

ITEM 7 – RISK MANAGEMENT

Report by: Fiona McBrierty, Development Planning & Environment Manager, West Lothian Council

Purpose

This Report includes an update on risk management.

Recommendations

It is recommended that the SESplan Joint Committee:

1. Notes the update on risk management as set out within this Report.

Resource Implications

As set out below.

Legal and Risk Implications

As set out below.

Policy and Impact Assessment

No separate impact assessment is required.

1. Background

- 1.1 The SESplan Joint Committee at its meeting on the 7 March 2011, approved SESplan's approach to risk management requiring that an annual review and update of the Risk Register is considered and agreed by the SESplan Project Board and that a report on risk management based on the updated Risk Register is presented to the Joint Committee no later than December each year. This approach assists with project management and addresses a recommendation of the Annual Audit 2009 / 2010.

2. Risk Management

- 2.1 A report on the SESplan approach to risk management was considered by SESplan Joint Committee at its meeting in November 2018. This report contains an update on risk management as at January 2020 and fulfils SESplan's obligation, albeit delayed, to report to the Joint Committee by the end of each calendar year.
- 2.2 The risk register has been updated by closing risks that are no longer applicable or current. Closed risks are associated with the decision of Scottish Ministers to reject SDP2 and leadership of the SESplan core team.
- 2.3 The probability and impact scores associated with remaining individual risks have been revised to reflect current work streams, the terms of the Planning (Scotland) Act 2019 which remove requirements to prepare strategic development plans and input to the Edinburgh and South East Scotland City Deal. Two new risks have been added to reflect input to City Deal and the Planning (Scotland) Act 2019 receiving Royal Assent.
- 2.4 New risks to note are project risk and operational risk which have arisen as a result of the requirements of the Planning (Scotland) Act 2019 and alignment of SESplan with City Region Deal (risks 14 and 17). A further risk has been added in relation to fraud and corruption (risk 18).
- 2.5 The key project risks are summarised as follows:
- **Alignment with City Region Deal** (risk 14) – A report on proposals for a Regional Growth Framework to form part of the governance and strategy for the Edinburgh and South East Scotland City Region Deal was noted by the SESplan Joint Committee on 30 September 2019. Since that time dialogue has been held with the City Region Deal Project Management Office to set out and agree SESplan's role in City Deal i.e. to provide technical assistance to City Deal on spatial planning for the City Deal area.
- 2.6 The key operational risks are summarised as follows:
- **Planning (Scotland) Act 2019 and Repurposing the SDPA** (risk 17) – the Planning (Scotland) Act 2019 received Royal Assent on 25 July 2019.

- **Resources** (risks 3, 10 and 12) – there is no dedicated Core Team resource for SESplan following the departure of the Acting Manager in January 2019. Whilst the SESplan member authorities have agreed to share the management and work streams there is a risk that pressures within the member authorities may compete with the requirements of SESplan. At present the Project Board is assigning resources from within member authorities as required and appropriate.
- **Finance** (risk 11) – the 2019/2020 Operating Budget set out nil contributions from each of the member authorities; essentially a running down of the SESplan reserves with a refund of £5000 given to each of the member authorities agreed following review of the 2019/20 Operating Budget. The Operating Budget for 2020/2021 was approved by SESplan Joint Committee on 25 November 2019 and sets out zero contribution from the SESplan member authorities.

3. Conclusion

- 3.1 The Risk Register will continue to be reviewed by the SESplan Project Board.
- 3.2 Annual reports on risk management will be presented to the SESplan Joint Committee by no later than December of each year. This report will highlight and summarise the main risks and additions to the Register.

