

## **PE1459/C**

Petition PE1459 - Submitted by James Mackie of Garmouth, supported by David MacKay of Garmouth.

### **The Moray Council's response.**

#### Moray Council's view on the petition

The council's overall view of the petition is that it is an appeal by a coastal community that considers it does not have adequate coastal protection. The main point of the petition is that there is no clarity regarding who is responsible for providing protection from coastal erosion. Roles and responsibilities are provided in the Coast Protection Act 1949.

The *Coast Protection Act 1949 (part 1)* empowers Local Authorities with coastlines (termed 'Coast Protection Authorities' in the Act) to carry out coast protection work inside and outside their area as necessary. The powers given to the Coast Protection Authorities under the Act are permissive, i.e. Authorities are not obliged to protect eroding coastlines. Instead responsibility for management and prevention of erosion rests with the landowner of the site concerned. Any coastal protection works proposed would be subject to approval by the Scottish Government. Capital works may, if approved, be eligible for grant aid from the government.

The petitioner stresses his frustration that so much consultation is necessary before any work can be undertaken. In the petition it is stated that 24 public bodies need to be consulted and during the meeting it is claimed that a list of 50 to 60 organisations would need to be consulted before coastal protection work could be undertaken. It is necessary to undertake consultation to ensure any work proposed complies with environmental legislation. The council would consult those it considered appropriate in this instance, SNH, Marine Scotland, SEPA, Moray Firth Partnership, and Spey Fisheries Board. However it is recognised that other non statutory stakeholders are also consulted such as relevant landowners and the local community.

During the meeting the petitioner advised that the council had "stonewalled" the community when it asked for information. The council does not accept this. The Council has for a number of years communicated with the local community at Garmouth and Kingston, attending community group meetings as well as meeting with smaller groups or individuals. The council has always tried to answer questions the community has asked and has committed a great deal of time and resources to providing the best information available. The community has often not been satisfied with the answers provided by the Council, which is that it is not considered feasible to construct the coastal protection measures the community would like to have. The local community has asked the council to provide off shore coastal protection. Due to the sensitive nature and multiple environmental designations in this area, a number of studies would be required to support the justification for undertaking this work. One of the studies required is the construction of a physical model of the coastline. This model would be used to provide evidence that works undertaken would not have an adverse impact on the

coastline east and / or west of the proposed coastal protection structure. The cost of this model and other studies required would be considerable and as the financial benefits would be limited this work would not be considered economically feasible and as such not eligible for grant funding.

The council has taken expert advice on coastal processes in this area, which differs from the petitioner's assessment of coastal processes. Movement of sediment in this area is a complex interaction between sediment supply from the River Spey and the action of the waves. Sediment movement is principally determined by wave action, which depending on specific wave conditions will move sediment either to the west or the east, slightly more sediment is moved from east to west along the coastline at Kingston. The supply of sediment from the Spey and movement of the position of the main entrance channel to the Spey has a significant influence on the behaviour of sediment movement within this area. The shingle bank between Kingston and the sea has changed significantly in recent history, the reason for this dramatic change has, in part, been attributed to the modifications made to the natural processes, such as cutting a new mouth in the Spey, to reduce flood risk to Kingston and the provision of rock armour immediately east of the Spey. These works have reduced the volume of sediment moving from east of the river to the west.

Expert advice received by the council does not concur with the petitioner's opinion that the shingle bank is "completely disappearing". The bank is still there and is progressively moving back towards the landline. The council is continuing to monitor this bank and is investigating the provision of erosion protection along the landline, which does not have the same environmental restrictions as the shingle bank and the beach area.

A number of points were raised that are considered inaccurate or misleading, these have been addressed below.

Mary Scanlon MSP stated that "The council is being asked to do something for £48,000 and just one of the schemes will cost more than £100 million (corrected to £85 million), the council is not aware of being asked to any coastal protection works worth £48,000. Reference was also made to the Flood Protection (Scotland) Act 2009. The council is aware of its duties under this act and has committed resources to complying with them. The relevance of the act is unclear as it does not consider coastal erosion, which is the basis of this petition.

James Mackie stresses that Moray Council does not have a register of coastal erosion in its area. This is true but the council does undertake regular inspections of coastal areas known to be at risk of erosion and flooding. There is no requirement for this register.

James Mackie advised that the council employed a consultant at a cost of £5000 to £8000 for two days work. This consultant is an experienced coastal engineer who undertook a study into the coastal processes in this area. This study took considerably more than two days. The findings of this study were reported and a copy of the report was made available to the local community.

David Mackay states that he was advised by the coastal engineer referred to above that Kingston would not be there in 50 years time. This statement is not correct, in his report the engineer advised that at some time in the future 1 or 2 houses may have to be abandoned.

#### The council's role in addressing coastal erosion in Moray

As stated above the council's role in addressing coastal erosion is that it has permissive powers to undertake work to reduce coastal erosion but has no obligation to undertake such work. Any work undertaken would be done in consultation with the public and other stakeholders, it would also be subject to approval from regulatory bodies. The council is only able to undertake work with the resources available to it. If works are promoted and approved by Scottish Government they may be eligible for grant aided funding of up to 80%. For grant funding to be made available the works the council would have to demonstrate that the works were sustainable and economically feasible.

In recent history the council has considered the issues at Kingston on a number of occasions. This consideration was based on information provided by council officers and consultants. It was considered that to progress a coastal protection scheme at Kingston posed to great a financial risk for the council. However since the storm event on 15 December 2012 the relevant council committee on the 18 December 2012 agreed "that investigations into work available to protect the land-face bank at the rear of the Lagoon be held and a report be submitted to a future meeting of this Committee";

The initial stage of this investigation will be complete in spring 2013. The council will consider what action it will take based on the results of this investigation.

There are areas within Moray that are known to be at risk of erosion and inspections are carried out in these areas as required. Where erosion is considered to have an adverse impact on a community the situation is assessed and appropriate action taken. Examples of this action are rock armour put in place to protect communities at Burghead and Tugnet.

The Chair of the Economic Development and Infrastructure Services Committee wrote to Paul Wheelhouse BPA/MSP on 21 December 2012, regarding the long term impact of coastal erosion, along with other coastal issues. The response from the minister sent on 7 February 2013 advised that he would be happy to see a dialogue occur between Scottish Government and local authorities.

The council considers it complies with its current responsibilities under *Coast Protection Act 1949 (part I)*, if a review of "Coastal Erosion and Protocols and Responsibilities" results in a change to current legislation, obligating local authorities to undertake coastal protection works, it should be noted that these authorities can only work with the resources made available to them. If additional resources are not made available to local authorities to undertake

these additional duties then it is unlikely that the situation regarding coastal protection will change.