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From: [Redacted]
Sent: 22 April 2008 15:18
To: Flooding, Erosion and Reservoir Safety
Subject: Consultation Response

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The Future of Flood Risk Management in Scotland

RESPONDENT INFORMATION DETAILS

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Responding as: On behalf of a group or organisation
Individual Permission: Not Supplied
Confidentiality: Not Supplied
Group or Organisation: Yes
Share Response Permission: Yes

Consultation Questions The Future of Flood Risk Management in Scotland

Question 1: Do you believe the definition of SFM is helpful and of practical benefit to flood risk management?
Question 2: Do you think the definition is clear and simple to understand?
Question 3: Do you agree with the conclusion as set out in paragraph 3.17?

<p>Question 4: Do you agree that there should be a single competent authority with a national remit for implementing the Floods Directive, and that it should be SEPA?</p>	
<p>Question 5: Do you agree that this is a sound basis for the development of Local Flood Risk Management Plans? If not what alternative do you propose?</p>	
<p>Question 6: Should Ministers or SEPA have the power to designate a lead authority within a local area, or should it be left to the partners?</p>	
<p>Question 7: Do you agree that Local Authorities, Scottish Water, the Forestry Commission, and SNH should be identified as responsible authorities?</p>	
<p>Question 8: Which other bodies should be identified as responsible authorities?</p>	
<p>Question 9: Do you agree that responsible authorities should have a duty to work together within Flood Advisory Groups to produce plans?</p>	
<p>Question 10: Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process?</p>	
<p>Question 11: Do you agree that the Bill should set out a process similar to that for River Basin Management Planning for the preparation by SEPA of area flood risk management plans?</p>	
<p>Question 12: Do you agree that Ministers have the power to approve, reject or modify Area Flood Risk Management Plans?</p>	
<p>Question 13: Do you think that integrated urban drainage plans should be included as part of a Local Flood Risk Management Plan?</p>	<p>This is the only question where we feel competent to comment. We agree the integrated urban drainage plans should be included in LFRMPs but would wish to stress that these plans need to cross reference to wider open space strategies to ensure that land used for SUDS and for retention etc contributes to wider open space functionality (multifunctional spaces offering drainage and flood management solutions alongside other benefits such as recreation, landscape or biodiversity should be favoured).</p>

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

Question 15: Do you think that the granting of deemed planning permission at the end of the statutory process for flood risk management will deliver a more streamlined approach to the delivery of flood risk management?

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

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

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

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

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

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

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

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

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

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

Question 26: Do you think that there is an alternative approach to simplifying the process of promoting flood measures to those

<i>discussed above which the Government should consider?</i>	
<i>Question 27: Do you agree that the form and content of the biennial reports should be more systematic, and subject to direction from Ministers?</i>	
<i>Question 28: Do consultees agree that the proposals as outlined will improve flood risk management and ensure Scotland is equipped to implement sustainable flood management?</i>	
<i>Question 29: Do consultees feel that this is enough to ensure that flood risk is addressed or should local authorities have a new duty to promote measures to alleviate flooding?</i>	
<i>Question 30: Do you believe enforcement responsibilities under the Reservoirs Act 1975 should be transferred to a single national body?</i>	
<i>Question 31: If so, should it be SEPA or another as yet unidentified body?</i>	
<i>Question 32: Are you content with the proposals for dealing with reservoir flood maps under the provisions of the Floods Directive, or do you think that there should be a statutory duty on reservoir undertakers to prepare reservoir inundation maps and plans, similar to the duty in the 2003 Water Act for England and Wales?</i>	
<i>Question 33: Do agree that enforcement powers be extended and post incident reporting included as an additional requirement?</i>	
<i>Question 34: Views on crown application and any other comments?</i>	

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Consultation by the Scottish Government on "The Future of Flood Risk Management in Scotland"

Response by Glasgow City Council

Introduction

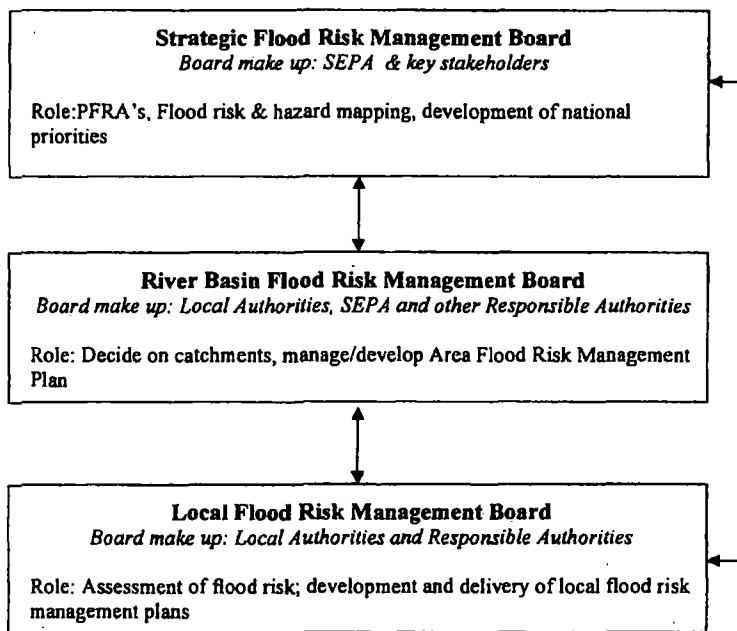
Glasgow is a city that has in the recent past suffered the effects of significant flooding. Glasgow City Council has been proactive, however, in its response to this challenge. It has brought forward the White Cart Water Flood Prevention Scheme, which led the way in the development of environmentally led, catchment management schemes. It is also a major partner in the development and implementation of the Metropolitan Glasgow Strategic Drainage Plan, an innovative partnership that is has established an integrated approach to flood management. Both of these projects are referred to within the consultation document

As a local authority Glasgow City Council has been required to work within the current legislation and recognises the difficulties and limitations that this presents. The Council welcomes, therefore, the Scottish Government's review of the legislation.

This response has been developed by the Council's Corporate Working Group on Flooding. The group which has been central to the development of the Council's approach to flood management brings together officers with expertise in flood management, strategic drainage, watercourse maintenance, development management and emergency planning. The answer provided, therefore, reflect Glasgow's integrated approach to flood management.

Basis for Response

The consultation document sets out the proposed process for the delivery of integrated flood risk management. It does not, however, provide sufficient information on the delivery arrangements that will be put in place to bring it forward. To provide a structured response it has been necessary for the following organisation arrangement to be used. It is the Council's view that such an arrangement will be necessary if the proposals set out in the consultation document are to be progressed.



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RESPONSE TO THE QUESTIONS	
Q1.	Do you believe the definition of SFM is helpful and of practical benefit to flood risk management?
	No. The definition is long winded and open to various interpretations.
Q2.	Do you think the definition is clear and simple to understand?
	No. If a definition is to be given at all then terms like "sustainable" and "fair and affordable" need to be defined more clearly, e.g. fair and affordable for whom. From the given definition, it is not clear who would benefit from SFRM. The definition would benefit from specifically referring to the systematic and continuous planning processes that informs how to deal with flood management of a 'particular' flood situation. Any definition should also include roads surface water drainage in the list of types of flooding.
Q3.	Do you agree with the conclusion as set out in paragraph 3.17?
	A single competent authority properly resourced (refer to the response to Question 4) is necessary to provide a national focus. The development of that focus, however, requires to be influenced and directed by local drivers. Consequently, any competent authority requires to put in place the mechanisms to meaningfully engage with local authorities and other local stakeholders
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 need for a nationally consistent, strategic approach to sustainable flood management requires the establishment of a single competent authority. Successful delivery of sustainable flood management requires, however, three processes: planning, delivery and regulation. SEPA's current role relates only to regulation and as such is not suited to undertake a role that will require flexibility and co-operative working. Should it be deemed that SEPA are to be the Competent Authority then it will be necessary to ensure that it is correctly resourced both in terms of funding and suitable staff.
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?
	There are a number of flaws with the proposed process which could disadvantage urban areas if future funding allocation is based on these plans: <ul style="list-style-type: none"> • Flood Risk and Hazard Mapping will be based on SEPA flood maps which will fail to identify significant flood risk in urban areas from culverted watercourses and overland flow. • Sewer flooding will be excluded at the Area Plan level, thus omitting a significant source of urban flooding

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	<p>Consequently, it is essential that flood risk mapping is developed on a "bottom up" approach with local knowledge and detailed information being utilised in the formation of all levels of plan i.e. integrated sewer and watercourse flood models.</p> <p>Area Flood Risk Maps require to be based on similar geographical areas to the River Basin management process</p>
Q6.	<p>Should Ministers or SEPA have the power to designate a lead authority within a local area, or should it be left to the partners?</p>
	<p>The management of flood risk at a local catchment level requires to be carried out by a Board type organisation, similar to that utilised within River Basin Management Planning. Such a Board will require to involve Scottish Government representation. It would therefore be the responsibility of the Board to nominate a lead authority.</p>
Q7.	<p>Do you agree that Local Authorities, Scottish Water, the Forestry Commission, and SNH should be identified as responsible authorities?</p>
	<p>Yes, however the various authorities have differing roles in flood management, so their roles and responsibilities must be clearly defined.</p> <p>Responsible Authorities must have a clearly defined legal duty to be involved and to ensure that the required financial resources are made available to allow Plans to progress.</p> <p>RA's will need to work closely with River Basin Management Boards and a culture change will be needed to achieve this.</p>
Q8.	<p>Which other bodies should be identified as responsible authorities?</p>
	<p>Transport Scotland and Roads Authorities. Emergency Services. Local Enterprise Companies. Network Rail. British Waterways Board.</p> <p>Harbour and Port Authorities who are at the bottom end of the flooding chain.</p> <p>NFU must also be represented to control water abstraction/return rates and water run-off for the farming community.</p> <p>Some bodies could be named as consultees and their duties and powers clearly defined</p>
Q9.	<p>Do you agree that responsible authorities should have a duty to work together within Flood Advisory Groups to produce plans?</p>
	<p>This would require a robust service level agreement that ensures that RA's have a duty to participate, work together co-operatively and deliver the Plan</p> <p>FLAG is an advisory group and should now be absorbed into the Local Flood Risk Management Plan Group.</p>

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Q10.	Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process?
	<p>No. It is too early in the process to answer the question effectively.</p> <p>Stakeholders must be made to understand that they will, by law, have a financial commitment to FRM Plans and must budget accordingly.</p> <p>Community involvement in the formation of plans should be limited to identification of relevant issues (but not at this early stage). Public consultation should then only take place in relation to the identified issues.</p>
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?
	<p>Not necessarily, RBMP has a water quality agenda and must cover all river catchments. Flood risk management plans are only required for those catchment areas subject to significant flood risk. The EU directive only requires that Flood Risk Management Plans be co-ordinated at the level of the River Basin District. On this basis the RBMP model is probably too elaborate. All that is required is a process that allows the relevant communities and responsible authorities to input to and direct the overall strategy set out in the Area (Regional) Flood Risk Management Plans. The Bill should identify the RBFRMP Board – chaired by SEPA and possibly with a Scottish Government secretariat - (see response to Q6) as the body responsible for preparing, consulting upon and adopting the plan – this process should result in the creation of a statutory document. However, its contents should reflect a bottom up approach whereby the aspirations are identified by the RA's reflecting their assessment of local requirements with regard to flood prevention and development. This should then be filtered through the lens of strategic area/regional considerations. The statutory document should set the agreed priorities and context for Local Flood Risk Management Plans upon which the RA's and the development industry can then base their forward investment programmes.</p>
Q12.	Do you agree that Ministers have the power to approve, reject or modify Area Flood Risk Management Plans?
	<p>The Bill should ensure that Area (or Regional) Flood Risk Management Plans become statutory documents/legal entities and as such will be subject to Ministerial oversight and ratification. As with the planning process it should include a validation mechanism involving public scrutiny i.e. a Public Local Inquiry or similar process</p>
Q13.	Do you think that integrated urban drainage plans should be included as part of a Local Flood Risk Management Plan?
	<p>Yes - for a City Region like Glasgow it is essential that urban drainage plans are integrated into the development process. The Glasgow Strategic Drainage Plan requires the creation of holistic models reflecting flood risk from all sources. Linking sustainable urban drainage systems with integrated infrastructure (including green infrastructure and access) planning and design is crucial to maximising the economic, environmental and social benefit of investing in development. It will contribute significantly to sustainable place making and quality of life outcomes in urban areas. However, delivering such integrated systems within dense urban areas will result in SUDS that will conflict with the requirements of SFS2. In terms of infrastructure delivered, another example of how over-prescriptive operational focus and accounting boundaries within public bodies result in sub-optimal, 'none joined up' outcomes which seriously impact on the possibility of achieving quality place-making or enhancing biodiversity etc. The Bill will need to give further and fuller consideration to the responsibilities and mechanisms for ensuring the equitable, effective and efficient long-term ownership/adoption and maintenance of SUDS (including overland flow routes) in urban areas.</p>

