



**PUBLIC CONSULTATION**

**REVISED DRAFT PPS 15**

**PLANNING AND FLOOD RISK**

**SUMMARY OF CONSULTATION RESPONSES**

**June 2014**

## SUMMARY OF CONSULTATION RESPONSES

### 1. Introduction

- 1.1 Revised Draft PPS 15 has been published in order to progress the Review of the existing PPS 'Planning and Flood Risk' published in June 2006, which sets out the Department's planning policy in regard to development and flood risk.
- 1.2 The Review fulfils a commitment in the existing PPS 15 that the policy would be reviewed with 5 years of publication in order to take account of emerging information relating to flood risk and climate change as well as experience gained in the implementation of flood risk policy.
- 1.3 Since 2006 a substantial amount of new flood risk information has emerged, primarily through DARD, as the competent authority for the implementation of the EU Floods Directive (the Directive) in Northern Ireland. This includes the Strategic Flood Map available on the DARD Rivers Agency website, which shows indicative areas at risk of flooding from rivers, the sea and surface water. This process is ongoing and the publication of detailed flood hazard and flood risk maps for Significant Flood Risk Areas (SFRAs) is imminent. These SFRAs were identified through the Preliminary Flood Risk Assessment published by DARD in December 2011. All of this information includes not only the present day predictive flood risk associated with flooding from various sources, but also the predictive flood risk in the future associated with climate change.
- 1.4 Experience gained in the implementation of PPS 15 has shown that while the policy is generally robust and fit for purpose, that specific policies offer potential for 'fine tuning' in order to promote an enhanced and proportionate policy response to flood risk.
- 1.5 The Preliminary Flood Risk Assessment published by Rivers Agency in December 2011 identified flooding from reservoirs as a potential significant source of flood risk. Reservoirs legislation is shortly to be introduced to create a legal and administrative framework to reduce and manage the risk to human health, the environment, cultural heritage and economic activity posed by flooding from controlled<sup>1</sup> reservoirs. In tandem with this, officials have engaged with Rivers Agency in bringing forward new planning policy through Revised Draft PPS 15 aimed at managing development in proximity to reservoirs.

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<sup>1</sup> Reservoirs with an individual or combined capacity greater than 10000cubic metres above the natural level of any part of the surrounding land.

- 1.6 Revised Draft PPS 15 has been developed in close consultation with DARD Rivers Agency officials and has also been informed by input from various sections of DOE, including Planning, NIEA and Environmental Protection.
- 1.7 Revised Draft PPS 15 'Planning and Flood Risk' was published for public consultation on 10<sup>th</sup> October 2013 following agreement from the Executive. The consultation closed on 10<sup>th</sup> January 2014. The consultation was distributed to numerous interested parties, including all Assembly Members, all 26 local councils, Government Departments and external stakeholders.
- 1.8 Notice of the publication and commencement of the consultation period was given in the Belfast Telegraph, Irish News and Newsletter on 11 October 2013. The document was also made available on the Planning Service website.
- 1.9 The Department received 27 responses to the public consultation. All the responses received will be considered in finalising the document.
- 1.10 This paper provides a general overview of the main findings of the public consultation exercise. It is not intended to be a comprehensive report on every comment received, but rather a summary of the key issues raised in the responses. A copy of this document is available on the Planning Service website [www.planningni.gov.uk](http://www.planningni.gov.uk).
- 1.11 The Department would take this opportunity to thank all those who contributed to the consultation exercise.

## 2. Overview of the Consultation

- 2.1 The Department received a total of 27 responses to the consultation from a range of interested parties which can be broken down into the following categories:

**Table 1:** Categories of Respondents

	<b>Category</b>	<b>No.</b>
<b>A</b>	Local Government	9
<b>B</b>	Non Departmental Public Bodies / Agencies	5
<b>B</b>	Business and Development Enterprises / Organisations	3
<b>C</b>	Environment / Heritage Groups	3
<b>D</b>	Agents / Architects / Professional Bodies	4
<b>D</b>	Other – Charities, Community / Voluntary Groups	1
<b>E</b>	Individuals	2
	<b>TOTAL</b>	<b>27</b>

2.2 Many of the respondents welcomed or commended the publication. The majority of the responses were substantive and covered a range of issues. A full list of the respondents is included at page 21.

