

<p>Question 21: How should the issue of technical expertise and capacity be addressed?</p>	<p>make the best use of natural resources & best value principals as such & with great concern over the Elgin scheme (I use this as an example but in general the principals are the same)to defend against nature? to make preventions against the forces of nature is slightly simpler & the smaller any man made structure is the better.Milnathort tried to defend against flood & failed New Orleans-failed.If one considers the weight of water + the very small displacement to float massive vessels who can calculate the strength required in a 17.5m wall to prevent any colapse</p>
<p>Question 22: How could such a process ensure the necessary technical standards are observed?</p>	<p>Flooding unlike most other types of, or bodies of water are most dangerous mainly because,just like a waterslide it starts off on higher points @ a greater angle therby travelling at greater speeds but as the gradient decreases so does the flow of water. It is my belief that dams on the upper parts of the catchment areas to restrict the force of water is the preferred choice in almost every occasion this reduces errosion and larger debris from reaching urban & densly populated areas & to quote the SG "nip it in the bud"should be the answer.Thus the standards can be met & exceeded much simpler as they would be in rural areas where more space is available.</p>
<p>Question 23: Are there any additional alternatives to the options outlined above which would simplify procedures?</p>	<p>YES start at the source of the problems Take control away from LAs I believe most have conflicting interests,as for local knowledge this is questionable? Real rural affairs & best value appear to be alien in this part of Scotland.</p>
<p>Question 24: Do you agree that streamlining the CAR and flooding/planning processes, can be managed through better guidance?</p>	<p>YES</p>
<p>Question 25: Do you think there is anything further SEPA, the Scottish Government or others should be doing to promote joined-up regulation?</p>	<p>YES</p>
<p>Question 26: Do you think that there is an alternative approach to simplifying the process of promoting flood measures to those discussed above which the Government should consider?</p>	<p>YES</p>
<p>Question 27: Do you agree that the form and content of the biennial reports should be more systematic, and subject to direction from Ministers?</p>	<p>YES</p>

Question 28: Do consultees agree that the proposals as outlined will improve flood risk management and ensure Scotland is equipped to implement sustainable flood management?	Disagree
Question 29: Do consultees feel that this is enough to ensure that flood risk is addressed or should local authorities have a new duty to promote measures to alleviate flooding?	See Q23
Question 30: Do you believe enforcement responsibilities under the Reservoirs Act 1975 should be transferred to a single national body?	YES
Question 31: If so, should it be SEPA or another as yet unidentified body?	SEPERATE INDEPENDENT BODY
Question 32: Are you content with the proposals for dealing with reservoir flood maps under the provisions of the Floods Directive, or do you think that there should be a statutory duty on reservoir undertakers to prepare reservoir inundation maps and plans, similar to the duty in the 2003 Water Act for England and Wales?	AS the maps available at present are so dated I think it essential new mapping is undertaken.
Question 33: Do agree that enforcement powers be extended and post incident reporting included as an additional requirement?	YES
Question 34: Views on crown application and any other comments?	Any assistance I can be to alleviate the horror of floods & suffering to individuals please feel free to contact me

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047

From: [REDACTED]

Sent: 21 April 2008 18:27

To: Flooding, Erosion and Reservoir Safety

Cc: [REDACTED]

Subject: FLOOD RISK CONSULTATION

.....
This email has been received from an external party and
has been swept for the presence of computer viruses.
.....

Frances

I am Chairman of Dalguise Flood Committee (Perthshire). This is a small community near Dunkeld which has suffered heavily from flooding over recent years resulting in considerable financial and emotional distress to householders, farmers, landowners and managers of fishing beats. The situation there is so bad that we are being forced to re-build our own property so that all living accommodation is moved to the first floor. Other householders have built walls around their properties and taken other actions to mitigate flood risk.

Sadly, Dalguise does not qualify for a Flood Prevention Scheme.

Influenced by the situation prevailing at Dalguise, may I suggest that the relevant authorities give consideration to the following in regard to communities at risk from flooding:

1. Council Tax relief for affected properties.
2. An appropriate legal formula for managing the sometimes conflicting interests of homeowners and farmers/landowners.
3. In instances where farmers' floodbanks (on river banks) provide a degree of protection to communities, then establishment of a grant aid scheme to farmers/landowners for repair of damaged floodbanks. (Assistance along these lines was provided pre-devolution.)
4. A scheme for insuring flood affected properties in cases where insurance cover from the commercial insurance market is not available.

Thank you.

Nigel Cole

Tel: [REDACTED]

Fax: [REDACTED]

Skype: [REDACTED]

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22/04/2008

048



From:
Sent:
To:
Subje

.....
 This email has been received from an external party and
 has been swept for the presence of computer viruses.

The Future of Flood Risk Management in Scotland

RESPONDENT INFORMATION DETAILS

Name:
 Organisation:
 Address:
 Postcode:
 Email:
 Telephone
 Number:
 Responding as
 Individual
 Permission:
 Confidentiality: Yes, make my response available, but
 not my name or address
 Group or
 Organisation: Not Supplied
 Share Response
 Permission: Yes

Consultation Questions The Future of Flood Risk Management in Scotland	
Question 1: Do you believe the definition of SFM is helpful and of practical benefit to flood risk management?	Yes
Question 2: Do you think the definition is clear and simple to understand?	Could be made more simple
Question 3: Do you agree with the conclusion as set out in paragraph 3.17?	YES

Question 4: Do you agree that there should be a single competent authority with a national remit for implementing the Floods Directive, and that it should be SEPA?	YES
Question 5: Do you agree that this is a sound basis for the development of Local Flood Risk Management Plans? If not what alternative do you propose?	YES
Question 6: Should Ministers or SEPA have the power to designate a lead authority within a local area, or should it be left to the partners?	LEFT TO THE PARTNERS
Question 7: Do you agree that Local Authorities, Scottish Water, the Forestry Commission, and SNH should be identified as responsible authorities?	YES
Question 8: Which other bodies should be identified as responsible authorities?	
Question 9: Do you agree that responsible authorities should have a duty to work together within Flood Advisory Groups to produce plans?	YES
Question 10: Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process?	YES
Question 11: Do you agree that the Bill should set out a process similar to that for River Basin Management Planning for the preparation by SEPA of area flood risk management plans?	YES
Question 12: Do you agree that Ministers have the power to approve, reject or modify Area Flood Risk Management Plans?	YES
Question 13: Do you think that integrated urban drainage plans should be included as part of a Local Flood Risk Management Plan?	YES
Question 14: Should Flood Risk Management Plans inform the way that development plans are prepared, or should there be a stronger linkage such as a requirement on planning authorities to show that they have regard to the FRMPs?	YES
Question 15: Do you think that the granting	

<i>of deemed planning permission at the end of the statutory process for flood risk management will deliver a more streamlined approach to the delivery of flood risk management?</i>	With the right people in charge who know what they are doing and have the experience
<i>Question 16: Should Ministerial confirmation be made necessary even where features of a scheme do not require planning permission?</i>	NO
<i>Question 17: Is the present procedure for Ministerial confirmation satisfactory for this new purpose or are there revisions e.g. to timescales which should be considered?</i>	Dont Know
<i>Question 18: Do you think that the option to rely on a local authority based process in a similar way as other local authority development activity should be taken forward?</i>	
<i>Question 19: What would be the appropriate timescales for notification and response?</i>	50 days
<i>Question 20: Would it be appropriate for such a process to carry deemed planning consent?</i>	yes
<i>Question 21: How should the issue of technical expertise and capacity be addressed?</i>	Carefully
<i>Question 22: How could such a process ensure the necessary technical standards are observed?</i>	Have the people with the know how.
<i>Question 23: Are there any additional alternatives to the options outlined above which would simplify procedures?</i>	Probably
<i>Question 24: Do you agree that streamlining the CAR and flooding/planning processes, can be managed through better guidance?</i>	YES
<i>Question 25: Do you think there is anything further SEPA, the Scottish Government or others should be doing to promote joined-up regulation?</i>	YES
<i>Question 26: Do you think that there is an alternative approach to simplifying the process of promoting flood measures to those discussed above which the Government should consider?</i>	YES
<i>Question 27: Do you agree that the form and content of the biennial reports should be more systematic, and subject to direction from Ministers?</i>	

<p>Question 28: Do consultees agree that the proposals as outlined will improve flood risk management and ensure Scotland is equipped to implement sustainable flood management?</p>	
<p>Question 29: Do consultees feel that this is enough to ensure that flood risk is addressed or should local authorities have a new duty to promote measures to alleviate flooding?</p>	
<p>Question 30: Do you believe enforcement responsibilities under the Reservoirs Act 1975 should be transferred to a single national body?</p>	YES
<p>Question 31: If so, should it be SEPA or another as yet unidentified body?</p>	
<p>Question 32: Are you content with the proposals for dealing with reservoir flood maps under the provisions of the Floods Directive, or do you think that there should be a statutory duty on reservoir undertakers to prepare reservoir inundation maps and plans, similar to the duty in the 2003 Water Act for England and Wales?</p>	
<p>Question 33: Do agree that enforcement powers be extended and post incident reporting included as an additional requirement?</p>	
<p>Question 34: Views on crown application and any other comments?</p>	<p>Having lived 65 years next a river I now have a view on what is the worst scenierio for flooding from late summer to early spring, Heavy rain followed by hard frost followed with heavy snow fall and then heavy rain. The advent of spinner fertilizer spreaders in the early 50s meant that quite a lot of ferts was spun on to river banks this created shrubs and small trees to grow rhis was helped later with the large areas of winter cereals and the erossion of fine fertile silt being washed into and forming banks of very rich soil where plants like japanese knotweed flourished and secured these banks. If all these banks. and trees and shrubs were removed this would go a long way to prevent flooding, Take a look at any river and you will see the problem down stream from any arable area.</p>

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Scottish Government **Proposed Flooding Bill 2008**

Consultation – The Future of Flood Risk Management

Introduction

East Lothian Council welcomes the opportunity to comment on the Consultation Document “The Future of Flood Risk Management in Scotland” which will be incorporated into the proposed Flooding Bill 2008.

All the questions have been answered.

Flood Risk in East Lothian

The proposal to adopt a sustainable flood management strategy to address the risk of flooding is welcomed as the way forward, however, when considering the impact of major flood events a more robust approach may be required to enhance the concept of flood management.

In rural areas where a significant proportion of the population is located in small and sometimes isolated communities, the risk of flooding is generally pluvial with surface water run off from agricultural land being the major concern.

Musselburgh on the other hand is at a high risk from a combination of fluvial, pluvial and/or coastal flooding as the town is low lying and located at the confluence of the river Esk and the Firth of Forth.

Haddington is at a high risk from a combination and fluvial of pluvial flooding.

As neither of these towns have any formal flood defences, all of the Council’s resources, available to assist communities to deal with such an event, will be severely tested in the face of a major floods of the magnitude of that experienced in 1948.

The Scottish Government may consider an additional fiscal allocation to the block grant to be justified to allow the Council to prepare more effectively to deal with flooding events prior to the implementation of sustainable flood risk management plans.

It is recommended that a clause be inserted into the proposed Bill to give Local Authorities powers to recover costs incurred in maintaining and cleansing watercourses and ditches from landowners and tenant farmers, who default on this important task, leaving the public at risk of flooding. This will greatly assist with the management of localised flooding, particularly in rural areas.

Lidar Surveys

In order to produce accurate mapping for the purpose of the production of meaningful flood risk plans covering fluvial, pluvial and coastal floodplains it is essential that detailed and accurate topographical surveys are available to a high degree of accuracy.

It is understood that only the central belt of Scotland has been surveyed using Lidar.

It is therefore recommended that all catchments and significant watercourses, where communities are at risk of flooding, be surveyed using Lidar.

As this is likely to be an expensive operation the Scottish Government should fund the survey work in the interest of producing accurate Flood Risk Mapping as a requirement of the Flooding Bill 2008.

Alan Forsyth FRIPS MIPS
Head of Community Housing & Property Management

Summary of Questions & Answers

Q1 Definition of Sustainable Flood Management (SFM)

A1 Acceptable to ELC.

Q2 Definition clear & simple to understand

A2 Acceptable to ELC.

Q3 Do you agree with the conclusion as set out in paragraph 3.17?

A3 Yes.

Q4 Do you agree that there should be a single competent authority with a national remit for implementing Floods Directive, and that it should be SEPA?

A4 Acceptable to ELC

Q5 Do you agree that this is a sound basis for the development of Local Flood Risk Management Plans? If not what alternative do you propose?

A5 Local Authorities to have the power to prepare, review and amend LFRM Plans.

Q6 Should Ministers or SEPA have the power to designate a lead authority within a local area, or should it be left to the partners?

A6 Local Authorities to agree on the Lead Authority. Only if agreement cannot be reached should it be left to Ministers to designate the Lead Authority.

Q7 Do you agree that Local Authorities, Scottish Water, the Forestry Commission and SNH should be identified as responsible authorities?

A7 Only Local Authorities to be designated as Responsible Authorities.

Q8 Which other bodies should be identified as responsible authorities?

A8 None of the other bodies which have been suggested are politically accountable.

