescales associated with each of these stages.

Figure 12.3 – Schematic Programme (based on scenario with final decision to confirm Scheme in December 2017)

	2017	2018	2019	2020	2021	2022
Objection Resolution						
Scheme Confirmed	♦					
Detailed Design						
Advance Works						
Procurement						
Construction						

12.4 It is proposed that Scottish Borders Council provide the Project Board with the authority to commence the preparation for the Advanced Works (Public Utility diversions) and the Detailed Design stage to allow the project to keep to the current programme and the Council’s commitment to have Hawick protected from flooding by June 2021.

13 IMPLICATIONS

13.1 Financial

- (a) The current approved budget estimate for the project was determined in September 2016 during the Outline Design development stage and the drafting of the Environmental Statement, and at that time this

estimate informed the preparation of the emerging Capital Financial Plan. The proposed budget and profile was approved by Council on 9 February 2017 and subsequently adjusted with Executive approval to meet the timing of the Scheme progression and is as follows:

Table 13.1(a) – Approved Budget as per Executive Committee on 5 September 2017.

	Historic al costs	2017/ 18 £000s	2018/ 19 £000s	2019/ 20 £000s	2020/ 21 £000s	2021/ 22 £000s	TOTAL
Total Estimate 1	2,127	884	1,945	11,948	15,703	8,103	40,710

- (b) Following the finalisation of the Outline Design and Environmental Statement however, and a subsequent update to the quantified risk assessment in August 2017 (as part of the risk management strategy for the project), a revised budget estimate has been established as follows:

Table 13.1(b) – Current Scheme Estimate following Finalised Outline Design

	Historic al costs	2017/ 18 £000s	2018/ 19 £000s	2019/ 20 £000s	2020/ 21 £000s	2021/ 22 £000s	2022/ 23 £000s	TOTAL
Current Estimate	2,127	1,234	4,040	12,607	16,036	7,909	308	44,261

- (c) The capital scheme estimate which will be submitted into the capital financial planning process now has more certainty with the completion of the Outline Design and the identification of additional works and additional funding. The project has increased in value (£3,551M), but the Project Team have also brought in additional funding from partnering agencies. The total additional cost to Scottish Borders Council is £710k. The breakdown of the main changes are as follow:
- Commercial Road – complete replacement of the existing wall from river to cope. This has increased the cost of this section from £2.3M to £4.6M. An agreement has been reached with Transport Scotland to contribute £500k, with Scottish Government contributing £1.44M, and SBC fund the remaining £360k;
 - Scottish Water Waste-Water Treatment Works – Mansfield Road. The works are estimated to be £400k with Scottish Water contributing £80k, the Scottish Government contributing £320k, and SBC not required to contribute at all;
 - The Public Utility designs are ongoing, but the current estimate for this element is now £3.4M, which is £1.7M more than our available budget for this. The Scottish Government contribution would be £1.36M and SBC would then fund the remaining £0.34M. These costs will be refined by the end of 2017 to give a more robust estimate;
 - Project and Council Management estimate has now been updated to

reflect the staffing model of internal and external resources that were used to successfully deliver the Selkirk Flood Protection Scheme which has just been completed. It is seen as critical to resource this Scheme appropriately given the sheer scale of the project, the complexity, and the number of stakeholders and people in Hawick that the project team will need to interact with over the coming years;

- The Works estimate currently contains a 25.8% level of Optimism Bias as per the Treasury Green Book and the approved methodology of KPMG when auditing the Selkirk FPS; and
- The District Valuer has provided input into the Land & Compensation estimate for the project and this will be updated by the end of the 2017.

(d) Table 13.1 (d) provides a summary of the funding contributions towards the project.

Table 13.1(d) –Funding Summary (Based on £44,261M budget estimate)

Funder	Estimated Contribution (£000s)
Scottish Government	34,763
Scottish Borders Council (Capital)	8,918
Transport Scotland	500
Scottish Water	80
TOTAL	44,261

- (e) While the updated estimate for the project details a potential increase in cost to Scottish Borders Council of £710k from the proposed budget approved in February 2017, it is not proposed to change the £40,710M estimate at this point in time as the project team are still pursuing returns from the Public Utility companies and undertaking a detailed evaluation of the potential Land & Compensation costs. Furthermore, the quantified Risk Register will be re-evaluated following which is appropriate as the Scheme advances. If the Scheme successfully negotiates that Statutory Approvals Process the estimate will be re-assessed in the report to Council to make the Final Decision to 'Confirm' the Scheme. (It should also be noted that all these costs are pre-tender estimates which will be competitively tendered in the marketplace).
- (f) The Scheme is 16th on the national priority list and the Scottish Government has funded 80% of cost incurred to date and confirmed funding at the same intervention rate for 2017/18 and part of 2018/19. This equates to a commitment to date of £3,647M.
- (g) The current estimated total Scottish Government funding, based on an 80% intervention rate, would equate to £32,545M, based on the approved Capital Financial Plan.
- (h) In 2013 the Project Team provided an assessment of the Benefit Cost Ratio for the project, based on the Total Avoided Damages (or Benefits), calculated in line with the DEFRA FCERM-AG and following best practice using "The Benefits of Flood and Coastal Risk