2.3 Overall there was a general consensus on the need for the existing PPS to be updated, particularly in the light of the volume of new flood risk information which has become available since the publication of the original document in 2006 as well as ongoing concerns about the potential for future flooding associated with climate change.

### **3. Synopsis of comments**

3.1 The overall response Revised Draft PPS 15 is considered to be positive. Half of the respondents expressed general or qualified support for the document, albeit that some had concerns about specific issues. There were no responses which were opposed to the PPS as a whole. Except for three responses (two which commended the proposals and the other offering no comment), all the respondents submitted detailed comments on several or multiple issues. These have been analysed and are considered below under the following themes:

- (i) Content
- (ii) Clarification/follow-up questions
- (iii) Presentation

### **4. Content**

4.1 Most of the responses received commented about the content of the document. Comments were submitted in regard to the content of all sections of the document. The most significant issues arising and the Department's response are set out below.

#### **4.2 Policy Context**

- The DRD Long Term Water Strategy should be referenced in the Policy Context
- The EU Habitats Directive and the Biodiversity Duty under the Wildlife and Natural Environment Act should be reference in the policy Context.

#### **Department's Response**

- The DRD Long Term Water Strategy has not yet been published. However, it is anticipated that the draft LTWS will soon be published and this is referenced in the final Revised PPS 15.

- The inclusion of the Water Framework Directive in the Policy Context is considered as sufficient recognition of the need for the policies in PPS 15 to pay due regard to the protection and improvement of the water environment and , de facto, associated habitats. Accordingly, the EU Habitats Directive and the Biodiversity Duty is not specifically referenced in the Policy Context.

#### 4.3 **Objectives**

- Objectives should make specific reference to the protection of the built and natural heritage
- Objective promoting sustainable drainage (SuDs) for new development should be strengthened so as to make SuDs a requirement, where technically feasible
- An additional Objective should be included requiring climate change impacts / predictions to be fully considered in the assessment of development proposals
- An additional Objective should be included promoting a landscape or catchment scale to flood risk management

#### Department's Response

- The final policy objective is amended to clarify that the Department will take account of the conservation of archaeology and the built heritage, in seeking to promote an integrated and sustainable approach to the management of development and flood risk. However, it should be noted that such interests are addressed more fully through other planning policies, notably PPS 2 and PPS 6 as well as the emerging Strategic Planning Policy Statement (SPPS).
- Whilst Revised PPS 15 strongly promotes and encourages the use of sustainable drainage for new development; the Department considers that it is not appropriate to require the use of SuDs until enabling legislation is in place to deal with SuDs approval, ownership and maintenance arrangements.
- It is considered that climate change impacts / predictions are taken into account in the second objective (requiring use of the most up to date flood risk information in determining planning applications). In this context it is noted that flood risk information provided by DARD includes not only the present day predictive flood risk associated with flooding from various sources, but also the predictive flood risk in the future, associated with climate change. The third objective (adoption of a precautionary approach to development) also takes account of future uncertainties associated with flood estimation, climate change predictions and scientific evidence.
- A landscape or catchment based approach to flood risk management is about managing the catchment to naturally collect, attenuate and retain rainwater to reduce or prevent flooding. It is recognised that the planning system has a

part to play in this, hence the document makes reference in paragraph 4.3 to the potential role of development plans in contributing to a joined –up approach amongst relevant organisations. However, it is not considered appropriate for PPS 15 to include a specific objective as many of the measures needed (eg sustainable land management, reforestation, restoring peatlands and natural flood storage features) fall beyond the remit of the planning system. It is understood that this approach to flood risk and water management is being progressed primarily through the DRD Long Term Water Strategy and also the emerging Flood Risk Management Plans led by DARD Rivers Agency under the auspices of the Floods Directive. Notwithstanding these considerations, the final policy objective is amended to clarify that the Department will seek to promote an integrated and sustainable approach to the management of development and flood risk, both locally and at catchment scale.