Q9 Do you agree that responsible authorities should have a duty to work together with Flood Advisory Groups to produce plans?

A9 Yes.

Q10 Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process?

A10 Yes.

Q11 Do you agree that the Bill should set out a process similar to that for River Basin Management Planning for the preparation by SEPA of area flood risk management plans?

A11 Yes.

Q12 Do you agree that Ministers have the power to approve, reject or modify Area Flood Risk Management Plans?

A12 Yes, they should be advised by competent 'in house' staff.

Q13 Do you think that integrated drainage plans should be included as part of a Local Flood Risk Management Plan?

A13 Yes.

Q14 Should Flood Risk Management Plans inform the way that development plans are prepared, or should there be a stronger linkage such as a requirement on planning authorities to show that they have regard to the FRMPs?

A14 Inform the way Development Plans are prepared in flood risk areas.

Q15 Do you think that the granting of deemed planning permission at the end of the statutory process for flood risk management will deliver a more streamlined approach to the delivery of flood risk management?

A15 Yes.

Q16 Should Ministerial confirmation be made necessary even where features do not require planning permission?

A16 No.

- Q17 Is the present procedure for Ministerial confirmation satisfactory for this new purpose or are there revisions, eg to timescales which should be considered?
- A17 Timescales require revision to speed up the process.
- Q18 Do you think that the option to rely on a local authority based process in a similar way as other local authority development activity should be taken forward?
- A18 Yes.
- Q19 What would be the appropriate timescales for notification and response?
- A19 Weeks rather than months.
- Q20 Would it be appropriate for such a process to carry deemed planning consent?
- A20 Yes
- Q21 How should the issue of technical expertise and capacity to ensure the necessary technical standards are observed, be addressed?
- A21 Employ and/or train 'in house' engineering staff or employ engineering consultants with the appropriate knowledge and expertise. Work to national design standards, procedures and requirements to ensure compliance and consistency.
- Q22 Are there any additional alternatives to the options outlined above which would simplify procedures?
- A22 No
- Q23 Do you consider local authorities' powers are sufficient to take necessary action to avert danger to life and property?
- A23 Yes, however, the Council are not a Flood Rescue Service nor is it obliged to protect private property and/or land. The Council can and does provide assistance to communities and individuals, as required, within its means. Due to the infrequency of significant flooding events it would be expensive and impractical for the Council to prepare itself in a state of readiness to deal effectively with all flooding events. Until now the provision of flood defences under the 1961 Act has been controlled by Central Government.

Q24 Do you agree that streamlining the CAR and flooding/planning processes can be managed through better guidance?

A24 Yes

Q25 Do you think there is anything further SEPA, the Scottish Government or others should be doing to promote joined-up regulation?

A25 Yes, review all the current regulations covering flooding issues, consolidate them and make them more user friendly.

Q26 Do you think that there is an alternative approach to simplifying the process of promoting flood measures to those discussed above which the Government should consider?

A26 No.

Q27 Do you agree that the form and content of the biennial reports should be more systematic, and subject to direction from Ministers?

A27 Yes – Format, extent, content and information to be collected to be standardised bearing in mind that undue complexity must be avoided if the reports are to be meaningful and of benefit as a record of events, actions and inspections.

Q28 Do consultees agree that the proposals as outlined will improve flood risk management and ensure Scotland is equipped to implement sustainable flood management?

A28 Yes, but the provision of meaningful flood defences must be included as management plans on their own are unlikely to provide the degree of flood protection required and expected by the public.

Q29 Do consultees feel that this is enough to ensure that flood risk is addressed or should local authorities have a new duty to promote measures to alleviate flooding?

A29 No. Much more requires to be done to alleviate flooding. Flood risk management will assist but, as always, sufficient funding will be required and distributed to ensure that communities at most risk have access to these funds through projects identified and implemented by local authorities.

Reservoir Safety

Q30 Do you believe enforcement responsibilities under the Reservoirs Act 1975 should be transferred to a single national body?

A30 Yes.

Q31 If so, should it be SEPA or another as yet unidentified body?

A31 SEPA is acceptable to ELC.

Q32 Are you content with the proposals for dealing with reservoir flood maps under the provisions of the Floods Directive, or do you think that there should be a statutory duty on reservoir undertakers to prepare reservoir inundation maps and plans, similar to the duty in the 2003 Water Act for England and Wales?

A32 Statutory duty on reservoir undertakers to prepare reservoir inundation maps and plans as presently required under the 2003 Water Act for England and Wales.

Q33 Do you agree that enforcement powers should be extended and post incident reporting included as an additional requirement?

A33 Yes, including post incident reporting.

Q34 Views on Crown application and any other comments?

A34 All Crown applications to be treated like all others, without exception, under the proposed Bill.

Alan Forsyth FRIPS MIPS
Head of Community Housing & Property Management



SRPBA

SCOTTISH RURAL PROPERTY AND BUSINESS ASSOCIATION

Your ref:

Our ref: 15500

Date: 21 April 2008

The Scottish Government
Climate Change Bill Consultation
1-G North, Victoria Quay
Edinburgh
EH6 6QQ

Stuart House
Eskmills Business Park
Musselburgh EH21 7PB

T: [REDACTED]
F: [REDACTED]
E: info@srpba.com
W: www.srpba.com

Dear Mr Conlan

SRPBA RESPONSE TO THE CONSULTATION ON 'THE FUTURE OF FLOOD RISK MANAGEMENT IN SCOTLAND'

The Scottish Rural Property and Business Association (SRPBA) welcomes the opportunity to respond to The Future of Flood Risk Management in Scotland consultation. The SRPBA represents the interests of a wide range of land based business these include farming, forestry and estate management. For that reason, SRPBA is particularly interested in this consultation and in the development of the Bill.

SRPBA recognises that Scotland, as with the rest of the UK, needs to address the threat of changing and unpredictable climatic conditions with around 105,000 Scottish homes and businesses vulnerable to inland and coastal flooding. SRPBA also recognises that the Scottish Government needs to adopt the planned EC Directive on the Assessment and Management of Flood Risks and this is best served through a range of responses to assist in the management of flood risk.

SRPBA recognises that sustainable flood management (SFM) is a useful and sensible approach. However SRPBA have concerns relating to the delivery of 'soft' engineering approaches. The FIAC report states that soft engineering approaches could include e.g.,

- the re-establishment of meanders,
- reversing upland drainage by blocking surface drains and ditches in improved pasture and forest plantations,
- reduction of grazing pressures to allow for an increase in general ground 'roughness',
- re-establishment of native tree cover in headwaters,
- restoring and protecting watercourses that have deepened and straightened to slow the flow down the channel and increase the buffering of flows provided by vegetation, and,
- re-establishing floodplain tree cover to slow down movement of water.

Although these approaches may be an environmentally friendly alternative to large engineering projects such as pump stations or large scale sewage works, these measures will impose long term economic costs on land managers. Land managers need to be given firm assurances that any changes to their practices which will result in economic loss but will bring benefits to wider society, will be;

- linked to income forgone, and
- will be considered as a long term (30-50 years) financial commitment by the government.

We have not addressed all the questions in this consultation, but focus on those most relevant to our interests.

Q1. Do you believe the definition of SFM is helpful and of practical benefit to flood risk management?

The definition of SFM is fine and the concept of SFM is a sound one.

Q2. Do you think the definition is clear and simple to understand?

Yes.

Q3. Do you agree with the conclusion as set out in paragraph 3.17?

A single competent authority with a national remit for implementing the Floods Directive sounds like a sensible approach given the complexity of the issue and the requirement for a coordinated approach. Maintaining a role for local authorities in implementing flood defence work and engaging at a local level also sounds like a logical approach.

Q4. Do you agree that there should be a single competent authority with a national remit for implementing the Floods Directive, and that it should be SEPA?

We agree that there should be a single competent authority however we have concerns about SEPA fulfilling this role for a number of reasons. Firstly, we are concerned that SEPA will have the function of both the administrator and the enforcer; we do not think that this is the best approach.

We are also concerned that SEPA does not have the full range of skills required to undertake this role. One of the primary objectives of the competent authority is *accountability* which includes clear opportunities for public participation and stakeholder engagement, *'the competent authority must have the ability to engage with and bring on board other parties and the wider community'*.

SEPA is a regulatory body with a scientific focus. Our experience of SEPA's approach to stakeholder engagement primarily relates to our representation on the Water Framework Directive Area Advisory Groups (AAG). We have had a mixed experience of this stakeholder engagement. Although many SEPA staff have worked hard and productively to encourage widespread engagement, this has not occurred across the board. We recognise that SEPA staff have been constrained by time and resources which has led to frustrations.

SRPBA AAG representatives have discussed concerns relating to their experience of the AAG approach with SEPA staff and we hope this will go some way to alleviating the problems. However, we believe there is a need for training, sufficient time allocation and resources to encourage meaningful stakeholder engagement.

Q5. Do you agree that this is a sound basis for the development of Local Flood Risk Management Plans? If not what alternative do you propose?

Yes

Q6. Should Ministers or SEPA have the power to designate a lead authority within a local area, or should it be left to the partners?

As the elected authority, Ministers should have the power to designate a lead authority within a local area. However, for consistency purposes it would be beneficial if the lead authorities were the same in each area.

Q7. Do you agree that Local Authorities, Scottish Water, the Forestry Commission, and SNH should be identified as responsible authorities?

Yes

Q8. Which other bodies should be identified as responsible authorities?

No comment

Q9. Do you agree that responsible authorities should have a duty to work together within Flood Advisory Groups to produce plans?

Yes. There is little point in having advisory groups if they do not interact with the responsible and competent authorities. Good and clear lines of communication are very important.

Q10. Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process?

No, the role of the wider stakeholder and community engagement group is a quite ambiguous. We would suggest that these groups would have a wider remit than harnessing ideas and enthusiasm of individuals and groups and assisting with communication. Individuals directly affected by proposed SFM measures e.g. riparian owners, will need a more substantial level of involvement in the planning process. This group should interact meaningfully with the other advisory groups regarding the implementation of SFM.

Q11. Do you agree that the Bill should set out a process similar to that for River Basin Management Planning for the preparation by SEPA of area flood risk management plans?

Yes, however, this sort of process is costly and will require adequate resources.

Q12. Do you agree that Ministers have the power to approve, reject or modify Area Flood Risk Management Plans?

Yes.

Q13. Do you think that integrated urban drainage plans should be included as part of a Local Flood Risk Management Plan?

If this is believed to encourage a more effective SFM then yes.

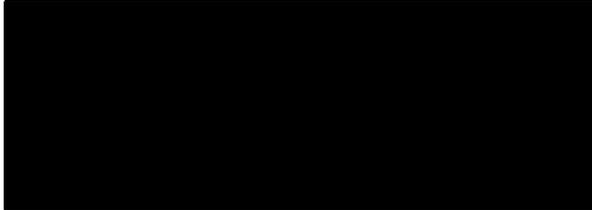
Q14. Should Flood Risk Management Plans inform the way that development plans are prepared, or should there be a stronger linkage such as a requirement on planning authorities to show that they have regard to the FRMPs?

Yes absolutely, FRMP should inform the way that development plans are prepared.

SRPBA believes that the Government and key stakeholder representatives can work together successfully to address the challenges posed by flooding and we would welcome any involvement in those discussions.

Should you require any further clarification on any of the above points, please do not hesitate to contact me.

Yours sincerely,



Karen Smyth PhD
Rural Development Manager

**tcpa**

18 April 2007

TCPA Response to *The Future of Flood Risk Management in Scotland* Consultation Proposals

1.0 About the TCPA

The Town and Country Planning Association (TCPA) is an independent charity working to improve the art and science of town and country planning. The TCPA puts social justice and the environment at the heart of policy debate and inspires government, industry and campaigners to take a fresh perspective on major issues, including planning policy, housing, regeneration and climate change. Our objectives are to:

- Secure a decent, well designed home for everyone, in a human-scale environment combining the best features of town and country
- Empower people and communities to influence decisions that affect them
- Improve the planning system in accordance with the principles of sustainable development

2.0 Introduction

We broadly welcome the proposals set out in *The Future of Flood Risk Management in Scotland*. Our comments begin with a summary of the TCPA's position with respect to climate change and flood risk, followed by a detailed response to the proposals for *The Future of Flood Risk Management in Scotland*.

3.0 Climate change and flood risk context

Even with the most successful implementation of climate change mitigation measures, it is known that climate change will still continue for many decades as a result of the greenhouse gases emitted, and still present in the atmosphere, since the 1960s. Since some form of change in climate seems inevitable, it is important that we face up to the likely impacts, such as coastal and inland flooding, and the effects on local ecosystems and agriculture, and plan appropriately.

Long-range regional planning must therefore play a major role in identifying areas under threat and taking important decisions in preparing for, and wherever possible mitigating, the potential impacts. An essential part of this process will be designing

protection (such as coastal defences and flood prevention schemes) that will stand up to more extreme conditions. However, where protection is not deemed to be desirable, guidance and plans at strategic level should also be identifying areas of managed retreat.

