



REPORT TO: ECONOMIC DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE ON 25 NOVEMBER 2014

SUBJECT: COUNCIL POLICY IN RELATION TO EROSION

BY: ACTING CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT, PLANNING & INFRASTRUCTURE)

1. REASON FOR REPORT

- 1.1 To ask the Committee to agree a Council Policy in relation to erosion, to ensure a consistent approach when dealing with customer requests.
- 1.2 This report is submitted to Committee in terms of Section III (G) 20 of the Council's Administrative Scheme relating to the functions of the Council under the Flood Risk Management (Scotland) Act 2009.

2. RECOMMENDATION

2.1 It is recommended that Committee agree:-

- (i) to endorse the proposed Council Policy in relation to erosion; and**
- (ii) to recommend approval of the Council Policy in relation to erosion to the next meeting of the Policy and Resources Committee.**

3. BACKGROUND

- 3.1 Following extreme weather events that have occurred in recent years the Council has received a number of requests to provide protection to private property from the effects of erosion. There is an expectation that the Council will undertake this work and in some cases that the Council has a duty to undertake this work. The most common enquiries received relate to coastal and river erosion, however some enquiries have been made in relation to landslides due to heavy rainfall.
- 3.2 Under the Coast Protection Act 1949 the Council is the coast protection authority for its coast line. Under this Act the Council has discretionary powers to undertake work within or outside its boundary for the protection of land in its area. There is no obligation to do so. Coast protection works other than works of maintenance require an Order under the Act and would be a Scheme in the Capital Plan having followed due process. Primary

responsibility for erosion management rests with the landowner of the affected site.

- 3.3 Under the Flood Risk Management (Scotland) Act 2009 the Council has a duty to assess bodies of water and undertake clearance and repair work where it will significantly reduce the risk of flooding. The Council also has the power to promote a flood protection scheme but is under no obligation to do so unless it is included in a Local Flood Risk Management Plan. This Act does not consider erosion unless it leads to increased flood risk.

4. PROPOSED POLICY

- 4.1 The draft policy set out below is intended to provide clarity for Members and Officers to promote a consistent approach in implementing legislation.
- 4.2 To assist Officers in ensuring a consistent response to enquiries regarding erosion, Committee is asked to agree a policy on erosion as follows: -

“The Council may take action to address the consequences of erosion:-:

- i. by promoting a coast protection scheme;*
- ii. where prioritised to reduce flood risk; or*
- iii. where Council assets are at risk.*

Otherwise the presumption is against taking action.”

5. POLICY IMPLICATIONS

- 5.1 The Council may undertake erosion protection work where its assets are at risk. These assets may typically be buildings, bridges, roads and flood and coast defence infrastructure.
- 5.2 The Council may take action where the consequence of erosion would be significantly increased flood risk, for example, where a sea defence or flood bank is at erosion risk placing property or other receptors listed in the Flood Risk Management (Scotland) Act 2009 at significant flood risk through breaching and/or wave overtopping.
- 5.3 Coastal erosion affecting a community would remain the subject of an option appraisal on a case-by-case basis, and considered by the Asset Management Group using the gateway process.
- 5.4 The Council would presume against taking action where river or coastal erosion, or landslips affect only private land including built assets thereon.

6. SUMMARY OF IMPLICATIONS

(a) Moray 2023: A Plan for the Future/Service Plan

- (i) Reducing overall flood risk contributes to adults living healthier, sustainable independent lives safeguarded from harm, a growing and diverse economy and safer communities.

(b) Policy and Legal

There are no legal implications as a result of the recommendation in this report.

(c) Financial implications

There are no financial implications associated with the recommendation in this report.

(d) Risk Implications

There are no risk implications as a result of this report.

(e) Staffing Implications

There are no staffing implications a result of this report.

(f) Property

There are no property implications as a result of this report.

(g) Equalities

There are no known equalities implications arising from this report.

(h) Consultations

P Nevin, Senior Solicitor and D Toonen Equal Opportunities Officer have been consulted and have no comments to make.

7. CONCLUSIONS

7.1 The Council receives a number of enquiries from its customers regarding protection from the effects of erosion.

7.2 The Council is not obliged to undertake this work but does have the power to do so if it considers the risk to property to be significant.

7.3 An agreed policy would ensure a consistent approach in responding to these enquires.

Author of Report: D Halliday Senior Engineer (Flood Risk Management)

Background