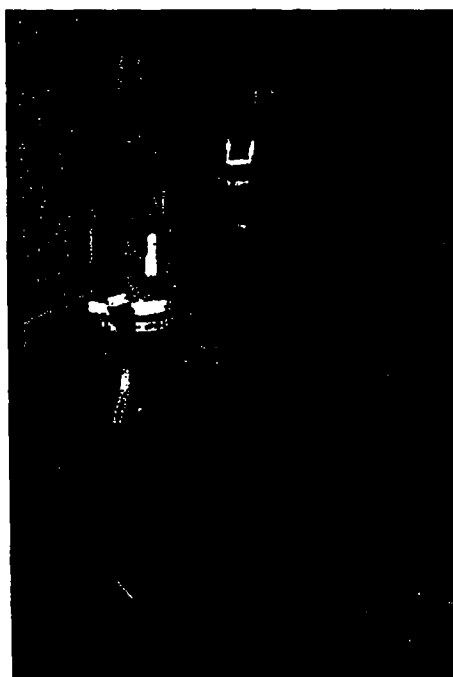


Training – There are a number of levels of training plus additional skills that can be taught, these move from the basic land based, shout, reach and throw techniques though to rescue boat night time navigation. The level to which personnel are trained will depend on identified risks in the service area and this reinforces the need for good quality IRMP's to be in place.

These skills are acquired through specialist training centres and because of their nature will require a commitment to ongoing and regular continuity training. Clearly those undertaking the training will have to show some form of aptitude for the work involved and they must be pooled from volunteers. Such specialist skills cannot simply be foisted upon members who happen to have been posted by chance to a certain station now earmarked for allocation of this equipment.

Recommendation – A standard training program be devised for delivery of water rescue techniques, with a required number of personnel possessing these skills to be set, based on the safe operational practice, policies and procedures. This program should be developed by the Scottish Fire Service Training College to allow a commonality of approach.



Additional Responsibility Allowances - Whilst rescues from flooding now form an additional function for local authorities, none of these rescues fall within the IPDS rolemap for a firefighter. Therefore any of our members being asked to take part in water rescues at whatever level, whether at a river (outwith the AFO) or at flooding (within the AFO) should be receiving an additional responsibility allowance. Those that are willing to take on the specialist training required to safely carry out these tasks should have that commitment recognised with an appropriate remuneration in the form of an ARA. Whilst some discussion has taken place at a national level there remains wide variance in the attitudes of the eight F&R authorities.

Recommendation – A Scotland wide agreement should be made on the minimum payment to be made to members undertaking water / flooding rescues and to those who have completed specialist water rescue training.

Payments – As part of the above process it will be accepted that many services will not have the capacity to provide comprehensive provision on their own. There is then an assumption that personnel will be drafted in from other areas. One aspect that must be addressed is that when members are working outwith the normal "cross-border" arrangements or for protracted periods a suitable scheme of payment should be considered. Some movement has occurred on this since the recent flooding in England when HVP crews were deployed away from home for long periods and this has included parity between wholetime and RDS crews at the same incident.

Recommendation – A Scottish Mutual Assistance scheme be agreed to set payment levels for members working outwith normal "cross-border" arrangements.



Conclusion

The Scottish fire and rescue services are currently some way short of the mark when it comes to their handling of incidents of flooding, water rescues and rescues from flooding. Much of the blame for this must lie with those who guided the drafting of the current legislation. Unclear thinking and misguided direction has led to a wide variation in approaching this topic across the country. Some areas have developed extensive programmes for which they have no responsibility whilst others have done nothing at all.

In order to end the current chaotic approach there needs to be strong leadership from the top. Ministers must decide what they want the fire service to do in respect of these types of incidents and then give clear instruction and guidance as to what they expect to be achieved within defined timescales. They must also accept that additional functions will require additional financial support if they are to be achieved to the standard expected of a modern fire and rescue service.

From the Fire Brigades Union perspective, there are a number of issues to be addressed, including health and safety concerns but given the proviso that these and additional responsibilities allowances are addressed, the comments by our General Secretary recently should cover our position, "Give us the tools, we'll do the job".

Appendix A –

Key areas of flood concern

Fire & Rescue Service	Number of "at risk" Properties
Central	9593
Dumfries & Galloway	2518
Fife	1097
Highlands & Islands	3482
Grampian	7883
Lothian & Borders	14695
Tayside	7303
Strathclyde	32400
Total	77191

Scottish Executive - Climate Change: Flooding Occurrences Review (2002)

Appendix B -

Selected list of towns at risk

Elgin	Ellon	Inverurie
Aberdeen	Carnoustie	Coupar Angus
Perth	Thornton	Rosyth
Inverkeithing	Stirling	Dumfries
Kilmarnock	Rutherglen	Paisley
Coatbridge	Gartcosh	Stenhousemuir
Grangemouth	Haddington	Melrose
Selkirk	Aviemore	Renfrew

SEPA – Flood Mapping

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COSLA Response to Flooding Consultation

April 2008

FLOODING

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

- Such individual local authority responses as COSLA has seen suggest that the definition is acceptable for use by practitioners, however less so for the general public. COSLA would be concerned that using this definition raises expectations that cannot be met in the short term. It would be better therefore, to provide a definition that is accessible by all stakeholders.

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

- See above response.

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

- Yes. This proposed approach largely vindicates the COSLA Flooding Task Group recommendations of 2003 as presented to the previous administration. Achieving the conclusion will rely greatly on a good level of collaboration between SEPA as competent authority and the responsible authorities, principally though not exclusively, local government.

We have seen references to the need for inclusion of water depth and flow velocity in the drafting of flood maps and COSLA is aware of the strength of feeling on this issue particularly among councils that have had to deal with major flood events. Paragraph 3.18 of the consultation suggests that this information will not be included in flood maps. COSLA concludes that this is not acceptable.

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?

- Local authority responses for the most part see a benefit in SEPA taking on this role. However, COSLA agrees with its members in the view that SEPA will have to adapt to this new role. While COSLA accepts that SEPA will retain its regulatory role in respect of other policy areas, there is a need for the organisation to work in a more collegiate fashion with local government on flood risk management. COSLA will only support SEPA's role as competent authority on that basis. Equally, COSLA will be supportive if SEPA's accountability to the general public on this matter is addressed in the legislative proposals.

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?

- > COSLA does not accept the need for a "Top down" approach to flood risk management. The recently agreed Concordat hinges on a relationship of equals between the Scottish government and local government and the principles involved should be applied in this context.

Paragraph 3.26 refers to new duties to be placed on local authorities. The associated costs of carrying out these duties, should the proposal be accepted, will not have been included in the Concordat agreement or the three-year settlement. COSLA therefore expects that local authorities will receive additional funding to undertake this new work.

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?

- > Local decision-making will be vital to ensure more positive buy-in from all stakeholders. COSLA's members have a good history in establishing lead authority arrangements without dispute. However, in the unlikely and exceptional case of such a dispute arising, it would seem reasonable that Ministers should adjudicate.

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

- > Yes

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

- > A range of additional organisations have been identified by local authorities in their individual responses. COSLA would agree with all these suggestions. However, we would suggest that a mechanism be put in place to require other organisations to participate as responsible "authorities", if not done so voluntarily.

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 water stakeholder and community engagement in the flood risk management planning process?

- > Local government has sufficient experience of communicating with its electors to be able to engage with its communities of interest and place. However, many householders and indeed landowners do not believe that they are either at risk of or indeed contribute in even a small way to the potential for flooding of any kind. To that extent, a

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?

- > COSLA does not accept the need for a "top down" approach to flood risk management. The recently agreed Concordat hinges on a relationship of equals between the Scottish government and local government and the principles involved should be applied in this context.

Paragraph 2.26 refers to new duties to be placed on local authorities. The associated costs of carrying out these duties, should the proposal be enacted, will not have been included in the Concordat agreement or the three-year settlement. COSLA therefore expects that local authorities will receive additional funding to undertake this new work.

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?

- > Local decision-making will be vital to ensure more positive buy-in from all stakeholders. COSLA's members have a good history in establishing lead authority arrangements without dispute. However, in the unlikely and exceptional case of such a dispute arising, it would seem reasonable that Ministers should adjudicate.

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?

- > A range of additional organisations have been identified by local authorities in their individual responses. COSLA would agree with all these suggestions. However, we would suggest that a mechanism be put in place to require other organisations to participate as responsible "authorities". First done on voluntarily.

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?

- > Local government has sufficient experience of communicating with its electors to be able to engage with its communities of interest and place. However, many householders and indeed landowners do not believe that they are either at risk of or indeed contribute in even a small way to the potential for flooding of any kind. To that extent, a

collaborative campaign of advertising, as has been done for other legislation, would help to raise further awareness. Councils may take the lead on this, as part of their democratic accountability. SEPA does not have that accountability but can assist by reinforcing the message.

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?

- COSLA believe that a process similar to that in place for River Basin Management Planning may be acceptable, in principle. Frequency of meetings and the involvement of cross-border organisations, to take account of issues arising from cross-boundary catchments should be taken into consideration.

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

- The involvement of Ministers in approval, rejection or modification of Area Flood Risk Management plans should be appropriate and backed by transparent justification of decisions with an agreed process of consultation on modification proposals.

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

- It would be irresponsible not to include integrated urban and drainage plans as part of a local Flood Risk Management Plan, given the difficulties that local authorities have in this issue. The key approach would be one of integration to ensure all responsible stakeholders play their part both strategically and financially in asset management of roads and sewers. This will become of even greater significance if the targets for the increase in affordable housing over the coming decade as proposed by First Foundations are confirmed.

COSLA's member councils have also expressed their ongoing concern about the role that Scottish Water plays in relation to the management of sustainable drainage systems that fall outside the scope of the Water Environment and Water Services Act 2003. This issue needs to be revisited to achieve an integrated approach that reduces, if not eliminates the risk of sewer flooding.

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?

- > COSLA believes that Flood Risk Management Plans should inform the preparation of development plans, in the same way as River Basin Management plans seek to do.

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?

- > There are a range of other permissions that must be taken into account, in terms of streamlining the approach to granting deemed planning permission. COSLA has noted the examples cited in the SCOTS papers on this issue. We suggest that the Scottish Government will have to address this issue within the wider piece of work to be considered on the speed of achieving planning consents.

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

- > Given the delays that presently blight the progress of flood protection scheme applications, anything that can be done within legislation to remove unnecessary bottlenecks to consent are welcomed. Ministerial confirmation should only be required in exceptional cases, such as lack of agreement among interested parties.

Q17 - Is the present procedure for Ministerial confirmation satisfactory for this new purpose or are there aspects e.g. to streamline work that should be considered?

- > COSLA is aware that a number of individual council responses have included a flow chart illustrating a model process linked to a local authority - based approach. COSLA supports the approach as amended.

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

- > Yes, although objections might create a risk of significant call-ins.

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

- COSLA believes that timescales similar to those employed in the planning process should be advocated. A number of council responses we have seen rated the preference for Controlled Activities Regulations (CAR) procedures should be brought into line with these timescales. COSLA supports this view. We accept that 3rd parties may wish to seek clarification or raise objections to flood alleviation proposals. This should not be allowed to lead to protracted enquiries which are costly to councils and ultimately the council taxpayers. They delay the approval and construction of measures that seek to protect the community at large.

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

- Yes

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

- A number of council responses refer to the issue of skill shortages, not just within local authorities, but in other stakeholder organisations also. Skill shortages exist in a number of relevant local authority service areas, such as professional planners, engineers and hydrologists. Shared services will offer some solutions in this issue, but COSLA notes in the SCOTS submission, a number of concepts on the benefits that could be derived. COSLA believes that work done by local government professional planners to engage with the higher education sector and influence course development to the benefit of local government offers an example of a proactive approach that could be applied in other skill areas. COSLA would expect that the Scottish Government would also take this on board and address what influence could be brought to bear on the education process.

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

- No comment.

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

- Yes. Local authorities have a role as Category 1 responders under the terms of the Civil Contingencies Act. In this role, it is expected that they work collaboratively with other agencies and stakeholders to safeguard life and property. That should extend reasonably to the task of flood risk management. Many councils would seek additional access rights to enter land to carry out remedial work, if the landowner cannot or will not do so themselves.

