ANNEX B

From: [REDACTED: REGULATION 11(2)]
Sent: Wed 08/11/2023 14:28
To: <[REDACTED: REGULATION 11(2)]@dumgal.gov.uk>
Cc: <[REDACTED: REGULATION 11(2)]@dumgal.gov.uk>; <[REDACTED: REGULATION 11(2)]@gov.scot>; <[REDACTED: REGULATION 11(2)]@dumgal.gov.uk>; <[REDACTED: REGULATION 11(2)]@dumgal.gov.uk>
Subject: RE: Newton Stewart Flood Protection Scheme - Notification of Preliminary Decision by Dumfries and Galloway Council

Hi [REDACTED: REGULATION 11(2)]
Please find a letter notifying the Council that Scottish Ministers do not propose to call in the proposed Newton Stewart Flood Protection Scheme for their consideration.
Regards
[REDACTED: REGULATION 11(2)]
Flood Risk Management Team
Environmental Quality and Resilience Division| Scottish Government
Area 3-H (South) | Victoria Quay | Edinburgh | EH6 6QQ

([REDACTED: REGULATION 11(2)]

From: Anne Aitken <[REDACTED: REGULATION 11(2)]@gov.scot>
Sent: Mon 06/11/2023 15:03
To: <[REDACTED: REGULATION 11(2)]@gov.scot>
Cc: <[REDACTED: REGULATION 11(2)]@gov.scot>;
<[REDACTED: REGULATION 11(2)]@gov.scot>
Subject: RE: Newton Stewart Flood Protection Scheme - Notification of Preliminary Decision by Dumfries and Galloway Council

Thanks [REDACTED: REGULATION 11(2)]
Just a few wee changes from me, then happy for it to go.
Anne Aitken
Deputy Director
Environmental Quality & Resilience Division
& Place Director for Aberdeenshire
Scottish Government
Blackberry - [REDACTED: REGULATION 11(2)]

From: <[REDACTED: REGULATION 11(2)]@gov.scot>
Sent: Monday, November 6, 2023 2:45 PM
To: Anne Aitken <[REDACTED: REGULATION 11(2)]@gov.scot>
Cc: <[REDACTED: REGULATION 11(2)]@gov.scot>;

<[REDACTED: REGULATION 11(2)]@gov.scot>
Subject: Newton Stewart Flood Protection Scheme - Notification of Preliminary Decision by Dumfries and Galloway Council
Importance: High

HI [REDACTED: REGULATION 11(2)]
I've attached a draft submission for your clearance (and a link to Annex B is below if you wish to see it).
As required by the Flood Risk Management (Scotland) Act 2009 ("the Act"), Dumfries and Galloway Council has made a formal decision to confirm the proposed Newton Stewart Protection Scheme on a preliminary basis. However, as there are outstanding objections to the Scheme which meet the relevant condition set out in the Act, the Council is required to refer it to the Scottish Ministers to decide whether or not to call in the Scheme for their consideration.
We are recommending that the scheme is not called in for Ministerial consideration.
We need to notify the Council by **16 November** if Ministers do wish to call it in so it would be helpful to get the submission up today or tomorrow to give Ms McAllan time to consider. However, hopefully it should be relatively straightforward.
Annex B - Response to Objections and Mitigations (A45847664)
Happy to discuss.
[REDACTED: REGULATION 11(2)]
Flood Risk Management Team
Environmental Quality and Resilience Division| Scottish Governmente2
Area 3-H (South) | Victoria Quay | Edinburgh | EH6 6QQ
([REDACTED: REGULATION 11(2)]
From: <[REDACTED: REGULATION 11(2)]@gov.scot>
Sent: Monday, November 6, 2023 2:31 PM
To: <[REDACTED: REGULATION 11(2)]@gov.scot>;
<[REDACTED: REGULATION 11(2)]@gov.scot>
Subject: RE: Newton Stewart Flood Protection Scheme - Notification of Preliminary Decision by Dumfries and Galloway Council
Thanks [REDACTED: REGULATION 11(2)]
I'm content too and happy for it to go to Anne now.
[REDACTED: REGULATION 11(2)]
From: <[REDACTED: REGULATION 11(2)]@gov.scot>
Sent: Monday, November 6, 2023 2:24 PM
To: <[REDACTED: REGULATION 11(2)]@gov.scot>;
<[REDACTED: REGULATION 11(2)]@gov.scot>
Subject: RE: Newton Stewart Flood Protection Scheme - Notification of Preliminary Decision by Dumfries and Galloway Council
Hi [REDACTED: REGULATION 11(2)],
Thanks for carrying out the assessment and drafting the submission. I've made a couple of very minor amendments to the text but otherwise it's good to go from my perspective.
Thanks
[REDACTED: REGULATION 11(2)]

