

MEIKLEWALL Scotland Ltd

Specialist in Flood Defence, Sewage Surge, Flood Management

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February 13, 2008

Ms. Deborah Garft
Climate Change & Air Division
1G(N) Victoria Quay,
Edinburgh
EH6 6QQ

DG 19/2/08

Dear Ms Garft,

Re: the Future of Flood Risk Management in Scotland Consultation

My family home was flooded in Paisley in 1994; our street was under 14ft of contaminated flood water at the highest point. After further investigation into flood laws in Scotland I was amazed to find out there was no abiding laws at that time. I wrote to every MP in Great Britain for flood laws to be changed and went to Parliament to meet, the now, Lord Michael Forsyth, the then Secretary of State for Scotland. After discussions a new Scottish Law was legislated and passed in 1997 and implemented in 1998. This was, I feel, a great achievement but still wouldn't stop flooding from occurring again and causing the devastation that it does and this spurred me on to invent and patent a buoyant Flood Barrier. Being flooded told me that the most powerful tool in a flood situation was the water itself, this was the concept behind my buoyant Floodwall and from here Meiklewall Scotland Limited was established.

I have associations with Scottish Executive Office, my innovation won a SMART award in 2000 and I was also a Renfrewshire finalist in the John Logie Baird award as well as the Biggart Baillie Glasgow Science Centre awards. I also work closely with Scottish Enterprise and Universities in the West of Scotland.

We are a company that provides different solutions for Flood Management; you can view some of our products on our website, www.meiklewall.com. We are the only company in the UK that actually has a test site; based at the River Clyde, where you can actually view our products being tested here.

We are currently in discussions with the National Grid, US Military, Local Councils throughout the UK as well as large influential worldwide companies, such as ARUP and John J Casey. Even though we have all this fantastic interest we are a small company that is at pilot stage and require further development funding, which takes time and effort.

Meiklewall Scotland Ltd offers an alternative to a brick wall. It is flood protection that is only in use when required and does not require manpower to operate, as you will see from our website. I do feel Meiklewall Scotland Limited has products that will benefit the people of Scotland, home-owners, Councils, Companies, Heritage sights and Tourism for example.

Please feel free to contact me should you require any further information. I would be very much obliged if you could send me, by email or post, a copy of the outcome to the Consultation, when it is published

Sincerely

[REDACTED]

Fiona Meikle,
Chief executive,
Meiklewall Scotland Ltd.

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**Northern
Constabulary**

Protect and Serve. Dìon is Cuidich.

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



Our Ref: SM/LH

18th March 2008

Dear Ms Conlan

'The Future of Flood Risk Management in Scotland' – Consultation

With reference to the above document I have the following comments.

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

There is a need for a common definition of Sustainable Flood Management. I have concern over the basis use of the term 'maximum'. Risk is assessed on the basis of likelihood and impact. In the absence of infinite resources to maximise flood risk protection on all flood risk areas, a decision will require to be taken as to where resources and effort will be deployed.

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

Any definition should be clear and understandable. It should be clear that flooding will occur with the purpose of management being to mitigate and, if possible, minimise its impact across the objectives listed. Where there is conflict between the objectives there should be some means whereby one is given priority.

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

I agree with the requirement for a single national competent authority for Scotland. Local authorities should retain the role of implementing local flood defence works within the national co-ordination arrangements.

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?

SEPA is the agency best placed to be the single competent authority, within the criteria of the EC Flood Directive.

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?

The production of Local Flood Risk Management Plans should be on the basis of risk. The criteria used in determining risk should mirror that used in the Civil Contingencies legislation where risk is

assessed according to likelihood and impact. That risk assessment process provides a template already used by SEPA and other emergency responders in contingency planning and it is only proper that it can be adopted for flood risk planning rather than the introduction of another risk assessment process. Prioritisation in development of flood risk management plans should be according to those where the risk is assessed as very high under the preliminary flood risk assessment process.

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?

The lead authority in a local area should normally be agreed by the partners. Where no such agreement can be obtained then SEPA should have the authority to nominate the lead authority.

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 suggestions

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

Yes

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

While there is a requirement for publicising the work of the Flood Advisory Groups among wider stakeholder and community groups I am not convinced that the proposed stakeholder forums provide the most appropriate means, through the establishment of additional quangos.

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

Question 12 to 29

I do not wish to comment on these issues.

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

Yes. The current arrangement does not provide for the necessary consistency in evaluating reservoir safety.

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

The proposal that SEPA be the national body is supported mirroring as it does the position in England and Wales.

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?

Reservoir flood maps produced by a single competent authority would have the benefit of a consistent approach to the work involved.

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

Agree

Yours sincerely

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From: [REDACTED]
 Sent: 16 February 2008 00:09
 To: Flooding, Erosion and Reservoir Safety
 Subject: Consultation Response

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 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: [REDACTED]
 Organisation: Island Communications Ltd
 Address: Glenbervie Business Centre 1
 Glenbervie Business Park Larbert FK5
 4RB Stirlingshire
 Postcode: FK5 4RB
 Email: [REDACTED]
 Telephone Number: [REDACTED]
 Responding as: 2
 Individual
 Permission:
 Confidentiality:
 Group or Organisation: 1
 Share Response Permission: 1

Consultation Questions

The Future of Flood Risk Management in Scotland

<p>Question 1: Do you believe the definition of SFM is helpful and of practical benefit to flood risk management?</p>	<p>In General Yes, however there is currently significant confusion with regard to the individual roles and responsibilities of the many bodies engaged in SFM and how they interface with each other with defined responsibilities.</p>
	<p>As above, No. Some work is required to clarify the roles and responsibilities of those engaged</p>

<p>Question 2: Do you think the definition is clear and simple to understand?</p>	<p>in SFM. There is a need for greater integration of the respective bodies engaged in SFM and better definition of responsibilities. There are grey areas to address.</p>
<p>Question 3: Do you agree with the conclusion as set out in paragraph 3.17?</p>	<p>Yes I agree that a single competent body should carry responsibility for meeting the requirements of the Floods Directive. Local Authorities should be permitted to consider innovative approaches towards Flood Risk Management including: Monitoring, Early warning. It is vital that innovation benefits may integrate into the local community so that they are aware of pending flood risk and offering sufficient time to be prepared and minimise damage and risk to life and property. "Sandbags are useful - but only if available before the flood"</p>
<p>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?</p>	<p>A single competent body holding the correct level of expertise in delivering a National remit for implementing the Floods Directive is wise and desirable. However such a body must have the ability to extend its interest to all aspects of flood risk from Coastal to Major Rivers and flood plains and extend to the impact of localised flooding risks in small water courses in all communities. Such responsibility should work with rather than outwith Local Authority resources.</p>
<p>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?</p>	<p>Better integration of a body such as SEPA and local authorities. There needs to be a lifting of restrictions on Councils to move forward with use of innovation to address localised flooding with improved local awareness, early warning, monitoring and updates on a localised level as well as the bigger picture. Where it is deemed necessary to deliberately flood land as part of flood alleviation, if this is to be long term, then leisure pursuits should be considered. Such activity could include wild life / bird sanctuary and Tourism value interlinking with canal infrastructure to provide boating / sailing activity and other water based sports. (Commonwealth Games and Beyond)</p>
<p>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?</p>	<p>Ministers should have overall visibility of SEPA recommendations and best practices but not impose restrictive practice with unnecessary legislation. SEPA should have deeper integration with partners and closer co-operation. Effort must be placed on erradicating grey areas of responsibility.</p>

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?	Emergency Services,
Question 9: Do you agree that responsible authorities should have a duty to work together within Flood Advisory Groups to produce plans?	Yes, this is important. Plans must be flexible and extend to a local level and not restrict use of innovation to address localised flood risk with early warning and monitoring technology.
Question 10: Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process?	There is significant room for improvement in this area and those at the technology end should be included as required.
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 this would be beneficial and should run all the way to a rural level.
Question 12: Do you agree that Ministers have the power to approve, reject or modify Area Flood Risk Management Plans?	Yes but with significantly improved flexibility
Question 13: Do you think that integrated urban drainage plans should be included as part of a Local Flood Risk Management Plan?	This would be beneficial and in some areas a definite requirement. Urban difficulties can often impact significantly on a 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?	There is a need for reduced restrictions imposed on development planning. The Planning authority process needs to be less restrictive on urgent requirements.
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?	Unlikely and could hold back urgent projects.
Question 16: Should Ministerial confirmation be made necessary even where features of a scheme do not require planning permission?	Do not see this as being necessary on anything other than very large scale projects that may significantly impinge on the local environment or infrastructure and transport links.
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?	All timescales in all areas should be targeted for improvement.

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?	All processes should be targetted for improved efficiency.
Question 19: What would be the appropriate timescales for notification and response?	Improvements on all current timescales is desirable.
Question 20: Would it be appropriate for such a process to carry deemed planning consent?	Only where it is absolutely necessary and much more flexibility is required.
Question 21: How should the issue of technical expertise and capacity be addressed?	Use of innovation should be considered and old labour intensive techniques of manual monitoring and logging should give way to Web based automated data collection, monitoring and early warning. This is required on all aspects of Flood Risk from Coastal to Major water courses and extending to a local level to include small water courses drains and culverts.
Question 22: How could such a process ensure the necessary technical standards are observed?	Recognised contractors currently engaged in Flood Risk Management should be encouraged and a forum of technology partners should be formed under SNIFFER to share best practice and innovation under the remit of technical standards.
Question 23: Are there any additional alternatives to the options outlined above which would simplify procedures?	Reduce the need for Local Authorities to have to go to tender on small projects.
Question 24: Do you agree that streamlining the CAR and flooding/planning processes, can be managed through better guidance?	Yes
Question 25: Do you think there is anything further SEPA, the Scottish Government or others should be doing to promote joined-up regulation?	Encourage better integration and sharing of responsibilities for FRM. Give consideration of strategy for localised flooding which needs to be enhanced.
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?	Technology and innovation has improved and those currently on the periphery of consideration in effective Flood Risk Management should be encouraged to show how innovation can make a difference and deliver significant impact. New approaches and innovation need to be given better consideration rather than continuing with out of date processes requiring manual attendance and data collection. Local Community broadcast messages should also be considered to give ample warning of pending flood situations and on going with essential information. (Very happy to discuss this area)

Question 27: Do you agree that the form and content of the biennial reports should be more systematic, and subject to direction from Ministers?	Yes
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?	Yes this appears to be an improvement and a positive step.
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?	Local Authorities are often best placed to understand the needs of Local communities especially those in remote and rural conurbations. It is important that such local communities are included in allocation of resource and innovation benefits. SEPA as provider of flood information should share and discuss best use of captured data and also consider others willing to contribute to the collection of Data on a localised basis. The provision of such information could prove very beneficial to local and rural communities as a means of early warning. A Community Broadcast facility is also a very useful way to enhance the personal safety of rural communities at low cost.(Very happy to discuss this area)
Question 30: Do you believe enforcement responsibilities under the Reservoirs Act 1975 should be transferred to a single national body?	Yes this would benefit the overall effective management of FRM sharing resource and expertise rather than segmentation.
Question 31: If so, should it be SEPA or another as yet unidentified body?	YES, SEPA beter integrated with Local Authorities with the sharing of knowledge and expertise.
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?	Not qualified to comment on this question
Question 33: Do agree that enforcement powers be extended and post incident reporting included as an additional requirement?	Yes, this would make sense but the key Focus Must be on flood prevention, Early warning and minimising the impact of flooding and Community broadcasting. (Happy to discuss this whole area and share ideas that we believe would make a big difference in the reduction of risk and sustained damage)
Question 34: Views on crown application and	No Views to express on this area however

<i>any other comments?</i>	streamlining and red tape reductions would be well received.
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Reservoir Safety

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The Future of Flood Risk Management in Scotland

RESPONDENT INFORMATION DETAILS

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Group or
Organisation:

Share Response 1
Permission:

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?