Equally important will be the reduction of flood risks through such measures as sustainable urban drainage schemes (SUDS), increased flood-storage capacity in wetlands, and surface water flow-attenuation, for instance through the creation of woodlands.

4.0 Summary of the TCPA position

The following summarises our comments on the proposals:

- We welcome the recognition of all types of flooding as part of the proposals, to include that caused by urban development and alterations to the water catchment.
- The proposals to undertake preliminary flood risk assessments (PFRA) to create a national picture of flood risk in Scotland will provide a strong baseline understanding upon which holistic responses can be planned and managed under future climate and development scenarios.
- The proposals to undertake more detailed mapping of areas at risk should support integrated and well co-ordinated flood risk management at the more specific scale.
- We have concerns over the following aspects:
 - The responsibility placed on local authorities to assess the condition of watercourses and maintain them in a due state of efficiency to mitigate flooding of non-agricultural land is laudable, however, there is an important implication on the need for expertise to make such judgements and an assumption that local authorities make such decision in the light of common aims set out in the strategic frameworks proposed. This places importance on communication and understanding at this level.
 - The proposals strengthen the local authorities role by indicating they will also have the power to carry out flood risk alleviation works, this must be well informed by the plans proposed and supported by an appropriate level of training and expertise.
- Flood risk management must be considered within the wider context of landscape and green infrastructure. The character of local landscapes and the green infrastructure networks which make up the catchments will hold many of the answers for strategic flood risk responses. Ensuring link up between the flood risk plans proposed and green infrastructure strategies should be supported through these proposals, and implies strong joint working between SEPA and SNH.

5.0 Key messages

The proposals place a lot of importance on authorities and players taking action to address flood risk. It is not immediately apparent to what degree they will be tied into ensuring these actions are informed by the more strategic framework plans and the more detailed flood risk management plans. Without such tie in, there is a real danger of measures being taken which are not for the wider benefit of the catchment. As climate change exacerbates the flooding situation, difficult decisions will need to be made about sacrificing some areas of land for the protection of others. If these two areas are within different authority boundaries problems could arise without a central framework to guide decision-making.

The TCPA believes there will be a need to co-ordinated advice from SEPA to local authorities to ensure common good approach. And Area Plans must be informed by landscape character from the outset – it should not just be about the water system per se, but about wider green infrastructure.

6.0 Question responses

Q1. Do you believe the definition of SFM is helpful and of practical benefit to flood risk management?

The definition proposed whilst functional, does not seem to capture the aspiration intended. Resilience to flooding suggests a harder, more technological response to the challenge, rather than one that accepts the human cause of much of the increased risk, and the need to retrofit a more natural catchment response.

Q2. Do you think the definition is clear and simple to understand?

We would suggest that it includes all the factors which should be recognised in such a definition, but perhaps is not simple enough to suggest a direction or general approach. A key word that is missing is 'integrated'. The principles set out in Box 5 seem to meet the aspiration and communicate the right sense of approach but the definition doesn't appear to link to this very well.

Q3. Do you agree with the conclusion as set out in paragraph 3.17?

Yes, it would not seem sensible to add another layer of complexity by establishing a new body. A primary objective is to co-ordinate data and thinking, much of which is already partially developed in the existing SEPA body. Mistakes from the past should be learned from, and this will be much more effective through developing a new focus within an existing body.

Q4. Do you agree that there should be a single competent authority with a national remit for implementing the Floods Directive, and that it should be SEPA?

Yes.

Q5. Do you agree that this is a sound basis for the development of Local Flood Risk Management Plans? If not what alternative do you propose?

It is understandably challenging for local authorities to prepare plans across authority boundaries, however it is absolutely necessary given the nature of the water system and catchments. The central involvement of local authorities in this preparation is important, particularly to ensure they understand the context for their management duties.

There is, however, an important skills and expertise implication. It is likely that this work may be undertaken by consultants commissioned on behalf of the local authority. Such consultants may be well placed to think across the boundaries, but local authorities need to develop the in-house flood risk knowledge during the assessment phase in order to lead convincingly on management. Achieving this knowledge and understanding will be linked to how the authority manages the production of the work and disseminates the findings and therefore is difficult to prescribe, but it will be on this that a lot of the future success will hinge, and therefore it can not be ignored at this stage.

The Area Plans to be produced by SEPA are the point to establish the framework for thinking in an area, and therefore there needs to be a good amount of involvement of the local authority so that the more detailed Local Plans emerge out of this thinking. Equally SEPA need to work very much as a partner to the local authority to inform their production of the Local Plans.

The hierarchy of the plans seems appropriate, as is the order of production from strategic to local. However, there needs to be some recognition of the urgency in some areas for plans, and therefore it may be appropriate to provide interim local guidance to ensure the short and medium term is managed.

Q6. Should Ministers or SEPA have the power to designate a lead authority within a local area, or should it be left to the partners?

We would agree it is right that SEPA and ministers should not have the power to designate a lead authority where a Local Plan covers more than one authority boundary. However, this raises the importance of SEPA's prime role in pushing forward a common framework and the need for them to be centrally involved in steering the development of Local Plans.

Q7. Do you agree that Local Authorities, Scottish Water, the Forestry Commission, and SNH should be identified as responsible authorities?

Yes.

Q8. Which other bodies should be identified as responsible authorities?

It may be appropriate to include highway authorities given they will need to be closely involved in the delivery of solutions.

Q9. Do you agree that responsible authorities should have a duty to work together within Flood Advisory Groups to produce plans?

Yes. However, this is an important stage for wider green infrastructure strategies and information to feed into the process, and this should be recognised in the make-up of these groups.

Q10. Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process?

Paragraph 3.36 seems too weak to really ensure stakeholder engagement. The TCPA believes that the requirement for a Participation Statement as part of the local development plan process should also be required as part of the process of preparing Local Flood Risk Management Plans. SEPA, in preparing their Area Flood Risk Management Plans should also prepare such a statement in co-operation with local authorities to ensure consistency of advice to the general public and developers.

Q11. Do you agree that the Bill should set out a process similar to that for River Basin Management Planning for the preparation by SEPA of area flood risk management plans?

Yes, however the TCPA expresses concerns about the need to ensure proper integration and approval by avoiding adding additional layers of protocol to the hierarchy of the flood risk management planning process.

Q12. Do you agree that Ministers have the power to approve, reject or modify Area Flood Risk Management Plans?

The TCPA makes no comments.

Q13. Do you think that integrated urban drainage plans should be included as part of a Local Flood Risk Management Plan?

Yes, the TCPA believes such plans are vitally important otherwise the whole integrated catchment approach falls apart. The important thing will be how these drainage plans link across to planning at the regional and local level – they need to inform upwards as well as down to ensure decisions about where to focus growth are taken with the full understanding of how it might exacerbate drainage problems/capacity issues.

There are a number of international best practice examples, such as the Australian approach of “water sensitive urban design” (see www.wsud.org) and New Zealand’s “low

impact urban design and development" (www.landcareresearch.co.nz/research/built/liudd/), which gets away from the more traditional view of SuDS that they can be included and remove the need to design carefully for water from the outset:

Q14. Should Flood Risk Management Plans inform the way that development plans are prepared, or should there be a stronger linkage such as a requirement on planning authorities to show that they have regard to the FRMPs?

Yes, the TCPA believes the development plans must have regard to Flood Risk Management Plans. Experiences in England, through the recent publication of the Pitt Review interim report have demonstrated that a lack of integrated planning and cross-referencing between development plans and flood risk management plans can have significant adverse consequences for strengthening the resilience of the built environment in adapting to the effects of climate change.

The TCPA would recommend reference to our publication – "*Climate change adaptation by design: a guide for sustainable communities*" – we recognised the need for integrated land use management in managing flood risk through various spatial scales of development. (Shaw R., Colley, M., and Connell, R., 2007, www.tcpa.org.uk)

Q15. Do you think that the granting of deemed planning permission at the end of the statutory process for flood risk management will deliver a more streamlined approach to the delivery of flood risk management?

The TCPA believes making the decisions at LA level would seem appropriate given the local context understanding required, but could mask the cross-boundary and strategic view required. If the ministers were bound to regarding a more strategic flood risk framework then this route could be preferable.

Q16. Should Ministerial confirmation be made necessary even where features of a scheme do not require planning permission?

The TCPA makes no comments.

Q17. Is the present procedure for Ministerial confirmation satisfactory for this new purpose or are there revisions e.g. to timescales which should be considered?

The TCPA makes no comments.

Q18. Do you think that the option to rely on a local authority based process in a similar way as other local authority development activity should be taken forward?

The TCPA believes the local authority based process would be the most appropriate and effective means given local knowledge of development conditions and existing

working relationships. Our support for this process is based on the understanding that flood risk management decisions will be assessed and considered within the local development activity process, which will be the most effective method for integrated and joined-up action within the local authorities' remit.

At the strategic level, however there is a good case for strategic flood risk management to be vested in one body only which includes responsibility for flood risks arising from the major rivers and water courses within its responsibility. Our response to Question 4 specified that SEPA would be the most appropriate body.

Certainly, strategic policy addressing national interests should be provided by central Government; however the strategic guidance for LAs should continue to be co-ordinated by local branches of SEPA – a combined capability and expertise to deal with regional and local concerns through the process of producing regional or sub-regional plans. This will also eliminate barriers to cross-boundary delivery in situations where catchment areas extend over several local authority boundaries.

Q19. What would be the appropriate timescales for notification and response?

The TCPA makes no specific comments, however we would consider a sufficient period of time to enable the effective involvement of key stakeholders, including local communities and expert groups.

Q20. Would it be appropriate for such a process to carry deemed planning consent?

Yes. The TCPA believes it would be appropriate if decisions for planning consent are made to consider issues of flood risk as will be described in flood risk management plans within the development plan process.

Q21. How should the issue of technical expertise and capacity to ensure the necessary technical standards are observed, be addressed?

Strengthening and/ or creating the necessary skills and resource capacity of local planning authorities would be a key element to successful flood risk management in Scotland through increasing local authority expert knowledge and general understanding base across policy, development control and enforcement departments, strengthening local authorities' human resource base, and ensuring financial resource contribution from users (applicants for planning consent).

In addition, the TCPA believes effective guidance from the primary planning and delivery body, in this case the local planning authorities in co-operation with SEPA and expert bodies would be necessary to ensure the consistency of advice and decision-making required for effective flood risk management. In terms of resource capacity, it would be necessary to ensure a proportion of developer contributions are set aside for flood risk management activities of local authorities.

Q22. Are there any additional alternatives to the options outlined above which would simplify procedures?

No. The TCPA believes the outlined options and our comments to them address the fundamental issues.

Q23 Do you consider local authorities' powers are sufficient to take necessary action to avert danger to life and property?

The TCPA makes no comments.

Q24. Do you agree that streamlining the CAR and flooding/planning processes can be managed through better guidance?

The TCPA makes no comments.

Q25. Do you think there is anything further SEPA, the Scottish Government or others should be doing to promote joined-up regulation?

The TCPA believes communication is key here. SEPA are in a unique position to ensure a level playing field and to get sign up to a common approach and goal. However the TCPA is not convinced whether further regulation changes are needed to support this.

Q26. Do you think that there is an alternative approach to simplifying the process of promoting flood measures to those discussed above which the Government should consider?

The TCPA makes no comments.

Q27. Do you agree that the form and content of the biennial reports should be more systematic, and subject to direction from Ministers?

The TCPA makes no comments.

Q28. Do consultees agree that the proposals as outlined will improve flood risk management and ensure Scotland is equipped to implement sustainable flood management?

On the whole, yes.

Q29. Do consultees feel that this is enough to ensure that flood risk is addressed or should local authorities have a new duty to promote measures to alleviate flooding?

This suggestion could be useful, but not sure how it could work in practice.

RESERVOIR SAFETY

Q30. Do you believe enforcement responsibilities under the Reservoirs Act 1975 should be transferred to a single national body?

The TCPA makes no comments.

Q31. If so, should it be SEPA or another as yet unidentified body?

The TCPA makes no comments.

Q32. Are you content with the proposals for dealing with reservoir flood maps under the provisions of the Floods Directive, or do you think that there should be a statutory duty on reservoir undertakers to prepare reservoir inundation maps and plans, similar to the duty in the 2003 Water Act for England and Wales?

The TCPA makes no comments.

Q33. Do you agree that enforcement powers be extended and post incident reporting included as an additional requirement?

The TCPA makes no comments.

Q34. Views on crown application and any other comments?

The TCPA makes no comments.

7.0 TCPA Reference Documents

Shaw R., Colley, M., and Connell, R., 2007, *Climate change adaptation by design: a guide for sustainable communities*, London, TCPA, Available at www.tcpa.org.uk

TCPA, January 2003, *Policy Statement – Climate Change*, London, TCPA, Available [here](#)

TCPA, Communities and Local Government and Environment Agency, March 2008, *Sustainable Water Management: Eco-towns Water Cycle Worksheet. Advice to Promoters and Planners*, Available [here](#)

FAO Francis Conlan
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EH6 6QQ

MJT/SRS/PI-1/IV-5

17 April 2008

By Post and email – engineering@scotland.gsi.gov.uk

Dear Sirs

Consultation on "The Future of Flood Risk Management in Scotland"

I am delighted that the First Minister is reviewing the future of Flood Risk Management in Scotland and the consultation paper is a good first step to doing this.