[REDACTED: REGULATION 11(2)] **| Flood Risk Management Team | Environmental Quality and Resilience Division | Scottish Government | Victoria Quay (Area 3H South) | Edinburgh EH6 6QQ | Scotland | '**
[REDACTED: REGULATION 11(2)]

From: <[REDACTED: REGULATION 11(2)]@gov.scot>
Sent: Friday, November 3, 2023 3:33 PM
To: <[REDACTED: REGULATION 11(2)]@gov.scot>;

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<[REDACTED: REGULATION 11(2)]@gov.scot>
Subject: Newton Stewart Flood Protection Scheme - Notification of Preliminary Decision by Dumfries and Galloway Council
Importance: High

I've attached a draft submission in relation to the proposed Newton Stewart Scheme for your comments before I put it to Anne. I am proposing that we recommend that it is not called in. I discussed it with the Salmon and recreational Fisheries Team given the fishery concerns but they said they had no particular concerns with the proposals and were content that the Council would work with the Fisheries Trust & Board to mitigate any potential impacts.
Newton Stewart Flood Protection Scheme - submission (A45451626)
Annex B - Response to Objections and Mitigations (A45847664)
[REDACTED: REGULATION 11(2)]
Flood Risk Management Team
Environmental Quality and Resilience Division| Scottish Government
Area 3-H (South) | Victoria Quay | Edinburgh | EH6 6QQ
([REDACTED: REGULATION 11(2)]
From: <[REDACTED: REGULATION 11(2)]@dumgal.gov.uk>
Sent: Thu 05/10/2023 11:17
To: <[REDACTED: REGULATION 11(2)]@gov.scot>;
<[REDACTED: REGULATION 11(2)]@dumgal.gov.uk>
Cc: <[REDACTED: REGULATION 11(2)]@dumgal.gov.uk>; <[REDACTED: REGULATION 11(2)]@dumgal.gov.uk>; <[REDACTED: REGULATION 11(2)]@gov.scot>; <[REDACTED: REGULATION 11(2)]@gov.scot>
Subject: RE: EXTERNAL: RE: Newton Stewart Flood Protection Scheme - Notification of Preliminary Decision by Dumfries and Galloway Council

OFFICIAL

Hi [REDACTED: REGULATION 11(2)],
Thank you for the update and we note the decision period has been extended by 28 days to the 16 November 2023.
Kind Regards
[REDACTED: REGULATION 11(2)]**(MSc CEng MICE)**
Team Leader - Flood Risk Management

Tel: [REDACTED: REGULATION 11(2)]
Mobile: [REDACTED: REGULATION 11(2)]
Email: [REDACTED: REGULATION 11(2)]@dumgal.gov.uk
Web: www.dumgal.gov.uk

OFFICIAL

From: <[REDACTED: REGULATION 11(2)]@gov.scot>
Sent: Wednesday, October 4, 2023 2:19 PM
To: <[REDACTED: REGULATION 11(2)]@dumgal.gov.uk>
Cc: <[REDACTED: REGULATION 11(2)]@dumgal.gov.uk>; <[REDACTED: REGULATION 11(2)]@dumgal.gov.uk>; <[REDACTED: REGULATION 11(2)]@dumgal.gov.uk>; [REDACTED: REGULATION 11(2)]@gov.scot; [REDACTED: REGULATION 11(2)]@gov.scot

