

<i>within Flood Advisory Groups to produce plans?</i>	which could be used by interested parties. This would probably have to be by way of complaint to the competent authority.
Question 10: Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process?	See response to Q 1.
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?	See response to Q 1.
Question 12: Do you agree that Ministers have the power to approve, reject or modify Area Flood Risk Management Plans?	Yes.
Question 13: Do you think that integrated urban drainage plans should be included as part of a Local Flood Risk Management Plan?	Yes. There needs to be support for innovative and comprehensive approaches, and confidence that sectional interests will not be an obstacle to their adoption for the long term benefit of communities.
Question 14: Should Flood Risk Management Plans inform the way that development plans are prepared, or should there be a stronger linkage such as a requirement on planning authorities to show that they have regard to the FRMPs?	There should not need to be any requirement on planning authorities to show that they have had regard to FRMPs. This is because in the process of preparing plans with the objective of contributing to sustainable development they should be taking account of all material considerations. There will be ample opportunity for challenge on this issue during the plan preparation process.
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?	Q15. - Q22. Both options seek to avoid the need for 2 inquiries because of the overlap and duplication this is perceived to involve. With the second option those cases where there is significant objection will require the Scottish Government to decide whether an Inquiry is required. The second option is generally preferred as being more straightforward, whilst protecting the rights of interested parties. It is experience that objections to schemes often only arise when details become known. Therefore, if in practice processes are to be kept in check, it will be critical that any scheme which comes forward as a planning application is clearly within the agreed context of a Local Flood Risk Management Plan that has been subject to SEA in which all possible alternatives have been seriously and critically considered. Deemed consent for projects should apply where it is clear that the larger scheme of which they form part already has the benefit of approval in a Local Flood Risk Management

	Plan. Local authorities must state the technical standard required as part of the project specification and accept liability up to that level when the project is complete.
Question 16: Should Ministerial confirmation be made necessary even where features of a scheme do not require planning permission?	See response to Q 15.
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?	See response to Q 15.
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?	See response to Q 15.
Question 19: What would be the appropriate timescales for notification and response?	See response to Q 15.
Question 20: Would it be appropriate for such a process to carry deemed planning consent?	See response to Q 15.
Question 21: How should the issue of technical expertise and capacity be addressed?	See response to Q 15.
Question 22: How could such a process ensure the necessary technical standards are observed?	See response to Q 15.
Question 23: Are there any additional alternatives to the options outlined above which would simplify procedures?	None recognised.
Question 24: Do you agree that streamlining the CAR and flooding/planning processes, can be managed through better guidance?	Guidance. Yes.
Question 25: Do you think there is anything further SEPA, the Scottish Government or others should be doing to promote joined-up regulation?	Yes, in considering how narrowly to consider any issue there must be consideration of the objectives of the relevant EU Directive or Directives.
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?	There must be consideration of the relationship of the wider sustainability objectives affecting catchment areas so that the Area and Local Flood Risk Management Plans have a sound footing.
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 response.
Question 28: Do consultees agree that the proposals as outlined will improve flood risk management and ensure Scotland is equipped to	No. Consideration should be given to comments above on earlier questions, in particular response to Q1.

<i>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>	No. Consideration should be given to comments above on earlier questions, in particular response to Q1.
<i>Question 30: Do you believe enforcement responsibilities under the Reservoirs Act 1975 should be transferred to a single national body?</i>	Yes.
<i>Question 31: If so, should it be SEPA or another as yet unidentified body?</i>	Yes - SEPA.
<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>	No statutory duty.
<i>Question 33: Do agree that enforcement powers be extended and post incident reporting included as an additional requirement?</i>	Yes.
<i>Question 34: Views on crown application and any other comments?</i>	Should apply to the Crown.

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REPLACEMENT

086

From: Lardet, Pascal [REDACTED]
Sent: 24 April 2008 10:44
To: Galbraith LM (Linda)
Subject: RE: Consultation on 'The future of flood risk management in Scotland'
Attachments: Halcrow response to consultation on the future of flood risk management in Scotland_rev1.PDF

.....
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.....

Dear Ms Galbraith,

Thank you for your acknowledgement of Halcrow submission (reference number 086).

I have received some late contributions from some of my colleagues and, as I was out of office yesterday, these contributions were not included in our response issued by my colleague John Drake.

I therefore attach a slightly revised response from Halcrow Group Ltd (reference number 086), with amended replies to Questions 30 to 33 on the matter of Reservoir Safety. The attached document supersedes the document issued yesterday by John Drake.

I apologise for this late revised submission and I hope that it will not cause too much trouble.

If you have any query on this matter, please do not hesitate to contact me.

Kind regards

Pascal Lardet
Water Management and Planning Manager

Halcrow Group Limited
16 Abercromby Place
Edinburgh, EH3 6LB

E-mail: [REDACTED]
Tel: [REDACTED]
Fax: [REDACTED]
Mob: [REDACTED]

Sustaining and improving the quality of people's lives
www.halcrow.com
www.gettingtoabercrombyplace.co.uk

From: Drake, John
Sent: 23 April 2008 16:26
To: Lardet, Pascal; McGowan, Alan
Subject: FW: Consultation on 'The future of flood risk management in Scotland'

From: [REDACTED]
Sent: 23 April 2008 16:22
To: Drake, John

25/04/2008

Subject: RE: Consultation on 'The future of flood risk management in Scotland'

Dear Mr Lardet
Please find acknowledgement letter attached.
Thanks
Linda Galbraith

From: Drake, John [REDACTED]
Sent: 23 April 2008 10:10
To: Flooding, Erosion and Reservoir Safety
Subject: Consultation on 'The future of flood risk management in Scotland'

This email has been received from an external party and
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Dear sir / madam

Further to your letter to consultees dated 13 February 2008, I am pleased to attach a response to the consultation on behalf of Halcrow Group Limited. I trust that you will find our response to be of interest and helpful in finalising the content of the forthcoming Flooding Bill.

As noted in the Respondent Information Form, we will be happy to contribute further in relation to our response, should this be appropriate.

I wish you success with the finalisation of the Bill.

Kind regards

John Drake
Halcrow Group
16 Abercromby Place
Edinburgh EH3 6LB
Tel [REDACTED]

<<Halcrow response to consultation on the future of flood risk management in Scotland.PDF>> <<Respondent Information Form.pdf>>

Visit our website at <http://www.halcrow.com>

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Halcrow Group Limited

16 Abercomby Place Edinburgh EH3 6LB

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www.halcrow.com



Response to Consultation

Subject	Consultation on the Future of Flood Risk Management in Scotland	Date	23 April 2008
Authors	P. Lardet, A. McGowan, J. Drake, S. Vint, C. Taggart, J. Walker, A. Warren	Revision	1

1 Introduction

- 1.1 Halcrow Group Limited (Halcrow) welcomes the opportunity to respond to the consultation on the future of Flood Risk Management in Scotland issued by the Scottish Government on 13 February 2008.
- 1.2 Halcrow is a leading supplier of flood risk management services in the UK and has one of the largest specialist teams in Scotland. We have extensive experience of undertaking strategic and site specific urban, river and coastal flood studies throughout Scotland with a range of clients including Local Authorities, SEPA, Scottish Water, public and private organisations, land owners and developers. Our range of experience covers in particular river and drainage modelling and flood mapping, catchment flood management planning, coastline management, flood forecasting, design and construction of flood protection measures, design and construction of Sustainable Urban Drainage Systems (SUDs), design and management of dams and other hydraulic structures.
- 1.3 Flood risk management requires an integrated approach to understand our water environment, analyse, quantify and map the risks affecting people and our environment and infrastructure and, when required, plan and propose measures to raise awareness, protect and defend these. To achieve these goals, our specialist staff includes hydrologists, river engineers, coastal engineers, dam engineers, GIS analysts, planners, environmental scientists, surveyors, geomorphologists, geotechnical engineers, bridge engineers and economists.
- 1.4 Of particular interest to this consultation, our experience includes:
- (a) Scottish, UK and international experience in catchment flood management planning.
 - (b) Extensive flood mapping throughout Scotland.
 - (c) Supporting Glasgow City Council since 2002 to design, promote and now construct the White Cart Flood Prevention Scheme. This scheme is widely recognised as a successful example of sustainable flood risk management. It includes the construction of three flood storage reservoirs in the upper catchment and 8.5km of direct defences along a densely urbanised corridor.
 - (d) Supporting SEPA in developing state of the art flood warning schemes in south west Scotland and Edinburgh.

Consultation on the Future of Flood Risk Management in Scotland

2 Summary statement about consultation document

- 2.1 The document and the proposals are generally excellent but one aspect, development control does not seem to be extensively covered.
- 2.2 Section 3.1 suggests that the Bill will cover all aspects of planning. Yet there is no indication if and how the Bill will replace SPP7 and how development control can be reinforced to avoid inappropriate development without complicating or delaying the planning process. Refer to response to Q14.
- 2.3 The implementation of the Bill will require a significant level of investment by the Scottish Government, SEPA, the Local Authorities and Scottish Water. Yet it is not clear how the required level of investment will be achieved and how the investment will be shared between the organisations.
- 2.4 Prioritisation of investment will require to be based on sound science and data to achieve the requirements of sustainability which underpin the proposal. An investment strategy is therefore required in research and data. For example a national programme of Laser aerial topographical survey (LiDAR) would be extremely useful to improve the accuracy of flood maps and enable progress in assessing pluvial flood risk. Such investment would have benefit beyond flood risk management and could be shared across several Scottish Government Directorates. Investment in improving the national monitoring network of rainfall (both radar and raingauged), flow, tides and urban flows is also essential.
- 2.5 The timescale for implementation is challenging.
- 2.6 Proposals to manage the transition period between now and 2015 are also necessary to ensure that flood alleviation measures can be progressed whilst area and local flood management plans are developed.
- 2.7 Answers to the various specific questions are included below.

3 Responses to Questionnaire

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

No, for the following reasons:

Firstly, the current definition suggests that flood management is about protecting the environment. This is ambiguous as it can be understood as protecting the natural environment, which is incorrect. The definition needs to be more specific: flood management is about protecting people, their activities and infrastructures (the built environment). Working with the natural environment is certainly part of a sustainable approach to flood management; however it is not the primary aim.

Secondly, the word 'resilience' is not clear to the layman and also suggests the idea of a trauma and need for recovery. Sustainable flood management should try to avoid the trauma in the first instance. We therefore suggest using the term 'protect against the consequence of flooding'.

Consultation on the Future of Flood Risk Management in Scotland

Thirdly, the use of the words 'maximum possible' is meaningless and may suggest to the layman that every property will be protected.

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

No. Refer to answer to Q1.

We would therefore suggest the following amended definition:

Sustainable flood management is an ensemble of actions by all concerned to protect people and the built environment from the consequences of all types of flooding in a way that respects nature and is fair and affordable both now and in the future.

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

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 a reasonable basis but it requires clarification on a number of key points:

- (a) The mechanisms for developing plans affecting several Local Authorities. Although LAs can co-operate – there are many examples of good co-operation including the White Cart Scheme - it will be necessary to find effective and fair ways to promote collaborative work and share the funding of the activities required to develop a plan (and later implement a programme of measures).
- (b) Funding. We do not believe that Local Authorities alone can currently afford the required level of investment to fulfil all the requirements of the proposed Bill.
- (c) The prioritisation of the programme of measures and their funding at a national level. Section 3.30 of the consultation document suggests that it will be based on the level of significant flood risk in each local authority. However the proposed programme of flood hazard mapping is likely to exclude pluvial and sewer flooding – at least with the current (un)availability of sufficient data and tools to do so - and will therefore not inform the level of significant risk. This alone will not be an adequate basis to evaluate the investment requirements in Glasgow and other large cities affected by significant risk of pluvial and drainage flooding.
- (d) Timescale. At present it is not clear when the Local FRMP will be developed – after the Area plans (ie after 2015)? But in that case, a system needs to be in place during the transition period before Area and Local plans are approved to allow LAs (or others) to progress flood management measures.

Consultation on the Future of Flood Risk Management in Scotland

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?

In the first instance it is certainly best that partners designate the lead authority among themselves. If required, the Ministers – but not SEPA – should arbitrate as this is a political act.

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

Local Authorities and Scottish Water have a clear role and funding mechanism for managing our environment and assets (coast, rivers, drains, hydraulic structures etc.) and should clearly be identified as responsible authorities.

The justification for including the Forestry Commission and SNH is less clear, although they will have a role to play. They could possibly be included as statutory consultees.

Restricting the number of responsible authorities should not mean however that a large number of organisations do not require to co-operate as part of the flood management planning process.

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

See our answer to Q7.

Other organisations will need to be listed as statutory consultees, eg Historic Scotland, Fishery Boards, SSE, Transport Scotland, large land owners etc.

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

Certainly.

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

Yes.

We would encourage the Scottish Government to also consider the requirements of the Strategic Environmental Assessment (SEA) legislation as part of the consultation process for developing flood management plans. This would ensure a coherent consultation process and ultimately avoid duplication of efforts. It is the approach currently implemented in the Republic of Ireland, where Halcrow is supporting the Office of Public Works in developing the River Lee catchment flood management plan.

Indeed, under the Environmental Assessment (Scotland) Act 2005, SEA would be a statutory requirement of the Area and Local FRMPs preparation process.

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

Yes. However see our answer to Q10 and consultation process.

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?

This is an excellent idea; however a mechanism for sharing the funding of such work between LAs and Scottish Water will be essential. Clarifying the timescale for implementation is also essential. Guidance will be required to enable a consistent approach throughout Scotland; such guidance will need however to reflect the diversity of situations likely to be encountered.

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

It is imperative that planning authorities are required to show they have had regard to FRMPs to ensure due consideration is given to this issue in the development plan preparation process. In this way FRMPs will inform the preparation of development plans. If FRMPs are not afforded such status they will carry little weight in the planning process.

