



FLOOD MANAGEMENT POLICY REVIEW

DISCUSSION DOCUMENT POST PUBLIC CONSULTATION

January 2007

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FLOOD MANAGEMENT POLICY REVIEW**DISCUSSION DOCUMENT - POST PUBLIC CONSULTATION****DOCUMENT ISSUE**

Revision	Title	Date	Prepared by	Approved by	Client Receipt
00	Discussion Document - Post Public Consultation	06/12/06	AGB		
01	Discussion Document - Post Public Consultation	24/01/07	LH	AGB	
02	Discussion Document - Post Public Consultation Final Version	31/01/07	LH	AGB	

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1.0 Introduction

- Rivers Agency appointed RPS Consulting Engineers to undertake an independent review of its Flood Management Policy and to provide a policy framework for the future which reflects the changing role of the Agency.
- RPS Consulting Engineers prepared a Consultation Document to seek the views of stakeholders, interested parties and members of the public on the proposed changes to the Flood Management Policy.
- The Consultation Document was available for public response and comment for a 12 week period from 15 August to 6 November 2006.
- The responses to the Consultation Document are collated under separate cover.
- This Discussion Document presents the results of an independent objective assessment of the key issues raised as a result of the consultation process and makes recommendations on how the proposed policy framework should be adapted or changed where appropriate, based on the information and views received.
- The output from this Discussion Document provides valuable input to developing River Agency's Flood Management Policy Framework.

This publication can be made available in an alternative format. For further details please contact tel: (028)90667914.

2.0 Key Issue 1 – Rural Maintenance

- The responses to the Flood Management Policy Review Consultation Document raised a number of concerns regarding Rural Maintenance.
- Responses from two of Rivers Agency's staff and the Northern Ireland Public Service Alliance (NIPSA) considered that the report did not fully reflect the importance and totality of Rivers Agency functions with regard to rural maintenance.
- The key argument put forward is that considerable investment has been made in arterial drainage schemes in the past and that any scaling down of maintenance standards and frequency will eventually impact significantly on the agricultural community in social and economic terms and stifle the industries ability to compete in the global market place. Consequently, they argue that the current policy 'to preserve the productive potential of agricultural land' should be retained. The Ulster Farmers Union also wish to see this policy aim preserved.
- On the other hand, responses from key interested parties including RSPB, CNCC and the Lough Neagh & Lower Bann Advisory Group consider that land use changes as a result of less rural maintenance can help secure sustainable flood management, through the creation of multifunctional wetlands that provide flood storage and wildlife rich habitats. RSPB argue that continued land drainage is a key factor in the decline of many of Northern Ireland's most threatened species and habitats in Northern Ireland.
- In response to the submissions received, RPS Consulting Engineers undertook further consultations with the Environmental Policy Group of DARD. The outcome of the consultations are presented below by way of a review and commentary in relation to the following key Policy Documents:
 - 1) A Sustainable Development Strategy for Northern Ireland
 - 2) Northern Ireland's Biodiversity Strategy
 - 3) DARDs Strategic Plan 2006 – 2011
 - 4) Cross-Compliance Verifiable Standards 2005 – 2006

A Sustainable Development Strategy for Northern Ireland

- Northern Ireland's first Sustainable Development Strategy was launched by the Secretary of State for Northern Ireland, Rt Hon Peter Hain MP on 9 May 2006.
- The Strategy represents the first steps of operating within a policy framework which supports safeguarding and using existing resources in a sustainable way to enhance the long-term management of, and investment in, human, social and environmental resources.
- The guiding principles of Sustainable Development are outlined below and form the basis for Government policy in Northern Ireland

- a) Living within environmental limits
 - b) Ensuring a strong, healthy and just society
 - c) Achieving a sustainable economy
 - d) Promoting good governance
 - e) Using sound science responsibly
 - f) Promoting opportunity and innovation.
- The Sustainable Development Strategy provides a wide range of strategic objectives and targets. Those strategic objectives and targets which may impact on Rivers Agency's rural maintenance policy are:

Strategy Objective – to protect and enhance the freshwater and marine environment

Key Targets include meeting the environmental objectives of the Water Framework Directive by 2015. An important step is to develop a new Policy Framework for river and coastal flood risk management.