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

<i>proposals as outlined will improve flood risk management and ensure Scotland is equipped to implement sustainable flood management?</i>	
<i>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?</i>	
<i>Question 30: Do you believe enforcement responsibilities under the Reservoirs Act 1975 should be transferred to a single national body?</i>	Yes.
<i>Question 31: If so, should it be SEPA or another as yet unidentified body?</i>	Yes, SEPA seems appropriate, providing that a special "cell" is formed whose duties are clearly for the enforcement of the Reservoirs Act, and not diluted or compromised by other requirements, whether legally imposed or otherwise.
<i>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?</i>	The present proposals appear to be better than those for England & Wales.
<i>Question 33: Do agree that enforcement powers be extended and post incident reporting included as an additional requirement?</i>	Yes, this seems reasonable.
<i>Question 34: Views on crown application and any other comments?</i>	Any Crown immunity is contrary to the spirit of natural justice and the interests of reservoir safety, so should be withdrawn. However, if the Crown has not been making use of their immunity and have complied with the RA75 requirements, any inspections, reports and certificates dating from before the removal of Crown immunity should be treated as having been validly done. In E&W there were cases where an inspection had to be done "immediately" because the previous inspection (before removal of immunity) was deemed not relevant.

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[REDACTED]

From: [REDACTED]
Sent: 26 February 2008 13:45
To: Davidson J (Jackie)
Cc: [REDACTED]
Subject: Consultation/repeat response

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The Future of Flood Risk Management in Scotland

RESPONDENT INFORMATION DETAILS

Name: [REDACTED]
Organisation:
Address:
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Email:
Telephone Number:
Responding as: An individual
Individual Permission: Yes
Confidentiality: Yes, make my response and name available, but not my address
Group or Organisation: Not Supplied
Share Response Permission: No

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?

The word "resilience", as defined, does not include PREVENTION despite the fact the government "uses it to deliver the four "As", the second of which is AVOIDANCE. Hence the definition does NOT flag up

	PREVENTION which should be at the heart of flood risk management.
Question 2: Do you think the definition is clear and simple to understand?	See above
Question 3: Do you agree with the conclusion as set out in paragraph 3.17?	<p>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 <i>catchment focused</i> approach to flood risk management planning is underpinned by <i>local co-ordination</i> and delivery of measures by those bodies with direct experience of implementing flood risk management measures in Scotland.</p> <p>YES.... provided the single authority has teeth to compel the local authority to respect environmental/flood risk guide lines and co-ordinate with relevant local authorities.</p>
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... SEPA with the above proviso.
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?	Leave to local authority
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?	The Association of Scottish District Fishery Boards/ASDFB. Especially important as the "New Approach" to flood risk management will gbe CATCHMENT based: inseperable from river systems hence fish.
	YES. There must be an element of

<p><i>Question 9: Do you agree that responsible authorities should have a duty to work together within Flood Advisory Groups to produce plans?</i></p>	<p>compulsion when the activity of one local authority impacts that of another local authority or authorities. This is much more likely when there is a 'catchment focused approach to flood risk management'.</p> <p>Example: The Highland Region/Nairn and the Moray Council are currently examining proposals by six developers of windfarms: five are in the Highland region and one in Moray (Berryburn) yet ALL ARE IN THE CATCHMENT OF THE RIVER FINDHORN which includes the peat-based Dava Moor. Moray, however, is the area that will be damaged (Forres, in particular) should the river Findhorn break through flood defences, a future certainty based on past history.</p> <p>The unprecedented industrial development in the River Findhorn CATCHMENT should have triggered the co-ordinated application of SNH's notice on the 'cumulative impact' of wind energy development where it relates to 'environmental effects.'</p> <p>Given existing evidence (Ireland & Scotland) of the potential damage to watersources by the construction of industrial - size wind turbines in peatland, the Planning Authorities of these two councils should be required to consult and then apply both accumulation and pre-cautionary principles- which lie at the centre of FLOOD PREVENTION. Where sufficient evidence exists of accumulation's severe impact (as in the case of Findhorn catchment), legislation should be retroactive.</p>
<p><i>Question 10: Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process?</i></p>	<p>No comment</p>
<p><i>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?</i></p>	<p>Yes</p>

Question 12: Do you agree that Ministers have the power to approve, reject or modify Area Flood Risk Management Plans?	Yes... subject to SEPA's advice
Question 13: Do you think that integrated urban drainage plans should be included as part of a Local Flood Risk Management Plan?	No comment
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?	There must be requirement that planning authorities respect 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?	YES... but there must some system of APPEAL to SEPA.
Question 16: Should Ministerial confirmation be made necessary even where features of a scheme do not require planning permission?	NO... provided SEPA approves.
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?	No comment
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?	YES. Assuming SEPA and other statutory guidelines are followed.
Question 19: What would be the appropriate timescales for notification and response?	Where river catchments are involved, all interested parties should be given 90 days.
Question 20: Would it be appropriate for such a process to carry deemed planning consent?	NO.
Question 21: How should the issue of technical expertise and capacity be addressed?	All interested parties need to have a right to technical expertise input.
Question 22: How could such a process ensure the necessary technical standards are observed?	Maybe SEPA could adjudicate on this.

<p>Question 23: Are there any additional alternatives to the options outlined above which would simplify procedures?</p>	<p>NO comment</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>Given that the "new approach" to Flood Risk Management is CATCHMENT based, it is logical that strict guidelines be prouced and followed concerning any development in catchment areas. Example:</p> <p>The Highland Region and Moray Council are subject to multiple requests by windfarm developers/proprietors to "scope" development sites in the cathment of the River Findhorn. Each are time consuming and expensive. If firm guidelines stated no development in peat-based catchment areas, Scotland's renewable energy policy would be considerably clearer and much time, energy, money saved.</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. By recognising that at the heart of PREVENTION of flooding lie the PRE-CAUTIONARY and ACCUMULATION principles. If all Councils were required to adopt these principles AS A RULE, that would be a start to "joined-up regulation.</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>See above/25</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>No comment</p>
<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>YES. But SEPA will need teeth to ensure policy is carried out. And flood risk management need to take into account the liklihood of extremes of weather and rain increasing in the years ahead. That the major sinks of water are in the catchments of our rivers- notably peat-based- which will, if damaged by industrial development (wind turbines) fail in their historic roles as mitigators of floods. w</p>
	<p>Local authorities are subject to financial constraints. Developers of all persuasions</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>(supermarket, garages, housing, windfarms, etc/) are often lured by the promises of increased revenues if they concede to a developers' scheme without DUE REGARD TO LONG-TERM EFFECTS of their actions. Those who succumb in this way will almost certainly have ignored the PRECAUTIONARY AND ACCUMULATION principles. Flooding is often the result. The principles- at the heart of PREVENTION- must be written into the NEW APPROACH</p>
<p>Question 30: Do you believe enforcement responsibilities under the Reservoirs Act 1975 should be transferred to a single national body?</p>	<p>No comment</p>
<p>Question 31: If so, should it be SEPA or another as yet unidentified body?</p>	<p>No comment</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>No comment</p>
<p>Question 33: Do agree that enforcement powers be extended and post incident reporting included as an additional requirement?</p>	<p>No comment</p>
<p>Question 34: Views on crown application and any other comments?</p>	<p>No comment</p>

Finally, may I express my gratitude for the opportunity extended to participate in this consultation process. James Stuart, Dunphail, Moray. Feb.26th. 2008

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007

From: [REDACTED]
Sent: 20 February 2008 14:34
To: Flooding, Erosion and Reservoir Safety
Subject: Consultation Response

.....
 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: [REDACTED]
Organisation: Scottish Borders Council
Address: Council Headquarters Newtown St
 Boswells Melrose
Postcode: TD6 0SA
Email: [REDACTED]
Telephone Number:
Responding as: On behalf of a group or organisation
Individual Permission: Not Supplied
Confidentiality: Not Supplied
Group or Organisation: No
Share Response Permission: Yes

Consultation Questions
The Future of Flood Risk Management in Scotland

<p>Question 1: Do you believe the definition of SFM is helpful and of practical benefit to flood risk management?</p>	<p>I have only answered the relevant Reservoir Act questions as that is my role involvement</p>
<p>Question 2: Do you think the definition is clear and simple to understand?</p>	
<p>Question 3: Do you agree with the conclusion as set out in paragraph 3.17?</p>	

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?	As custodian of the Register of Large Raised Reservoirs on behalf of Scottish Borders Council I would have to question the wisdom of transferring the responsibilities imposed by the Reservoirs Act to a single national body. If the transfer were not carried out with great care I would suggest that information which has been built up on the local reservoir stock over the last 10 years could easily be lost in such a move. After the Register was handed over in 1996, I know that it took me some time to discover that several reservoirs were not being supervised as the Register noted. I don't believe that transferring the role of the enforcement authority would decrease the likelihood, no matter how slender, of a flooding situation due to a dam failure.
Question 31: If so, should it be SEPA or another as yet unidentified body?	It would not require a large resource of manpower to deal with Reservoir enforcement nationally and I would question if it would be a full time operation for any more than 1 person. Another reason for keeping the local authority establishment.
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?	I don't personally have knowledge of the proposals of the Directive or of the 2003 Water Act for England or Wales
Question 33: Do agree that enforcement powers be extended and post incident reporting included as an additional requirement?	I agree
Question 34: Views on crown application and any other comments?	

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008

Mr. Michael Russell,
Minister for the Environment,
Scottish Executive,
3 F 95,
Victoria Quay,
Edinburgh
EH6 6QQ

Dear Sir,

I understand from TV reports that you are seeking views on ways to prevent flooding.