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

- COSLA has commented on the need for re-alignment of CAP procedures with the flooding/planning process as outlined in responses above.

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

- COSLA believes that SEPA will need to apply a more consistent approach to dealing with councils across the whole of its organisation. We are aware that SEPA is currently reviewing its engagement processes with a range of stakeholders, including Scottish local government. COSLA expects this review to lead to a more positive relationship emerging, particularly as SEPA moves towards a different type of working relationship with local government on flooding issues.

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

- No comment.

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

- COSLA believes that a model report including baseline data would encourage greater consistency of reporting, while taking into account that flooding does not occur to the same scale in every council area. The reporting process must, above all, be flexible enough to take account of local issues and proportions and not require detailed statements where it is not necessary.

As costs of printing rise and councils are being encouraged to address issues of sustainability across all services, it makes sense to explore the use of other media to publish the biennial reports. The most obvious media is via council websites. Alternatively, Ministers may wish to hold all reports on the Government website.

Q26 - Do consultees agree that the proposals as outlined will improve flood risk management and ensure Scotland is equipped to implement sustainable flood management?

- COSLA set up a member/officer Flooding Task Group in 2002, and in March the following year made 10 recommendations to the then Scottish Government Ministers. At the time, all but one of those recommendations were taken on board and COSLA believes that much of the work that has been done since then, has been stimulated by the COSLA Task Group recommendations covering legislative reform and the need for more strategic thinking on flooding issues. The proposals as set out in the consultation, do, for the most part have COSLA support.

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?

- Householders and landowners have responsibilities in addressing flood risk. Sensible garden management, including regular maintenance of private culverts will lead to some reduction of localised flooding. This in turn will reduce pressure on local authority resources to respond to flooding emerging from poor or non-existent maintenance. Some council responses have made reference to the need for statutory access rights to effect flood alleviation measures. Similar comments have been made regarding the use of Compulsory Purchase Orders (CPOs) to address flood risk management where landowners refuse to do.

RESERVOIR SAFETY

Q30 - Do you believe enforcement responsibilities under the Reservoirs Act 1976 should be transferred to a single national body?

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

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?

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

Q34 - Views on Crown application and any other comments?

> Individual council responses as seen by COSLA are in broad agreement on the questions raised above on research safety. COSLA agrees that if SEPA's role is confirmed as competent authority, then it seems appropriate to undertake the dual role in relation to reservoirs.

In both instances, the SEPA's resources will need to reflect these new duties.

Crann property should not be exempt.

COSLA
23 April 2008

above the river, which caused vast 'run off'. The Fishery Board drew their attention to this, and it is understood that the Forestry Commission has now adopted a policy to stop this happening also, many forestry drains have been cut straight 'up and down' causing 'runoff' instead of running diagonally across the hills, to slow up the 'run off'.

The 'RSFD' is not a body with much knowledge of river management, on this case forestry mentioned above, I am told RSFD are putting time to make black water friendly habitat, instead of proposing trees, particularly old 'Rosa sp.' (spongy trees) to slow up the water 'run off', at the same time providing feeding for black geese.

The 'Local Authority' can be very destructive, they recently put coloured lights at vast expense, on a bridge crossing the River Nidd, in the middle of the night will certainly interfere with anglers fish. The Fishery Board installed lights on Beckingham to provide the same facilities to set the fly Canal, and discharge them over the weir, and hoping this is what they will learn from the case in question. The Fishery Board were not informed of the Authority's intention, and the Council knew nothing about the effects of lighting until they were asked for planning, whereas the Fishery Board has now had to try and mitigate the damage which they have done, the light will also be causing problems to the anglers and global warming. We also have problems with the Local Authority who will not heed advice, the 'proposed' flood prevention schemes will cause damage, and be vastly more expensive than necessary. One scheme was intended to divert water to enter the river upstream of where it normally discharges, and the other will divert water to 'run up' the river to a dam, and will have a great impact. These two schemes are designed by the same engineer, our Council has no official, though our Council members, advisors and officials are unanimous about the folly of the proposals. Parliament, the Council says it is the developer's job to prevent flooding.

Why are 'Economic Scotland' to be given an advisory job on 'water environment'? SEPA and the Fishery Board have been 'battling' with them, to prevent them from changing millions of sewage into Loch Ness at Castle Douglas, except this sewage is being carried away, but where to?

The water supply for the A94 developments and other projects between Nidd and Innes are currently independent, and that black water have been accepted to investigate taking water from Loch Ness. This is an interesting report, but especially in Loch Ness, and would need investigation of future requirements, and without looking at the state of Loch Ness. After all, the Loch is like a giant 'puffin' of which the water level will quickly drop, as an example, when the 'pump storage hydro electric scheme' at Foyers is pumping water, the level of Loch Ness is liable to drop at least five inches. Some years ago, the Caledonian Canal had to be closed, because there was not enough water, but the Canal manager denied this claim in a drought year. I think in the late nineties, the Canal had definitely to be closed. I gather that neither the Hydro nor Fishery Board have been consulted on this proposal, in spite of Loch Ness, which flows to a Loch Ness, being part of an existing hydro scheme. Making substantial variations in the depth of Loch Ness, as per existing hydro schemes, such as those that exist at Clackmanna or Clackmanna, which fills off the end of the loch, and its flood and fish life. Why has neither the Hydro nor Fishery Board been consulted, in fact the proposals have been hidden from these bodies?

SEPA is supposed to be 'judge and jury' in the use of water, but it is under staffed already, and without substantial extra costs, they will not be able to carry out these additional duties.

Water management must have local control, it cannot be run from Edinburgh or centrally, as

different problems occur in different areas; we gather that the Fishery Commissioners are also concerned about this.

With a number of bodies using the system, and increasing demand for good water control, there clearly should be some 'unified' body to coordinate it to how the water should be used, and this should be "strategic planning" by interested public bodies, who can give good guidance and management. But to appoint a body such as is proposed, would not have local knowledge nor indeed any good local management experience; the current proposals would probably destroy the fish in Loch Ness of all species, as per a number of ancient hydro-works; this would of course destroy any 'watersheds' which might exist in Loch Ness, which would have an enormous effect on tourism.

It will be apparent I have mainly referred to the Fishery Board area, but it is one of the great canals, reaching across Scotland from the Murray Firth in the North East to within ten miles of the west Coast at Loch Foch. These examples show problems which are well other other areas, which will arise if these proposals were implemented. The intention of "unified control" is well meaning, but impractical, and it would be very damaging in the manner proposed.

Note

I only got your document of the Fishery Board meeting on Thursday, and this is a very complex matter; I am sure you will agree! So, the other two consultations will have to wait until Friday 25th.

Incidentally, I did a lot of local reconnaissance when I returned from the war, and the Chief Engineer of the department of Agriculture gave me extensive advice on water control, which was invaluable to me then and now.

With a number of bodies using the lake, and increasing demand for good water control, there clearly should be some 'water' body in addition to those for water control, and this should be 'strategic planning' by knowledgeable bodies who can give professional and management. The to appoint a body such as is proposed, would be a local knowledge and indeed any good local management body, the current proposal would probably destroy the fish in Loch Ness of all species, as per a number of current hydro-works this would of course destroy any 'vegetation' which might exist in Loch Ness, which would have a marked effect on tourism.

It will be seen that I have mainly referred to the Fishery Board area, but it is one of the direct extensive, reaching across Scotland from the Murray Tarn in the North East, to within ten miles of the west Coast at Loch Duich. These examples show problems which can well affect other areas, which will arise if these proposals were implemented. The solution of 'water control' is well meaning, but impractical, and it would be very damaging to the fisheries proposed.

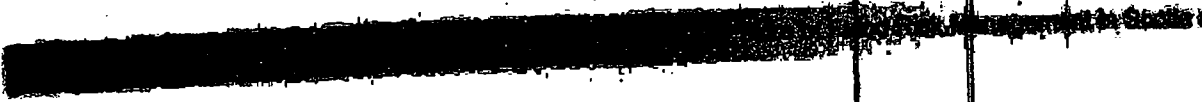
Note

I only got your document at the Fishery Board meeting on Thursday, and this is a very complex matter, I am sure you will agree! So, the other two consultations will have to wait until Friday 24th.

Incidentally, I did a lot of investigations when I returned from the war, and the Chief Engineer of the department of Agriculture gave me extensive advice on water control, which was invaluable to me then and now.

The Future of Planning

- Q14. Should Flood Risk Management Plans inform the way that development plans are prepared, or should there be a separate process such as a requirement on planning authorities to show that they have regard to the FRMPs? *Yes*
- Q15. Do you think that the placing of deemed planning permission at the end of the regulatory process for flood risk management will deliver a more streamlined approach to the delivery of flood risk management? *Yes*
- Q16. Should Ministerial confirmation be made necessary even where features of a scheme do not require planning permission? *Only for specific*
- Q17. Is the present procedure for Ministerial confirmation satisfactory for this new purpose or are there questions e.g. to the criteria which should be considered?
- Q18. Do you think that the option to rely on a local authority based process is a viable way of other local authority development which should be taken forward?
- Q19. What would be the appropriate timescale for notification and response?
- Q20. Would it be appropriate for such a process to carry deemed planning consent?
- Q21. How should the issue of technical expertise and capacity to ensure the necessary technical standards are observed, be addressed?
- Q22. Are there any additional alternatives to the systems outlined above which would simplify procedures?
- Q23. Do you consider local authorities' powers are sufficient to take necessary action to avoid danger to life and property?
- Q24. Do you agree that streamlining the CAP and flood risk planning processes can be managed through better guidance?
- Q25. Do you think there is anything further SEPA, the Scottish Government or others should be doing to promote joined-up regulation?
- Q26. Do you think that there is an alternative approach to simplifying the process of providing flood mitigation to those businesses above which the Government should consider? *Reducing water levels is a different matter from flood requirements, which need to be done by the CAP (regulation)*



Q27. Do you agree that the form and content of the technical reports should be more systematic, and subject to direction from Ministers? **NOT TOO MUCH**

Q28. Do you agree that the proposals as notified will improve flood risk management and that England is equipped to implement sustainable flood management? **Any action will be important to have but**

Q29. Do you agree 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 SHOULD HAVE A DUTY TO PROMOTE MEASURES ON LOCAL LEVEL**

RESERVOIR SAFETY

Q30. Do you believe enforcement responsibilities under the Reservoir Act 1975 should be transferred to a single national body? **YES - BUT NOT ALL**

Q31. If so, should this be CEMA or another as yet unidentified body? **YES**

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 1975 Water Act for England and Wales? **As far as England and Wales**

Q33. Do you agree that enforcement powers be extended and post incident reporting included as an additional requirement? **Should not be necessary**

Q34. Views on crown application and any other comments? **ALL BODIES, CROWN FROM OR THERE SHOULD BE TRIGGERED THROUGH IN THE REPORT**

[Redacted header text]

Q27. Do you agree that the form and content of the annual reports should be more systematic, and subject to direction from Ministers? *Not too strict*

Q28. Do companies agree that the proposals as outlined will improve flood risk management and ensure Scotland is equipped to implement sustainable flood management? *Any action will be responsible to local Govt*

Q29. Do companies feel that this is enough to ensure that flood risk is addressed or should local authorities have a new duty to promote measures to avoid flooding? *LCL on 6/10/08 with Scottish Flood Risk Management Committee of local Govts*

RESERVOIR SAFETY

Q30. Do you believe enforcement responsibilities under the Floodworks Act 1975 should be transferred to a single national body? *Yes, OFW, not a new body*

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

Q32. Are you content with the proposals for dealing with reservoir flood steps under the provisions of the Floods (Scotland) Act, do you think that there should be a statutory duty on reservoir owners to prepare reservoir inundation maps and plans, similar to the duty in the 2003 Water Act for England and Wales? *All in England & Wales*

Q33. Do you agree that enforcement powers be expanded and that accident reporting included as an additional requirement? *Should not be necessary*

Q34. Views on crown application and any other comments? *All bodies; crown Point of View should be taken because it is the largest.*

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Conservation of 'The Fishes of Great Britain Management in Scotland'

The 'Association of Fishery Boards' represents the 'District Fishery Boards' for Scotland, and the Fishery Boards have staff who are in constant contact with the Board members i.e. the owners of fishings or their staff, or the fishermen, who employ them to look after the fishing. The bailiffs and the fishermen have the wealth of the rivers better than anyone, and this provides an efficient chain of knowledge and management, at an public expense, and the rivers are thus kept under constant review. The fish stocks on the whole have been steadily declining, and but for the District Boards, would by now almost cease to exist, even by lifting the fishings have been subject to damage from various quarters, in spite of the Fishery Boards being guardians of the fishings, in the best of their ability. Various developments have been done upon many of the Scottish rivers; the proprietors have seen the wisdom of pulling fish out, in spite of the declining stock, but the rest fishermen have been persuaded in the past to adopt a policy of catch and release, to try and ensure there is enough stock left to maintain fishing for the future. To try and reduce pollution by the water the proprietors have managed to buy out much of the fishing rights, which has substantially helped the declining stocks.