Strategy Objective – to protect and enhance biodiversity

Key Targets are to significantly reduce biodiversity loss by 2010 and to halt biodiversity loss by 2016. An important step is to increase the emphasis on biodiversity and water quality issues in agri-environmental schemes.

Strategy Objective – plan and prepare for climate change impacts

Key Targets include develop and implement changes to Government policies and strategies to address adaptation issues.

Strategy Objective – to bring about the behavioural changes necessary to progress and contribute towards a sustainable society

Key Targets include the development of a Sustainable Development communication strategy by 2007.

Strategy Objective – to mainstream sustainable development across Government.

Key Targets include the introduction of a statutory duty on relevant public bodies to contribute to the achievement of sustainable development by 2007.

- *Commentary:* DARD has a unique importance in relation to the implementation of the Sustainable Development Strategy given its interface with the rural community and the agricultural sector, with farming activity taking place on holdings that total some 80% of the land area of Northern Ireland. The principle of Sustainable Development has consequently been enshrined in DARDs Strategic Plan 2006 -2011.

Northern Ireland's Biodiversity Strategy

- Northern Ireland's Biodiversity Strategy was launched by Dermot Nesbitt, MLA, Minister of the Environment in August 2002.
- The Strategy aims are to protect and enhance biodiversity in Northern Ireland over the period up to 2016. The Strategy recognises that Northern Ireland is losing its biodiversity

at an alarming rate and its key goal is to arrest the decline over the period of the Strategy.

- DoE and its agencies, with advice from the Council for Nature Conservation and the Countryside (CNCC), have the primary responsibility for biodiversity action. However, given the fact that some 80% of Northern Ireland's land area is either in agriculture or forestry, DARD and its agencies also have responsibility for a large number of actions designed to restore the biological integrity of the wider countryside. A first step has been a doubling of DARD's agri-environment scheme expenditure to £88 million in the period 2000-2006.
- Action on biodiversity will be taking place in the context of other actions which are being taken at European and international levels to protect the environment. Amongst the numerous Directives there are several which are particularly relevant to biodiversity, including the Habitats and Birds Directives, the Water Framework Directive and the Strategic Environmental Assessment Directive.
- *Commentary:* Northern Ireland's biodiversity strategy is an integral part of the over-arching Sustainable Development Strategy. DARD has again been cited as having key responsibilities for implementing aspects of the biodiversity strategy.

DARDs Strategic Plan 2006 – 2011

- DARDs vision as set out in its Strategy Plan 2006 – 2011 is "A thriving and sustainable rural community and environment in Northern Ireland".
- Sustainable Development will be the over-arching driver for change for DARD over the next 5 years.
- DARD has 4 strategic goals to action Sustainable Development:

GOAL 1	to improve the performance of the marketplace;
GOAL 2	to strengthen the social and economic infrastructure of rural areas;
GOAL 3	to enhance animal, fish and plant health and welfare; and
GOAL 4	to develop a more sustainable environment.
- Sustainable Development will shape the activities of farmers through the implementation of Common Agricultural Policy (CAP) reform which reinforces the requirement on farmers to act in an environmentally sustainable and responsible way.
- The Strategic Plan recognises that EU environmental regulations, in particular the Nitrates Directive, Habitats Directive and the Water Framework Directive, could have a significant impact on primary production and necessitate structural adjustment.
- While lead policy responsibility for the environment in Northern Ireland rests with DoE, DARD has a distinctive contribution to make by encouraging farming methods which are conducive to the conservation and enhancement of the rural environments. DARD is working increasingly closely with DoE on issues of common concern to achieve a joined-

up approach which is effective in achieving environmental improvement and sustainability without imposing disproportionate costs. DARDs goals include:

- a) Increased biodiversity on farmland
- b) Enhanced landscape
- c) Improved water quality in rivers and lakes
- d) Reduced agri-food related pollution incidents
- e) Reduced impact of river and coastal flooding incidents

Commentary: It is clear that Sustainable Development is the cornerstone of DARDs future policy regarding the rural environment. It is therefore appropriate for all aspects of Rivers Agency's new Policy Framework for river and coastal flood risk management to be similarly based on the ethos of Sustainable Development.

