

**REPORT TO: DUNDEE, PERTH, ANGUS AND NORTH FIFE  
STRATEGIC DEVELOPMENT PLANNING AUTHORITY  
JOINT COMMITTEE MEETING ON 24th MAY 2011**

**REPORT ON: TAYplan GOVERNANCE REVIEW**

**REPORT BY: PAMELA EWEN, STRATEGIC DEVELOPMENT PLANNING  
AUTHORITY MANAGER**

**REPORT NO: SDPA06-2011**

## **1.0 PURPOSE OF REPORT**

1.1 To review the governance of TAYplan in respect of the Scheme of Delegation and the Minute of Agreement between the 4 constituent Councils.

## **2.0 SUMMARY**

2.1 The governance framework for TAYplan Strategic Development Planning Authority was established by The Joint Committee at its meeting in February 2009. Now, after 2 years in operation, a review has been undertaken of the Scheme of Delegation, the Minute of Agreement and the Financial Regulations to consider whether any amendments should be made to allow greater efficiency in the operational working of TAYplan.

## **3.0 RECOMMENDATION**

3.1 It is recommended that The Joint Committee:

- a) Approve the amendment(s) to the Minute of Agreement as set out in Section 6.0 of this Report;
- b) Approve the proposed amendments to the Scheme of Delegation, as set out in Section 7.0 of this report;
- c) Approve the proposed amendment to the Financial Regulations, as set out in Section 8.0 of this report;
- d) Refer the amendment(s) to the Minute of Agreement, the Scheme of Delegation and the Financial Regulations (a, b and c above) to the constituent Councils for ratification; and,
- e) Remit the Clerk to prepare a revised Scheme of Delegation, Minute of Agreement and Financial Regulations for execution by the constituent Councils on the amendments being duly ratified.

## **4.0 FINANCIAL IMPLICATIONS**

4.1 The proposed governance changes are expected to result in greater efficiency in TAYplan's operations, with mainly indirect cost savings.

## **5.0 TAYplan GOVERNANCE**

### Overview

- 5.1 In establishing the Strategic Development Planning Authority, the Joint Committee agreed a Scheme of Delegation, a Minute of Agreement between the 4 constituent Councils, and Financial Regulations. The process of delivering the first Strategic Development Plan is now well advanced. During this time there have been some minor areas relating to delegation and the agreement which have been raised. The majority of these have not posed significant problems, but amended would provide greater clarity.
- 5.2 A change is proposed to the Minute of Agreement as set out in para. 6.3 below, which would delegate authority to the Joint Committee not to modify the Plan and to submit to The Scottish Ministers.

## **6.0 MINUTE OF AGREEMENT**

- 6.1 The Minute of Agreement covers a range of areas to ensure the establishment and operation of the Joint Committee. This covers: commencement; constitution; members; period of office; vacancies in membership; quorum; standing orders; meetings; powers and duties of the Joint Committee;; interim clerk; convenor, vice convenor and clerk to the Joint Committee, resources and amendment of agreement.
- 6.2 The agreement sets out the number of Joint Committee meetings and states the "Joint Committee shall hold 4 ordinary meeting each year...". It is proposed that this is amended to at least 3 ordinary meetings each year. This better reflects the operational needs of the Strategic Development Planning Authority, and still allows for more than 3 meetings in a year should that be required. The meeting in June 2010 was not required and prompted a need to re-consider this part of the Agreement.
- 6.3 The need for ratification of key decisions in the Plan's preparation has also been considered further. To improve delivering the Strategic Development Plan and to streamline decision making, it is proposed to delegate the decision not to modify the Proposed Plan to The Joint Committee and to submit to Scottish Ministers.
- Where no modifications are made, then the Proposed Plan would be submitted as it was published and approved by The Joint Committee and the constituent Councils.
  - If modifications were agreed by The Joint Committee, this would require ratification by the 4 Councils.
- 6.4 Diagram 1 overleaf illustrates the process and shows the comparison of the current process and timescales (relevant to the current Plan) to that of the amended one which could result from this amendment to the Minute of Agreement and Scheme of Delegation. As diagram 1 overleaf illustrates, making this change to delegation would streamline the process and reduce the project plan at this stage by 7-8 weeks by removing the need for ratification where The Joint Committee were to agree that no modifications should be made to the Plan.

## CURRENT

**25<sup>th</sup> Oct 2011:** Joint Committee consider Proposed Plan to modify or submit

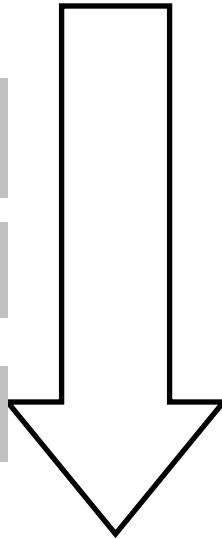
**26<sup>th</sup> Oct - 15<sup>th</sup> Dec 2011:** Ratification by Constituent Councils

**By mid Jan 2012:** Submission to Ministers

## PROPOSED

**25<sup>th</sup> Oct 2011:** Joint Committee consider Proposed Plan and agree if **no** modifications to submit the documents to Ministers.