The generation of electricity by water power, has done enormous damage to the fishings, but of course this has also provided much benefit to the Highlands. The Hydro Electric Boards have done much to try and preserve the numbers of salmon and sea trout, and have co-operated well with the Fishery Boards, insofar as possible, such spawning ground and destruction of newly hatched fish has resulted, and the adult fish have been harmed by dams that spoil spawning areas. On the other hand, the Hydro Boards have done much by constructing floodgates, by using their own reservoirs to spread the flood water (Hydro 'STOPS'). The Fishery Boards have been using scientific and various other practices in an attempt to try and preserve the fish stocks, but the construction of dams with highly varying water levels, have been largely damaging for fishings, as the banks have had their vegetation removed, and the fish have been left with no food in the lochs.

In recent years, the proprietors have done their best to preserve stocks by restricting the fishing rights, and adopting the practice of releasing back into the water most of the fish which they catch. A lot of the good work done to preserve the fish have been frustrated by 'two boats' of fishermen arriving with illegal 'tows' and using 'fixed lines' and indeed 'the salt' (now illegal) but which have escaped into the lochs, and removed much of the fish food which was still left, indeed numerous lochs have had their fishings completely destroyed by this practice. Some of the other boats which appear to be prepared to be appointed, in look after the 'water environment' are quite unreliable; the 'Fishing Commission' are feeble, and not water environmentalists. An important tributary of the Ness catchment, substantially to the flooding of the Drumadrochit area recently, which was caused by 'clear felling' trees from large areas.

SEPA'S ROLE IN THE TWEED COUNCIL'S NEW POLICY TO STOP THIS HAPPENING
is in understanding that the Tweed Council on Feb 1987 adopted a policy to stop this happening
also, many River drains have been cut straight 'up and down' causing 'backing' instead of
raining diagonally across the hills, to slow up the 'run-off'.

The 'RSPB' is now a body with much know edge of river management; on the same tributary
mentioned above, I am told RSPB are cutting grass to make black stick friendly habitat, instead of
propagating areas, perfectly old 'barns' (grassy banks) to slow up the water 'run off', at the
same time providing feeding for black game.

The 'Local Authority' can be very destructive; they recently put coloured lights at vast expense,
on a bridge crossing the River Ness, as a warning, but this will certainly interfere with migratory
fish. The Fishery Board installed lights at Dalrymple to protect the eels returning to sea via
the Canal, and diverting them over the weir, and hoping this is where they will return from the
sea to spawn. The Fishery Board were not informed of the Amber installations, and the
Council knew nothing about the effects of lighting nor did they even apply for planning, whereas
the Fishery Board has promised to try and ameliorate the damage which they have done; the lights
will also be causing pollution to the atmosphere and global warming. We also have problems
with the Local Authority who will not heed advice two 'proposed' flood prevention schemes
will cause damage, and be vastly more expensive than necessary. One scheme was intended to
divert water to enter the river upstream of where it currently dams, and the other will attract
migratory fish trying to 'run up' the river to spawn, and will flood agricultural land. These two
schemes are designed by the same engineer; our Board has no appeal, though the Board
members, scientists and officials are unanimous about the folly of the proposals. Furthermore,
the Council says it is the developer's job to prevent flooding!

Why are 'Historic Scotland' to be given an advisory job on 'water environment'? SEPA and the
Fishery Board have been 'battling' with them, to prevent them from discharging gallons of
sewage into Loch Ness at Castle Urquhart; currently this sewage is being stored away, but where
to?

The water supply for the A96 development and other projects between Nairn and Inverness are
currently inadequate, and Matt Macdonald have been engaged to investigate taking water from
Loch Ness. This is an interesting report, but especially is independent, and is a full-scale
investigation of future requirements, and without looking at the levels of Loch Ness. After all,
the Loch is like a glass 'paddle' of which the water level will quickly drop, for example, when
the 'pump storage hydro electric scheme' at Foyers is pumping water, the level of Loch Ness is
liable to drop at least five inches. Some years ago, the Caledonian Canal had to be closed,
because there was not enough water, but the Canal manager denies this effect in a drought year.
I think in the late sixties, the Canal had definitely to be closed. I rather think neither the Hydro
nor Fishery Board have been consulted on this proposal, in spite of Loch Ness, which flows into
Loch Ness, being part of an existing hydro scheme. Making technical variations in the depth of
Loch Ness, as per existing hydro schemes, such as those that exist at Glacquoich or Clonich,
which kills off the environment of the loch, and habitat and fish etc. Why has neither the Hydro
nor Fishery Board been consulted, in fact the proposals have been hidden from these bodies?

SEPA is supposed to be 'judge and jury' in the use of water, but it is under staffed already, and
without substantial extra costs, they will not be able to carry out their additional duties.

Water management must have local control, it cannot be run from Edinburgh or centrally, as

different problems occur in different areas; we gather that the Tweed Catchment areas are also
concerned about this.

With a number of bodies using the lochs, and increasing demand for good water resources, etc.

should be "strategic planning" by knowledgeable bodies, who can give good guidance and management. But, to appoint a body such as is proposed, would be to have little knowledge or indeed any good land management experience, the current proposals would probably destroy the fish in Loch Ness of all species, as per a number of recent hydro lakes; this would of course destroy any "creatures" which might exist in Loch Ness, which would have an enormous effect on tourism.

It will be seen that I have mainly referred to the Fishery Board area, but it is one of the most extensive, reaching across Scotland from the Nanny Firth in the North East, to within ten miles of the west Coast in Loch Duich. These examples show problems which can well affect other areas, which will arise if these proposals were implemented. The situation of "rainy control" is well meaning, but impractical, and it would be very damaging in the manner proposed.

Note

I only got your document at the Fishery Board meeting on Thursday, and this is a very complex matter I am sure you will agree! So, the other two consultations will have to wait until Friday 25th.

Incidentally, I did a lot of land reclamation when I returned from the war, and the Chief Engineer of the department of Agriculture gave me courses before on water control, which was invaluable to me then and now.

[Redacted header text]

SUMMARY OF QUESTIONS

- Q1. Do you believe the definition of SFM is helpful and of practical benefit to flood risk management? ✓
- Q2. Do you think the definition is clear and simple to understand?
- Q3. Do you agree with the conclusion as set out in paragraph 2.177 *Local Flood Risk Management Plans* ? NO
- Q4. Do you agree that there should be a single competent authority with a national remit for implementing the Florida Directive, and that it should be SEPA? will be needed through however in state
- 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? see over notes, Govt, Risk Forum, Agency, etc. (see below) under 11.2.10
- Q6. Should Ministers or SEPA have the power to designate a local authority with a local remit, or should it be left to the partners? Water Partnership, Flood Risk Unit, COP, etc.
- Q7. Do you agree that Local Authorities, Scottish Water, the Forestry Commission and SEPA should be identified as responsible authorities? Flood Risk Unit, COP, etc.
- Q8. Which other bodies should be identified as responsible authorities? Flood Risk Unit, COP, etc.
- Q9. Do you agree that responsible authorities should have a duty to work together within Flood Advisory Groups to produce plans? Flood Risk Unit, COP, etc.
- Q10. Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process? No.
- 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? But wider view introduced
- Q12. Do you agree that Ministers have the power to approve, reject or modify Area Flood Risk Management Plans? No
- Q13. Do you think that integrated urban drainage plans should be included as part of a Local Flood Risk Management Plan? No

* I HAVE HAD ONE RELEVANT EXPERIENCE OF...

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? *Y.*

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? *Should be... in... FRMPs*

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

Q17. Is the present procedure for Ministerial confirmation satisfactory for this new system or are there residual issues which should be considered?

Q18. Do you think that the option to rely on a local authority based process in a similar way as other local authority development activity should be taken forward? *No*

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

Q20. Would it be appropriate for such a process to carry deemed planning consent? *No*

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

Q22. Are there any additional alternatives to the options outlined above which would simplify procedures? *It is difficult to... SEPA*

Q23. Do you consider local authorities' powers are sufficient to take necessary action to avert danger to life and property? *No*

Q24. Do you agree that streamlining the CAP and flood planning processes can be managed through better guidance? *Yes*

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

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? *Consolidating... Direct... Resourcing...*

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

management and other factors is required to implement sustainable flood management?

Any action should be
independent of local
authorities.

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

Local authorities should have a general
duty to manage flood risk.

RESERVOIR SAFETY

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

SEPA or another body

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

SEPA

Q32. Are you content with the proposals for dealing with reservoir flood maps under the provisions of the Floods Directive, or do you think that there should be a statutory duty on reservoir undertakers to prepare reservoir inundation maps and plans, similar to the duty in the 2004 Water Act for England and Wales?

As for England & Wales

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

Should not be necessary

Q34. Views on crown application and any other comments?

ALL BODIES, CEDRA PUBLIC OR PRIVATE SHOULD BE
TELEPHONED THROUGH IN THIS RESPECT.



The Scottish Government

The Future of Flood Risk Management in Scotland Consultation

Response from the Scottish Environment Protection Agency

23 April 2008

1. Opening remarks

- 1.1 The Scottish Environment Protection Agency (SEPA) welcomes the opportunity to respond to the Scottish Government consultation on The Future of Flood Risk Management in Scotland.
- 1.2 The impacts of flooding can be severe and long lasting, and those who have suffered directly from flooding will testify to the stress, disruption and personal losses as well as the direct and indirect financial losses flooding can cause.
Although it is not possible to stop flooding, floods can be managed to reduce risks to health and safety, property and infrastructure, the economy, and the environment.
- 1.3 The proposed changes to the legislation provide Scotland with the opportunity to meet our current and future flood risk management challenges. It is important that the new legislation provides the required framework that will enable all flooding stakeholders to work together to recognise the risk and adapt our behaviour to reduce the impact of flooding on our lives.
- 1.4 SEPA recognises the responsibility associated with being proposed as the competent authority and looks forward to the challenges that this will bring. However, the success of the competent authority will depend on the powers and duties conferred, the relationships defined within the legislation with those identified as responsible authorities and the resources that are made available.

2. SEPA's Role and Remit

- 2.1 SEPA is the hydrometric authority for Scotland, providing data from its national network of rain gauges, river gauges, coastal gauges, boreholes and other monitoring stations to inform flood risk management decisions. SEPA is also the flood warning authority for Scotland and manages some 44 Flood Warning Schemes across the country. It works closely with Local Authorities and emergency services as a Category One responder in relation to emergency planning and the Civil Contingencies Act. It is a statutory consultee on flooding in the planning process. It runs the Floodline service and works to inform the public and raise awareness of flood issues. It has produced the Indicative River and Coastal Flood Maps to aid planning decisions and participates actively in flood risk assessments.

3. Observations underpinning SEPA's response

- 3.1 Significant improvements to flood management can be delivered by enhancing the roles and responsibilities of the organisations currently delivering flood risk management in Scotland;
- 3.2 the success of the proposed changes will depend on the allocation of appropriate resources and powers to the competent and responsible authorities;
- 3.3 there is a need for a robust strategic and operational framework that both defines statutory responsibilities of partner organisations and their interrelationships, and enables clear prioritisation of resources and actions at all levels;
- 3.4 a catchment focused approach to planning and to sustainable flood management must be developed. This will enable targeting of measures at those areas at greatest risk and where benefits will be best realised;
- 3.5 catchment focused planning must be underpinned by local coordination and delivery of measures by those bodies with direct experience of implementing flood defence, flood alleviation, flood management and recovery measures in Scotland;
- 3.6 this will be particularly challenging where costs of works proposed and benefits realised may be in different administrative areas, involve different stakeholders and encompass different timescales; and
- 3.7 it is recognised that, whilst there is benefit in planning, the real benefits are in the implementation of the measures within the catchment flood management plans. Responsible authorities must therefore be resourced to allow the implementation of catchment flood management plans including urban drainage networks and coastal flooding zones.