Currently, planners in local authorities decide whether a flood risk assessment is required to support a planning application. Their decision is made in line with requirements of associated planning policies contained within the development plan and guidance set out in SPP7. It may be based on existing knowledge, advice received from local flood prevention officers or advice received from SEPA. However, for small sites in particular, advice is not always requested and there is currently no absolute guarantee that SEPA is involved in a planning decision and that the likely risk of flooding is taken into account when granting planning consent.

The national indicative flood map has only recently been published by SEPA and in many cases it has not been considered when preparing current development plans. In some circumstances, the map is also inaccurate. In those circumstances, planners do not have access to sufficient information if they do not request a detailed flood risk assessment for every development proposal.

We therefore support the idea that Planning Authorities should have a duty to prepare strategic flood risk assessments (SFRA) in a similar way to what is done in England and what is being done by certain local authorities in Scotland. These SFRA should be informed by all information available including SEPA flood maps and FRMPs, they should be revised regularly and they should inform development plans and decision on planning applications. Detailed flood mapping (more accurate than SEPA's flood map) may be required in areas of significant risk and areas of extensive development.

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?

Absolutely. At present different local authorities take variable approaches to obtaining the necessary statutory approvals for Flood Prevention Scheme under the 1961 Act, some seeking to obtain the granting of planning permission before promoting a Flood Prevention Scheme under the 1961 Act and others seeking planning permission after the confirmation of a flood

Consultation on the Future of Flood Risk Management in Scotland

prevention scheme. These processes can take a considerable period of time and there is often significant duplication of effort. There is also the possibility of multiple public local inquiries with the current systems.

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

No.

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

No. The current process is viewed as being unnecessarily long by those involved in promoting Flood Prevention Schemes. The period for objection should be aligned with the planning procedures and the process of re-advertising after confirmation should be removed. In addition there is presently no clear guidance on what information should be submitted to affected parties. On the White Cart Water Flood Prevention Scheme, Glasgow City Council took the decision to issue a full copy of the Flood Prevention Scheme documentation to all affected parties to avoid any potential challenge that they hadn't followed the correct procedures. This led to the issue of a substantial quantity of information such as engineering drawings to around 800 affected parties. Virtually the same package of information was re-issued to all affected parties after confirmation of the scheme.

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

Yes. A local authority based process should be taken forward, subject to appropriate provisions for notification to / call-in by Scottish Ministers and public local inquiry. We consider that these provisions, together with appropriate guidance and a commitment to working in partnership, are sufficient for the parties to resolve the complexities of all schemes including those involving more than a single local authority.

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

The notification and response periods for either a local authority based process or a process requiring Ministerial confirmation should be the same and aligned with current planning legislation.

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

Yes.

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

There should be clear national guidance on the technical requirements to be addressed by any flood risk management process to ensure consistency, value for money etc.

Flood risk management requires many specialist skills (not only hydrology but also planning, environmental sciences, engineering, economics) working within an integrated framework. The whole spectrum of skills required is unlikely to be available within all individual Local Authorities in Scotland, or even within a national organisation such as SEPA and the Scottish Government.

Consultation on the Future of Flood Risk Management in Scotland

We therefore suggest that the competent and responsible authorities should develop a pool of specialist planners and project managers who will be able to co-ordinate teams from their own organisation and from specialist consultants, all working in partnership. The partnership ethos should be part of the procurement criteria and will promote good relationship, sharing of knowledge, and development of cost effective solutions.

SEPA may have to develop further or have access to some independent technical (engineering) knowledge. However this should be complementary to what they already need as part of the CAR licensing process.

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

See responses to Q16 to Q20.

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

Whilst their powers would seem sufficient, the processes that have to be followed to achieve these powers are in many cases insufficient e.g. the time to obtain Ministerial confirmation under the 1961 Act, planning consent, CAR authorisation etc. In this respect, the ability of local authorities to take effective action to avoid or deal with emergencies is currently hindered. Implementation of the Flooding Bill provides a good opportunity to take this into account and remove the ambiguity and uncertainty over local authority powers when using clauses from other non-flooding related legislation.

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

Better guidance would be useful. However the processes themselves also need to be improved and combined to avoid unnecessary duplication and potential conflicts between the different regulatory authorities.

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

Yes. See response to Q24.

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, unless the planning and CAR regulation legislations are also amended.

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

Yes, particularly if they are to play an important role in the Flood Risk Management Planning process.

Consultation on the Future of Flood Risk Management in Scotland

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?

The responsible authorities (including Local Authorities and Scottish Water) should have a duty to implement the Area and Local Flood Risk Management Plans once adopted.

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

Yes. This would ensure a consistent approach was taken across the whole of Scotland.

A single authority should also make access to issues relating to reservoirs easier for reservoir owners and the public. We have worked closely with the Environment Agency's Reservoir Safety team in Exeter. We consider that the use of a single enforcement authority can significantly improve reservoir safety by providing a consistent approach to enforcement. This would also bring significant advantages in furthering reservoir safety through research and development and in fulfilling the requirements of the Water Act 2003 with respect to flood plans.

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

SEPA or the Scottish Government could undertake this role.

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

The proposals appear sensible recognising that many reservoir undertakers are not large organisations and may have difficulty complying with more onerous requirement. We also anticipate that greater consistency would be achieved by a single body undertaking the plans.

However the proposals for England and Wales are as yet untested and therefore do not necessarily represent best practice. One can expect owners to have a better appreciation of the likely impacts of dam breach through their local knowledge. Therefore at this point in time it is not clear which approach will best address the requirements of the legislation and either can be considered.

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

Yes. Matters of safety require priority and real enforcement must be a consideration going forward. Post incident reporting offers the opportunity to learn from various forms of activity at or on reservoirs and properly reported can help minimise the risk of similar events at other locations. A central registry will help coordinate this knowledge management.

We are currently advising the Environment Agency in their administration of the voluntary post-incident reporting system in England and Wales. We consider that currently the completeness of

Consultation on the Future of Flood Risk Management in Scotland

incident reporting is much less than 100% (as witnessed from the summer 2007 events in England). Mandatory reporting is essential to ensure that reporting is (almost) 100%. This is important for both knowledge management and for quantitative risk assessment which requires good knowledge of the frequency at which certain types of incident arise.

Q34. Views on crown application and any other comments?

We agree that all bodies, including Crown bodies should comply with the new legislation.



**Transportation Services
Structural Services
Harbours, Flood and Coast**

The Scottish Government

The Future of Flood Risk Management in Scotland

A Consultation Document

Fife Council Corporate Response

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

Yes; however guidance on the wide range of options for sustainable flood risk management would be of benefit. An equitable balance has to be struck between the appropriate "hard" engineering and "soft" techniques, along with social, environment, habitat and economic aspects without "green" bias distorting the balance.

SFM including guidance on objectives is welcomed as it should provide further clarity on those areas likely to be subject to improved or new flood management measures. This will in turn influence Development Plans.

The consideration of all types of flooding is very important.

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

Yes; see above response, the need for further guidance as knowledge and experience develops. It is considered worthwhile expanding on what is viewed as "affordable".

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

Yes; it is feasible to name a single competent authority with a national remit for implementing the Flood Directive, however it is considered that partnership working will be required with responsible authorities in order to achieve the desired results. This will keep flood risk management in line with WEWS, allowing cross referencing with RBMPs.

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

Yes; the need for a single authority at a national level is agreed, however there will need to be strong links with other responsible authorities who currently have capacity in urban drainage, engineering, coast protection and local knowledge on flooding issues. SEPA is already involved in National Strategies regarding flooding and RBM Planning and is best positioned for integration of these with Flood Risk Management Requirements. Development Control (Planning) Authority notes that SEPA is under significant pressure dealing with their current consultation workload and express concern as to whether they would be resourced sufficiently to achieve the dynamic and responsive service that would be necessary. In Development Plan terms this approach is welcomed as it provides continuity in liaising with SEPA as consultation authority on other environment and statutory matters.

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; it is agreed that Local Authorities should lead the preparation of the Local Flood Risk Management Plan.

The preparation of Local Flood Risk Management Plans may be deemed a duty, but the implementation of the Local Flood Risk Management Plans should remain under permissive powers. To make the implementation a duty will raise public aspiration regarding the provision of flood alleviation, which would require to be tempered by competing priorities on finance, resources, social and environment issues.

It is considered this will provide a clear basis on which to assist the review, monitoring and preparation of Local 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 designate a Lead Authority, should there be no agreement, the Ministers should decide. This may only be an issue in cross boundary catchments. There was however an alternative view that SEPA should designate the Lead Authority so as to ensure a uniform compliance throughout Scotland.

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

Yes; Scottish Water in particular needs to have duties to participate and contribute constructively to achieve a positive outcome. Commercial interests and operating / future maintenance may generate conflict with Scottish Water.

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

Other identified responsible authorities should include the National Farmers Union on land use and farming methods, British Coal regarding mine water rebound and open cast coal sites, along with existing day levels. Network Rail should be considered and a relevant body to represent land owners. Any other bodies that impound or control waters.

There should be a requirement on all partners to ensure involvement of other bodies as relevant to the respective local area, such as Coast and Countryside Trusts and Community Councils etc.

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

Yes; there should however be an established procedure for resolving disagreements to unify plan outcomes. Also there is no statutory requirement for FLAG groups, which are put forward to facilitate this proposal. FLAG groups are promoted under Planning Policy.

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

Yes; but as previously noted landowners need to be brought into the stakeholder engagement.

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; it is considered that there should be a linkage and co-ordination between River Basin Management Planning and Flood Risk Management Planning. As proposed, much contained within this consultation document does adhere to a similar process as RBMPs. Streamlining both to avoid duplication or unnecessary cross reference is essential if the Local Plan is to accurately reflect relevant issues.

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

Yes; also to ensure that within such plans sufficient funding is identified and in place to deliver the proposals of the plans.

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

Yes; integrated urban drainage plans should be included as part of a Local Flood Risk Management Plan. In Fife over 90% of surface water discharge from new development is directed by Scottish Water to natural watercourses. There has also been disconnection of surface water from combined systems, again diverted to natural watercourses, which alleviates flooding from urban drainage.

There is however an issue with regard to Scottish Water, whose interest is not necessarily in the environment or flood alleviation, but directed to minimising maintenance and water treatment costs. This can be at the expense of the Local Authority meeting increasing maintenance costs in ensuring the efficiency of watercourses to mitigate flood risk. Scottish Water should be more receptive in its capital planning to external pressures.

Design standards for new drainage infrastructure needs to be reviewed for the avoidance of flood risk. The current Sewers for Scotland 2 promotes outdated design standards from legislation enacted in 1968. This is not going to meet the needs of the 21st century.

The Planning Authority should indicate or at least direct users to the 1 in 200 year return indicative flood risk maps published on the SEPA web site. This role should be added to Box 8, section; Implementation of measures to manage flood risks; under heading Local Authorities.

It should also be noted that in terms of the Building (Scotland) Act 2003 the treatment of sites is covered under Section 3 and deals with a range of issues including flooding and groundwater. Section 3.3 dictates that every building must be designed and constructed in such a way that there will not be a threat to the building or to the health of the occupants as a result of flooding and the accumulation of ground water. The standards also refer to various flood documents, SUDS schemes etc. and Building Control needs to be satisfied on these aspects prior to a building warrant being issued. This aspect perhaps highlights that Building Control should be brought into the picture before planning consent is granted for any development particularly with respect to over land flow of surface water, the threat from ground water and the application of SUDs.

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?

There should be a stronger linkage requiring planning authorities to show that they have regard to the FRMPs, including incorporated Shoreline Management Plans to ensure elimination of inappropriate development. A mechanism is required to demonstrate how the decisions have been taken with regard to flood risk providing clarity for those managing flood risks. In areas known to flood, Local Authorities should promote alternative uses which are less vulnerable to flooding and ensure that redevelopment takes full account of the flood risk.

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; this will avoid duplication and reduce the process timescale. The level of information normally associated with planning permission may be difficult to achieve.

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

Yes; it is important that Ministerial confirmation is given to show statutory compliance at the highest level, in view of the number of stakeholders involved and the possible number of objections and grievances that may arise.

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

No; the procedure should include deemed Planning Permission and CAReg Authorisation.

Timescale for lodging of objections should be reduced to 28 days, with the cooling off period prior to scheme confirmation deleted.

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

The application of a local authority based process, with the mechanism to refer to Ministers, is considered feasible where minor works can be promoted to mitigate flood risk.

It is considered that major proposals would still be referred to Ministers in the interest of transparency and in view of objections.

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

Timescale on notification of objection should be 28 days, with a 28 day response target. There should be no cooling off period prior to scheme confirmation.

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

Yes; provided due planning consultation is part of the process.

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

Technical Standards and Guidance will be required to set consistency levels. A form of Technical Approval by independent Consultants can be implemented to promote and ensure consistency.

It is considered that there is a current professional resource and skills gap within this sector and that Local Authorities will have difficulties recruiting staff with an in depth expertise in this field. The engagement of external Consultants seems more probable, although there is evidence of a similar lack of resource in this sector too.

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

The possibility of Local Authorities having the power to carry out minor works, over and above maintenance duties, without the implementation of a formal flood alleviation scheme consultation process.

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

No; Refer answer to Q22. Other than carrying out minor maintenance works, the current powers are limited.

Flooding from surface water or over land flow from agricultural land / adjacent open land into the urban domain requires to be addressed.

A facility requires to be put in place to permit remedial action on private land or property and an associated mechanism to allow recovery of costs. This should also apply to maintenance works where the removal of debris or an obstruction reduces flood risk.

Access rights require to be addressed to permit timely intervention to avert flood risk.

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

Yes; a more compatible approach between SEPA flood risk advisers at planning stage and the CAR regulators, integrated with the development of the Environmental Impact Assessment should ease the CAR authorisation, so that it does not suddenly become an issue at the scheme implementation date.