Our experience in Kincardine - on - Forth may offer lessons of wider application so I will describe it briefly :-

Drainage of surface water from the North end of the village depends on an open ditch to lead the water to the river Forth. Most of the riparian owners keep clean their section of the ditch and any gratings but the flow of water is inhibited in one section where the owner does not do so. My understanding is that Fife Council have tried to get the owner to meet his legal responsibility but without success and, on an earlier occasion the Council had to have the ditch cleared themselves.

There seems to be scope for simplifying and clarifying the law to make it work. Perhaps an individual or a local authority should be able to obtain an order from a fairly low level court instructing an owner to clean his watercourse within a short time or face a penalty in addition to meeting the cost of work performed by the local authority on his behalf.

Yours faithfully,



Thomas Dickie

cc. Mr. Ronnie Hinds, Chief Executive, Fife Council, Fife House, North St., Glenrothes, Fife.

C.U. received
18 FEB 2000

009



GEORGE HERIOT'S F.P.
ANGLING CLUB
FISHINGS

27/02/2008
The Scottish Government
Victoria Quay
Edinburgh EH6 6QQ

RESERVOIR SAFETY ACT 1975 - SINGLE ENFORCEMENT AUTHORITY

- Q3 We agree, as long as this does not involve huge amounts of available resources
- Q4 SEPA would seem to be a good choice.
- Q5 We agree this would be a sound basis.
- Q6 We think it should be the Ministers who should designate the lead authority.
- Q7 Yes we agree that the identified bodies would be responsible authorities.
- Q8 We can't think of any other competent bodies.
- Q9 Yes we do agree.
- Q10 They would appear to be sufficient.
- Q11 Yes.
- Q12 Yes.
- Q13 Yes, most important.
- Q14 There should be a stronger linkage :- ie. a requirement to show they have regard to the FRMPs.
- Q15 Yes we think granting of deemed planning permission will give a more streamlined approach.
- Q16 No we don't think so.
- Q17 We don't know enough about the procedure to comment.
- Q18 We think that should be OK
- Q19 Two months
- Q20 Yes
- Q21 The local authority should be able to assess this.
- Q22 Not that we can see.
- Q23 Yes
- Q24 Yes
- Q25 No it seems to be on track.
- Q26 We don't know enough to comment.
- Q27 Yes , for the sake of consistency.
- Q28 Yes
- Q29 A new duty to alleviate flooding would be a good thing.

Stewart Mackenzie

Stewart Mackenzie (Convenor Loch Ruskie)



Convenor: Stewart Mackenzie
20 Meadowhouse Road • Edinburgh EH12 7HP • Tel. 0131 334 6690

010

I am happy for my response to be made public but want my name and address kept confidential. I am responding as an individual.

Response

I would like to commend the Scottish Government for recognising what is a very serious concern for many members of the population in Central Scotland. This area is one of the highest risk areas in the UK and after recent well publicised floods in England the devastation caused by floods/rising sea levels cannot be ignored.

As a resident near a river I feel that information about flood risk is currently hard to come by and information about flood prevention practically non-existent. Even when speaking to local political leaders there is very little information and it always seems to be someone else's problem. I would certainly like to see more investment in flood prevention but also promotion of what has been done so people can feel more protected. As with anything, the perception is as important as the reality.

It would seem folly to build more homes on land that is classed at risk particularly if natural flood plains are removed but where this has already occurred then everything possible must be done to help protect people and homes. Whilst barriers/mounds are the most obvious ways of creating defences I agree with comments by others that flood plains, reservoirs etc are also important. These can also have other important benefits on the landscape which can be beneficial to nature and even tourism!

The expense of dealing with preventative measures now needs to be compared with the much bigger expense of dealing with flooding should it occur, the subsequent clean up and then implementation of defences. Post flooding the cost would not be limited to financial either as the stresses and strains would create such an impact on peoples' lives. Action needs to be taken now so people can be confident about where they live and businesses have the confidence to invest in existing premises.

Many thanks,

Think you know your TV, music and film? [Try Search Charades!](#)

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013

24B Dalvait Gardens
Balloch
Alexandria
G83 8LW

Tel: [REDACTED]
e-mail: [REDACTED]

7 March 2008

YG 11/3/08

Ms Deborah Garft
Climate Change and Air division
1G(N) Victoria Quay
Edinburgh EH6 6QQ

Dear Madam

The Future of Flood Risk Management in Scotland: A Consultation Document
Forum on Flooding in West Dunbartonshire

I am a chartered Civil Engineer with some 50 years experience, much of this within the water industry.

In our local paper, "The Lennox Herald", people in West Dunbartonshire are urged to voice their views on ways to prevent flooding to the Environmental Minister, Mike Russell. I live locally and as I was employed in the Dumbarton Burgh Engineers office from 1963 to 1965, I would like to comment particularly on the Dumbarton/ Vale of Leven flooding, or should I say drainage, problems.

Initially I would like to generalise a little. When sewers were designed in the "old days" at least 90% of the rainfall onto the green areas was assumed to percolate into the ground and only a very little ever reached the watercourses. Now the improved drainage of farm and forestry land is so efficient that it reaches the watercourses almost instantly thus adding to the already significant flow from the local surface water system. This system too has an increased flow due to the development of more housing and commercial property. The local authority engineers are then invariably pressurised into accepting more runoff into the surface water system than the system can cope with, all in the interests of "The Development".

Our watercourses then discharge into the river Clyde and its tributaries, such as the river Leven. However with no large ships now using the Clyde, no significant dredging now takes place. The result is that the Clyde silts up, thus reducing its ability to deal with large flows of water.

Last year I had to condemn a relatively new bungalow due to the flooding at Bonhill Bridge in the autumn of 2006. The house floor levels were clearly too low and flooding occurred when the Leven overflowed its banks. Some proprietary flood defence system should work here but a detailed study would be required to confirm this.

I appreciate that the above is not a direct response to the Consultation Document but I hope it is still helpful. I have copied this letter to other parties who may be interested.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J.J. Paterson'. The signature is written in a cursive style with a large initial 'J'.

Eur. Ing. J J Paterson B.Sc., M.Eng., C.Eng., F.I.C.E.

Cc. David Martin, SHG

Cc. Jackie Baillie MSP

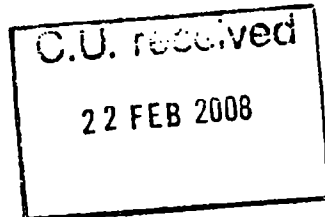
Cc. Michael Russell MSP

Cc. Councillor Ronnie McColl

Cc. David McMillan, Chief Executive, WDC

014

Mr Mike Russell
Environment Minister



16 Douglas Ave
Lenzie
Glasgow G66 4NW
0141 776 3826
14 - 02 - 08

Dear Mr Russell

Flood Protection / Prevention

I refer to the BBC news item on Wednesday 13th February 2008. My concerns are the lack of flood prevention measures in East Dunbartonshire.

A number of properties in my area were flooded during the heavy rainfall of 30th July 2002. The flooding was caused by a blockage (tree roots and debris) in a piped watercourse which runs through the Douglas Ave area of Lenzie.

I enclose:- a) photograph of flooding
b) plan of area with watercourse location highlighted
c) notes regarding the cause of the flooding and residents concerns for the future

East Dunbartonshire Council (EDC) has resisted doing anything with regard to establishing an inspection / maintenance programme for this watercourse.

The Council has given every imaginable excuse eg. lack of resources, financial constraints, difficulty in accessing private property, riparian rights - have even indicated that the tree roots presently in this watercourse (450 to 750 diameter pipe) will not grow into a future problem, and have now finally admitted that they do not have a policy of setting up inspection / maintenance programmes for watercourses in their area.

Can the Council ignore what I consider to be their duty under the Flood Prevention Act (Scotland) of 1961 and 1997 and which is even stated in the Councils Flood Prevention Report? (copy of extract attached)

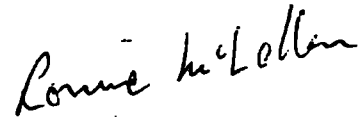
If this is the case then the Flood Protection Acts need tightened up or new legislation introduced.

The Council appears to be re-acting to flooding occurrences rather than carrying out the prevention inspection/ maintenance necessary.

Correspondence with the Council has been quite acrimonious (copies of the most recent letters dated 5 - 11 - 07 and 21 - 12 - 07 attached) to the extent that other residents and myself have now complained to our MSP Mr David Whitton.

I would hope that someone, somewhere in the Scottish Government can persuade my Council to act responsibly and set up an inspection / maintenance programme for this watercourse (and for all other watercourses with a similar history of flooding).

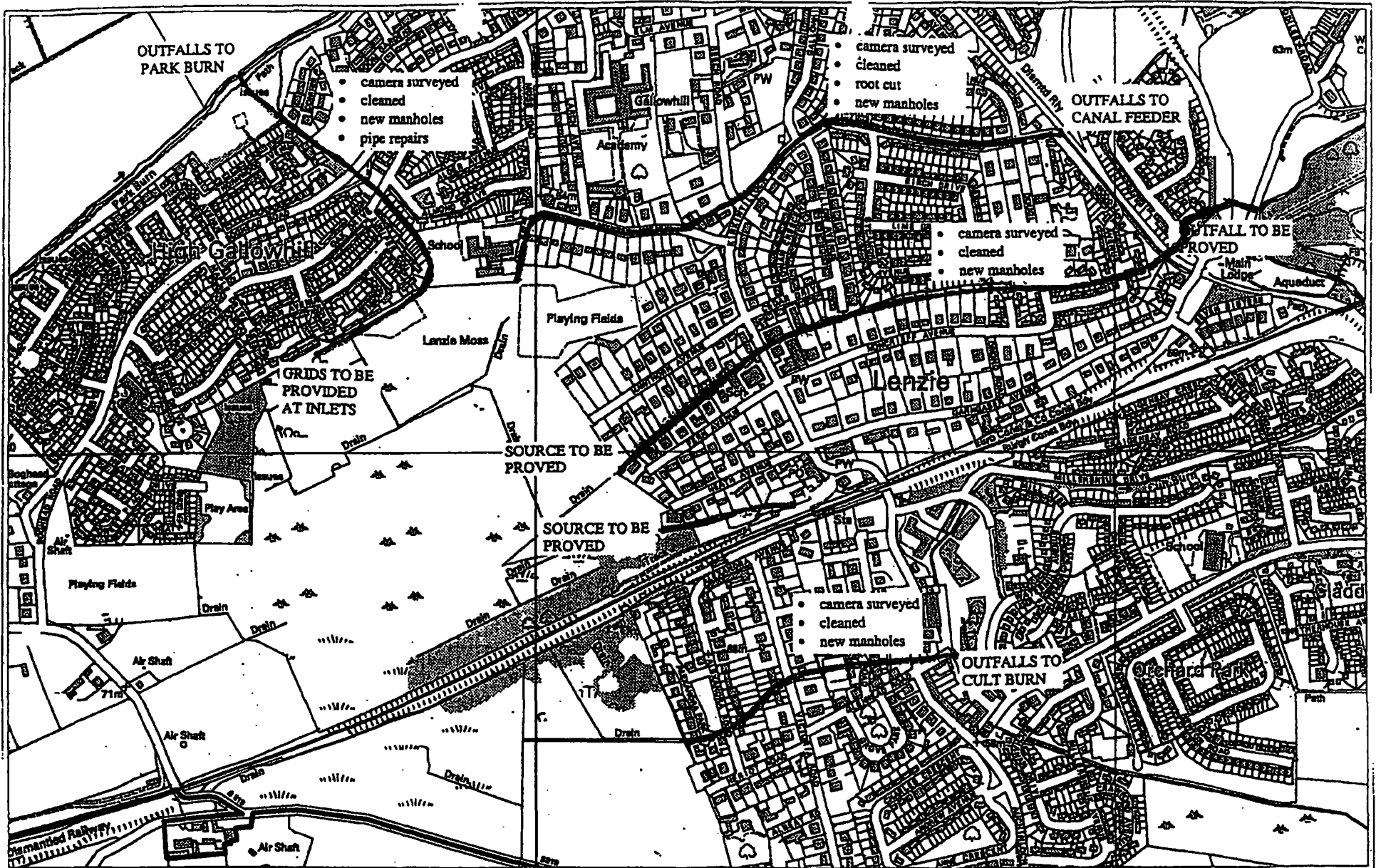
Yours sincerely

A handwritten signature in black ink that reads "Ronnie McLellan". The signature is written in a cursive style with a large initial 'R' and 'M'.

