
**FLOOD RISK MANAGEMENT (SCOTLAND) ACT 2009
APPROVAL OF LOCAL FLOOD RISK MANAGEMENT PLANS TO
BE PUBLISHED ON 31 DECEMBER 2022**

Report by Director Infrastructure and Environment

SCOTTISH BORDERS COUNCIL

15 December 2022

1 PURPOSE AND SUMMARY

- 1.1 This report proposes that the Council approve the Local Flood Risk Management Plans for the Forth Estuary Local Plan District, the Tweed Local Plan District and the Solway Local Plan District. This approval is required to allow for publication of the Local Flood Risk Management Plans in Scotland on 31 December 2022.**
- 1.2 The Flood Risk Management (Scotland) Act 2009 (FRM Act) requires the production of Local Flood Risk Management Plans covering each Local Plan District (LPD) in Scotland. Scottish Borders Council's area falls within 3 of the 14 Local Plan Districts in Scotland. These are Forth Estuary Local Plan District, Tweed Local Plan District and Solway Local Plan District.
- 1.3 Under FRM Act there are two sets of complementary plans; the SEPA Flood Risk Management Plans, approved by Scottish Ministers and subsequently published by the Scottish Environment Protection Agency (SEPA) in January 2022 and Local Flood Risk Management Plans produced by Lead Authorities to be published 31 December 2022. Scottish Borders Council is the Lead Authority for Tweed Local Plan District.
- 1.4 The SEPA Flood Risk Management Plans and Local Flood Risk Management Plans have been developed through collaborative partnerships between Local Authorities, SEPA, Scottish Water and other stakeholders.
- 1.5 The SEPA Flood Risk Management Plans and Local Flood Risk Management Plans provide a framework for co-ordinating actions across catchments to deal with all sources of flooding. These plans ensure long term planning around flooding and under Section 41(2) of the FRM Act, Scottish Ministers must take them into account when allocating funding. This approach helps target investment to areas where there is the greatest risk of flooding and where communities can receive the greatest benefit. This will help to maximise the benefit of public investment.
- 1.6 The Local Flood Risk Management Plans take the objectives and actions identified in the SEPA Flood Risk Management Plans and set out who will

be responsible for delivering the action, how the action will be funded, a timetable for when the action will be delivered and how it will be co-ordinated within the second FRM Cycle 2022 - 2028.

- 1.7 There is now a need to obtain the Council's approval of the Forth Estuary Local Flood Risk Management Plan, the Tweed Local Flood Risk Management Plan and the Solway Local Flood Risk Management Plan prior to the national publication date of 31 December 2022. Although the Council has an interest in only one Potentially Vulnerable Area (PVA) in both the Forth Estuary (PVA 02/10/28 – Berwickshire Coast) and Solway (PVA 02/14/04 – Newcastleton) Local Plan Districts there is a requirement through legislation for both plans in their entirety to be approved.

2 RECOMMENDATIONS

- 2.1 **I recommend that Scottish Borders Council approves the:-**

(a) Forth Estuary Local Flood Risk Management Plan;

(b) Tweed Local Flood Risk Management Plan;

(c) Solway Local Flood Risk Management Plan;

for delivery by the Council as part of the Flood Risk Management Planning Cycle 2022 -2028.

3 BACKGROUND INFORMATION

- 3.1 The Flood Risk Management (Scotland) Act 2009 (FRM Act) requires the production of Flood Risk Management Plans covering each Local Plan District in Scotland.
- 3.2 There are two sets of complementary plans required; SEPA Flood Risk Management Plans produced by the Scottish Environment Protection Agency (SEPA), and Local Flood Risk Management Plans produced by the Lead Local Authorities.
- 3.3 The Lead Authority of each local plan district is responsible for leading in the production, consultation, publication and review of the Local Flood Risk Management Plan for their district.
- 3.4 There are 14 local plan districts in Scotland. The Scottish Borders falls within 3 of these local plan districts, namely the Forth Estuary, Tweed, and Solway. Falkirk Council is Lead for the Forth Estuary, Scottish Borders Council is Lead Authority for the Tweed, and Dumfries and Galloway Council is Lead Authority for the Solway.
- 3.5 The SEPA Flood Risk Management Plans produced by SEPA identify the main flood hazards and impacts, sets out objectives for reducing flood risk and prioritises actions to achieve these objectives.
- 3.6 The Local Flood Risk Management Plans take the objectives and actions identified in the SEPA Flood Risk Management Plans and sets out who will be responsible for delivering the action, how the action will be funded, a timetable for when the action will be delivered, and how it will be co-ordinated within the six-year cycle.
- 3.7 The Tweed Local Plan District has 12 Potentially Vulnerable Areas, 11 of which are within the Scottish Borders Council's authority area and one which falls within the South Lanarkshire Council's authority area, namely Biggar, (PVA 02/13/01).
- 3.8 The Forth Estuary Local Plan District has 30 Potentially Vulnerable Areas, one of which is within the Scottish Borders Council's authority area, namely the Berwickshire Coast, (PVA 02/10/28).
- 3.9 The Solway Local Plan District has 24 Potentially Vulnerable Areas, one of which is within the Scottish Borders Council's authority area, namely Newcastleton (PVA 02/14/04).
- 3.10 Both the SEPA Flood Risk Management Plans and the Local Flood Risk Management Plans were developed collaboratively by SEPA, Local Authorities and Scottish Water. Both the SEPA plans and local flood risk management were subject to a combined public consultation prior to publication on 31 December 2022.
- 3.11 In addition, the engagement and support of local and national advisory groups has been sought during the development of the SEPA Flood Risk Management Plans and Local Flood Risk Management Plans.