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

Yes; Area Flood Risk Management Plans and Local Flood Risk Management Plans should take into consideration planning issues and CAR issues at the outset to mitigate the impact of proposed measures to address flood risk.

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

The discussed approach to simplifying the process of promoting flood measures is considered an important step forward. There should however be flexibility to take on board the lessons learnt and the development of guidance to further smooth and streamline procedures.

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

Yes; a prescribed format of report would be useful, but should be subject to consultation in view of the differing capacities of local authorities. A formalised approach would assist with the identification of appropriate resources and budget allocation. Information could also be compared nationally.

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; the proposals outlined will improve flood risk management and develop procedures to ensure Scotland is equipped to implement sustainable flood Management.

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

It is considered that this is enough to ensure that flood risk is addressed. Duties should not be placed on local authorities to promote flood alleviation measures. The current permissible powers are adequate. The placing of a duty on local authorities to promote flood alleviation measure will raise public aspirations to a level likely in excess of the local authority resource capacity or funding and lead to a public view of failure to meet statutory obligations. This is not acceptable. This may also lead to the implementation of minimum fragmented mitigation measures to satisfy the duty rather than the holistic approach required for sustainable flood risk management.

RESERVOIR SAFETY

Please note the format of the biennial reservoir report is prescribed by Scottish Government guidance and covers the issues which Para 4.7 identifies as difficult to quickly gain an overview.

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

Yes; this will ensure a uniform and consistent approach to reservoir safety and risk management at a national level.

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

The single national body should be SEPA; this will integrate well with the production of Area Flood Risk Maps and avoid possible overlap of functions between different responsible authorities. This also sits well with SEPA leading River Basin Management Planning and regulating the CARegs.

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

There should be a statutory duty on reservoir undertakers to prepare reservoir inundation maps and plans. Currently this action is only being addressed as the 10 yearly Inspection Engineer's report becomes due, as Panel Engineers all work to the same hand book e.g. DEFRA and EA requirements. There will need to be a systematic analysis of all reservoirs to meet the timetable for Area Flood Risk Maps. Planning Authorities need to be made aware of the areas at risk and have these areas delineated in Local Development Plans, which would be taken into account by the development control process.

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

Yes; this will ensure all incidents are reported and that comparison is available at a national level. These incidents can be taken into account at the reservoir inspection stages and in examining specific incidents, thus assisting in the reservoir safety process. The more information available, the better to understand the problem and potential solutions.

Q34. Views on Crown application and any other comments?

Information on Crown reservoir flood maps and plans require to be included to achieve the complete picture. Safety considerations need to be applied universally to all with no specific exemptions.

JM / 23 April 2008

[Redacted]

From: [Redacted]@renfrewshire.gov.uk
Sent: 23 April 2008 14:40
To: Flooding, Erosion and Reservoir Safety
Cc: [Redacted]

Subject: The Future of Flood Risk Management in Scotland

Attachments: Flooding Bill SG Response.doc; Flooding SG Response ANNEX D.doc



Flooding Bill SG Response.doc ...



Flooding SG Response ANNEX D.d

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

Frances

Find attached the response from Renfrewshire Council to the consultation document The Future of Flood Risk Management in Scotland. The response was approved by Renfrewshire Council at the meeting of its Environment and Infrastructure Policy Board on 23 April 2008.

(See attached file: Flooding Bill SG Response.doc)(See attached file: Flooding SG Response ANNEX D.doc)

Regards

Frank

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Planning and Transport, Plans and Information
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Renfrewshire Council Website - <http://www.renfrewshire.gov.uk>

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Consultation response

The consultation is based on 34 questions. The questions and the Council's responses are set out below. This is prefaced by a general statement on the consultation.

General Statement

The fresh approach to flood management in the consultation is welcome, especially in respect of the integrated approaches between the various responsible bodies, which although evident across the EU, are not as common place nearer home. The following are the key areas of concern to the Council which are further elaborated upon in the response to the questions.

Lack of Infrastructure Investment. The consultation highlights the importance of reducing flood risk as part of the key objective of increasing sustainable economic growth. It also emphasises the need to deal with increased future flood risk arising from climate change. The Council considers that of equal importance particularly in relation to urban drainage issues is the need to deal with the substantial legacy of infrastructure under investment.

Lack of Co-ordination. In its identification of problems with the current system, the consultation suggests that the lack of co-ordination is due to a lack of national framework. The Council considers the lack co-ordination is equally the result of the lack of a national funding framework, to cover flooding across the various return period storm events which different bodies are responsible for, as well as those flooding matters no responsible body is coherently funded to deal with.

Lack of Defined Drainage Responsibilities. The limited land drainage responsibilities of the local authority under the 1961 Act prevent Councils from fully and effectively dealing with flooding issues arising from overland flow and extreme rainfall events. There is a legislative gap in the provisions available to deal with such flooding issues. At present, Scottish Water are responsible for dealing with flood events up to 1 in 30 return period in new development. There is no clear responsibility for dealing with flood events in excess of the 1 in 30 years extreme rainfall event and for overland flow. The new legislation must clearly apportion responsibilities for flooding.

The Role of the Water Industry. The lack of integration in flood prevention of water industry infrastructure with other drainage and flooding infrastructure is also identified as a key problem with the current system. The Council considers this is exacerbated by the financial controls placed upon Scottish Water by the Water Industry Commission (WIC) and a required remit to focus on its core business. The WIC considers that demand management or even demand reduction is not part of its brief, and restricts funding to core business. Similarly, the lack of SEPA water quality regulation where surface water enters a combined sewer network inhibits a co-ordinated approach. It would be useful for the Scottish Government to ensure the objectives of Scottish Water's investment programme and SEPA's River Basin Management Plan (RBMP) are aligned with sustainable flood management principles.

Investment. Alignment of investment plans between responsible authorities on the basis of Flood Risk Management Plans is essential for integrated responses. A European example of best practice is that of the Emschergerenossenschaft in Germany, where major new sewer infrastructure, including treatment and pumping was required. Here, municipalities were cross funded to disconnect surface water from the combined sewer, thereby reducing the cost of the sewer infrastructure, and importantly its carbon footprint. This is a form of demand reduction that the WIC has stated is not within its brief.

Catchment Responses. The Flood Prevention (Scotland) Act 1961 does not specifically require large engineered solutions, but in effect the cost benefit funding control of the Scottish Government has encouraged such responses rather than sustainable catchment based responses. It is to be welcomed that the principles of sustainable flood management and a focus on multiple benefits are now being seen as the way forward.

Progress on sustainable catchment wide approaches has also been limited by local authorities not having flood hazard reduction mapping in place. This was not funded within the 1997 amendment to the 1961 Act, which required authorities only to assess watercourses. Wider responsibility is required to be given to local authorities to enable them to undertake the integrated drainage modelling required for Flood Hazard and Flood Risk Maps and promote sustainable catchment approaches.

Proposed Role for SEPA The Council is concerned with the identification of SEPA as the sole competent authority. The Council would prefer the Scottish Government to set out a national approach to flood management planning, which allowed co-ordinated catchment planning to be delivered locally, which is closer to the more exemplary approaches from the Netherlands and Germany. There is a real sense of top down micromanagement in the proposal for SEPA as the single competent authority and its responsibility for strategic Flood Risk Management Plans. The Council is of the view that given the extent of local authority engagement in the process that local authorities alongside SEPA should be designated as competent authorities.

Flood Risk Management Plans. The two stage approach to flood risk management planning giving SEPA responsibility for strategic plans and local authorities and others responsibility for local plans appears unduly bureaucratic for the purpose of dealing with significant flood risk. The Council is of the view that a single stage approach to the preparation of Flood Risk Management Plans should be adopted rather than the proposed two stage process. This would be simpler, more expeditious and provide a clearer focus on outcomes. Furthermore, local authorities either individually or jointly should take the lead role in their preparation.

Potential Planning Role. The focus on SPP7: Planning and Flooding omits to make reference to the key drainage guidance which refers to "flooding from all sources" and achieving "neutral or better" drainage regimes. It is these items that have enabled local authorities to incorporate sustainable flood management measures within the planning process. The planning process has potentially key roles in levering in a substantial proportion of investment in non-structural responses to flooding from the development industry,

maximising environmental benefits and facilitating partnership working. As the consultation recognises, surface water management and urban drainage are significant planning issues for urban areas of the future. A strong connection between the proposed Flood Risk Management Plans and Development Plans is required.

Notwithstanding the constraints which have operated to date, exemplary integrated working on sustainable flood management has been demonstrated by the Glasgow Strategic Drainage Plan and in the Renfrewshire Interreg IIIB Urban Water Project. The loosening of the funding controls from the Scottish Government has allowed the most forward looking local authorities, together with Scottish Water and SEPA, to further develop and deliver locally, co-ordinated catchment planning.

Response to Questions

The Council puts forward a critical response to a number of the questions conscious of the very positive overall aspects of the proposed Bill.

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

In addition to the Flood Issues Advisory Committee (FIAC) summary definition of Sustainable Flood Management outlined in the consultation, FIAC also suggested that sustainable flood management principles should reflect a strategic long term approach, ensure active engagement by all stakeholders and seek opportunities for multiple benefits. Importantly a sustainable approach requires that consideration be given to a wide range of options for managing flood risk. A fuller statement on SFM to reflect these aspects would be of assistance. The proposal to provide guidance particularly on indicators which can be used to assess the performance of flood management measures and plans is welcome.

It is recognised that an over precise statutory definition of SFM might inhibit flexible and innovative responses. However, it is important to ensure that responsible authorities undertake sustainable flood management as a core function.

It might also be useful to have good practice examples. For example, Renfrewshire's participation in the Interreg IIIB Urban Water Project has allowed it the opportunity to investigate the potential of sustainable flood management in the Johnstone catchment. This has involved integrated modelling of the sewer and watercourse network and development of non-structural responses focused on attenuated disconnection of surface water from the sewer network. Specific opportunities for surface water disconnection, interception and storage have been identified and initial results suggest 100,000m³ of storage would be required. The Project concluded with a vision statement (akin to a Flood Risk Management Plan) which sought to outline potential improvements through integrated action by Scottish Water, the local authority and the development industry.

The surface water management proposals of the Interreg Project draw on experience in Germany and the Netherlands where disconnection of surface water from the sewer network is an accepted principle and performance targets for improvement have been set. The Project has demonstrated that there are clear financial and environmental benefits in integrated catchment management. It has also made clear that any Flood Risk management Plan needs to link risk mapping and guidance to co-ordinated future structural and non-structural, flood hazard reduction measures.

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

See above response

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

Paragraph 3.17 states that the Scottish Government believes that a single competent authority (namely SEPA) with a national remit for implementing The Floods Directive should be identified. The Council does not agree with this conclusion. The proposal does not sufficiently recognise that the identification of areas at greatest risk of flooding and implementation of flood management responses will require an integrated planning approach principally involving SEPA, local authorities and Scottish Water. There is a real sense of top down micromanagement in the proposal for a single competent authority.

Local authority involvement will be required in all parts of the process from Preliminary Flood Risk Assessment, the production of Flood Hazard and Risk Maps to the preparation and implementation of Flood Risk Management Plans. Fuller recognition needs to be given to the importance of integrated action, primarily at the local level. There is a need for a clearer focus to be provided on outcomes and how they are to be achieved. The extent of local authority engagement in the process and need for an integrated approach requires as a minimum that both SEPA and local authorities be designated as competent authorities and that a duty be placed on Scottish Water to participate in the process. SEPA should have an overseeing role and function primarily as a national reporting, co-ordinating and review body.

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

No. The Council would agree that it is useful to have a national body to co-ordinate and report to the Scottish Government particularly in the designation of significant areas of flooding in the first phase of the process and to review progress. However, since local authorities will be significantly involved in the production of Flood Hazard and Risk Maps and Flood Risk Management Plans they should also be designated as competent authorities.

The Council would disagree with the conclusion in the consultation that SEPA take the sole, lead role in implementing the Floods Directive. This conclusion which is based on an assessment of criteria related to technical capability,

operational capacity and accountability is contentious. The Council would suggest the following alternative assessment and conclusion. In terms of technical capability, Glasgow's GSDP and Renfrewshire's Interreg Urban Water Project have shown leadership of the flood hazard reduction agenda in the UK and technical competence in developing integrated drainage models. In relation to operational capacity, the production of plans across local authority boundaries is already ably demonstrated by the strategic planning process and community planning partnership arrangements. More specifically, the White Cart catchment management solution to flooding has involved Glasgow City, East Renfrewshire and South Lanarkshire in design and implementation of a major joint project. As far as accountability goes, local authorities have democratic accountability and great expertise in public consultation and stakeholder involvement. This alternative assessment justifies the recognition of local authorities as competent authorities to facilitate successful implementation of the Directive.

SEPA's present role in flood management is focused primarily on the provision of advice on fluvial issues. It is questionable whether SEPA has the depth and breadth of knowledge to deal with more complex issues related to urban drainage, overland flow and surface water management. In contrast, local authorities through their roles in watercourse management, roads drainage asset management, development planning and development management and building standards have extensive knowledge and expertise in relation to these matters.

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?

No. The differentiation between strategic Flood Risk Management Plans and local Flood Risk management Plans is confusing. There is no requirement for such separate arrangements in the Floods Directive, apart from where international river basin districts exist. The need for a two stage flood risk management planning process appears unduly bureaucratic.

The Preliminary Flood Risk Assessment should provide the opportunity for collaborative working principally between SEPA and local authorities. The preliminary assessment to be of value would need to be informed by some initial flood hazard mapping undertaken at the local authority level. With this information, the results of the assessment, in addition to identifying areas at significant risk of flooding, could provide a national strategic framework for flood risk management. Within this context, local authorities could lead on Flood Risk Management Plans for those catchment areas identified as being at significant risk. The above proposals would simplify and expedite the process and provide a clearer focus on outcomes.