#### 4.4 **Role of Development Plans**

- Concern / uncertainty about how PPS 15 can be applied where development plans are outdated;
- The role of development plans in promoting green infrastructure and designating open space for flood risk management purposes requires more emphasis and positivity;
- The role of development plans in promoting the use of sustainable drainage (SuDs) requires more emphasis and positivity;
- Text should refer to the need for development plans to take account of River Basin Management Plans (RBMPs) and Flood Risk Management Plans (FRMPs);
- The role of development plans is too negative in that it ignores the development potential of sites in the flood plain where flood risk could be managed and mitigated;
- In referring to the review of extant development plans, the text should recognise the development potential of sites in the flood plain that have since benefitted from new or improved flood defences.

#### Department's Response

- This concern arises in the context of the large amount of new flood risk information which has recently become available and which continues to be rolled out primarily through DARD Rivers Agency in implementing the Floods Directive. Thus, in some circumstances, land zoned for development in outdated development plans, is now identified as being at significant flood risk. Revised PPS 15 addresses this issue in two ways. Firstly, in the

Preamble, it is stated that when issued in final form, the PPS 15 policies will take precedence over the provisions of existing development plans in relation to flood risk. Secondly, paragraph 4.11 of the draft document states that a formal amendment to the Plan may need to be considered in such circumstances and provided that the flood risk cannot be properly managed through the development management system;

- Revised PPS 15 is amended to include a new paragraph (4.13) referring to the application of a sustainable approach to flood management through development plans through promoting green and blue infrastructure amongst other potential measures. The Department is also currently exploring with DRD, in the context of the Long Term Water Strategy, the role of development plans in promoting green and blue infrastructure and designating land for water and flood risk management purposes.
- This section of the document is amended so as to impart a more positive slant on the promotion of sustainable drainage through development plans. Reference is also made to the Regional Development Strategy 2035 (RDS) which promotes the use of SuDs.
- This section of Revised PPS 15 makes reference to the need for development plans to make the necessary linkages with and to be informed by the existing and emerging body of information being delivered under the auspices of the EU Floods Directive. This will include Flood Risk Management Plans and, de facto, River Basin Management Plans rolled out under the Water Framework Directive. ;
- The Department considers that Development Plans should not be encouraging development in flood plains. Notwithstanding the measures that may be available to mitigate or manage flood risk on specific sites, PPS 15 stresses that practice of flood avoidance, by locating new buildings outside the flood risk area, is the most effective means of managing flood risk;
- The Department considers that it would not be appropriate to include text suggesting that the review of extant plans should open up opportunities to consider the development of sites in the flood plain that have since benefitted from new or improved flood defences. DARD Rivers Agency has advised that flood defences would only have been provided or upgraded to allow for the redevelopment of existing sites.

#### 4.5 **Development Management Considerations**

- Pre Application Discussion (PAD) should be mandatory (not just advisable) when flooding and / or drainage is identified as a potential development constraint;
- The removal of Permitted Development rights in the type of circumstances referred to in paragraph 5.7 of the PPS needs to be made compulsory;

- Planners need to take account of other relevant plans such as FRMPs and RBMPs where they are material considerations;
- This section should refer to sustainable drainage and stress the need for measures to be adequate for the proposed development and the importance of securing long term maintenance arrangements;
- The circumstances for consulting Rivers Agency (or other relevant body) should be expanded to include development that would be likely to increase the risk of flooding elsewhere;
- A Flood Risk Assessment (FRA) should not be automatically required to accompany the Environmental Statement for all applications subject to Environmental Impact Assessment (EIA).