Cross-Compliance Verifiable Standards 2005 and 2006

- Recent CAP Reform has decoupled grant aid from agricultural productivity. Instead, a Single Farm Payment is made irrespective of production.
- All farmers claiming the Single Farm Payment are required to meet Cross-Compliance conditions. These conditions are designed to provide a more sustainable basis for European Agriculture and reflect a number of environmental and other objectives.
- There are two aspects to Cross-Compliance. The first of these is compliance with regulatory requirements covering the environment, food safety, animal and plant health and animal welfare and are known as the Statutory Management Requirements (SMRs). The Second is a requirement to maintain land in Good Agricultural and Environmental Condition (GAEC). Cross-Compliance Guidance for farmers is set out in DARD's "Cross-Compliance Verifiable Standards 2005 and 2006".
- The measures which have been developed to meet the requirements of GAEC are of particular relevance to Rivers Agency's rural maintenance programme.
- The Northern Ireland GAEC measures address the following issues:
 - Soil erosion – protection of soil;
 - Soil organic matter – maintenance of organic matter levels;
 - Soil structure – maintenance of soil structure;
 - Minimum level of maintenance – to ensure a minimum level of maintenance and avoid the deterioration of habitats.
- The detailed requirements for GAEC are presented in Annex 3 of DARD's Cross-Compliance Verifiable Standards 2005-2006. The salient points are discussed below:

- (i) **Land abandonment** is not allowed under Cross-Compliance.

Commentary: this implies that River Agency's rural maintenance programme similarly cannot be abandoned.

The result of CAP Reform will most likely result in a shift from 'intensive farming' to 'extensive farming' methods which will reduce the surplus of food supply, bring stability to the global market for agricultural commodities and create significant benefits for the environment.

- (ii) **Permanent Pasture.** The purpose of this requirement is to ensure that there is no decrease in the total area of Permanent Pasture in Northern Ireland. Member States are obliged to ensure that the ratio of permanent pasture to the total agricultural area shall not decrease to the detriment of permanent pasture by more than 10%.

DARD will monitor the Northern Ireland area of permanent pasture to ensure that the national area of permanent pasture is not reduced by more than 5%. If there is a 5% decrease, DARD will put in place a control mechanism to ensure the 10% tolerance level is not breached.

Commentary: Permanent Pasture in the Northern Ireland context refers primarily to permanent grassland. The range of Good Pasture to Poor Pasture (including periodically waterlogged pasture) all fit within the Permanent Pasture category. This implies that a degradation in drainage conditions whereby fields adjacent to watercourses become periodically waterlogged is still compliant with GAEC. Extensive scrub encroachment is not permitted but, notably, plant species associated with poor drainage, such as reeds, are excluded from the definition of scrub encroachment.

In the Northern Ireland context, DARD do not envisage a scenario whereby the 5% decrease in Permanent Pasture trigger level will be reached given the baseline of a high proportion of the Province's land use in permanent grassland.

- (iii) **Farm Ditches.** Ditches are defined as 'sheughs' or open channels with or without water. The primary function of the sheughs is to drain land. However, they are also valuable landscape and wildlife features, important for many plants, animals, birds and insects. Sheughs should therefore be managed, not only as drainage channels, but also as valuable wildlife habitats. GAEC permits sheugh maintenance. It is recommended that sheugh cleaning should be carried out during the autumn to late winter. It is recommended that vegetation is untouched along one side of the sheugh at cleaning and that deepening or widening of the sheugh should be avoided. The infilling or laying of drainage pipes in open sheughs is not permitted.

Commentary: There is no obligation on framers to maintain sheughs under the requirements for GAEC.

- (iv) **Soil Management.** GAEC soil management requirements are aimed at protecting soils from erosion and maintaining soil structure by preventing land from being severely trampled or poached.