The proposed duty on local authorities to prepare a local Flood Risk Management Plan where significant flood risk has been identified should be modified to reflect a single stage flood risk management planning process. Local authorities should have responsibility both to prepare and lead on the preparation of all Flood Risk Management Plans. Where areas of significance have cross boundary implications local authorities should have the

responsibility to combine, act jointly and lead on preparation of Flood Risk Management Plans. For major cross boundary issues, joint committee structures akin to those set out for Strategic Development Plan purposes could be adapted for this purpose. A co-ordinating role for SEPA in the preparation of Flood Risk Management Plans would not be necessary for a single stage approach to plan production undertaken at local authority level as SEPA would be directly involved in the preparation of the plans.

There would be no requirement for future regulations to specify the scope, structure and content of Area and Local Flood Management Plans and measures to ensure integration of plans. Advice on a single Area flood Risk Management Plan should suffice.

Further consideration should be given to funding arrangements. The suggestion is made that funding should be based on the level of significant flood risk in each local authority informed by preliminary flood risk assessments and the hazard and risk mapping. However, the Council would suggest that initial allocations of funding will be required for local authorities to contribute to preliminary risk assessment and also to the preparation of flood hazard and risk maps. Furthermore, the main resource allocation should be informed by the actual content of the Flood Risk Management Plan and progress in the implementation of flood prevention measures.

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

The consultation suggests for local Flood Risk Management Plans which cross local authority boundaries that all responsible authorities including local authorities should have a duty to collaborate. The consultation suggests that it is not considered necessary for SEPA or Scottish Ministers to identify a lead authority in these circumstances.

We have previously argued in response to Q.5 that there is only a requirement for one level of Area Flood Risk Management Plan. In the Council's view, the local authority (or local authorities jointly) should be designated as the lead authority for flood risk management planning purposes. The response to Q.4 demonstrates why the local authority (or authorities) should have primacy among the responsible authorities.

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

The Council supports the suggestion that all responsible authorities within a designated area would have a duty to work together with the competent authority to produce the Flood Risk Management Plan. In the Council's view, the competent authorities would comprise the local authority (or authorities acting jointly) and SEPA, acting as a national umbrella.

The suggestion of a flood risk management advisory group to assist collaborative working has merit. However, it is not considered useful for a flood risk management group to function as a sub-group of the RBMP advisory groups. The RBMP Area Advisory Groups have been formed to

assist in the delivery of a national plan requiring comprehensive coverage of all water bodies. In contrast, Flood Risk Management Plans will focus on specific catchment areas of flood risk. Furthermore, the AAGs are concerned primarily with issues associated with water quality. While issues of flooding and water pollution are interrelated, Flood Risk Management Plans will require distinct levels of knowledge and understanding in comparison with the skill sets for water quality. It might be more appropriate to consider utilising Flood Liaison and Advice Groups for this purpose

The suggestion for two layers of advisory groups to fit with the proposed two stage process of FRMP production has the potential for overlap and duplication of effort. It would be preferable to have one Area Flood Risk Management Plan, as suggested in response to Q.5, with one advisory group, built on FLAGS.

Q8 Which other bodies should be identified as responsible authorities?

No response.

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

Yes. However, in light of the response to Q.5 recommending a lead role for local authorities as competent authorities, it is suggested the relationship between the local authorities and other responsible authorities should be similar to that of local planning authorities and key agencies under the Planning etc (Scotland) Act 2006. This intends that through full and early engagement planning authorities will have early access to much of the key information they need to produce effective plans. "The plans will therefore be realistic and deliverable and tie in with the strategic objectives of other agencies, with these agencies "buying - in" to the strategy and proposals of plans and assisting in their delivery." (see Draft Regulations on Development Planning, Oct 2007, para 88).

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

The Council is of the view that wider stakeholder and community engagement in the flood risk management planning process would be facilitated by giving the lead role to local authorities who are democratically accountable to local communities and have established local consultation and communication structures already in place.

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

No. As discussed in response to Q.5, the Council does not agree with preparation of strategic Flood Risk Management Plans by SEPA nor the two stage approach envisaged. It is questionable whether the RBMP process which is focussed on providing national comprehensive coverage for all water

bodies is appropriate for a process more focused on catchment areas of significant flood risk. There is no requirement for the all embracing approach of the RBMP when only catchment areas of significant risk will require Flood Risk Management Plans. The Floods Directive does not require a process similar to that for RBMP, it only requires that Flood Risk Management Plans be co-ordinated at the level of the River Basin District. The Council is of the view that it would be preferable to focus on local authorities as competent authorities for the purpose of FRMPs, liaising with SEPA at the national level to achieve co-ordination where this is required.

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

The Council has no objection to Scottish Ministers approving, rejecting or modifying Flood risk Management Plans (as outlined in response to Q.5). The consultation states that placing a duty on responsible authorities to collaborate in the production of plans that are ultimately approved by Scottish Ministers will help ensure the plans are translated into co-ordinated and agreed actions on the ground. Furthermore, it would be the responsibility of each body to ensure that their investment plans are aligned with measures and objectives agreed through the flood risk management process. This is essential to achieve positive outputs from integrated working. To further assist this objective it would be useful for Scottish Government in overseeing the objectives of Scottish Water's investment programme and SEPA's RBMP, to ensure that they are aligned with principles of sustainable flood management.

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

It is essential that issues associated with urban drainage are integrated fully into Flood Risk Management Plans. The key flooding concern within Renfrewshire's urban areas relates to the lack of capacity in the sewerage system and local watercourses exacerbated by overland flow. The recent impetus for catchment based approaches to flood management is founded on the need for a holistic view of the urban water drainage system (watercourses, the sewer network and roads drainage) and the promotion of integrated surface water management. The approach recognises that unattenuated conveyance of extreme rainfall events within buried infrastructure is not practical and the future drainage network requires a combination of attenuation and conveyance to suit the developed sub-catchment. As the consultation points out it represents an alternative, cost effective solution to renovation of the sewerage system. (for further information refer to response to Q.1 and reference to Interreg IIIB Project).

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

management regimes where significant areas of social housing drainage could be better managed.

The term urban drainage plans may however be a misnomer since action may well be required in urban/rural catchment. A more general reference to integrated, surface water management plans might be more appropriate.

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

The local authority in its role as planning authority has a significant part to play in flood avoidance and flood alleviation by influencing the development and use of land. Planning is required to prevent development which would have a significant probability of being affected by flooding or which would increase the risk of flooding elsewhere. The probability of flooding from all sources and risks involved together with the design of "neutral or better" drainage regimes require to be taken into account in the preparation of development plans and in determining planning applications.

Scottish Planning Policy SPP 7: Planning and Flooding (2004) and its accompanying Planning Advice Note 69: Planning and Building Standards Advice on Flooding (2004) have assisted improved integration of flooding issues within development plan policy and development management at local authority level. This is essential given the implications of flooding and availability of drainage infrastructure for future land allocations and need for control over design detail to ensure appropriate finished floor levels, flood flow routing and source control for SUDS. More generally in relation to catchment management, the planning process has potentially key roles in facilitating integrated partnership working, levering in a substantial proportion of investment for non-structural responses to flooding from the development industry and achieving wider environmental benefits from sustainable flood management.

At present, the Draft Regulations for Strategic Development Plans and Local Development Plans make reference to the need to have regard to River Basin Management Plans. Given the importance of development plans in providing long term perspectives, achieving multiple benefits particularly related to the wider environment and in facilitating non-structural solutions from the development industry, a similar linkage should be made between development plans and Flood Risk Management Plans. There should be a requirement on planning authorities to have regard to Flood Risk Management Plans. Indeed, it is to be expected that Flood Risk Management Plans will play a key role in the identification of land for development.

The designation of a local authority as a competent authority and lead authority for the purposes of FRMP, as suggested in response to Q.4 and Q.5, would facilitate the necessary integration at local authority planning level which Flood risk Management Plans are dependent upon.

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

No. The Council is not in favour of the option of Ministerial approval with deemed planning consent for flood risk management measure. The proposal for granting deemed planning permission at the end of the statutory process for flood risk management may deliver a more streamlined process, but also a less democratic one.

With the deemed consent process for local authority developments now removed under the Planning etc (Scotland) Act 2006, such developments are now subject of planning applications and subject to the wider reforms of the land use planning system. This change also means that such developments are required to follow the same environmental impact assessment process as any private development. It would seem perverse for the Scottish Government to go in a different direction for flood prevention measures. The process in relation to electricity generation, provided as a comparative example of the proposed process, is exceptional.

The approach would also be contrary to the hierarchy of planning applications introduced by the 2006 Act and which defines the role of Scottish Ministers in relation to national developments. For example, Ministers have identified the Glasgow Strategic Drainage Plan as a national development in the Draft National Planning Framework recognising its strategic importance and assisting its early delivery. The project will still require planning permission, but any subsequent examination of the detailed planning implications at inquiry should not be concerned with the principle of the development.

The new planning procedures related to development management seek to make the planning application process fit for purpose and responsive to different types of development, improve the efficiency of the system and improve public involvement in the consideration of proposals requiring planning permission. Development of flood management measures should be integrated rather than separated from the new system. As development, flood management measures should be fully assessed within the planning system.

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

It is difficult to envisage features of a scheme which are not subject to planning permission or Controlled Activities Regulation which would be of a significance requiring Ministerial approval.

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

The present statutory processes for flood prevention schemes (FPS) are long and exacting, but the easiest components are the engineering approval by the Scottish Government (excepting cost/benefit analysis) and planning approval. It is the understaffing of the Controlled Activities Regulations (CAR) regime by

SEPA that holds matters up, not the CAR itself. The planning and FPS process are run concurrently with the same or similar details.

Consideration should be given to the removal of the need for Ministerial confirmation. Ministerial approval of Flood Risk Management Plans, particularly with their intended alignment with development plans and RBMPs, should suffice.

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

Yes. Now that Ministers no longer award central grant to a flood scheme, confirmation under the 1961 Act has lost a significant part of its purpose. A local authority based procedure has merit.

However further consideration requires to be given to issues surrounding compulsory purchase. The Flood Order is a powerful statute enabling the local authority on confirmation by the Scottish Ministers to "squat" on land necessary for the proper construction of flood works. It combines the approvals normally sought by a planning application and a compulsory purchase order. It is important to retain the right of land owners to be heard at an independent inquiry. For this purpose, it is suggested that the link between planning approval of project and compulsory purchase be decoupled and compulsory powers be maintained as under 1961 Act.

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

Further to suggestion made in Q.15 and 18, timescales and notification arrangement should be consistent with those set out for planning applications under the Planning etc (Scotland) Act 2006. For purposes of CPO, the existing procedures of 1961 Act should be modified to focus solely on those with an interest in land.

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

No. As stated in response to Q.15, with the deemed consent process for local authority developments now removed under the Planning etc (Scotland) Act 2006, it would seem perverse for the Scottish Government to go in a different direction for flood prevention measures. Development of flood management measures should be integrated rather than separated from the new planning system.

It is considered that the flood prevention measure consistent with the definition of development should be incorporated within the new hierarchy of planning applications. This would involve definition of national projects by the Scottish Ministers (e.g. GSDP) and definition under regulation of the thresholds for major and local flood risk management developments and adherence to appropriate planning procedures.

The planning and building standards procedures would provide the process for assessing the acceptability of flood prevention measures in terms of technical and environmental aspects.

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

The suggestion put forward in the consultation that local authorities in each Flood Risk Management Area contribute to a pool of flooding engineers for technical scrutiny of proposals has some merit. Such a group could be integrated within Flood Liaison and Advice Groups. It should also be noted the local authority in its Building Standards role provides technical approval. This should be used in conjunction with the planning system to provide technical assessment of the project.

Technical approval would be assisted by the provision of clear duties for all bodies to reduce demand for water conveyance and treatment and to provide a verified number of properties at risk within flood risk maps.

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

Single Outcome Agreements encouraging partnership working arrangements may assist.

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

See responses to Q.32 and 33. The powers of the Health and Safety Executive in relation to averting danger to life and property should also be noted

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

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

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

As indicated in response to Q. 21 the provision of a clear duty for all bodies to reduce demand for water conveyance and treatment would be beneficial. In addition, providing incentives to disconnect using the Housing Act would help.

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

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

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

The biennial report should be left to the local authority, but instances of flooding and measures taken should be part of the Flood Risk Management Plan and be stored in local authority GIS. What is important is that the verified number of properties potentially affected by a prescribed storm event should be published, as this should generate the appropriate direct funding for the local authority. The report needs to be in suitable form to provide an effective means of communication between the local authority and its public. More detail is better dealt with in the Flood Risk Management Plan.

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

It is agreed that Flood Risk Management Plans should provide a sound basis for flood risk management; however, note main reservations previously expressed in response to Q.3, Q.4, Q.5, Q.6, Q.7, Q.9, Q.10 and Q.11

The general power for local authorities to carry out flood risk management measures identified in the Flood Risk Management Plan as it appears to be necessary or expedient, for the purpose of protection of any land or property in their area, would appear to provide sufficient flexibility to enable sustainable flood management (note more detailed comments in response to Q.29). It could however be extended to Scottish Water and other bodies, where mutual benefit is determined, and demand reduction can be demonstrated.

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?

Existing duties in relation to the assessment of the condition of watercourses need to be changed and strengthened to ensure the necessary integrated modelling is undertaken by local authorities. Local authorities should be empowered to take a lead role in dynamic integrated sewer and watercourse modelling as well as overland flow modelling.

The limited land drainage responsibilities of the local authority under the 1961 Act prevent Councils from fully and effectively dealing with flooding issues arising from overland flow and extreme rainfall events. There is a legislative gap in the provisions available to deal with flood issues. At present Scottish Water are responsible for dealing with flood events up to 1 in 30 return period in new development. There is no comprehensive responsibility for dealing with flood events in excess of this. The new legislation must clearly apportion responsibilities for flooding arising from the 1:30 - 1:1,000 year extreme rainfall event and overland flow. The provisions of the 1961 Act require to be extended to bridge this gap and facilitate catchment management.

