

**REPORT TO: ENVIRONMENTAL SERVICES & SUSTAINABILITY COMMITTEE –  
21<sup>st</sup> June 2004**

**REPORT ON: SCOTTISH EXECUTIVE CONSULTATION ON PROPOSALS FOR A  
BATHING WATER IDENTIFICATION STRATEGY**

**REPORT BY: ASSISTANT CHIEF EXECUTIVE (COMMUNITY PLANNING)**

**REPORT NO: 498-2004**

## **1 PURPOSE OF REPORT**

- 1.1 This report outlines the proposals from the Scottish Executive on the introduction of a Bathing Water Identification Strategy for Scotland and sets out a proposed response from Dundee City Council.

## **2 RECOMMENDATIONS**

It is recommended that:

- 2.1 Committee endorses the response to the consultation paper as set out in Appendix 1.

## **3 FINANCIAL IMPLICATIONS**

- 3.1 The introduction of a new Bathing Water Identification Strategy is in line with efforts by the Council to encourage the Scottish Executive to re-examine the current list of identified bathing waters. Such a strategy could have implications for the Council's efforts to promote Broughty Ferry beach as a leisure attraction.

## **4 LOCAL AGENDA 21 IMPLICATIONS**

- 4.1 The City Council is committed to securing 'Blue Flag' status for Broughty Ferry beach. A necessary pre-requisite to securing a Blue Flag is to have Broughty Ferry as an 'identified bathing water'. The Bathing Water Identification Strategy is most likely to impact upon the opportunities to promote leisure and recreation in Dundee with resulting effects on the environment and economic considerations for Broughty Ferry beach.

## **5 EQUAL OPPORTUNITIES IMPLICATIONS**

- 5.1 None.

## **6 BACKGROUND**

- 6.1 The EC Directive concerning the quality of bathing water (76/160/EEC), also known as the Bathing Water Directive was one of the original pieces of environmental legislation to emerge from the European Commission.

- 6.2 The aim of the legislation was to protect the quality of waters where bathing takes place in large numbers and, ultimately, to protect the health of people who go to those areas. The Directive is aimed at ensuring favourable conditions for all users throughout the bathing season, and at providing uniform standards of protection for bathers at recognised bathing waters throughout Europe.

- 6.3 Under the Bathing Water Directive, EU Member States are required to identify appropriate waters within their territories and to take actions to maintain and improve the quality of these identified waters to specified standards. In Scotland, bathing waters are

identified under the Bathing Waters (Classification) (Scotland) Regulations 1991, and are the responsibility of Scottish Ministers (prior to devolution this was the responsibility of the Secretary of State for Scotland).

- 6.4 At present, the Bathing Water Directive is being reviewed by the European Commission and the Scottish Executive have taken this opportunity to review the current interpretation and scope of the Directive and to set in place a more formalised system for bathing water selection as part of the overall framework of water policy in Scotland.

### **Previous bathing water identifications**

- 6.5 The first round of identifications was completed in 1987 with 23 sites being identified, many of which included the most frequented beaches in Scotland. A Bathing Waters Review Panel made up of the Scottish Executive, Local Authorities, SEPA, Scottish Tourist Board, Keep Scotland Beautiful and the predecessor organisations to Scottish Water met to identify the next round of beaches in 1998. At that time the panel identified an additional 37 sites and since then no further sites have been identified and the selection panel has not sat.
- 6.6 Broughty Ferry beach is not amongst these 60 identified sites. Nevertheless, Dundee City Council in recognising the potential of the beach as a leisure resource and as a means of attracting investment into the area has committed expenditure to improving facilities at the beach.
- 6.7 In recognition of improvements made to the water quality and visitor facilities in 2004, Broughty Ferry beach secured 'recommended' status in the Marine Conservation Society's 'Good Beach Guide' and was awarded a 'Yellow Flag' by EnCams/Keep Scotland Beautiful. Dundee City Council is committed not only to retaining the Yellow Flag but also to securing Blue Flag status for the beach.

## **7 PROPOSALS FOR A BATHING WATER IDENTIFICATION STRATEGY**

- 7.1 The Scottish Executive is proposing to revisit the Bathing Water Identification process to introduce a new or modified system of beach identification. This may involve an independent review panel and a set of revised assessment criteria based on the number of beach users at peak times, production of a beach management plan and user surveys. The consultation seeks comments on several options for a Bathing Water Identification Strategy, through a series of questions put to consultees. Comments on the possibility of a separate scheme for the identification/recognition of more rural, less frequented beaches are also being sought.