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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?
	<p>For land use planning to be effective must take proper cognisance of matters relating to infrastructure. Ideally such information should be available to inform spatial planning. There should be a legal requirement on planning authorities to demonstrate that the Development Plan has shown proper regard to the FRMP. This is necessary because development plans will be a fundamental tool in the delivery of FRMP's. Land-use planning will create the necessary spatial framework for the management of water, particularly in urban areas. Because water flow is defined by terrain this spatial framework must identify and/or deliver specific areas of land to fulfil water storage, conveyance and flood routeing functions. In terms of the latter the planning authority should have the power to locally restrict permitted development rights with regard to walls and other structures which may negatively impact upon such functions.</p> <p>However there may be procedural problems relating to timing. Ideally, production of a FRMP will be timed to inform the review of local plans i.e. be available to at least inform the finalised draft. Unless an up to date FRMP is available at the right time in the local plan review process it will make the exercise more difficult and protracted. A Development Plan which is not in sync with a new FRMP will need to demonstrate how it will have regard to elements that are not changing and how it will take on board any new material produced after the plan has been adopted.</p> <p>Much of this could be achieved by issuing an appropriately revised version of SPP 7</p> <p>It should be noted that an FRMP will be of little use in an urban situation if it only considers watercourses. Culverts and sewers ARE the surface water drainage of a City – a fact that is now well recognised in City's in England i.e. Hull, Sheffield, Carlisle etc.</p>
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. However, it will be necessary to apply conditions to any such permission. Any legislation should include a requirement for some form of arbitration to be applied if agreement on the nature and extent of the conditions cannot be reached
Q16.	Should Ministerial confirmation be made necessary even where features of a scheme do not require planning permission?
	Provided the appropriate technical checks are in place to ensure adequate design there should be no need for Ministerial confirmation
Q17.	Is the present procedure for Ministerial confirmation satisfactory for this new purpose or are there revisions, e.g. to timescales which would be considered?
	It is intended that Flood Risk Maps will require the approval of Ministers. This early consideration and assessment should therefore streamline and reduce significantly the information and time required by Ministers to approve specific schemes later in the process.

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Q18.	Do you think that the option to rely on a local authority based process in a similar way as other local authority development activity should be taken forward?
	Local Authorities will be responsible for the development of Local Flood Risk Management Plans and the allocation of the funding provided. The approval process could be simplified where a scheme is in line with the Strategic Flood Risk Management Plan and the River Basin Flood Risk Management Plan and has been granted planning approval then it should be given deemed Ministerial approval
Q19.	What would be the appropriate timescales for notification and response?
	The approval processes should run concurrently where possible with the timescale for notification and response similar to the planning process but not more than six weeks.
Q20.	Would it be appropriate for such a process to carry Deemed Planning Consent?
	It would be helpful for the process to carry deemed planning consent provided that it was with conditions that would allow for minor variations or revocation of conditions to be made as the details of a scheme were developed, without the need for significant resubmission.
Q21.	How should the issue of technical expertise and capacity to ensure the necessary technical standards are observed, be addressed?
	<p>Design checks by suitably experienced and qualified independent people should be mandatory. LA's should be funded to encourage academic links partnering them to bring forward the professional resource required to deliver the solutions over the next 20 years and beyond)</p> <p>Recent cycles of reorganisation in local government have seen a loss of technical capacity. However, Glasgow does have a core technical resource to fulfil its statutory duties. Additional capacity and expertise is brought in from consultancies as required. Very significant investment by councils would be required to maintain in-house technical expertise. A better use of resources would be to use skills in facilitation of the many elements of projects.</p> <p>Under the former flood prevention funding of 80% of allowable cost, councils were unable to fund in-house costs. The development of academic links may be a way to bring in expertise leading to an in-house ability.</p>
Q22.	Are there any additional alternatives to the options outlined above which would simplify procedures?
	No

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Q23.	Do you consider local authorities' powers are sufficient to take necessary action to avert danger to life and property?
	A local authority currently has powers in terms of Section 84 of the Local Government (Scotland) Act 1973 to incur expenditure in an emergency or disaster and this may be used in a flood event. There is, however, no mechanism to recover costs where another party may be responsible for the incident, its impact and cost. It would be reasonable for a local authority to be able to recover reasonable costs where appropriate. Entry onto land is enabled in the Flood Prevention (Scotland) Act 1961, Section 8 and in an emergency entry may be authorised by a sheriff or justice of the peace. This is adequate.
Q24.	Do you agree that streamlining the CAR and flooding/planning processes can be managed through better guidance?
	Yes. The details required for CAR are greater than that required for the other approvals therefore the design has to be progressed much further before the CAR application is made. The streamlining of CAR is imperative so that it can tie in with the level of detail for the promotion of a scheme including timescale. Confirmation of a scheme should include deemed CAR approval which could have conditions attached.
Q25.	Do you think there is anything further SEPA, the Scottish Government or others should be doing to promote joined-up regulation?
	The response to the previous questions will improve the joined up regulation A review of all other legislation that may have some relevance to flooding should be undertaken, aligned and streamlined where possible. The regulations to be considered should include those involving sewerage, roads, canals and agriculture.
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?
	Local authorities should have deemed consent provided it sits with the River Basin Management Plan. This would allow minor flood prevention schemes and major maintenance work to be undertaken in a short timescale. Further development of the general binding rules to give more flexibility would also be helpful
Q27.	Do you agree that the form and content of the biennial reports should be more systematic, and subject to direction from Ministers?
	The format should remain flexible but must include all the information required. It should link with the Flood Risk Management Plans therefore it would be appropriate for it to be produced by the Flood Risk Management Board. The report should include flooding from all sources with input from Scottish Water, British Waterways etc. Publication should be in a three year cycle with issue one year before the block grant funding cycle.

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Q28.	Do consultees agree that the proposals as outlined will improve flood risk management and ensure Scotland is equipped to implement sustainable flood management?
	<p>The promotion of an integrated, co-operative approach is to be welcomed . However, it is essential that the necessary management framework and process are put in place and that the whole process is properly funded, programmed and resourced.</p> <p>In relation to urban areas it is essential that all sources of urban flooding, i.e, watercourse, overland flow and sewer flooding are properly recognised and mapped.</p>
Q29.	Do consultees feel that this is enough to ensure that flood risk is addressed or should local authorities have a new duty to promote measures to alleviate flooding?
	<p>There are a number of areas that could influence flood risk management where local authorities' powers are insufficient:</p> <p>At present the demolition of riverside properties which may form an integral part of existing flood defences can be demolished without reference or consideration of the potential flood risk. There is a need for such actions to be managed and controlled by a Flood Management group</p> <p>There is a need to provide local authorities with the powers to manage urban areas to route, control and store overland flow. This may require the management of infrastructure and property, e.g. the raising of kerbs to divert flows or the creation of safe flow routes and storage areas. Such actions, if identified within an approved Flood Risk Management Plan should provide the basis for local authorities to utilise compulsory powers to acquire the necessary areas to deliver the Plan (see also answer to Q26)</p>

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?
	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 2003 Water Act for England and Wales?
	Yes
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?

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From: [REDACTED]
 Sent: 22 April 2008 15:51
 To: Flooding, Erosion and Reservoir Safety
 Subject: Consultation Response

The Future of Flood Risk Management in Scotland

RESPONDENT INFORMATION DETAILS

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 Individual Permission: Not Supplied
 Confidentiality: Not Supplied
 Group or Organisation: Yes
 Share Response Permission: Yes

Consultation Questions The Future of Flood Risk Management in Scotland

Question 1: Do you believe the definition of SFM is helpful and of practical benefit to flood risk management?	no comment
Question 2: Do you think the definition is clear and simple to understand?	no comment
Question 3: Do you agree with the conclusion as set out in paragraph 3.17?	no comment
Question 4: Do you agree that there should be a single competent authority with a national	It might be better to make Scottish Ministers the competent authority but to provide a power for Scottish Ministers to delgate this responsibility to othr body or bodies as they see fit, with the clear understanding(not in the

<i>remit for implementing the Floods Directive, and that it should be SEPA?</i>	formal instrument) that for the first period of time it would be SEPA who would receive delegated powers. Such as approach might simplify subsequent minor changes to arrangements if a need to fine tune-roles and responsibilities emerges over time.
<i>Question 5: Do you agree that this is a sound basis for the development of Local Flood Risk Management Plans? If not what alternative do you propose?</i>	no comment
<i>Question 6: Should Ministers or SEPA have the power to designate a lead authority within a local area, or should it be left to the partners?</i>	no comment.
<i>Question 7: Do you agree that Local Authorities, Scottish Water, the Forestry Commission, and SNH should be identified as responsible authorities?</i>	Would Scottish Ministers need to retain the option of acting(or appointing another to act) as responsible authority, in case of failures of function or disagreements over leadership?
<i>Question 8: Which other bodies should be identified as responsible authorities?</i>	Should Historic Scotland be named here? His own/control a significant number of sites where flood risk is an issues - e.g. Threave Castle, elgin Cathedral, many coastal sites. Would it be better for Historic Scotand to act always in (junior)partnership with local authorities planning for larger areas?
<i>Question 9: Do you agree that responsible authorities should have a duty to work together within Flood Advisory Groups to produce plans?</i>	no comment
<i>Question 10: Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process?</i>	In outline, yes, but thre would need to be development of detailed local action groups and frameworks, which could be a substantial drain on staff resources for all bodies involved.
<i>Question 11: Do you agree that the Bill should set out a process similar to that for River Basin Management Planning for the preparation by SEPA of area flood risk management plans?</i>	no comment
<i>Question 12: Do you agree that Ministers have the power to approve, reject or modify Area Flood Risk Management Plans?</i>	Yes, but are we to expect a process similar to that currently used for Environmental Impact Assessments, where Historic Scotland(as aprt of Scottish Ministers) sees all Environmental Statements and contributes to Scottish Ministers assessment of their acceltability. this would require consideration in terms of staff resources here at Historic Scotland.
<i>Question 13: Do you think that integrated</i>	Yes, because(a) illogical not to include and (b)

<i>urban drainage plans should be included as part of a Local Flood Risk Management Plan?</i>	potential impact on built heritage is high, so need to be considered by Scottish Ministers before approval.
<i>Question 14: Should Flood Risk Management Plans inform the way that development plans are prepared, or should there be a stronger linkage such as a requirement on planning authorities to show that they have regard to the FRMPs?</i>	Given the scale of effort required to create Plans, a strong role should be given to them. A "requirement to demonstrate that/how plans have been taken into account" might be the correct level of weight.
<i>Question 15: Do you think that the granting of deemed planning permission at the end of the statutory process for flood risk management will deliver a more streamlined approach to the delivery of flood risk management?</i>	Need to consider several other strands of permission required - notably Scheduled Monument Consent and Listed Building Consent. Historic Scotland should perhaps remain open minded about how far these could be incorporated in a one stop consent approach or continue to be handled in parallel, but this would need very careful consideration. any one stop regime would need to offer a standard as least as high as separate consent processes could afford.
<i>Question 16: Should Ministerial confirmation be made necessary even where features of a scheme do not require planning permission?</i>	Probably yes - unless agreement were reached on a fully integrated system which adequately addressed all consent needs.
<i>Question 17: Is the present procedure for Ministerial confirmation satisfactory for this new purpose or are there revisions e.g. to timescales which should be considered?</i>	no comment
<i>Question 18: Do you think that the option to rely on a local authority based process in a similar way as other local authority development activity should be taken forward?</i>	no comment
<i>Question 19: What would be the appropriate timescales for notification and response?</i>	no comment
<i>Question 20: Would it be appropriate for such a process to carry deemed planning consent?</i>	no comment
<i>Question 21: How should the issue of technical expertise and capacity be addressed?</i>	no comment
<i>Question 22: How could such a process ensure the necessary technical standards are observed?</i>	no comment
<i>Question 23: Are there any additional alternatives to the options outlined above which would simplify procedures?</i>	no comment
<i>Question 24: Do you agree that streamlining the CAR and flooding/planning processes, can</i>	no comment

<i>be managed through better guidance?</i>	
Question 25: Do you think there is anything further SEPA, the Scottish Government or others should be doing to promote joined-up regulation?	no comment
Question 26: Do you think that there is an alternative approach to simplifying the process of promoting flood measures to those discussed above which the Government should consider?	no comment
Question 27: Do you agree that the form and content of the biennial reports should be more systematic, and subject to direction from Ministers?	no comment
Question 28: Do consultees agree that the proposals as outlined will improve flood risk management and ensure Scotland is equipped to implement sustainable flood management?	no comment
Question 29: Do consultees feel that this is enough to ensure that flood risk is addressed or should local authorities have a new duty to promote measures to alleviate flooding?	no comment
Question 30: Do you believe enforcement responsibilities under the Reservoirs Act 1975 should be transferred to a single national body?	no comment
Question 31: If so, should it be SEPA or another as yet unidentified body?	no comment
Question 32: Are you content with the proposals for dealing with reservoir flood maps under the provisions of the Floods Directive, or do you think that there should be a statutory duty on reservoir undertakers to prepare reservoir inundation maps and plans, similar to the duty in the 2003 Water Act for England and Wales?	no comment
Question 33: Do agree that enforcement powers be extended and post incident reporting included as an additional requirement?	Yes, subject to discussion on content and provided not just about allocation of blame - post incident reporting is essential to allow authorities to learn from their own and others experiences.
Question 34: Views on crown application and any other comments?	no comment

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Response by Ordnance Survey to:

The Future of Flood Risk Management in Scotland

Consultation on how sustainable flood risk
management in Scotland will operate more effectively
than at present.