Commentary: There is no requirement to maintain soils in a well drained condition, at all times, albeit poaching is more likely to occur when soils are waterlogged.

- (v) **Protection of Habitats.** Wildlife Areas (semi-natural habitats) are areas supporting wildlife such as woodland, scrub, wetlands, flower rich, meadows and moorland. Semi-natural habitats contribute to both the landscape character and the wildlife value of the countryside. Many of these important wildlife areas have been lost or damaged over the last 50 years due to agricultural intensification practices, for example, land reclamation and overgrazing.

Farmers are to retain all semi-natural habitats and comply with the DARD Environmental Impact Assessment Uncultivated/Semi-natural areas Regulations 2001. Farmers must not undertake new drainage works, ploughing, clearing, levelling, re-seeding or cultivations on uncultivated land or semi-natural habitats without prior approval from DARD.

Commentary: The Cross-Compliance Verifiable Standards 2005 and 2006 recognise that the arterial drainage schemes of the past have improved agricultural productivity at the expense of biodiversity in rural areas and that all remaining semi-natural habitats must be retained.

Conclusions and Recommendations

- It is clear that all future Government Policy must adopt the principle of Sustainable Development. Rivers Agency's Rural Maintenance Programme must therefore reflect economic, social and environmental needs.
- The current policy aim 'to preserve the productive potential of agricultural land' does not reflect the totality of Northern Ireland's Sustainable Development objectives. The proposed policy change 'to undertake river and coastal management whilst delivering the greatest economic, social and environmental benefit, consistent with the Government's sustainable development principles' is intended to reflect the wider context in which the function of rural maintenance should lie.
- An onus is therefore placed on Rivers Agency to plan rural maintenance work on designated watercourses taking on board all three aspects of Sustainable Development:
 - a) Economic – including the potential impact on the productive potential of agricultural land and other uses such as angling and recreation;
 - b) Social – impact on the rural community as a whole; and
 - c) Environmental – to protect and enhance the environment, including halting the loss of biodiversity.
- The proposed change in the policy is aimed at achieving a balanced approach to rural maintenance – it is recognised that rural maintenance must, and should, continue.

Likewise, opportunities should be taken to recreate wetlands where it is appropriate to do so.

- To achieve this balanced approach to rural maintenance, preparatory studies and consultations on a waterbody by waterbody basis should be undertaken in advance of rural maintenance works taking place including an element of stakeholder participation. In practice, the Operational Units of Rivers Agency are already adapting to current Government thinking by consulting with EHS and DCAL in advance of rural maintenance works taking place. The Ulster Angling Federation in their response to the Consultation Document has however indicated that, in their view, this has not always been the case. In general the key interested parties support the view of wider stakeholder involvement.
- The rural maintenance work should also be planned in the context of delivering the objectives of the EU Water Framework Directive as well as conservation driven directives, notably the EU Habitats Directive and the EU Birds Directive.
- The specific requirements for farmers to maintain land in Good Agricultural and Environmental Condition (GAEC) take on board the principles of Sustainable Development and should also be taken into account in the rural maintenance programme.
- The ethos of Sustainable Development should also extend to undesignated watercourses. Rivers Agency are responsible for administration of Schedule 5 of the Drainage Order which places a statutory responsibility on riparians to maintain undesignated watercourses in a state of efficiency for the due discharge of any water that may flow into them. Given that the maintenance of sheughs is not a requirement to achieve Good Agricultural and Environmental Condition (GAEC), revised guidelines to reflect economic, social and environmental needs should be drawn up.
- It is clear that all work within rivers must be carried out in an environmentally sensitive manner for which River Agency's Direct Labour Organisation (DLO) is eminently suited.