Subject: EXTERNAL: RE: Newton Stewart Flood Protection Scheme - Notification of Preliminary Decision by Dumfries and Galloway Council

OFFICIAL

Hi [REDACTED: REGULATION 11(2)]
Further to my letter of 21 September I attach a letter notifying the Council that Scottish Ministers have determined that they will require more time in which to make a decision on whether they will call in the Newton Stewart Flood Protection for consideration and are therefore extending the decision period by 28 days. We will therefore advise you by the 16 November 2023 of their decision.
Regards
[REDACTED: REGULATION 11(2)]
Flood Risk Management Team
Environmental Quality and Resilience Division| Scottish Government
Area 3-H (South) | Victoria Quay | Edinburgh | EH6 6QQ
([REDACTED: REGULATION 11(2)]

OFFICIAL

From: [REDACTED: REGULATION 11(2)]
Sent: Thursday, September 21, 2023 4:35 PM
To: <[REDACTED: REGULATION 11(2)]@dumgal.gov.uk>
Cc: <[REDACTED: REGULATION 11(2)]@dumgal.gov.uk>; <[REDACTED: REGULATION 11(2)]@dumgal.gov.uk>; <[REDACTED: REGULATION 11(2)]@dumgal.gov.uk>; <[REDACTED: REGULATION 11(2)]@gov.scot>; <[REDACTED: REGULATION 11(2)]@gov.scot>
Subject: RE: Newton Stewart Flood Protection Scheme - Notification of Preliminary Decision by Dumfries and Galloway Council
Hi [REDACTED: REGULATION 11(2)]
Thank you for your email attaching the letter from the Council together with associated documents.
Please find attached a letter of acknowledgement.
I don't envisage we will need hard copies of any of the documents but if we do we will let you know.
Regards
[REDACTED: REGULATION 11(2)]
Flood Risk Management Team
Environmental Quality and Resilience Division| Scottish Government
Area 3-H (South) | Victoria Quay | Edinburgh | EH6 6QQ
([REDACTED: REGULATION 11(2)]
From: <[REDACTED: REGULATION 11(2)]@dumgal.gov.uk>
Sent: Thursday, September 21, 2023 3:41 PM
To: <[REDACTED: REGULATION 11(2)]@gov.scot>; <[REDACTED: REGULATION 11(2)]@gov.scot>
Cc: <[REDACTED: REGULATION 11(2)]@dumgal.gov.uk>; <[REDACTED: REGULATION 11(2)]@dumgal.gov.uk>; <[REDACTED: REGULATION 11(2)]@dumgal.gov.uk>
Subject: Newton Stewart Flood Protection Scheme - Notification of Preliminary Decision by Dumfries and Galloway Council

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Good afternoon [REDACTED: REGULATION 11(2)] and [REDACTED: REGULATION 11(2)],
I understand that [REDACTED: REGULATION 11(2)] has spoken to you recently to advise that the Council would be submitting the notification to Scottish Ministers of the Preliminary Decision to Confirm (the Newton Stewart Flood Protection Scheme) without Modification. Accordingly, I attach the Council letter in this regard, together with associated documents, and would be grateful if you could acknowledge receipt.
If this letter is needed in hard copy (or any of the documents) please let me know.
[REDACTED: REGULATION 11(2)]

[REDACTED: REGULATION 11(2)] ***MRICS***
Project Manager (Flood Risk Management)

Roads and Infrastructure
Communities
Dumfries and Galloway Council
Cargen Tower, Garroch Business Centre, Cargenbridge, Dumfries, DG2 8PN

Tel: [REDACTED: REGULATION 11(2)]
Mobile: [REDACTED: REGULATION 11(2)]
Email: [REDACTED: REGULATION 11(2)]@dumgal.gov.uk
Web: www.dumgal.gov.uk

