A photograph of a river flowing through a lush green forest. The river is the central focus, with water that appears slightly turbulent. The banks are lined with dense, vibrant green trees and foliage. In the background, a range of brown, hazy mountains stretches across the horizon under a cloudy sky. The overall scene is a natural, scenic landscape.

**Comrie Flood Protection Scheme
Environmental Impact Assessment
Report
Chapter 2: Flood Act Remit &
Policy Background**

Document Control

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2. FLOOD ACT REMIT & POLICY BACKGROUND

2.1 Introduction

- 2.1.1 The original Screening Opinion received from Perth & Kinross Council (the Council) Planning Service in June 2017, suggested the inclusion of a 'Flooding Act Remit & Policy Framework Background' topic confirming that whilst being considered under the terms of the Flooding Act and not the Planning Act, they believed it would still be beneficial for the EIA to include a chapter to set out current planning policies and guidance relevant to the status of the proposals.
- 2.1.2 This chapter therefore summarises the overall key legislations, regulations and policies relating to flood risk management with respect to the proposed flood protection scheme in Comrie (the 'Scheme'). The legislative context is described below with respect to both the flood act remit and planning policy.
- 2.1.3 Specific legislation and policy relevant to each of the EIA topics is considered within the proceeding technical chapters (**Chapters 5 – 11**).

2.2 Legislative Context - Flooding

Water Framework Directive (2000/60/EC) and the Water Environment and Water Services (Scotland) Act 2003

- 2.2.1 The Water Framework Directive (WFD) applies to all water in the natural environment; the directive was implemented to achieve a good qualitative and quantitative status of EU water bodies. Over a period of three years the directive was transposed into Scottish Law - this was completed in 2003 under the Water Environment and Water Services Scotland Act 2003 (WEWS).
- 2.2.2 Demonstration that the Scheme will not have detrimental impact on the affected watercourses of the scheme extents is provided within **Chapter 6: Water Environment & Fluvial Geomorphology**.

The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (and further amendments 2013 & 2017)

- 2.2.3 The regulations known as 'CAR' Regulations permit the control of activities which can affect the water environment. An element of the Scheme may be required to be consented under the CAR regulations, however this will be confirmed during the detail design phase.

Flood Directive (2007/60/EC)

- 2.2.4 The Flood Directive requires Member States to take adequate and coordinated measures to reduce flood risk. The legislation aims to reduce and manage the risks that floods pose to human health, the environment, cultural heritage and economic activity and identify areas at significant risk in order to produce flood hazard and risk maps.

Flood Risk Management (Scotland) Act 2009

“An Act of the Scottish Parliament to make provision about the assessment and sustainable management of flood risks, including provision for implementing European Parliament and Council Directive 2007/60/EC; to make provision about local authorities’ and the Scottish Environment Protection Agency’s functions in relation to flood risk management; to amend the Reservoirs Act 1975; and for connected purposes.”

- 2.2.5 In accordance with the Flood Directive, the Flood Risk Management (Scotland) Act 2009 (hereafter, the ‘FRM Act’) was enacted by the Scottish Parliament introducing a more sustainable and modernised approach to flood risk management in Scotland.
- 2.2.6 Any proposed flood protection scheme must be published in accordance with the FRM Act.

The Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010

- 2.2.7 These regulations followed on from the FRM Act and set out the requirements which should be followed with respect to Environmental Impact Assessment (EIA) process.

The Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Amendment Regulations 2017

- 2.2.8 These regulations came into force on the 16th May 2017 in line with the Revised EIA Directive 2011/92/EU and amend the flood risk management regulations made in 2010.
- 2.2.9 The introduction of these regulations introduced new factors to be assessed in the EIA assessing the direct and indirect significant effects of the scheme and the interaction between the following factors; population and human health; biodiversity; land, soil, water and climate; and material assets, cultural heritage and the landscape.
- 2.2.10 In agreement with the Council, the Scheme will be published in accordance with the most up to date 2017 Flood Risk Management Regulations taking account of the new factors introduced. Further detail on the approach and methodology applied in the EIA is provided in **Chapter 4: Approach to Assessment**.

Tay Flood Risk Management (FRM) Strategy, SEPA December 2015 & the Local Flood Risk Management Plan - Tay Local Plan District, published by Perth & Kinross Council June 2016

- 2.2.11 Within SEPA’s document, Comrie is identified as a potentially vulnerable area - an area where flooding is considered to be nationally significant. Comrie is ranked number seven on the National Priority List for flood risk.
- 2.2.12 The Strategy documents provide the Council with an action to manage the identified local flood risk.

2.3 Legislative Context - Planning Policy

- 2.3.1 Policies relevant to the EIA topics considered in this EIAR are discussed in each of the technical chapters as appropriate. The following hierarchy of planning policies are considered throughout the EIA and include (but are not limited to) policies described in **Table 2.1**.