This response is written on behalf of Pitcarmick Estate, Brewlands Estate and the Eastmill Estate all of whom have small private reservoirs situated in remote parts of Scotland.

The Owners and Trustees of the Estates would be delighted to host a visit by the Scottish Ministers to examine some of the issues raised in the Reservoir safety section of the consultation (chapter 4) where we feel that too little attention is paid to the costs of carrying out annual reporting and indeed the difficulty of appointing an inspecting and supervising engineer.

A number of the small water bodies on private estates are situated in locations where if the dam was breached the flood would cause no damage whatsoever, yet there seems to be no flexibility in the inspecting engineers powers to alter the frequency of reporting and the detail which is covered in the report.

Turning to the main points of Chapter 4 of the consultation, we would like to respond as follows:-

Q30. The Estates agree that the enforcement responsibilities under the Reservoirs Act 1975 should be transferred to a single Scottish body.

It would appear from reading the consultation document that there are owners of reservoirs who do not comply with the requirements of the Act at present and it cannot be right that some Estates/Owners are complying and paying substantial sums of money annually and every 10 years and others are not. A single enforcement authority would be able to allocate staff to this matter and it would not simply be up to the Councils whether or not they had somebody who was free at the time to supervise the issues.

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- Q31.** We do not believe that SEPA should be the nominated body. The current role of SEPA seems to be diluted and the body is taking on more and more responsibility for spurious legislation from the Scottish Government and something as important as the enforcement of the Reservoirs Act should be devolved to a new body. None of the Estates that this response is from would wish to create another Quango but we are all of the view that SEPA is not the body to carry out this function.
- Q32.** We are content with the proposals for the dealing with the Reservoir flood maps and do not think that this should be a statutory duty on the reservoir undertakers to prepare reservoir inundation maps and plans.
- Q33.** The respondents are reasonably relaxed about the extension of enforcement powers and post incident reporting.
- Q34.** We believe that the Crown should be compliant with the Reservoirs Act and that there should be no exceptions from the properties covered.

Additional Comments

For a number of years the Estates have been in correspondence with the Scottish Executive and its predecessor body regarding the costs of the annual and 10 yearly inspections.

As previously noted, a number of reservoirs in Scotland are in very remote locations and if the dams were breached the flooding would have no impact on human habitation whatsoever. In Chapter 4.4 the appointment of panel engineering in the role of supervising engineer and inspecting engineer is in our opinion cumbersome.

In Scotland there are a diminishing number of engineers on the panel and the expense incurred in hiring an engineer from south of the border can be excessive. There needs to be a way of enhancing the number of engineers on the panel and it is regrettable that the Institute of Civil Engineer (ICE) does not seem to have a ready pool of suitably qualified or competent engineers. In the past we have been relying on semi-retired engineers and sub-contracted engineers to carry out the annual inspections and hiring expensive English engineers to carry out the 10 yearly reporting.

The Estates from whom this response is being sent believe that the inspecting engineer in his 10 yearly report should be able to dictate the frequency of the visits of the supervising engineer and not simply add that an annual inspection is required. With too few qualified engineers there is no "element of competition" and Estates, with limited incomes are burdened with expensive engineers and surveys every year.

It is hoped that the new single national body given the powers to run the Reservoir Act would be given delegated powers to alter the frequency of reporting and make for a more streamlined and cost effective system of managing reservoirs in very remote locations.



As previously noted, the owners and trustees of the Estates would be delighted to host the Scottish Ministers on the Estates to let them see at firsthand the issues of maintaining, and indeed the cost of the inspections of remote reservoirs.

If you require any further information or assistance in this matter, please do not hesitate to contact me.

Yours faithfully

A handwritten signature in cursive script that reads "N. Loughton".

PP. M J Taylor
Factor for Pitcarmick Estate
Agent for Brewlands Estate & Eastmill Estate

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Director
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16 April 2008

Ms Frances Conlan
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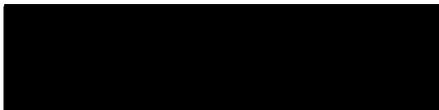


Dear Ms Conlan

Consultation on 'The Future Of Flood Risk Management In Scotland'

Please find attached Midlothian Council's response in respect of the above consultation. I have also attached the respondent information form.

Yours sincerely



Colin Davidson
Planning Policy Officer
[Redacted]@midlothian.gov.uk

Enc

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Appendix 1
Consultation Questions with proposed response

Q1. Do you believe the definition of SFM [Sustainable Flood Management] is helpful and of practical benefit to flood risk management?

Yes.

Q2. Do you think the definition is clear and simple to understand?

Yes

Q3. Do you agree with the conclusion as set out in paragraph 3.17? [Paragraph 3.17: 'The Scottish Government therefore believes that a single competent authority with a national remit for implementing the Floods Directive should be identified, and that the important role of local authorities in implementing flood defence works and engaging at a local level should be maintained. This approach will ensure that the national and catchment focused approach to flood risk management planning is underpinned by local co-ordination and delivery of measures by those bodies with direct experience of implementing flood risk management measures in Scotland'.]

Yes

Q4. Do you agree that there should be a single competent authority with a national remit for implementing the Floods Directive, and that it should be SEPA?

Yes

Q5. Do you agree that this is a sound basis for the development of Local Flood Risk Management Plans? If not what alternative do you propose?

Yes

Q6. Should Ministers or SEPA have the power to designate a lead authority within a local area, or should it be left to the partners?

No, it should be left to partners to establish their own working arrangements to prepare and implement a LFRMP.

Q7. Do you agree that Local Authorities, Scottish Water, the Forestry Commission, and SNH should be identified as responsible authorities?

Yes

Q8. Which other bodies should be identified as responsible authorities?

The list appears comprehensive to Midlothian Council (MC). We have no suggestions for additional bodies.

Q9. Do you agree that responsible authorities should have a duty to work together within Flood Advisory Groups to produce plans?

Yes, this would be similar to the duty to engage in the Planning process introduced in the 2006 Planning etc (Scotland) Act.

Q10. Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process?

Yes

Q11. Do you agree that the Bill should set out a process similar to that for River Basin Management Planning for the preparation by SEPA of area flood risk management plans?

Yes

Q12. Do you agree that Ministers have the power to approve, reject or modify Area Flood Risk Management Plans?

Yes

Q13. Do you think that integrated urban drainage plans should be included as part of a Local Flood Risk Management Plan?

Integrated urban drainage plans could be included, but it should not be a mandatory requirement to include them. The circumstances of places vary and it may not be appropriate to include them in all cases.

Q14. Should Flood Risk Management Plans inform the way that development plans are prepared, or should there be a stronger linkage such as a requirement on planning authorities to show that they have regard to the FRMPs?

FRMPs should inform development plans – do not think that legislation required, but national guidance could emphasise need for linkage. This would be reflected in development plans over time.

Question 15-22 general points. MC support the principle of rationalising the approval process. We would support either of the suggested schemes of simplification as an improvement on the status quo, but our preference is for the grant of ministerial approval to also grant deemed planning permission. Sustainable flood risk management projects will in many cases cross local authority boundaries, and MC consider that a Ministerial based approval process is in a better position to consider whole catchment solutions. There are potential efficiencies in concentrating the expertise needed to scrutinise proposals at the centre. Approval by Ministers, who are separate from the body promoting the scheme (generally the local authority) maintains a separation of powers. These 'checks and balances' ensure greater rigour in the approval process.

Q15. Do you think that the granting of deemed planning permission at the end of the statutory process for flood risk management will deliver a more streamlined approach to the delivery of flood risk management?

Yes

Q16. Should Ministerial confirmation be made necessary even where features of a scheme do not require planning permission?

Yes

Q17. Is the present procedure for Ministerial confirmation satisfactory for this new purpose or are there revisions e.g. to timescales which should be considered?

MC consider that means to streamline the Inquiry process should be considered, in particular hearings or mandatory written submissions should be considered in place of formal Inquiry.

Q18. Do you think that the option to rely on a local authority based process in a similar way as other local authority development activity should be taken forward?

This option is less favoured by Midlothian Council, compared to option 1.

Q19. What would be the appropriate timescales for notification and response?

8 weeks from point of notification would seem appropriate.

Q20. Would it be appropriate for such a process to carry deemed planning consent?

Yes

Q21. How should the issue of technical expertise and capacity to ensure the necessary technical standards are observed, be addressed?

This might be a particular issue for smaller authorities, particularly those with little history of flood events. We agree that individual local authorities by pooling their in house expertise may gain benefits. We expect that commissioning of work from consultants will however be unavoidable as the objectives of FRMPs are translated into individual projects.

Q22. Are there any additional alternatives to the options outlined above which would simplify procedures?

No, we consider the two options cover the main alternative approaches.

Q23. Do you consider local authorities' powers are sufficient to take necessary action to avert danger to life and property?

Yes

Q24. Do you agree that streamlining the CAR and flooding/planning processes can be managed through better guidance?

Yes

Q25. Do you think there is anything further SEPA, the Scottish Government or others should be doing to promote joined-up regulation?

No

Q26. Do you think that there is an alternative approach to simplifying the process of promoting flood measures to those discussed above which the Government should consider?

No

Q27. Do you agree that the form and content of the biennial reports should be more systematic, and subject to direction from Ministers?

No. Given different prevalence of flooding in different areas, and consequent varying significance of issue, MC considers it appropriate to allow autonomy in form and content of response.

Q28. Do consultees agree that the proposals as outlined will improve flood risk management and ensure Scotland is equipped to implement sustainable flood management?

Yes, however the implementation programme is prolonged, with LFRMPs not being in place until after the Area Flood Risk Management Plans, which themselves are not required to be completed and submitted until 22nd December 2015. Thought should be given to accelerating the programme, in advance of the requirements of the Commission, to bring earlier protection to areas at risk.

Q29. Do consultees feel that this is enough to ensure that flood risk is addressed or should local authorities have a new duty to promote measures to alleviate flooding?

Yes, MC is content with the proposed duties and powers for local authorities set out in the document.

RESERVOIR SAFETY

Q30. Do you believe enforcement responsibilities under the Reservoirs Act 1975 should be transferred to a single national body?

Yes, enforcement responsibilities should transfer to single national body.

Q31. If so, should it be SEPA or another as yet unidentified body?

Yes, SEPA

Q32. Are you content with the proposals for dealing with reservoir flood maps under the provisions of the Floods Directive, or do you think that there should be a statutory duty on reservoir undertakers to prepare reservoir inundation maps and plans, similar to the duty in the 2003 Water Act for England and Wales?

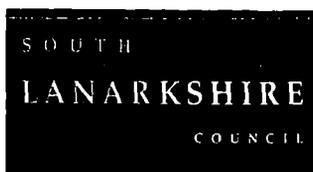
Yes – Floods Directive proposal for inundation maps satisfactory.

Q33. Do agree that enforcement powers be extended and post incident reporting included as an additional requirement?

Yes – extend enforcement powers and include post incident reporting.

Q34. Views on crown application and any other comments?

Any amended Reservoirs Act should give more clarity on the duties and powers of the Enforcement Authority (EA). The Crown body appointed as the EA should be bound to comply with the specified duties.



055

Enterprise Resources
Executive Director Iain Urquhart
Roads and Transportation Services – Transportation Engineering

Frances Conlan
Water, Air, Soils and flooding Division
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Our ref: 39/49
Your ref:
If calling ask for: David Reid
Phone: [REDACTED]
Date: 21 April 2008

Dear Ms Conlan

Consultation on the Future of Flood Risk Management in Scotland

Firstly, South Lanarkshire Council welcomes the opportunity to comment on to your consultation response issued on 13 February 2008.

The Council's view is that the existing Flood Prevention legislation requires to be updated to take account of the challenging environmental issues in the 21st century.

In summary, the Council is of the view that SEPA could be designated the Competent Authority for the collation and production of Area Flood Risk Maps, but that Local Authorities should also be designated as Competent Authorities with regards to the production of Local Flood Risk Management Plans.

It is important in our opinion that Local Authorities are enabled to carry out such works as to renew / replace failed culverted watercourses without having regards to promoting a project, provided local consultation has agreed to the proposals.

We would welcome the facility to recharge, where appropriate, riparian owners for failing to uphold their watercourse maintenance responsibilities.

Scottish Water has an important role to play in resolving flooding, particularly sewer flooding, and we would suggest that their role be clearly defined in statute where Responsible Authorities have a duty to work together as there may be fundamental issues with regards to funding projects.

Lastly, we have attached as part of our response to the Questions a proposed flow-chart which we feel provides a mechanism for implementing the proposed legislation.

Montrose House, 154 Montrose Crescent, Hamilton ML3 6LB Phone: [REDACTED]
Text Phone: 01698 454039 Email: enterprise.hq@southlanarkshire.gov.uk



INVESTOR IN PEOPLE



Should require to discuss our response, then please contact [REDACTED]

Yours sincerely



Gordon Mackay
Engineering Manager

Name:

South Lanarkshire Council

Postal Address:

Enterprise Resources

Roads and Transportation Services

154 Montrose Crescent, Hamilton ML3 6LB

1. Are you responding: (please tick one box)

(a) as an individual

(go to Q2a/b and then Q4)

(b) on behalf of a group/organisation

(go to Q3 and then Q4)

Individuals

2a. Do you agree to your response being made available to the public (in Scottish Executive library and/or on the Scottish Government website)?