1. Introduction

1.1 Background

Ordnance Survey is the national mapping agency of Great Britain. We maintain the definitive geographic framework, as well as capturing and marketing a wide range of geographic information. Our Director General is official advisor to the United Kingdom Government on all aspects of survey, mapping and geographic information. Ordnance Survey is a Government department in its own right with Executive Agency status, and since 1999 has operated as a Trading Fund.

Ordnance Survey is accountable to Parliament through Ministers in the Department for Communities and Local Government, but maintains close liaison and working relationships with the Welsh Assembly Government.

Ordnance Survey surveys and collects data on roads, buildings, addresses, boundaries, water courses, height and many other aspects of the natural and man-made landscape of Britain. Although traditionally provided to users as paper maps, this data is now more usually supplied as digital information which can be readily analysed, manipulated and linked to other information within a computer environment.

Ordnance Survey's digital database of the surface of Britain is known as the National Geographic Database (NGD), from which the OS MasterMap[®] product portfolio is produced and from which all of our other mapping and digital products and services are derived. The NGD is kept up to date on a daily basis with up to 5,000 changes being added to the database each day. It forms a valuable resource for the country.

1.2 Responses

It is not appropriate for Ordnance Survey to answer all of the questions posed by the Consultation. Many questions deal with issues that are outside the scope of Ordnance Survey's operations and expertise.

For this reason the questions to which Ordnance Survey is providing comment are at 2 below.

Executive Summary:

Ordnance Survey creates, maintains and distributes geospatial and cartographic data and products relating to Great Britain in the nation's interest. As part of its Public Task, it also ensure that its data is capable of supporting the principles underlying the Digital National Framework (DNF) in underpinning the association and integration of third party geospatial information.

Ordnance Survey has been pro-actively involved in the Atlantis programme which aims to achieve a far better understanding and managing of **flood hazards**. Ordnance Survey believes this programme provides an excellent example of collaboration between different government departments and agencies and of how datasets from different sources can be effectively integrated using the principles underlying the Digital National Framework.

The Atlantis programme is described in more detail below but if the Committee so desires, Ordnance Survey would be very happy to provide further information.

1.2 The Atlantis Initiative

The Atlantis initiative has been established by a consortium of public sector organisations: British Geological Survey, Centre for Ecology and Hydrology, Environment Agency, Met Office, Ordnance Survey and UK Hydrographic Office. Since 2008 SEPA is a corresponding member of Atlantis, this will make the data easier to use and will allow us to do things today with existing data sets e.g. scenario play, local risk factors etc

1. The programme aims to develop, maintain, and promote the use of definitive, consistent and seamless national environmental spatial datasets as part of the national geographical data infrastructure. The primary purpose is to enhance the national capability to understand and manage flood hazards and other water-related environmental matters. Additionally it is intended that the programme will facilitate major efficiencies and service improvements for the public and private sector users of the information.
2. Two key datasets, a Detailed River Network, from the Environment Agency and a variable accuracy hydrologically-consistent Digital Terrain Model (Land-Form PROFILE®Plus) from the Ordnance Survey will comprise the core datasets. These will be high-resolution, maintained and fully consistent with each other. Complementary datasets will include geology, river basin and flood flow information, climatological information, and coastal and hydrographic information.
3. Market research revealed that a third of users spend 'between 25% and 50% of their effort on data clean-up and preparation' as part of their development or project. This is clearly inefficient and unacceptable and is a major inhibitor of the effective reuse of existing data. It is in part due to the fact that, until recently, there has been no standard or guidelines regarding data interoperability. This is also one of the motivators for the INSPIRE Directive recently introduced by the European Commission. The aim in future is to build in interoperability at source so that the different datasets will work together 'out of the box' – wherever they are maintained.

Defined by user needs these datasets will be interoperable with each other and with such OS MasterMap datasets as may be agreed between the Programme Members from time to time, meaning that units, coordinate systems, formats, referencing systems and positioning will be consistent and compatible

2 Response to Questions that we are able to comment on

Ordnance Survey's principal role in relation to flooding is to contribute to the information base on which decisions should be made. As such we cannot usefully comment on the management structures and procedures that may be appropriate in Scotland, beyond supporting the conclusion that a framework for co-ordination is a pre-requisite for integrated flood management. There is just one question to which we are able to respond:

Q13 Yes, for the reasons stated in 3.46.

3. Further information and contact details

Ordnance Survey would be happy to discuss further the points made in our response if required.

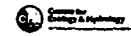
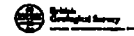
The contact for this response is:

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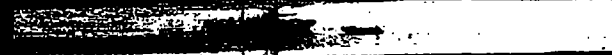
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the
ATLANTIS
initiative



The ATLANTIS Initiative

The ATLANTIS Initiative is a joint effort between the British Geological Survey, the Centre for Ecology & Hydrology, the Environment Agency, the Met Office, Ordnance Survey and the UK Hydrographic Office. It is a multi-agency initiative that aims to bring together the expertise and resources of these organisations to address the challenges of coastal flooding and sea level rise. The initiative is focused on the development of a national coastal flood risk assessment and the provision of data and information to support decision-making on coastal protection and adaptation.

Collaboration across government

The ATLANTIS Initiative involves:

- British Geological Survey
- Centre for Ecology and Hydrology
- Environment Agency
- Met Office
- Ordnance Survey
- UK Hydrographic Office

These organisations have varying geographical responsibilities ranging from England and Wales, to Great Britain, to the United Kingdom and beyond.

For more information, visit our website at www.bgs.ac.uk/atlantismap or contact us at atlantis@bgs.ac.uk

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Centre for Ecology & Hydrology Dave Morris
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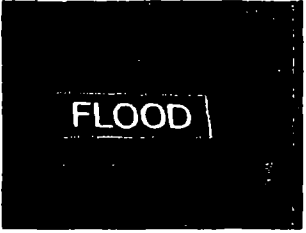
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Atlantis: www.dnf.org/applications/atlantismap
DNF: www.dnf.org
INSPIRE: www.ec-gis.org/inspire/





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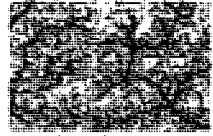
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Information and maps

Drainage is a key factor in the ...

Centre for Ecology and Hydrology: The Centre for Ecology and Hydrology has over 30 years' experience in developing hydrological models and software.

Environment Agency: The Environment Agency is completing the development of the new DRN (for England and Wales).



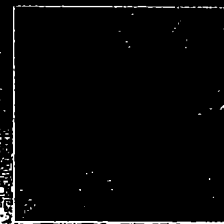
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1. Identification of the most vulnerable areas

The ...

2. Coastal inundation
As the land and marine information links up, it will be easier to predict weaknesses in the coastal defences and to explore a wider number of scenarios, such as the impact of prolonged heavy rain combined with a tidal surge.

3. Flooding
With the new data it is envisaged that a user would be able to more accurately integrate proposed development plans with the terrain model, river network and complementary datasets.



Planned new development at the edge of the flood plain

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RESPONDENT INFORMATION FORM

The Future of Flood Risk Management in Scotland

Please complete the details below and return it with your response. This will help ensure we handle your response appropriately. Thank you for your help.

Name: [REDACTED]

Postal Address:

.....Aberdeen City Council, Economic and Environmental Sustainability,
Strategic Leadership, 4th Floor, Balgownie 1, AECC, Bridge of Don, Aberdeen, AB23
8AQ.....

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 X (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 X (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 X
- 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

Please return this information form with your comments on the proposed amendments by 23 April 2008.

CONSULTATION – THE FUTURE OF FLOOD RISK MANAGEMENT IN SCOTLAND
Aberdeen City Council

SUMMARY OF CONSULTATION QUESTIONS

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

The definition of Sustainable Flood Management (SFM) appears to be helpful although there is a need to 'preserve' the environment as well as protecting and working with it. SFM should be seen as an opportunity to maintain the environment that it is working with for the benefit of flood risk management for current and future generations.

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

Having taken a few attempts to read through the definition in a bid to completely understand it, there is a suggestion that not everyone will find it totally clear and simple at first glance. Any definition that requires further explanations through the use of single and multiple asterisks are perhaps not the most clear and simple way of presenting it.

The majority of the associated objectives and principles are agreed, although the social objective to 'enhance community benefit with fair access for everyone' is not very clear. What does it mean in a flood risk management context? What community benefits are to be enhanced, and fair access to what?

With regards to the principle 'options appraisal', it should be made clear that any decision making tool used to establish which options are viable, should consider costs and benefits to the environment as well as social and economic aspects.

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

Aberdeen City Council agrees with this conclusion. Managing flood risk at a local level is the best way forward. It would enable a focus on local issues while being in a position to consider the issues and links with other catchment areas.

It is agreed that local authorities should undertake local coordination of the implementation of flood defence works in conjunction with other local and responsible authorities given their current role of promoting Flood Prevention Schemes and their role as a planning authority. Their close working relationship with the public will also be important in terms of community engagement.

The use of a single competent authority to take the lead at a national level during implementation would enable more effective problem and solution identification. This would also ensure plan implementation at a local level and controlled management and coordination by the single competent authority.

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?

In general, the use of SEPA as the single competent authority to take the lead at a national level during implementation would be best placed given their current role in the development of the River Basin Management Plans. Their experience and knowledge of River Basin Management Planning would be important for the successful implementation of the Floods Directive.

However, there is a question mark over how SEPA will work with local authorities. For example, SEPA do not deal with small burns, yet these can be the source of bigger flooding problems. How could an issue such as this be tackled?

CONSULTATION – THE FUTURE OF FLOOD RISK MANAGEMENT IN SCOTLAND
Aberdeen City Council

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

It is agreed that a clear and participate approach would be a sound basis for the development of Local Flood Risk Management Plans. Plus, working at the scale of single small catchments that would not be restricted by local authority boundaries is a sensible approach to Local Flood Risk Management. It is important to include the whole drainage area of a river, for example, where there may be one or more flood risk to ensure effective flood risk management of that catchment area.

However, there are concerns with how this will be funded. It is not clear if the money transferred to the local government settlement will include ring-fenced monies to tackle flood risk management. It is suggested that future local government settlements include ring-fenced monies that reflect the requirements of Flood Risk Management Plans.

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

Partners should be able to designate a lead authority. This will help maintain flexibility and cooperation between the responsible and local authorities.

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

Aberdeen City Council agrees that the organisations listed above should be identified as responsible authorities.

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

Other suggested bodies include the Farmers Union, Crofters Commission, and the Crown Estate.

Other groups that should also be considered for consultation include: -

Coastal Partnerships – these have been set up to implement Integrated Coastal Zone Management (ICZM) at a local level.

The Royal Society for the Protection of Birds (RSPB) where issues of the environment and birds can be considered.

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

Responsible authorities should work together within Flood Advisory Groups. A similar setup has worked well for the development of River Basin Management Plans.

