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

22 April 2008

Dear Sir / Madam

**The Future of Flood Risk Management in Scotland
Consultation Response
Rivers and Fisheries Trusts of Scotland**

Thank you for the opportunity to respond to the above consultation. The following short response short is provided on behalf of the Rivers and Fisheries Trusts of Scotland (RAFTS) whose 20 members work across over 90% of Scotland's freshwaters to protect and develop our native fish stocks and populations.

Although RAFTS or our members are not routinely involved in the management of flood risk or in the provision of flood defences we are interested in the future management of these activities in Scotland. This interest is, principally, but not exclusively in respect of the impacts upon rivers and lochs, their naturalness, biodiversity, habitats and fish populations which can arise from poorly designed or constructed flood defences or during their construction. We are keen, therefore, to support proposals which move towards a more consistent and coordinated approach to flood risk management and to our approach to the development of flood defences.

We have responded below to individual consultation questions of most relevance and interest to us:

Q 1 and 2: Sustainable Flood Management definition; and its helpfulness and clarity

We think the definition of Sustainable Flood Management (SFM) provided is helpful and provides some clarity of purpose. However, given the tiered objectives beneath the definition and the principles applying we have concerns as to the consistent application of the definition by different parties. It is essential that better and consistent application of the definition is ensured by, in particular, SEPA and Local Authorities as the main advisors in relation to flood risk and provision of flood defences.

In particular the application and development of measures to protect against, mitigate and manage flood risk must be appropriately and consistently supported by the SFM definition. We hope that flood defence and protection measures will, increasingly, move away from the construction of hard engineering solutions as a default position and

consider more wide ranging and sustainable approaches to flood risk management. This should include the consideration of catchment based solutions across Local Authority boundaries as opposed to the application of schemes within authority boundaries which may have negative consequences down or upstream.

Q 3 and 4: SEPA as single competent authority supported by local authorities

RAFTS agrees that a single authority should be responsible for implementation of the Floods Directive and that Local Authorities must have an important role in delivering required flood defence measures and in local engagement and consultation exercises. RAFTS also agrees that SEPA is best placed to fulfil this role.

However, while acknowledging the significant technical capability and direct accountability to Ministers that exists within and is present for SEPA we would require confirmation that operational capacity fully exists to fulfil this important role. The coordination of the Floods Directive will be both technically and politically challenging and will be dependant on both SEPA and individual Local Authorities being clear as to the levels of joint and supportive working needed from each other and that they are appropriately resourced to meet these roles.

Q 5 and 6: Flood risk management plans and identification of lead authorities by Ministers in local areas

RAFTS supports the development and application of a tiered approach to the production of flood risk management plans so that local flood risk management plans are required only in areas where significant flood risk has been identified. All areas would be subject to area flood risk management plans.

As introduced before we have concerns as to how the interaction between these plan levels will develop; especially as there are different bodies (SEPA and local Authorities) responsible for the area and local plans. It is crucial that the joint working necessary for the area plans takes place effectively and transparently in order to ensure joint and agreed assessments of flood risk are in place, that this stimulates local plans in agreed priority areas and that other interested parties and the public have confidence in this process.

Given our concerns as to the level and the, perhaps, contentious nature of issues to be considered during the joint working between SEPA and Local Authorities we would support the retention of powers for Ministers to identify lead authorities in local areas if this cannot be agreed locally.

Q 7 and 8: Identification of responsible authorities

We agree with the responsible authorities proposed for designation and that these are the most important bodies in respect of flood risk and its management.

Others that may be considered for this designation could include the Port Authorities given their, sometimes, significant activities in estuaries and harbours including the removal of sediments and deposits to ensure shipping passage and the development of infrastructure to support a range of activities.

In addition, the role of Ministers and its departments may be worthy of clarification and confirmation in order to ensure that Government and its departments is also bound by Floods Directive requirements and considerations.

Q 9 and 10: Flood Advisory Groups and stakeholder involvement

RAFTS supports the proposal to form Flood Advisory Groups to support joint working between responsible authorities during production of area and local flood risk management plans and that these should be linked to the Area Advisory Groups (AAG) in place to support River Basin Management Plan production.

However, we are concerned that there is no commitment for other interested parties or organisations to be part of these flood advisory groups. The AAGs supporting river basin planning have both relevant responsible authorities and the most significant other local organisations in their membership. We would anticipate that other would be able to bring knowledge and expertise and add value to the groups through a membership wider than responsible authorities.

Given our comments above in relation to the absence of bodies other than responsible authorities we do not feel that stakeholder forums formed under Ministerial direction are sufficient to support wider stakeholder and community engagement in flood risk planning. We anticipate that such fora may be helpful in supporting information provision and consultation activities but consider that this does proposal does not provide a sufficiently accessible process for bodies other than the responsible authorities. We are aware that many of the existing Flood Liaison Advisory Groups already include members from other than the public bodies on a voluntary basis and we are concerned that this approach is in danger of being lost under the current proposals.

Q 11 and 12: Plan preparation and approval processes

RAFTS agrees that the Bill should set out a plan preparation process for area flood risk management plans. We feel this will be crucially important in helping to promote consistent and transparent flood risk planning. Given the links proposed between flood risk planning and the AAGs in place for river basin planning this process should seek to harmonise the plan preparation processes and/or make clear how different timings and activities will be reconciled and accommodated.

We also agree that Ministers should be responsible for the approval, rejection or direction to modify area plans submitted by SEPA following the required joint working process. The Bill should make clear how this exercise will relate to other flood plan approval processes likely to be undertaken by individual Local Authorities and how or if appeal provisions other than to Ministers are necessary.

Q 24: Streamlining CAR and flooding/planning processes through guidance

As the application of CAR by SEPA is still at an early stage, and a large number of licence reviews remain to be undertaken following the transfer of existing activities into CAR at the start of the regime, we feel that the proposals to streamline the regulatory and planning processes by Ministerial guidance are appropriate for the time being.

However, this position should be reviewed when both processes have had a further period to establish and operate. If the required alignment is not present through the use of guidance then further instruction may be required.

Q27: Biennial reporting by Local Authorities to Ministers

We support the maintenance of biennial reporting by Local Authorities to Ministers and that this should form part of the duties of them as responsible authorities. To help make this exercise more consistent that it is at present Ministers may wish to consider, with Local Authorities, the development of a common standard of reporting allowing more transparent inspection of these reports by the public.

RAFTS looks forward to seeing future proposals and legislation brought forward which improves the coordination and management of flood risk and which takes forward appropriate flood management schemes to protect the people and infrastructure of Scotland while balancing environmental and other concerns. It is our view that future protection schemes must better consider environmental factors throughout the design and construction phases and that the need, current and future, for such schemes must be considered before infrastructure, housing and other developments are approved for construction in identified flood plains or areas of high flood risk.

We are happy to confirm our willingness for this response to be made public.

Yours sincerely

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