Table 2.1 – Relevant Planning Policies

Scottish Planning Policy (SPP)	National Planning Policy 3 rd Edition (NPF)
TAYplan Strategic Development Plan (2016- 2036)	
Local Development Plan 2 (adopted 29th November 2019)	

Scottish Planning Policy and the National Planning Framework

- 2.3.2 The purpose of Scottish Planning Policy (SPP)¹ is to set out Scottish Government policy on how nationally important land use planning matters should be addressed across the country.
- 2.3.3 The National Planning Framework (NPF)² is the Scottish Government’s strategy for Scotland’s long-term spatial development. Together, the SPP and NPF are used to prepare strategic and Local Development Plans.

TAYplan Strategic Development Plan (2016 – 2036)

- 2.3.4 Approved by Scottish Ministers in October 2017, TAYplan sets the overall planning vision for the next 20 years for the whole Dundee and Perth area, including North Fife and parts of Angus and Perth and Kinross.
- 2.3.5 ‘By 2036 the TAYplan area will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a

¹ <https://www.gov.scot/publications/scottish-planning-policy/pages/2/> (June 2014)
² <https://www.gov.scot/publications/national-planning-framework-3/> (June 2014)

place of first choice where more people choose to live, work study and visit and where businesses choose to invest and create jobs.’

- 2.3.6 Each of the four councils in the TAYplan area, prepares their own Local Development Plan to reflect the Strategic Development Plan and to identify specific sites and consider local specific issues.

Perth and Kinross Local Development Plan 2

- 2.3.7 The Local Development Plan 2 (LDP2) provides a local context to how Perth & Kinross Council are working towards the Vision set out in the Strategic Development Plan. The LDP identifies land being allocated to meet the area’s development needs to 2029 and beyond and sets out the planning policies applied in promoting the sustainable economic growth of the area over this period.
- 2.3.8 The LDP is revised every 5 years to ensure that an up to date Plan is in place to guide future development in the area. The Perth and Kinross Local Development Plan 2 was adopted on 29th November 2019 and covers the areas development needs to 2029 and beyond.
- 2.3.9 The current LDP2 has been considered in the EIAR to inform decision-making. **Table 2.2** summarises the relevant policies which have been considered in the Scheme and how these policies have been complied with in the EIA and outline design.

Table 2.2 – LDP2 Planning Policies

Local Development Plan 2 Policies	Comment
Policy 1: Placemaking	The character and amenity of the place has been assessed and considered in the design which includes landscaping and planting. The design has also considered climate change, mitigation and adaptation.
Policy 9: Caravan Sites, Chalets and Timeshare Developments	The existing Comrie Holiday Park has been accounted for in the design process presented and consultation has been undertaken with the owners.
Policy 14: Open Space Retention and Provision	Areas of open space have been assessed and accounted for in the design process. Consultation has been undertaken with the community to understand the value of open space and ensure that the needs of the community are accounted for, retention of open space for use where possible has been a focus of the design.
Policy 15: Public Access	Public access routes including core paths and Right of Ways (RoWs) have been considered in the design and accounted for in the Scheme proposals.
Policy 16: Social and Community Facilities	Areas used for community purposes have been assessed and accounted for in the design process. An alternative location for community purposes formerly located on the boulevard has been proposed at Legion Park, whereby the entrance into Legion Park could be upgraded to accommodate future events as part of the scheme construction.
Policy 17: Residential Areas	Improvements to the open space amenity areas have been included in the design process where possible in keeping with the character and environment of the town.
Policy 26: Scheduled Monuments and Archaeology	Cultural heritage assessment has been undertaken which has informed the design process. Consultation has been undertaken with the Council to ensure that the scheme is appropriate and sympathetic in its appearance

Local Development Plan 2 Policies	Comment
Policy 27: Listed Buildings	within the conservation area and accounts for the listed buildings present in the area.
Policy 28: Conservation Areas	
Policy 31: Other Historic Environment Assets	
Policy 38: Environment and Conservation	Ecological and nature conservation assessment has been undertaken which has informed the design process.
Policy 39: Landscape	Landscape Character Assessment and an extensive tree survey has been undertaken. Compensatory tree planting is included in the design proposals.
Policy 40: Forestry, Woodland and Trees	
Policy 41: Biodiversity	Ecological assessment including phase 1 habitat and protected species surveys have been undertaken which has informed the design process.
Policy 42: Green Infrastructure	The presence of existing green infrastructure has been assessed within the EIA and informed the design process. The scheme has sought to retain green infrastructure wherever possible and maintain and improve public access wherever possible.
Policy 50: Prime Agricultural Land	Agricultural assessment has been undertaken within the EIA which has informed the design process.
Policy 51: Soils	Ground investigation has been undertaken throughout the scheme extents to assess the ground conditions which has informed the design process.
Policy 52: New Development and Flooding	The purpose of the scheme is to reduce flood risk in the town. Hydrological studies have fully informed the design process which includes drainage and geomorphological assessment in the scheme proposals.
Policy 53: Water Environment and Drainage	
Policy 55: Nuisance from Light and Light Pollution	The effects of disturbance to the community and biodiversity during construction of the scheme has been assessed and mitigation is proposed as required to minimise any impact incurred. An outline Construction Environmental Management Plan (OCEMP) has been prepared as part of the EIA which will require to be updated during actual construction works
Policy 56: Noise Pollution	
Policy 57: Air Quality	
Policy 58: Contaminated Land and Unstable Land	A contaminated land assessment has been undertaken which has informed the design process. A Remediation Strategy has been prepared as part of the Scheme.

