

## **ANNEX A**

A small amount of information has been withheld under regulation 10(5)(f) (third party interests). This exception is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exception. We have found that, on balance, the public interest lies in favour of upholding the exception.

We recognise that there is some public interest in releasing the information as part of an open, transparent and accountable government. However, disclosure of this particular information would, or would be likely to, prejudice substantially the confidentiality of said information and the interests of those providing information to the Scottish Government in confidence.

Additionally, a small amount of information has been redacted from the documents disclosed under Regulation 11(2) - Personal Data as it contains personal information and disclosing it would contravene the data protection principles in Article 5(1) of the General Data Protection Regulations (GDPR) and in Section 34(1) of the Data Protection Act 2018. This exception is not subject to the 'public interest test'.

**OBJECTION TO THE SOUTH KINROSS FLOOD PROTECTION  
SCHEME**

as published on the 26<sup>th</sup> of March 2024, by Perth and Kinross  
Council pursuant to the Flood Risk Management (Scotland) Act,  
2009

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Parts of the Act and Regulations applicable to this objection, include:

- Sub-paragraphs 1 to 3, to paragraph 3 of Schedule 2 of that Act.

**¶ 3** (1) Any person may object to a proposed flood protection scheme.

(2) An objection is valid if it -

- (a) is made in writing,
- (b) sets out the name and address of the objector, and
- (c) is made before the expiry of the period of 28 days beginning with the date notice of the scheme is first published under paragraph 1(1)(a).

(3) An objection which is made by electronic means is to be treated as being in writing if it is received in a form which is legible and capable of being used for subsequent reference.

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- Sub-paragraphs 5 and 6 to paragraph 5 of Schedule 2 of the Act.

**¶ 5** (5) Where any relevant objector is a person to whom sub-paragraph (6) applies, the local authority must also give to the Scottish Ministers notice of its decision together with -

- (a) the scheme documents,
- (b) a summary of the objections received by the local authority,
- (c) copies of those objections, and
- (d) copies of any other material considered by the local authority.

(6) This sub-paragraph applies to any person -

- (a) having any interest in any land on which the proposed operations are to be carried out ...
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- Regulation 12 of the Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010, as amended.

**Reg. 12**

(1) Any objection to a proposed flood protection scheme or a modified scheme under paragraph 3 of schedule 2 to the Act must be accompanied by a statement of the reasons for the objection.

(2) Where an objector under paragraph 3 of schedule 2 to the Act has an interest

in any land on which the scheme proposed operations are to be carried out or which may be affected by any of the scheme operations, or by any alteration in the flow of water caused by any of the scheme operations, that person's objection must include—

- (a) details of the land in which the objector has an interest;
- (b) disclosure of the nature of the objector's interest in the land; and
- (c) details of which aspects of the scheme operations affect the objector.

## SUMMARY OF REASONS FOR OBJECTION

1. That the proposed scheme is unlawful - criminally so - both in its conception and in its detail as published.
2. Taken as whole, over many years, it amounts to a calculated attempt to fraudulently secure public funds, to the amount of tens of millions of pounds.
3. The particulars are two-fold:
  - (a) Conspiring to conceal and cover-up negligence on the part of Perth and Kinross Council and others; notably Scottish Water and SEPA. This in respect of approved developments in Kinross, over many years.
  - (b) Conspiring to conceal and cover-up the associated illegal and ongoing pollution of Loch Leven with sewage and other effluents.
4. The published scheme, including the Environmental Impact Assessment Report, also evidences multiple offences, by multiple parties - individual and/or corporate - under Regulations 10C, 10D, and 10E of the Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010, as amended (reproduced in full over-leaf).
5. This objection is supplemented by a series of six, written submissions, lodged with the Chief Executive Officer of Perth and Kinross Council, on the dates indicated:
  - S1. *Refusal to Consent to Excavations on Private Land* - 24 April, 2023;
  - S2. *Refusal to Consent to Excavations on Private Land II* - 16 May, 2023;
  - S3. *Refusal to Consent to Excavations on Private Land III* - 25 July, 2023;
  - S4. *Fake Consultations for a False Flood Scheme* - 19 October, 2023;
  - S5. *Rigged Consultations - Fake Consultation Report* - 22 March, 2024.
  - S6. *Fake Consultation - Criminal Publication* - 22 April, 2024

These set-out, in such detail as was then known, the foundations of the summary reasons above. They are an integral part of this objection, and, as stated in the latest, S6, are an ongoing exercise of due diligence.