Yes

(go to 2b below)

No

(We will treat your response as confidential)

2b. Where confidentiality is not requested, we will make your response available to the public on the following basis: (please tick one of the following boxes)

- Yes, make my response, name and address all available
- Yes, make my response available, but not my name or address
- Yes, make my response and name available, but not my address

On behalf of Groups or Organisations

3. The name and address of your organisation will be made available to the public (in the Scottish Government library and/or on the Scottish Government website).

Are you also content for your response to be made available?

- Yes
- No (We will treat your response as confidential)

Sharing Responses / Future Engagement

4. We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so.

Are you content for the Scottish Government to contact you again in the future in relation to this consultation response?

- Yes
- No

Please indicate which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received:

Flooding

Reservoirs

Both

[« Previous | Contents | Next »](#)

Page updated: Wednesday, February 13, 2008

South Lanarkshire Council
Response to
The Future of Flood Risk Management in Scotland

Q1	Do you believe the definition of SFM is helpful and of practical benefit to flood risk management?
	<p>It is important to define what Sustainable Flood Management means to everyone and the widely drafted definition produced here includes all relevant factors and as such is helpful to practitioners, but perhaps will not be so easily understood by the public.</p> <p>We would welcome this statement being included in the proposed Bill and if not, appropriate guidance issued.</p> <p>The definition includes sewer flooding although this is omitted later and we would suggest that Scottish Water as a Responsible Authority be encouraged by statute if necessary to assist in resolving sewer flooding issues.</p>
Q2	Q2. Do you think the definition is clear and simple to understand?
	<p>The fact that the definition has had to further define Resilience and Flooding highlights in itself that the phraseology may not be clear.</p> <p>We are not sure that the public will find it clear.</p>
Q3	Do you agree with the conclusion as set out in paragraph 3.17?
	<p>It is reasonable to suggest a single competent authority to implement the Floods Directive and provide a co-ordinated response for Scotland.</p> <p>However, there is still potential to have a difference of opinion between the competent authority (if SEPA) and the Local Authority.</p> <p>Would any disagreement be referred to the Scottish Ministers for resolution?.</p> <p>A Single competent authority will allow for coordinated and consistent approach to flood mitigation but local input via Local Authorities & other relevant bodies is essential.</p> <p>It is considered more sensible for implementation of plans and the delivery of flood prevention measures to be carried out at a local level and therefore local authorities should also be deemed to be competent authorities.</p> <p>If it is the intention to utilise the River Basin Management Plan process as a model then it is considered that this proposal in practice could prove too cumbersome.</p>
Q4	Do you agree that there should be a single competent authority with a national remit for implementing the Floods Directive, and that it should be SEPA?
	<p>It is reasonable to suggest a single competent authority and SEPA would appear an obvious choice.</p>

South Lanarkshire Council
Response to
The Future of Flood Risk Management in Scotland

	<p>However, I refer to Q3 regarding disagreements between the competent authority and local authorities.</p> <p>Do SEPA have the resources the take on this role?</p> <p>It is our view that Local Authorities should be designated as Competent Authorities</p>
Q5	<p>Do you agree that this is a sound basis for the development of Local Flood Risk Management Plans? If not what alternative do you propose?</p>
	<p>South Lanarkshire welcomes the development of Local Flood Risk Management Plans and has already identified many areas as part of its contingency planning process.</p> <p>We agree that local authorities are in the best position to develop and implement Local Flood Risk Management Plans. It is also sensible for these plans to be prepared on the basis of catchment areas.</p>
Q6	<p>Should Ministers or SEPA have the power to designate a lead authority within a local area, or should it be left to the partners?</p>
	<p>Preferably it should be left to partners to decide the lead authority.</p> <p>However if there are two or more local authorities involved in the Local Flood Risk Management Plans then it would be sensible for the local authority which has the greatest flood risk be designated as the lead authority.</p> <p>However, should there be a disagreement then this should be referred to Scottish Ministers.</p>
Q7	<p>Do you agree that Local Authorities, Scottish Water, the Forestry Commission, and SNH should be identified as responsible authorities?</p>
	<p>The aforementioned bodies should be designated as responsible authorities. If SEPA is not designated as the competent authority, then SEPA should be designated as a responsible authority.</p>
Q8	<p>Which other bodies should be identified as responsible authorities?</p>
	<p>Having recognised that Local Flood Risk Management Plans be produced, it is perhaps more productive to invite local interest groups to participate where appropriate e.g. Clydeport, RSPB, Fishing Industry, National Farmers Union.</p> <p>Depending on the catchment areas there are likely to be different responsible authorities involved in preparing Local Flood Risk Management Plans.</p> <p>Either there is a need to designate all possible responsible authorities and leave it up to the lead authority to involve the relevant responsible authorities or have different categories of responsible authorities similar to the Civil Contingencies legislation i.e. Top Level Category 1 – Local Authorities, SW, SNH, Transport (Scotland); Category 2 – Clydeport, Network Rail, British Waterways Board, Coal Authority etc.</p>

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	<p>Given the focus on local involvement there is a need to ensure all relevant local organisations /bodies are also capable of being designated as responsible authorities.</p>
Q9	<p>Do you agree that responsible authorities should have a duty to work together within Flood Advisory Groups to produce plans?</p>
	<p>We would agree that there is a requirement to develop cross boundary plans.</p> <p>There have been previous examples of cross boundary working i.e White Cart Water Project involving – Glasgow City Council, South Lanarkshire Council, East Renfrewshire Council.</p>
Q10	<p>Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process?</p>
	<p>Establishing stakeholder forums similar to the River Basin Management Plan process is not considered suitable. It has taken the Area Advisory Groups nearly two years to establish themselves as far as partner's roles and responsibilities are concerned and they have difficulty in engaging local communities.</p> <p>Local Authorities are best placed to undertake this role as they already have communication with appropriate interest groups. However, it is recognised there may be pressure on local authority resources.</p>
Q11	<p>Do you agree that the Bill should set out a process similar to that for River Basin Management Planning for the preparation by SEPA of area flood risk management plans?</p>
	<p>Using the River Basin Management Process is a reasonable proposal for the development of area flood risk maps. However, it has taken the RBMP (Area Advisory Groups) nearly two years to establish themselves as far as partner's roles and responsibilities are concerned.</p> <p>In view of the new budgetary arrangements there may be issues with regards to funding by other parties i.e. Scottish Water.</p>
Q12	<p>Do you agree that Ministers have the power to approve, reject or modify Area Flood Risk Management Plans?</p>
	<p>We would agree that Ministers have the powers to approve or reject Area Flood Risk Management plans but would suggest that they should only be modified by agreement with relevant parties.</p>
Q13	<p>Do you think that integrated urban drainage plans should be included as part of a Local Flood Risk Management Plan?</p>
	<p>It is essential that integrated urban drainage plans should be included. Major initiatives like the Glasgow Strategic Drainage Plan have brought key players to the table, however, smaller settlements (Symington and Coalburn for example) also require to be addressed in this manner.</p>

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	<p>Our experience to date is not convincing that this works in practice. What mechanism is available to ensure that Scottish Water actively participates to provide a co-ordinated approach to a solution?</p> <p>This is particularly important when sewer flooding occurs.</p>
Q14	<p>Should Flood Risk Management Plans inform the way that development plans are prepared, or should there be a stronger linkage such as a requirement on planning authorities to show that they have regard to the FRMPs?</p>
	<p>Yes.</p> <p>There should be recognition of the Flood Risk Management Plan output with regards to Development plans including the Council's Local Plan.</p> <p>SPP7 may require to be updated after the new Flooding Bill is given assent.</p> <p>There is a need for a link between flood mitigation and planning and it is preferable that this is made clear in legislation that development of flood plains is not permitted except in exceptional circumstances.</p>
Q15	<p>Do you think that the granting of deemed planning permission at the end of the statutory process for flood risk management will deliver a more streamlined approach to the delivery of flood risk management?</p>
	<p>Yes.</p> <p>In our opinion is that it would be more beneficial for this function to be carried out by Local Authorities in order to simplify the consent process.</p>
Q16	<p>Should Ministerial confirmation be made necessary even where features of a scheme do not require planning permission?</p>
	<p>No.</p> <p>It is not considered a requirement for Ministerial confirmation, as there may no 'saving' in timescales with this proposal.</p>
Q17	<p>Is the present procedure for Ministerial confirmation satisfactory for this new purpose or are there revisions e.g. to timescales which should be considered?</p>
	<p>In view of the change to funding arrangements for Local Authorities, it is preferred that Ministerial approval is kept for deciding any referrals from a Public Local Inquiry.</p> <p>The timescales for lodging objections should be the same as for other statutory orders like CPO's. Timescales are required for fixing hearings/PLI to focus minds when negotiating any objections. See attached chart for proposed process.</p>

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Q18	Do you think that the option to rely on a local authority based process in a similar way as other local authority development activity should be taken forward?
	<p>Yes. Our opinion is that this process would be better carried out by the Local Authority primarily as timescales can be more easily managed.</p> <p>There may be some difficulty though in dealing with cross-boundary proposals due to committee meeting cycles so for these schemes we suggest that the Scottish Ministers retain confirmation powers.</p> <p>To ensure a transparent process and given local authorities hold the purse strings and promote the flood prevention measures there may be some types of schemes that should be subject to independent scrutiny of the Scottish Ministers ie schemes where there are maintained objections; schemes involving local authority development. Similar to the planning application calling in process.</p>
Q19	What would be the appropriate timescales for notification and response?
	<p>The objection period should reflect other statutory order processes like planning applications, compulsory purchase orders. See attached chart for process and timescales.</p> <p>Although CAR has been mentioned there has been no specific link to ensuring that scheme advertising is undertaken 'once' only to ascertain potential objections to the scheme</p>
Q20	Would it be appropriate for such a process to carry deemed planning consent?
	<p>Yes. See attached chart for processes and timescales.</p>
Q21	How should the issue of technical expertise and capacity to ensure the necessary technical standards are observed, be addressed?
	<p>Should Local Authorities be unable to utilise in-house design teams, consultants could be used. There are significant differences in salary levels between local authorities and consultants and the resulting challenge of retaining staff within local authorities. Where in-house design teams are used the design could be independently checked. Competing priorities may be an issue if a pool of Local Authority resources was required.</p>
Q22	Are there any additional alternatives to the options outlined above which would simplify procedures?
	<p>No suggestions</p>
Q23	Do you consider local authorities' powers are sufficient to take necessary action to avert danger to life and property?
	<p>Clarification is required as to what powers Local Authorities could use to</p>