Ronnie McLellan

copy to Mr David Whitton MSP.
Sue Bruce Chief Executive EDC.
Residents Group





Title: Lenzie Moss Drainage
 ALL WATERCOURSES TO BE MODELLED
 - NOT CAMERA SURVEYED AND NOT CLEANED

Contact:
 Date: 30/04/03
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 East Dunbartonshire Council.

1:6000



Flooding at Douglas Avenue. 30th July 2002

Source Water course from Lenzie Moss crossing Douglas Ave and entering the Bothlyn Burn

Cause Blockage of watercourse due to tree roots and accumulated debris.

Effect Fifteen properties were affected by flooding, with 5 houses having to be evacuated for up to 6 months.

Main Concerns 1) Likelihood of repeat blockages.

2) Large quantity of water that flows through this watercourse.

3) Back - up of watercourse due to reverse gradient and to flooding at Bothlyn Burn.

4) Possible repeat of rainfall conditions of July 2002. (ie. whole of July not just 30th July)

5) Apparent view by authorities that because one blockage was cleaned after the flooding, nothing further needs to be done urgently.

Reasons for Concerns

- 1a) George Leslie who cleaned the previous blockage have said this is likely to re-occur within 10 years. (or less)
- 1b) Only 50% of the watercourse has been inspected. Ewans say that the rest cannot be inspected because of silt and blockages.

- 2a) Very large quantities of water from this watercourse were seen by residents on 30th July 2002. (guess/estimate 50,000 to 100,000 gallons per hour.). The Council must have ways of reducing this.
- 2b) Ewans monitoring of the flow in the manhole at Douglas Ave took place during probably the driest 3 weeks of 2004 and cannot give a good indication of how large the flow can be in this watercourse.

- 3a) Bothlyn Burn is known to overflow well above the level of the top of the watercourse outfall.
- 3b) The new link road and Woodilee housing estate are likely to cause an increase in flooding of the Bothlyn Burn.
- 3c) There are records of a 6 inch reverse gradient in the watercourse just upstream of the outfall to the Bothlyn Burn.

- 4a) Rainfall is becoming more severe each year. A repeat flooding could be more severe and affect more properties.
- 4b) July 2002 was very wet for the whole month leaving Lenzie Moss saturated prior to the severe rainfall of 30th July. (ie antecedent effect)

- 5a) Council Moss drainage plan dated 30/04/03 states watercourse was camera surveyed and cleaned. This is what is on the Council records (and Scottish Executive records) and could indicate that no further action is necessary. It is in fact only 50% correct and further action is obviously necessary, either to remove the blockage problems or to block off some or all of the water inlets to this watercourse.

EXTRACT FROM EDC, FLOOD PREVENTION (BI-ANNUAL) REPORT

1. MEASURES REQUIRED TO BE TAKEN

Legislation in Scotland with regard to flooding is covered by the Flood Prevention (Scotland) Act 1961 as amended by the Flood Prevention and Land Drainage (Scotland) Act 1997. The 1961 Act gives a local authority powers to carry out certain works, "as they think fit" and these powers are listed in section 2 of that Act. In broad terms these powers cover construction, managing, improvement, alteration, cleaning, repairing and maintenance of watercourses and flood defence equipment. However, the 1997 amendment to the 1961 Act changed some of these powers to "duties". The most significant changes place a "duty" on the local authority to publish this report, assess watercourses "from time to time" and maintain watercourses. However the term maintenance relates only to "cleansing, repairing, and otherwise maintaining in a due state of efficiency", watercourses, flood defences and apparatus all as included in section 2(1)(a) of the 1961 Act. The Scottish Executive advises that the duty does not extend to structural repairs or replacement of damaged culverted watercourses. The "improvement, alteration or reinstatement of any watercourse or any work or apparatus" is not a "duty" placed on the local authority but a "power", which is discretionary. However, section 4(1) of the 1961 Act states that "No flood prevention operations other than maintenance and management operations shall be carried out by or on behalf of a local authority by virtue of the powers conferred on them". Such works require the promotion of a "flood prevention scheme"

The ultimate responsibility for maintenance and replacement of any watercourse, open or culverted, rests with the land owner (riparian owner) unless a legal agreement has been made otherwise. Such matters concerning the passage of water are extremely complicated, being dealt with by case law and other legal rulings.

In view of all of the above, East Dunbartonshire Council considers the following measures require to be taken to prevent or mitigate the flooding of non-agricultural land in their area.

- 1.1 Assessment of watercourses including the assessment of culverts (Plan No 01 in Appendix A shows the watercourses in the Council area).
- 1.2 Maintenance of watercourses including the maintenance of grills and trash screens. (Plan 02 in Appendix A shows the location of these).
- 1.3 Identify areas affected by flooding. Carry out flood risk assessments, and/or determine the causes of flooding. Implement flood prevention or mitigation operations.
- 1.4 Establish emergency procedures and resources to deal with flooding incidents including procedures relating to information provided by SEPA from their Flood Warning Scheme for the river Kelvin.
- 1.5 Implement a process involving a Drainage Impact Assessment for all major developments and hold pre planning meetings with all interested parties.
- 1.6 Assess and comment on planning applications in respect of flooding and drainage issues to be addressed by developers as part of their overall development proposals.
- 1.7 Assess and comment on construction consents for new developments which have obtained planning consent.
- 1.8 Operation and maintenance of the completed River Kelvin Flood Prevention Scheme. (See plan 04 in Appendix A for the flood Gate & flood Cabinet locations).
- 1.9 Participate in Flood Appraisal Groups and other Flood groups.
- 1.10 Participate in regular technical group meetings with Scottish Water to resolve flooding issues.

Roads Manager

16 Douglas Ave
Lenzie
Glasgow G66 4NW
0141 776 3826
5 - 11 - 07

Dear Sir

Flooding at Douglas Ave Lenzie in July 2002

I refer to my meeting of 16 October 2006 with Mr Newall, Roads manager, and Mr Newall's subsequent letter dated 19 October 2006 basically reassuring me that he was working on the issues of inspection/clearing /cleaning regime for the watercourse from Lenzie Moss which crosses Douglas Ave and which was the cause of the flooding in July 2002.

Since the meeting , I have written on numerous occasions to Mr Newall (4 times) asking for an update on the situation. I have had no direct replies from Mr Newall, but replies from his staff which have been less than satisfactory.

I will highlight the correspondence on the CCTV survey of part of the watercourse which was carried out on 21 March 2007:-

EDC Roads letter of 13 June 2007 states that "CCTV survey has been carried out and watercourse is clear of roots and debris"

R McLellan letter of 25 June 2007 asks for a copy of the CCTV survey report.

EDC Roads letter of 6 July 2007 indicates that they do not have a written report from the contractor, George Leslie, but will ask for one. (It seems very odd to ask a specialist contractor to carry out a CCTV survey and not ask for a written report describing the findings)

R McLellan letter of 14 August 2007 (as a result of no reply from EDC Roads) is sent to Freedom of Information Act Officer repeating request for a copy of the CCTV survey report.

I eventually received a copy of the CCTV survey report from Legal Services on 30 October 2007 (8 months after the survey).

The CCTV Survey report shows that structural defects and mass roots are present in the watercourse despite Roads letter of 13 June 2007 assuring me that there were no defects or root ingress.

THIS IS A COMPLAINT LETTER AND SHOULD HAVE BEEN DEALT WITH BY SENIOR STAFF

I am very unhappy with this situation on a number of accounts:-

- a) Following the initial helpful meeting and Mr Newall's letter of 19 October 2006 I have had no responses directly from Mr Newall.
- b) The replies I have had from the Roads staff are generally less than satisfactory.
- c) There has been considerable delay in responses, particularly to the CCTV Survey report which I received 8 months after the survey was carried out.
- d) There is total conflict between the CCTV Survey report and the Roads misleading letter of 13 June 2007.

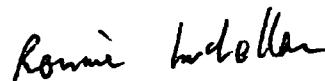
I would like clarification on :-

1. ~~Why was I told that the length of watercourse CCTV surveyed was clear of roots and defects when quite clearly it was not?~~
2. An update of what is programmed for this watercourse:-
 - i) is the remaining 600 metres upstream of Douglas Ave going to be inspected/surveyed?
 - ii) when is the maintenance/inspection regime taking place?
 - iii) what is the extent of the watercourse having root removal and when is the first 5 year cycle being carried out? (refer Roads letter of 6 July 2007)

Can I re-iterate that on 30 July 2002 fifteen properties in Douglas Ave area were affected by flooding from this watercourse, with 5 houses having to be evacuated for up to 6 months.

I would like to receive a response which will give me some confidence in the Council's ability and desire to take appropriate action to prevent further flooding from this watercourse.

Yours faithfully



Ronnie McLellan

copy to Sue Bruce - Chief Executive

NO RESPONSE FROM COUNCIL

RUDE AND UNTRUTHFUL RESPONSE FROM COUNCIL.

UNACCEPTABLE RESPONSE FROM COUNCIL.



