

National Trust evidence for the Sustainability Committee Inquiry into the Draft Flood and Water Management Bill

1. Summary

1.1 The National Trust welcomes the opportunity to contribute to this inquiry. We believe the draft Flood and Water Management Bill provides an important opportunity to deliver the step-change needed in the way in which we regulate, fund and implement water management in the UK. There is a need to bring forward modern legislation to reflect new approaches to flood and water management and to address the urgent need to mitigate and adapt to climate change.

1.2 We support much of what is contained within the draft Bill. In particular, we welcome the shift of emphasis from flood defence to flood risk management. The term flood defence is outdated and does not reflect current policy or practice. It is time that the underlying legal framework was amended to reflect this.

1.3 The Bill should be used to create a new framework for a sustainable, catchment focused approach to flood risk management. This should place greater emphasis on working with natural processes in statute, promoting action to protect, restore and emulate the natural regulating function of catchments, rivers, floodplains and coasts.

1.4 While the majority of the proposals within the draft Bill are positive, there are concerns, including wide use of 'enabling' powers and lack of detail on costs and funding. We are also concerned that there is much which is missing from the draft Bill. Recommendations from the Walker Review on charging and metering for households, the Cave Review of competition and innovation, and the consultation on time-limiting abstraction licenses will be brought into the Bill later. This is regrettable because they will miss the important pre-legislative scrutiny process.

1.5 We are also disappointed that the draft Bill does not include a Water Efficiency Commitment, placing an obligation upon water companies to incentivise water saving and introducing a water service rather than a water supply culture.

2. The National Trust and Water

2.1 The National Trust is the UK's largest non-governmental landowner and farming organisation with 220 farm tenancies covering more than 50,000ha in Wales, including whole catchments, hundreds of headwaters, private water supplies and sewerage systems, salmonid rivers and major lakes. We are also Europe's largest conservation charity. We own more than 220km of coastline in Wales and Northern Ireland. We manage more than 10% of SSSIs in the UK, and our countryside and open space properties receive over 100 million visits every year.

2.2 The Trust's experience of flood and water management is based on the following:

- the Trust's core statutory purpose of conserving and promoting access to the nation's natural and cultural heritage in perpetuity - we are a steward of special and fragile places for ever, with decisions taken for long term public benefit;
- the Trust is a major business, from tourism to catering, with an annual turnover of £295m - we have significant economic assets actually or potentially at risk from flooding, but also benefits to be derived from a more integrated approach to land and water management;
- the Trust is a developer, with a number of housing developments either completed or underway on Trust land, alongside the continual development of visitor facilities and other amenities;
- the Trust is a major voice in public debate at national, regional and local levels, indirectly through the media and directly through interpretation and events at our sites - through our communication we have the potential to reach millions of people and promote greater understanding of the risks we all face; and
- the Trust is an authority on land and resource management and use - we have decades of expertise in understanding and managing risks and undertaking our conservation work through the 'careful management of change'.

2.3 In 2005 we carried out a Water Resources Risk Assessment (WRRA) to help operational managers understand the significance of the water resources on their sites and to enable them to take account of a wide range of risks and opportunities in their long term planning. The assessment revealed that 47% of the land area of Wales drains through National Trust land, emphasising the crucial importance of working to protect water catchments upstream of our sites as well as managing our impacts downstream.

3. Flood and coastal erosion risk management

3.1 The National Trust strongly supports the Welsh Assembly Government's New Approaches agenda for flood risk management. We would welcome publication of a clear plan or strategy to set out in greater detail how this will be implemented. This would help stakeholders to understand the shift in policy focus, enable cooperation, integrate current activity and focus delivery.

3.2 Every parcel of land can play a part in absorbing and storing water, slowing the speed at which it moves downstream and reducing the flood risk. A recent evidence-based review commissioned by the National Trust concluded that, for small river catchments (typical of 97% of England and Wales), land management has a significant impact upon run-off and can be used as part of an integrated approach to flood risk management.

3.3 We support the intent to make space for water by managing all aspects of flood risk strategically, within the context of the catchment or shoreline as a whole, and sustainably, through respecting natural processes. This is the philosophy and approach the Trust is increasingly employing in the management of our own land, buildings and coast.

3.4 Unfortunately, there is little evidence of this approach being delivered on the ground. Public investment is locked into provision of hard defences even if more cost-effective alternatives exist. There is a need for practical projects to test and demonstrate approaches to land management for flood risk mitigation.