Dumfries & Galloway Council

Environment and Forestry Directorate
Environmental Quality and Resilience Division

Scottish Government
Riaghaltas na h-Alba
gov.scot

T: [REDACTED: REGULATION 11(2)]
E: [REDACTED: REGULATION 11(2)]@gov.scot

[REDACTED: REGULATION 11(2)]Infrastructure Manager
Dumfries and Galloway Council
Flood Risk Management Team
Cargen Town, Garroch Business Centre
Cargenbridge
Dumfries, DG2 8PN

Your ref: NmgFRM12

4 October 2023

Dear [REDACTED: REGULATION 11(2)]

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Newton Stewart Flood Protection Scheme - Flood Risk Management (Scotland) Act 2009
Further to my letter of 21 September I am writing to notify you that Scottish Ministers have determined that they will require more time in which to make a decision on whether they will call in the Newton Stewart Flood Protection for consideration and are therefore extending the decision period by 28 days. They will therefore advise you by the 16 November 2023 of their decision.

Yours sincerely

[REDACTED: REGULATION 11(2)]
Flood Risk Management Team

Atlantic Quay, 150 Broomielaw, Glasgow, G2 8LU
www.gov.scot

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Environment and Forestry Directorate
Environmental Quality and Resilience Division

Scottish Government
Riaghaltas na h-Alba
gov.scot

T: [REDACTED: REGULATION 11(2)]
E: [REDACTED: REGULATION 11(2)]@gov.scot

[REDACTED: REGULATION 11(2)]
Infrastructure Manager Dumfries and Galloway Council Flood Risk Management Team
Cargen Town, Garroch Business Centre
Cargenbridge
Dumfries, DG2 8PN

Your ref: NmgFRM12

8 November 2023

Dear [REDACTED: REGULATION 11(2)]

Newton Stewart Flood Protection Scheme - Flood Risk Management (Scotland) Act 2009
Thank you for your letter of 21 September informing the Scottish Ministers that Dumfries and Galloway Council had decided to confirm the proposed Newton Stewart Flood Protection Scheme on a preliminary basis.

Having considered all the documentation provided by the Council I can confirm that Scottish Ministers will not be calling in the Scheme for consideration as provided for under paragraph 6 of Schedule 2 of the Flood Risk Management (Scotland) Act 2009 (“the Act”). The issues raised in the objections do not appear to warrant a formal public local inquiry and a decision by Scottish Ministers.

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The Council is now required to hold a hearing to consider the proposed scheme. It is for the Council to make the arrangements for the hearing and determine who is to conduct the hearing. However, I should like to draw your attention to the Guidance in relation to local authority functions under Part 4 of the Act which recommends that local authorities should consider appointing a person independent of the local authority to hold the hearing and report to them.

Yours sincerely

[REDACTED: REGULATION 11(2)]
Flood Risk Management Team

Atlantic Quay, 150 Broomielaw, Glasgow, G2 8LU
www.gov.scot

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Environmental Quality and Resilience Division

Scottish Government
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T: [REDACTED: REGULATION 11(2)]
E: [REDACTED: REGULATION 11(2)]@gov.scot

[REDACTED: REGULATION 11(2)]
Infrastructure Manager
Dumfries and Galloway Council
Flood Risk Management Team
Cargen Town, Garroch Business Centre
Cargenbridge
Dumfries, DG2 8PN

Your ref: NmgFRM12

21 September 2023

Dear [REDACTED: REGULATION 11(2)]

Newton Stewart Flood Portection Scheme - Flood Risk Management (Scotland) Act 2009

Thank you for your letter of 21 September giving notice to Scottish Ministers that the Council has made a preliminary decision to confirm the proposed Newton Stewart Flood Protection Scheme 2020 without modification.

Under paragraph 6(2) of schedule 2 of the Flood Risk Management (Scotland) Act 2009 Scottish Ministers have 28 days to make a decision and advise the Council on whether they will call in the Scheme for consideration. We will therefore advise you by the 19 October 2023 whether Scottish Ministers wish to call in the Scheme for consideration.