**Objector:**

[REDACTED: REGULATION 11(2)]

**Affected Land:**

(of which the objector is the proprietor)

Land Register of Scotland: [REDACTED: REGULATION 11(2)]

**Affect:**

The proposed Flood Protection Scheme proposes to affect the unlawful flooding of this land; including the construction of ill-conceived flood-walls and/or embankments and other depredations.

**AVOIDANCE OF CONFLICT OF INTEREST**

**10C.**

- (1) A local authority must perform its duties under this Part in an objective manner and so as not to find itself in a situation giving rise to a conflict of interest.
- (2) Where a local authority is responsible for taking a decision on whether or not to confirm a proposed scheme under paragraph 4(1), 5(1) or 9(1) of schedule 2 of the Act, it must implement (within its organisation of administrative competencies) an appropriate separation between conflicting functions when performing its duties under this Part.

**OFFENCE: PROVISION OF FALSE ETC. INFORMATION**

**10D.**

- (1) A person commits an offence if that person, for the purpose of procuring a particular decision under this Part or under schedule 2 of the Act in connection with a proposed scheme, a modified scheme, or an EIA report (including its scope and content)—
  - (a) knowingly or recklessly makes a statement which is false or misleading in a material particular;
  - (b) with intent to deceive, uses any document which is false or misleading in a material particular; or
  - (c) with intent to deceive, withholds any material information.
- (2) A person who commits an offence under paragraph (1) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;  
or
  - (b) on conviction on indictment, to a fine.
- (3) No act or omission of the Crown constitutes an offence under this regulation ...
- (5) Despite paragraph (3), this regulation applies to a person in the public service of the Crown as it applies to other persons.

## OFFENCES BY BODIES CORPORATE ETC.

### **10E.**

(1) Where—

- (a) an offence under regulation 10D has been committed by a body corporate or a Scottish partnership or other unincorporated association; and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to neglect on the part of—
  - (i) a relevant individual; or
  - (ii) an individual purporting to act in the capacity of a relevant individual, the individual as well as the body corporate, Scottish partnership or unincorporated association commits an offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “relevant individual” means—

- (a) in relation to a body corporate—
  - (i) a director, manager, secretary or similar officer of the body; or
  - (ii) where the affairs of the body are managed by its members, a member;
- (b) in relation to a Scottish partnership, a partner; and
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association



**Law Location Life**

LEM/R .964

19 April 2024

### **Private & Confidential**

[SKinrossfloodscheme@pkc.gov.uk](mailto:SKinrossfloodscheme@pkc.gov.uk)

[REDACTED: REGULATION 11(2)]

Head of Legal & Governance Services,  
Perth & Kinross Services,

2 High Street,  
Perth  
PH15PH

Dear Madam,

[REDACTED: REGULATION 11(2)]  
**[REDACTED: REGULATION 11(2)]**

We act for [REDACTED: REGULATION 11(2)] of [REDACTED: REGULATION 11(2)]. He has passed to us your Notice dated 21 March 2024 served under the Flood Risk Management (Sc) Act 2009 and invited us to lodge his objections on his behalf as a relevant objector in terms of that legislation.

[REDACTED: REGULATION 11(2)] is the proprietor of [REDACTED: REGULATION 11(2)] but also [REDACTED: REGULATION 10(5)(f)]

You have identified one of his fields, known as the [REDACTED: REGULATION 10(5)(f)], lying to the [REDACTED: REGULATION 10(5)(f)], as being the location for your intended storage embankment if the proposed South Kinross Flood Protection Scheme 2024 ("the Scheme") goes ahead. We attach a plan showing [REDACTED: REGULATION 11(2)] [REDACTED: REGULATION 10(5)(f)] as well as his field to the east thereof known as the [REDACTED: REGULATION 10(5)(f)] which will also be affected by your intended operations.