3.5 We are therefore highly supportive of the draft Bill provision which will put in place a new approach to flood and coastal erosion risk management, based upon greater working with natural processes. This will help deliver Water Framework Directive objectives relating to natural river morphology, as well as delivering a wide range of additional benefits for wildlife, landscape, cultural heritage and public access.

3.6 However, Government needs to ensure that bodies which undertake these activities have the powers they need to undertake the portfolio of measures required to deliver this new approach, including risk maps, awareness campaigns, flood warnings, emergency planning and response management, community defences, resilience measures, installation of sustainable drainage systems (SUDs), changes to land management and support to individuals or communities to adapt to change. There is no presumption that the full range of options listed (including working with natural processes) must be considered so there is no guarantee operating authorities will act. We want to see how the package of legislation, guidance and appraisal ensures this leads to delivery.

3.7 We believe that a review of TAN14 Coastal Planning is necessary and overdue. The current guidance offers minimal options for managing coastal flooding and erosion. There is a need to promote policy beyond the traditional options -either defend or do nothing - and to facilitate enlightened approaches. The guidance will need to be supported by an adaptation toolkit to enable local authorities and others to implement sustainable solutions. This could include measures such as development plans indicating coastal risk zones and roll-back areas, time limited planning applications and relocation packages to support movement out of risk areas.

3.8 Our experience also demonstrates that there is a need to develop the skills and competencies of those developing and implementing approaches to flood management on the ground to ensure more effective delivery of strategic objectives and exploration of alternatives.

Roles and Responsibilities

3.9 We support the Bill's intention to clarify responsibilities with regard to flood and coastal erosion risk management which was a key recommendation of the Pitt Review. We are concerned that the proposed arrangement for Wales does not resolve completely the need for clarity and accountability. We are concerned that the Welsh Assembly Government may lack capacity and resources to develop policy and guidance, and fulfil its other responsibilities. This is apparent currently in the relatively slow progress of coordination of Shoreline Management Planning in Wales, and the lack of tangible impact of the introduction of the New Approaches agenda.

3.10 We support the enhanced oversight role for the Environment Agency Wales and suggest they are given responsibility for the national strategy for flood and coastal erosion risk management. This would be in line with their role as competent authority under the European Floods Directive. It would make use of the Agency's skills, knowledge and expertise, and would be more efficient given the parallel roles the Agency would then have in England and Wales.

3.11 Part of the national oversight role should be to investigate and promote a range of approaches to managing flood and erosion risk, including novel measures. Too often the default approach is to employ hard defences and there is a need for a champion and facilitator of the alternatives. Either WAG or the Environment Agency should be responsible for monitoring local delivery to ensure that the full range of measures promoted through New Approaches are adopted and that national guidance is adhered to.

3.12 We are not convinced that the Welsh Assembly Government is best placed to promote public awareness of flood risk to the public. Experience from other fields suggests that the public do not always respond favourably to Government communications, and that local activity is more effective. There is also potential for overlap and duplication with the responsibilities of the Environment Agency (providing flood warnings) and local authorities (communicate risks to local communities).

3.13 It is not clear why local authorities will be responsible for assessing coastal erosion risks when the Environment Agency already undertake erosion mapping. This and similar duplications in relation to data collection should be addressed.

Sustainable Urban Drainage Systems

3.14 We strongly support the clauses (217-233) on Sustainable Urban Drainage Systems (SUDS) which will require developers to include sustainable drainage in new developments, and the proposed amendment to Section 106 of the Water Industry Act (1991) to make the right to connect surface run-off to public sewers conditional on meeting standards which both reduce flood risk and improve water quality.

3.15 Removal of this automatic right of connection to sewers would provide a strong message to planners and developers that the ability of infrastructure and environment to cope with new drainage demand cannot be taken for granted. This would provide further incentive to consider sustainable drainage management early in the design process. We therefore support the proposal to amend the

right to connect to a public sewer.

3.16 Uncertainty over responsibility for ownership and maintenance of SUDS has been the biggest single issue that has limited their use in Wales. We welcome the inclusion of consultation on which is the appropriate organisation to take responsibility for adoption and management of SUDS in Wales. It is vital that Government takes the opportunity provided by this Bill to rectify this uncertainty by placing responsibility on Local Authorities. Consideration will also have to be given as to how Local Authorities will raise revenue associated with adoption and ongoing maintenance of these systems. Comprehensive and extensive staff training is also required so that regulatory staff have the technical knowledge to assess proposed SUDS designs.