4. Response to Questions

- 4.1 **Q1. Do you believe the definition of Sustainable Flood Management (SFM) is helpful and of practical benefit to flood risk management?** - Yes, it is a good starting point.

- 4.2 **Q2. Do you think that the definition is clear and simple to understand?** - The current definition of sustainable flood management as defined by the Flooding Issues Advisory Committee (FIAC) needs to be reworked to provide a solid foundation for sustainable flood management decisions under the new legislation. The definition says what sustainable flood management may provide but doesn't say what it is. If the definition cannot be reworked at this stage, to ensure practical benefit, it should be supported by examples of how it may be applied.
- 4.3 **Q3. Do you agree with the conclusion as set out in paragraph 3.17 (...a single competent authority with a national remit for implementing the Floods Directive...)?** - Yes.
- 4.4 **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. It is important that there is a single competent authority which is responsible for delivering the obligations of the Floods Directive including the ultimate responsibility for producing Flood Risk Management Plans. SEPA considers that it should be the competent authority as we already have relevant national roles: WFD competent authority, scientific, hydrometric, flood mapping and flood warning.
- 4.5 **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 proposed model summarising area and local Flood Risk Management Plans will work in delivering the Directive and the principles of Sustainable Flood Management if supported by a duty for all responsible authorities to co-operate and the relevant funding made available. This must include collaboration to deliver the objectives and measures identified in flood management plans. SEPA envisages that flood risk management objectives will be identified by the responsible authorities as they have the local knowledge of flood risks and impacts.
- 4.6 **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?** – This should ideally be left to partners to agree as all responsible authorities have a duty to collaborate. However, a mechanism should be in place to ensure that either the competent authority or The Minister can intervene should agreement not be reached.
- 4.7 **Q7. Do you agree that Local Authorities, Scottish Water, the Forestry Commission, and SNH should be identified as responsible authorities?** – We agree that Local Authorities, Scottish Water and SNH should be identified as responsible authorities. Where appropriate, relevant other bodies should also be designated as responsible authorities with a duty to co-operate in the development of Flood Risk Management Plans. A mechanism must also be put in place to ensure wider stakeholder and community engagement. SEPA considers that this duty is especially important for Scottish Water. Scottish Water has a critical role in managing flood risk within urban areas.
- 4.8 **Q8. Which other bodies should be identified as responsible authorities?** - British Waterways and the Forestry Commission.
- 4.9 **Q9. Do you agree that responsible authorities should have a duty to work together within Flood Advisory Groups to produce plans?** - Yes
- 4.10 **Q10. Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process?** – Yes, and we must ensure we maximise the use of existing stakeholder mechanisms available to all responsible authorities.

- 4.11 **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?** - The catchment approach outlined will optimise opportunities to meet the Floods Directive requirement to integrate with the Water Framework Directive river basin management planning approach. Similar to the RBMP approach, Ministers should have the power to approve, reject or modify Area Flood Risk Management Plans.
- 4.12 **Q12. Do you agree that Ministers should have the power to approve, reject or modify Area Flood Risk Management Plans?** - yes
- 4.13 **Q13. Do you think that integrated urban drainage plans should be included as part of a Local Flood Risk Management Plan?** - Legislation must support an integrated approach to urban drainage that enables coordination of effort and measures by Local Authorities and Scottish Water. The Metropolitan Glasgow Strategic Drainage Plan provides a valuable template. Integrated Urban Drainage plans must be part of the Catchment Flood Management Plans. Sewer flooding should be an important component of the Flood Risk Management Plan. In urban areas pluvial flooding, coastal flooding, fluvial flooding and sewer flooding are all part of the interconnected problem which generates the flood risk.
- 4.14 **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 FRMP's?** - Avoiding flood risks are a key element of flood management. Development planning decisions must be linked to the objectives of Flood Management Plans. It is critical that in compiling their statutory Development Plans and in considering individual applications, Local Authorities must give appropriate consideration to flood risk management in relation to both the scope and detail of policies and land use allocations.
- 4.15 **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, in principle SEPA are in support of the streamlined approach. The process by which planning authorities take this forward must ensure an appropriate degree of scrutiny by communities and other stakeholders.

In simplifying the statutory process for flood protection measures, SEPA would support a streamlined process that relies on a planning authority based procedure (Option 2 in consultation). In addition, running appropriate elements of the new statutory process and the Controlled Activity Regulations (CAR) in parallel would further simplify the regulation of flood protection measures and reduce the overall timescales.

- 4.16 **Q16. Should Ministerial confirmation be made necessary even where features of a scheme do not require planning permission?** - As we have outlined above, our preference is for Option 2. However, if Option 1 were to be adopted, then Ministerial confirmation for all flood risk management measures would ensure that responsible authorities had appropriate regard to all other relevant legislation.

- 4.17 **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 present system for ministerial confirmation should be aligned with the principles of current modernising planning appeals consultation in relation to national and major developments.
- 4.18 **Q18. Do you think that the option to rely on a local authority based process in a similar way as other local authority development activity should be taken forward?** – Yes, we agree that this is a logical approach now that ministers no longer award central grants to a flood scheme. This approach would be consistent with the drive towards local decision making. It is essential that a statutory procedure of advertisement and consultation is described in the Bill along with ministerial notification. The consultation process should be aligned with the broad principles set out in the current modernising planning appeals consultation by Government relative to planning inquiries.
- 4.19 **Q19. What would be the appropriate timescales for notification and response?** – The 28 day timescale currently in place under the notification direction is appropriate.
- 4.20 **Q20. Would it be appropriate for such a process to carry deemed planning consent?** Yes, however, the Local Authority based process must ensure an appropriate degree of scrutiny by communities, other stakeholders and ministers. Schemes must be consistent with the approved Flood Risk Management Plan and in accordance with national planning policy/advice: development plans and the requirement of relevant regulatory regimes.
- 4.21 **Q21. How should the issue of technical expertise and capacity to ensure the necessary technical standards are observed, be addressed?** - The technical expertise and capacity of organisations will need to be augmented to ensure that resources are available to deliver the requirements within the defined timescales. This could be achieved through a pool of resources available to the competent and responsible authorities. SEPA do not wish to provide this role. In addition however, there is also an urgent need for support for capacity building in key disciplines, such as Hydrology within Scotland to help resource this new challenge.
- 4.22 **Q22. Are there any additional alternatives to the options outlined above which would simplify procedures?** – Nothing to add.
- 4.23 **Q23. Do you consider local authorities' powers are sufficient to take necessary action to avert danger to life and property?** - The catchment approach to flood risk management should also allow for an integrated response to avert life and danger. The Civil Contingencies Act has an excellent framework for response to major incidents, but for smaller events the framework for response may not be in place. Flood risk management partners should have a duty to work together in response to all types of flood events.
- 4.24 **Q24. Do you agree that streamlining the CAR and flooding/planning processes can be managed through better guidance?** Yes - in simplifying the statutory process for flood protection measures, SEPA would support a streamlined process that relies on a planning authority based procedure (Option 2).

In addition, running appropriate elements of the new statutory process and the Controlled Activity Regulations (CAR) in parallel would further simplify the regulation of flood protection measures and reduce the overall timescales.

CAR is still very much in its infancy and we recognise that some problems have arisen in the first year of implementation due to the newness of the regulations. SEPA will work hard towards achieving joined-up regulation between CAR and other statutory processes by improving our guidance to staff and stakeholders. CAR provides an important link between management of the Water Environment (through River Basin Management Plans) and Flood Risk Management. Integration of these two processes is a key goal of the Floods Directive.

- 4.25 **Q25. Do you think there is anything further SEPA, the Scottish Government or others should be doing to promote joined-up regulation?** - SEPA is aware that a Government led group will be established in due course to streamline public sector involvement in development consents and we will be actively engaged in this process. SEPA is already involved through SEARS (Scotland's Environmental and Rural Services) and the activities SEPA is pursuing towards Better Regulation. SEPA, the Scottish Government and planning authorities can build on the guidance within SPP 1 and PAN 51 (which deal with the interaction between planning and other approval processes such as CAR) to better define the boundaries and links between each approval process so that stakeholders are clear about regulatory responsibility. This should also help to ensure duplication of controls are minimised. The Government could also look at the advertisement and third party appeal provisions of CAR to see if there are any opportunities to integrate these within the provisions of a new statutory process.
- 4.26 **Q26. Do you think that there is an alternative approach to simplify the process of promoting flood measures to those discussed above which the Government should consider?** – No. SEPA support the proposals outlined in this document, and believe they will go a long way towards streamlining the approval processes.
- 4.27 **Q27. Do you agree that the form and content of the biennial reports should be more systematic, and subject to direction from Ministers?** - SEPA agrees that the biennial flood reports should be more systematic and subject to direction by Ministers. They should be combined, audited and collated into a national document that forms part of a national floods database.
- 4.28 **Q28. Do consultees agree that the proposals as outlined will improve flood risk management and ensure Scotland is equipped to implement sustainable flood management?** - SEPA believes that the proposals outlined in the consultation go a long way to improving flood risk management in Scotland. They set the framework, but more work is required on guidance and regulations which will better define the roles and responsibilities and the funding that will follow.
- 4.29 **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?** - Local Authorities should be given the powers to implement the widest possible range of sustainable flood risk management measures, including flood alleviation measures, planning control, urban design and natural flood management options.

4.30 **Q30. Do you believe enforcement responsibilities under the Reservoirs Act 1975 should be transferred to a single national body?** – Yes, there are significant benefits to be derived in terms of understanding and reporting on the national picture with respect to reservoir safety. This could include developing an expertise in this specialist field, particularly where modernisation of the approach is envisaged, and in delivering consistent enforcement and application of the Act. A key task will be auditing and reviewing the current registers to identify how readily they can be integrated into a single common register for Scotland. Careful consideration will need to be given to the responsibilities and processes for the preparation and holding of inundation plans and contingency plans. Reservoir safety will have to be clearly linked to planning, civil contingency and flood warning arrangements.

4.31 **Q31. If so, should it be SEPA or another as yet unidentified body?** - Given the appropriate resources, SEPA is well placed to assume the current and envisaged extended powers and duties set out in the consultation. Enforcement of the 1975 Reservoirs Act by SEPA could be integrated with our current statutory powers and duties in a number of ways.

4.32 **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 idea of requiring the inclusion of significant hazards arising from dam failure in the Preliminary Flood Assessment under the EU Flood Directive is supported. Planning guidance should be developed on how to manage development within any area predicted to be inundated. Category One responders should have a duty to work together to protect the public from the risk of dam failure. The duty to prepare inundation/flood maps for total or partial reservoir failure should be a statutory duty of each owner/operator. Such maps should be subject to an audit process by the enforcing authority to ensure consistency of approach and risk assessment. They should be reassessed at appropriate intervals to ensure that they reflect current thinking and technology. Work has to be done to understand any security issues associated with holding inundation maps alongside the need to provide a register for public inspection.

In addition to inundation maps, Reservoir owners/operators should be responsible for production of contingency plans to a standard set and audited by the competent authority.

4.33 **Q33. Do you agree that enforcement powers be extended and post incident reporting included as an additional requirement?** - For post incident reporting, we consider that the enforcing authority's role would only be to draw together information provided to it on the potential reasons for the incident. However, in order to retain independence, the Act may need to be modified to ensure that an independent panel engineer is called in to consider the cause of any incident which could indeed include a failure on the part of the Construction Engineer, Inspecting Engineer or Supervising Engineer to undertake their respective roles.

4.34 **Q34 Views on Crown application and any other comments** – No view.