#### Department's Response

- The Department considers that the onus for initiating a PAD rests with the developer and therefore cannot be made mandatory. It would also not be proportionate to require a PAD in all circumstances, for example for minor development;
- The removal of Permitted Development rights is at the discretion of the Department and is considered on a case to case basis. Accordingly, it is not intended to alter the text to make this compulsory in the circumstances eluded to in paragraph 5.7 of the draft PPS;
- Where a FRMP or RBMP constitutes a material consideration it will be taken into account in decision taking. However, the planning authority will largely depend upon relevant consultees (for example DARD Rivers Agency and NIEA) to highlight the significance of such plans as material considerations to individual cases. Accordingly, it is not considered appropriate for PPS 15 to require planning officers to directly analyse FRMPs and RBMPs in the course of processing a planning application;
- Given that the Department cannot presently require the use of sustainable drainage (SuDs) (paragraph 4.3 refers), it has not been emphasised in this section. Instead, development management considerations in regard to SuDs are referred to in Annex C. ;
- Paragraph 5.5 of the final document is amended to clarify that Rivers Agency (or other relevant body) should be consulted by the planning authority in regard to development proposals that would be likely to increase the risk of flooding elsewhere;
- It is not proposed to dispense with the requirement for a FRA and Drainage Assessment (DA) for EIA applications as these are matters that ought to be addressed as a matter of course as part of the Environmental Statement accompanying such applications.

#### 4.6 **Policy FLD 1 – Development in Fluvial (River ) and Coastal Flood Plains**

Whilst many respondents supported the thrust of this policy in setting out a general presumption against development in flood plains; a significant number of issues were raised in relation to the various specific elements of the policy. These issues are addressed below under the relevant headings.

##### Flood Risk Assessment

- Concern about the costs involved in preparing a FRA, particularly for individual developers;
- Objection to the requirement for a FRA for Minor Development.

##### Department's Response

- The Department considers that a FRA is essential for developers wishing to build in areas of flood risk in order to ensure that the identified flood risks can be managed and mitigated. The financial outlay involved should be viewed by the developer as an investment against possible flood damage. Aside from this, there is usually an option of building elsewhere, outside of the flood risk area.
- The Department accepts that not all minor development should warrant a FRA. The policy is therefore amended to indicate that the need for a FRA for residential extensions and alterations will be determined on a case by case basis.

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##### Exceptions – Defended Areas

- Exception (a) allowing for the development of previously developed land protected by appropriate flood defences.

Objections (5 representations from a mix of Environment and Heritage groups, Public Bodies and professional Bodies)

Issues

- Policy will require continuous upgrading of flood defences which is unsustainable, particularly in the light of climate change which will require ever increasing standards of flood defence
- Policy should promote soft/ natural forms of flood defence rather than hard infrastructure flood defences
- Policy should promote '*managed retreat*' from flood risk areas

##### Department's Response

- It is wider government policy that hard flood protection measures such as flood defence schemes will continue to prevail where there is a need to protect property from flooding. PPS 15 does not facilitate new 'greenfield'

development on land protected by flood defences, therefore upgrading of defences will not be necessary for this reason. Whilst a residual flood risk will always remain, this will be addressed primarily through flood resistance and resilience measures to buildings, rather than through upgrading of flood defences.

- It is accepted that the promotion of green infrastructure / natural forms of flood defence has a part to play in flood risk management. The Department's response is referred to under the Role of Development Plans section (bullet point 2);
- The concept of '*managed retreat*' is beyond the scope of PPS 15.

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### Exceptions – undefended Areas

Exception (b) allowing for new development in the undefended coastal flood plain where the land is raised to an acceptable level above the flood plain, through infilling;

Specific support from a Business & Development Group

Objections (5 representations from a mix of Environment and Heritage groups, Public Bodies and Professional Bodies)

Issues

- The Exception ignores other risks, principally coastal erosion / land instability and the associated flood risks and may actually accentuate these risks;
- It fails to take account of climate change and its cumulative impacts;
- Approved development will generate a need for new coastal defences which is unsustainable;
- Development elevated above the coastal flood plain will present problems for the provision of essential services such as access, sewerage, water supply and power supply;
- Policy will impact adversely upon coastal habitats;
- Policy will result in water management problems;
- The Exception is incongruous with the PPS 15 policy for development in fluvial flood plains.