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

It is important that local communities inform Flood Risk Management Plans. The establishment of stakeholder forums is certainly a good way to support wider stakeholder and community engagement. It may also be appropriate to use relevant established fora that are still in existence as a way of communicating and engaging. The use of a website and or web forum may also be useful.

CONSULTATION – THE FUTURE OF FLOOD RISK MANAGEMENT IN SCOTLAND
Aberdeen City Council

Q11. Do you agree that the Bill should set out a process similar to that for River Basin Management Planning for the preparation by SEPA of area flood risk management plans?
Aberdeen City Council agrees that the Flooding Bill should set out a process similar to that for River Basin Management Planning. Given the links between River Basin Management Planning and Flood Risk Management Planning, it is important to follow a similar process to enable consistency. This process for River Basin Management Planning appears to be working well thus far.

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

Overall responsibility for high level strategic plans should be taken at Scottish Government level, therefore, it is only correct that Scottish Ministers should have the power to approve, reject or modify Area Flood Risk Management Plans.

However, it is unclear what that process may be. Furthermore, it is important that the appropriate skills and knowledge is available for Ministers to be able to make informed and appropriate decisions. Final decisions should only be taken after consultation with the competent authority.

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

Integrated urban drainage plans should be included in Local Flood Risk Management Plans to ensure an overall integrated and sustainable approach to flood risk management.

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?

Flood Risk Management Plans (FRMPs) should inform the way that development plans are prepared. This will ensure that long term plans for land use has considered flood risk management and allocated land in a way that reflects Flood Risk Management Plans.

There is, however, a need for planning authorities to show that they have regard to FRMPs through the development of appropriate structure and local plan policies.

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

The 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.

However, this approach should not be at the risk of a reduced opportunity for local consultation, and local decision making.

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

It would appear that such a proposal is inefficient, and would not achieve the objective of streamlining the current 'consents' process.

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?

This question was unclear and, therefore, Aberdeen City Council could not provide a response.

CONSULTATION – THE FUTURE OF FLOOD RISK MANAGEMENT IN SCOTLAND
Aberdeen City Council

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?

Potentially yes, as there appears to be greater coherence in this proposal, which places local flood measures on a similar footing to other local authority development related activities.

There may, however, be issues with appropriate and available resources to deal with the extra workload.

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

The appropriate timescales for notification and response would require being commensurate with existing arrangements for similar activities. For small scale schemes, timescales similar to existing planning applications could be appropriate, with proposals being available for comment for a period of 2 weeks.

An alternative approach would be to reflect the timescales and procedures currently in place for the promotion of Traffic Orders (The Local Authorities Traffic Orders (Procedures) (Scotland) Regulations 1999, which provide a period of 21 days from time of publication of order for objections to be raised.

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

It would be appropriate for such a process to carry deemed planning consent, although this is subject to sufficient opportunity being given for consultation, opportunities provided for comment/objections, and provision for resolution of objections.

It is noted that certain flood schemes may require the preparation of an Environmental Statement, which under recent legislation, requires consideration by the Planning Authority, and planning permission.

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

Yes, it would be appropriate to use a pool of in-house experienced engineers for example, but it would also be necessary to include other experts such as those involved in sustainable development and environmental strategy plus contaminated land issues to ensure that the any proposal meets sustainable development requirements. There are also opportunities for sharing expertise between local authorities. However, requirements may vary greatly on a case-by-case basis.

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

We are not currently aware of other viable alternatives that would also satisfy overarching regulatory requirements.

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

Aberdeen City Council considers that currently there are sufficient powers to take necessary action to avert danger to life and property. Aberdeen City Council will, however, continue to monitor its emergency planning procedures given increasing rainfall events.

CONSULTATION – THE FUTURE OF FLOOD RISK MANAGEMENT IN SCOTLAND
Aberdeen City Council

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

It is agreed that statutory provisions would be required and that better guidance will assist in the streamlining of CAR and flooding/planning processes. The current process is seen as long and time consuming.

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

If regulatory change cannot be considered due to overarching legislative requirements, it is suggested that emphasis be placed upon breaking down institutional barriers between local planning authorities and SEPA through workshops, guidance and other networking initiatives.

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?

It is difficult to consider other distinct options that would simplify the process of promoting flood measures, yet still comply with wider regulatory requirements. However, when Flood Risk Management Plans have been developed, simple mechanisms need to be in place to allow local authorities to tackle the issues and implement the appropriate measures required.

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

Yes, Aberdeen City Council agrees that the form and content of the biennial reports should be more systematic and subject to direction. These reports should become more prescriptive so that there is consistency, something that is lacking in the current process. These reports should inform the development of Flood Risk Management Plans.

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

Aberdeen City Council agrees that these proposals will improve flood risk management by enabling joint and cross boundary working between responsible authorities and on a catchment area basis. This will also promote joint working within local authorities, for example between operational, strategic and planning services.

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?

Aberdeen City Council agrees that this is a very good first step in addressing flood risk management. This process should allow for changes to be made if required in a bid to improve management. However, any proposals for a new duty on local authorities to promote measures to alleviate flooding would need to be very carefully considered, particularly in relation to cases where this would be and would not be applied. There would also be a need to ensure that any new local authority duties are matched by corresponding opportunities for funding to enable such duties to be effectively discharged.

RESERVOIR SAFETY

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

If there is greater control and management of reservoir safety, then there should be a single national body to take on this role. Aberdeen City Council believes that it is important that this role covers all reservoirs within its remit in a bid to effectively reduce flood risk and for the purpose of consistency.

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

SEPA would be the best organisation for this role as long as resources were made available to cater for this.

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?

For flood risk management to be effective, it would be more appropriate for reservoir flood maps to be dealt with as part of the Floods Directive. Given that flood maps will be required as part of the Floods Directive, it would be common sense to include reservoir flood mapping to ensure a full picture of potential flood risks and effective control and streamlining of the process.

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

Post incident reporting should be included so that trends can be established, lessons learnt and changes made if required to improve flood risk management.

Q34. Views on crown application and any other comments?

The Crown Estate, for example, owns much land including coastal foreshore and seabed out to 12nm in many areas in Scotland. To allow a full picture of flood risk and subsequent effective management, there is a need to consider the inclusion of crown bodies. It is important that all stakeholders are included in flood risk management.

It is not clear how far and to what level funding will cover. Will funding cover the implementation of individual schemes highlighted within Local Flood Risk Management Plans? This needs to be clarified. Furthermore, how will funding work if more than one local authority is involved in a scheme?

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improving living in scotland



SG Consultation – The Future of Flood Management in Scotland

Response on Flooding only

Homes for Scotland is the representative body for the private home building industry in Scotland. Homes for Scotland represents the interests of over one hundred and thirty member organisations who provide 95% of all new homes built for sale in Scotland and we have a rapidly expanding membership of professional and other service businesses engaged in our industry. We seek to champion the interests of one of the country's most important yet undervalued industries – an industry which is the largest source of private investment in the Scottish economy, contributing around £5 billion and employing 100,000 people. Homes for Scotland is pleased to have the opportunity to comment on the proposals for the Flooding Bill set out in the consultation paper.

As the consultation considers wider interests with regard to flood management, issues which will benefit greatly from local authority and specialist input, we do not intend to respond to the questions raised on the review of procedures for the implementation of local authority flood prevention schemes nor on reservoir safety. We would wish to make some general observations from the Scottish house building industry, particularly with regard to SEPA and the role of land-use management and the planning system.

As stated in the Homes for Scotland written evidence to the parliamentary Inquiry into Flooding in December 2007 the Scottish Government has committed to the increase in supply of housing in Scotland. Achievement of the production of at least 35,000 homes per annum by 2015 will require not only increased efficiency but new ways of thinking with regard to land supply and blockages to development.

A substantial national exercise will be necessary to assess areas free from flood risk. We support current planning policy which excludes development of Greenfield sites on the functional flood plain. However, unprotected brownfield land will have to be utilised for future housing development and suitable methods of safeguarding it from flood risk will have to be demonstrated and provided without detriment to existing communities. To do otherwise would write off substantial parts of our existing communities which have been constructed on functional flood plains.

Contd - Consultation Questions

Consultation Questions

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

Yes.

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

Yes.

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

Yes.

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

Yes, there should be a single competent authority. In the absence of a new single flooding authority SEPA is the obvious choice. However, there is a caveat. Flood risk assessment is a key issue for new development. The private house building industry and its environmental consultants have already experienced more than a degree of frustration over SEPA's poor service in flood risk assessment and the planning process. This issue was referred to in the written evidence from Homes for Scotland presented in December 2007 to the Rural Affairs and Environment Committee Inquiry into Flooding. Should SEPA be granted wider powers in future, it will have to be adequately resourced in undergoing a culture change to embrace all three pillars of sustainable development, the social, economic and environmental factors.

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, agree.

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?

Ministers should have the power.

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

Yes.

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

No comment.

Q9. Do you agree that responsible authorities should have a duty to work together with 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?

More detail needs to be developed to give clarity.

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

Yes.

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

Yes.

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

Yes.

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

FRMPs should inform the way development plans are prepared. On the basis that a FRMP will not have the same status as a Statutory document or Government policy, a stronger requirement to conform with/have regard to it would be inappropriate. It will clearly be good practice for plans to consider what assistance a FRMP can offer in allocating land for development, but there are still judgments to be formed about the balance of risks/benefits in allocating land for particular uses, the interpretation of SPP7 in making those judgments, and the scope for development proposals to deal with/mitigate risks on particular sites.

Q15 – Q29.

We have no comment to make on the review of procedures for the implementation of local authority flood prevention schemes.

Q30 – Q34.

We have no comment to make on proposals to introduce a transfer of responsibility for enforcement of the Reservoirs Act 1975 in Scotland from local authorities to a single enforcement authority.

Edinburgh, 22 April 2008

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From: [Redacted]
Sent: 22 April 2008 16:19
To: Flooding, Erosion and Reservoir Safety
Subject: Consultation Response

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

The Future of Flood Risk Management in Scotland

RESPONDENT INFORMATION DETAILS

Name: [Redacted]
Organisation: Stirling Council
Address: Viewforth Stirling
Postcode: FK8 2ET
Email: [Redacted]
Telephone Number: [Redacted]
Responding as: On behalf of a group or organisation
Individual Permission: Not Supplied
Confidentiality: Not Supplied
Group or Organisation: Yes
Share Response Permission: Yes

Consultation Questions The Future of Flood Risk Management in Scotland

	<p>The move to recognise that a wide range of actions and activities can address flood risk and that engineering works may not be the single or best approach is acknowledged and supported. However, it is not considered that the definition of Sustainable Flood Management set out in the consultation document will be widely understood. It is perhaps not amenable to a brief definition. The WEWS Act placed a general duty on Local Authorities (and other bodies) to "promote sustainable flood</p>
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<p>Question 1: Do you believe the definition of SFM is helpful and of practical benefit to flood risk management?</p>	<p>management". It would be expected that new legislation to establish responsibilities, powers, procedures, etc., to implement that duty would provide a working definition of the term. While it is perhaps not appropriate to be too prescriptive in the Bill/Act itself, there should be a commitment to early guidance fleshing out the scope and principles. A number of authorities on flooding have published useful listings that together clarify what is encompassed in a holistic approach to flood management. There is a specific concern with the inclusion of the words "maximum possible" in the consultative definition. Flood management measures are likely to be incremental as opportunities and resources become available.</p>
<p>Question 2: Do you think the definition is clear and simple to understand?</p>	<p>Covered under Q1</p>
<p>Question 3: Do you agree with the conclusion as set out in paragraph 3.17?</p>	<p>Yes; in principle. The catchment-based mechanisms set up by SEPA to progress RBMPs provide a model for Local Authority cross-boundary working (although it is recognised that there are other co-operative models available, such as the Glasgow Strategic Drainage Plan). Any system of comparative risk assessment nationally is going to rely heavily on SEPA's existing flood risk mapping. There may be some incompatibilities between WEWS/RBMP and Flood Risk Management – if one agency is responsible ultimately for both it is less likely that these incompatibilities will lead to significant problems. However, there are significant concerns as to whether SEPA is adequately resourced/staffed to take on the task, with its fairly tight time scales (Preliminary national assessment by end 2011). If not, it would seem better to increase SEPA's resources and capability, and to enhance the role of Councils to assist, rather than to establish another agency.</p>
<p>Question 4: Do you agree that there should be a single competent authority with a national remit for implementing the Floods Directive, and that it should be SEPA?</p>	<p>Covered in Q3</p>
	<p>Generally yes. However, the proposed two-tier approach is potentially over – bureaucratic. Councils will be faced with yet another form of statutory plan, with consultation and SEA procedures to be carried out, and with the</p>

