

SCOPAC

STANDING CONFERENCE
ON PROBLEMS ASSOCIATED
WITH THE COASTLINE22nd July 2009

Dear Sir or Madam,

CONSULTATION ON DRAFT FLOOD AND WATER MANAGEMENT BILL 2009

The Standing conference on problems associated with the coastline (SCOPAC) is a network of thirty local authorities and other organisations interested in coastal risk management along the central south coast of England. Established in 1986 SCOPAC works closely with local authorities, the Environment Agency, the Local Government Association and government departments on a wide range of coastal issues.

SCOPAC welcomes the proposed Bill and its overall aims and objectives bringing together all coastal erosion and water issues as one new Act. However, we are concerned that coastal erosion receives little mention in the draft text when erosion-related problems will increase significantly over the next century. Whilst the roles of local authorities are referred to increased clarity is required as to which administrative tier is being discussed (County, Unitary or Borough/District).

The introduction of the Environment Agency Strategic Overview can only be made to work successfully through the close collaboration of the Regional Coastal Groups. It is surprising, therefore, that this important aspect of service delivery is not highlighted in the draft Bill. In fact the Coastal Groups hold the key to successful introduction and delivery of many coastal initiatives. We would support the EA having a regulatory role for coastal risk management in the spirit of the Strategic Overview subject to the full involvement of both the Coastal Groups and the Regional Flood and Coastal Committees in decision-making.

There has been increasing recognition recently of the need for coastal risk policies to be linked closely to forward planning through the Local Development Frameworks. We would like to see greater emphasis placed on this aspect to ensure this is followed through. We believe the EA should maintain a coastal management map and that it should be updated regularly with the help of the Coastal Groups.

If the EA Strategic Overview is to operate successfully we believe there must be a wider role for the Regional Flood Defence Committees as Regional Flood and Coastal Committees. This should include peer review of annual reports, consideration of Medium Term Plans, SMPs and stewardship statements.

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Christchurch Borough Council
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Environment Agency
Gosport Borough Council
Hampshire County Council

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Southern Sea Fisheries District
Weymouth and Portland Borough
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We would strongly support the retention by the RFCCs of their current executive powers rather than being just advisory bodies; otherwise this would weaken still further the democratic deficit. With respect to membership of the RFCCs they should be expanded to reflect their new coastal erosion role by including Coastal Group Chairs as members.

In order to provide assistance to local projects and initiatives we would support the RFCCs' levy-consenting powers being extended to cover coastal erosion issues.

SCOPAC would be happy to expand on any of these points in more detail if required.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Robin McInnes'.

Dr Robin McInnes OBE

On behalf of SCOPAC

c/o Havant Borough Council

Civic Centre

HAVANT

PO9 2AX

Email:rgmcinnes@btinternet.com

TEL:01983 854865

www.scopac.org.uk

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Flood and Water Management Bill Team
 Department for Environment, Food and Rural Affairs
 Area 2C, Ergon House
 London
 SW1P 2AL

Date: 23rd July 2009

Dear Sir,

Re: Response to Draft Flood and Water Management Bill (2009)

We the Coastal Group Chairmen of England and Wales acting in partnership in around the coastline of England only welcome the opportunity to participate in the consultation on the Draft Floods and Water Management Bill dated April 2009. This response should be read in conjunction with other key consultation responses that have been prepared across local government recently including those from:

- LGA and the LGA Special Interest Group – Coastal Issues
- Technical Advisors Group
- The 7 new Regional Coastal Group responses
- Coastal Groups of Wales

The Coastal Group Chairmen have chosen not to answer the questions posed but have responded to the main themes of the draft Bill as they see appropriate. As active participants in the consultation of the "Making Space for Water" and the subsequent discussions to set up the 7 new Strategic Regional Coastal Groups we have considerable experience in this matter. Each of the 7 new Coastal Groups will no doubt be responding to the consultation document and may deal in more detail with the specific questions. In making this response we have concentrated on those areas of most relevance to good flood and erosion risk management.

We welcome the draft Bill but we are concerned that much of the good work of Sir Michael Pitt's "Learning lessons from the 2007 floods" report has been diluted by the haste in which this Bill has been prepared. We believe that this Bill is a missed opportunity to have provided greater clarity, flexibility and resourcing of the leadership, planning and delivery of improved flood and erosion risk management.

The Bill doesn't really address the co-ordination between those that will be delivering active flood and erosion management in the future. All the parties involved have different responsibilities, boundaries and governance so greater direction is needed on how this will fit together as it currently relies on professional relationships of key individuals rather than legislation. As we move to more strategic approaches we need to ensure good governance and resourcing. The good will of groups of professional individuals cannot be relied upon indefinitely. The Bill should define a clear governance framework and make it clear how it should function and ensure that it is adequately resourced.