Further consideration should be given to the use of Section 7 agreements, the Housing Act and the placing of a duty on all responsible bodies to reduce demand.

Maintaining buried watercourses as a duty needs to be amended. It is likely that the more regular sedimentation problems would be better dealt with by

deculverting. It may be preferable to remove this measure from requiring a full FPS, if such measures are subject to appropriate public scrutiny.

There is a need for a duty to be placed on to all responsible bodies to manage demand and preferably reduce demand. Demand issues could relate to conveyance and treatment, but could also extend to social, environmental and investment issues.

RESERVOIR SAFETY

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

No. As local authorities need to know all the problems of the reservoirs, there is no cost saving to pass the enforcement role to SEPA. What is required however, is that owners of reservoirs, need to address matters raised in the issue of safety as soon as practicable, or have it done for them and be recharged. This may affect Scottish Water as the biggest undertaker, but if the WIC is obliged by the Scottish Government to consider demand reduction, then the full benefits of potential flood attenuation could be actioned by Scottish Water in parallel with any identified outstanding measures in the interests of safety. The local authorities currently report to the Scottish Government, and it is expected to guide Scottish Water in respect of reducing risks of reservoir failure.

The benefits of a duty to reduce demand for water supply would maximise the benefits pertaining to reservoirs and flood management.

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

See above response.

Q.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?

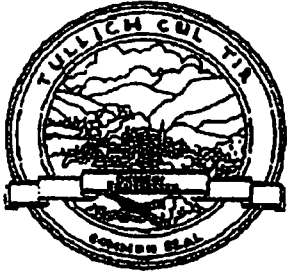
No. There should be a statutory duty on reservoir owners.

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

Yes. There should be a reservoir panel that the enforcement authority can refer difficulties / concerns to. The panel should be able to provide recommendations that the enforcement authority can demand be undertaken or undertake itself and recharge.

Q34. Views on Crown application and any other comments?

A duty of demand reduction as referred to in response to Q.21 would be useful.



Tillicoultry Community Council

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22nd April, 2008

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

Dear Ms Conlan

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

I attach the replies of Tillicoultry Community Council to the consultation paper and hope that you will find them helpful.

We have answered the questions on both Flooding and Reservoirs.

Yours sincerely,

Ian W. R. Gordon (Secretary)

The Future of Flood Risk Management in Scotland

Replies to Consultation Questions

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

A definition of SFM would be extremely helpful and of immense value to flood risk management. The current wording is beyond comprehension for everyone but the authors.

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

The FIAC definition of the objectives is vague in the extreme and requires explanation in plain English. Most people will have little or no idea what these objectives are unless they are put simply. It would seem that the objectives can only be met when the economic climate is favourable. There is no reference to any frequency of flooding such as 10 year storms or 100 year storms or anything in between. There must be a fixed starting point to be of much use. Building on flood plains should not be allowed and any flood defences should not accelerate the flood flows which would give problems downstream.

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

The conclusion as set out is one way to go forward but, it would mean another Quango with all that entails. If a small body was envisaged, whose object was to operate a national flood risk strategy which did not have a "one cap fits all" methodology, this would be much more acceptable and more economic.

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?

There is no doubt that a single competent authority would be advantageous. If it were to be SEPA, then the Scottish Government funding for this part of their operations should be adequate for all its aspects and ring-fenced to ensure the proper delivery of the service regardless of any reductions which had to be made elsewhere.

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

The basis for the local plans is probably sound enough but it may require tweaking in the light of experience. The local plan must be prepared and fitted into the area plan with all concerned parties agreeing to the result.

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?

There is no doubt that the partners are the best placed to designate a lead authority. There could be much aggravation caused by some outside body telling the partners who is going to be lead authority.

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

Yes.

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

It might be a good idea to have the Landowners Federation as a responsible authority because they have much trouble with flooding. At least they should be involved in any discussions about flood management as they are very likely to be involved.

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

Without question, all responsible authorities **must have** a mandatory duty to work together within the Flood Advisory Groups to produce plans.

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

It would seem from the wording of the narrative that the community is different from the stakeholders. There is no explanation of the difference. This Community Council considers that the community are also stakeholders. That being the case, the community, or any group within it, should be represented.

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

The River Basin Management Planning is unknown to most community groups and it would not be a good idea to do the same thing with flooding. The communities should be informed and allowed to make comment before any plans are approved by the relevant authority.

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

No.

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

When any new housing development is put up for planning permission, Scottish Water almost always state that the sewerage system and the water supply will cope with the development. This is not necessarily the case.

Being fair to Scottish Water, they are not required to give details of either the water availability or, more importantly, the rainfall effects on the proposed drainage system and the downstream consequences. They must be made to give this information to authorities who have to produce a flood plan.

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

The FRMPs should be taken into account in development planning decisions.

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

No.

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

No.

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

No. With many of the schemes to be considered as priorities, it is important that a relatively short timescale is included for Ministerial confirmation.

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

The local authority should know its area problems and is best equipped to cope with them.

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

This is a function of when the various groups meet. Most groups meet once a month so it would be sensible to allow at least 6 weeks to have a response after the notification is sent.

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

No.

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

If there are experienced technical people within SEPA, as they must be the ultimate authority, it would not be difficult to have the requisite standards.

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

None that comes readily to mind.

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

The powers could be misconstrued when the local authority promotes a flood defence system which may cause some of their community harm if the flooding is severe. Having said that, the local authority should consult with their communities to come up with the best solution with which all can agree.

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

Probably, but the guidance must be in plain English otherwise it would mean all things to all people which would defeat the purpose of the exercise.

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

They should talk to each other and include consultation with communities.

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?

Not at the moment.

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

The reports of flooding would be better published annually. The biennial report does not give up to date information of which helps communities. Ministers should not direct the reports.

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

Tillicoultry Community Council agrees that the proposals may help to improve flood risk management but must be kept under constant review as the risk of flooding in any area can change relatively quickly.

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?

Most local authorities currently do their best to promote measures to alleviate flooding. A mandatory duty would only be effective if it was backed up with government funding.

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

Not particularly.

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

Inspection of any reservoir over a certain volume is undertaken by a Reservoir Engineer annually. A Panel 1 Engineer (he/she is allowed to design dams as well as other structures) requires to inspect the structures and assess what, if any, measures should be taken for their safety, on a fixed term basis. If the local Reservoir Engineer has any problems with these reservoirs he can call on the Panel Engineer to inspect the structure. Let the current system continue.

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?

Tillicoultry Community Council are unsure whether or not reservoir flood maps have much value and hence are not sure about inundation maps and plans.

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

No.

Q34. Views on Crown application and any other comments?

This Community Council supports the status quo.

The Future of Flood Risk Management in Scotland

In concert with my professional colleagues, I have formulated a full response to the consultation on The Future of Flood Risk Management in Scotland, and this has been submitted to the Scottish Government through the notified channels.

However, I would like to add some personal comments to that response which did not seem to be covered by the questions. I would ask that whilst these comments have not been submitted in the required format, that they are nevertheless given some degree of consideration. For this reasons my comments are brief and refer on to what I consider salient point of the current flooding legislation.

The present legislation is not inherently flawed, but requires amendment to accommodate directives from Europe and current public perception and expectation.

The Flooding (Scotland) Act 1961 is structured in a similar fashion to the Coast Protection (Scotland) Act 1949. In my experience, I found it easier to promote and progress a coast protection scheme than a one for flood alleviation. This may be down to the slightly different nature of the schemes, one is perceived to protect the community whilst the other appears to protect individual properties in the first instance with the community coming after. Residents next to the river, complain of enduring the disruption for the benefit of others.

My understanding of the legal process is that a scheme in draft is published for approval. This should only debate the strategy of the scheme – retention ponds as opposed to walls, should there be bunds, is demolition required? Unfortunately human nature requires that there should be quite a lot of detail in the proposals, which dictates that the promoting authority must expend a large sum on the speculation of the scheme. This is money that would be better spent on the detail of the confirmed scheme. The present separation of scheme confirmation and scheme planning consent causes this additional unnecessary expenditure (although the government body could deem planning consent to be granted with the confirmation, thus saving some of this additional cost). Consequently, this aspect of the Act should be amended to more closely reflect the public's concept of this part of the legal process.

Without the current Act, the relevant authority has no power to build a flood prevention scheme on land it does not own. The built structure then reverts to the landowner, whilst the authority is responsible for the future maintenance. This highlights a basic flaw with the present legislation in that any built flood prevention scheme has no protection in law and anyone may interfere with it with little consequence of penalty. If it is recommended that the best future course of action is to acquire the necessary land (through the CPO legislation?) then this shortcoming would be addressed, although the CPO process may require amendment to ensure that the scheme does not get bogged down at this stage.

The matter of funding needs to be considered in great detail. Clearly, any scheme proposed must prove value for money. It is also desirable to have surety of cost. However, not only will the construction cost change as the detailed design is developed, but the total scheme cost starts to escalate as the legislative process extends and will increase still further when claims for compensation, under Section 11 of the current Act, are submitted to the constructing authority. Whilst it is appreciated that the Scottish Government desires to create efficiencies both in bureaucracy and budget, these aspects of the scheme cost are outwith the control of the promoting authority. Perhaps it could be argued that comprehensive consultation at the appropriate time would go a long way in mitigating some of these costs. But that in itself is a cost to the scheme and is no guarantee that there will be no objection to a proposed flood scheme. Should there continue to be government funding for flood schemes, there needs to be mechanism to reassess the grant given after the scheme is complete.

The basis of compensation should be reassessed so that only damage or loss is valid. There is inevitably going to be disturbance and disruption from the construction of any flood scheme, but the properties suffering the greatest usually benefit the most. It is morally wrong that they should further profit from additional payment without any consideration being taken of betterment on the overall evaluation.

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**THE SCOTTISH COUNCIL FOR
DEVELOPMENT AND INDUSTRY**

**RESPONSE TO THE SCOTTISH GOVERNMENT
CONSULTATION ON**

**'THE FUTURE OF FLOOD RISK MANAGEMENT
IN SCOTLAND'**

1. The Scottish Council for Development and Industry (SCDI) is an independent membership network that strengthens Scotland's competitiveness by formulating policies to encourage sustainable economic prosperity. Its members are drawn from businesses, local authorities, trades unions, educational institutions and the voluntary sector from across Scotland.
2. SCDI welcomes the Scottish Government's intention to introduce a Flooding Bill in 2008 to modernise the flood risk management system in Scotland. The threat of more frequent and more severe flooding posed by climate change demands that the range of relevant legislation needs to be streamlined and updated. A catchment focussed approach must be developed across Scotland, with the responsibilities for sustainable flood risk management and the delivery of flood management capital projects defined. There is a pressing need to create a much clearer legislative framework which leads to a strategic programme of risk assessment and construction of effective flood defences.
3. Managing the risks associated with flooding over the long-term would make a substantial contribution to sustainable economic growth by protecting lives, communities, businesses, property, infrastructure and the environment. There is also a shorter-term potential competitive benefit to Scotland of putting in place a clearer legislative framework, supported by the appropriate funding. The Association of British Insurers (ABI) has warned that increasing cost of flooding events and inadequate management of flood risk by government is putting the private sector funded insurance system under severe strain. This may make flood insurance prohibitively expensive or even unavailable for more businesses. SCDI members in areas such as Moray have had their insurance priced at a level that puts it beyond many policyholders. However, the ABI has indicated that, if there is a more effective framework for Scotland, its members may publish a statement of principles for Scotland, including specific references to the management of flood risk in Scotland, and: "The principle is that the better the risk management and the better the provision of data on risk, the more enthusiastic insurance companies are to provide insurance at affordable rate." (Col 590, Official Report, Environment and Rural Affairs Committee, The Scottish Parliament, March 19th, 2008)
4. While legislation is needed, government at all levels, including its agencies, should not simply concern itself with the broader environmental issues or their own statutory responsibilities, but consider in a much more joined-up way the impact on individual communities and businesses. Many SCDI members in the business community have been directly affected by flooding. In particular,

the serious floods in Elgin in 1997 and 2002 damaged a number of member companies. In the aftermath of these events, SCDI met and corresponded with the then Deputy Environment Minister Allan Wilson on the insurance problems facing these businesses. SCDI submitted evidence to the ongoing Scottish Parliament's Environment and Rural Affairs Committee's inquiry into 'Flooding and Flood Risk Management' which was substantially based on members' experience of the effectiveness of flooding management and the response to flooding events, and assisted the Committee in arranging for these businesses to give oral evidence in Elgin. Some significant business and economic issues are not included in this consultation document and SCDI believes that the final Flooding Bill should pay greater attention to them.