<p>Question 5: Do you agree that this is a sound basis for the development of Local Flood Risk Management Plans? If not what alternative do you propose?</p>	<p>added complication of cross-boundary and inter-agency cooperation. Better for the "Area Flood Risk Management Plan" stage to be limited to a broad brush overview of the extent and relative severity of risk across Scotland and the major river basins, and as a forum for agreeing the catchment and sub-catchment areas appropriate for co-operative planning and which bodies need to be involved in each of these. Combined Local Flood Risk Management Plans and urban drainage plans would then follow as the main planning stage, involving local consultation and environmental assessment. From a Council perspective the question of funding will always be critical. The overview stage should enable and oblige Government to assess the level of funding likely to be needed over planning periods so that Councils and partners moving on to prepare their Local FRMPs will have an idea of the implementation resources that may be available.</p>
<p>Question 6: Should Ministers or SEPA have the power to designate a lead authority within a local area, or should it be left to the partners?</p>	<p>It would seem reasonable to establish a residual power to Ministers if the partner Councils fail to agree. Allocating budgets may also require Ministerial direction on occasion. There may well be situations where works in one Council area may be solely or largely of benefit elsewhere in the catchment, and conversely situations where an urban drainage scheme benefiting only a localised area could be so costly as to call on funding contributions from other Councils.</p>
<p>Question 7: Do you agree that Local Authorities, Scottish Water, the Forestry Commission, and SNH should be identified as responsible authorities?</p>	<p>Yes. And SEPA if they are not the lead agency.</p>
<p>Question 8: Which other bodies should be identified as responsible authorities?</p>	<p>It may be desirable to draw in bodies representative of hydro-power operators, and, especially, some body or bodies representative of rural landowning/managing interests. It is very clear that various 'soft' approaches to run-off management and flood storage will require the co-operation and involvement of land owners and managers in rural areas. In the case of Scottish Water it may be that their funding and prioritised work does not fit in with the programme of works in the LocalFRMP. There may be a need to include the Water Regulator who has authority over the funding of Scottish Water.</p>

<p>Question 9: Do you agree that responsible authorities should have a duty to work together within Flood Advisory Groups to produce plans?</p>	<p>This is one of the aspects of the proposals that raises concerns about over-complexity. Para 3.41 of the consultation document claims – “the ... framework outlined ... will deliver an integrated and catchment focussed approach to flood risk management”. RBMP has been set up – logically – on the basis of the major river catchments. The SEPA – led AFRMPs are proposed also to be catchment-based and to cover the same areas as RBMP major catchment areas. This is all very sensible in principle. However, when one comes down to the sub-basin level it is proposed that Local Authorities and their FLAGs become the basis for Local FRMPs. Some, if not most, FLAGs operate at the Council – area level. Many catchments do not fit with Council boundaries. In Stirling’s case parts of the Tay, Clyde and Forth basins are encompassed, and some flood – critical sub-catchments, such as the Allan Water, straddle the Council boundaries. Therefore, as a further simplification of the proposed system, it is suggested that the network of FLAGs needs to be recast to provide groups aligned with the catchments and sub-catchments identified as requiring Local FRMPs. If attenuation is considered to be part of the SFM and a project crosses the boundaries of two Local Authorities, how can the "attenuating" Local Authority be obliged to assist with CPOs and negotiations to the betterment of the "flooded" Local Authority?</p>
<p>Question 10: Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process?</p>	<p>It is not clear to which areas the proposed ‘stakeholder forums’, to be established to widen involvement in the flood risk management planning process, are supposed to relate. There are already RBMP forums for the AAG (major catchment) areas – why not use them, rather than proliferating groups for smaller areas?</p>
<p>Question 11: Do you agree that the Bill should set out a process similar to that for River Basin Management Planning for the preparation by SEPA of area flood risk management plans?</p>	<p>Yes - if the two-tier approach is adopted. The first round of the RBMP process looks likely to be achieved within the timetable originally set out. While the Scotland RBMP process may be regarded as somewhat less democratic than, say, the Development Plan system, it fits with the current trend for national strategic plans to be dealt with a Ministerial level.</p>
<p>Question 12: Do you agree that Ministers have the power to approve, reject or modify Area Flood Risk Management Plans?</p>	<p>See Q11</p>

<p>Question 13: Do you think that integrated urban drainage plans should be included as part of a Local Flood Risk Management Plan?</p>	<p>Yes. However it must be recognised that these plans may be very resource-intensive (involving mapping and modelling of historic and proposed drainage networks and sources of water outwith main watercourses) and so may not be achieved as quickly as the rest of the Local FRMP</p>
<p>Question 14: Should Flood Risk Management Plans inform the way that development plans are prepared, or should there be a stronger linkage such as a requirement on planning authorities to show that they have regard to the FRMPs?</p>	<p>A strong relationship is required. Planning Authorities should have to demonstrate to SEPA's or Ministers' satisfaction that the Development Plan takes into account the flood hazard areas identified in the FRMPs and that proposals are not inimical to flood alleviation measures proposed in those plans. Conversely, FRMPs need to take account of commitments and aspirations contained in and expressed through the Development Plan. There may need to be an enhanced recognition that leaving areas undeveloped and capable of absorbing and storing flood waters could be a single and sufficient reason for not allocating a site for development or for refusing planning permission.</p>
<p>Question 15: Do you think that the granting of deemed planning permission at the end of the statutory process for flood risk management will deliver a more streamlined approach to the delivery of flood risk management?</p>	<p>Qs 15-22 grouped for response</p>
<p>Question 16: Should Ministerial confirmation be made necessary even where features of a scheme do not require planning permission?</p>	<p>As 15</p>
<p>Question 17: Is the present procedure for Ministerial confirmation satisfactory for this new purpose or are there revisions e.g. to timescales which should be considered?</p>	<p>As 15</p>
<p>Question 18: Do you think that the option to rely on a local authority based process in a similar way as other local authority development activity should be taken forward?</p>	<p>As 15</p>
<p>Question 19: What would be the appropriate timescales for notification and response?</p>	<p>As 15</p>
<p>Question 20: Would it be appropriate for such a process to carry deemed planning consent?</p>	<p>As 15</p>
<p>Question 21: How should the issue of technical expertise and capacity be addressed?</p>	<p>As 15</p>
	<p>Stirling Council does not have much</p>

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

experience of using the existing statutory procedures for approval of "flood prevention" schemes. Most recent actions have been carried out using general powers under other Acts. It would certainly seem sensible, as far as possible, to reduce scheme design approval, planning approval and CAR assessment to one integrated procedure. There is likely also to be a need for Regulations/guidance to specify what is and is not a flood alleviation measure subject to this approvals procedure (Which raises again the desirability of having a widely understood working definition of 'sustainable flood management'). There should be expedited procedures for emergency works, and also to allow Councils to bring forward uncontroversial 'off-the-shelf' small-scale schemes (conforming to the Local FRMP) as opportunities arise. Ministerial approval with deemed planning consent for flood risk management measures is not supported. The recently issued Planning Act 2006 appears to have set a precedent and the processing of a Flood Scheme should follow the local planning procedures applied to any other development. In this way local accountability is maintained. Local Authorities have the experience of processing large development applications and consulting with the public. Due to the shortage of technically qualified staff in the area of flood engineering significant reliance for the provision of design options will remain with consultants while continually liaising with SEPA.

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

[This is not the way the question was couched in the list at the start of the consultation document?] Under the current Act the Local Authority 'shall exercise that power' Clause 4B (b). This may be in a situation where a riparian owner has not fulfilled his responsibilities and the Local Authority, in an emergency, has to carry out works to 'substantially reduce the likelihood of such flooding'. There is no mechanism for the recovery of costs from the defaulting owner as there is in the Road (Scotland) Act 1984, Clause 89 (3) for the recover reasonable costs. There may be situations in implementing SFM where private individuals or corporate bodies fail to support and/or participate in a strategy or project. If control over land is required the Local Authority may have powers for a CPO in its own area but how can it acquire land in a

	neighbouring Local Authority area or secure (say) the cooperation of a corporate body in resourcing and funding the project?
Question 24: Do you agree that streamlining the CAR and flooding/planning processes, can be managed through better guidance?	It is suggested above (Q15 – Q22) that ideally one procedure should be devised. This will have to encompass approvals currently allocated to Ministers, Planning Authorities and SEPA. If this is to be achieved it seems likely that something more than enhanced guidance will be called for.
Question 25: Do you think there is anything further SEPA, the Scottish Government or others should be doing to promote joined-up regulation?	See Q26
Question 26: Do you think that there is an alternative approach to simplifying the process of promoting flood measures to those discussed above which the Government should consider?	Again in the light of the potential significance of rural land management measures as elements of SFM, Government should ensure that projects with a flood alleviation element are afforded appropriate priority in the allocation of funding through the Scotland Rural Development Programme.
Question 27: Do you agree that the form and content of the biennial reports should be more systematic, and subject to direction from Ministers?	Suggest that the 'biennial report' should be the progress/implementation/monitoring report of each Local FRMP, with the partners deciding on its content, but that within that Ministers may wish to stipulate that certain information, set out in a certain way, must be included biennially?
Question 28: Do consultees agree that the proposals as outlined will improve flood risk management and ensure Scotland is equipped to implement sustainable flood management?	See Q29
Question 29: Do consultees feel that this is enough to ensure that flood risk is addressed or should local authorities have a new duty to promote measures to alleviate flooding?	A formal set of duties, responsibilities and procedures as set out, or with suggested modifications, should improve flood risk management. There are, however, areas where the proposals perhaps fall short of what is needed to ensure implementation of Plans: · There is little reference to any elements of compulsion available to Councils, or SEPA, to ensure that desirable changes in land use or management, or works, identified through the FRMP process, on land not controlled by partner bodies can be effected. Changes may need to include gradual abandonment and relocation of built development. · The ideas for integrating the procedures for approving flood management projects may not be sufficiently radical. · There remains the issue of design,

	implementation and vesting/adoption for maintenance of SuDS infrastructure. This may be a final major opportunity for some time to sort out this matter. If this is not done there may be some reluctance press on with urban drainage plans involving new SuDS infrastructure.
Question 30: Do you believe enforcement responsibilities under the Reservoirs Act 1975 should be transferred to a single national body?	See Q 31
Question 31: If so, should it be SEPA or another as yet unidentified body?	It would seem appropriate that enforcement should be by a single unified body to ensure continuity and consistency of enforcement standards throughout Scotland. SEPA would seem a suitable organisation to undertake enforcement responsibility.
Question 32: Are you content with the proposals for dealing with reservoir flood maps under the provisions of the Floods Directive, or do you think that there should be a statutory duty on reservoir undertakers to prepare reservoir inundation maps and plans, similar to the duty in the 2003 Water Act for England and Wales?	Restricting the requirement for the production of inundation maps to reservoirs which the inspecting engineers have identified as giving rise to significant hazard in the event of dam breach (categories A and B) would be appropriate.
Question 33: Do agree that enforcement powers be extended and post incident reporting included as an additional requirement?	Yes. This would enable the new enforcing authority to expedite and monitor the carrying out of works recommended in the interests of safety. Post incident reporting would be useful tool in the maintenance of a national database of reservoir condition.
Question 34: Views on crown application and any other comments?	As the Act deals with public safety there should be no derogation for Crown bodies properties or lands. The Act should be applied equitably across all reservoirs no matter which person or organisation is the undertaker.

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075
072

DATE

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

Dear Frances

CONSULTATION ON FUTURE OF FLOOD RISK MANAGEMENT

Thank you for you the opportunity to respond to the above consultation paper.

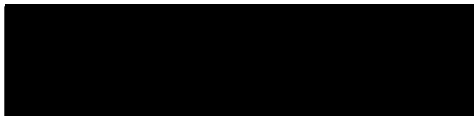
A global organisation, the Royal Institution of Chartered Surveyors (RICS) is the principal body representing professionals employed in the land, property and construction sectors. In Scotland, the Institution represents over 10,000 members comprising chartered surveyors (MRICS or FRICS), technical surveyors (TechRICS), trainees and students. Our members practise in sixteen land, property and construction markets and are employed in private practice, central and local government, public agencies, academic institutions, business organisations and non-governmental organisations.