Management: A Manual of Assessment Techniques” (Flood Hazard Research Centre, 2005), often referred to as the Multi Coloured Manual. The Multi Coloured Manual method provides the user with mechanisms to estimate the likely damages caused by flooding. The manual includes methods to assess the following types of damages: (i) damage to residential properties and the expense of clearing; (ii) damage to non-residential properties and the expense of clearing up; (iii) damage to agricultural land and the expense of clearing up; (iv) damage as a consequence of the closure of transport links; (v) expense incurred by emergency services; (vi) damage caused by the loss of energy supply; and (vii) intangible damage caused by flooding e.g. stress and poor health. The costs of these damages are not specific costs that would be incurred by SBC: they are the total costs that could be expected to be borne by all parties in the event of the flood being realised. The original table is provided below: Table 7.1(d)- BCR Summary of 2013 Preferred Scheme

Detail of the Preferred Scheme Total Scheme Cost (By cell)				
Cell No.	Cell Name	Present Value Costs (Q3 2012)		
		Capital & Maintenance Costs	Benefits	Benefit to Cost Ratio (BCR)
1	Volunteer Park, Hawick High School & Sandbed	£4,594,784	£16,453,987	3.58
2	Common Haugh & Commercial Road	£4,684,635	£21,734,876	4.63
3	Teviot Road, Teviot Crescent & Laidlaw Terrace	£4,182,320	£8,907,724	2.13
4	Duke Street	£3,505,975	£17,216,378	4.91
5	Mansfield Road (including HRFC to SBC Depot)	£8,726,800	£17,463,660	2.00
6	Weensland	£2,284,447	£2,617,206	1.26
7	Natural Flood Management (NFM)	£0	£0	0
TOTALS		£27,968,961	£84,393,831	3.02

- (i) The 2013 Preferred Scheme provided an average Benefit Cost Ratio of 3.02 across all six cells and this information was used as supporting evidence to obtain a placing on the SEPA priority funding list for 2016 to 2022. Based on the current estimated cost of £40,710M and with no inflation added to the original benefits derived of £84,393M the updated Benefit Cost Ratio is 2.08 maintaining a positive benefit for the public money that will be invested.

- (j) If we were to apply inflation to the calculated benefits, following the BCIS index for construction inflation, the benefits at today's prices would be increased by 30.05% (£109,754M), equating to a Benefit Cost Ratio of 2.69.

13.2 Risk and Mitigations

- (a) The Scheme has received forty-eight objections which could cause the Scheme to be deferred to a Public Local Inquiry. The Project Team have mitigated this risk with the comprehensive responses to each objector, the meetings and the public events. This has resulted in eight objectors within the flood zone and land affected by the work to voluntarily remove their objections. The Council would then make the decision on whether or not to hold a Local Hearing if it determined that the project team had not appropriately and robustly considered the objection out with the affected zones.
- (b) The District Valuer continues to evaluate the estimate for potential compensation. The risk of exposure to compensation claims has increased in Commercial Road with the current development of a new Aldi store and a distillery. The Project Team are working very closely with both developers to understand the interfaces with the proposed project and how to mitigate any issues.
- (c) The Final Outline Design contains a number of risks that will need to be investigated and mitigated at the Detailed Design stage. The Project Team have identified the risks and quantified their impact for inclusion in the project's budget estimate.
- (d) The Project Team are currently developing a strategy to deal with flood risk during construction. This involves the detailed modelling of several scenarios to find the best sequence of the work and identify the remaining risk for the Main Works Contractor to control.
- (e) The Hawick Flood Protection Scheme is 16th on the national priority list and Scottish Government has funded 80% of cost incurred to date and confirmed funding at the same intervention rate for 2017/18 and part of 2018/19. This equates to a commitment to date of £3,647M. On the current programme for delivery the project is in a good position to receive the funding for the construction period, however delay will put at risk the protect delivery by March 2022 and the potential funding for the scheme.

13.3 Equalities

There are no effects at this stage of the project.

13.4 Acting Sustainably

There are no effects at this stage of the project.

13.5 Carbon Management

- (a) The construction of a flood protection scheme will generate a carbon footprint through the construction of the reinforced concrete walls and sheet piling. This is unavoidable in Hawick to deliver the project objective of a 1 in 75 level of protection with a 100 year design life.
- (b) The impact has been mitigated by delivering a lower level of protection for direct defences and focusing on up-stream Natural Flood Management provisions to increase the level of protection in future

years.

- (c) Carbon will be reduced by the scheme with the removal of flood risk below 1 in 75 and the associated works to repair infrastructure and property after every event.

13.6 Rural Proofing

Not applicable.

13.7 Changes to Scheme of Administration or Scheme of Delegation

Not applicable.

14 CONSULTATION

- 14.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer HR, the Clerk to the Council and Corporate Communications have been consulted and comments received have been incorporated into the final report.

Approved by

Martin Joyce

Service Director Assets & Infrastructure – Signature

Author(s)

Name	Designation and Contact Number
Ewan Doyle	Project Executive – 01835 825124
Conor Price	Senior Project Manager – 01835 826765
Steven Vint	CH2M Design Manager

Background Papers: 28 March 2013, 29 September 2016, 23 February 2017

Previous Minute Reference:

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, Place, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA, Tel 01835 825431, Fax 01835 825071, email eitranslationrequest@scotborders.gov.uk.