### Department's Response

The Department has engaged with NIEA on these issues and this exception to the policy is now amended to apply only within settlements in the coastal flood plain so as to minimise the potential risks of coastal erosion. This restriction should also serve to limit the impact of development upon coastal habitats. Further to this the amended policy is now also caveated so as to take account

of other issues raised. The Department does not consider that this exception is incongruous with the PPS 15 policy for development in fluvial flood plains because DARD Rivers Agency has advised that, unlike fluvial (river) flood plains, development in the coastal flood plain will have a negligible effect on its extent and hence on the risk of flooding elsewhere.

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#### Other Exceptions

- Exception (d) allowing for development for agricultural use which for operational reasons has to be located within the flood plain;

#### Issues

- The policy fails to make sufficient provision for expansion of agricultural enterprises located within fluvial flood plains
- The exception will result in adverse impacts on freshwater ecosystems in the event of flooding

#### Department's Response

- The existing PPS 15 contains no specific Exception for agricultural development in the flood plain, therefore the proposal in the Revised PPS to include it is considered to substantially address this issue. However, it is proposed to clarify in the J&A that the Exception applies in circumstances where the entire farm unit is located wholly within the flood plain;
- The Department considers that the impact of agricultural development on freshwater ecosystems needs to be managed and mitigated on a case by case basis.

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#### Issues

- Exception (f) allowing for the use of land in the flood plain for recreational use;
- Exceptions (g) allowing for extraction of minerals

#### Issues

- These Exceptions will result in adverse impacts on freshwater ecosystems in the event of flooding

#### Department's Response

- The Department considers that the impact of these types of development on freshwater ecosystems needs to be managed and mitigated on a case by case basis.

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One objection to the removal of the existing Exception (from the existing PPS 15) allowing for the seasonal use of land for touring caravans and camp sites

#### Department's Response

The removal of this Exception is considered to be justified because

- Recent weather patterns demonstrate significant summer rainfall with potential for flooding, therefore the risk is present even during summer months;
- Touring caravans and camp sites are a vulnerable form of development in the context of flooding.

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#### Allowance for Proposals of Overriding Regional / Sub Regional Economic Importance

There were 2 specific representations in support of the new provision for proposals of sub-regional economic importance and 3 objections to the allowance for such development in the floodplain based on the premise that permitting such development will cause long term economic detriment. Other issues related to the need for clarification on what is meant by sub-regional and how economic importance is to be assessed.

#### Department's Response

- The Department considers that a balance needs to be struck to allow consideration for proposals that are of genuine overriding economic importance to the region or sub-region;
- It is considered that the number of such proposals that need to be located in the flood plain will be few;
- The FRA will be required to demonstrate adequate management and mitigation of flood risk to the development and elsewhere as a result of it before planning permission is granted;
- The need for additional clarification is noted and is addressed on page 20 of this report.

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#### Flood Protection / Management Measures

There were 2 specific objections to the policy provisions preventing the use of particular flood protection / management measures in the flood plain.

#### Issues

- These restrictions will impede the continued growth of City of Derry airport / other proposals of overriding economic importance;
- The blanket restriction on these measures cannot be justified when particular proposals can demonstrate that no harm will arise through the FRA.

#### Department's Response

- DARD Rivers Agency has advised that alternative flood protection / management options will often be available (for example raising finished floor levels, flood resilient / resistant construction, or allowing flood compensation storage where warranted in exceptional circumstances). All possible options need to be addressed in the FRA.
- The Department considers that these restrictions on the use of the identified flood protection / management measures are necessary based upon advice from Rivers Agency. As indicated, possible alternative options need to be considered in the FRA.