Summary

2.3.10 Whilst the Scheme will be consented under the requirements of the FRM Act, the Scheme is still considered to be compliant with applicable planning policy (local, regional and national) and considered to follow legislative requirements for a proposed development.

2.4 Flood Order and Deemed Planning Consent Process

- 2.4.1 Under the Flood Risk Management (Scotland) Act 2009 (FRM Act) “A flood protection scheme is a scheme by a local authority for the management of flood risk within the authority’s area.”
- 2.4.2 Under the FRM Act, the Council will give notice of the proposed flood protection scheme in at least one local newspaper and in the Edinburgh Gazette. Notification must also be given to every person known to the local authority (i) to have an interest in any land on which the proposed operations are to be carried out; or (ii) whose interest in any other land may be affected by any of the proposed operations or by any alteration in the flow of water caused by any of the proposed operations. Notification to SEPA and SNH must also be given.
- 2.4.3 A period of 30 days is then given for any representations and 28 days for any objections to be made to the Scheme. Depending on the validity of the objections, the Council will then either confirm or reject the Scheme. If valid objections are received, the Scheme may be modified to satisfy an objector’s concern prior to the Scheme being confirmed.
- 2.4.4 Once the Scheme is confirmed, the Council will request the Scottish Ministers to direct that deemed planning consent is granted. Deemed planning consent with any conditions attached, will be obtained pursuant to section 57(2B) of the Town and Country Planning (Scotland) Act 1997.
- 2.4.5 A diagram of the FRM Process is provided below (**Image 2.1**). This sets out the various steps that will be followed. The Scheme is currently at the ‘Statutory Process’ stage.

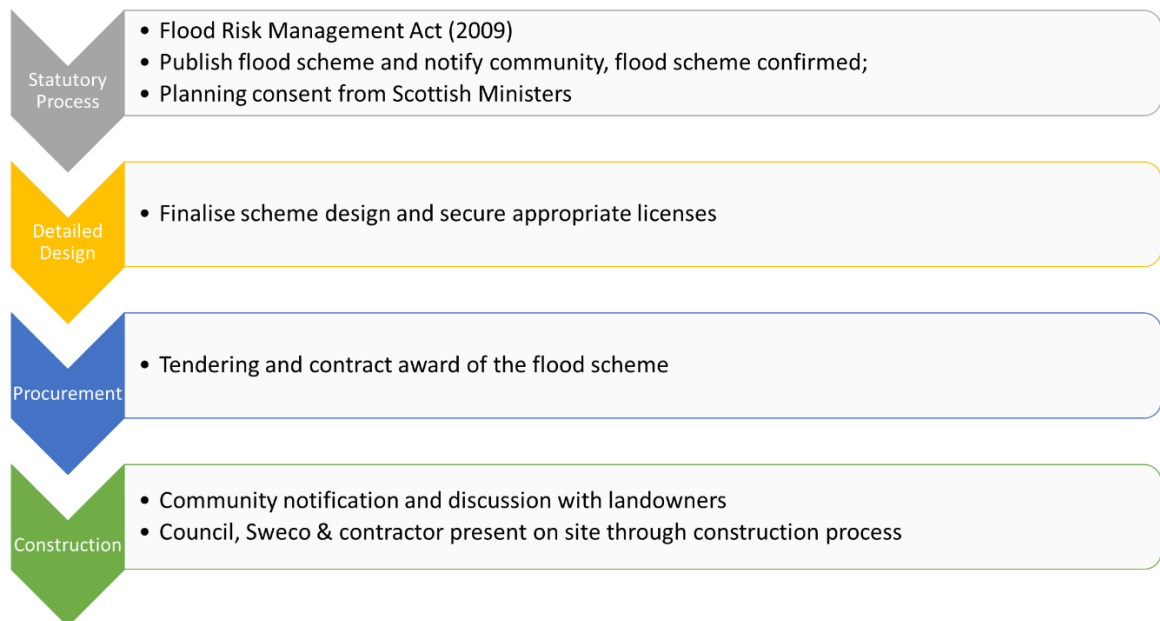


Image 2.1: FRM Process Steps