**South Lanarkshire Council
Response to
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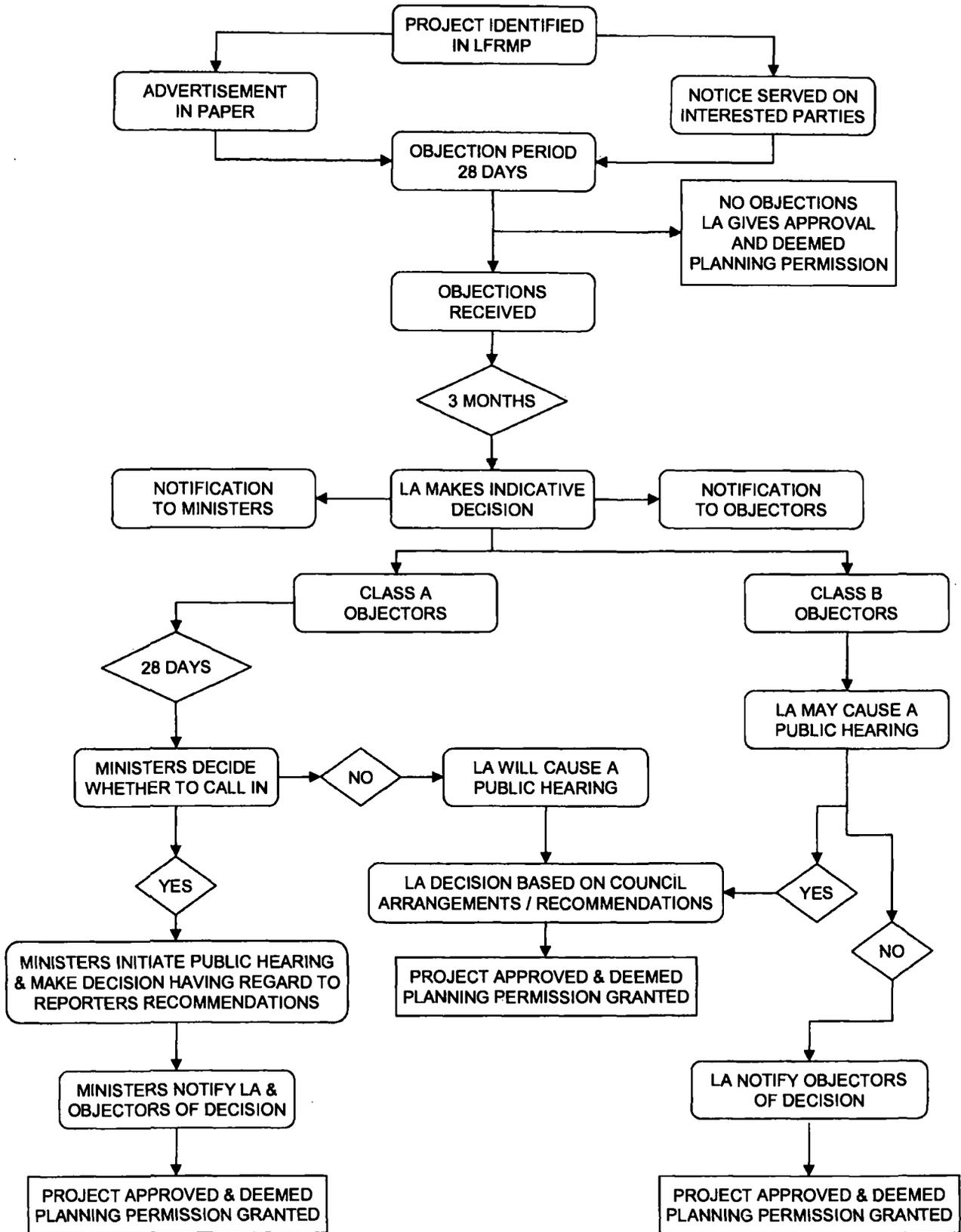
	<p>exercise this option. On the basis of the powers in the 1961 Act as amended, NO. The maintenance and management powers of the Flood Authority are very limited in their scope. There are no powers to enable local authorities to carry out emergency flood prevention measures.</p> <p>There have been instances where existing infrastructure has been so badly damaged that there is danger to property and the only solution has been to promote a Flood Prevention Scheme with significant timelines.</p> <p>One example being a collapsed culvert under private property where a simple solution would be to construct a culvert bypass in public land ownership. How would this be undertaken in the proposed Bill?</p> <p>In view of the continuing pressures on funding, there should be scope to recharge riparian landowners for failing to maintain their watercourse.</p> <p>An example being, an urban watercourse which is fenced off at the rear gardens on either side of the watercourse and may require to be cleared / 'dredged' and could potentially flood properties. To clear this watercourse will involve the local authority obtaining a CAR licence fee to SEPA and incurring additional expense due to lack of diligence by the riparian owners.</p> <p>We would recommend that Local Authorities are given the necessary powers to recover reasonable costs.</p>
Q24	<p>Do you agree that streamlining the CAR and flooding/planning processes can be managed through better guidance?</p>
	<p>No. It would be better if this was defined in statute. It is important to streamline all statutory processes and CAR should be included in the advertising procedures (i.e. advertise once only per project).</p>
Q25	<p>Do you think there is anything further SEPA, the Scottish Government or others should be doing to promote joined-up regulation?</p>
	<p>It is essential that Scottish Water by statute if necessary participate in the Local FRMP and thereafter participate in joint 'flood' problem investigations with regards to sewer flooding.</p> <p>It is also important to ensure that all aspects of CAR are recognised and incorporated into any revised procedures.</p>
Q26	<p>Do you think that there is an alternative approach to simplifying the process of promoting flood measures to those discussed above which the Government should consider?</p>
	<p>The approach outlined is reasonable, however, it would have been beneficial to have sight of a perceived organisational structure(s).</p>
Q27	<p>Do you agree that the form and content of the biennial reports should be more systematic, and subject to direction from Ministers?</p>
	<p>Our view is that there is merit in ensuring that information reported is consistent</p>

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	<p>and there is a clear understanding of the detail required within the report. However, it would be unfortunate to lose a 'local' flavour and given the focus on local input there should be scope to allow for innovation and presentation when preparing the report for publication.</p> <p>For instance, the 'statutory' part may be supplemented with useful local information/detail.</p> <p>It is also recommended that the report contain an action plan based upon the output from the Local Flood Risk Management Plans.</p>
Q28	Do consultees agree that the proposals as outlined will improve flood risk management and ensure Scotland is equipped to implement sustainable flood management?
	<p>Yes but they could go further.</p> <p>Existing legislation definitely requires to be changed. It is important, however, to recognise the views of the practitioners.</p>
Q29	Do consultees feel that this is enough to ensure that flood risk is addressed or should local authorities have a new duty to promote measures to alleviate flooding?
	<p>Refer to 23.</p> <p>The opportunity should be taken to overhaul 1961 Act.</p> <p>Local Authorities should be able to carry out more than maintenance and management without promoting a flood prevention order.</p> <p>It is important to be able to undertake maintenance/improvement works with local consultation i.e. renew/repair a collapsed culvert.</p> <p>There will be from time to time the requirement to be able to carry out emergency works, the Act should allow for this facility.</p> <p>In view of the removal of the distinction between flooding of agricultural and non-agricultural land there should no additional burden placed upon local authorities to maintain existing agricultural defences on private land.</p>
	RESERVOIR SAFETY
Q30	Do you believe enforcement responsibilities under the Reservoirs Act 1975 should be transferred to a single national body?
	<p>As a current Local Authority with enforcement powers, it is our opinion that it would be beneficial to transfer this responsibility to a single national body.</p>

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Q31	If so, should it be SEPA or another as yet unidentified body?
	SEPA would in our opinion be an appropriate body. Scottish Water who are a significant undertaker would be inappropriate. Do SEPA have resources to carry out this task?
Q32	Are you content with the proposals for dealing with reservoir flood maps under the provisions of the Floods Directive, or do you think that there should be a statutory duty on reservoir undertakers to prepare reservoir inundation maps and plans, similar to the duty in the 2003 Water Act for England and Wales?
	It is our opinion that Undertakers should be fully aware of their responsibilities and have a statutory duty to prepare inundations maps and plans. This would then be utilised by SEPA and LA's in the production of Local Flood Risk Management Plans.
Q33	Do agree that enforcement powers be extended and post incident reporting included as an additional requirement?
	The opportunity to learn from incidents should be undertaken and it appears reasonable to have this included.
Q34	Views on crown application and any other comments?
	The Crown as a responsible landowner should be encouraged to participate with the proposed legislation changes.





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Francis Conlan
Water, Air, Soils and Flooding Division
The Scottish Government
1H North
Victoria Quay
Edinburgh
EH6 6QQ

21 April 2008

Dear Francis

Re: The Future of Flood Risk Management in Scotland

Please find enclosed the British Red Cross submission to this consultation document.

We are pleased that the Scottish Government has given us the opportunity to respond to the issue of flood risk management. We particularly welcome the comments that the Government wishes to take a more proactive approach to reduce the risk of the significant human impact of flooding through sustainable flood management.

The Red Cross helps people in crisis, whoever and wherever they are. Much of our response to this document relates to the building of resilience and risk reduction amongst the community and how this would fit into flood risk management plans.

We would welcome the opportunity to address the Committee about the issues raised in our response. Please contact me through our Public Affairs Officer, Alison Bunting the details below.

Best wishes,

Gerald McLaughlin
UK Director
Scotland

Alison Bunting
Public Affairs Officer
Phone: [REDACTED]
Email: abunting@redcross.org.uk



A part of the International Red Cross
and Red Crescent Movement

The British Red Cross Society
Incorporated by Royal Charter 1908
Registered Charity number 220949

April 2008

The Future of Flood Risk Management in Scotland Response

Summary

- i. The British Red Cross welcomes the opportunity to contribute to this consultation document. We have responded to questions on which we have experience or expertise.
- ii. Overall, we believe that the proposals will improve flood risk management, but we are concerned that there are some gaps in the proposals pertaining mainly to building resilience of communities before and in the aftermath of a flood.
- iii. As a humanitarian organisation, we wish to ensure that resilience is built into flood risk management plans.
- iv. We believe that the Flooding Issues Advisory Committee's definition is too narrow in its frame of reference to resilience, particularly with regards to the overall objectives of sustainable flood management as outlined in the consultation document (2.8.) and in particular the "social" objective.
- v. The Red Cross would like to see humanitarian hazard mapping (the risks to people) included in the role the various authorities would undertake to deliver on the "Flood Risk and Hazard Mapping" directive.
- vi. Currently, there is not enough community engagement in the planning process and we would like to see greater measures to ensure all stakeholders are involved in the consultation process for the Area Flood Risk Management Plan and the Local Flood Risk Management Plans.
- vii. In the current consultation document, both levels of planning as described above, do not give enough consideration to resilience and adaptation of people at risk of flooding.

Background on the British Red Cross

1. The British Red Cross helps people in crisis, whoever and wherever they are. We are part of a global network that responds to conflicts, natural disasters and individual emergencies. We enable vulnerable people in the UK and abroad to prepare for and withstand emergencies in their own communities, and when the crisis is over we help them to recover and move on with their lives.
2. The British Red Cross is part of the International Red Cross and Red Crescent Movement, which comprises:
 - >The International Committee of the Red Cross
 - >The International Federation of Red Cross and Red Crescent Societies, and
 - >186 National Red Cross and Red Crescent Societies worldwide.
3. As a member of the Red Cross and Red Crescent Movement, the British Red Cross is committed to, and bound by, its Fundamental Principles. These are: humanity, impartiality, neutrality, independence, voluntary service, unity and universality.
4. The British Red Cross is an auxiliary to the public authorities. Our emergency response teams support the statutory services (Category 1 responders under the terms of the Civil Contingencies Act 2004) in a wide range of incidents throughout the UK.

Response of the British Red Cross to the Consultation

The British Red Cross welcomes the opportunity to contribute to this consultation document. We have responded to questions on which we have experience or expertise.

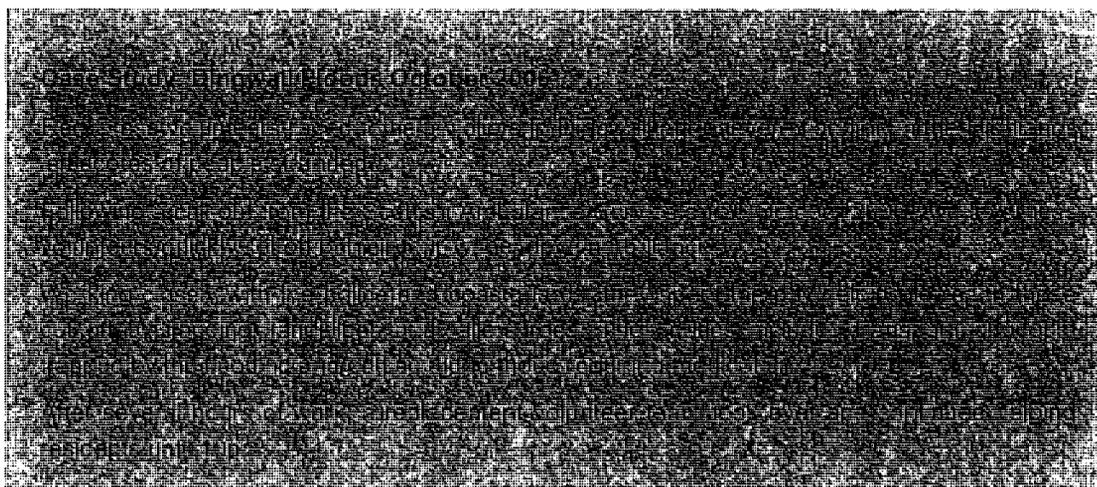
1. **Do you believe the definition of SFM is helpful and of practical benefit to flood risk management?**
 - > The British Red Cross welcomes an overall definition of Sustainable Flood Management and believes this to be helpful and of practical benefit to flood risk management.

2. **Do you think the definition is clear and simple to understand?**
 - > We believe there is confusion over the definition of resilience. In the definition of resilience as referred to in the statement, it clearly states a "social" aspect but then only pertains to "*protecting and working with the environment*" and not working with the "community" in order to deliver the social and humanitarian aspect of resilience.
 - > To meet the objective of "*maximum possible social and economic resilience*", we would welcome the inclusion of the words " and community" after "*protecting and working with the environment*".
 - > We believe that in order to meet the needs for flood resilience, there should be a social objective with reference to building the capacity for *people* to be resilient before and in the aftermath of a flood.
 - > As it reads, we are not clear whether the social objective "*enhance community benefit with fair access for everyone*" pertains to access to funds, services or consultation processes.

3. **Do you agree with the conclusion as set out in paragraph 3.17?**
 - > We agree with the Executive Summary as outlined on page 8 of the consultation document - that there is a lack of co-ordination between the different powers and key players dealing with flooding, and that as a result, flood risk management is largely reactive. Reducing the risks of the significant impacts of flooding through sustainable flood management should include the humanitarian aspects of flooding. We would be keen to ensure that a single competent authority would have a remit that included humanitarian resilience, not just resilience that referred to the built environment or the economy.
 - > Our experience of the 2007 floods in England showed us that despite having a number of written agreements in place with local authorities, the Red Cross had to approach some authorities to raise their awareness of what services the Red Cross had available to assist, in what was evidently a dire emergency in some places. We acknowledge that, whilst Category 1 responders have the right to determine which

organisations they wish to use for support in an emergency, once agreements have been put in place and are reflected in emergency or resilience plans, they should be followed when emergencies occur.