The following therefore should be treated as his Statement of Reasons for his objection to the proposed Scheme.

In Part 3 Project Description, Element 7 of the Non Technical Survey prepared for your Council by the RPS Group, dated 29 February 2024, it states that a storage embankment should be built on [REDACTED: REGULATION 11(2)] land to intercept "an overland flow path" which, in terms of your reports, is part of the threat to flooding in South Kinross.

Part 2 states that there are two distinct areas affected by flooding in South Kinross. The northern area affected by the Clash Burn and the southern area by the confluence of the South Queich and the Gelly Burn.

The Scheme is stated to be designed to reduce the risk of flooding to 177 properties across Kinross from a predicted **"1 in a 200 year flood"**.

The EIAR states that there may be an effect on the environment of South Kinross as a result of flooding from the South Queich, the Clash Burn and the Gelly Burn. All of these water courses lie to the south of Kinross with the reports, and on SEPA's flood risk maps after mentioned, that the South Queich lies at some distance [REDACTED: REGULATION 10(5)(f)] [REDACTED: REGULATION 11(2)] [REDACTED: REGULATION 10(5)(f)]. It is suggested in your survey that in the event of the 1 in a 200 year flood, that the water will flow from the South Queich, over a number of fields and properties before ending up at the [REDACTED: REGULATION 10(5)(f)].

Your report proposes that the water should then be stored there and released into the Ury Burn at a controlled rate, thereby preventing flooding of the town of Kinross.

Operations SQ05 on page 10 of the Scheme Description, prepared by RPS and dated 12 March 2024, states that the Scheme will "capture out of bank flow from the South Queich which travels overland from the north east over agricultural land before flowing through Kinross Services, the M90 and towards the town of Kinross affecting residential properties. The embankment will force water to be stored temporarily in the agricultural land during **extreme** storm events". [REDACTED: REGULATION 11(2)] does not recognise this description at all nor does he recall there ever having been an **extreme** storm or anything like a storm event that has caused a flow of water from the South Queich either to flood his fields or threaten to flow therefrom towards Kinross. Certainly in the event of such an extreme weather event, Kinross Services, M90 and surrounding areas will all be affected / flooded simultaneously. It is artificial to suggest that any such water flow will only be channelled to [REDACTED: REGULATION 11(2)][REDACTED: REGULATION 10(5)(f)].

[REDACTED: REGULATION 11(2)] has lived and farmed at [REDACTED: REGULATION 10(5)(f)]. [REDACTED: REGULATION 10(5)(f)], they have never encountered any issues with flooding that would threaten Kinross in the manner suggested in your reports. It is expected that the reports have been based on certain modelling with anticipated outcomes but it is not based on real life events. It is submitted therefore that the modelling is inaccurate and does not reflect what actually happens on the ground in times of heavy rainfall.

The lands of [REDACTED: REGULATION 10(5)(f)] have a largely sand and gravel subsoil. The land is therefore exceptionally permeable meaning that any build up of surface water naturally percolates away without any pooling or flooding on the surface. This is confirmed in part 13 of the Non Technical Survey which confirms the geology of the area and that the site is classified as "highly permeable".

You will see from SEPA's own flood risk map of the area, attached, that the location of [REDACTED: REGULATION 11(2)] is subject to a flood risk representing between 0.1 to 0.5% chance of flooding each year. This is shown by the lightest blue and mid blue colours on the attached plan. One suspects that this maybe mainly due to the close proximity of the adjacent [REDACTED: REGULATION 11(2)], potentially flooding the field, and not as a result of water flowing overland from the South Queich.