5 Closing Remarks

- 5.1 The proposed modernisation of Scottish flood risk management legislation is welcomed.
- 5.2 SEPA recognise that the new framework will take time to develop and the Government must ensure that fair and robust transitional arrangements are put in place to enable the progression of flood risk management measures in the intervening period.
- 5.3 The catchment approach to flood risk management is essential and SEPA recognise that all types of flooding must be considered.
- 5.4 The sustainable management of flood risk in Scotland is achievable if there is a statutory framework established within which the legislation gives the competent and responsible authorities the clear duties to plan and implement measures. A duty should be placed on responsible authorities to deliver the objectives signed off by Ministers in the local flood management plans which should include the active mitigation of flood risks when undertaking their various functions. This would ensure that responsible authorities and the competent authority work closely to make certain that local priorities are reflected in the plan submitted to Europe.
- 5.5 SEPA look forward to the challenges ahead and recognise that success will depend on the appropriate resources being made available to the competent and responsible authorities. This must be accompanied by clear statutory duties to ensure the effective targeting of resources and the consequent reduction in flood risk in Scotland.

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Dear Frances

THE FUTURE FLOOD RISK MANAGEMENT IN SCOTLAND – CONSULTATION

I refer to the above document and thank you for affording the Joint Committee an opportunity to submit their observations.

The Joint Committee's responses are set out below, prefaced by a general statement on the consultation document.

General Observation

The fresh approach to flood management in the consultation is welcome, especially in respect of the need to ensure an integrated approach is developed between the various responsible bodies. The main issues for the Joint Committee as the strategic planning body are threefold. These issues are further elaborated upon in the responses to the questions as set out in the Appendix.

Firstly, the Joint Committee welcomes and supports the cross-boundary element of the consultation document. The two stage approach to flood risk management planning giving SEPA responsibility for strategic plans and local authorities and others responsibility for local plans appears unduly bureaucratic for the purpose of dealing with significant flood risk and that a single stage approach to the preparation of Flood Risk Management Plans should be adopted rather than the proposed two stage process. This would be simpler, more expeditious and provide a clearer focus on outcomes. In this context local authorities either individually or jointly could take a lead role in their preparation.

Secondly, it is important to recognise the expertise that has been built up over the years and exists within local authorities including technical knowledge of flooding and drainage and long standing experience of engaging with the community and wider stakeholders through the development planning process for example the integrated working on sustainable flood management through the Metropolitan Glasgow Strategic Drainage Plan and the Renfrewshire Interreg IIIB Urban Water Project. Working together with Scottish Water and SEPA, has allowed forward looking local authorities, to further develop and deliver locally, co-ordinated catchment planning.

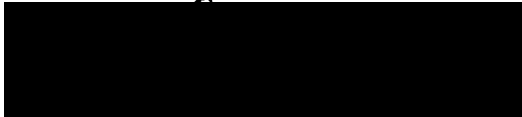
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The planning process could play a key role in leveraging in a substantial proportion of investment in non-structural responses to flooding from the development industry, maximising environmental benefits and facilitating partnership working. As the consultation recognises, surface water management and urban drainage are significant planning issues for urban areas of the future. A strong connection between the proposed Flood Risk Management Plans and Development Plans is therefore required.

Thirdly, given the important cross-cutting issues between flood management and development planning, there needs to be clearer guidance on what is expected under the new planning system in particular the respective roles of the Strategic Development Plans and the Local Development Plans.

Should you wish to discuss any of the matters outlined above or in the Appendix please contact my colleague Michelle Carroll.

Yours sincerely



PPC
Dr. Grahame Buchan
Structure Plan Manager

Enc:

Appendix

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

Whilst it is recognised that an overly precise statutory definition of SFM might inhibit flexible and innovative responses it is important to ensure that responsible authorities undertake sustainable flood management as a core function. A fuller statement on SFM to reflect the need for a strategic long term approach, ensuring active engagement by all stakeholders and recognising the opportunities for wide ranging benefits would be of assistance.

The proposal to provide guidance particularly on indicators which can be used to assess the performance of flood management measures and plans is welcome.

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

Not in its present form. When asterisks are employed to further explain the sense of words used within a definition, the definition itself loses clarity and simplicity. Focus is drawn towards understanding the definition of the words requiring explanation rather than focussing on the definition of the term SFM

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

Surface water management and urban drainage are significant planning issues for the urban areas of the future. A strong connection between the proposed Flood Risk Management Plans and the Development Plan system is therefore required. It is important to recognise the expertise that exists within local authorities including technical knowledge of flooding and drainage and long standing experience of engaging with the community and wider stakeholders through the development planning process. Consideration should also be given to the capacity of local authorities to effectively co-ordinate and deliver SFM.

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?

The Preliminary Flood Risk Assessment should provide the opportunity for collaborative working principally between SEPA and local authorities. To be of value, the preliminary assessment would need to be informed by some initial flood hazard mapping undertaken at the local authority level. SEPA could provide a co-ordinating role based on the results of the assessment identifying areas at significant risk of flooding and provide a national strategic framework for flood risk management.

The proposed duty on local authorities to prepare a local Flood Risk Management Plan where significant flood risk has been identified should be modified to reflect a single stage flood risk management planning process. Local authorities should have responsibility both to prepare and lead on the preparation of all Flood Risk Management Plans. Where areas of significance have cross boundary implications local authorities should have the responsibility to combine, act jointly and lead on preparation of Flood Risk Management Plans. For major cross boundary issues, joint committee structures akin to those set out for Strategic Development Plan purposes could be adapted for this purpose. A co-ordinating role for SEPA in the preparation of Flood Risk Management Plans would not be necessary for a single stage approach to plan production undertaken at local authority level as SEPA would be directly involved in the preparation of the plans.

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 differentiation between strategic Flood Risk Management Plans and Local Flood Risk Management Plans is potentially confusing and the need for a two stage flood risk management planning process

could be unduly bureaucratic. Within the context of the response set out in Q.4, local authorities could lead on Flood Risk Management Plans for those catchment areas identified as being at significant risk. The above proposals would simplify and expedite the process and provide a clearer focus on outcomes.

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?

It would seem appropriate to allow partners to identify a lead authority with Ministers or SEPA having powers should the partners be unable to reach agreement.

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

All responsible authorities within a designated area should have a duty to work together with the lead authority to produce the Flood Risk Management Plan.

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

No response.

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

Yes, however, it is suggested the relationship between the local authorities and other responsible authorities should be similar to that of local planning authorities and key agencies under the Planning etc (Scotland) Act 2006. This intends that through full and early engagement planning authorities will have early access to much of the key information they need to produce effective plans. "

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

Under the Bill proposals, it is unclear where responsibility for wider stakeholder and community engagement lies. In this regard it is important to acknowledge the established local consultation and communication structures already in place within local authorities and recognise the flood risk management planning process could be facilitated by allowing local authorities a lead role.

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?

No. The RBMP process is focussed on providing national comprehensive coverage for all water bodies and there is no requirement for the all embracing approach of the RBMP when only catchment areas of significant risk will require Flood Risk Management Plans. The Floods Directive does not require a process similar to that for RBMP, it only requires that Flood Risk Management Plans be co-ordinated at the level of the River Basin District.

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

The GCVSPJC has no objection to Scottish Ministers approving, rejecting or modifying Flood Risk Management Plans. Indeed, it is hoped that plans that are ultimately approved by Scottish Ministers will help ensure the plans are translated into co-ordinated and agreed actions on the ground. A timescale for consideration by Ministers would be useful.

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

Yes, issues associated with urban drainage should be integrated fully into Flood Risk Management Plans. Key flooding concerns within urban areas can often relate to the lack of capacity in the sewerage system and local watercourses exacerbated by overland flow. The recent impetus for catchment based approaches to flood management is founded on the need for a holistic view of the urban water drainage system (watercourses, the sewer network and roads drainage) and the promotion of integrated surface water management.

This approach requires a clear planning direction to ensure integrated investment by responsible bodies in their asset management of sewers and roads and in their watercourse management functions. It also relies on concurrent and supporting investment, levered in from new development and redevelopment via the planning process. As the consultation points out these are significant planning issues for urban areas of the future.

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?

It is to be expected that Flood Risk Management Plans will play a key role in the identification of land for development. SPP 7 and PAN 69 have assisted improved integration of flooding issues within development plan policy and development management at local authority level. The Draft Regulations for Strategic Development Plans and Local Development Plans make reference to the need to have regard to River Basin Management Plans. Given the importance of development plans in providing long term perspectives, achieving multiple benefits particularly related to the wider environment and in facilitating non-structural solutions from the development industry, there should be a requirement on planning authorities to have regard to Flood Risk Management Plans.

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?

No response. This is outwith the strategic planning remit of the GCVSPJC.

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

No response. This is outwith the strategic planning remit of the GCVSPJC.

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?

No response. This is outwith the strategic planning remit of the GCVSPJC.

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

No response. This is outwith the strategic planning remit of the GCVSPJC.

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

For consistency, the timescales and notification arrangement set out for planning applications under the Planning etc (Scotland) Act 2006 might be considered appropriate given the links to the development plan process.

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

No. The deemed consent process for local authority developments has been removed under the Planning etc (Scotland) Act 2006 and it would seem inappropriate for the Scottish Government to go in a different direction for flood prevention measures. Development of flood management measures should be integrated rather than separated from the new planning system.

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

No response. This is outwith the strategic planning remit of the GCVSPJC.

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

Single Outcome Agreements encouraging partnership working arrangements may assist.

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

No response. This is outwith the strategic planning remit of the GCVSPJC.

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

Controlled Activities Regulations provide the means for early implementation of water quality regulation in advance of the RBMP. Reliance on CAR should reduce as the RBMP comes into operation.

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

The identification of clear duties for all relevant bodies would be useful with reliance on CAR reducing as the RBMP comes into operation.

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

The approach needs to be one of enabling local authorities by ensuring that all bodies that are part of the Scottish Government assist at all levels.

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

Whatever form the biennial reports take they will require to provide an effective means of communication between the local authority, responsible bodies and the public. In this regard it is probably more appropriate that the local authorities take the lead role in their production.

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

It is recognised that Flood Risk Management Plans should provide a sound basis for flood risk management. However, it would seem that certain elements of the proposals i.e. the two- tier approach to Area and Local Flood Risk Management Plans and following a similar process to That of River Basin Management Planning could be onerous and there may be scope to simplify this process without diluting flood risk managements aims and effectiveness (refer responses to Q5 and Q11).

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?

Refer Q28.

As the GCVSPJC does not deal with the issue of reservoirs as these are dealt with directly through the eight individual member local authorities, therefore no responses are entered for this section.



**THE FUTURE OF FLOOD RISK MANAGEMENT IN SCOTLAND
A CONSULTATION BY THE SCOTTISH GOVERNMENT**

RESPONSE FROM THE ASSOCIATION OF BRITISH INSURERS

The Association of British Insurers (ABI) is the trade association for Britain's insurance industry. Our 400 member companies provide over 94% of insurance business in the UK. We represent insurance companies to Government, regulatory and other institutions and are an influential voice on public policy and financial services issues.

This response relates to the consultation on both flooding and reservoirs.

ABI welcomes the introduction of the Flooding Bill and sees it as a significant step forward in promoting legislation for a modern approach to flood management.

We strongly support the proposals for

- The appointment of one authority, SEPA, with overall responsibility for ensuring flood risk from all sources is assessed, mapped and available to inform and measure the success of the Scottish Government's strategy to manage flood risk; to inform the public about the risks that they face and encourage local responsibility and action; and to enable insurers to provide and underwrite flood insurance.
- Clearly defined roles and responsibilities to be established for all authorities covering all sources of flooding. It is important that this ensures that all operating authorities can be held accountable for the services they provide, including maintenance of systems and flood protections to avoid flooding within agreed design limits and service levels.

We feel that it is important that the flood management plans developed under this process, set out the strategy and long term plans to be adopted by the Scottish Government to manage flood risk with the need to

- Agree acceptable risk levels.
- Identify areas that do not currently meet these levels.
- Identify those areas that can be defended to these standards cost effectively and put an investment strategy and timetable in place to do this.
- Agree an approach for those areas that cannot be defended to these standards cost effectively.

It is clear that there are some concerns over how the new funding arrangements adopted by the Scottish Government, under which money for flood defence management is not to be ring-fenced, will ensure that the

necessary skilled resources to manage flood risk are available to all authorities and that the necessary cooperation between all authorities is achieved so that the flood management measures required are delivered in accordance with these plans. It will therefore be important for the government to set targets for reduction in flood risk in line with the agreed plans and overall funding levels and to monitor delivery against these targets.