As part of its Royal Charter, RICS has a commitment to provide advice to the government[s] of the day and, in doing so, has an obligation to bear in mind the public interest as well as the interests of its members. RICS Scotland is therefore in a unique position to provide a balanced, apolitical perspective on issues of importance to the land, property and construction sectors.

Our respondent information form and responses to the questions can be found below.

If you have any queries, please do not hesitate to get in touch.

Yours sincerely



Neil Freshwater
Public Policy Executive

T: [Redacted]

RESPONDENT INFORMATION FORM:

CONSULTATION ON FUTURE OF FLOOD RISK MANAGEMENT

Please complete the details below and return it with your response. This will help ensure we handle your response appropriately.

Thank you for your help.

Name:	Royal Institution of Chartered Surveyors in Scotland (RICS Scotland)
Postal Address:	9 Manor Place Edinburgh EH3 7DN

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

- As an individual go to Q2a/b and then Q4
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 Executive website)?

- Yes go to 2b below
No, not at all We will treat your response as confidential

2b. Where confidentiality is not requested, please tick one box to indicate the basis on which we can make your response available to the public

- Make my response, name and address all available
Make my response available, but not my name or address
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 Executive library and/or on the Scottish Executive 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 Executive 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 for them to do so. Are you content for the Scottish Executive to contact you again in the future in relation to this consultation response?



No

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

The definition seems to cover most areas in relation to flood risk management.

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

Yes

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

Yes. Having a single designated authority to coordinate flood management would be a preferable option.

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 would seem sensible to use utilise an existing authority rather than set up a new agency to deal with flood management.

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

Yes

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

Partners would be best left to make the decisions themselves. Ministers could oversee the process and offer assistance where there were any issues.

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?

There does not appear to be any obvious additions. If there are

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

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

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

Yes

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

Yes

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

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

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

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

FRMPs should inform development plans but RICS Scotland do not believe that legislation is required - national guidance could emphasise need for linkage. This would be reflected in development plans over time.

Question 15-22

Overall, RICS Scotland would support the principle of rationalising the system to make it simpler.

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

Yes

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

Yes

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

The proposals appear to cover a wide range of areas and there is nothing apparent at the moment that could additionally be done.

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. The present measures seem an adequate way forward.

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

No. Given different prevalence of flooding in different areas, and consequent varying salience of issue, appropriate to allow autonomy in style of response.

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

Yes

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

Yes. RICS Scotland is content with existing duties and powers.

RESERVOIR SAFETY

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

Yes, enforcement responsibilities should transfer to single national body.

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

Yes

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

Yes, we are content with the proposals.

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

Yes, we would agree with this approach.

Q34. Views on crown application and any other comments?

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

END OF RESPONSE

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From: [Redacted]
Sent: 22 April 2008 16:51
To: Flooding, Erosion and Reservoir Safety
Subject: Consultation Response

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

The Future of Flood Risk Management in Scotland

RESPONDENT INFORMATION DETAILS

Name: [Redacted]
Organisation: Glen Urquhart Community Council
Address: Culcreuch Pitkerrald RD Drumadrochit
 Inverness
Postcode: IV63 6XD
Email: [Redacted]
Telephone Number:
Responding as: On behalf of a group or organisation
Individual Permission: Not Supplied
Confidentiality: Not Supplied
Group or Organisation: Yes
Share Response Permission: Yes

Consultation Questions
The Future of Flood Risk Management in Scotland

Question 1: Do you believe the definition of SFM is helpful and of practical benefit to flood risk management?	Yes
Question 2: Do you think the definition is clear and simple to understand?	Yes
Question 3: Do you agree with the conclusion as set out in paragraph 3.17?	Yes

<p>Question 4: Do you agree that there should be a single competent authority with a national remit for implementing the Floods Directive, and that it should be SEPA?</p>	<p>Yes, However it will be important that SEPA act in a consistent manner across Scotland. Also that guidelines or a protocol are established so that a "make it happen" approach is taken, rather than creating obstacles without offering solutions.</p>
<p>Question 5: Do you agree that this is a sound basis for the development of Local Flood Risk Management Plans? If not what alternative do you propose?</p>	<p>Yes</p>
<p>Question 6: Should Ministers or SEPA have the power to designate a lead authority within a local area, or should it be left to the partners?</p>	<p>Designation of the lead authority is clearly described in the hieracchial planning process summarised in Box 7, Pg 44 of the document. The designation of the lead authority for projects should be left to the partners. For most projects we imagine a local authority would be designated. However , cases may occur where Scottish Water or Forestry Commission may be appropriate. We believe partners will be able to resolve the matter without resorting to Ministerial or competent authority designation.</p>
<p>Question 7: Do you agree that Local Authorities, Scottish Water, the Forestry Commission, and SNH should be identified as responsible authorities?</p>	<p>Yes</p>
<p>Question 8: Which other bodies should be identified as responsible authorities?</p>	<p>The responsible authorities prescribed in the above question are appropriate. We believe consideration should also be given to a body representing private ownership of both open land and forestry.</p>
<p>Question 9: Do you agree that responsible authorities should have a duty to work together within Flood Advisory Groups to produce plans?</p>	<p>Yes</p>
<p>Question 10: Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process?</p>	<p>Yes, and we strongly support real community engagement in this issue.</p>
<p>Question 11: Do you agree that the Bill should set out a process similar to that for River Basin Management Planning for the preparation by SEPA of area flood risk management plans?</p>	<p>Yes</p>
<p>Question 12: Do you agree that Ministers have the power to approve, reject or modify Area Flood Risk Management Plans?</p>	<p>Yes</p>
<p>Question 13: Do you think that integrated</p>	

urban drainage plans should be included as part of a Local Flood Risk Management Plan?	Yes
Question 14: Should Flood Risk Management Plans inform the way that development plans are prepared, or should there be a stronger linkage such as a requirement on planning authorities to show that they have regard to the FRMPs?	Authorities should demonstrate that they have regard to the Flood Risk Management Plans.
Question 15: Do you think that the granting of deemed planning permission at the end of the statutory process for flood risk management will deliver a more streamlined approach to the delivery of flood risk management?	Yes,
Question 16: Should Ministerial confirmation be made necessary even where features of a scheme do not require planning permission?	No
Question 17: Is the present procedure for Ministerial confirmation satisfactory for this new purpose or are there revisions e.g. to timescales which should be considered?	No comment
Question 18: Do you think that the option to rely on a local authority based process in a similar way as other local authority development activity should be taken forward?	Yes
Question 19: What would be the appropriate timescales for notification and response?	No comment
Question 20: Would it be appropriate for such a process to carry deemed planning consent?	Yes
Question 21: How should the issue of technical expertise and capacity be addressed?	A mixture of in-house expertise, responsible authority partner expertise, and where required specialised input from external consultants.
Question 22: How could such a process ensure the necessary technical standards are observed?	Ensure suitably qualified people sign off and take responsibility
Question 23: Are there any additional alternatives to the options outlined above which would simplify procedures?	No comment
Question 24: Do you agree that streamlining the CAR and flooding/planning processes, can be managed through better guidance?	Yes
	Yes. There is a need to promote and improve good practice in terms of both land drainage and river management. SEPA have a key role

<p>Question 25: Do you think there is anything further SEPA, the Scottish Government or others should be doing to promote joined-up regulation?</p>	<p>to play and must be more positive in enabling communities and individuals to find workable solutions. There is a need to improve drainage practices whereby the rate of discharge from land to water courses is increased and the natural attenuation of flow is lost. Increasing demand for single build rural housing with long access tracks and associated drainage adds to the problem. A new more workable solution is required.</p>
<p>Question 26: Do you think that there is an alternative approach to simplifying the process of promoting flood measures to those discussed above which the Government should consider?</p>	<p>No comment</p>
<p>Question 27: Do you agree that the form and content of the biennial reports should be more systematic, and subject to direction from Ministers?</p>	<p>Yes</p>
<p>Question 28: Do consultees agree that the proposals as outlined will improve flood risk management and ensure Scotland is equipped to implement sustainable flood management?</p>	<p>Yes, if properly funded</p>
<p>Question 29: Do consultees feel that this is enough to ensure that flood risk is addressed or should local authorities have a new duty to promote measures to alleviate flooding?</p>	<p>This adequately addresses flood risk, but will the resources be available to implement the required works.</p>
<p>Question 30: Do you believe enforcement responsibilities under the Reservoirs Act 1975 should be transferred to a single national body?</p>	
<p>Question 31: If so, should it be SEPA or another as yet unidentified body?</p>	
<p>Question 32: Are you content with the proposals for dealing with reservoir flood maps under the provisions of the Floods Directive, or do you think that there should be a statutory duty on reservoir undertakers to prepare reservoir inundation maps and plans, similar to the duty in the 2003 Water Act for England and Wales?</p>	
<p>Question 33: Do agree that enforcement powers be extended and post incident reporting included as an additional requirement?</p>	
<p>Question 34: Views on crown application and any other comments?</p>	

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23rd April 2008

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

By email to: Engineering@scotland.gsi.gov.uk

Dear Ms Conlan,

RSA response to Scottish Government Consultation on 'The Future of Flood Risk Management in Scotland'

Please find attached RSA's response to the above Consultation from the Scottish Government. We are responding to all the relevant questions, covering both Flooding and Reservoirs. We are also supportive of the response prepared to the Consultation by the Association of British Insurers and have assisted with the preparation of this response.

RSA is the third largest general insurer in the UK. We insure 1.3 million homes and many thousands of businesses against risks which include flooding. During the floods of summer 2007 we responded to claims ranging from small households to very large commercial losses. For our residential customers, we focused on working to help them to return to their homes as quickly as possible. We also set up emergency centres in some of the worst affected areas, providing advice and help to everyone who visited, not just our customers.

We have made written submissions to the Pitt Review and the House of Commons Select Committee on the Environment, Food and Rural Affairs. The concerns that we raised in both these submissions are consistent with the points that we make in this submission and can be summarised as follows:

1. The importance of adequate investment in flood defences
2. The importance of effective drainage management alongside investment in flood defences.
3. Building in areas of high flood risk should not be permitted unless adequate defences for these and the surrounding areas can be put in place
4. Resilience measures have their place in flood management, but they cannot replace a holistic approach to investing in and maintaining flood defences and proper planning.

We welcome the opportunity to respond to this Consultation, and I and my colleagues would be happy to discuss any aspects of our response with you and your colleagues. We are also happy for our response to be made public, and I enclose a Respondent Information Form to that effect. Please contact my colleague Alan Gairns on 01403 23 5660 or by email to: alan.gairns@uk.rsagroup.com

Yours sincerely,



Bridget McIntyre
Chief Executive, RSA UK

RSA response to Consultation on 'The Future of Flood Risk Management in Scotland'

'The Future of Flood Risk Management in Scotland' - RSA Response to Questionnaire

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

Yes. We think it is particularly important that flood risk management is defined as including all types of flooding (pluvial, sewer, river, groundwater, estuarine and coastal). It is important that flood management takes into account and manages all these different kinds of flood risk.

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

Yes. However, it is important that the definition is not just understood but also acted upon by the relevant authorities. The public will be looking not just at the definition but at how flood management is enacted in practice. If this definition assists the authorities in carrying out this work, then it has fulfilled its purpose.

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

Yes – We agree that a single competent authority should have a national remit for implementing the Floods Directive and that the Scottish Environment Protection Agency (SEPA) should be appointed to this role. We also agree that local authorities have a key role to play in the management of flood risk and SEPA and the local authorities should continue to work together in this respect.

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 would reiterate our support for SEPA taking on this responsibility, but would stress that given the additional responsibilities that the role of the competent authority would entail (including reservoir safety), it will be key to ensure that SEPA is adequately resourced and funded so that it can discharge its duties effectively.

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?

We agree that local authorities should have responsibility for preparing Local Flood Risk Management Plans, which should be integrated with Area Flood Risk Management Plans. It is particularly important that plans are produced in locations identified as being at significant risk of flooding (we note 'significant' is still to be defined under ministerial guidance) and that funding is appropriately allocated based on the level of risk. It is important that resources are diverted to the areas in most need of protection, both in terms of population density and flood risk, and that further funding is not allocated unnecessarily to areas which are already well protected.

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

RSA response to Consultation on 'The Future of Flood Risk Management in Scotland'

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We feel that it may be more appropriate for SEPA to designate the lead authority, given that it will need to work with the lead authority to ensure that Local Flood Risk Management Plans are developed so that they do not compromise Area plans produced by SEPA.