The South Queich is shown on the said plan and you will see that it runs much further south, through lands to the south of the A977 roadway before running under the M90 towards south Kinross. You will note the colourings there, mid blue and dark blue suggesting a greater risk of flooding in those specific localities. It is hard to comprehend how any modelling would suggest that the South Queich ([REDACTED: REGULATION 10(5)(f)]) would end up pooling in

the [REDACTED: REGULATION 10(5)(f)]. SEPA's map shows no flooding in this field at all. This is something that has never happened in the preceding 100 years that the lands [REDACTED: REGULATION 10(5)(f)] [REDACTED: REGULATION 11(2)]. There are many other properties that would be affected by such a waterflow (such as the chicken sheds, the "Golf Ball" site, houses and Kinross services) before it would reach the [REDACTED: REGULATION 10(5)(f)]. If any such flood defence is needed, it should be much closer to the South Queich itself.

Whilst there may be merit or need to improve the flood defences in South Kinross that are **actually affected** by the watercourses in question, it seems that the proposal to build an embankment and store water on a field which does not receive the natural water flow is an extreme misuse of public funds. The estimated cost of the project is stated to be £15,075,215. One respondent quoted in the Public Consultation Report suggests that the likely total cost will be more like £30M based on other recent Scottish flood schemes.

If these works were to be carried out on [REDACTED: REGULATION 11(2)] land he would suffer substantial disruption. Thousands of tonnes of valuable topsoil will need to be excavated from his fields to form the embankment which is stated to be 600 metres in length. This will effectively "sterilise" the condition of his field once that premium grade agricultural soil has been removed. [REDACTED: REGULATION 11(2)] will be entitled to significant compensation in terms of sections 82 and 83 of the Act. [REDACTED: REGULATION 10(5)(f)] (to be used for access and storage of construction vehicles and materials) would be unable to be cropped for a significant period of time (likely more than one growing season) whilst the works are ongoing. This will result in substantial financial loss to [REDACTED: REGULATION 11(2)], for each growing season that each field is out of use. These are the most fertile and productive of [REDACTED: REGULATION 11(2)] fields and hence highly valuable. If an embankment is constructed on the [REDACTED: REGULATION 10(5)(f)], that will permanently remove a sizeable area from arable use as he will be unable to easily access the full remaining area by tractor/combine. This also prevents any diversification of the land potentially for green energy projects. There is also the risk of a whole crop being completely lost **if** the 1 in a 200 year extreme storm should arise and water is required to pool in the [REDACTED: REGULATION 10(5)(f)] rather than freely run away. The compensation due to [REDACTED: REGULATION 11(2)] will be substantial.

In the answer to question 6 in the Public Consultation Report dated 29 January 2024, it is stated that an assessment has been undertaken to review the potential of storing flood flows upstream of the M90. It states that the viability of that action was assessed to be **limited** as it would require multiple large embankments across multiple storage features to achieve the storage volumes required to significantly reduce flood risk downstream (in Kinross). The response also states that the storage features would **"be situated on areas of high grade agricultural land, which may be considered too valuable to flood. Two of the storage areas identified are disconnected and set at a distance from the main South Queich water course. It would be necessary to construct a**



**new diversion feature to direct water to this area during flood events. This action was ruled out as being technically unfeasible."**

This statement is exactly in point with the location and use of [REDACTED: REGULATION 11(2)]land. His position is no different to the lands mentioned in that report (remote from the watercourse, need to divert water flow, too valuable to flood etc). Why therefore has [REDACTED: REGULATION 11(2)] land been selected for these works?

The report goes on to say that the "preferred option" is a storage option upstream of the M90 on the Clash Burn. Again, this does not represent [REDACTED: REGULATION 11(2)] land, which lies nowhere near the Clash Burn, so why is his land being chosen for the embankment?

We consider [REDACTED: REGULATION 11(2)] objections to be well founded and that the Scheme (certainly insofar as it relates to water storage on his land) should be rejected.

A more natural solution would be to undertake dredging of the watercourses to ensure a proper flow of water into Loch Leven at all times. It is understood that such work would only need to be undertaken every 10 years or so. This would be a much more economic and environmentally friendly outcome.