Referring specifically to the questions raised in the consultation:

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

Yes, it prompts people to think about all of the relevant issues and to seek an appropriate solution taking them all into account.

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

It is complex and may be regarded by some as 'an academic view', however the principles in Box 5 do provide a clear overview. This is a complex subject and we think that it does prompt people to think about all of the relevant issues, which is very important. It would be difficult to come up with an alternative, which was just as concise and any simpler.

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

Yes. We firmly believe that it is necessary and fully support giving one authority responsibility for ensuring that risk of flooding from all sources is assessed and mapped, that plans are prepared to achieve agreed targets and that delivery to plan by all relevant bodies is monitored and reported. We recognise the need for this national, catchment focused approach, underpinned by effective local co-ordination and delivery. The role of local authorities within this approach is therefore very important.

On a point of detail within the duties of the competent authority, we feel that the flood mapping and management plans should extend to mapping and management of sewer, as well as all other forms, of flooding. We feel this is inextricably linked with surface water flooding and its inclusion is necessary to ensure full cooperation and coordination of all accountable authorities.

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

Yes.

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

Yes. The intention to have a national ('District') Flood Risk Management Plan prepared based on a catchment approach recognising the 10 existing sub-basins identified within the water framework directive, with appropriate input from all responsible authorities, supported by Local Flood Risk Management Plans prepared by Local Authorities, or where appropriate groups of Local Authorities, again with input from all responsible authorities, including SEPA

seems to be a sound basis. Clearly, in developing all of these plans, there is scope to benefit from both a top down and bottom up approach and the need for all organisations involved to contribute fully in development of appropriate working relationships. Others more closely involved are better able than we are to comment on the detailed arrangements for this but it does seem to deliver an appropriate level of control from the competent authority, at the same time providing for the essential contribution from those with the greatest local knowledge and expertise.

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

We expect that in most situations this can be left to the partners to resolve, however it seems sensible that SEPA should have this power, with Ministers having the ultimate decision if there is any dispute.

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

Yes.

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

We have no others in mind but it will be necessary to ensure that there is an appropriate input to the process from landowners, in particular farmers. Presumably this will be provided through the working groups that are envisaged at both a national and local level.

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

Yes. Although most authorities do work well with each other, we feel that the Flooding Bill should clarify their roles as clearly as possible and they should have a duty to work with all other authorities to achieve the desired outputs. Voluntary cooperation works well after a significant flood event but we feel that clarifying roles and defining duties should ensure that it works well at all times. It is important that the bill gives the competent authority, and indeed the lead authority on any issue, the powers needed to secure full cooperation from all other parties.

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

Yes, we fully support the plans to establish stakeholder forums to engage with the local community.

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 a national 'District' flood risk management plan?

Yes

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

Yes

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

We feel that an integrated drainage plan should be included as part of all Local Flood Risk Management Plans. Integrated drainage plans should be considered in both rural and urban areas. It is important that drainage in rural areas is designed on a sustainable basis so as not to increase run-off into river systems or to over-charge sewer systems further downstream.

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?

We feel that planning authorities should be required to show that they have regard to FRMPs.

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?

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

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?

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

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

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

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

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

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

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

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

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?

Questions 15 to 26 relate to the need to simplify the planning process as it relates to flood prevention schemes. We agree fully that there is a need to simplify the existing process whereby an existing scheme must

- Go through a confirmation process, which allows for objections to be raised and a public inquiry to be held, if necessary
- Obtain planning permission via a separate process which can involve a further inquiry
- Gain permission from SEPA under Controlled Activity Regulations (CAR), some of which also require planning permission.

We agree that the system should be changed so that approving the flood defence proposals and provide planning permission are carried out as part of the same process, allowing those affected to have their views considered, including as part of a public inquiry if necessary, but with only one such opportunity, instead of potentially 3 as at present. However we have no views on which of the two alternatives put forward achieves this more effectively – Ministerial approval deemed to provide planning consent or an enhanced local authority based procedure. It is recognised that whichever alternative is chosen, there is a need to ensure sufficient technical expertise is available to assess the proposal and that Ministers are informed and available for ultimate decisions where necessary.

As far as the CAR (and other regulations related to coastal activities) are concerned, it appears that better guidance (Q24) could ensure that all considerations under the 3rd bullet point proceed in parallel with the activities under the first two bullet points, avoiding any duplication. Some work has been done on this although there remain a few issues and it seems sensible to complete this.

Question 23 relates specifically to powers to take urgent remedial action, including on private land, to avoid damage to life and property, and to recover costs after it has taken such action, in relation to the consequences of rainfall events. We have no view on whether or not the existing powers are sufficient to allow this but, if not, agree that it would make sense for local authorities to be given these powers.

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

We are pleased to note that local authorities are to retain the following duties under the 1961 act because we feel that they contribute meaningfully to good flood risk management

- Assess the condition of watercourses from time to time to ascertain whether their condition is likely to cause flooding of non-agricultural land in their area
- Maintain watercourses in a due state of efficiency where such maintenance would substantially reduce the risk of such flooding
- Publish a biennial report of instances of flooding and measures taken since their last report, and any further measures they consider they require to take to mitigate flooding of non-agricultural land.

As the biennial reports provide an excellent source of information on flooding problems to help inform SEPA, we agree that they should be prescribed in more detail by Ministerial direction made under the bill.

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

Yes. Clearly they involve a very significant step forward in implementation of the EC Directive on flooding at a time when it is clear that there is a very great need to do this to respond to the ever increasing risk of flooding. They involve considerable change for the many authorities involved and it will be important to learn from experiences and adapt the detailed arrangements to suit.

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?

We agree that local authorities should have a duty to promote measures to alleviate flooding but felt that they already had this and that it was to be retained as referred to in the 3rd bullet point in the answer to question 27.

RESERVOIR SAFETY

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

Yes.

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

We agree that it should be SEPA.

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

We are content with the proposals. They are consistent with the proposals for implementation of the EC Directive and should ensure the maps are prepared to a consistent standard.

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

Yes.

Q34. Views on crown application and any other comments?

If this means that government authorities such as Scottish Water, should have to comply with the legislation under the reservoirs act, we agree that this is necessary.

CONSULTATION ON "THE FUTURE OF FLOOD RISK MANAGEMENT IN SCOTLAND"

Submission from the Macaulay Institute

<p>Question 1 & 2</p> <p>Do you believe the definition of SFM is helpful and of practical benefit to flood risk management?</p> <p>Do you think the definition is clear and simple to understand?</p>	<p>Whilst we agree with the implication of the SFM definition that flooding cannot be <u>entirely</u> prevented, and that flood risk management is about working with the natural environment, we are concerned about that the definition lacks any reference to protecting (attempting to protect) against loss of life or livelihood. The current definition puts too much emphasis on recovery. We acknowledge that there can be no guarantees, but would argue that some reference to the aim of protecting against loss of life and livelihood is needed.</p> <p>As it stands the definition is clear and relatively easy to understand, however, it does not give a sense of that-what has to be done to achieve SFM. A although this is the aim of the Bill. Our research shows that raising awareness of SFM, perhaps by campaigns to inform people about the definition and the principles, especially amongst stakeholders, is vital, if SFM is to be widely understood, accepted and implemented.</p>
<p>Question 3 & 4</p> <p>Do you agree with the conclusion as set out in paragraph 3.17?</p> <p>Do you agree that there should be a single competent authority with a national remit for implementing the Floods Directive, and that it should be SEPA?</p>	<p>Although it seems intuitive that having a single existing organisation to act as the competent authority ies declutters the institutional landscape, we do not believe that there is evidence that this is the case, nor that integration with other policies and organisations will automatically follow. Much depends on the organisational culture and history, <u>the resources provided and the incentives given to change practices towards integrated delivery</u>. This does <u>not only apply to the lead authority, but also to those they are having to liaise with</u>.</p> <p>Despite this, we agree that SEPA is most appropriate to be the competent authority, but our research indicates a number of potential issues that would need to be addressed.</p> <ul style="list-style-type: none"> ▪ SEPA are regulators and may have difficult relationships with key land use managers <u>because SEPA are primarily seen as regulators</u>; ▪ they are SEPA have had had limited involvement in planning and land use <u>debates yet</u> — both are key to flood risk management; ▪ SEPA has historically adopted a <u>regulatory approach</u> very traditional attitude towards water resource management which may inhibit innovative and integrated thinking that is vital for future flood risk management. ▪ <u>SEPA have most experience in monitoring and managing water quality issues and limited operational experience in implementing catchment based policies, particularly managing water quantity, morphological and soft engineering processes. However, their experience with implementing SUDS can be drawn on to help.</u> ▪ Relevant resources would be required, as this role could not just be added to existing responsibilities without additional staff and funding.
<p>Question 5 & 6</p> <p>Do you agree that this is a sound basis for</p>	<p>Whilst the proposed 3-pronged approach seems sensible, we have a number of concerns:</p> <ul style="list-style-type: none"> ▪ We argue that there needs to be a very strong link between the projects, local plans and area plans. Indeed, we would see these as a

<p>the development of Local Flood Risk Management Plans? If not what alternative do you propose?</p> <p>Should Ministers or SEPA have the power to designate a lead authority within a local area, or should it be left to the partners?</p>	<p>cascade of plans so that the local plans and projects are manageable parts of the area (strategic) plan. This is vital if integration is to be achieved, and the existing geographical compartmentalisation of flood management is to be broken down. We are not convinced that para 3.26 which states that local authorities must "take account of" Area Flood Risk Management Plans places a strong enough incentive on stakeholders to act in a truly integrated catchment based manner. <u>Certainly, our research on RBMP and on planning suggests that 'having regard' does not automatically generate integration; and mechanisms to enable integration of multi-level plans are needed-</u></p> <ul style="list-style-type: none"> ▪ There is little consideration of socio-economics and the wider environment in the proposed management planning process. Flooding and flood management has a wide variety of positive and negative impacts. These need to be accounted for when considering flood risk management plans. In particular, para 3.30 discusses funding for flood risk management plans, stating that "money will be based on the level of significant flood risk in each local authority and the flood hazard maps provided by the competent authority". However, we would strongly argue that allocation of funds should take account of vulnerability of those at flood risk rather than merely generalised flood risk or cost/benefit. There is significant evidence that vulnerable people are disproportionately affected in the event of a flood, and yet such populations may not shout the loudest, or be able to mobilise themselves to ensure any risk they face is mitigated. <u>Such social justice concerns should be explicit.</u> ▪ We argue that the principle of subsidiarity should apply and decisions about <u>the lead authorities</u> should be left to partners. <u>However, it should be mandatory to designate a lead authority so that it is clear who is accountable for leadership; and to ensure that these authorities are suitably resourced.</u>
<p>Question 7 & 8</p> <p>Do you agree that Local Authorities, Scottish Water, the Forestry Commission, and SNH should be identified as responsible authorities?</p> <p>Which other bodies should be identified as responsible authorities?</p>	<p>We agree that the organisations mentioned should be identified as responsible authorities.</p> <p>However, we are worried that the rhetoric of an integrated catchment based approach to flood risk management will not be translated into practice unless rural land management is brought into the fold. <u>It is difficult to identify a public body with primary responsibility for land management.</u> Therefore we argue that some section of the Environment and Rural Affairs Directorate be identified as a responsible authority – possibly the Rural Payments and Inspectorate Directorate. Such a revision would ensure that rural land managers and public sector payments to this sector would be included in flood risk management in Scotland, facilitating an integrated catchment based approach. <u>Other public bodies with a remit for rural land management would include the Crown Estate; the Crofting Commission; the National Park Authorities. We note that responsible authorities under the WEWS Act also included Port Authorities, who are likely to have a role in flood risk management and response.</u></p>
<p>Question 9 & 10</p> <p>Do you agree that responsible authorities should have a duty to</p>	<p>Flood advisory groups should have a duty to work together to produce plans and a link into the WFD Area Advisory groups is wise to encourage integration and avoid duplication. However, our research on RBMP shows that <u>AAGs collaborative planning processes are already struggling with a lack of resources, the turnover of members and difficulties in operationalising</u></p>