3.12 The SEPA Flood Risk Management Plans and the Local Flood Risk Management Plans give details on a number of objectives and the actions to fulfil these objectives. The actions taken forward within the Local Flood Risk Management Plans are:-

PVA/OTA Specific Actions

- Community engagement
- Community flood alert
- Community resilience group
- Data collection
- Emergency plan
- Flood defence maintenance
- Flood scheme or works implementation
- Flood scheme or works design
- Flood study
- Flood study (option appraisal)
- Flood warning maintenance
- Flood warning scoping
- Property flood resilience scheme
- Sewer flood risk assessment
- Shoreline management plan
- Strategic mapping improvements
- Surface water management plan
- Natural flood management works;
- New flood warning;
- Flood protection study;
- Natural flood management study;
- Surface water plan/study;

LPD Wide actions

- Awareness raising;
- Data to support climate resilience
- Emergency plans
- Flood forecasting;
- Flood warning development framework
- Guidance development
- Hazard mapping updates
- Land use planning
- Maintenance
- Natural flood management mapping
- National flood risk assessment
- National surface water mapping
- Reservoirs
- Scottish Flood Defence Asset Database
- Self help
- Future flood risk management planning

3.13 In combination the SEPA Flood Risk Management Plans and the Local Flood Risk Management Plans determine how flood risk will be managed across the Scottish Borders through the three appropriate Local Plan Districts, namely the Forth Estuary, the Tweed and the Solway during the second Flood Risk Management Cycle 2022 – 2028.

3.14 The second flood risk management cycle will run from 2022 to 2028

- See Appendix 1 – Tweed LPD Local Flood Risk Management Plan 2022 – 2028
- See Appendix 2 – Tweed LPD Main Actions Indicative Delivery Plan
- See Appendix 3 – Solway LPD Local Flood Risk Management Plan, PVA 02/14/04 Newcastleton
- See Appendix 4 - Forth Estuary LPD Local Flood Risk Management Plan, PVA 02/10/28 Berwickshire Coast

4 IMPLICATIONS

4.1 Financial

- (a) This report does not have any immediate financial implications with respect to developing the Local Flood Risk Management Plans as funding is included in the Flood & Coastal Management revenue budget.
- (b) The report does have future financial implications with respect to delivery of actions within the Local Flood Risk Management Plans. A number of existing actions are currently funded and consequently have been included in the plans. This assumes that funding will continue for these actions through the Flood & Coastal Management Budget.
- (c) The report also has future financial implications with respect to the implementation of future flood protection schemes. The funding mechanism for implementation of actions, in particular the larger flood protection schemes, is currently under review by COSLA and the Scottish Government. Funding for selected schemes is not anticipated until 2026 onwards, there is no allocation in the Council's 10 year Capital Plan for delivery of the flood protection schemes proposed in the 2022 – 2028. This will be kept under review until such time a decision has been made at a national level on the funding mechanism for flood protection schemes.
- (d) Please note however, that the Hawick Flood Protection Scheme is currently funded through to scheme completion and is included in the Council's 10 year capital plan

4.2 Risk and Mitigations

- (a) A risk is the non-approval of the Local Flood Risk Management Plans and the reputational damage to the Council including public accountability. The Council has been consulted on and approved key stages of the process. Council approval was given for the draft Local Flood Risk Management Plan in May 2021 which led to SEPA publishing the SEPA Flood Risk Management Plans in January 2022. Should the Council not approve the Local Flood Risk Management Plans, Scottish Ministers would be notified as required in Section

36(2) of the Flood Risk Management (Scotland) Act 2009 and would determine the content of the Local Flood Risk Management Plans. There is no mitigation for this but there is a reputational risk to Scottish Borders Council if these actions are not delivered.

- (b) There is also a risk that the nature of the future funding or funding mechanism from the Scottish Government impacts upon the delivery of the proposed future flood protection schemes.

4.3 Integrated Impact Assessment

The Local Flood Risk Management Plans are aimed at reducing the wider flood risk in the Scottish Borders and will have a beneficial impact on communities as whole.

4.4 Sustainable Development Goals

The Local Flood Risk Management Plans are developed and delivered through the Flood Risk Management (Scotland) Act 2009 which has, as its core principle, the need to act sustainably.

4.5 Climate Change

The implementation of actions, in particular construction projects will be assessed in detail through detail design and delivery of such projects to ensure that these are delivered in a sustainable and climate friendly manner. The delivery of such actions will be offset by the benefits in reducing the impacts of flooding.

4.6 Rural Proofing

It is anticipated there will be no adverse impact on the rural area from the proposals contained in this report.

4.7 Data Protection Impact Statement

There are no personal data implications arising from the proposals contained in this report.

4.8 Changes to Scheme of Administration or Scheme of Delegation

No changes required.

5 CONSULTATION

- 5.1 The Director (Finance & Corporate Governance), Chief Legal Officer, the Chief Officer Audit and Risk, the Director (People Performance & Change), the Clerk to the Council, Communications, Director (Resilient Communities) have been consulted and any comments received have been incorporated into the final report.

Approved by

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Title
Director – Infrastructure & Environment

Author(s)

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Background Papers:

[Tweed Local Plan District Flood Risk Management Plan](#)
[Solway Local Plan District Flood Risk Management Plan](#)
[Forth Estuary Local Plan District Flood Risk Management Plan](#)

Previous Minute Reference:

[Item 6 – Scottish Borders Council, 27 May 2021](#)

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

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