The Act also allows Scottish Ministers to extend this decision period by up to 28 days if required. We will advise you accordingly if the decision period is to be extended.

Yours sincerely

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[REDACTED: REGULATION 11(2)]
Flood Risk Management Team

Atlantic Quay, 150 Broomielaw, Glasgow, G2 8LU
www.gov.scot

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From: <[REDACTED: REGULATION 11(2)]@gov.scot>; on behalf of; Cabinet Secretary for Transport, Net Zero & Just Transition
Sent: Wed 08/11/2023 10:27
To: <[REDACTED: REGULATION 11(2)]@gov.scot>; Cabinet Secretary for Transport, Net Zero & Just Transition <CabSecTNZJT@gov.scot>
Cc: Director of Environment & Forestry <director.enfor@gov.scot>; DG Net Zero <DGNetZero@gov.scot>; Anne Aitken <[REDACTED: REGULATION 11(2)]@gov.scot>; <[REDACTED: REGULATION 11(2)]@gov.scot>; <[REDACTED: REGULATION 11(2)]@gov.scot>; <[REDACTED: REGULATION 11(2)]@gov.scot>; Leanne Dobson <[REDACTED: REGULATION 11(2)]@gov.scot>; <[REDACTED: REGULATION 11(2)]@gov.scot>; <[REDACTED: REGULATION 11(2)]@gov.scot>
Subject: RE: Newton Stewart Flood Protection Scheme - Notification to Ministers

This email is for the official record and confirms a Ministerial Decision. This email must be placed in the official record (eRDM) by your team in line with SG records management policy.

Hi [REDACTED: REGULATION 11(2)],
The Cab Sec is content to agree the recommendation not to call in the proposed Scheme for consideration by Ministers.
Kind regards
[REDACTED: REGULATION 11(2)]
[REDACTED: REGULATION 11(2)]| Private Secretary to Cabinet Secretary for Transport, Net Zero and Just Transition - Màiri McAllan MSP | The Scottish Government | Web: www.gov.scot | Mob: [REDACTED: REGULATION 11(2)]| Email: CabsecTNZJT@gov.scot

All e-mails and attachments sent by a Ministerial Private Office to another official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the primary recipient. Private Offices do not keep official records of such e-mails or attachments.

Scottish Ministers, Special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

From: [REDACTED: REGULATION 11(2)]
Sent: Mon 06/11/2023 16:16
To: Cabinet Secretary for Transport, Net Zero & Just Transition <CabSecTNZJT@gov.scot>
Cc: Director of Environment & Forestry <director.enfor@gov.scot>; DG Net Zero <DGNetZero@gov.scot>; Anne Aitken <[REDACTED: REGULATION 11(2)]@gov.scot>; <[REDACTED: REGULATION 11(2)]@gov.scot>; <[REDACTED: REGULATION 11(2)]@gov.scot>; <[REDACTED: REGULATION 11(2)]@gov.scot>; Leanne Dobson <[REDACTED: REGULATION 11(2)]@gov.scot>; <[REDACTED: REGULATION 11(2)]@gov.scot>; <[REDACTED: REGULATION 11(2)]@gov.scot>
Subject: Newton Stewart Flood Protection Scheme - Notification to Ministers

I attach a submission advising on a notification that has been made to Scottish Ministers by Dumfries and Galloway Council about the proposed Newton Stewart Flood Protection Scheme and which seeks the Cabinet Secretary's agreement that the scheme is not called in for Ministerial consideration.