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

Yes. We agree that Local Authorities and Scottish Water should be identified as responsible authorities, as it is clear from the Consultation paper that they will have lead roles to play in the management of flood risk (e.g. planning, flood defences, drainage, water supply/reservoirs). We cannot comment on the role of the Forestry Commission or SNH as we have not come into contact with them previously. However we agree with the overall approach of different groups working together to manage flood risk.

Q.8. Which other bodies should be identified as responsible authorities?

We think that the bodies identified above, led by SEPA in an overall organizing role, should take the lead in managing flood risk in Scotland. However, it is important that this work is transparent and that they are open to views from other stakeholders. There will also need to be oversight by the Scottish Government and Scottish Parliament.

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

Yes, we agree the proposed approach. It is important that all parties work together in partnership to ensure that the best outcomes are achieved.

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

Our own experience has shown that people who live in areas affected by flood or at risk of flooding can often provide a valuable insight into what the real issues are on the ground. We therefore fully support any plans to engage with local communities. Stakeholder forums are a good idea to achieve this. However, this will require a commitment by the authorities to be open to views and ideas and to act on them where appropriate.

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. We agree that plans should be agreed by Ministers and scrutinized by the Scottish Parliament. We also would emphasise the importance of consultation with other relevant stakeholders, including residents' groups before the plans are submitted to the Minister for approval.

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

Yes, on the basis that they remain accountable to the Scottish Parliament for their decisions and that open discussion with the relevant authorities takes place in those instances where the plan is being rejected or a modification proposed.

RSA response to Consultation on 'The Future of Flood Risk Management in Scotland'

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

We support this proposal, as it will help to provide much needed clarity around roles and responsibilities for urban drainage. The outcome must be to minimise future pluvial 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?

We agree that development should not take place in areas identified at significant risk of flooding. We favour the requirement on planning authorities to show that they have regard to the FRMPs. We would emphasise the importance of implementing the requirements under SPP7, namely Planning Authorities must consult SEPA where development is likely to result in a material increase in flood risk and that any intention not to follow SEPA advice must be notified to Scottish Ministers for a ruling. In such cases, we would strongly recommend that Scottish Ministers should call in these applications for further scrutiny. We do not think it is beneficial to the environment or Scottish homeowners and businesses for building to go ahead in high flood risk areas.

Grouped Answer

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 when features of a scheme do not require planning permission?

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?

RSA has no strong preference for either of the options proposed provided that decisions are made by persons with the appropriate levels of expertise and that these decisions are timely and based on full information. We agree with the comment made in paragraph 3.75 that there are issues around technical abilities (and capacity) of Local Authorities in the area of flood risk management. For this reason, we note that Option 2 suggests using a group of experts to advise local authorities, which might be of help in making such complex decisions. We would suggest that if Option 1 is chosen (ie decisions are made at Ministerial level) similar expertise must be made available to Ministers and their staff, if it is not already in place.

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

RSA response to Consultation on 'The Future of Flood Risk Management in Scotland'

We view this as a positive step to help ensure consistency of reporting.

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, we view the changes proposed as positive steps to improve the management of flood risk in Scotland. It is important, though, that adequate levels of funding are allocated to the local authorities to implement flood protection schemes and that those areas at significant risk of flooding receive priority. We also note that it is not intended to define 'significant flood risk' within legislation, rather this will be dealt with by way of ministerial guidance. We look forward to seeing the proposals in this respect. Finally, we would wish to see data and information on flood risk and flood protection schemes made available to insurers (free of charge), as this will help the industry to better assess the risk and ensure that flood cover continues to be made available to as many people as possible.

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?

There is a need to make the public and businesses more aware of flood risk and to promote the benefits of flood resilience. Our view is that some measures are likely to be more appealing than others, and for many people the cost of resilience measures will be a significant issue. Offering a discount of – for example - £50.00 to a premium which may only be a few hundred pounds is unlikely to incentivise people to install resilience measures which may cost many thousands of pounds in total. We therefore believe that promoting measures to alleviate flooding needs to be government led.

In many cases, individuals or businesses will not want to install resilience measures unless they believe that they are likely to be flooded again whilst they are still using the property. Even if they believe this to be the case, they may not wish to install resilience measures which may be unsightly (eg sockets half way up the wall, concrete floors, plastic kitchen cupboards etc).

Finally, whilst resilience measures can play a part in mitigating the damage caused by flooding, and the disruption to homes and businesses, they are no substitute for preventing flood damage entirely. Any flood resilient measures should however be implemented in harness with investment in flood defence infrastructure to protect properties. Resilience measures are not a substitute for holistic and forward-thinking flood protection measures.

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

It is clear that the current arrangements are not conducive to a uniform and thorough approach to reservoir safety. Since the Environment Agency took over enforcement responsibilities for England and Wales in 2004 a significant number of improvements have been, and are continuing to be made to reservoir safety, such as identifying non-compliant reservoir undertakers, compiling a central database of dams and incidents, and the production of inundation maps. We believe that such a model would achieve similar success in Scotland and therefore fully support this proposal.

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

Yes, we believe that SEPA is best placed to act as the enforcement authority for Scotland, which would mirror the role of the Environment Agency in England & Wales.

RSA response to Consultation on 'The Future of Flood Risk Management in Scotland'

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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 Water Act for England and Wales?

Yes, we are content with this proposal given that this will require all Category A and B reservoirs to be assessed and included in Preliminary Flood Risk Assessments and the risk mapped accordingly by the competent authority (SEPA). It is important though that SEPA is adequately resourced to fulfil this duty.

It is also important that inundation maps and plans are shared with insurers. In the UK, there has been a climate of secrecy around the whereabouts, size, condition and risk posed by the nation's stock of dams, despite the fact that the positions of many of them are marked on readily-available Ordnance Survey maps. In countries such as Sweden, the risk posed by dams is openly discussed and information is readily available to the public. In England and Wales, the EA has recognised that greater freedom and public access to information is needed and is working to achieve this. We hope that this commitment can be matched in Scotland as well, so that information is aligned in both jurisdictions.

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

Yes. In England and Wales, the EA has set up a voluntary incident reporting process, which the EA is seeking to make compulsory. A similar process should be established in Scotland, with legislation introduced to make it a mandatory requirement on reservoir undertakers to report all incidents.

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**Clackmannanshire Council
The Future of Flood Risk Management in Scotland
Consultation Response April 2008**

General Comments

Clackmannanshire Council welcomes the opportunity to comment on this extremely important issue. The dynamic approach of integrated flood management proposed in the consultation is to be welcomed, and our involvement with WWF-Scotland on sustainable flood management would support this approach to this considerable risk to Scotland and its population. However, the Council has a number of overriding concerns in relation to the proposals and these are outlined below, in advance of our responses to the specific questions raised in the consultations .

The consultation rightly emphasises that climate change is an increasingly important issue to be considered and acted on in relation to flooding. However, the Council is concerned that the consultation, while referring to all types of flooding and the importance of reducing flood risk, overlooks the issue of under-investment in urban drainage; the Council considers that this is an issue which the government should address at an early date.

The lack of co-ordination is identified as a problem with the current system, and it is suggested that this is due to the lack of a national framework. While this is obviously a factor and Flood Liaison and Advisory Groups (FLAGs) have sought in part to address the issue locally, there is also the issue that there was no national funding framework to cover flooding, with different bodies having responsibilities for different return periods and no responsible body coherently funded to deal with it. Allied to this are the limited land drainage responsibilities of Local Authorities under the 1958 Act related to overland flow and extreme storm events and Scottish Water responsibilities for flood events up to 1 in 30 year return period. The new legislation must clearly define flood prevention responsibilities and empowerment, regardless of the source of flooding, for all responsible bodies and landowners, especially riparian owners. The Council is concerned that the consultation overlooks the issue of landowners who are not impacted directly by flooding, but who undertake drainage works and carry out land management practices which can result in flooding problems elsewhere in a catchment.

The Council is concerned that financial controls placed upon Scottish Water by the Water Industry Commission, with a focus on its core business, inhibits the company in addressing its wider environmental responsibilities. It is considered that the Government should ensure that the proposed Flood Bill clearly defines

Scottish Water's role in the context of current and emerging legislation, and ensures that the company has adequate resources to fulfil a meaningful role in the development of, and adherence to, flood risk management plans.

The proposed catchment approach is supported by the Council. However, this will require a substantial investment by councils in surveying and flood modelling, as the present system has tended to encourage large capital flood prevention schemes, rather than considering flood management from a catchment approach. Allied to this will be the need for Government guidance on the approach to be taken to gather and analyse data at a sufficient level of accuracy to produce useful, defined flood risk and hazard mapping. Such guidance should be subject to continual review to ensure that the mapping is as up to date as possible. As referred to above, the 1961 Act encourages large capital schemes, whereas the proposed approach will emphasise mapping, analysis and planning to produce a series of diverse actions across a catchment. The Council is concerned that funding this approach through the single outcome agreement could be problematic, as catchment plans are likely to come forward with a series of actions including incentives for action on the basis of partnership working by responsible authorities: there could be significant problems if the authorities' funding programmes do not correspond, or if the local solutions are not aligned to the internal or external strategies which drive partners' agendas. Such lack of alignment could result in schemes being abandoned or their outputs reduced, resulting in the public being exposed to continued risk. These issues will require careful consideration and should be addressed in supporting guidance.

SUMMARY OF QUESTIONS

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

Response: The Council supports the definition and considers that this will be beneficial to the community in delivering flood risk management, as it will allow for a variety of responses rather than dictating one response to all situations. This is considered to be especially important where knowledge and understanding of climate change and flood processes is increasing. The definition referring to all types of flooding is welcomed.

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

Response: The Council considers that, as long as the terms "resilience" and "flooding" are defined, the definition is as clear and simple as it can be.

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

Response: The Council would agree with the conclusion that a single national competent body should be identified, with local authorities continuing their local role of implementation and engagement. The national body should set out the remit for the 'catchment bodies', with their roles and responsibilities clearly defined. As catchment issues will be different across Scotland the Council considers that roles and responsibilities should not be prescribed in detail. The delineation of catchment areas should be agreed between local authorities and the national body, with cross referencing to issues identified by River Basin Management Planning Area Advisory Groups.

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?

Response: The Council considers that SEPA is the most appropriate body to have a national remit for implementing the Floods Directive.

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

Response: The Council considers that there is a sound base for the development of Local Flood Risk Management Plans and would support the proposed hierarchy of plans. However, the delivery of these plans will require the total engagement of all parties and this will require support, financial guidance and training from the Government and SEPA, to ensure that the local bodies include suitable professional representation. Experience to date in FLAGS has shown a lack of engagement from some bodies and if this was to continue the role of the local bodies and their flood risk plans would not be effective. Flood warning schemes will form an important element of the flood risk plans and there is a need to ensure that the local flood management body has sufficient resources to identify where these will be required and then install, maintain and upgrade them in concert with the national body.

There are also concerns that the urban element may prove problematic to deliver due to the lack of accurate data of current drainage systems in terms of location, capacity and performance. This is considered to be an issue that requires direct funding from the Government to ensure that comprehensive plans can be compiled at an early date to inform appropriate responses to local flood risk.

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?

Response: It is considered that, due to the differences in size and scope of catchments and their related flood risk management plans, there should be an obvious lead catchment authority, on which all responsible parties in the catchment groups should be able to agree. While it will always be better to allow

partners to come to mutual agreement on a lead body, it is considered to be reasonable to have fall-back powers for the strategic authority to designate a lead authority if necessary.

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

Response: As these bodies all have duties under the Water Environment and Water Services Act to promote SFM, and have legislative duties which have some degree of relationship to flooding and land management, it is reasonable that they should be responsible authorities. These bodies can also help in the delivery of flood alleviation, which is an important element in flood risk management plans.

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

Response : SFM introduces a suite of measures related to land management practices, which could be delivered through the Scottish Rural Development Programme, so the Council considers that SGRPID should also be a responsible authority or, at the very least, represented on the 'catchment groups'. This would ensure that the local delivery of SRDP takes due cognisance of flood issues in the local catchment.

Fire and Rescue Services and Network Rail will have significant data on past flood events and responses to them, so the Council considers that there would be benefit in them being represented on the flood risk planning group, but that they should not be identified as responsible authorities.

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

Response: A catchment approach to flood risk management requires partnership working from all the bodies that have a role in land use management, policy formulation and delivery. However, to ensure plan delivery and public confidence in them, the Council considers it necessary that the Flood Bill includes a duty to work together. This approach has worked well for River Basin Management Planning. At present, FLAGS are non statutory advisory groups which are encouraged by national planning policy (SPP7), but the role of producing flood plans would be a statutory duty and therefore their authority/role would require to be recognised in legislation.