2.0 Key Issue 2 –Emergency Response and Recovery

- The responses to the Flood Management Policy Review Consultation Document raised a number of concerns regarding Emergency Response.
- A response from one of Rivers Agency's staff states that while it may be accepted that the new Councils and indeed the current councils would be the appropriate body to lead and co-ordinate post flood relief and subsequent welfare arrangements, it would be inappropriate, inefficient and ineffective for them to take a lead role in emergency response. The staff member cites River Agency's role with regard to the maintenance of main, minor and urban watercourses that flow through urban areas, including ancillary structures such as culverts, inlet protection grilles, flapped drainage outlets etc, and is of the view that Rivers Agency should continue to undertake the necessary emergency work in time of flooding particularly when one of the essential requirements is familiarity with the drainage infrastructure, not least from a Health and Safety aspect.
- NIPSA also consider it questionable whether the new Councils are best placed to deliver flood emergency response functions. Their view is that the nature of flooding is such that it does not recognise Council boundaries and the response to a future event could be fragmented. They also focus on the fact that River Agency staff has the expertise to deal effectively with flooding incidents.
- DRD Water Service's view is that they would support any proposals that would clear up the existing confusion as to who is responsible for urban drainage from the public's point of view.
- Craigavon Borough Council's view is that while the new Councils may have responsibility for Civil Contingency Planning it is likely that they would continue to rely heavily on Rivers Agency to be the frontline providers of measures to alleviate flooding and protect properties in terms of the distribution of sandbags etc. Councils may provide manpower, where available, to assist and take on a role in the provision of Evacuee/Rest Centres.
- Ballymena Borough Council is of the view that Emergency Response should be led by the Councils.
- Armagh City and District Council is of the view that a more integrated approach is needed with regard to emergency response using the experience of existing River Agency staff.
- The Lough Neagh & Lower Bann Advisory Committees consider it beneficial, in light of the Review of Public Administration, if the responsibility for Civil Contingency Planning and local response to emergency situations were to be passed down to Local Authorities. They do however consider that the transfer of the emergency response function must be done in a measured way so as to ensure that technical expertise held by specific staff is not lost as has happened in previous role transfer experiences.
- In response to the submissions received relating to Emergency Response, RPS Consulting Engineers have reviewed the comments made and formulated the following conclusions and recommendations:

Conclusions and Recommendations

- It is widely recognised that Rivers Agency's operation staff have a key role to play in effectively dealing with fluvial and coastal flooding incidents. The Consultation Document supports this view and recommends that Rivers Agency provides front line emergency response work force support as part of a wider response team.
- It is also clear that emergency response and recovery must be dealt with in a highly efficient and co-ordinated manner. At present those parties with primary responsibility are: Rivers Agency, Water Service and Roads Service.
- Currently Rivers Agency take the lead role in the inter-agency Flood Strategy Steering Group and Flood Liaison Groups which were set up to promote a co-ordinated response to fluvial, coastal and urban (pluvial) flood emergencies.
- The responsibilities for Emergency Response and Recovery within Northern Ireland have been broadened through the Review of Public Administration which will give responsibility for Civil Contingency Planning to the new seven Councils which are expected to be operational in 2009. It is therefore timely to undertake a review of the current Emergency Response and Recovery arrangements given the changing roles and responsibilities.
- The Civil Contingencies Framework in Northern Ireland is not yet a statutory instrument but new legislation is being proposed.
- Belfast City Council has already advanced plans for civil contingency through the creation of the Belfast Resilience Forum in which Rivers Agency actively participates.
- The new councils, over time, through their over-arching civil contingency planning role may be better placed to lead and co-ordinate all emergency response and recovery functions, under which umbrella Rivers Agency would continue to play a key role.
- Rivers Agency's role would be to continue to undertake emergency operations within rivers such as clearing of blockages and protecting property
- Rivers Agency would also focus on understanding why a fluvial or coastal flooding event happened and taking action to protect against recurrence.
- Rivers Agency would however not be best suited for organising the evacuation of the public during a flood event including finding shelter and food and the clear up exercise after the flood event.
- It is recommended that the performance of the Belfast Resilience Forum be monitored as it evolves with a view to evaluating the pros and cons of this type of forum being able to provide an enhanced, co-ordinated emergency response vehicle to fluvial and coastal flooding incidents.