East Dunbartonshire Council

www.eastdunbarton.gov.uk

ENVIRONMENT DIRECTORATE
Roads, Property Maintenance
& Waste Management

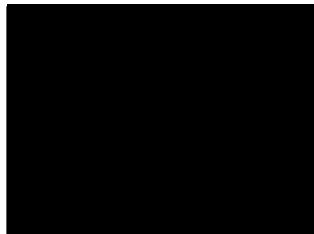
The Triangle
Kirkintilloch Road
Bishopbriggs
Glasgow
G64 2TR

Telephone: 0141 578 8000 (Switchboard)

Fax: [REDACTED]

Direct Line: [REDACTED]

Email: peter.donnelly@eastdunbarton.gov.uk



Our Ref: EDCR/CIVILS2/LET/G33/S266/

Your Ref:

Date: 21 December 2007

recd 10.1.08

Dear Sir

Flooding @ 16 Douglas Avenue, Lenzie, July 2002

I reply to your letter on the above noted subject to the Roads Manager received here on the 06th Nov 2007, please note that Mr Mike Newall has left the Councils employ in Sep 07 and that Mr David Devine has taken up the post from Dec 2007.

I answer your requests for clarifications as follows.

I have viewed and read the report:-

1. The pipe surveyed has no root infestation which requires cutting at this moment in time or in the foreseeable future, the roots are not impeding the flow so as to cause surcharging. The Structural Defects are not of sufficient seriousness to warrant any repair work now or in the foreseeable future, the defects do not hamper the flow so as to cause surcharging. The defects noted at the time of the survey were deemed as described already, therefore you were told that the pipe was clear of obstructions and so it is.

TREE ROOTS THAT DON'T GROW! - MUST BE A NEW SPECIES

RUPE AND UNTRUE

2.

2.1 It is not felt necessary to CCTV the remaining length of the pipe, as you can see from the report the pipe cctv'd is in a serviceable condition. We have received no other complaints re flooding which can be associated with the pipe upstream of the pipe surveyed therefore we have no reason to believe it is not serviceable.

2.2 There are no plans to institute a maintenance regime for this pipe, this is due to the serviceability of the pipe and the lack of complaints re flooding which can be associated with it.

2.3 See point 2.2

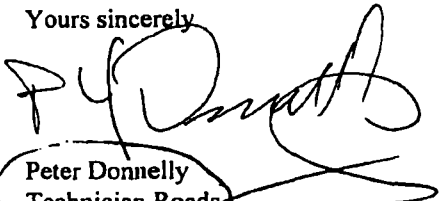
15 HOUSES AFFECTED - APPROX COSTS £ 300,000

Note:- It is our intention to CCTV the pipe downstream of the manhole in the garden of 08 Moncrief Gardens, hopefully in 2008 resources permitting.

- | | | | |
|----------------|---|--------------------|----------------------|
| Sue Bruce | • | Chief Executive | |
| David Anderson | • | Corporate Director | • Community |
| Valerie Watts | • | Corporate Director | • Corporate Services |
| Gerry Comes | • | Corporate Director | • Environment |



Yours sincerely



Peter Donnelly
Technician Roads

IS HE A TECHNICIAN OR INSPECTOR - WHICHEVER,
MY LETTER OF 5 NOV. 07 WAS A COMPLAINT AND
SHOULD NOT HAVE BEEN WRITTEN BY P. DONNELLY
BUT BY A SENIOR MEMBER OF STAFF

Ms Sue Bruce
Chief Executive



 flooding issues

I would be grateful if you could take the time to read some of the attached correspondence. In particular, I refer to my complaint letter of 5th November 2007 and the Councils reply dated 21st December 2007.

My complaint letter referred to unsatisfactory replies from junior staff and to lateness in receiving replies.

This complaint letter was delegated for response to one of the members of staff about whom I was complaining and the incomplete response took 10 weeks to reach me.

This is an outrageous situation!

My complaint should have been dealt with properly by a senior member of staff rather than the unhelpful, rude and untruthful response that I received from a technician.

Yours sincerely

A handwritten signature in cursive script that reads "Ronnie McLellan".

Ronnie McLellan

015

2 Deerpark
Glenmassan
Dunoon
Argyll
PA23 8RA

C.U. February 2008
22 FEB 2008

Michael Russell MSP
The Scottish Parliament
EDINBURGH
EN99 1SP

Dear Mr Russell

On the 9th August 2004 the River Massan near our property burst its banks . As a result two houses were flooded which resulted in us being removed from our home for five months. At the same time another eight houses were threatened with flooding.

Since then we have fought a losing battle with authorities here to have a solution to the problem diagnosed but all our approaches fall on deaf ears. We have also taken our case to Mr Jim Mather MSP who appears to be receiving the same response as ourselves.

We reckon several factors contributed to the problem - the bridge near the houses which cannot cope with volume to water and which catches fallen trees which obstruct the flow. The river itself has become very shallow owing to build-up of sand and gravel and also the poor forest maintenance where the banks of the river are so severely undermined that trees fall in on a regular basis.

When I last contacted Mr Mather's office in Oban in December his assistant made enquiries on my behalf to the council who replied that action was being held up owing to one member of staff being absent for a bereavement. I am fairly intelligent and can deduce from that reply that it is a case of procrastination. I feel that too many factors are involved. Different authorities own the river banks and another or others own the river beds. The council owns the road and the bridge. The river was last up touching the wall of the house on 5 March 2007 so we are living in constant fear of a disaster which will no doubt occur. My husband and I are pensioners and cannot bear the thought of further upheaval at our ages.

All the neighbours here signed a petition to show their support for our cause and this was sent to Mr Mather.

I am writing to yourself now as I see from the television that there has to be a consultation on flooding in Scotland and I am pleading with you to have this area included when the matter is being reviewed. We feel that if we were part of a larger community we would be taken seriously but the fact that we are a small country area we really do not count as important.

I have lived here since I was eleven years old when the houses were built in 1951 as my dad was employed by the Forestry Commission and the first winter we were in the houses the Commission had to take steps to prevent flooding. Fifty-seven years on the need is even greater as we are all very well aware of the climatic changes taking place.

Yours sincerely

Heather Good (Mrs)

Michael Russell MSP,
Minister for the Environment,
The Scottish Parliament,
EDINBURGH EH99 1SP

Dear Michael,

Flooding in Burnmouth Road, Little Dunkeld:Inchewan Burn/Rhovanian Bridge

I write in response to your indication that you would like to hear from members of the public who have experience of flooding.

In November 2007 your parliamentary colleague Roseanna Cunningham MSP issued a similar request as she was to convene a Flooding Debate Committee. I wrote to her on 1st December 2007 briefly outlining my experiences. Since that letter contained a brief summary of my experiences, I enclose a copy of it. I trust that Roseanna will have no objection to my having done this.

To be threatened by flooding from the River Tay is a source of great anxiety. To also be constantly threatened by a second source of flooding, caused when the unapproved Rhovanian Bridge restricts the natural flow of the Inchewan Burn, is unbearable.

Periods of constant rain, sudden downpours or snow melt create a sense of panic among householders in Burnmouth Road. Living all these years under such conditions has taken its toll on people and property.

It was always accepted that the major Flood Prevention Scheme to protect Burnmouth Road from the River Tay, outlined in 1993, would take time to implement. Fifteen years later we still wait!

The solution to the flooding caused by the illegal Rhovanian Bridge over the Inchewan Burn could be accomplished in a matter of days/weeks with little financial outlay.

The Local Authority blundered by allowing this bridge to remain in place in the beginning. They must have been aware of its existence but chose to do nothing about it.

Over many years there have been hints that progress was being made in the resolution of this problem, the most recent being that the Local Authority were trying to broker some deal with the bridge owner.

I find all this absolutely absurd.

Since I first requested that this bridge be removed people have lived and died in Burnmouth Road. Residents have been, and still are being, denied the stress free life expected and deserved.

It is grossly unjust that one household, totally unaffected by flooding, can enjoy the convenience of a secondary access to their property while causing such suffering to others who are constantly aware that their properties might be flooded at any time.

Few would disagree with this statement.

I enclose photos which give ~~some~~ indication of the cause and effect of flooding from this bridge.

Bear in mind photos can only be taken during daylight hours and when opportunity permits. The threat and effects are there day and night.

I would welcome a response to this communication.

Yours sincerely,

25/02/96

Roseanna Cunningham MSP, Convener - Flooding Debate Committee
Parliamentary Office,
The Scottish Parliament,
EDINBURGH EH99 1SP

Dear Roseanna,

Flooding in Burnmouth Road, Little Dunkeld: Inchewen Burn/Rhovanian Bridge

I am a flood victim and constantly live under the threat of flooding. I take this opportunity to outline briefly some of my experiences during the past fourteen years.

During the 'Great Flood' from the River Tay in January 1993, houses in Burnmouth Road were devastated. The internals had to be stripped out then reinstated over approximately a six month period. Affected householders had to find temporary accommodation during this period.

Quote attributed to yourself: "Being flooded is a devastating experience". I agree and add something that may not readily be recognised i.e. "The constant threat of flooding is an emotionally devastating experience."

A flood protection plan has been on the agenda for this area since that flooding of the River Tay in 1993. It is accepted that such a major project will take time and finance to implement. So far this wait has amounted to fourteen years. In that time there have been further floodings from the River Tay, the result of which has meant more major work being necessary on some properties in Burnmouth Road.

I now draw attention to another source of flooding in Burnmouth Road, caused by a low privately owned bridge over the Inchewen Burn. This burn runs along the back of the properties in Burnmouth Road before entering the River Tay. The low bridge provides a secondary access to a single house, Rhovanian, whose address, and main access, is Oak Road, Birnam.

The Inchewen Burn at times of snow melt, sudden downpours and/or sustained rainfall rises rapidly. Although the burn in heavy flow is well contained within its embankments, when the high level reaches this low bridge the water is deflected into the properties in Burnmouth Road. There are two other, public, bridges over the burn - one upstream and one downstream. Each of these bridges has a clearance which is twice the clearance of the low bridge. Where is the logic?

Garages, gardens, outbuildings, underbuildings etc. are devastated - as are the householders in Burnmouth Road. The householders of Rhovanian are totally unaffected by any flooding caused by 'their' bridge.

For the past many years I have been asking the Local Authority that this unnecessary bridge be removed. Your Parliamentary colleague John Swinney MSP has been my loyal representative over much of this period. Despite his constant efforts, and the regular expectation that progress was likely, we are, in fact, no further forward.

The Local Authority continue to shelter behind a 'no objection within four year' ruling and because it is a private bridge they claim they can do nothing about the situation although they are fully aware of the devastation caused to lives and property.

I claim that because certain inspections that require to be carried out by the L.A. when a development is completed they were clearly aware of the existence of the bridge yet chose to do nothing about it. They also concede that they have no evidence that planning was ever granted for the bridge. Therefore it is an illegal structure.

The attitude of the L.A. appears to be, "Just put up with it" so that one household, unaffected by the flooding, can have the convenience of a secondary access to their property via this bridge.

I am certain that this attitude clearly violates the basic principles of 'The Health and Safety Act'.