Business Contribution to Flood Prevention, Compensation and Insurance

5. Land owners and businesses could have a much greater role in community flood prevention if supported properly by government. Following the flooding in Elgin, significant flood defences were installed by businesses to protect their properties. SCDI believes that appropriate financial grants and compensation should be available to land owners including businesses putting in place measures to reduce flood risks. Better guidance for businesses would allow them to protect their properties in line with flood management plans. Businesses in at-risk areas often monitor water levels and this on-the-spot, real-time information could contribute to improved flood warning systems.
6. Under current legislation, there is a lack of clarity around compensation issues for loss of property and infrastructure as a result of a flood prevention scheme, including the timescale for making a claim and payment after a Flood Prevention Order is granted. SCDI understands that local authorities could delay this payment for up to 10 years. Businesses also report problems in getting any information from the district valuer and concerns about whether the district valuer can be seen as genuinely independent from the local authority. The legislation needs to be enhanced and, perhaps, the period for claim has to be extended beyond 10 years. Another issue is that local authorities used to be able to claim 80 per cent of the cost of compensation from the Scottish Government. However, SCDI understands that the transfer of funding for flood risk management to local authorities means that compensation now has to come from their own budgets. When the local authority costs a flood scheme, it does not know the costs of compensation claims. If it is then faced with significant compensation claims, the burden of providing this money will be fully on its own local council tax payers.
7. After the 2002 flooding, SCDI wrote to the then Scottish Executive highlighting that some of the larger employers in Elgin were being forced to operate without insurance through no fault of their own. It pointed out the potential repercussions for their operations there and in other parts of Scotland, for the wider Scottish economy and, through business rates, for public finances. SCDI suggested that an Executive backed interim flood disaster insurance scheme for larger businesses in Scotland should be introduced for such cases. The Executive, which appeared unaware that there were companies which had flood cover excluded from their insurance policies,

claimed that this would infringe state aid regulations and place “an unquantifiable burden on Executive resources” In the USA some state organisations provide cover in relation to hurricane damage and SCDI continues to support a similar scheme for flooding damage in Scotland. In the light of the long delay in the government-sponsored flood prevention schemes, it can be argued that it has an obligation to support affected companies.

8. It has been highlighted to SCDI that the Assessors for business rates may offer minimal relief to businesses with property which is at risk from flooding, even though their valuation on the property market is seriously affected. There is a strong argument that one way the Scottish Government could support larger businesses would be to offset their higher insurance costs through equivalent reductions in business rates to more accurately reflect the effect of flooding on property value. This would place limits on the burden on the public purse. Short-term relief can also be offered to businesses after flooding through councils’ powers to suspend or reduce business rates due to ‘hardship’. There may be a case for suspension of water charges, at least for the period of the clean-up when extra water has to be used for the purpose of clearing pollution.

Questions

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

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

9. A definition of Sustainable Flood Management would be useful in creating a greater and shared understanding among public bodies, businesses and the public of the framework in which policies and measures will be developed and considered. SCDI strongly supports the Scottish Government’s intention to develop guidance, including objectives, principles and indicators, which can be used to assess the performance of flood management measures and plans.
10. It is unclear in the document whether the four objectives for Sustainable Flood Management are listed in any particular order. The Scottish Government’s stated purpose is “to focus Government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth.” The proposed economic objective of Sustainable Flood Management should, therefore, possibly be listed first.
11. SCDI is uncertain what is meant by “fair access for everyone” in the proposed social objective and whether this relates to regional equity. SCDI believes that there is a need for national and local prioritisation for those areas at greatest risk. Resources need to be targeted at those areas with the highest number of people and businesses at risk and also better protection of critical strategic infrastructure, such as energy and water facilities. However, support should also be offered to schemes important to rural towns and economies, where the recovery period from a flood, for example in the tourism industry, may be much longer. While flooding often occurs outside the peak tourism season, repairs and refurbishments to hotel accommodation and tourist attractions –

often located in areas at most risk of flooding – can take months during which time these businesses are closed and the local economy seriously suffers.

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

12. Yes. There is a pressing need for a single body to take a strategic overview and have overall responsibility for coordinating and developing national flood risk assessments and Flood Management Plans, looking well beyond three-year spending cycles. SCDI also believe that there is a national role for the competent authority in promoting the skills necessary for the design and specification of flood schemes, and in exploring innovative methods of procurement. Ministers have ruled out the creation of a new Floods Authority body which would have a strategic overview and co-ordinate flood risk assessments, management plans and fund delivery of flood defences at all levels. SCDI therefore agrees that the local co-ordination and delivery of flood defences, and local engagement should be undertaken by the local authorities.

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

13. Yes. SCDI supports the proposal that SEPA should become this competent authority, given its experience in flood risk assessment and catchment planning. SCDI welcomes the essential work which it is doing to map at risk strategic assets, including sewage treatment works and electricity sub-stations. It is already the competent authority for River Basin Planning in the Water Framework Directive. SCDI would suggest that another key quality to enable the delivery of the Floods Directive is 'Financial capability/ capacity'. The Scottish Government must adequately fund SEPA to deliver this new national remit and, as the competent authority, to secure the participation of responsible authorities and to consult stakeholders. There is a particular need to address its engineering and economic capability to understand the capital works programme and undertake cost-benefit analyses. SEPA and the Scottish Government must also ensure that it does not become another bureaucratic layer. Improving the information flow to businesses must be a key priority.
14. SCDI welcomes the funding provided to SEPA to establish an up to date flood information dissemination scheme. This should include the significant populated areas across Scotland at risk of flooding which are not already covered. Businesses should be contacted through text messages, emails and websites. In creating this system, it will be important to clarify who has responsibility for disseminating information. SCDI recommends that SEPA has national responsibility and works with local authorities. The Environment Agency in England already operates a scheme in which individuals and businesses sign-up for warnings. However, it may be necessary to extend this further by introducing an "opt-out" service rather than "opt-in". This would require providing SEPA with access to sensitive personal address and other contact details and this would need to be handled extremely carefully.

- 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?**
- Q6. Should Ministers of SEPA have the power to designate a lead authority within a local area, or should it be left to the partners?**
15. SCDI generally welcomes the proposed hierarchal process for flood risk management planning which is set out as Box 7 of the consultation document. The integration of Local and Area Flood Risk Management Plans and co-ordination between local authorities where a catchment area crosses their boundaries are essential. SCDI has some concerns about the number of plans which it appears may be produced. While it anticipates that local authorities will normally determine the best approach to their co-operation, experience suggests that agreement may not always be possible. In SCDI's view, it would be prudent to reserve the power for Ministers to designate a lead authority within a catchment area where the local authorities have been unable to do so.
16. SCDI supports a clear and participative approach to flood risk planning. A consistent complaint from SCDI members is a lack of information. Early contractor involvement and upfront consultation with businesses would seem to be the best way to design a deliverable scheme with wide support. Evidence to the Scottish Parliament's Environment and Rural Affairs Committee has highlighted that businesses and members of the public in Moray in at-risk areas are often not receiving flood alerts from the council. SCDI therefore suggests that all Local Flood Risk Management Plans should include a comprehensive Communications Plan covering the participation of other responsible authorities, stakeholder consultations and flood warning systems.
17. SCDI acknowledges that devolving funding for flood risk management to local authorities may streamline the process of building flood alleviation schemes within local authority areas. However, it has also expressed some concerns that the transfer may make it more difficult to make progress with cross-border strategic flood management schemes as the priority attached may differ upstream and downstream, and long-term schemes would have to compete with other, perhaps more short-term, political priorities. The intention that the future allocation of that money will be based on the level of significant flood risk in each local authority is an improvement. SEPA's new role in monitoring the performance of flood management measures and plans against objectives, principles and indicators will be an essential part of this process. However, an assessment of the flooding risk in every authority still fails to take into account which area solutions are priorities for funding and/ or are ready to deliver. There is a need to look again at the funding mechanism. Another issue which should be resolved is the maintenance of assets. It seems at present that local authorities are not funded to maintain flooding schemes.
- Q7. Do you agree that Local Authorities, Scottish Water, the Forestry Commission, and SNH should be identified as responsible authorities?**
- Q8. Which other bodies should be identified as responsible authorities?**

18. Yes, Local Authorities, Scottish Water, the Forestry Commission, and SNH should be identified as responsible authorities. More frequent and severe rainfall in Scotland would undoubtedly lead to increased incidence of transport disruption, landslides, damage to other infrastructure or loss of services. As events such as the closure of the A83 at the Rest and Be Thankful in Argyll in 2007, and of the A96 and the Inverness-Aberdeen railway at Elgin in 1997 and 2002 demonstrate, this disruption and damage can have a serious economic impact. SCDI would suggest that Transport Scotland, Network Rail and the Regional Transport Partnerships might be identified as other responsible authorities. The clear responsibilities of emergency services in preparing for a flooding event could also be identified. Finally, while SCDI understands that, as private sector companies, they could not be identified as responsible authorities, the owners and operators of hydro power stations and other critical energy infrastructure, principally Scottish and Southern Energy, ScottishPower and National Grid Company, have clear interests, expertise and responsibilities, and there is a need to consider how best to involve them.
- Q9. Do you agree that responsible authorities should have a duty to work together within Flood Advisory Groups to produce plans?**
- Q10. Do you agree that the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process?**
19. Yes. There should be a duty for responsible bodies to collaborate to produce Area Flood Risk Management Plans and Local Flood Risk Management Plans, and to deliver the objectives and measures agreed through these plans.
20. SCDI also supports the proposal to establish stakeholder forums. SCDI believes that national and local stakeholder forums should be set up. It will be important to ensure that these forums are genuinely representative and a key constituent group should be the business community. The national stakeholder forum should lead awareness-raising of the increasing risk of flooding and what individual householders and businesses can do to protect their safety, well-being and property. There should be the opportunity for genuine dialogue at local stakeholder forums, not just with the Local Authorities, but with SEPA, Scottish Water and the other responsible authorities. These forums should not be seen by public bodies as a means of ticking the public consultation box, but as an opportunity for meaningful business and community contributions to the Area Flood Risk Management Plans and Local Flood Risk Management Plans. Many businesses have a great deal of experience and knowledge of the flood risks in their areas, and routinely monitor water levels. Nor should the plans be the substitute for wider engagement. Innovative ways should be found for harnessing the ideas and enthusiasm of the community as a whole into flood risk management planning.
- Q11. Do you agree that the Bill should set out a process similar to that for River Basin Management Planning for preparation by SEPA of area flood risk management plans?**

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

21. Yes. A similar process to the River Basin Management Planning - with its National and Area Advisory Groups - is appropriate for the preparation of Area Flood Risk Management Plans. The boundaries should be contiguous and the advisory groups should be fully aware of each other's work streams. Over time, it may be possible to bring them even closer together. SCDI agrees that, as with River Basin Management Planning, Ministers should have the power to approve, reject or modify the 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?

22. Yes. The Metropolitan Glasgow Strategic Drainage Plan is highlighted as an exemplar in the consultation and SCDI agrees. The integrated and catchment focussed flood risk management planning framework will assist with this approach elsewhere. However, SCDI remains concerned that the differing local authority and Scottish Water budgetary cycles make it harder to take forward the simultaneous construction of flood management schemes and drainage infrastructure. Scottish Water has established an efficient four year capital investment programme which makes it very difficult for it to fund associated drainage work in a flood management scheme which is brought forward under a different budgetary cycle. There is therefore a case for transferring responsibility for funding drainage infrastructure investment to local authorities. If not, SCDI believes that a stronger role for the competent authority in ensuring compliance with the Area Flood Risk Management Plan and establishing a mechanism to agree investment plans could be beneficial.

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

23. In 'Firm Foundations', the Scottish Government has set out plans to increase the number of houses constructed in Scotland per year to at least 35,000 a year by the middle of the next decade, which represents a significant increase from the circa 25,000 a year trend since the late 1990s. If this ambitious, but economically and socially necessary, target is to be achieved, it is clear that development in built-up areas on floodplains will continue, and the task will be to minimise the risk. New development in areas where there is not already existing settlement should clearly generally be free from significant flood risk, but should still be considered on a case by case basis. It should also be possible for development plans to require higher flood resilience for new buildings on floodplains which may mitigate the risks. Building on the introduction of the river basin planning system and the advice which SEPA gives to planning authorities, development plans should be informed by flood management plans in areas of risk, but it would be inappropriate to insist that they conform. It should be recognised that they do not have statutory force.

24. While Scottish Planning Policy 7 (SPP7) has specific requirements for undertaking all flood risk assessments, there is little advice on what constitutes an allowance for climate change. This is largely left to the discretion of those undertaking the flood risk assessment. As climate change is considered to be an important aspect of future flood risk, it is recommended that future planning policy should provide more specific guidance on climate change.

Flood protection measures – Simplifying the Statutory Process

25. SCDI strongly supports the Scottish Government's determination to radically simplify and speed-up planning permission for flood prevention schemes. The current process, which may involve two public inquiries, can be piecemeal and tortuously slow. The consultation document proposes two alternative approaches to simplification. SCDI has not attempted to answer every question in this section (Q15-Q22) particularly those which ask respondents to specify appropriate timescales, and it does not have a favoured option. The Ministerial Approval system has worked well with Scottish Water's water and sewerage capital investment programme and, if it remains responsible for funding drainage infrastructure, this is, perhaps, an argument for opting for Ministerial Approval of flood risk management schemes. However, SCDI's comments focus on specific concerns voiced by members with either approach which it highlights as issues to be resolved before a final decision is made.
26. It should be stressed that not only does the current process expose businesses and communities to greater risk of flooding and affect individuals' sense of wellbeing, insurance companies price according to risk, so delays can lead to longer-lasting high insurance premiums for businesses which damages economic prosperity. Companies have a strong self-interest in simpler and faster delivery of flood prevention schemes, but this must also be inclusive.

Option 1 – Ministerial Approval to Also Grant Deemed Planning Permission

- Q15. Do you think that the granting of deemed planning permission at the end of the statutory process for flood risk management will deliver a more streamlined approach to the delivery of flood risk management?**
- Q16. Should Ministerial confirmation be made necessary even where features of a scheme do not require planning permission?**
- Q17. Is the present procedure for Ministerial confirmation satisfactory for this new purpose or are there revisions e.g. to timescales which should be considered?**
27. At 3.58, the consultation document states that under either option the procedures would have to ensure "That the rights of those entitled to object under planning law and those entitled to object under [the] 1961 Act are maintained." According to paragraph 3.49, the Act states that "Only objections from those to whom that scheme was notified and those who are likely to be affected by the carrying out of a scheme or the change in the flow of water must be considered at a public local inquiry". However, it is said at paragraph

3.62 says that “Under [Option 1] there would only be two classes of objectors – those entitled to appear at the inquiry because the scheme was to be built on their land and those who could only appear at the inquiry by invitation.” SCDI has significant concerns that this does not appear to take into account other parties with an interest in the land or those who might be affected by flooding as a result of a prevention scheme, perhaps as a result of an error in the design. Their right to be heard seems to depend on the discretion of the Reporter, although Minister would be required to consider the objection. If the limited eligible parties withdraw their objections, then the inquiry would not proceed. Ministers would “simply” consider the remaining objections. Questions must be asked about the rigorousness which they would apply to this consideration.