**By end Nov 2011:** Submission to Ministers



- 6.5 It is therefore proposed to amend clause nine of the Minute of Agreement. This currently provides that the content of the Strategic Development Plan and the key stages of the Plan preparation process require to be ratified by the constituent Councils. It is proposed to amend this to the effect of delegating authority to the Joint Committee to determine not to modify the Proposed Strategic Development Plan under Sections 10 (3), and 12 A (5) of the Town and Country Planning (Scotland) Act 1997. Section 10 (3) relates to the stage when representations, if any, have been received following publication of the Proposed Plan. Section 12 (A) (5) relates to the situation where Scottish Ministers exercise their powers to order further consultation steps to be taken in the wake of a decision by the Reporter that he/she is not satisfied that the SDPA has complied with its participation statement and this has resulted in further representations received.

### 7.0 SCHEME OF DELEGATION

- 7.1 The Scheme of Delegation sets out the functions of the Strategic Development Planning Authority (subject to exceptions) from the Joint Committee to the Strategic Development Planning Manager.

#### Delegation from the constituent Councils to the Joint Committee

- 7.2 In reviewing this delegation amendments are proposed in a few areas.

- 7.3 Firstly, the delegation should cover all documents, not just those set out within the Planning Act, including background documents. The Scheme of Delegation should be amended to state 'and all other statutory powers' in relation to the preparation and making of the Plan. Making this change will ensure the delegation is comprehensive and provides greater clarity.

- 7.4 Secondly, The Joint Committee should have the delegated authority to approve, without ratification, background documents including background technical papers, Equalities Impact Assessment, Schedule of Responses to the Main Issues Report, Monitoring Statement, Development Plan Scheme, and Adoption of Action Programme at different stages of the Plan process. This change would provide greater clarity on the range of documents. The need for some of these really have emerged through the preparation of the first Strategic Development Plan and as a result allowed reflection on relevant and appropriate changes to the delegation.
- 7.5 Thirdly, the content of the Summary of Unresolved Issues document should be approved by The Joint Committee without ratification if no modifications are agreed. This document summaries the issues raised by timeous representations not taken account of or not fully taken account of in modifications under section 10 (3) and have not been withdrawn, including a statement of reasons why the authority did not modify the Proposed Plan to take account of the issues raised by the representations. Essentially, this will set out the issues raised, the proposed response, with reasons why relevant modification(s) are not recommended. This draft document will require to be considered by The Joint Committee ahead of making a decision on not to modify the Proposed Plan.
- 7.6 These proposed changes to delegation, taken together with the proposed changes to the Minute of Agreement, would provide greater clarity and streamline the process.

#### Delegation from the Joint Committee to the Strategic Development Planning Manager

- 7.7 The scheme delegates all of the Joint Committee's duties relating to the production of the Strategic Development Plan to the Strategic Development Planning Manager. There are a few areas of delegation which would benefit from greater clarity. These are Authority to:
- Complete Section 14 procedure (Publication and Publicity following consultation of Plan);
  - Respond to requests by the appointed person for further representations and information, under Reg. 22 of the Development Planning Regulation; and,
  - Execute all actions necessary to comply with the procedural requirements relating to the functions delegated to The Joint Committee.

## **8.0 FINANCIAL REGULATIONS**

- 8.1 The Financial Regulations were approved by The Joint Committee in February 2009 (Report 03-2009: Financial Regulations) and subsequently ratified by the 4 constituent Councils. Dundee City Council acts as the Lead Authority for the financial and employment arrangements and resources for the operation of the Strategic Development Planning Authority. This works effectively and there is only one change proposed to reflect a more effective practice.

- 8.2 The Financial Regulations currently state that the Joint Committee will annually, 'at the February meeting', consider all proposals on determining requisition, balances etc. A detailed report on the budget is considered in the October/November meeting to better align with budget setting timescales within the constituent Councils. It is therefore proposed to amend the Financial Regulations to delete reference to the February committee with the retention of this being an annual requirement.

## **9.0 CONSULTATIONS**

- 9.1 The Treasurer and Clerk to TAYplan, the Director of Infrastructure Services, Angus Council, The Director of City Development, Dundee City Council, The Head of Place Scene, Fife Council and the Executive Director (Environment), Perth & Kinross Council have been consulted and are in agreement with the contents of this report.

## **10.0 BACKGROUND PAPERS**

- 10.1 Report 02-2009: Scheme of delegation and Amendments to Minute of Agreement, Joint Committee 24<sup>th</sup> February, 2009.
- 10.2 Report 03-2009: Financial Regulations, Joint Committee 24<sup>th</sup> February, 2009.
- 10.3 The Planning (Scotland) etc Act 1997.
- 10.4 The Planning (Scotland) etc Act 2006.
- 10.5 The Town & Country Planning (Development Planning) (Scotland) Regulations 2008 (No. 426).
- 10.6 The Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations 2011 (No. 138).

Pamela Ewen  
Strategic Development Planning Authority Manager  
12<sup>th</sup> May 2011