It is a fact that in instances where a structure is causing danger to people and properties, emergency action is taken. The fact that a dangerous structure is privately owned or has been in existence for more than a prescribed period of time does not prevent action being taken to protect members of the public.

Since I began pursuing this matter, several of the affected residents in Burnmouth Road have passed on. By the time you read this I will be seventy three years of age and I am mentally and physically exhausted by the actual flooding, coupled with the constant threat caused by this 'illegal' bridge. Carefully laid out gardens, garages, outbuildings, fences etc. can all be devastated. The clearing up and reinstating is a never-ending task and the unpleasant smells from the flooded underbuilding permeate the house for months.

The margin between being flooded or not because of this bridge can amount to a few millimetres either way. The levels of anxiety, the hurried desperate preparations are the same, regardless of the outcome.

The flow deflected by this bridge may be for a brief period only but the effect is near instant, and is long-lasting.

John Swinney MSP and the Local Authority have compiled considerable correspondence on this subject over the years. The case is well documented.

Most debate on flooding matters is centred around 'prevention'. To prevent this flooding in Burnmouth Road caused by this 'illegal' bridge is a simple matter requiring little effort or expense. Why can't something be done now to end this unnecessary misery inflicted upon a group of vulnerable, law-abiding citizens?

I enclose photos which give some indication of the cause and effect of the devastation created by this bridge. What they cannot convey is the effect on people's lives.

Similar photos have been well circulated by me to those bodies who might have been in a position to help resolve this situation. However, here we are all these years along the way, and the ever present threat remains unresolved.

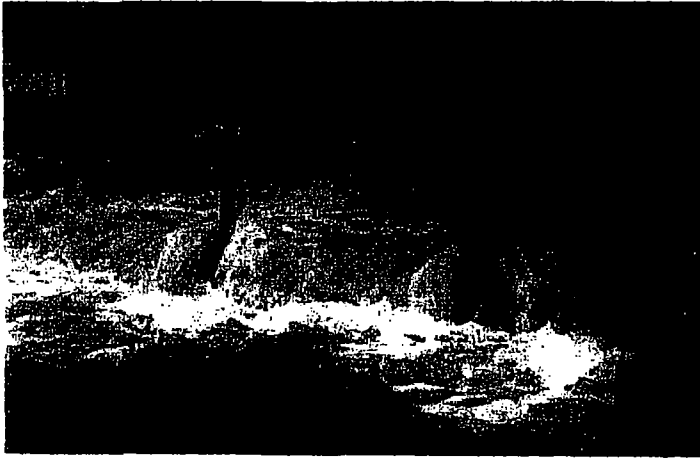
The threat of flooding is constant - any day, any time, any hour. I constantly monitor weather forecasts and would never leave my property unattended when adverse conditions are likely.

I find it all so hard to believe that such a situation is allowed to exist in my beloved Scotland in the 21st century.

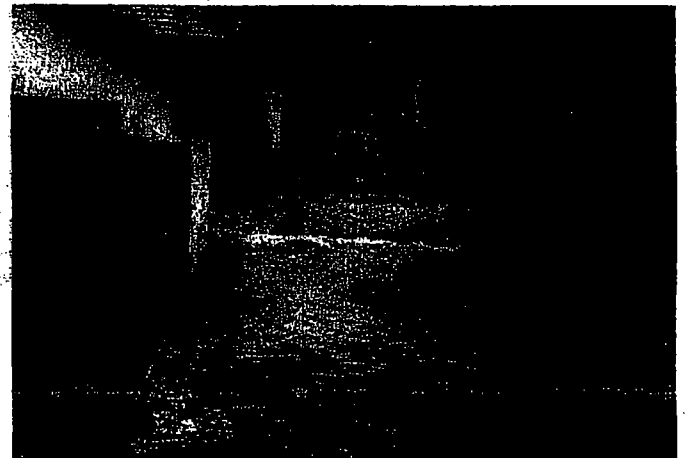
I appeal for support from any quarter in having this absurd situation resolved soon.

Prevention is a simple matter.

R



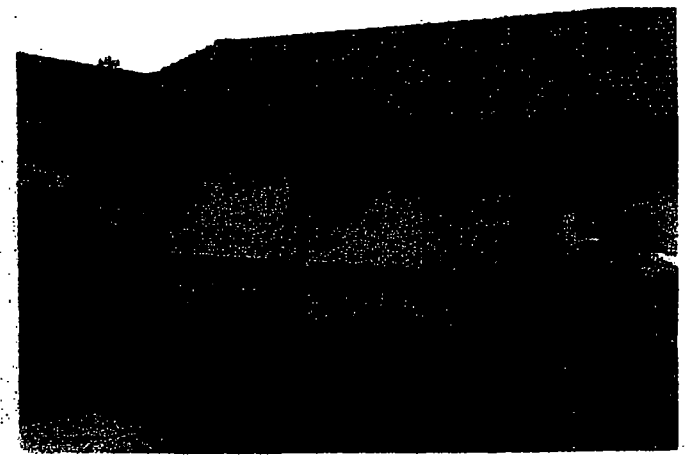
THE BRIDGE RESTRICTING AND DIVERTING FLOW OF INCHEWAN BURN



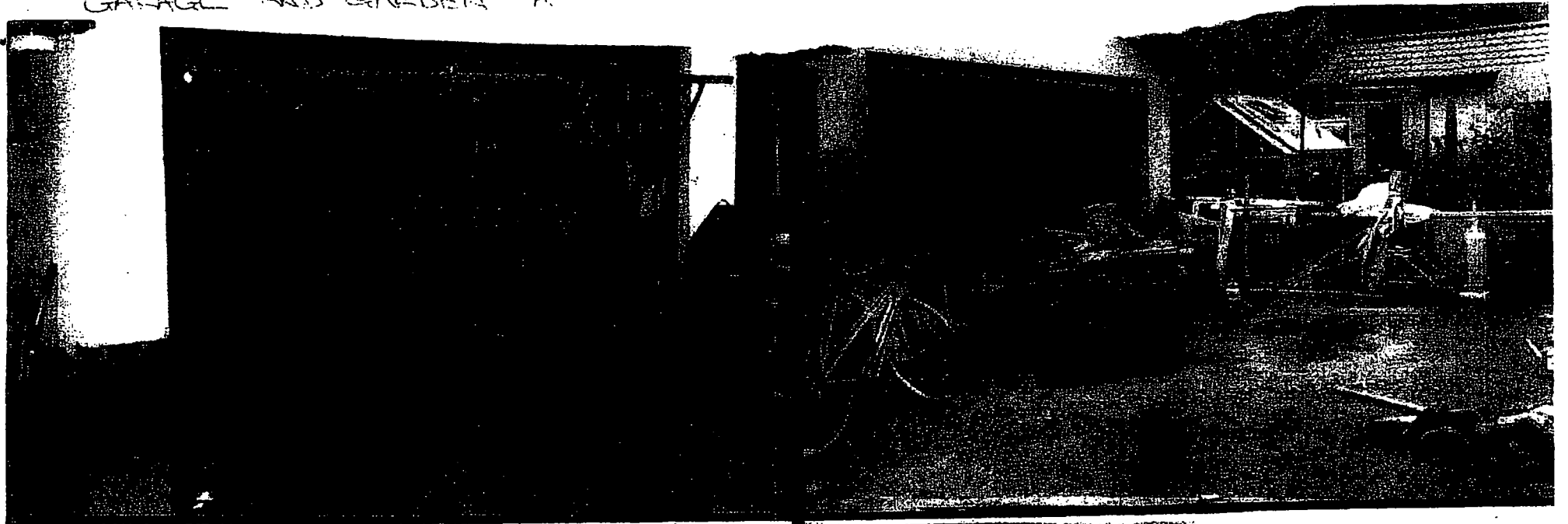
THE RESULT



AUG. 2004



GARAGE AND GARDEN AT



**The Future of Flood Risk Management in Scotland
Scottish Government Consultation February 2008**

Reservoirs Act 1975 – Single Enforcement Authority

**Response to questions Q30 to Q34 in Chapter 4 of the consultation document on
'Reservoir Safety'**

This response is based on the responsibility of Fife Council, Development Services, for the management of two redundant reservoirs as nature reserves, these reservoirs being covered by the Reservoirs Act 1975.

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

Yes.

To have all 32 local authorities fulfilling this requirement in the absence of a standardised approach is highly inefficient and has the potential to cause serious safety issues. A single authority acting for the whole of Scotland to agreed standards, methods and reporting is the best way forward in ensuring that the safety requirements of the Act are fulfilled.

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

SEPA would seem to be the most logical body to act as the enforcing authority.

As SEPA is already the competent authority for the Floods Directive, is taking forward the River Basin Management Planning System in Scotland and administers the CARS Regulations (thus having a database on all impounded reservoirs in Scotland which fall within the terms of the Reservoirs Act) then it makes sense for that organisation to be responsible at a national level for enforcing the reservoir safety aspects of the 1975 Act.

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 proposals seem to be satisfactory.

In view of the great variation in size and location of reservoirs then the level of flood risk posed should a dam breach occur needs to be assessed for each reservoir rather than imposed as a requirement for all of them. Flood risk is already identified in the 10-year inspection reports by the Inspecting Engineer under Section 10 of the Reservoirs Act 1975 and can form the basis of the need for any inundation maps and flood plan for a specific reservoir in the light of the significance of the risk identified. Reservoir undertakers, even where local authorities, have on-going costs to meet regarding reservoir maintenance, inspection and licensing which can be difficult to fulfil with continuing budgetary controls. The imposition of the cost of another statutory requirement for flood risk would increase this burden further and could result in cutting back on the overall level of maintenance, which could result in other safety issues arising.

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

Yes.

It is clearly essential that potentially dangerous structures such as reservoirs are maintained to the necessary standard to secure their safety and minimise any risk, and that appropriate enforcement powers are in place to ensure that this is done. It should also be good practice for reservoir undertakers to keep a record of any actions or works undertaken or incidents that have occurred at the reservoir. These can be taken into account both at the reservoir inspections stages, and in examining any specific incident which may occur, thus assisting in the reservoir safety process. The more information available the better to understand the problem (and potential solutions) should an incident occur.

Q44. Views on Crown application and any other comments?

There would seem to be little justification for Crown bodies to be exempt from the terms of the Act. Safety considerations need to be applied universally to all with no specific exemptions.

Allan W. Brown, Planner – Natural Heritage,
Development Services,
Fife Council,
2 Wemyssfield,
Town House,
Kirkcaldy,
Fife.
KY1 1XW

14th March 2008

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ity

The Future of Flood Risk Management in Scotland

RESPONDENT INFORMATION DETAILS

Name:

Organisation

Address:

Postcode:

Email:

Telephone

Number:

Responding as: An individual

Individual
Permission: Yes

Confidentiality: Yes, make my response available, but
not my name or address

Group or
Organisation: Not Supplied

Share Response
Permission: No

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?