28. Many distilleries and other businesses in Scotland may not own a particular area of land, but they could be significantly impacted by a proposed flood scheme. For instance, an SCDI member company in Moray had interests in extracting water from an area of land which would be flooded by a scheme. It did not own the land, but had a deed of servitude allowing the extraction.
29. Many flood schemes flood farm land yet the flood scheme is not built on the farmers’ land. It is not clear to SCDI whether the owner of the fields would be allowed to object and attend the Inquiry. There may also be instances in which a landowner or another interested party notices that a flood scheme calculation was incorrect and the consequence of this might mean that their property would be flooded. An example of such a design error which was spotted by a local landowner was on the drawings for the Elgin Flood Scheme. The height of the new river bank was too low and if the scheme had been constructed to this height, a large area of housing in the town would have been flooded.

Option 2 – Relying on a local authority based procedure

- 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 simply procedures?**
30. The transfer of funding for flood risk management to the block grant to local authorities would appear to make it logical to rely wholly on local authority based procedures for flood prevention schemes and remove the Ministerial confirmation process. This would be consistent with a development plan-led approach and would raise the importance of Local Flood Risk Management

Plans. However, based on their own experiences, SCDI members in the business community have strong concerns about whether there would be sufficient information-sharing, opportunity to comment, safeguards for land and property owners, and technical capacity in some smaller local authorities. SCDI notes that a procedure separate from planning is deemed necessary. But, given that local authorities are in effect applying to themselves for planning permissions, still has some reservations about the concentration of powers.

31. SCDI has some concerns about the proposal that for occasions where local authorities could not reach agreement with a landowner on the use of land for flood management purposes, they would have the option to use powers of compulsory purchase. It does not regard the safeguards conferred by the European Convention on Human Rights as sufficient and would argue that the rights of companies and individuals have to be strengthened in the Bill. SCDI has been made aware of a specific example in Moray of the Flood Team totally disregarding the objections of a local business, which were subsequently upheld at a Public Inquiry. The concern would be that if local authorities are given rights of compulsory purchase without sufficient safeguards for companies and individuals, the only way to challenge a decision would be through a Public Inquiry and, given the costs of legal representation, few objectors could afford to go to an inquiry. It must be remembered that the costs to businesses of professional help to advise on a scheme or appear at a Public Local Inquiry can be prohibitively high.
 32. If this option is implemented, the lack of certain skills within local authorities, such as specialist planners, must be addressed urgently. With some current flood prevention schemes, little attempt appears to have been made to import skills from other local authorities which have completed similar projects. In view of the planned level of construction activity around Scotland, this approach cannot be adopted in the future. SEPA and the local authorities must carefully consider the options as part of the shared services/resources agenda. A pool of experienced flood engineers from local authorities in each Flood Risk Management Planning Area is one potential approach. Another idea worthy of consideration which has been suggested to SCDI is that a virtual delivery company could be created by local authorities with people seconded in from them to do all the work on flood management schemes in Scotland.
- Q23. Do you consider local authorities' powers are sufficient to take necessary action to avert danger to life and property?**
33. Local authorities should have sufficient powers in an emergency situation where a clear and present danger exists to take urgent remedial action, including on private land. However, the presumption should be that if possible consent is granted from the land owner and costs recovery should be on the basis that the local authority can demonstrate that such a clear and present danger did indeed exist, and that it took the appropriate remedial actions.
- Q24. Do you agree that streamlining the CAR and flooding/ planning processes can be managed through better guidance?**

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

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

34. Better guidance and joined-up working are certainly supported. The consultation paper indicates that there is a lack of technical knowledge on flooding matters within local authorities and that they employ consultants to produce flood schemes. If option 2 is implemented, it is probable that further consultants would be contracted to check the consultants creating the scheme. At the moment Scottish Government technical staff checks the application for a Flood Order. In addition, SEPA check the application as a CAR licence is required, but SEPA does not always get access to adequate information. SCDI is not yet convinced that better guidance alone can streamline the processes.

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

35. Yes. Ensuring integration and avoiding bureaucratic duplication is important.

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

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?

36. SCDI agrees that there is no need to set out in detail in the Bill what a sustainable flood management measure might be. However, as a new and untested approach in Scotland, there is a need to move quickly thereafter to:

- Establish what domestic and international evidence is available to guide the development of sustainable flood management
- Consider whether further studies are necessary
- Decide whether there should be Scottish Government funded pilot schemes by SEPA, relevant local authorities, university researchers and other responsible authorities to trial and test the effectiveness of the portfolio of potential sustainable flood management measures.

37. The uncertainties around the impact of climate change suggest that there is a need to create a flexible and responsive system of management, but that sustainable flood management should be used wherever practical and appropriate. SCDI believes that rural land management and smaller scale solutions should be promoted as well as larger flood management schemes. Sustainable flood management schemes need not always be based on once-in-a-century or even rarer events, but should be capable of extension at a later date, perhaps as the impact of climate change on flooding becomes clearer.

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Future of Flood Risk Management in Scotland
Response from West Dunbartonshire Council

In answer to each question raised:

- Q1 We believe the definition is fine, although the word "fair" should be explained.
- Q2 It is not simple to understand without the footnotes – some plain English would assist.
- Q3 We agree with the conclusion in paragraph 3.17
- Q4 We agree that SEPA should be the single competent authority. On page 50 it is indicated that SEPA will be responsible for Flood Warning System. We welcome this and look forward to assisting to develop such a system for Flood Control for the River Leven in our area.
- Q5 We agree with the proposals. However the linkage between the Area FRM Plan and central funding needs more clarification.
- Q6 It would be more appropriate for local partners to agree on a lead authority, but failing this, the Government / SEPA could mediate.
- Q7 We agree with the proposal and would seek clarification of a potential role for the National Parks in this.
- Q8 The National Parks, especially Loch Lomond and the Trossachs given their Planning function should be included in some way.
- Q9 We agree to the development of Flood Advisory Groups and the need for smaller more local groupings to bring forward the Local FRM Plans. These latter groupings should ideally evolve from existing structures but not be formally established in that each such group should be different and of varying lifespan.
- Q10 There needs to be effective linkage for the Community Planning Process through say an Environment forum or similar. Currently our communities are poorly catered for in flood prevention scheme development.
- Q11 We have no comment on this.
- Q12 Ministers should have powers to approve or reject plans (with clear justification given). Modifications should be referred back to the originators and if necessary these communities for agreement or otherwise.

- Q13 Such integration appears to make sense. However it is hoped that this would not lead to funding sources becoming shared without additional resources being provided.
- Q14 The linkage should be strong but there must be flexibility to reflect the different processes and organisations involved in the development of each.
- Q15 We agree with this.
- Q16 Yes.
- Q17 All current procedures should be scrutinised to seek opportunities to improve efficiency and effectiveness.
- Q18 We do not believe that this would be the best option for our communities especially given the competing priorities of a local authority.
- Q19 Processes in general need to be streamlined, but still allow fair time for communities to be fully involved.
- Q20 As long as all of the elements of a planning consent were covered by the new process then deemed planning consent would be appropriate.
- Q21 This is a very serious issue. Currently there is a lack of capacity and expertise in local authorities. The performance of consultants is mixed, they are arguably more expensive than in-house Council staff, and they tend to lack the 'public sensitivity' which is an integral part of Council Officer responsibilities. Even if consultants are widely used, each authority would still need some staff knowledgeable on the subject – it may be that legal officers become more involved within Councils. There will generally not be a suitable workload or flow of specialist work for councils to justify dedicated staff. There is a need for training for council Staff most particularly on the legislative issues, process etc.

Whilst much of the technical work, hydrological modelling etc, may reside best with consultants – not least as they can retain a consistent use of specialist knowledge, there is a need for them to be more aware of the wider community issues and implications around their design and development work.

- Q22 We do not have alternative proposals.
- Q23 We are not aware of any problems in this regard, but would acknowledge that other Councils may have encountered difficult situations that could be helped by change to powers. We do believe that clarity of roles for key respondents in times of flooding is necessary.

- Q24 Yes
- Q25 We have insufficient knowledge to allow us to comment on this.
- Q26 Nothing to comment.
- Q27 The biennial reports must be considered in relation to their purpose. Is it just to report to the Government what we are doing, or is it a much more public document to detail what we have done and what policies and directions the Council will take in the future. Ideally the reports should be more forward looking rather than retrospective and should demonstrate strategic forward planning. Should the reports not now be annual as most Councils are engaged on flood prevention of some kind and would have something to report more frequently. It would also be useful also to record issues from the local Planning process to demonstrate that Councils are dealing with flooding as a key development control issue.
- Q28 They will improve the management, but will not necessarily ensure that Scotland is equipped to implement sfm. Funding and resources will ultimately control the implementation, not just a management system backed by good public engagement.
- Q29 LAs must not get a new duty to promote measures. Flooding is a problem not made by Councils, is an issue that unfairly hits some areas much harder than others, and is getting worse. If flooding is ultimately the responsibility of the property owner then this should not be muddied by a new duty.
- Q30 Yes
- Q31 We are happy with SEPA doing this.
- Q32 We have insufficient knowledge to comment on this.
- Q33 Yes. The current system is not working well.
- Q34 We have no comment on this issue.

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THE SCOTTISH GOVERNMENT
FUTURE OF FLOOD RISK MANAGEMENT IN SCOTLAND
RESPONSE TO CONSULTATION DOCUMENT

John Riddell

Interest The writer is a Chartered Civil Engineer with nearly forty years of experience of all aspects of flooding. He is an independent consultant providing advice on a wide range of flooding issues including flood risk assessments and investigations into flooding incidents. He has had involvement with many flood alleviation schemes, including the Perth, White Cart, Water of Leith, Forres and Elgin schemes, assisting both promoters and objectors. He is a former member of groups established to provide advice on flooding to Scottish Ministers and is a current member of the Flooding Bill Advisory Group. This personal submission draws on that experience and is made primarily on behalf of those who have been or who may be impacted by flooding.

Introduction Flooding brings misery to those whose homes are affected, it can have a devastating economic impact on businesses, and by damaging essential infrastructure it can disrupt the very fabric of our society. While Scotland is fortunate in having had very little loss of life directly resulting from flooding, the potential for a flood event to kill must not be ignored.

It has to be said that Scotland has a good record with regard to flood management. Following the major flooding that affected wide areas of the country between 1989 and 1995 successive administrations have reacted seriously and positively to the risk. Planning advice has been tightened to minimise the possibility of new development at significant risk of flooding and to ensure that such development does not adversely impact on flood risk elsewhere, legislation has been introduced to require the assessment and maintenance of watercourses, flood maps and flood warning systems now exist, and many hundreds of high risk properties have had that risk reduced in recent years through flood alleviation schemes.

Notwithstanding the benefits of these various measures, it is appropriate that consideration should be given to the introduction of new legislation relating to flood risk management in order to ensure that future flood risk to homes and other properties is reduced to a minimum. The writer therefore welcomes the Government's decision to introduce such new legislation and to engage in consultation as to how this can be best achieved.

Before responding to the issues raised in *The Future of Flood Risk Management in Scotland Consultation* the writer would hope that Government recognises that new legislation requires to be sustainable, effective and robust for many years ahead. It is thus important that adequate time is given for such consideration both before and during the parliamentary process.

This response covers both flooding and reservoir safety issues.

J Riddell

Response to Questions 1 - 29

Q1, Q2 As a former member of FIAC the writer has to answer both these questions in the affirmative!

Q3, Q4 The writer is strongly of the view that there should be a single competent authority. That authority must have as its sole purpose the promotion of measures to reduce the flood risk to Scotland's home, businesses and infrastructure. The writer is strongly in favour of a new body being established to fulfil the role of competent authority. The writer believes that in terms of technical capability the nucleus for such a body lies within the Government's existing Flooding Policy Team, augmented as appropriate by drawing specialist expertise from SEPA, Scottish Water, local authorities and the private sector. It is presumed that some form of overall direction and control will be required, and it is considered essential that those exercising such control should be democratically accountable. It is suggested that membership of the new authority could be by election, as is achieved very successfully with the Dutch water boards.

The writer is strongly opposed to SEPA becoming the competent authority. SEPA is an environment protection agency with many different roles, functions and responsibilities. Flooding, as competent authority, will be only one of many such roles. As such the writer believes that SEPA will not be able to give flooding the priority that the people of Scotland will expect from the competent authority. As an example of the importance SEPA accords to flooding it is noted that no current member of either SEPA's main board or any of the three regional boards claims any knowledge of or expertise in flooding in their biographical data. Flooding is not mentioned by any board member as an area of interest.

SEPA is a controlling, constraining, restricting agency. What is required to reduce flood risk is a pro-active body with the full range of technical skills needed to deliver, not just talk about, flood alleviation measures 'on the ground'. The writer strongly believes that SEPA's role in flood risk management should be to provide specialist technical expertise as support to the competent and responsible authorities. Areas such as hydrometry, flood mapping and the development of flood warning systems are good examples of such supporting specialist technical roles, well fulfilled by SEPA, and should continue. Flood risk management requires much wider skills and outlook, however, and the writer cannot accept that these can ever be effectively provided within such a multi-function organisation as SEPA. The writer would also point out that the democratic accountable of SEPA is far from transparent.

Q5, Q6 The proposals of Box 7 are supported.