Report Contact

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No.	Risk Description	Risk Probability	Risk Impact	RISK	Response	Response Owner	Probability with Response	Impact with Response	RESIDUAL RISK	
14	Alignment with City Region Deal	Risk that SDP spatial strategy and elements arising (e.g. transport) are not aligned with the City Region Deal.	2	5	10	The SDP1 Action Programme will require to be reviewed. Spatial strategy set out in SDP2 Proposed Plan is to be reviewed to provide input to Regional Spatial Framework for the Edinburgh and South East Scotland City Region Deal area and alignment with City Region Deal. Updating of the Action Programme has commenced; anticipate reporting to the SESplan Joint Committee March 2020; governance arrangements between SESplan and City Deal have been reviewed and reported to SESplan Joint Committee and City Region Deal Project Management Office.	Transport Scotland / SESplan / SEStran / City Region Deal	3	3	9
OPERATIONAL RISKS										
9	Core Team - Leadership	No core team is in place. Management shared by the SESplan member authorities on an interim basis; competing demands and other work pressures within the member authorities.	4	4	16	Following the departure of the Acting SESplan Manager in January 2019, an SDP manager has been appointed from within the SESplan Project Board - Midlothian Council during 2019 and East Lothian in 2020 with West Lothian Council providing a supporting role. An SDP Manager is a legal requirement for signing of accounts etc.	SESplan	3	3	9
10	No Core Team - Resources	No dedicated Core Team has been in place since 5 January 2019. Risk of insufficient resources to undertake statutory requirements including governance and finance.	4	4	16	Planning (Scotland) Act 2019 removes requirement for preparation of strategic development plans. Project Board have agreed limited spend in the SESplan Budget with resources provided by member authorities as and when required.	SESplan	4	4	16
11	Finance	Risk to long term Operating Budget and financial planning following the recommendation of the Planning Review that SDPs are no longer prepared and that SDPAs should be repurposed.	4	5	20	The 2019/2020 Operating Budget set out nil contributions from each of the member authorities; essentially a running down of the SESplan reserves with a refund of £5000 to each of the member authorities agreed following review of the 2019/20 Operating Budget. The Operating Budget for 2020/2021 was approved by SESplan Joint Committee on 25 November 2019 and sets out zero contribution from the SESplan member authorities.	SESplan	4	4	16
12	Member Authority - Resources	Lack of resource within the Member Authority to plug SESplan Core Team resource gaps. There are difficulties in managing the SESplan workload with instability in resources provided by Member Authorities.	4	4	16	Project Board have agreed resources will be provided by member authorities as and when required.	All	4	4	16
14	Engagement	The SDP and / or the SDP preparation process attracts adverse publicity or is misrepresented in the media.	3	4	12	The SESplan Stakeholder Strategy was approved by SESplan Joint Committee at its meeting on the 21 March 2016. It is a long term strategy setting out a commitment to the continuous improvement of engagement in the SDP and the development plan. The Strategy is informed by and builds on SESplan's experience to date including recent engagement on MIR2 and Proposed Plan 2. Further engagement is anticipated through City Deal.	SESplan	2	3	6
15	IT	Technology failure with significant loss of data and / or downtime.	2	5	10	Hardware / software requirements are provided by West Lothian Council, with data held on the West Lothian server backed up on a regular basis. The SESplan email system is an online web based application. SESplan utilises Objective to prepare documents and run public consultations. Objective is also web based. SESplan email is monitored by West Lothian Council and the website is updated by West Lothian Council.	SESplan	1	3	3
17	Planning (Scotland) Act 2019 and Repurposing the SDPA	Uncertainties around the work, role and remit of SESplan going forward.	3	2	6	Project Board have agreed resources will be provided by member authorities as and when required. Alignment with Edinburgh and South East Scotland City Region Deal underway.	SESplan and City Region Deal	2	2	4
18	Fraud or Corruption	SESplan resources and information is used by internal and external parties for purposes which could place SESplan at operational and/or reputational risk.	1	2	2	As Financial Authority for SESplan, all financial transactions are conducted in accordance with Five Councils' regulations, schemes and procedures, including fraud risk. Five Councils' financial ledger is audited by an independent auditor under Part VII of the Local Government (Scotland) Act 1973. Five Councils' internal audit service acts as SESplan's internal auditors. SESplan Governance including financial rules is reported to the SESplan Joint Committee as required. Privacy Notice is available on the SESplan website.	SESplan	1	2	2