A definition is helpful, but the draft in this document is fundamentally flawed. It would be more realistic (and honest) were it to say..... Sustainable flood management provides the maximum possible social and economic resilience* against flooding**, in a way which is fair and affordable both now and in the future, but always recognising the necessity of accepting that the natural processes which drive flooding have to accepted and cannot be engineered away. Consequently, sustainable flood management will only succeed when it works with these natural processes and

	protects and works with the environment.
Question 2: Do you think the definition is clear and simple to understand?	See answer to Q1. The most important thing to understand is that the misery that various communities have had to face cannot be resolved through technical solutions which ignore the underlying natural processes. Building in river floodplains, creating vast areas of rapid runoff from hard urban surfaces, increases in drainage rates in forestry and agriculture have all contributed to the creation of this problem and some restoration of these is necessary to create a situation which will be "fair and affordable now and in the future". The things I mention above, which have happened widely across Scotland in the last 60 years, may have been affordable at the time, but are proving very costly to us all now and for some time into the future.
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?	I am not convinced of this. SEPA, and before them the River Boards, is a regulatory authority and the organisation's culture is not well suited to the innovative thinking and constructive dialogue that will be needed to achieve success.
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?	It should be, but the success will depend entirely on the stance with which the various stakeholders approach the task. As soon as the term "sustainable" is used in any context, it is open to many interpretations. It would be unfortunate if this worthy exercise were "diluted" by debates on what constitutes "sustainable" flood management. Consequently, the whole process will need to be managed with a clear understanding of what constraints will have to apply, especially if it is to fair and affordable in the future, rather than simply looking at minimal cost today.
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?	They should have the power if the local partnership, for whatever reason, is not working effectively/inclusively.
Question 7: Do you agree that Local Authorities, Scottish Water, the Forestry Commission, and SNH should be identified as responsible authorities?	Probably, however it would be prudent to expand a little on what the Government expects by it's use of the term "co-operate".
	No strong view, although it would be desirable to have some contribution from those

<p>Question 8: Which other bodies should be identified as responsible authorities?</p>	<p>"industries" which have contributed to the present situation - agriculture, forestry and (but I'm not sure how it could be done) the housing/building sector.</p>
<p>Question 9: Do you agree that responsible authorities should have a duty to work together within Flood Advisory Groups to produce plans?</p>	<p>Yes, but I would raise the same caveat as I mentioned in my answer to Q7. Inevitably, some sectors will expect actions which minimise cost "today" (irrespective of cost "tomorrow") and resist an "extra" work/cost implied in making plans sustainable and fair for tomorrow. There are some significant "cultural hurdles" that this sort of co-operative work will need to get over and Government support and commitment to the principles will be important from the outset.</p>
<p>Question 10: Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process?</p>	<p>Yes. At the same time it is equally important that wider stakeholders and community interests to remember that everyone has to bear some of the "cost/pain" of correcting the unsustainable approach over the last 60 years, especially if we don't want to escalate these problems over another 60 years.</p>
<p>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?</p>	<p>Yes, but with the provisos mentioned above in mind.</p>
<p>Question 12: Do you agree that Ministers have the power to approve, reject or modify Area Flood Risk Management Plans?</p>	<p>Yes, but only with clearly given reasons. Otherwise people will believe the changes have been made in response to powerful, sectoral interests.</p>
<p>Question 13: Do you think that integrated urban drainage plans should be included as part of a Local Flood Risk Management Plan?</p>	<p>Yes.</p>
<p>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?</p>	<p>The latter, and for the same reasons as given in my answer to Q13.</p>
<p>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?</p>	<p>Yes.</p>
<p>Question 16: Should Ministerial confirmation</p>	

<i>be made necessary even where features of a scheme do not require planning permission?</i>	Only is it does not add significantly to the timescale.
<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>	Probably. While the desire to streamline the process is understandable, one size does not fit all and some cases will inevitably be more complex. Given the desire to ensure affordability in the future as well, a process rushed by an inflexible timetable can lead to time compliance - but still a bad decision.
<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>	Not sure - possibly not.
<i>Question 19: What would be the appropriate timescales for notification and response?</i>	I am not sufficiently familiar with what would be involved to have an informed opinion on this.
<i>Question 20: Would it be appropriate for such a process to carry deemed planning consent?</i>	I am not sufficiently familiar with what would be involved to have an informed opinion on this.
<i>Question 21: How should the issue of technical expertise and capacity be addressed?</i>	This is a difficult question to answer as both options (in-house and contracted in) have both advantages and disadvantages. The River Restoration Society advises public and private sector on similar things and does so with "no" vested interest. Perhaps the development of this or another "independent" organisation would be both more transparent and credible, perhaps in conjunction with an appropriate academic/research institution.
<i>Question 22: How could such a process ensure the necessary technical standards are observed?</i>	If the above approach were adopted, that could then be provided by the competent authority.
<i>Question 23: Are there any additional alternatives to the options outlined above which would simplify procedures?</i>	can't think of any.
<i>Question 24: Do you agree that streamlining the CAR and flooding/planning processes, can be managed through better guidance?</i>	I am not sufficiently familiar with this to have an informed opinion on this, but I would have thought so.
<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>	As I've mentioned previously, SEPA is not very strong in giving guidance and advice on how to do things in a way which helps managers/developers etc. avoid problems - ie it tends to be a reactive regulator (reacting to things when they go wrong). SEPA could adopt an more advisory and guiding role and the Scottish Government could expand on what is actually meant by sustainable flood

	management, working with the environment and what all sectors of Scottish society have to "wake up to and recognise" in terms of our historical/traditional approach to flood and water management.
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?	Probably not. Simplification is desirable, but so is long term effectiveness and fairness. History suggests that the absence of sufficient regulation will allow corner cutting and short term gain, in the name of economic necessity, to pass a significant part of the true cost on to future generations.
Question 27: Do you agree that the form and content of the biennial reports should be more systematic, and subject to direction from Ministers?	Yes.
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?	If implemented broadly as outlined, yes it should.
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?	LAs should have a duty to promote measures, but there needs to be an acceptance of the fact that many decisions taken by planning authorities in the past (eg building in floodplains) have added significantly to the problems we face now. A little humility in acknowledging these mistakes, even if unlikely, would be desirable, otherwise, how would tax payers (Council and Income) feel confident that lessons had been learnt and that in the futures LAs really would be better guardians of the common and future good.
Question 30: Do you believe enforcement responsibilities under the Reservoirs Act 1975 should be transferred to a single national body?	Yes. However, the Reservoirs Act has probably resulted in many waterbodies which would fall within the terms of that Act were lowered or had their capacity reduced in some way to avoid the requirements of the legislation. In turn, that reduced the overall storage capacity of "reservoirs". Consideration should be given to means of restoring that capacity.
Question 31: If so, should it be SPSA or another as yet unidentified body?	Probably.
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,	Yes.

<i>similar to the duty in the 2003 Water Act for England and Wales?</i>	
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?	I see no reason why the crown bodies should be exempt.

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LP-3 INVERURIE

25 March 2008

Francis Conlan
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 –
A Consultation Document**

I refer to the above consultation document issued on 13 February 2008, and am pleased to provide the attached response on behalf of Aberdeenshire Council.

I also enclose for record purposes a completed Respondent Information Form, as requested.

Yours faithfully

W R Murdoch

W. R. Murdoch
Projects Manager

Enc

If you have difficulty in reading this paper please contact
[REDACTED]



THE FUTURE OF FLOOD RISK MANAGEMENT IN SCOTLAND

RESPONSE TO SCOTTISH GOVERNMENT'S CONSULTATION DOCUMENT

Sustainable flood management

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

The definition is helpful in the sense that it provides an understanding of the issues which need to be considered when undertaking sustainable flood management planning. These issues are clarified further by the series of more explicit associated objectives and principles which attempt to set out in more detail what is trying to be achieved. One small criticism perhaps is the omission of any reference to the opportunities for enhancement to habitats and, hence, biodiversity that SFM can bring.

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

The wording is considered reasonably comprehensive and simple to understand, whilst retaining a degree of flexibility in interpretation.

Appointment of Competent Authority

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

Essentially yes. There does seem to be a need for a lead authority to provide a strategic overview and to ensure that there is a focused and consistent approach to flood management throughout the country. It must be clear however that the important roles which local authorities can play in engaging communities and in implementation of measures must be maintained. There must also be a mechanism for ensuring a fair and equitable distribution of funding across the country based on need rather than political bias.

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, for reasons given in answer to Q3 there should be a single lead authority. SEPA seem best placed, based on skills and experience, to fulfil this role. They already deal at national level with flood risk assessment and with river catchment management planning and the extension to include this role should be relatively straightforward. The roles and responsibilities of the respective authorities must however be very clearly defined to avoid confusion and duplication of effort.

Flood risk planning

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, developing a hierarchical approach seems a reasonable way forward with a broad brush overview at national level drilling down to catchment and project level action locally. The development of these plans, which it is hoped will provide far more accurate information than the existing flood maps, should prove to be of considerable assistance to planners in informing the decision making process in relation to controlling development in flood risk areas.

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?

If deemed necessary fall back powers could be included but better to allow partners to come to a mutual agreement on choice of lead authority by themselves. There may be occasions, say due to resource issues, that one may be in a better position to be lead authority than the other.

Responsible authorities

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

Yes, these are considered to be the main partners.

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

It is assumed that SEPA is omitted because it will be identified as the Competent Authority and that it doesn't actually implement measures anyway.

There will be occasions however when landowners could be considered as responsible authorities and a mechanism for including them or a body representing them, such as the National Farmers Union or Scottish Rural Property and Business Association, might be appropriate.

Though not a responsible authority, the Insurance Industry can play an important role in identifying issues, providing advice and as drivers of change. It is felt therefore that it should have a recognised role somewhere in the process.

Flood risk planning participation

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

There is absolutely no doubt that authorities must work together to produce plans if the Bill is to succeed. An effective forum involving all responsible authorities has already been developed through the Flood Advisory Groups, and it seems reasonable that sub groups of these bodies be established to produce the management plans. It may however be appropriate, given their wider strategic role, that SEPA takes over leadership of the Flood Advisory Groups.

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

Yes, the establishment of stakeholder forums should be sufficient to capture ideas and communicate proposals.

Approving the plans

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?

If the River Basin Management Planning process works, it makes sound sense to adopt a tried and tested process for consistency and ease of understanding. Officers from the Council's Planning and Environmental services have been engaging with SEPA from the beginning of the RBMP process. However, even though the approach and principles appear sound, until a RBMP is prepared and its outcomes incorporated into the development plans, it is difficult to say if it will have been a complete success.