Reservoir Safety

3.17 We welcome proposals for the Bill to introduce a more risk-based approach to reservoir safety which better reflects the danger that reservoir failures may pose to human health. In classifying risk, it is important that a proportionate approach is adopted which prioritises high risk reservoirs rather than applying a blanket approach leading to over-engineering of lower risk water bodies. It is also important that the risk assessment not only considers the water body itself, but also the characteristics of the catchment upstream in order to give a more accurate assessment of risk.

Internal Drainage Boards

3.18 The draft Bill consults on views on how Internal Drainage Boards (IDBs) might be reformed but does not present a preferred option. This is a welcome opening of the debate but we feel the Bill should go further, turning IDBs into Water Level Management Boards with a focus on public and environmental benefit from public investment.

3.19 IDBs are statutory bodies with a history rooted in single-minded pursuit of agricultural land drainage. Even today, after numerous attempts at reform, their environmental performance remains poor. Re-constituting IDBs as "Water Level Management Boards" in both name and practice would be a key step in reforming these statutory bodies.

Public awareness

3.20 We welcome the proposed new powers for local authorities to provide public awareness campaigns and to provide support to individuals and communities in dealing with local flood risk management. This should be accompanied by a power to provide support to individuals or communities in dealing with local flood risk management including financial support, advice or equipment. However, we believe these powers alone will not be sufficient. We believe there should be a duty upon all competent authorities to proactively communicate flood risk to the public, not only to raise general awareness, but to facilitate practical adaptation through promoting actions that people can take in everyday life.

4. Water

4.1 We support the proposal of a ban on domestic laundry cleaning products which contain phosphorous which we believe should cover all detergents, soaps and shampoos. Any amendment to regulation under Section 2(2) of European Communities Act 1972 which introduces such a ban should apply to Wales.

Hosepipe bans (clause 254)

4.2 During the long dry summer of 2005 water supplies to some Trust sites in rural north Wales dried up. By 2050 the area of Welsh National Trust sites within net rainfall deficit areas is predicted to increase. These areas will increasingly experience droughts and be at high risk of water shortages. Shortage of water has serious impacts for the special places of historic interest and natural beauty in our care. Fish, wetland birds and other wildlife that need ponds, rivers and streams struggle to survive when these dry up or run low.

4.3 We therefore welcome proposals to provide an enabling power to allow Welsh Ministers to extend water company hosepipe ban powers to other discretionary uses of water in order to conserve water during a drought. This will help maintain essential supply whilst reducing the impact on environment by reducing the need for further abstraction.

4.4 We are disappointed that the outcomes of the consultation on time-limiting abstraction licenses will be brought into the Bill later. This is regrettable because they will miss the important pre-legislative scrutiny process.

Water efficiency

4.5 We are disappointed that the draft Bill does not include a Water Efficiency Commitment, placing an obligation upon water companies to incentivise water saving and introducing a water service rather than a water supply culture.

4.6 Whilst we welcome the water efficiency targets for the water industry introduced by OFWAT, we would like to see them tightened as the evidence base for water efficiency grows, and as climate change bites harder. We believe targets should be enshrined in statute, as with leakage targets which have driven performance to a large extent. We also believe other measures are needed to reform the water industry, such as a change in UK accounting rules to remove the incentive for companies to build supply-side measures (which can be treated as Capex, capital expenditure) over large-scale demand-side measures (which must be treated as Opex, operational expenditure). This would help the nation to achieve water use which is sustainable in the long-term.

4.7 We further believe the Bill should be used to introduce a duty on OFWAT to promote sustainable climate change mitigation and adaptation. OFWAT have indicated that they may not be able to award funding for climate-change based measures prior to the release

of the UKCIP 09 results later this year. As a result water companies have not submitted climate change measures in their PR09 business plans. We believe a specific duty would help solve this as it would give Ofwat the formal role in planning for climate change, enabling demand management schemes to be treated equally with supply-side measures.

4.8 Water efficiency measures are essential in mitigating and adapting to climate change and in ensuring the UK meets its legally binding 80% greenhouse gas emissions reduction target. The duty as proposed would help ensure that Ofwat work more closely with Ofgem and others to help frame the regulatory structure to enable and deliver joint energy and water retrofitting schemes, including to tie in with the government's plans to retrofit every home for water efficiency by 2030.

4.9 We are disappointed that recommendations from the Walker Review on charging and metering for households and the Cave Review of competition and innovation will be brought into the Bill later. This is regrettable because they will miss the important pre-legislative scrutiny process.