## **8 POTENTIAL IMPLICATIONS FOR DUNDEE CITY COUNCIL**

- 8.1 Since the addition of 37 sites to the list of Scottish identified bathing water in 1998, the City Council has been lobbying the Scottish Executive to give consideration to identifying Broughty Ferry beach. The recent decision by the Executive to embark on a consultation exercise which will feed into the development of a new method for identifying bathing waters is welcome.
- 8.2 Nevertheless, some of the Executive's proposals have implications for the City Council's efforts to secure Blue Flag status for Broughty Ferry beach. The consultation paper proposes that bathing waters be identified only if peak user numbers exceed 200 persons. Scottish Executive surveys used to back up the consultation paper's proposals put the 2003 peak use at Broughty Ferry at just 82. On this basis, Broughty Ferry beach would not be 'identified' and since Blue Flag status requires a beach to be designated (or identified), securing a Blue Flag would not be possible.

8.3 However, the Council's Leisure and Arts Department carried out its own beach user counts over the summer of 2003 and recorded figures of approximately 500 beach users at peak time. The Council's approach will therefore be to provide the Scottish Executive with accurate photographic evidence to verify that Broughty Ferry beach surpassed the 200 figure recorded on their 2003 counts.

**9 DUNDEE CITY COUNCIL'S RESPONSE TO THE CONSULTATION**

9.1 The Council's response to the consultation is outlined in Appendix 1 and comprises general points together with responses to the set of 15 specific questions asked by the Executive.

**10 CONSULTATION**

10.1 Relevant Directors have been consulted in the preparation of this report.

**11 BACKGROUND PAPERS**

Scottish Executive Consultation Paper "Consultation on Proposals for a Bathing Water Identification Strategy", April 2004 (Paper 2004/7)

Chris Ward  
Assistant Chief Executive (Community Planning)..... 17/06/04

## Appendix 1

### **Proposed Dundee City Council Response to Scottish Executive Consultation on Proposals For A Bathing Water Identification Strategy**

#### **General Comments**

Dundee City Council recognises the potential of Broughty Ferry beach as an important leisure resource and as a means of attracting investment into the area and has therefore committed expenditure to improving facilities at the beach.

In recognition of the improvements made to the water quality and visitor facilities in 2004, Broughty Ferry beach secured 'recommended' status in the Marine Conservation Society's 'Good Beach Guide' and was awarded a 'Yellow Flag' by EnCams/Keep Scotland Beautiful. Dundee City Council is committed not only to retaining the Yellow Flag but also to securing Blue Flag status for the beach.

Some of the proposals by the Executive, if implemented, would have a detrimental impact on Dundee City Council's efforts to secure Blue Flag status for Broughty beach. One of the most noticeable proposals in the consultation paper (p10/11, para27 and Annex 3) is that bathing waters (or beaches) be 'identified' (or 'designated') only if peak user numbers exceed 200 persons. Scottish Executive surveys used to back up the Consultation Paper put the 2003 peak use at Broughty at just 82. On this basis, Broughty would have little chance of being 'identified' or 'designated'.

SEPA print-outs of water quality measurements at Broughty Ferry reveal that sampling throughout the summer of 2003 was undertaken on weekdays and no samples (and count) was taken on a Saturday or a Sunday – the widely accepted days of peak recreational use at beaches.

However, Dundee City Council's Leisure and Arts Department carried out its own monitoring of beach user counts over the summer of 2003 and recorded figures of approximately 500 beach users at peak time. Photographic evidence (used to support the Council's application for a 'Yellow Flag' status) indicates that there were over 80 people at the beach on a sunny, mid-week day alone.

The Council is therefore confident that Broughty Ferry beach would surpass the 200 count and be eligible for 'identification'. The Council will also pass its photographic evidence to the Executive to verify that Broughty Ferry beach surpassed the 200 figure recorded by the SEPA sampling staff in 2003.

#### **Comments to questions asked in the consultation document**

##### a) Selection Panel and Processes

###### Membership

Q1. Which organisations do you think should have their views taken into account during discussions on the identification of bathing waters?

**Answer** The organisations listed in the existing Bathing Waters Review Panel would be recommended (i.e. Scottish Executive, Local Authorities, SEPA, Scottish Tourist Board, Keep Scotland Beautiful and Scottish Water). On a case-by-case basis, the views of local interest/stakeholder groups

**should also be sought and taken into consideration in the discussions (e.g. Community Councils, Beach Management Groups).**

Q2. Should a group to consider such identifications be set up or could an existing group take on this function?