The cost to the public purse for this Scheme, for an event that is unlikely to ever occur, is abhorrent. [REDACTED: REGULATION 11(2)] land plays no part in the imagined flow of water and his interests should be preserved and protected from this Scheme. [REDACTED: REGULATION 11(2)] reserves the right to instruct his own independent flood report/assessment in the event that the proposed Scheme is ratified.

Yours faithfully,

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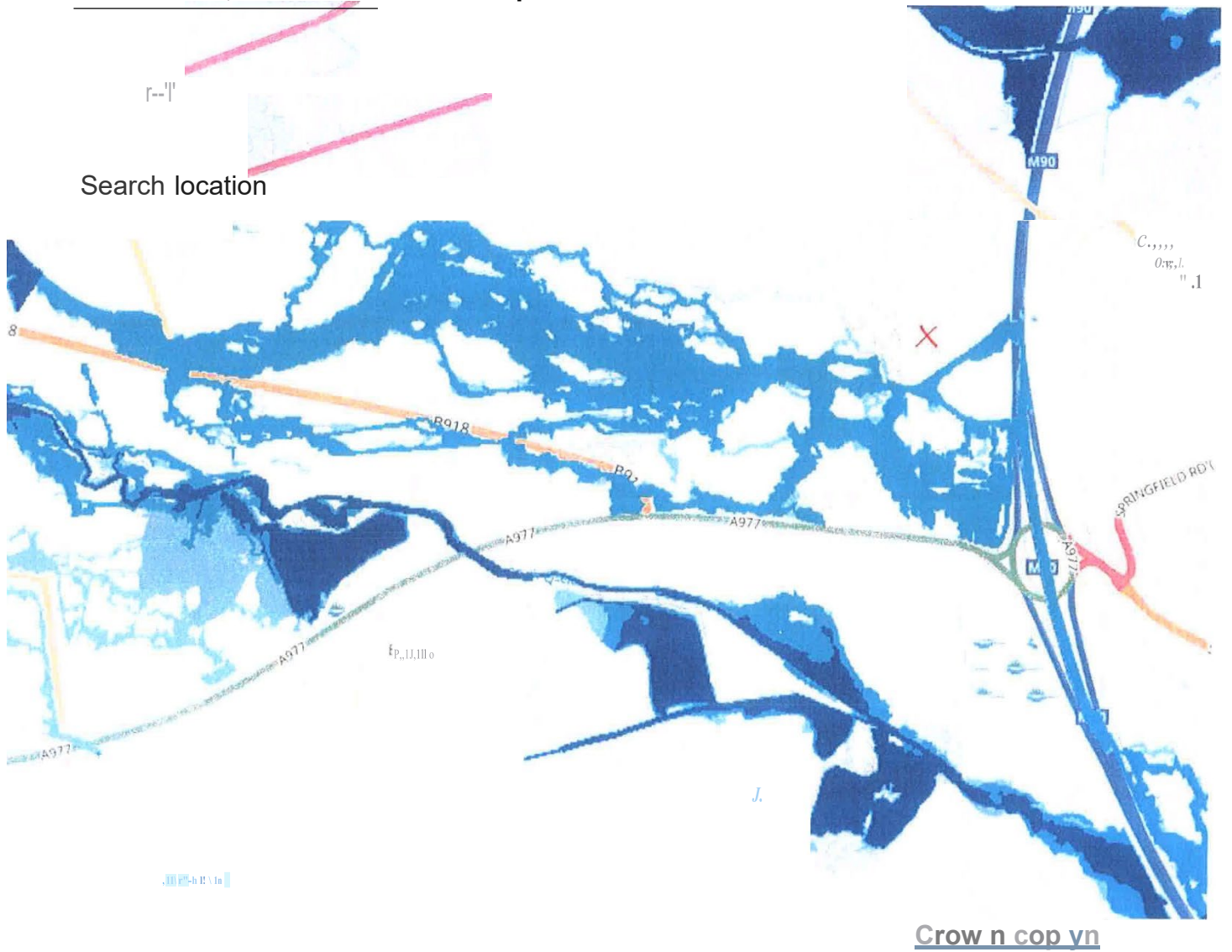
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[REDACTED: REGULATION 11(2)]



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