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PROJECT RISKS										
1	Approval of the Plan	The second SDP is required to be submitted for Examination within four years of the approval of SDP1 i.e. no later than June 2017. The second SDP is to be approved within five years of SDP1 i.e. June 2018. Should these timescales not be met, the development plan (SDP1) will be considered out of date.	5	5	25	The second SDP was submitted for Examination in June 2017 within the required timeframes. The DPEA Report of Examination was sent to Scottish Ministers on the 20 July 2018. Scottish Ministers have an indicative timeline of two months to make a decision on the plan, this was passed on the 20 September 2018. SDP1 was published in June 2013 and is now considered out of date. The timelines for the approval of SDP2 not under the control of SESplan.	DPEA	4	4	16
2	Supplementary Guidance - Cross Boundary Developer Contributions Framework	Risk that the outputs of the Study are not sufficient to construct a Cross Boundary Contributions Framework that would meet the tests relevant to Planning Obligations. This was the basis for a successful challenge to the Aberdeen Strategic Transport Fund. There are also uncertainties around the most appropriate mechanism to secure contributions. This is particularly in light of the Planning Review recommendations regarding a Regional Infrastructure Levy.	4	5	20	The Report of Examination has recommended changes to the scope and remit of the Supplementary Guidance. Issues around challenges to the mechanisms for securing contributions continue to be explored by the Working Group in consultation with Transport Scotland and other stakeholders.	SESplan	4	3	12
3	Supplementary Guidance - Cross Boundary Developer Contributions Framework	Risk that the Cross Boundary Study Project does not take account of national flows and is not robust and thorough. Similarly a risk arises concerning development viability particularly if new development is being asked to meet planning obligation levies applied through LDPs in addition to those now proposed through SESplan 2.	4	5	20	The Report of Examination has recommended changes to the scope and remit of the Supplementary Guidance. Issues around challenges to the mechanisms for securing contributions continue to be explored by the Working Group in consultation with Transport Scotland and other stakeholders.	Transport Scotland	3	3	9
4	Alignment - SDP2 and City Region Deal	Risk that SDP2 and its associated Action Programme is not aligned with the City Region Deal and that (transport) obligations committed or necessary in conjunction with phasing of development are not aligned.	4	5	20	The Action Programme will be required to be reviewed shortly after SDP2 approval. This reviewed Programme will be aligned with City Region Deal.	Transport Scotland / SESplan / SEStran / City Region Deal	3	3	9
5	Alignment - Cross Boundary Transport Study, Cross Boundary Contributions Framework and City Region Deal	Risk that the Cross Boundary Transport Project (Study and Contributions Framework) is not aligned with the emerging City Region Deal.	4	5	20	The Report of Examination has recommended changes to the scope and remit of the Supplementary Guidance. Issues around challenges to the mechanisms for securing contributions continue to be explored by the Working Group in consultation with Transport Scotland and other stakeholders.	Transport Scotland / SESplan / SEStran / City Region Deal	3	3	9
6	The Examination - Housing	Development and housebuilding industry raised concerns through representations on the proposed SDP2 that there was not sufficient opportunity to comment on housing supply targets before they were finalised.	5	3	15	The Reporter has recommended changes to the housing supply targets. The development industry represented by Homes for Scotland have written to the Minister to express concerns with the Reporter's approach. The Minister has been asked to note these concerns and will make a decision on SDP2 in due course.	SESplan	3	3	9
7	The Examination - Heat Mapping	The Scottish Government raised in their representations to the Proposed Plan that a strategic heat map should be prepared. The Reporter on the CLYDEplan Examination has added a requirement that Supplementary Guidance on Heat Mapping is prepared in the CLYDEplan area. There is a risk that the Reporter for SESplan also requires Supplementary Guidance on Heat Mapping to be prepared.	5	3	15	The Reporter has not recommended that heat mapping for the SESplan area is taken forward. The Minister is considering the Report of Examination and will make a decision in due course.	SESplan	2	2	4
8	The Examination - Minerals	The Scottish Government raised in their representations to the Proposed Plan that supplementary guidance on minerals should be prepared. There is a risk that the Reporter for SESplan also requires Supplementary Guidance on Minerals to be prepared.	5	3	15	The Reporter has not recommended that further guidance on minerals for the SESplan area is taken forward. The Minister is considering the Report of Examination and will make a decision in due course.	SESplan	2	2	4
13	Planning Review and Repurposing the SDPA	Uncertainties around the Planning Bill and the work, role and remit of SESplan going forward.	4	5	20	Project Board have agreed resources will be provided by member authorities as and when required.	SESplan	4	4	16
OPERATIONAL RISKS										
9	Core Team - Leadership	Lack of leadership and direction to Core Team.	5	5	25	Following the departure of the Acting SESplan Manager in January 2019, an SDP manager has been appointed from within the SESplan Project Board - Midlothian Council during 2019 and East Lothian in 2020 with West Lothian Council providing a supporting role. An SDP Manager is a legal requirement for signing of accounts etc.	SESplan	3	3	9
13	Planning Review and Repurposing the SDPA	Uncertainties around the Planning Bill and the work, role and remit of SESplan going forward.	4	5	20	Project Board have agreed resources will be provided by member authorities as and when required.	SESplan	4	4	16
16	Core Team - Project Management	Lack of consistent project management.	2	5	10	Core Team trained in Prince 2 project management techniques.	SESplan	1	1	1