**Answer Clean Coast Scotland should be considered to carry out this function as the most relevant established body with knowledge and expertise in this field.**

#### Responsibilities

Q3. We propose to use a simplified single format for producing evidence as part of the nomination process. Do you agree?

**Answer The proposed criteria listed in Annex 3 is sufficient. The wording of the second point however is unclear.**

Q4. We propose that the person or group nominating a site should be responsible for producing the evidence. Do you agree?

**Answer Agree**

Q5. This evidence would be considered by a panel and the most suitable candidates agreed and forwarded to Scottish Ministers for their final decision. Do you agree with this process?

**Answer Agree**

#### Frequency

Q6. We propose that the frequency of review should be tied to other linked initiatives, such as those mentioned above. On the basis of this we propose that a review might be undertaken every 5 years. Do you agree with this recommendation?

**Answer If the proposal is to tie the reviews into other linked initiatives, then consideration should be given to enable EnCams to carry out yearly reviews as part of their own annual beach assessments.**

#### b) Selection Criteria

##### Numbers and Counts

Q7. We propose that the numbers of visible users, regardless of whether they are bathing or not, should be our measure of 'usage'. Should we be considering any other methods of determining use?

**Answer The number of visible users is as good a method as any. However, beaches with awards should also qualify as being 'identified'. Furthermore, any methodology which is used in the future to define numbers of beach users must give due consideration to the day and time of day when the count is taken. It is recommended that:**  
**(i) Weekend counts must be taken.**  
**(ii) There should also be consistency in timing of counts from beach to beach.**

Q8. We further propose that level of usage be based upon peak numbers observed at a site on a single day, rather than use a value for cumulative usage. Do you agree?

**Answer** The method used to record peak usage number should be the most appropriate and achievable for the applying body. For example, if Dundee City Council were remitted to determine usage counts then cumulative usage counts could be more achievable as the Council has a continual presence at the beach, whereas another body would only be able to make infrequent visits.

Q9. SEPA survey teams can make counts on their routine sampling visits, as a means to verify usage. Is this an appropriate means to determine site usage? Are there other independent means to obtain robust survey data?

**Answer** Local Authorities should be given the responsibility to provide accurate counts where they can be submitted to the Review Panel for confirmation. If there are any concerns as to the validity of counts submitted by Local Authorities then the Executive should undertake to audit the figures (perhaps through Clean Coast Scotland). However the 'self-assessment' of evidence Local Authorities must compile for the Yellow/Blue Flag awards should be good enough in this case.

**If SEPA staff are to be used to undertake beach user counts alongside their normal bacteriological sampling, it would be appropriate to ensure that timing of sampling reflects visitor behaviour. (i.e. weekend and public holiday day counts).**

Q10. Should a cut-off value for users be set, and if not, what other means of gathering beach-use evidence should be used to determine which bathing waters ought to be identified for the purposes of the Directive?

**Answer** The 200 cut-off value seems adequate.

Q11. Bearing in mind (i) the exceptional summer weather in 2003, (ii) that we are currently implementing the Water Framework Directive through the WEWS Act which will require good ecological status to be attained for all waters (out to 3 nautical miles) in Scotland, and (iii) that for the specific purposes of this Directive, which require us to identify places where there are "large numbers of bathers", we would propose to use 200 users as a cut-off value for indicating a site has sufficient usage to be considered as a potential bathing water. Do you agree?

**Answer** Agree

Q12. What are your views on possible de-designation? Should all existing sites be retained, with any new identification criteria applying only to new candidate sites, or should we consider the de-designation of any site with very low levels of observed usage?

**Answer** This leads to the possible question of what would the costs be to the Executive to de-designate a beach. There would be no problem if the de-designation of one beach meant that another would benefit from greater sampling, investment, development etc.

Q13. Should we have a usage level below which de-designation may be considered – say less than 50 users – what are your views?

**Answer**    **No comment**

Q14.            It will be important that main beaches continue to be recognised as a valuable local and tourist amenity – in what ways, other than identification under a European Community Directive – might a beach be recognised?

Facilities

**Answer**    **Through ‘Yellow’ and ‘Blue’ Flag beach status.**

Q15.            Would it be worth considering another scheme for the identification/ recognition of more rural, less well frequented beaches? If so, we would welcome your comments or suggestions.

**Answer**    **Another scheme may be confusing amid the plethora of existing schemes - Clean Coast Scotland awards, European Yellow/Blue Flag beach status, the marine Conservation Society’s Good Beach Guide etc. It would therefore be recommended that another scheme for rural beaches is not developed.**