3.0 Key Issue 3 – Vision and Policy Aims

- The Consultation Document recommended the following over-arching vision for River Agency:

‘Rivers Agency by achieving business excellence, through the correct configuration of its resources, will seek to reduce exposure to flooding and associated misery, through identifying and managing flood risk in an integrated, pro-active and catchment-based manner’.

- The proposed Policy Aims were:
 - a) To reduce the risk to life and damage to property from flooding from rivers and the sea; and
 - b) To undertake watercourse management (and coastal) management in a manner consistent with the Government’s sustainable development principles.
- The response to concerns raised over Policy Aim (b) which has been broadened from ‘to preserve the productive potential of agricultural land’ is discussed in detail under Key Issue 1 – Rural Maintenance.
- The proposed Vision Statement and Policy Aim (a) were broadly accepted within the responses received to the Consultation Document. The following alternative wording was put forward:
- DCAL – Vision Statement: ‘Rivers Agency by achieving business excellence, through the correct configuration of its resources, will seek to reduce **risk to life and property from** flooding and associated misery, through identifying and managing flood risk in an integrated, pro-active and catchment-based manner’
- CNCC – Vision Statement: Rivers Agency by achieving business excellence, through the correct configuration of its resources, will seek to reduce exposure to flooding and associated **economic, social and environmental damage**, through identifying and managing flood risk in an integrated, pro-active and catchment-based manner’.
- CNCC – Policy Aim (b): To undertake watercourse management (and coastal) management in a manner consistent with the Government’s sustainable development principles **with particular regard to sustainable use of natural resources**.
- Lough Neagh & Lower Bann Advisory Committees – Policy Aim (b): To undertake watercourse management (and coastal) management in a manner consistent with the Government’s sustainable development principles **associated with the natural and built environment, economic and social sustainability and public health/recreation agendas**.
- RSPB – Vision Statement: ‘Rivers Agency by achieving business excellence, through the correct configuration of its resources, will seek to reduce exposure to flooding and associated misery, through identifying and managing flood risk in an integrated, pro-active

and catchment-based manner. ***The results of the will be seen on the ground, in the form of coastal and fluvial management that protects and enhances the natural environment. This will be achieved by working with natural processes wherever possible***.

- RSPB – Policy Aims (a) & (b): ***To manage watercourses and coasts in an integrated way, employing a portfolio of approaches, so as to reduce the threat to human life, whilst delivering the greatest environmental, social and economic benefit, consistent with the Government’s sustainable development principles.***
(notably flood risk to properties has been deliberately omitted by RSPB)
- NI Environmental Link – Additional Aim (c): ***‘to encourage and develop environmental capacity for flood prevention and alleviation’.***
- Ulster Wildlife Trust – Combined Aims (a) &(b): ***‘to plan for and manage the risk to life and damage to property from flooding from rivers and the sea in a manner consistent with the Government’s sustainable development principles’.***
- One member of Rivers Agency’s staff – Policy Aim (a): ‘to reduce the risk to life, damage to property ***and flooding of productive land*** from flooding from rivers and the sea’.
- One member of Rivers Agency’s staff – Policy Aim (b) ***‘to undertake watercourse and sea defence management to alleviate the risk of flooding of property and agricultural land and to maintain the effectiveness of land drainage systems necessary to preserve the productive potential of agricultural land’.***

Conclusions and Recommendations

- It is clear that the proposed Vision Statement and Policy Aim (a) has general support and the majority of the comments received are intended to add clarity to the meaning of ‘Sustainable Development Principles’. With this in mind the following revised wording is proposed:
- Over-arching vision for River Agency:

‘Rivers Agency by achieving business excellence, through the correct configuration of its resources, will seek to reduce risk to life and property from flooding and associated economic, social and environmental damage, through identifying and managing flood risk in an integrated, pro-active and catchment-based manner’.
- Proposed Policy Aims:
 - a) To reduce the risk to life and damage to property from flooding from rivers and the sea; and
 - b) To undertake river and coastal management whilst delivering the greatest economic, social and environmental benefit, consistent with the Government’s sustainable development principles.