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Routine – however, a response by **13 November** would be helpful as the deadline for notifying Dumfries and Galloway Council if Ministers propose to call in the scheme is **16 November 2023**.
If you need any further information please let me know
[REDACTED: REGULATION 11(2)]
Flood Risk Management Team
Environmental Quality and Resilience Division| Scottish Government
Area 3-H (South) | Victoria Quay | Edinburgh | EH6 6QQ

([REDACTED: REGULATION 11(2)]

Your Ref:
Our Ref: NmgFRM12

Communities
Flood Risk Management Team
Cargen Town, Garroch Business Centre
Cargenbridge, Dumfries, DG2 8PN
Any enquiries please contact,
Flood Risk Management Team
Direct Dial [REDACTED: REGULATION 11(2)]
Email: newtonstewartFPS@dumgal.gov.uk

21 September 2023

Dear Sir/Madam

Newton Stewart Flood Protection Scheme
Flood Risk Management (Scotland) Act 2009 (the "Act")

I refer to the above project which, as you are aware, is on the priority list of Flood Protection Schemes as identified in the SEPA Flood Risk Management Strategy published in December 2015 and the Solway Local Plan District Local Flood Risk Management Plan, published in June 2016.

In accordance with the Flood Risk Management (Scotland) Act 2009, the Scheme was published for a 28 day period from 25 May to 23 June 2023. A 'Publication to Preliminary Decision Summary' document is attached to outline the steps taken in the publication process.

During that period 58 objections were received with some of the objections from persons who either:

(a) have an interest in any land on which the proposed operations are to be carried out; or
(b) have an interest in any other land may be affected by any of the operations or by any alteration in the flow of water caused by any of the operations.

Therefore, in accordance with Schedule 2 paragraph 5(5) of the Act Dumfries and Galloway Council ("the Council") hereby give notice of its decision as follows:

'Elected Members of the Council, at its Communities Committee meeting on the 22 August 2023, agreed, in accordance with Sections 5(1) and 5(2) of Schedule 2 to the Act, to

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confirm the proposed scheme without modifications.'

Furthermore, the following information as required by Section 5(5) of Schedule 2 to the Act as follows is attached (and is referenced and numbered in the 'Publication to Preliminary Decision Summary').

(a) The Scheme Documents included when the Scheme was formally published on 25 May 2023. These documents have not changed since that date and are still available to access at www.dumgal.gov.uk/newtonstewartfloodprotection. If hard copies are required these can be provided upon request.

(b) A Summary of the objections received. You will note from the summary that every effort was made by the Project Team to ensure all objections received were counted, for example:

- One objection was received before the 25 May and one after the 23 June. Both were accepted as formal objections.
- 4 representations that were received were considered invalid. The Project Team contacted the objector to advise, and all responded to validate their objection.
- SEPA and the Galloway Fisheries Trust contacted the Council during the publication period to request an extension for their response and both were granted with responses duly submitted.
- The submission by the Galloway Fisheries Trust is included within the objections and the SEPA response is included separately in the documents provided.
- A letter was sent to all objectors which provided a comprehensive response to all issues raised in the objections in the week commencing August 2023. Objectors were given the opportunity to withdraw their objection based on the letter and to date 4 have indicated they wish to withdraw their objection. We shall continue to discuss with objectors up until such time as a Public Local Inquiry or Public Hearing is held.

(c) Copies of the objections. All the objections received by the Council have been published online at www.dumgal.gov.uk/newtonstewartfloodprotection in a summary (with personal details redacted) together with the Council response to the various topics with proposed mitigation/actions where appropriate. A list of the names and addresses of those who made representation, with reference numbers that relate to the online redacted versions is included for your consideration (but was not published online).

(d) Any other material considered by the Council including:

- A copy of the Committee paper (and minute) to the Communities Committee on 2 February 2023 seeking agreement to publish the Scheme.
- A copy of the Committee paper to the Communities Committee on 22 August 2023 which sought agreement to confirm the scheme without modifications, is included.
- A copy of the communications sent to all those who objected to the Scheme such as a full response to the objections raised and later advising them of the preliminary decision of Council to approve the scheme without modifications.

I hope that the above and associated documents meet your requirements, but should you have any further queries or wish to discuss any matters, please don't hesitate to contact me.

Yours sincerely,
[REDACTED: REGULATION 11(2)]
Infrastructure Manager

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