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

Yes, they do so already with Flood Prevention Schemes and the proposal is only really an extension of the current process. The fact that Ministers are accountable to the Scottish Parliament should ensure that the process is fair and transparent which will be of paramount importance in ensuring the success and credibility of the approach.

Managing urban drainage

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

Yes, without a doubt. Dealing with flooding from surface water run-off and sewers must form part of any management plan which hopes to achieve effective results. SUDS and flood routes are expected to be essential components of most integrated urban drainage systems. There is however a major issue surrounding the ongoing maintenance of SUDS with Scottish Water being very reluctant to adopt many kinds of SUDS, presumably because of potential practical difficulties and future cost. Like other responsible authorities, they will have a duty to comply with good practice in flood risk management planning and this needs to be emphasised. It may be that the Government could do more to ensure that Scottish Water are adequately financed and equipped to be more supportive of SUDS. However, to achieve successful integration, Scottish Water will have to be more compromising and accommodating in the way that they operate, than has hitherto been the Council's experience.

The planning system

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, Flood Risk Management Plans should inform and influence the way development plans are prepared. The importance of these FRMP's, in helping planning authorities make informed judgements on flood risk, should be emphasised and reinforced through documents such as SPP7 and other related planning guidance. This approach is considered sufficient to ensure that sound planning principles are applied without the need to resort to a more formalised mechanism to demonstrate that the Plans have been given consideration. As a general comment, it makes little sense to allow development in areas identified as being at risk, unless there are very exceptional circumstances, and this should be an overriding consideration.

Simplifying procedures- option 1 (Ministerial route)

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, the effective removal of one set of procedures with an overlap of processes, associated administrative burdens and potential duplication of public inquiries must speed up the overall delivery process to some extent. It may however be necessary to modify the requirements of the confirmation process to ensure that all aspects/requirements normally included in the outline planning process are covered.

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

Strictly speaking Ministerial confirmation should not be necessary for features which do not require planning permission but it is assumed that approval would be for the whole package and it would not be unreasonable for them to include the said features as part of the package.

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 Council has only very limited experience of this process, but is not aware of any reason why the current timescales cannot at least be maintained or, better still, improved upon.

Simplifying procedures- option 2 (local authority route)

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

Though this would have the advantage that most decision making would be at a local level, there could be complications when proposed measures cross Council boundaries. There is also a potential loss of consistency of approach and transparency which a single central body is better placed to ensure. There is also a concern that local authorities will not have, or be able to recruit, sufficient experienced staff to independently scrutinise proposals. However, a local process could raise greater awareness of Local Flood Management Plans.

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

It is assumed this question relates to advertisement and consultation timescales and, if so, a total period of say 3 months would be considered sufficient.

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

Yes, this would be part of the streamlining process to speed up delivery of measures.

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

This could be a major stumbling block, as experienced flood engineers are already in short supply. "Pooling" of engineers across areas may be a partial solution but it is thought that drawing in expertise from consultants will also be necessary, if only to fill the voids created by pool engineers working in other authorities. An alternative might be for local authorities to go together and appoint a term consultant as specialist flooding advisor to undertake the entire scrutiny/approval role for the whole of Scotland.

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

The Council is not aware of any.

Flood measures beyond the 1961 Act

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

Yes, powers are considered sufficient to act to avert danger. The real problem, in many cases, is in identifying who is responsible for what, especially when the recovery of costs is involved or when further costly action is required to avoid a repetition occurring. Improved clarity of responsibilities is therefore essential.

CAR authorisation

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

Yes, it should be possible to progress CAR authorisation in parallel with confirmation to further reduce timescales for delivery. This could best be achieved by ensuring collaboration and compromise between local authorities/appropriate organisations and SEPA at an early stage in the statutory process, so that measures being promoted are broadly consistent with the needs of SEPA in terms of CAR provisions. The CAR approval process should then be a simple "rubber stamping" exercise.

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

Not really, coordination and simplification of the confirmation, planning and CAR processes to minimise timescales is probably as far as it is possible to go. It will though be necessary for SEPA to operate in a spirit of co-operation rather than as regulators, which is the role with which they are likely to be more familiar.

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?

None really come to mind. However, there may be a case for distinguishing between the treatment of measures arising from flood risk management plans and unforeseen minor flooding measures, with a very localised impact, which can occur from time to time. For example, could a simple assessment matrix be developed, to take account of the number of properties affected, the cost (which could be subject to a de minimus value), habitat impacts etc., which, if a threshold was met, would allow a small measure to be implemented without recourse to the full and lengthy approval process.

Duties under 1961 Act

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

A standard format would be desirable but it should avoid creating excessive preparatory work which might be of limited value.

Delivering sustainable flood management

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

The proposals will lead to a more structured approach to flood management. However, they will not be without considerable resource implications for local authorities and there will be an expectation that measures identified through the agreed management plans will be delivered on the ground. Local authorities will therefore have to commit to using funding provided for flooding measures even though it will not be ring fenced. However, key to the overall success will be the demonstration that a fair and equitable system of allocating funding across the whole of Scotland has been adopted by the Government, based on genuine priority need rather than political party allegiance.

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?

Placing a duty on local authorities to promote specific measures seems a bit heavy handed. Having a duty to promote sustainable flood management through a pro-active collaborative approach is considered to be both sufficient and strike an acceptable balance.

Reservoir safety

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

Yes, for consistency of approach and standards and to overcome a disproportionate burden on some local authorities. A single national body would have more strength whenever enforcement powers had to be implemented.

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

SEPA is considered to be the most appropriate body and it is not felt that there is a need to create yet another organisation. The proposal would be consistent with practice in England and Wales where the Environment Agency is the enforcement authority.

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 proposal that SEPA should produce inundation maps showing the consequences should a dam fail seem sensible, as many small undertakers/owners would have neither the financial resources nor technical expertise to carry out the work themselves.

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

Yes, the enforcement powers of the current Act are somewhat limited and the proposal to extend the powers of enforcement are welcome.

Feedback from incidents is always useful and can provide pointers which may help develop solutions to avoid repetitions in the future.

Q34- Views on Crown application and any other comments?

Yes, it is believed that the Act should be extended to cover Crown property. It is every bit as essential, in terms of the safety of those living downstream, that reservoirs belonging to the Crown are subject to the same rigorous inspection, maintenance and enforcement regime, as those in non-Crown control.

Other issues

(i) No indication is provided of how Flood Prevention Schemes, currently under development or arising in the intervening period between now and the completion of the flood risk management plans following implementation of the new Bill, will be handled. Some guidance on this matter is required.

(ii) For catchment wide sustainable solutions to work effectively there will be occasions when it will be necessary to use agricultural land for storage of water or as escape routes for excessive flows. One solution would be to acquire such areas, by CPO if necessary, but this would leave local authorities with the burden of having to maintain these areas in perpetuity for very infrequent, though important, benefit. It would be preferable if legal agreements could be established to allow areas to be used for flooding but with landowners retaining ownership so that the ground can be used for normal agricultural purposes at other times. Guidance is therefore required on a mechanism for obtaining grants of servitude or the equivalent for specific designated areas of ground which may be used infrequently for flood storage/overspill, and for compensating landowners both for accepting the initial burden and for subsequent crop/grazing losses resulting in disturbance and loss of income.



REPORT

To: Planning Board

27 March 2008

**From: Head of Planning
Infrastructure Services Department**

CONSULTATION DOCUMENT THE FUTURE OF FLOOD RISK MANAGEMENT IN SCOTLAND

1. Introduction

1.1 The purpose of this report is to provide Members with the opportunity to comment on my proposed response to the Consultation Document on The Future of Flood Risk Management in Scotland issued by the Scottish Government. Written responses to the consultation are invited before 23 April 2008.

2. Links to Council Priorities

2.1 Respecting Our Unique Landscape (Priority 2.1), Protecting our Natural Resources (Priority 2.2) contained in the Corporate Improvement Plan 2007-08 are key corporate objectives.

3. Background

3.1 The Flood Prevention (Scotland) Act 1961 is the main piece of legislation for managing flood risk from rivers and the sea. This act was written for previous local government structures and responsibilities and does not interact well with new duties such as the duty to promote sustainable flood management under the Water Environment and Water Services Act 2003.

At the moment, there are a large number of key players dealing with flooding from all its sources but there is a lack of co-ordination between the different powers and duties under different legislation (including flood prevention, roads, urban drainage, sewerage and land drainage). This lack of co-ordination is because there is no national framework within which local authorities, Scottish Water, SEPA and others can take decisions relating to the management of flood risk. As a result, flood risk management has been largely reactive. With an aim to leave this reactive approach behind, and instead look to reduce the risk of significant impacts of flooding through sustainable flood management the Scottish Government intends to introduce a Flooding Bill in 2008 to modernise the flood risk management system in Scotland. The broad objective in promoting new legislation is to provide the framework to

ensure that a fully sustainable approach to flood risk management is in place across Scotland.

4. Report

- 4.1 I attach at Appendix 1 to this report, my proposed responses to the questions raised in the Consultation Paper. A copy of the Consultation Paper is available in the Members' Room, at Infrastructure Services Grantfield, or online at:
<http://www.scotland.gov.uk/Publications/2008/02/13095729/0>

5. Financial Implications

- 5.1 There are no financial implications to the Council by responding to this Consultation Document.

6. Policy and Delegated Authority

- 6.1 The Planning Board has delegated authority to make decisions on all matters within its remit and as described in Section 15 of the Council's Scheme of Delegation.

7. Conclusion

- 7.1 The Scottish Government has published proposals for the Flooding Bill for consultation. My responses to the questions asked in the consultation paper are contained in Appendix 1 to this report. Members' comments and approval of the proposed response are sought.

8. Recommendation

- 8.1 I recommend that the Planning Board note the content of this report and approve (with amendments, if felt appropriate) the response to the Scottish Government contained at Appendix 1.

Report Number : PL-18-08-F

RESPONSE FROM SHETLAND ISLANDS COUNCIL

Consultation Document: The Future of Flood Risk Management in Scotland

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

1. Answer; *The definition offers a useful broad understanding of sustainable flood management concerns but does not cover the more technical aspects involved.*

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

2. Answer; *The definition uses terms that are open to various interpretations such as "fair and affordable" which will imply different things to each reader.*

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

3. Answer; *A single authority appears to be a requirement of the directive and given this it would only be the details of its remit that would be debated. It is imperative that the role of local authorities be maintained and in the case of Shetland this would need to include a large degree of autonomy in budgeting and project scheduling. As Shetland is obviously geographically separate, this does not have to lead to any difficulties in co ordination.*

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?

4. Answer; *Given that a single competent authority is required we agree that SEPA seem to be best placed to take the lead role.*

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

5. Answer; *The hierarchical planning process between the various levels of responsible authorities would ensure that both national and local objectives could be accommodated within the flood management plan.*

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?

6. Answer; *SEPA should have the power to designate a lead authority if the partners cannot agree between themselves.*