<p>work together within Flood Advisory Groups to produce plans?</p> <p>Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process?</p>	<p>wide ranging objectives (Blackstock, 2008^{ref}) – collective working whilst often more efficient in the long run, is not a cost-free endeavour. Equally earlier research on catchment management plans suggest it is imperative to agree a partnership model and provide sufficient authority to ensure delivery by partners as required. Whilst a link into the WFD Area Advisory groups is wise, Actions [such as amending the group's remit and terms of reference; undertaking stakeholder analysis; providing sufficient resources, setting out a clear working group structure with mechanisms to integrate their work??] must be taken to ensure that creating Flood Risk Management Advisory sub-groups does not increase the burden and reduce the effectiveness of the groups overall.</p> <p>Whilst we wholeheartedly support the aim of ensuring wider stakeholder and community engagement in flood risk management plans at all levels, we would question the need for 3 different groups: flood risk management advisory groups, FLAGS and stakeholder forums, and question the practical effectiveness and inclusiveness of the proposed stakeholder forum. We would argue that stakeholders and the community should be embedded within the strategic local-[regional?] groups. Whilst this proposal may be challenging in practical terms it has the advantage of ensuring meaningful engagement and potentially reducing the costs and resources needed. Such a forum These strategic and regional groups would require good organisation, chairing and facilitation. Community and stakeholders may then feed back to their constituency such as community councils. Experience with catchment and RBMP has shown that for this to work, NGOs, membership organisations and those representing the public need support to match the resources provided by the public sector or organised private interests, or whatever. [I am not sure that we actually did agree with this!!] In our view, any additional forum would really only function as mailing list for information provision and publicising consultations – this is not real involvement in developing and managing the plans.</p>
<p>Question 11 & 12</p> <p>Do you agree that the Bill should set out a process similar to that for River Basin Management Planning for the preparation by SEPA of area flood risk management plans?</p> <p>Do you agree that Ministers have the power to approve, reject or modify Area Flood Risk Management Plans?</p>	<p>We agree that the Bill should set out a process similar to that for River Basin Management Planning for the preparation of area flood risk management plans. However, the effectiveness of the process in practice will depend on the time and resources available in preparing the plans.</p> <p>Our research suggests[does it Kirsty?] that quality of the River Basin Management Planning process has been constrained by a combination of <u>ehas been reduced because of lack of time and resources together with inflexible objectives and milestones, making it difficult to respond to stakeholders' concerns and questions. Whilst the timetable looks generous, and it is sensible to integrate the two planning cycles, experience with RBMP suggests that tools and classification information have to be available well before plans are drafted, to allow stakeholders to interpret the data; question the findings and add their own data. Time is also required to allow the tools to respond to any new –in their development– issues that stakeholder engagement processes suggest. Furthermore, the plans will have to be integrated, so that SFM is taken account of in RBMP and WFD objectives are considered when planning flood management. Currently tools for such integration, and the science to suggest how these regimes will interact in practice, are not available.</u></p> <p><u>Ministers powers???</u>It would seem sensible to follow precedence and give Ministers these powers, to ensure accountability to the wider public.</p>

<p>Question 13</p> <p>Do you think that integrated urban drainage plans should be included as part of a Local Flood Risk Management Plan?</p>	<p>It is clear that pluvial flooding is increasingly a source of risk in urban areas. It is therefore vital that urban drainage is integrated into local flood risk management plans.</p>
<p>Question 14</p> <p>Should Flood Risk Management Plans inform the way that development plans are prepared, or should there be a stronger linkage such as a requirement on planning authorities to show that they have regard to the FRMPs?</p>	<p>As a general principle we agree that there should be a requirement on planning authorities to show that they have regard to the FRMPs. <u>This also follows the logic used in implementing the WEWS where planning legislation has been proposed for designation as a WEWS relevant enactment.</u> However, we acknowledge that responsible authorities face multiple, often competing, objectives which may be difficult to reconcile. We recommend that more innovative thinking on a catchment wide basis might enable objectives to be reconciled. For example, if an integrated catchment based approach to flood risk management is adopted, planning permission may be granted on areas of flood risk, in certain circumstances and given stringent conditions, such as the developer being required to fund and implement flood management measures in a different area of the catchment. Such "mitigation projects" are used in other fields and have proven, ecological, social and economic benefits. More research is needed on this in the context of flood risk management, but evidence of the efficacy of such an approach can be seen in different contexts.</p>
<p>Question 15, 16 & 17</p>	<p>No comment</p>
<p>Question 18, 19, 20, 21 & 22</p> <p>Do you think that the option to rely on a local authority based process in a similar way as other local authority development activity should be taken forward?</p> <p>What would be the appropriate timescales for notification and response?</p> <p>Would it be appropriate for such a process to carry deemed planning consent?</p>	<p>Account needs to be taken of the <u>Public Participation Directive principles of good practice for notification timescales as well as the obligations of the Planning etc (Scotland) Act 2006 for public participation.</u> Further, we understand the Scottish Government is reviewing how the statutory <u>consultee process is implemented to improve communication and efficiency. We would expect this to influence these discussions.</u></p> <p><u>We question whether all local authorities will have the same capacity to respond to technical questions – there may be a disproportionate burden falling on some rural local authorities upstream of major conurbations, given that the emphasis on SFM is pushing mitigation upstream. Perhaps any such capacity gaps could be resolved through secondments and job-shares with bigger neighbouring local authorities?</u></p>

<p>How should the issue of technical expertise and capacity to ensure the necessary technical standards are observed, be addressed?</p> <p>Are there any additional alternatives to the options outlined above which would simplify procedures?</p>	
<p>Question 23</p>	<p>No comment</p>
<p>Question 24, 25 & 26</p> <p>Do you agree that streamlining the CAR and flooding/planning processes can be managed through better guidance?</p> <p>Do you think there is anything further SEPA, the Scottish Government or others should be doing to promote joined-up regulation?</p> <p>Do you think that there is an alternative approach to simplifying the process of promoting flood measures to those discussed above which the Government should consider?</p>	<p><u>There needs to be an evaluation of to what extent guidance has helped streamline CAR within RBMP before we assume it will work in this context. Joined up regulation needs to consider barriers to integration that are often deeply engrained in the institutions currently managing our water and land environments. There is not enough monitoring and evaluation of how integration is working in Scotland and abroad to allow us to learn lessons for the future. Furthermore, joined up regulation must consider how it functions in a wider context of market forces, policy advice and voluntary action.</u></p> <p>This may also be an area where on the ground demonstration projects could be used to illustrate Best Management Practice in relation to the multiple objectives of improving process, integration and delivering options for SFM.</p>
<p>Question 27</p> <p>Do you agree that the form and content of the biennial reports should be more systematic, and subject to direction from Ministers?</p>	<p>The form and content of biennial reports should be systematic and subject to direction since they will provide a useful source of review and information on flood events and impacts. Clear guidance is needed to ensure a systematic approach which will ensure that information is comparable across local authorities. <u>Setting up a common database will help information exchange for a number of issues beyond flooding.</u></p>

<p>Question 28</p> <p>Do consultees agree that the proposals as outlined will improve flood risk management and ensure Scotland is equipped to implement sustainable flood management?</p>	<p>Whilst the proposed Bill makes many improvements to existing legislation on flood risk management, we have a number of concerns:</p> <ol style="list-style-type: none"> 1. That integrated catchment based management of flood risk cannot be implemented without involving rural land managers. There is little in the proposed Bill to ensure their involvement. This gap must be addressed. Initiatives are ongoing that may impact on flood risk management, but that are largely ignored in the proposed Bill. These include the SRDP (Scottish Rural Development Programme), the <u>Scottish Soil Strategy</u> and <u>Habitats Directive</u>??? 2. The proposal places considerable additional burdens on local authorities and SEPA. These duties will not be discharged efficiently and effectively unless sufficient resources are made available. 3. Further, real stakeholder and public engagement in the processes proposed in the Bill, require considerable resources, and an appetite within relevant organisations to engage with stakeholders and the public and address issues they raise. 4. what-else??? <u>There is a lack of research and evidence into the biophysical, economic and social causes and consequences of flooding with a rural focus, particularly the implications for moving from flood protection to SFM. There is also little research funding available to evaluate existing schemes, in order to learn lessons in future.</u> 5. The proposals in the consultation document imply a need for research to identify what the consequences of climate change are going to be on the magnitude of future flooding and best management practices to mitigate the risk?
<p>Question 29</p> <p>Do consultees feel that this is enough to ensure that flood risk is addressed or should local authorities have a new duty to promote measures to alleviate flooding?</p>	<p>As discussed in our response to Q1 we are concerned that a focus on "resilience" implies a reactive rather than pro-active approach to <u>flood protection</u>. We are also concerned that there is nothing in the Bill that encourages individuals to take account for their actions. For example, <u>the cumulative effect of</u> Such as individual householders right to pave paving over grassy areas which may increase the extent and speed of <u>surface run-off</u>, and can increase flood risk. am I talking rubbish here???</p>
<p>Q30-Q34</p>	<p>No comments</p>

References

Blackstock K.L. (2008) Between a rock and a hard place: Incompatible Objectives at the heart of River Basin Planning?, accepted paper to be presented at the IWA Specialised Conference on Water Shed and River Basin Planning, Budapest, 4 - 5th September 2008. Should perhaps include these as footnotes???

111

Galbraith LM (Linda)

From: Armstrong, Charles [REDACTED]

Sent: 23 April 2008 14:39

To: Flooding, Erosion and Reservoir Safety

Cc: [REDACTED]

Subject: Consultation on ' The Future of Flood Risk Management Scotland'

Attachments: Future of Flood Risk Management in Scotland.doc

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has been swept for the presence of computer viruses.
.....

To;
Environmental Quality Directorate
The Scottish Government
Victoria Quay
Edinburgh EH6 6QQ

Please find attached East Renfrewshire Council's response in relation to the above consultation.

<<Future of Flood Risk Management in Scotland.doc>>

Charles Armstrong BSc CEng MICE
Network Manager
Roads Planning and Transportation Service
East Renfrewshire Council
2 Spiersbridge Way,
Spiersbridge Business Park,
Thornliebank G46 8NG

Tel Office [REDACTED] Mobile [REDACTED]

e-mail [REDACTED]

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for the presence of computer viruses. (v5.2)

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25/04/2008

RESPONDANT INFORMATION

Name: East Renfrewshire Council
Contact:- Joe Devine, Head of Roads Planning and Transportation
Postal Address: 2 Spiersbridge Way, Spiersbridge Business Park,
Thornliebank, Glasgow, G46 8NG

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

(a) as an individual (go to Q2a/b and then Q4)

(b) on behalf of a group/organisation (go to Q3 and then Q4)

Individuals

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

Yes (go to 2b below)

No (We will treat your response as confidential)

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

Yes, make my response, name and address all available

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

Yes, make my response and name available, but not my address

On behalf of Groups or Organisations

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

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

Yes

No

(We will treat your response as confidential)

Sharing Responses / Future Engagement

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

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

Yes

No

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

Flooding

Reservoirs

Both

Consultation on 'the Future of Flood Risk Management in Scotland'

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

The definition as established by the Flooding Issues and Advisory Committee (FIAC) is a general definition which provides an element of guidance. By its very nature SFM must look at producing acceptable solutions to flood risk by utilising a broad palet of flood prevention and management solutions.

It is therefore correct that the definition is not prescriptive.

Whilst the sustainable flood management objectives are laudable, it would have been of use if examples were given of measures which could be or have been undertaken to address these objectives.

This would have enhanced the clarity of the objectives.

Q2. Do you think the definitions are clear and simple to understand?

It is clear with regard to general principles but as with any such definition it lacks detail.

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

Partially. Local Authorities should also be considered as a Competent Authority to recognise their high level of input into the process.

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

I believe SEPA have been nominated as the competent authority. Currently they are a regulatory body and whilst having a element of responsibility for flooding advice do not deal presently with the practical issues associated with flooding protection or reacting to flooding events operationally.

It is highly likely that they currently lack expertise and manpower required to fulfil this role.

Having a natural co-ordination body would be of great benefit but as the Local Authorities retain a high degree of technical capability and experience both in the planning and operational aspects of flooding they should be designated as competent authorities.

This would have benefits in the Council's requirement to produce Flood Risk Management Plans.