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

Response: While the Council would value wider engagement on this issue, it considers that there may be difficulty in maintaining community engagement in such a forum if a flooding event has not actually happened within recent memory. This is an issue where the experience and expertise of the National Flood Forum would be of value in advising responsible bodies in the development of appropriate approaches to engage the public. Different areas will require different approaches and the Council considers that national guidance, rather than ministerial direction, would be useful. There could be considerable administrative burdens on local authorities if they had to service a number of stakeholder groups related to different catchments: it would be likely to be more efficient to have a Council-wide group which could include representation from Community Councils and local councillors.

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?

Response : The Council considers it reasonable to use a process similar to that of River Basin Management Planning, as this appears to have worked well and been an efficient use of our limited resources engaged in the delivery and roll-out of the Water Framework Directive. However, as it appears that local authorities will have a greater role to play in this instance, with their responsibilities for local catchment plans, careful consideration needs to be given to the demands on the scarce staff resource that councils can put towards the wider aspects of the Floods Directive.

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

Response: While this appears to be reasonable on the basis of the proposed hierarchy approach, the Council considers that any proposed significant alterations to the submitted Area Plans should be subject to consultation with the responsible bodies who will have contributed to the plan preparation and who will also be involved in plan delivery.

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

Response: As the proposed Flood Bill will seek to address flood risk from all sources, the Council considers that this is an important element to be included in local flood management plans. However, the Council is concerned that there may be inadequate mapping and data on performance and capacity of all urban drainage assets: there is a need for additional resources to address this issue at an early date, and for the formation of Strategic Urban Drainage Master Plans.

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?

Response: Awareness, avoidance and alleviation are fundamental to the achievement of sustainable flood risk management, and development plan policies and allocations are an important vehicle to deliver these. Under the Water Framework Directive, development plans have to promote sustainable flood management, and the Council considers that it would be reasonable for planning authorities to have regard to FRMPs in developing their policies and proposals.

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?

Response: This appears to be a reasonable approach to streamline the process, potentially making it less confusing for the public. However, the Council considers that it would be at odds with the principles being promoted in the Planning etc (Scotland) Act 2006, where the public is being encouraged to engage with a planning system which is clear and transparent. The Council considers that there is a requirement for a simplified legislative process that combines, where prudent to do so, flood order, planning and CAR approvals. Flood management schemes will be part of a local flood risk management plan, with physical works designed to meet agreed standards; therefore the CAR and planning issues which are concerned with environmental impact can be considered in parallel. The Council considers it fundamental that the development and design of flood management through the local catchment group should have input from planning and SEPA staff, to ensure that environmental issues are taken fully into account.

The Council is also concerned about permitted development rights, under the planning legislation, for works which impact on surface water drainage, including the creation of hard standing areas: the Council considers that these should be brought under planning control to ensure that they do not compromise local flood risk management plans.

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

Response: If there are no objections to a proposed scheme and there is no direct funding from the Scottish Government, it does not seem appropriate for this administrative step to be continued: removing this step would reduce delays to delivering flood risk management measures.

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?

Response: It would appear to the Council that if Scottish Ministers are to be involved in the process, then they should be consider it in the same timeframe as the public.

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?

Response: If councils are to directly fund both large- and small-scale flood mitigation schemes developed through a Local Flood Risk Management Plan, which will have involved the national government environmental agencies in its formulation, it appears appropriate to rely on a local authority-based process . However, there would be a need for specific guidance where a scheme is across council / catchment boundaries and also where the council is the flooding authority but not the planning authority.

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

Response: There could be a considerable difference in the scale of management scheme proposals, from a scheme with a very local intervention to one with several interventions over a whole catchment. No matter what the scale proposed, it will be related to the Local Flood Risk Management Plan and therefore there is a degree of relationship in scale to a Local Plan. The period for public comment on a Local Plan, which in the future should include reference to the Local Flood Risk Management Plan, is a minimum of six weeks and this would appear to be a reasonable period to allow notified parties to respond to the proposals.

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

Response: As detailed above, it is not considered that a deemed consent for flood works is an appropriate response, in light of the principles outlined in the Planning etc (Scotland) Act 2006.

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

Response : This is a significant issue for the Council and the traditional approach has been to use external advice and guidance from consultants, usually on a

case-by-case basis . The proposed approach to flood risk management on the basis of catchment assessment and the development of plans through local flood groups is a significant step forward. To support such a radical step forward it is the Council's opinion that it would be prudent for local authorities to have in-house expertise to support input to catchment scale flood risk management planning.

In Clackmannanshire there is not considered to be sufficient workload to justify an in-house professional hydrologist/engineer and the Council considers that a partnership approach to the provision of such advice is appropriate. This could be provided in a similar way to that of Forth Valley GIS, with councils grouping together to finance a separate distinct unit. Related to this is the issue of training and resources, and the Council considers that the Government needs to provide guidance and training for existing engineering and planning staff in local government, as well as additional financial resources, to ensure that the proposed catchment approach can be rolled out effectively at an early date.

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

Response: Single Outcome Agreements encouraging partnership working arrangements might help to deliver over a catchment area.

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

Response: In general the powers are considered to be adequate, but it would be useful if the bill clarified the responsibilities of riparian landowners.

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

Response: While it is agreed that better guidance would streamline the process, this should only be part of the response. The Council considers that there is a requirement for training opportunities for professional staff involved in the design and procurement of flood risk management schemes, in order to understand the inter-relationships of legislation and the roles of the various disciplines and agencies involved.

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

Response: Yes. This could be achieved with a similar approach to that of the FIAC stakeholder group.

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?

Response : The Council considers that there should be a simplified process for promoting minor and major capital flood works which are part of a flood risk management plan, which should ensure that there is no duplication of the approval process. It appears to the Council that this is quite practical, as local authority engineering and planning staff, as well as SEPA, will be involved in the development, design and approval of these works through the 'catchment body'.

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

Response : It would appear appropriate to have a rational national approach to biennial reports, as this would be beneficial in ensuring that the same methodology of reporting was being undertaken through cross boundary catchments. It would also be an aid to clarifying issues of national and local importance. There would still need to be enough flexibility built in to any systematic approach for local authorities to be able to include issues which they consider to be of importance and interest to their communities.

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

Response : While the Council welcomes this framework approach to flood risk, which is considered to be a modern and balanced approach to the issue, there are concerns that there is not sufficient understanding, capacity or resource in the public and private sector to deliver sustainable flood management at present. The Council considers that the Government should review the further education sector with regard to the flooding-related professions and seek to address shortfalls in provision. Additionally, there must be improved guidance and training opportunities for existing and future professionals.

The consultation does not address the issue of landowners' role in protecting their property and land management practices impacting on flood risk elsewhere in the catchment, and this is considered to be a significant oversight.

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?

Response: The Council would have a duty to produce a Local Flood Risk Management Plan, which would include alleviation references, and it appears that a specific duty to promote alleviation measures would therefore be

necessary. However, there is a concern at present that, although certain drainage works are permitted development under the planning acts, such works will change either watercourse flows and /or surface water drainage and change how catchments respond to storm events. It is considered that these works should be subject to technical evaluation to ensure that they at least have a neutral impact on flooding in their catchment.

RESERVOIR SAFETY

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

Response: The Council supports and welcomes the proposals for the establishment of a single enforcement authority in relation to the duties set out in the Reservoirs Act 1975. It is the Council's opinion that a single competent authority would result in reservoir owners being more robustly policed in terms of their duties relating to reservoir safety and maintenance.

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

Response: This duty would not directly relate to SEPA's current role, which is fundamentally environmental, rather than engineering, regulation. The body proposed in any Act should be sufficiently resourced to enable it to carry out critical duties under the Act.

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

Response: No. Inundation maps should be prepared by all reservoir owners/operators and these maps should be held by the national body and made available for incorporation into local flood risk management plans.

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

Response: It is the Council's opinion that there should be more authority given to the national body to pursue non-active or poorly performing reservoir owners. Many issues which do not qualify as 'interests of safety' issues in Section 10 reports can be ignored by owners, but over a period of years these issues can

accumulate and become more serious problems, which are then difficult and more expensive to pursue. It is therefore sensible to revise the legislation to include a duty for independent post-incident reporting which then has the authority to force owners to undertake necessary remedial actions.

Q34. Views on crown application and any other comments?

Response : It is the Council's view that the proposed Act should cover Crown property to ensure that all reservoirs are subject to a rigorous national inspection, maintenance and enforcement regime.

The
**Royal Society
of Edinburgh**

The Future of Flood Risk Management in Scotland

Executive Summary

1. The Royal Society of Edinburgh (RSE) is encouraged by the news that the Scottish Government has committed itself to modernising legislation relating to flooding and flood risk management. With this in mind, we very much welcome the opportunity to inform the wider debate and legislative process. This response has been prepared by an expert working party, under the direction of the General Secretary, Professor Geoffrey Boulton, and other Fellows have made contributions.
2. Given that the current responsibilities for flood management in Scotland are widely dispersed, which limits the opportunity for large scale catchment flood management solutions, we strongly recommend that a national body be set up to provide the strategic overview on flood management, and to direct and review implementation of national policy. As to the form of the strategic authority, there are a number of models which would have to be considered. However, such an authority should have resources allocated to it directly from central government and have responsibility for prioritisation and policy development.
3. The current legislation would benefit from clarity in responsibilities for pluvial flooding, as well as greater integration of urban flood management with fluvial flooding. It is essential that the responsibilities and duties of the various actors, including Scottish Water, Local Authorities and land/property owners are clarified.
4. It is strongly recommended that current sewerage legislation is reviewed with sewer flood control in mind. The review should include an assessment of the current low levels of investment in sewer improvement to reduce flood risk and the need for a more joined-up approach to the whole issue of urban drainage, and its integration with fluvial flooding and land drainage.
5. It is essential that the skills shortages in flood risk management are tackled in Scotland. At the UK level, a joint Report¹ from the Environment Agency, DEFRA and the Institution of Civil Engineers outlines a series of actions with the aim of inspiring school leavers and science graduates into careers in flood and coastal engineering. Continuing action in this area is paramount and a strategic flooding authority should play an important role in building skills through the universities especially via dedicated interdisciplinary Masters degrees in flood risk management.

¹ Action on Engineering Skills Shortage in Flood Risk Management, (2005)

6. The human dimension in any sustainable flood management policy needs much greater attention. The human distress and health damage caused by flooding has been overlooked in the strictly economic approach adopted to assess the benefits of flood mitigation interventions. This human cost should be built into future benefit-cost assessments so that the true worth of interventions is established. Preliminary research² shows that the intangible costs of flooding often exceed the tangible costs. This should be developed further by the collection of robust information on the social and health-related consequences of flooding and an assessment of the location and needs of those most vulnerable to flooding.
7. Integration of land-use management, planning and building regulations would help mitigate the effects of severe flooding. The current planning system and building regulations are being updated in a somewhat piece-meal fashion. It is very important to classify land characteristics in order that more effective land-use management policies can be established which will help to mitigate the effects of flooding.
8. We encourage the integration of flood management plans (required under the new EC Assessment and Management of Floods Directive) with the earlier Water Framework Directive which does not address flood management explicitly.

Introduction

9. The government has recently published a report³ that indicates that up to 100,000 properties in Scotland are at risk from coastal and fluvial flooding. According to the report, in total the fluvial flood zone affects approximately 73,000 properties, which is 2.9% of all properties in Scotland. In total the coastal flood zone affects approximately 26,000 properties, which is 1% of all properties in Scotland.
10. Traditionally, flood management in the UK has been developed by looking backwards to establish the flood risk of an area from the historical record. This has led to flood defences being built to withstand the most extreme event within a particular time-frame, for example, the last 100 years. This approach is satisfactory when the climate is relatively stable. However, the recent scientific evidence continues to confirm that the climate and other environmental factors, natural and man-made, are changing and substantial changes are now expected well within present planning horizons. As climate change is progressive in nature (if steps are not taken to mitigate the effects), the strategy for flood management must therefore change. A more forward looking approach, increasingly dependent on the predictive scientific analysis of experts, will be required.

² Werritty A *et al.* (2007) Exploring the Social Impacts of Flood Risk and Flooding in Scotland, Scottish Government. /www.scotland.gov.uk/Publications/2007/04/02121350/0

³ Scottish Executive Geographic Information Service: Impact of Flooding in Scotland – In-house GIS analysis using the SEPA Indicative Flood Map 2007 Summary results, September 2007.