We are disappointed that there is little reference to coastal erosion risk throughout the Bill. Unlike flooding, which in the main is transitional or temporary, erosion is not and is permanent yet it seems to play a second place/minor role in this Bill. May we remind you that if land is flooded it can usually dry out but when it is eroded it no longer exists and if anything does remain it is unlikely to have the same function or value than it initially did. We see this dilution of the past good work of the Maritime Local Authorities in maintaining the coast from erosion as a hindrance to this Bill's unifying purpose of pulling current legislation into effective Act. One of the objectives listed is for this new legislation is to overcome some of the current outmoded approaches which is contained within legislation enacted in the 30's and 40's - yet still remain law and are cross referenced throughout. The cross referencing is confusing and surely the best way to have tackled this would have been to have incorporated these documents into one unifying Act as was the original intent? The draft Bill has a "catch all" clause which we have taken means that erosion risk management is more than just the provision of defences. The Bill regrettably does not expand upon this but implies in the commentary that a restriction now is that the current law does not allow the flexibility to adopt a broader range of approaches necessary. We anticipate that Climate Change is a catalyst for change and hope that clarity will be forthcoming in the final version.

We are concerned that under clause 15 of the Bill that the Environment Agency (EA) will be tasked with developing, maintaining and applying a strategy for flood and coastal erosion risk management in England with no mention of what it should cover or whether it should be achieved in partnership or agreement with any other body or organisation. We feel as a minimum this should be conducted in consultation with Defra, LGA and the Coastal Groups as the bare minimum. Under clause 17 we consider that the EA "must" issue guidance about the application of this strategy and not leave it a discretionary "may". Similarly the frequency of reporting on the strategy under clause 18 must be defined and cannot be left open as it is.

With parallel Coast Protection powers being given to the EA as the current Maritime Authorities there is some concern about the clarity of delivery. Under the current arrangements the Secretary of State can intervene if appropriate protection is not being delivered and we see no reason to change this bearing in mind that this particular clause has not believed to have ever been invoked.

The Public which this Bill ultimately aims to protect have very little reference. This we consider is a weakness and a symptom of the haste in which the Bill was prepared. Similarly there is limited provision of the linkage to the Planning System. This draft has an opportunity of making and providing clarity for future development in zones at risk from either flooding and or erosion. With new planning guidance planned to be consulted upon soon we feel that a positive joined up link with this has been missed and a co-ordinated and clear system of future coastal management/planning missed. Clearly an improved alignment of water, flood and erosion risk management should be more closely aligned with Planning legislation has been missed. A framework for liaison, discussion, co-operation and ultimately collaboration between all parties involved with responsible for flood and erosion management should be included within the legislation.

As a Bill which is aimed at providing clarity we believe it has failed in that the term "Local Authority" covers both levels from Districts through to Counties/Unitaries and the distinction between each is not particularly clear within the text itself. Much wasted time has occurred because Local Authorities have misinterpreted their roles. The final act needs to be much clearer on roles and for whom.

The Chairmen have nevertheless thoroughly examined the document and strongly supports proposals in the draft Bill for both upper and lower tier local authorities to work in partnership with the Environment Agency, Water Companies, Sewerage Undertakers and other relevant organisations to develop and deliver local and bespoke flood and erosion risk management strategies that take account of all sources of flooding, including surface water run off.

Successful outcomes will depend on all partners committing to real collaborative working, delivering plans and programmes within defined timescales and the willingness of the Government to fully fund local flood risk management. Without such a commitment the Bill's key objectives will falter and result in ineffectual outcomes.

We seek assurances that the indicative timescales for enacting the Bill will be reflected in the subsequent timescales for allowing Local Authorities to take this forward and that the allocation of funding will, inter alia, allow those authorities, some of whom may currently not have the necessary technically qualified/experienced staffing resources, to take the necessary steps to address this, as recommended by Sir Michael Pitt.

There is an important role for Maritime Local Authorities and we encourage the continued collaboration with Regional Coastal Groups in the production and review of Shoreline Management Plans and associated Flood and Erosion Risk Management Strategies as part of the suite of strategies to be used to manage flood and coastal risks. We support the strengthened role of the new Regional Flood and Coastal Committees (RFCC) in clause 71 provided that the membership of the Committee reflects local needs. Indeed we would recommend that the RFCC needs to approve or reject any consultations as at present the RFCC role is apparently quite limited. The new role of the RFCC clearly bridges a gap in the current arrangements that the Coastal Groups and Local Government Association Coastal Issues Special Interest Group have been trying to achieve. We request that the Chairman or his deputy of each Coastal Group in the area of the RFCC be granted full membership and not be just invited in an advisory role as at present. There is an exiting role here for the Coastal Groups and RFCC's to be able to jointly prepare future work programmes that can inform the Medium Term Investment Plans and subsequently the Long Term Investment Strategy for flood and erosion risk management in the England. They can also better co-ordinate future Shoreline Management Plan and Flood and Erosion Risk Management Strategy reviews. To achieve these benefits the scope of the membership must however be changed to include not just local lead flood authorities but also all Maritime District Authorities exercising their coastal erosion risk management functions in an RFCC area.