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?

Presuming that SEPA are the Competent Authority and responsible for the Area Flood Risk Management Plan they will require to rely heavily on Local Authorities for detailed flooding information which is much more reliable than their own flood maps.

An exchange of information procedure would therefore have to be developed to ensure that the Area plans were founded on the best information available.

The Area plan will in many cases be based on the information required for the more local plans. Local Authorities will therefore have a significant input to the Area Plans.

Further consideration must be given to the level at which the Local Authorities will operate.

Consideration must also be given to the definition of catchments and of cross boundary arrangements.

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

It should be left to the partners unless circumstances arise where agreement cannot be reached. The matter should be referred to Ministers if required.

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

Yes. It is important that all bodies who have influence over flooding issues whether it be cause or control are designated as having a duty to work together.

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

All those with any input to flooding issues should be designated as such.

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

Yes. It is important that the plans produced are based on rounded / best information taken cognisance of all views. This can only be achieved with everyone's involvement.

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

This would be achieved to a much greater degree if the Local Authorities were noted as Competent Authorities and the already present democratically accountable and community based systems, were utilised.

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?

With only catchment areas of significant risk requiring Flood Risk Management Plans, it is felt that the RBMP is not appropriate.

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

The Council has no problem with this.

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

Yes. At many locations urban drainage is the significant flooding issue therefore must be included.

Q14. Should Flood Risk Management Plans inform the way that development plans are prepared, or should there be stronger linkage, such as a requirement on Planning Authorities that they have regard to the FRMP's?

There should be a requirement for Planning Authorities to have regard to Flood Risk Management Plans.

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?

It would be more streamlined but it would be less democratic and not consistent with other significant development proposals the Community have an interest in.

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

I cannot imagine features which would not require planning permission.

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

If there is to be Ministerial approval for the FRMP then there should be no need for Ministerial confirmation of specific schemes.

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

Yes. With the removal of the award of central grant to flood schemes, a local authority based process could work well.

Q19. What is the appropriate timescales for notification and response?

Similar to current Planning legislation.

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

No, as per question 15

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

There must be flexibility when it comes to joint working between authorities to foster the best use of resources.

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

Possibly Single Outcome Agreements

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

A reinforcing of current powers would be of benefit.

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

Yes but this depends heavily on the quality of the guidance.

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

Ensure that rules are clear and unambiguous.

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

No

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

The reports contents will reflect the extent of the flooding issues within any particular area. I see no reason why its contents should be of a prescribed form. I am unaware of any concerns being expressed over current reports.

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 certainly have a positive effect on identifying and managing major flood risk. It is the case however that this authority does not have any major flood risk areas. Management of localised risk would however be greatly enhanced if local authorities were given powers to require riparian owners in non-agricultural areas to clean/clear their watercourses.

Failing their action providing powers to recharge the riparian owners for the work undertaken.

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?

As answer Q28.

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

No

Q31. If so should it be SEPA or another body?

Q32. Are you content with the proposals for dealing with the reservoir floods maps under the provisions of the Flood 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 & Wales?

These should be a duty on the reservoir owners.

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

Yes.

Q34. Views on Crown application and any other comments?

Other comments - Relating to localised (but still very important) flooding issues

As noted in Question 28 above this is an ideal opportunity to provide Councils with powers to promote and facilitate good management of watercourses in non-agricultural areas.

Whilst there has been some valuable work in relation to keeping culvert screens clear and improving flood risk location inspection regimes, watercourses in non-agricultural areas, are suffering from massive neglect and are both a significant flooding and environmental hazard. Currently the Local Authorities have a duty to carry out work which subsequent to their watercourse inspection would be considered necessary to mitigate flooding.

Notwithstanding the lack of funding available to Councils to do this, it does not address the detritus and waste material currently present in many watercourses which in the longer term could lead to further flooding risk.

Most riparian owners are unaware of their principal responsibility in relation to maintaining their watercourse. Even now if they are made aware and they choose to ignore their responsibilities, the watercourse condition will deteriorate.

If Councils were provided with policing powers to require owners to attend to their watercourses or failing that to do the work and recharge them then our watercourses would be far cleaner and safer than at present.

Abandoned land drainage systems should be removed from the definition of a watercourse contained in the 1997 Flood Prevention and Land Drainage (Scotland). It is unrealistic to expect Councils to continue to inspect and maintain such systems in non-agricultural areas where they have been effectively abandoned at the time of the development.



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

23rd April 2008

Dear Sir/Madam,

The Future of Flood Risk Management in Scotland

It should be stressed that the following comments do not necessarily reflect the views of all members of the Forum.

Tweed Forum welcomes the prospect of the reform and streamlining of flood management in Scotland and, overall, is extremely supportive of the measures outlined in the consultation.

Whilst Tweed Forum has no statutory remit with regards to flood management, we do enjoy a fairly unique perspective that is relevant for the following reasons:

- We have a functioning catchment management plan and a track record of delivering the strategic priorities contained therein, one of which is flood management. The CMP also gives a more integrated perspective in that the RBMP cannot cater for flooding management (despite flooding being an obvious SWMI).
- We have been adopted locally as the Area Advisory Group (AAG) by the two competent authorities as part of the RBMP process due to the fact that all stakeholders are represented on the Forum.
- We have been contracted by the local authority to deliver a pilot natural flood management project, demonstrating the effectiveness of natural remedial measures in alleviating flood risk, in partnership with a range of stakeholders and community interests.
- We are a cross border organisation and thus have a useful perspective on how to integrate management between two differing legislative and regulatory regimes, on a single river catchment.

From this local perspective we have a number of comments on certain aspects of the consultation.

We agree with the definition of Sustainable Flood Management and understand that natural flood management techniques (NFM) often have to be combined with hard engineering solutions. However, the latter are, by their very nature, not sustainable and where appropriate there should be a move to towards NFM measures that bring with them environmental, social and economic benefits beyond just flood alleviation.

There is a real need to demonstrate and trial the effectiveness of these NFM techniques further to ensure that future decisions are well informed and based on sound scientific principles.

Tweed Forum welcomes the opportunity to streamline the existing legislative framework. It is also supportive of SEPA being the competent authority in implementing the Floods Directive. Naturally, SEPA will need a considerable injection of funding and expertise in order to do carry out this function effectively.

We agree with the hierarchical planning process as outlined and would like to highlight the pertinence of the Forum approach in coordinating relevant activities at the project level. This seeks to take forward practical measures in partnership with relevant stakeholders that hit multiple strategic objectives.

We also agree with the list of responsible authorities. Tweed Forum, whilst not wishing to be a responsible authority, would be keen to input to the Flood Risk Management Advisory Groups. Tweed Forum presently sits on the local FLAG and through its broad membership can bring a useful number of perspectives (e.g. biodiversity, recreation, agriculture, industry, landowning etc.) as well as the cross border dimension, which is crucial in managing rivers that straddle the border. We enjoy a close working relationship with all the named responsible authorities and would be keen to keep some form of involvement that enabled this holistic approach to continue.

We are very keen that the Floods Directive is integrated as far as possible with the WFD and whilst the timescales for introduction have been staggered, it is hoped that in the future they will be almost seamless. There is so much overlap, not just in achieving change on the ground (e.g. restoring water bodies at risk under WFD that will also increase natural resilience to flooding), but also at the planning level with the two stakeholder groups and the plans themselves. Tweed Forum is well placed locally to help facilitate this (as with RMBP) and ensure that all stakeholders are involved and that practical works are achieved in partnership on multiple strategic levels.

We agree that urban drainage system plans should be included in the flood risk management plans.

We agree that the statutory planning process needs to be simplified but permission should only be granted if there are no objections received and the work meets the requirements of CAR.

We agree that streamlining of CAR and the planning process is extremely important and would welcome change on this front. Tweed Forum has been aware for some time that there is often duplication in the planning permission process with CAR and the Habitats Directive regulation, that has led to wasted effort and lengthy delays, particularly on lower risk/low impact activities.

As ever, Tweed Forum would like to emphasise the importance of considering integration with legislation across the border. Whilst the competent authorities under WFD have committed to integrated management in the cross border region, this has not translated through to dovetailing regulatory regimes and this has had led to management consequences. We hope that there is dialogue with the competent authority in England that allows integrated implementation of the Floods Directive at a UK level.

Yours sincerely,



Luke Comins
Manager

EcosshGN Limited

The Future of Flood Risk Management in Scotland

EcosshGN Ltd. has considered the Consultation Document "The Future of Flood Risk Management in Scotland" and offers its response on most of the questions as follows, based on experience with Flood Risk Assessments, Flood Protection Concepts and Flood Management Plans in the last 14 years, primarily in Germany and central Europe.

The different approaches to investigations and the handling of results on this topic in Scotland by different stakeholders and institutions, (SEPA, Councils), and discussion at a workshop on this topic on 13th of March in Stirling demonstrate that the preparation of clear rules for Flood Management Services in Scotland for the future are essential..

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

In our opinion the definition of SFM is not clear enough given the objective of "Avoidance". Reading the document, the use of the word "recover" indicates a reaction to flooding. It must be clearer in the definition, that there is also a need to understand avoidance as measures which can minimize the occurrence of floods, e.g. with measures in the catchment (reafforesting etc.).

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

Yes, but it must be more detailed (see response to Q1).

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

Yes. But it is necessary and helpful to consider the differentiation of the responsibility of this single authority on different catchments, applying the same rules to the same problems.

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

We agree that a single authority is required. If the authority is to be SEPA, then there must be a single work group, handling all problems related to flooding issues. Competent staff from different fields must be concentrated as Flood Risk Management is complex, ranging from hydrological and hydraulic issues to nature conservation and the need and priorities for socio-economic development. Delegating this work to the existing structure of SEPA would not be effective, it could perpetuate single issue approaches to complex issues.

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 we think it is, or will be.

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

We think it better that the partners within a local area decide about the designation of a lead authority themselves.

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?

Perhaps British Waterways and major port authorities/operators.

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

Yes. We would emphasise the need for these groups to have clear responsibility and ownership of the problem. They require clear policy direction from Ministers and support from SEPA but they must not be centrally micro-managed if they are to be effective..

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

Yes, if local autonomy is maximised within a clear policy framework..

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

Yes.

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

Yes, assuming that Ministers are supported by sufficient effective, professionally skilled departmental staff..

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

In general yes. Because such drainage plans are very often cost intensive it is necessary that urban drainage plans also consider possible measures for decreasing of flood peaks (in the catchment area upstream) as part of the Flood Risk Management Plans. Such integration means that linking the rural and urban areas can be a win-win-situation.

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?

The FRMP should inform the development plan, with supportive guidance from the central flood authority..

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, but all objectors must have the chance to air their views and to have a fair hearing. We also have a preference for a local authority procedure.

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

No.

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?

Revisions should be considered.

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

Yes.

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

The objection process (for all parties) should be no longer than 2-3 months. The timescale for response depends of course on the number and content of the objections. But in general it should not be longer than half a year..

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

Yes. At the end of this process the measures must be finally agreed and the the planning process concluded. There should be no opportunity for repetitive objection on the same issues.

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

The local authorities must have, or have access to, the specialists necessary for sound technical appraisal. The pooling of resources as suggested at 3.74 would be sensible and cost-effective.

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

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

No comment.

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

Yes, but keep it simple.

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

We have no specific suggestions but agree that this should be aspired to, in particular addressing the potential conflicts between nature conservation, public protection and development.

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

No suggestion.

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

Yes, it is very important to have comparative measures of effectiveness..

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

Yes.

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?

It seems quite adequate, it would be wrong to over react to this problem. However it would seem sensible to give the duty of promotion of measures to LA. It would also be advisable if the Bill included a duty upon the authority to regularly review FRMP and regional FRA in the light of new and better data.

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

Yes.

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

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It is not really in SEPA's area of expertise. This would have to be provided, either by transfer from the LA, which experience suggests would be a difficult process, or by additional funding. Why not a Cenral Inspectorate as part of EQD?

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?

Deal with it as part of the provisions of the Directive, avoid duplication

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

Extension to ensure necessary measures are implemented is desirable. Post incident reporting is important if done to a common standard and if lessons are learned. Reporting for its own sake should be avoided..

Q34. Views on crown application and any other comments?

No views.