Q7, Q8 The writer is strongly in favour of membership of the responsible authorities being drawn from the present thirty-two Scottish local authorities and Scottish Water. The writer would favour responsible authorities being established on a larger scale than the present local authorities, particularly where catchments or estuarial coastlines include more than one local authority area. One example of

such a possible grouping would be North and South Lanarkshire, East and West Dunbartonshire, Renfrewshire and East Renfrew, Inverclyde and Glasgow. Scottish Water would be a participant in each responsible authority. Such groupings would allow a co-ordinated approach to be taken, would allow pooling of technical expertise, and would reduce costs when studies are planned. Most importantly they would remove flooding from the somewhat low status it has in many authorities and allow both politicians and the public to see that there is now a body that is the flooding body for the area. Groupings of local authorities would still retain local democratic accountability and vitally, local knowledge. The latter is essential given that many flooding incidents result from such mundane causes as blocked culverts and chocked road gullies.

The writer is not in favour of the Forestry Commission and SNH, or other agencies whose prime interest could be in conflict with flood management, being identified as responsible authorities. The writer strongly believes that it is essential to create a single 'one stop' authority with responsibility for implementing flood management measures. At the public consultation meeting held in Newmilns no less than six different agencies were asked by the Minister to respond to flooding questions. A system must be developed where there is only one authority, and that authority accepts full responsibility. The public should no longer be confused by the different responsibilities of different agencies, with the opportunity afforded to 'pass the buck'. The public quite rightly expect to deal with a single agency.

Q9, Q10 As evidenced by the attendance at the public consultation meetings, the number of 'man in the street' responses to the earlier Rural Affairs Committee call for evidence, and the writer's experience, the public only becomes interested in flooding when directly affected. Thus after a flood there will be many wishing to participate in advisory and stakeholder groups; a few years on and that interest has gone. While the writer supports the establishment of the groups suggested, whether in practice they will add much to what can be achieved by the competent and responsible authorities is doubtful. The writer would also be concerned about a proliferation of 'talking shops', none of which would be empowered to actually stop homes flooding.

Q11 The competent authority should set out FRMPs.

Q12 Giving Ministers such powers means in effect a further group of persons providing advice to Ministers. Why is this necessary if the competent authority is competent? Do Ministers envisage situations where such plans would be altered for political considerations?

Box 8 Flood Awareness and Avoidance The writer fully supports SEPA continuing to develop and operate flood warning systems but considers that the link between the general public and the warning should be via the responsible authority. It is very confusing for the public to have an authority issuing a warning, but then having no power to stop a future flood happening. SEPA's flood awareness campaigns must be seen as supporting the responsible authority, not as the actions of a separate authority. It is simple enough to make the responsible authorities the flood warning authority while still retaining SEPA's expertise in the prediction of flood events. The writer would again emphasise that SEPA's role in flooding, given its many other responsibilities, should be restricted to providing
J Riddell

specialist technical support to the competent and responsible authorities. It is essential that any suggestion in the public's mind that SEPA is some form of alternative or parallel flooding authority be eliminated – there must be only one authority.

Q13 Yes. The public are not interested in the difference between being flooded from a sewer, from a culverted watercourse or from a blocked road gully. It is also doubtful if insurers will distinguish between such causes in seeking possible recovery. A fully integrated approach is essential.

Q14 There requires to be a clear distinction between the production of flood frequency plans (ie plans identifying land likely to be flooded at different event return periods, ie the present indicative flood maps), flood risk plans (which identify the consequences of the raised water levels, which do not yet exist in Scotland) and planning control. The competent authority, supported technically if required by SEPA) should produce the flood frequency plans but flood risk maps should be produced by the responsible authorities based on local knowledge and experience. In relation to planning, planning officers should take advice from the competent authority in relation to land likely to flood, and from the responsible authority in relation to how possible flood risk might be managed. However, the final decision (subject to appeal) must lie with the planning authority. It is not, and should not be, the role of SEPA to provide planning advice such as 'this site is suitable for retail but not for residential', as it can currently do.

Q15, Q16, Q17, Q18, Q19, Q20 The writer is a member of the sub-group providing advice on these issues. The writer supports the view that it is necessary to streamline the present process and give greater flexibility to the responsible authorities in what they can do in relation to managing flood risk while retaining the rights of potential objectors. Objections considered to be relevant, possibly after consideration by an independent technical review group, would result in a public inquiry. However, the writer would make the point that well designed, properly researched flood risk reduction measures subject to widespread consultation should not result in technical objections – the potential for these should have been identified and managed before the application is submitted! See also response to Q21.

Q21 Responsible authorities should be able to undertake any measures they consider might reduce the risk of flooding to land in their area. They should have freedom in terms of return period and also not be restrictive in having to apply benefit/cost ratio in a narrow financial sense. If a responsible authority decides that measures that will reduce flood risk to property from say 2 years to 20 years can be achieved at modest cost, it should be allowed to spend its money on such a measure. The present non-statutory hurdles should be removed.

Technical expertise and capacity can be increased by groupings of local authorities to form a smaller number of responsible authorities. This allows pooling of existing expertise and the ability to employ skilled professionals. However, the writer strongly believes that there must be a process of independent technical review of proposed measures, as takes place in other areas of design, prior to an application for consent.

J Riddell

A related concern regards the level of technical expertise available within the Scottish Government's Directorate of Planning and Environmental Appeals. It is essential that if proposed measures go forward to some appeal or inquiry process that there is confidence that those making recommendations to Ministers fully understand the quite specialist area of flood alleviation.

Q22 Not at this point.

Q23 A duty should be placed on responsible authorities to identify all situations where flooding could pose a risk to life. A FIAC paper describes such situations. The responsible authority should also have a duty to take steps as appropriate to reduce that risk. Should flooding result in a loss of life a fatal accident inquiry could well find that the risk should have been foreseen, and could have been mitigated.

Q24 Is it more important to protect life and property from flooding or to protect the aquatic environment? Ideally of course both should be achievable, but if not then it is not acceptable for flood risk reduction proposals to be rejected because a CAR approval is not forthcoming.

Q25 CAR is at an early stage, and in time a more balanced approach to engineering activities such as flood alleviation works, should be forthcoming. The role of SEPA to protect the aquatic environment must be balanced with the role of the competent and responsible authorities to protect homes, businesses and infrastructure from flooding – further reinforcing the view that SEPA must not be the competent authority.

Q26 Not at present.

Q27 By creating groupings of local authorities into a small number of responsible authorities the present variations in these reports will reduce. Again, if Ministers give direction that implies a government flooding advisory team, which surely can be replaced by the competent authority if that authority is competent?

Q28 The proposal to have an enabling bill followed by orders giving guidance would seem to be a consequence of a wish to achieve the legislation quickly. Why not take the time to do the whole thing right?

Q29 A fundamental omission from the consultation is the failure to address the issue of whether responsible authorities should have powers or duties to undertake flood risk reduction measures. It is noted that authorities will be given duties to prepare maps and plans, but only 'responsibility' to implement these through actual works or other measures. This issue should not be fudged, despite the potential political, financial and legal implications. The removal of ring fencing from flooding funding and the restricted interest in flooding both geographically and temporally within local authorities will,

the writer would suggest, increase the reluctance of elected members to take flooding seriously, other than when flooding occurs. The history of flood alleviation schemes in Scotland clearly demonstrates that such schemes are reactive, ie trying to ensure that people are not flooded again. What is required is a system that ensures they are not flooded the first time! Unless a duty is imposed then the writer believes that while the proposed flood alleviation bill will produce many plans and wish lists, in practice it will not ensure the delivery of the required measures, works and actions. This issue must be grasped by the Scottish Parliament.

Reservoir Safety

Q30 The writer would support the establishment of a single national (UK) body to enforce the provisions of the (UK) Reservoirs Act 1975. Such a body could have one or more Scottish 'areas', or more logically different bodies for different types of dam, eg concrete and earth. Given the risks associated with dam failure and the existence of national (UK) legislation the writer would caution against introducing Scottish changes which could be seen to impact adversely on public safety relative to other parts of the UK.

Q31 Not SEPA. See response to Q4.

Q32 Yes

Q33 It is important to bring within a competent inspection and recording regime all bodies of water above normal ground level (reservoirs, canals, aqueducts, pipelines) where a failure/breach could result in significant property damage or loss of life. Former single user industrial reservoirs now located upstream of multi ownership residential property constructed on the redeveloped site urgently need to be identified, inspected and maintained or otherwise managed to ensure no flood risk to the new homes. The concern relates not to those large reservoirs owned by responsible bodies but to generally smaller reservoirs of sometimes uncertain ownership.

Q34 Are there any Crown reservoirs in Scotland?

John Riddell
23rd April 2008

J Riddell

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

Your Reference

Our reference

Date

24 April, 2008

The Future of Flood Risk Management in Scotland: A Consultation Document. Response from Zurich.

Dear Ms Conlan,

Zurich Municipal

Zurich Financial Services Group (Zurich) is an insurance-based financial services provider with a global network of subsidiaries and offices in North America and Europe as well as in Asia Pacific, Latin America and other markets. Founded in 1872, the Group is headquartered in Zurich, Switzerland. It employs approximately 60,000 people serving customers in more than 170 countries.

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Zurich Municipal is the leading provider of risk and insurance solutions to Britain's public services. We are dedicated to providing expert advice and support to public service providers in the UK, with many of our customers based in Scotland. Zurich also has a branch situated in Scotland and welcomes the opportunity to respond to this consultation.

Telephone 0870 2418050
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We are aware of the response submitted by the Association of British Insurers (ABI) on behalf of the industry generally and would like to endorse this.

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As a major provider of risk management solutions, we support the development of a co-ordinated approach to flood risk management across Scotland. We support the Scottish Government intention to introduce a Scottish Flood Bill this year which will address the transposition of the EC Floods Directive, enable sustainable flood risk management in Scotland to operate more efficiently through a simpler, more co-ordinated approach and address current concerns over the lack of coordination between the different powers and duties under different legislation.

Communications will be monitored regularly to improve our service and for security and regulatory purposes

As insurer to many local authorities, schools and social houses we are particularly pleased the summer 2007 flooding incidents in the UK are being taken into consideration. Much can be learnt following the unexpected severity of the events. At Zurich, we saw at first hand the devastating effects that the floods had on our own premises, many of our staff's properties and our local authority and commercial customers. During this period we worked closely with those affected to try and minimise the impact of the floods as far as possible. Zurich's global claims supplier network enabled us to call on international suppliers from as far a field as Europe and the United States to manage the increased demand from customers during the June and July floods. Emergency drying equipment for properties and additional manpower were brought in to ensure loss adjusters were out visiting homeowners, businesses and local authorities in desperate need of assistance most needed as quickly as possible. In addition, we worked with some of our local authority customers by funding guides that were provided to citizens about what to do in the event of future flooding. So it is reassuring that the Pitt review interim recommendations are a considered part of the consultation towards the Flood Bill especially updated flood legislation flood legislation to address all sources of flooding and to reflect the modern, risk-management approach.

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A clear framework of responsibility, with duties and powers defined so that each organisation involved knows exactly what is required is essential in preparing for future events. We support the Scottish Government's recognition of evolving challenges including climate change effects and the proposal that the legislation will be flexible to adapt to these changes. The need for all to understand sustainable flood management is important so

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everybody works towards the same goals so the definition of Sustainable Flood Management proposed by the Flooding Issues Advisory Committee in box 4 is helpful.

We support the conclusions set out in paragraph 3.17 for the need to identify one competent authority with a national remit for implementing the Floods Directive. The role of local authorities in then implementing flood defence works and delivery at a local level is very important.

Finally, from our experience dealing with many significant losses of many types, it is important to recognise the need for local authorities to have robust civil and business contingency plans. In our experience, the civil plans are often well considered but local authorities must not ignore the potential for their own premises and operations to be significantly impacted by flood events. Highlighting this as a risk management tool would ensure this important element is not forgotten.

We do hope this feedback assists the consultation. If you wish to discuss any of the issues here or a further exchange of views and expertise, please do not hesitate to contact me on 01252 387700

Yours sincerely,

Rob Allison
Managing Director

The Scottish Government

THE FUTURE OF FLOOD RISK MANAGEMENT IN SCOTLAND – CONSULTATION

North Ayrshire Council Submission

Introduction

The following is North Ayrshire Council's response to the questions asked in the consultation document The Future of Flood Risk Management in Scotland.

NAC have considered the many previous reports on flooding issues and discussions over the years with the Scottish Society of Directors of Planning and the Society of Chief Officers of Transportation in Scotland, COSLA and fellow local authorities in framing this response.

The fresh approach to flood management in the consultation is welcome, especially in respect of the integrated approaches between the various responsible bodies, which although evident across the EU, are not as commonplace nearer home.

The questions and the Council's responses are set out below.

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

In addition to the Flood Issues Advisory Committee (FIAC) summary definition of Sustainable Flood Management outlined in the consultation, FIAC also suggested that sustainable flood management principles should reflect a strategic long-term approach, ensure active engagement by all stakeholders and seek opportunities for multiple benefits. Importantly a sustainable approach requires that consideration be given to a wide range of options for managing flood risk.

The definition given would appear to be well thought out and considered, however, on closer examination, quantifying the values and developing a set of measurement indicators may prove to be a major challenge and if not easily understood are likely to be ignored by the general public. The Institution of Civil Engineers definition of sustainability 'meeting the needs of today without compromising the future' is a little too simplistic, although perfect for most engineers. Both definitions are aimed at practitioners, what is needed is a definition that will be understood by both practitioners and lay people alike.

The proposal to provide guidance, particularly on indicators, which can be used to assess the performance of flood management measures and plans, is welcome. Indicators, however, should consider all aspects of sustainability and not only focus on environmental aspects.

It is recognised that an over precise statutory definition of SFM might inhibit flexible and innovative responses, however, it is important to ensure that responsible authorities undertake sustainable flood management as a core function.

A fuller statement on SFM to reflect all of these aspects would be of assistance as would be practical examples of good practice.