

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE: 7 MAY 2002

THE FUTURE FOR SCOTLAND'S WATERS – PROPOSALS FOR LEGISLATION

Report by Director of Development Services

1. PURPOSE OF REPORT

- 1.1** To outline the Scottish Executive's second consultation paper on the future management of the water environment in Scotland, to seek committees views on the document as it relates to development planning and to homologate the action taken to date by the Director of Development Services.

2. BACKGROUND

- 2.1** A report on the Scottish Executive's first consultation paper entitled Rivers, Lochs and Coasts: The Future for Scotland's Waters was approved by the Development Services Committee on 23 October, 2001. Responses to the first consultation paper were used by the Scottish Executive to inform the development of the second paper.
- 2.2** The second consultation paper is important as it concentrates on the Scottish Executive's proposals for the Water Environment and Water Services Bill which will be introduced in the Scottish Parliament later this year. The Water Services provisions of the bill are not however covered in the second consultation paper as it is the subject of a separate consultation exercise. The Bill is the Scottish Executive's response to the Water Framework Directive which came into force on 22 December 2000.
- 2.3** A response to the current consultation was required by 5 April 2002 and the comments contained in this report were submitted by this date. These could be modified if required by the Committee.

3. CONTENT OF THE SECOND CONSULTATION DOCUMENT

- 3.1** Much of the content of the second consultation document is peripheral to the development planning system in Scotland. The matters highlighted below therefore are those that have a direct bearing on the planning system and the responsibility that East Ayrshire Council has as planning authority.
- 3.2** The second paper confirms the proposal of the first consultation paper that River Basin Management Plans (RBMP) should provide a reference point for all forms of planning that affect the quality of the water environment. One River Basin District to cover all of Scotland is planned but the Bill itself will not prescribe how many river basin districts there will be. Instead it will contain provisions to give the Minister powers to introduce regulations to identify the river basin districts by defining their geographical boundaries. However, the

Bill will also contain provisions for SEPA and other relevant authorities to establish 'sub' river basin plans for particular catchments within river basin districts or for certain sectors, issues or water types to deal with particular water management issues.

3.3 It is proposed that RBMP will

- Provide an overview of the area describing how human activities impact on the water environment;
- Identify the consequences for water users of the European Water Framework Directive;
- Detail the environmental objectives that apply to each water body in the district and include site specific justification where derogations from the Directive's main objectives should apply;
- Provide a map base to aid understanding of the state of the water environment and objectives.

3.4 The consultation document proposes that SEPA should be the lead authority for river basin management planning and that it will be important for SEPA to balance environmental, social and economic needs in determining environmental objectives. The need for close integration with development planning is stressed and that development plans should apply and interpret the water environment priorities contained in the RBMP in terms of development constraints. Similarly the consultation paper states that RBMP should take account of the future development needs of an area.

3.5 The consultation paper proposes that the Bill would give SEPA a duty to submit, following stakeholder involvement (see para 3.6 below), the finalised RBMP to the Minister for approval, or modification. If conflicts of interest cannot be resolved between SEPA and stakeholders the Minister would require that a report be submitted by SEPA along with the finalised RBMP.

3.6 The consultation paper acknowledges that extensive and effective consultation must be an integral part of the process of preparing RBMP, and that this process, as far as possible, should be open and transparent. Specifically the Bill would propose that SEPA shall:

- establish a network of consultative fora for each river basin district;
- publish and consult on a timetable and work programme for RBMP;
- prepare an interim review of water management issues two years before finalisation of the RBMP;
- prepare full draft plans one year before finalisation;
- makes copies of the above documents and background papers available for public inspection at their offices.

3.7 It is anticipated that the bill would provide a general definition of the water environment subject to the water Framework Directive. Wholly artificial treatment and distribution networks including Sustainable Urban Drainage Systems would be excluded from the definition as will artificial wetlands,

ponds and reedbeds that have been created for the purpose of treating waste water.

- 3.8** For those water environments or types included within the definition the Bill will require RBMP to set specific environmental objectives for each body of water, bearing in mind the Directive's target that all surface and ground water environments should have a "good" status by 2015. The Directive however gives some flexibility in terms of target setting for bodies of water that have been significantly altered in the past or that have been subject to industrial or other activities where the achievement of "good" status may not be feasible or disproportionately expensive.