- > Further, with reference to Box 6 *Duties for competent authority as specified by the Floods Directive: "Undertake Flood Risk and Hazard Mapping"*, there is no reference to humanitarian hazard mapping. One of the fundamental principles of the Red Cross is Humanity – being committed to helping prevent and alleviate human suffering wherever it may be found. Humanitarian mapping, (the potential risks to people, such as being isolated and not being able to receive basic survival provisions unless reachable by a helicopter or boat) should be included in the Preliminary Flood Risk Assessments in order to maintain the objectives as outlined in the definition of Sustainable Flood Risk Management.



4. Do you agree that there should be a single competent authority with a national remit for implementing the Floods Directive, and that it should be SEPA?

The Red Cross does not have an opinion about the merits of the single competent authority being SEPA, however we feel it is important to take the following into consideration:

- > We question whether SEPA is the correct authority to respond to or implement the humanitarian aspects of flooding. The Red Cross is keen to be part of the debate about which authority is best placed to respond to the humanitarian aspects of flooding. For example, during the Gloucester Floods of 2007, our Flood Response Team, a team of specially trained flood relief volunteers based in Northern Scotland, was deployed to distribute relief. There was no other authority or organisation dealing with this aspect of the floods.

- > While we recognise that the Bill will not cover emergency response to a flooding incident, resilience is specifically referred to in the objectives and definition. The Civil Contingencies Act does not specifically refer to flooding, resilience or the humanitarian aspects associated with flooding.
 - > We believe that as a humanitarian aid organisation, we are best placed to respond to the humanitarian aspects of flooding and do not have a direct line into SEPA.
5. Do you agree that this is a sound basis for the development of Local Flood risk Management Plans?
- > We refer to the above comment that we do not have a direct line into SEPA, however as a dot point in *Example Tasks* in Box 7, it refers to "improved flood warning and/or flood alleviation". We would like to make the point that there is a humanitarian aspect to this as outlined in our response to Question 3 and Box 6 and that this has been omitted in both the planning stages and the authority that would ultimately ensure this is included.
9. Do you agree that the responsible authorities should have a duty to work together within Flood Advisory Groups to produce plans?
- > The Red Cross believes that responsible authorities should have a duty to work together within Flood Advisory Groups to produce plans and involve stakeholders at every level. Local Flood Risk Management Plans should include references to adaptation and recovery in an emergency.
10. Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning?
- > The Red Cross believes that the community is not currently engaged at any level of planning within the Flood Advisory Groups. We believe that we have an important role to play in the local planning of educating people to adapt, withstand and recover from floods. The proposal for stakeholder forums as a way of achieving this is a welcome idea, however, assurance must be given for ideas to turn into written agreements and as described in response to Question 3, once agreements are made, they should be adhered to.
14. Should Flood Risk Management Plans inform the way that development plans are prepared, or should there be a stronger linkage such as a requirement on planning authorities to show that they have regard to the FRMPs?
- > The Red Cross holds a strong view that planning authorities should show they have regard to the FRMPs in the planning process of flood risk management and that

these FRMPs have regard for the engagement of the community to withstand and recover from floods through risk management and adaptation.

28. Do consultees agree that the proposals as outlined will improve flood risk management and ensure Scotland is equipped to implement sustainable flood management?

> Overall, the Red Cross believes that the proposals will lead to improved sustainable flood management, however, we believe that there is not enough emphasis in the planning process for the resilience of communities to adapt and withstand emergencies caused by flooding.

29. Do consultees feel that this is enough to ensure that flood risk is addressed or should local authorities have a new duty to promote measures to alleviate flooding?

> The theme of our response relates very much to ensuring that building community resilience is included in the plans. We believe that local authorities do have a duty to promote measures to alleviate flooding, but also to alleviate the *risks to people* associated with flooding.

> We consider that whilst there are obvious benefits in improving the means of predicting and managing future flooding incidents, the key issues are:

- What happens to the information
- Who is told, and how, and by whom
- What advice is given, and how, and to what audiences
- Where statutory (and HM Government) responsibilities lie

> Preventing and/or mitigating the scale and impact of flooding incidents will depend on a number of inter-dependent factors, such as the location, structure and use of buildings, the efficacy of flood defence systems and the capability of individuals and organisations to take action. We believe there is substantial and significant opportunity to improve community resilience by engaging individuals at the very local level to 'help them help themselves'. Education, training and information provision will underpin a successful strategy to get individuals engaged at the local level.

> The scale of recent flooding incidents in Scotland (Elgin Floods of 2002, Dingwall floods of 2006) and indeed the UK was such that the emergency services could not possibly have provided timely assistance and support to all individuals in difficulty. This will inevitably be a feature of any large-scale future flooding incident. We believe that better use of appropriately trained and managed volunteers will significantly enhance an emergency response, and we would be pleased to be part of both the debate and solution.

- > In conclusion, in order to deliver Sustainable Flood Management as outlined in paragraph 3.87 (*The aim of the flood risk Management Plans will be to manage the consequences of flooding on people, economic activity and the environment where these are significant*), the Red Cross believes that there is a humanitarian aspect to resilience that should be included in management plans and we would welcome the opportunity to address the Committee to discuss this further.

FALKIRK COUNCIL
Draft Response to the Consultation
The Future of Flood Risk Management in Scotland

Q1 A	<p>Do you believe the definition of SFM is helpful and of practical benefit to flood risk management?</p> <p>Yes, the definition will help all responsible parties to work towards a consistent objective.</p>
Q2 A	<p>Do you think the definition is clear and simple to understand?</p> <p>The definition sets the scene for the wholly appropriate move away from referring to flood prevention. The definition could place more emphasis on the need to protect our communities while still promoting a sustainable approach.</p>
Q3 A	<p>Do you agree with the conclusion as set out in paragraph 3.17?</p> <p>Yes, national consistency is required. This will put in place a framework where all involved in flooding can work to deliver a sustainable approach to flood risk.</p>
Q4 A	<p>Do you agree that there should be a single competent authority with a national remit for implementing the Floods Directive, and that it should be SEPA?</p> <p>Yes, SEPA is best placed to take forward the implementation of the Flood Directive. The Council is keen that the expertise and good work done by local authorities across Scotland is not neglected in this process. It is necessary to have a National Plan which sets out the objectives for Scotland, from which all other plans develop. SEPA should be both responsible and funded to produce a national plan and area plans.</p>
Q5 A	<p>Do you agree that this is a sound basis for the development of Local Flood Risk Management Plans? If not what alternative do you propose?</p> <p>Yes, this is reasonable basis for developing local FRMPs. The principle of local FRMPs being developed from area FRMPs by organisations identified and given responsibilities and duties by Scottish Government will provide structure to the process. This will give a framework for each organisation to take forward measures to address the issues highlighted in the plans. The removal of grant funding by transferring funds to the local Authorities as part of their Block Grant is of serious concern to Falkirk Council.</p> <p>The transfer of funds will make it easier to undertake major studies and investigations and to deliver minor or medium scale improvements whether requiring formal approval or not. The transfer of funds will put at risk the delivery of major schemes where the cost may exceed the entire capital resources of a Council. The Council believes that the Scottish Government should recognise that there is a need for a mechanism to deliver and fund major projects, particularly when they have a regional and national impact out with the local area. The Council believes that the financial implications of plan development at all levels and project delivery should not be funded from the block grant. Further consideration of funding is required.</p>

Q6	Should Ministers or SEPA have the power to designate a lead authority within a local area, or should it be left to the partners?
A	The lead should be with the local authority. Local authorities have local knowledge and a track record of performances in undertaking works to mitigate flooding in their communities.
Q7	Do you agree that Local Authorities, Scottish Water, the Forestry Commission, and SNH should be identified as responsible authorities?
A	Yes. Further clarity is needed on the process of developing local FRMPs and the responsibility/funding of all the partners. It is difficult to assess the implications for the Council and hence make full comment with the level of detail provided at this stage.
Q8	Which other bodies should be identified as responsible authorities?
A	British Waterways Scotland should also be a responsible Authority.
Q9	Do you agree that Responsible Authorities should have a duty to work together within Flood Advisory Groups to produce plans?
A	Yes, it is important that it is a clear duty on all Responsible Authorities to participate and co-operate in the development of the plans.
Q10	Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process?
A	Wider stakeholder and community involvement usually galvanises after a major flooding event and it will be a challenge for the Scottish Government to establish these groups at the planning stage. Landowners, who have riparian responsibility for the majority of Scotland's land mass must be involved at the early stage in this process. Further clarity is needed on the responsibilities and duties of flood advisory groups and stakeholder forums. The role of the local authorities in these groups and their relationship with the Council as a Responsible Authority are unknown and hence the resource and funding implications are of concern to the Council.
Q11	Do you agree that the Bill should set out a process similar to that for River Basin Management Planning for the preparation by SEPA of area flood risk management plans?
A	Yes. The Bill should give guidance on the process to be followed.

<p>Q12</p> <p>A</p>	<p>Do you agree that Ministers have the power to approve, reject or modify Area Flood Risk Management Plans?</p> <p>There will be 3 levels of Plan (River Basin from WFD, Area and Local). Ministerial involvement should be reserved for River Basin and Area Plans which require to go to the European Commission.</p> <p>Local Plans should be left with the Responsible Authorities and Ministers should only get involved if one of the Responsible Authorities objects to the plan.</p>
<p>Q13</p> <p>A</p>	<p>Do you think that integrated urban drainage plans should be included as part of a Local Flood Risk Management Plan?</p> <p>Yes, it is vital that Urban Drainage Plans with properly formulated and adequate anti flood rules for the design of urban drainage are clearly considered and incorporated within the established framework of Flood Risk Management Plans, as the capacity of drains within urban drainage systems along with their uncontrolled discharges, in both new and older developments, can be significant contributing factors to major storm event flooding incidents. As such, wherever practically and economically possible, the opportunity should be taken to allow urban drainage to be designed to adequately convey and attenuate major storm events well in excess of the current arbitrary 30 year return period maximum design level.</p>
<p>Q14</p> <p>A</p>	<p>Should Flood Risk Management Plans inform the way that development plans are prepared, or should there be a stronger linkage such as a requirement on planning authorities to show that they have regard to the FRMPs?</p> <p>The Development Plan process is a major undertaking for local authorities and should not be constrained in process by FRMP's. It is, however, essential that there are strong links and Planning Authorities should be required to show that they have regard to the FRMPs.</p>
<p>Q15</p> <p>A</p>	<p>Do you think that the granting of deemed planning permission at the end of the statutory process for flood risk management will deliver a more streamlined approach to the delivery of flood risk management?</p> <p>The delivery of deemed planning consent at the end of the statutory process may streamline the process, however, this is contrary to the new planning legislation where local authorities now need to comply fully with planning. The new funding arrangement could remove the need for Scottish Government approval if the scheme has been already approved as part of the local FRMP. There would still need to be a process to allow the works to go ahead on land not in Council ownership, where the owners do not wish to participate.</p>

<p>Q16</p> <p>A</p>	<p>Should Ministerial confirmation be made necessary even where features of a scheme do not require planning permission?</p> <p>The council believes that the Scottish Government should give consideration to a two tiered system, one for major works and one for minor works such as improvements to existing defences. Major works would require the full approval process and minor works would be an extension of the current maintenance arrangements. The Council believes the Scottish Government should take the opportunity to clarify the position where local authorities must maintain existing flood prevention features but is not allowed to improve them under the current legislation.</p>
<p>Q17</p> <p>A</p>	<p>Is the present procedure for Ministerial confirmation satisfactory for this new purpose or are there revisions e.g. to timescales which should be considered?</p> <p>There is a clear need to have an open transparent process and this requires time for representations and deliberations. The timeframes for consultation should remain broadly similar, however, there is a need for all the processes finally agreed to progress concurrently. A process to review potential objections arising from the consultation period should be established to ensure that unfounded objections are dismissed and not taken to Public Inquiry.</p>
<p>Q18</p> <p>A</p>	<p>Do you think that the option to rely on a local authority based process in a similar way as other local authority development activity should be taken forward?</p> <p>Yes, the local authority route fits with the local democratic process and the Local FRMPs. The Council believes the Scottish Government should retain an involvement in the approval and grant funding of schemes of national importance or where the scale of the identified project is out with the scope of the Responsible Authority.</p>
<p>Q19</p> <p>A</p>	<p>What would be the appropriate timescales for notification and response?</p> <p>Timescales for notification and responses should be in line with the planning process.</p>
<p>Q20</p> <p>A</p>	<p>Would it be appropriate for such a process to carry deemed planning consent?</p> <p>There are many aspects of the 1961 Act which will require to be incorporated in the new legislation and the Council believes the processes should run in parallel and not be combined.</p>
<p>Q21</p> <p>A</p>	<p>How should the issue of technical expertise and capacity to ensure the necessary technical standards are observed, be addressed?</p> <p>Access to technical staff to take forward and approve projects is essential. The Council agrees that pooling of resources is a possible solution. Alternatively the Scottish Government should appoint a pool of approved Consultant Engineers who could be called on by local authorities.</p>

Q22	Are there any additional alternatives to the options outline above which would simplify procedures?
A	The Scottish Government should consider a two tiered approach as described in the response to Q16.
Q23	Do you consider local authorities' powers are sufficient to take necessary action to avert danger to life and property?
A	The maintenance duty on privately owned watercourses is onerous. The Scottish Government should consider amending legislation to allow improvement notices to be served on landowners and to allow councils to recover cost of works undertaken in private land. Further clarity is needed in relation to non-agricultural land and any exemptions in the council's duties in this regard.
Q24	Do you agree that streamlining the CAR and flooding/planning processes can be managed through better guidance?
A	Better guidance will help particularly in relation to watercourse maintenance.
Q25	Do you think there is anything further SEPA, the Scottish Government or others should be doing to promote joined-up regulation?
A	The Scottish Government is considering changing primary legislation to improve the way we deal with flooding with a view to combining flooding and planning approval. The CAR licence should be included in this combined approval.
Q26	Do you think that there is an alternative approach to simplifying the process of promoting flood measures to those discussed above which the Scottish Government should consider?
A	Can the Scottish Government consider a form of Service Level Agreement between Councils and SEPA to replace a CAR licence in relation to a Council's watercourse maintenance duties.
Q27	Do you agree that the form and content of the biennial reports should be more systematic, and subject to direction from Ministers?
A	Yes. It should be remembered that the primary purpose of the biennial report is a communication document between the council and its residents.