Aside from the benefits mentioned in the previous paragraph there is a problem as the Bill makes no mention of the Coastal Groups which were only last year established to advise Defra and the EA on optimal coastal risk management. As part of the EA's Strategic Overview Terms of reference were established by Defra in April 2008 for the Groups to be established by 31st October the same year. This has been achieved and the groups have been successfully delivering their assigned role but no mention of them or indeed the matter of their funding is anywhere in the draft Bill. As (Appendix A) I have included the introduction to our response to the Making Space For Water Consultation which in the main still holds true today and worthy of note. Great detail seems to have been made to producing the guidance for the RFCC's but not the Coastal Groups to whom they provide advice. These Groups play a significant role in providing an independent and experienced voice and matters relating to both national and local policy and guidance. They provide sound advice on coastal issues and are a strong influencer in optimising strategic and sustainable policies plans and policies to best manage flood and coastal erosion risk. They actively participate in the preparation of the Long Term Investment Strategy, Medium Term Plans, Shoreline Management Plans, Flood and Erosion Risk Management Strategies and Strategic Regional Coastal Monitoring Programme soon to become a National Framework around the coast of England.

We acknowledge that all parties already involved in flood and coastal risk management are committed to their relevant responsibilities but we are also aware that working outside these boundaries is ultra vires and hence we need clarity and assignment of responsibility or duty if we are to change. Along with the assignment of responsibility or duty the Bill must assign adequate funding which regrettably at present is not clear. If enacted this Bill will set the scene for the nation to manage its flood and coastal erosion risk and so too its mitigation or adaption. We, the operators of this delivery, need guidance and funding of how the Government want this to be achieved which is why the coverage and clarity of this Bill is so important.

It was anticipated that the Draft Bill would enable a far wider range of approaches to deal with flood risk but the clarity of this has not been delivered. Resilience and adaptation have been mentioned but not spelled out. Clarity on both these important new methods of dealing with age old problems needs more specific guidance.

Finally, we are aware of the willingness and enthusiasm amongst our Members to play an active role in the future National and Local Flood and Coastal Risk Management agenda and are committed to working with its Members in making the Bill work in practice.

Yours sincerely

Bryan Curtis
Chairman of the Coastal Group Chairmen of England and Wales

Appendix A

Introduction

We confirm that in our joint partnership working we, as Coast Protection Authorities, wish to remain the lead organisations for the delivery of coastal erosion risk management. Coastal Groups have provided evidence to demonstrate that those parts of the coastline which present the greatest risk from coastal erosion are in fact represented by the greatest concentration of expertise in this particular field. Local Authorities know their coastlines better than any other organisation and, taking account of the diverse range of local authority functions, coast protection can be delivered in the most effective way by Local Authorities.

Bearing in mind the Local Authority planning functions we also believe that it is vital for Coastal Authorities, working within Coastal Groups, to continue to take the lead on production of most Shoreline Management Plans (SMP).

We believe that improvements in the SMP process could be achieved through strengthening of the planning process particularly through the updating of PPG20. This is vital, taking account of a range of issues that the existing document does not address (e.g. it was written prior to ICZM and coastal partnerships, the Shoreline Management Plan initiatives and strategy studies, the implementation of the Birds and Habitats Directives and prior to the SEA Directive). In terms of procurement we are concerned that the EA framework is not flexible and costly, and will lose the opportunities for achieving value for money particularly through making use of local contractors. We do not believe that the predicted savings can be achieved and we are concerned that the current EA approach can be implemented only at very significant cost.

The 'model' put forward by the Coastal Groups has been misrepresented in the Defra consultation document. Coast Protection Authorities do not wish to take over all sea flooding. However, where sensible they would wish to undertake certain flood defence works using their existing statutory powers, working with the Environment Agency.

The Coastal Groups firmly believe that their model or something similar, for coastal erosion risk management presents a sustainable solution and that it is impractical for the Regional Flood Defence Committees (RFDC) to take on coastal erosion alongside their current functions as they are structured at present. More detailed discussions with Defra and the EA to ensure the benefits of both RFDCs and the Coastal Groups are maximised in terms of joint working is recommended. We are also particularly concerned about the further reduction in democratic input with the transfer of decision-making from local Councils to another body which is unlikely to be representative of local opinion and needs.

Further detailed discussions with Defra and the EA to ensure that the benefits of both RFDCs and the Coastal Groups are maximised is essential.

Taking account of the comments made by Sir David King in the 'ForeSight Report', highlighting increasing coastal erosion risks from climate change it seems a high risk strategy for the Nation to consider such major structural changes to coast protection at this time. Neither the skills nor the resources are available to accommodate a transfer of function from Coast Protection Authorities to the Environment Agency. The review being undertaken by the Lyons Inquiry into local government funding is not due to report until December 2006. We believe that the consultation period for 'Making space for water' should be extended until after the Lyons Inquiry and the forthcoming Local Government 'White Paper' have been published, as well as for other reasons described below.

Bryan Curtis - Principal Engineer
Telephone: 01903 221372
Email: Bryan.curtis@worthing.gov.uk
Address: Portland House, Richmond Road, Worthing, West Sussex . BN11 1HS
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