4. COMMENT

- 4.1** The second consultation paper addresses a very challenging agenda. However, as with the first consultation paper, it lacks clarity and precision particularly over the role and responsibilities of stakeholders such as Councils. The roles that Councils are expected to play are not clear nor is the relationship between RBMP and development planning sufficiently developed. Accordingly, it is considered that many of the comments provided for the first consultation paper still apply.
- 4.2** Getting the relationship right between River Basin Management Plans and Development Planning under the Town and Country Planning (Scotland) Act 1997 will be crucial to the successful management of the water environment. Although the merits of having one large River Basin District are appreciated, it is considered very important that sub river basin districts are identified that closely relate to the Development Planning framework. A sub river basin district covering Ayrshire, so that full integration with the Ayrshire Structure Plan and Local Plans can be achieved, is seen as essential.
- 4.3** Equally essential is the need for sub river basin management plans to integrate with and support Council approved local development strategies that tackle inequalities in the social and economic environment.
- 4.4** It is not clear from the document whether a range of authorities will have the responsibility to prepare sub river basin management plans, para 1.26 stating that "... SEPA and other bodies can initiate "sub river basin plans" where a need for one is identified". It is considered that the role of local authorities should be clearly articulated in the sub river basin management plan process. Links with the Development Planning and Planning Application process should similarly be made clear.
- 4.5** Notwithstanding the above it is accepted that SEPA should take the lead role in the preparation of River Basin (or Sub River Basin) Management Plans. However, environmental objectives within RBMP should not be seen in isolation and should be obliged to accommodate social and economic or development priorities contained within Development Plans and other local authority strategy documents where these have been subject to wide ranging consultation and the involvement of SEPA. RBMP should not dictate the

content of Development Plans nor should Development Plans dictate the content of RBMP. If there are unresolved issues (see para. 1.19) objectors to the content of RBMP should have the opportunity to submit their views to Scottish Ministers independently of SEPA. An objection process must therefore be contained in any RBMP procedures.

- 4.6** In addition to making available plans at their offices, SEPA should be responsible for circulating draft and final versions of RBMP (or sub-basin plans) to local authorities or public organisations, and to all that have taken part in any consultative fora. Copies of plans should also be made available at public libraries with a note of the procedures that have been and require to be followed.
- 4.7** The comments above relating to environmental objectives within Development Plans and other local authority strategies are equally relevant to the development of action plans. Any “Programme of Measures” (para 2.5) should be supportive of wider social and economic priorities. Specific objectives (para. 2.10-2.11) should only be set following consultation with local authorities and should be complementary to Development Plans.
- 4.8** The logic of removing SUDS (para 2.7) from the list of waters that will be protected by the Bill is acknowledged and supported.
- 4.9** The impact of any cost recovery proposals on economic and social development proposals must be given priority in the development of specific objectives in RBMP or sub basin plans. Sub river basin management plans should explicitly identify the impact of any objectives in socio-economic terms, not just environmental terms.
- 4.10** It is accepted that a new regulatory regime will be required to fully meet the requirements of the Water Framework Directive, although in many instances current practice and procedures can be transferred. However it is considered essential that any new regulations or procedures should fully complement existing planning regulations and procedures.
- 4.11** Whilst it is accepted that SUDS could become mandatory, this must not be at the expense of regeneration initiatives, the re-use of brownfield land, or development per se, nor impose any additional maintenance responsibilities on local authorities.

5. POLICY IMPLICATIONS

- 5.1** None directly arising out of the consultation paper other than that future Structure and Local Plans and Action Plans prepared to co-ordinate the delivery of new development proposals will require to be complementary to RBMP. The RBMP may therefore have an impact on the location and rate of future development. This was evident in the Local Plan Inquiry wherein potential constraints to development were identified in Mauchline, Kilmarnock, Auchinleck, Hurlford, Galston and Kilmaurs under the current arrangements. It will be important for the RBMP and the Local Plan to continue to set out a

strategic framework for collaborative action to resolve some of these issues and to overcome constraints to development.

- 5.2 RBMP's will further complicate the development planning process with another set of overlapping plans. But they may provide an effective framework to agree collaborative action to overcome development constraints.

6. PERSONNEL/FINANCIAL IMPLICATIONS

- 6.1 None directly arising out of the report. The extent to which officers will be involved in the development of sub river basin management plans is impossible to establish from the consultation paper.

7. RECOMMENDATION

- 7.1 It is recommended that Committee agree that the comments contained in Section 4 of this report and homologate the action taken to date by the Director of Development Services.

Stephen Chorley
Director of Development Services

16 April 2002
(KD/MS)

LIST OF BACKGROUND PAPERS

1. **Report by Director of Development Services to Development Services Committee, 23.10.01, Rivers, Lochs and Coasts.**

For further information on the contents of this report contact Karl Doroszenko, Policy & Projects Manager. Telephone 01563 576790.

Implementation Officer: Alan Neish

AGENDA