<p>Q28</p> <p>A</p>	<p>Do consultees agree that the proposals as outlined will improve flood risk management and ensure Scotland is equipped to implement sustainable flood management?</p> <p>The draft Bill is welcomed, as it will establish a theme of sustainability as to how all the organisations, with a responsibility for flooding, will address this major issue for our communities. The Council is concerned that there is not enough in the consultation to address the responsibilities around Integrated Urban Drainage Plans. The Scottish Government should take steps to address the difference in design standards (1:30 year and 1:200 year) used by Responsible Authorities. Further clarity is also required in relation to defining responsibility for “overland flow” and which organisations can take forward sustainable measures to deal with “overland flow” and how these should be funded. As part of the review of primary legislation this issue should be clarified, even if it makes reference to future guidance being made available by Scottish Government.</p>
<p>Q29</p> <p>A</p>	<p>Do consultees feel that this is enough to ensure that flood risk is addressed or should local authorities have a new duty to promote measures to alleviate flooding?</p> <p>It should remain a permissive power for local authorities or other Responsible Authorities to promote sustainable measures. The new funding arrangements for flooding are not appropriate to enable Councils to take forward large qualifying schemes. Placing a duty on local authorities to promote schemes would not sit comfortably with the tone of this consultation.</p>
<p>Q30</p> <p>A</p>	<p>Do you believe enforcement responsibilities under the Reservoirs Act 1975 should be transferred to a single national body?</p> <p>Yes. This proposal would lead to a consistent approach to enforcement. It is important that information is shared with local authorities and civil contingency partners.</p>
<p>Q31</p> <p>A</p>	<p>If so, should it be SEPA or another as yet unidentified body?</p> <p>SEPA will be the appropriate body if it is the Competent Authority under the new Flooding Bill. Otherwise responsibility should remain with the local authorities.</p>
<p>Q32</p> <p>A</p>	<p>Are you content with the proposals for dealing with reservoir flood maps under the provisions of the Floods Directive, or do you think that there should be a statutory duty on reservoir undertakers to prepare reservoir inundation maps and plans, similar to the duty in the 2003 Water Act for England and Wales?</p> <p>No. While the Competent Authority will be responsible for preliminary assessment, the detailed flood risk mapping of significant risk dams may not take place until late 2013. The duty to produce inundation maps for all dams should lie with the owners.</p>

Q33	Do agree that enforcement powers be extended and post incident reporting included as an additional requirement?
A	Dam breaches can be devastating and enforcement powers should be to an appropriate level. The enforcement authority should be encouraged to approach another Panel Engineer for advice at any stage.
Q34	Views on Crown application and any other comments?
A	Where public safety could be at risk as a result of a dam breach then all organisations including Crown bodies should be treated the same.

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OS8

EJM/sch

21st April 2008

Water, Air, Soils and Flooding Division
The Scottish Government
1H North
Victoria Quay
EDINBURGH EH6 6QQ

Dear Sirs

The Future of flood Risk Management in Scotland

Having read through the proposals I believe that generally to streamline who deals with flooding and make it catchments based rather than Local Authority area based seems sensible from a technical point of view. However, care has to be taken that this does not complicate planning if the lead flood authority is not the one planning has been applied for.

Paragraphs 3.14 to 3.17 do not make sense when read, as it seems that there is no support for a single Authority but that is what is being proposed, i.e. SEPA. A conclusion seems to have been reached without any considered reason.

It does however suggest that SEPA may be the best placed to take a consistent approach, but our main concern would be the additional power that this would give SEPA and would therefore ask that you consider how this new role might be balanced?

Yours faithfully
MACTAGGART & MICKEL LIMITED

[REDACTED]
E J Monaghan
Managing Director



[Redacted]

061
[Redacted]

21 April 2008

Frances Conlan
Water, Air, Soils and Flooding Division
The Scottish Government
1H North
Victoria Quay
EDINBURGH
EH6 6QQ

Dear Ms Conlan,

Consultation on the Future of Flood Risk Management in Scotland

Thank you for this opportunity to provide feedback on this issue.

Section 1.6 of the Consultation Document - **Current landscape of flood risk management in Scotland** (p 22) states that "owners have a responsibility to provide a level of protection from flooding appropriate to their property."

Section 3.45 under **Managing surface water and urban drainage** (p 51) mention is made of "managing storm water on the surface".

I wish to make two specific suggestions.

1. local authorities in areas of high rainfall, should be given the power to enforce the use of porous tarmac and other materials, in the construction and repair of roads and pavements.
2. home owners should be given a legally enforceable responsibility to minimise run-off caused by new landscape work. Car parking areas should be of porous materials, and gravelled-over flowerbeds should make use of proper permeable membranes rather than plastic sheeting.

I live halfway up a hill in a 1978 housing area in Inverness. After heavy or prolonged rain, the run-off from the housing area is sufficient to cause water to accumulate under our house. Other factors are poorly placed road drains, and the gradual removal of large trees by householders.

Encouraging the wider use of porous materials for hard landscaping should make an enormous difference to the quantity of run-off going into drains. The Scottish Government should not be afraid of taking radical action on this.

Yours sincerely,

[Redacted Signature]

Liz Scott

We're Housing Scotland



062

Bob Irvine
Depute Director
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22nd April 2008

Dear Mr Irvine,

The Future of Flood Risk Management in Scotland

The Scottish Federation of Housing Associations (SFHA) welcomes the opportunity to respond to the Scottish Government's consultation on "The Future of Flood Risk Management in Scotland", published in February 2008.

As the representative body for the principle builders of new social housing in Scotland, the Scottish Federation of Housing Associations (SFHA) welcomes the opportunity to comment upon the Scottish Government's consultation on flood management in Scotland.

The SFHA is the representative body for the principle builders of new affordable housing in Scotland. Housing associations in Scotland own and manage 40% of the country's rented housing stock. The housing association sector has an asset value base of £7 billion in Scotland. This is concentrated in some of the poorest communities in our country.

The SFHA welcomes in particular:

- The Government's acknowledgement that, currently, several agencies share responsibility for flood alleviation and the design and maintenance of infrastructure;
- The Government's emphasis on sustainable, natural solutions such as SUDS, which would replace the large scale engineered solutions promoted by the current legislation.

The SFHA believes that there needs to be clarity in this area and would support the creation of one central agency responsible for overall co-ordination of strategy, policy, funding and delivery in flood prevention measures.

The SFHA would also wish to make the following comments on flood prevention:

- There have been a significant number of consultations issued recently by the Scottish Government, several of which could have an impact on flood prevention in Scotland. These include *Firm Foundations*, *SPP3*, the *Draft Proposals for a Scottish Climate Change Bill*, *Charging for Water Services 2010-14* and *National Planning Framework 2*. We would encourage close liaison between the various Scottish Government

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063

From: [REDACTED]
Sent: 22 April 2008 14:30
To: Flooding, Erosion and Reservoir Safety
Subject: Consultation Response

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The Future of Flood Risk Management in Scotland

RESPONDENT INFORMATION DETAILS

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Responding as: On behalf of a group or organisation

**Individual
Permission:** Not Supplied

Confidentiality: Not Supplied

**Group or
Organisation:** Yes

**Share Response
Permission:** Yes

Consultation Questions

The Future of Flood Risk Management in Scotland

Question 1: Do you believe the definition of SFM is helpful and of practical benefit to flood risk management?

(This response is on Reservoir Safety proposals only - from Q30)

Question 2: Do you think the definition is clear and simple to understand?

Question 3: Do you agree with the conclusion as set out in paragraph 3.17?

Question 4: Do you agree that there should be a single competent authority with a national remit for implementing the Floods Directive, and that it should be SEPA?

Question 5: Do you agree that this is a sound basis for the development of Local Flood Risk Management Plans? If not what alternative do you propose?

Question 6: Should Ministers or SEPA have the power to designate a lead authority within a local area, or should it be left to the partners?

Question 7: Do you agree that Local Authorities, Scottish Water, the Forestry Commission, and SNH should be identified as responsible authorities?

Question 8: Which other bodies should be identified as responsible authorities?

Question 9: Do you agree that responsible authorities should have a duty to work together within Flood Advisory Groups to produce plans?

Question 10: Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process?

Question 11: Do you agree that the Bill should set out a process similar to that for River Basin Management Planning for the preparation by SEPA of area flood risk management plans?

Question 12: Do you agree that Ministers have the power to approve, reject or modify Area Flood Risk Management Plans?

Question 13: Do you think that integrated urban drainage plans should be included as part of a Local Flood Risk Management Plan?

Question 14: Should Flood Risk Management Plans inform the way that development plans are prepared, or should there be a stronger linkage such as a requirement on planning authorities to show that they have regard to the FRMPs?

Question 15: Do you think that the granting

of deemed planning permission at the end of the statutory process for flood risk management will deliver a more streamlined approach to the delivery of flood risk management?

Question 16: Should Ministerial confirmation be made necessary even where features of a scheme do not require planning permission?

Question 17: Is the present procedure for Ministerial confirmation satisfactory for this new purpose or are there revisions e.g. to timescales which should be considered?

Question 18: Do you think that the option to rely on a local authority based process in a similar way as other local authority development activity should be taken forward?

Question 19: What would be the appropriate timescales for notification and response?

Question 20: Would it be appropriate for such a process to carry deemed planning consent?

Question 21: How should the issue of technical expertise and capacity be addressed?

Question 22: How could such a process ensure the necessary technical standards are observed?

Question 23: Are there any additional alternatives to the options outlined above which would simplify procedures?

Question 24: Do you agree that streamlining the CAR and flooding/planning processes, can be managed through better guidance?

Question 25: Do you think there is anything further SEPA, the Scottish Government or others should be doing to promote joined-up regulation?

Question 26: Do you think that there is an alternative approach to simplifying the process of promoting flood measures to those discussed above which the Government should consider?

Question 27: Do you agree that the form and content of the biennial reports should be more systematic, and subject to direction from Ministers?

Question 28: Do consultees agree that the proposals as outlined will improve flood risk management and ensure Scotland is equipped to implement sustainable flood management?	
Question 29: Do consultees feel that this is enough to ensure that flood risk is addressed or should local authorities have a new duty to promote measures to alleviate flooding?	
Question 30: Do you believe enforcement responsibilities under the Reservoirs Act 1975 should be transferred to a single national body?	Yes
Question 31: If so, should it be SEPA or another as yet unidentified body?	SEPA would be preferable, particularly if they take on the proposed remit of implementing the Floods Directive (Q4) including flood risk mapping and management plans. This combined role would require a widened base of skills to include water engineering. The reservoir safety remit would need particular skills in reservoirs and water-retaining structures, and specialist legal advice for enforcement.
Question 32: Are you content with the proposals for dealing with reservoir flood maps under the provisions of the Floods Directive, or do you think that there should be a statutory duty on reservoir undertakers to prepare reservoir inundation maps and plans, similar to the duty in the 2003 Water Act for England and Wales?	Content with the proposals for dealing with reservoir flood maps, as doing this in conjunction with general flood mapping will achieve substantial economies compared with each Undertaker commissioning their own flood maps. Also this is more likely to achieve consistency and compliance by smaller owners. It is noted that the Environment Agency in England and Wales is moving to a similar policy in view of its perceived advantages
Question 33: Do agree that enforcement powers be extended and post incident reporting included as an additional requirement?	Yes. Post-incident reporting is required by potentially high-risk industries and this is appropriate to the potential risk from reservoirs.
Question 34: Views on crown application and any other comments?	Crown bodies should be bound to comply

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