#### 4.7 **Policy FLD 2 – Protection of Flood Defence and Drainage Infrastructure**

Several respondents (Public Bodies and Environmental Groups) submitted comments relating to their view that provision of new or upgraded hard flood defences is unsustainable and encouraging natural means of flood protection. However, these issues are considered to be beyond the scope of Policy FLD 2.

#### Issue

The only other significant issue arising raised concern that the proposed retention of a 5 metre working strip along watercourses is inadequate to facilitate management and maintenance and provide added benefits such as greater protection against water pollution and safeguarding of habitats.

#### Department's Response

Having consulted with DARD Rivers Agency, the Department proposes to increase the width of the working strip to 5 to 10 metres, with the planning authority applying discretion on a case by case basis within this range.

#### 4.8 **Policy FLD 3 – Development at Surface Water (Pluvial) Flood Risk Outside Flood Plains**

Policy FLD 3 facilitates new development in areas of surface water flood risk, provided that the risk to the development and elsewhere can be managed and mitigated.

One local Council supported this positive policy stance.

Contrary to this view, there were 5 respondents (mix of groups) who considered that this policy should set out a presumption against development in areas of surface water flood risk or where sewerage / drainage systems are inadequate.

#### Department's Response

The Department considers that the approach adopted in Revised PPS 15 is proportionate and balanced. Planning permission will still be refused if a Drainage Assessment fails to demonstrate that the surface water flood risk to the development and elsewhere can be properly managed / mitigated.

Other specific issues raised include the following:

#### Issues

- The policy should be re-titled to read '*Development **and** Surface Water (Pluvial) Flood Risk.....*' to take account of the potential effect of development on flooding elsewhere;
- Debate over the development thresholds prescribed in the policy for triggering the requirement for a Drainage Assessment;
- The requirement for a Drainage Assessment in areas where there is evidence of a history of surface water flooding is unworkable because of the lack of evidence;
- The onus placed upon the developer to assess, manage and mitigate flood risk and drainage impact is unreasonable and mis-directed;
- The policy should seek to reduce surface water flood risk by promoting development that utilises open space and vegetation for water management purposes;
- Support for promoting the use of sustainable drainage (SuDs) for new development to manage / mitigate surface water flood risk, but concern that this is not an explicit requirement of the policy.

#### Department's Response

- The Department accepts the rationale for the suggested amendment to the title of this policy and has revised it accordingly;
- The Department considers that respondents proposals to require a DA for 1 dwelling, or for 5 plus dwellings, or for all development; is not commensurate with the flood risk, would over-burden developers and would unnecessarily slow down the planning system. Accordingly it is

proposed to retain the DA thresholds carried over from the existing PPS 15 as there is no persuasive evidence to suggest that they should be amended;

- Having consulted with DARD Rivers Agency, the Department is satisfied that there is a sufficiently robust evidence base to determine areas where there is a history of surface water flooding. Accordingly, it is proposed to retain this criterion as a requirement for a DA;
- The policy places responsibility upon the developer to assess and mitigate surface water flood risk only in areas where there is potential for this type of flooding, as opposed to areas where there is evidence of a history of flooding. Also, development proposals above the specified thresholds will require a DA to be assessed through the planning system. The Department considers that the onus placed upon developers in these circumstances is warranted in that it will encourage them to take due account of flood risk, commensurate with the level of flood risk and the nature of the development;
- The Department will consider adding a sentence to the J&A to refer to the water / flood risk management benefits of utilising open space and vegetation in development schemes;
- The support for the policy in promoting the use of sustainable drainage for new development is noted. However, the Department considers that it is not appropriate to require the use of SuDs until enabling legislation is in place to deal with SuDs approval, ownership and maintenance arrangements.

#### 4.9 **Policy FLD 4 – Artificial Modification of Watercourses**

Two environmental groups and one local council expressed specific support for this policy which is intended to prevent the artificial modification of watercourses, primarily through culverting or canalisation. Some responses suggested that culverting or canalisation of watercourses should only be permitted where this will not contravene the EU Habitats directive and other related legislation. However, the Department considers that such issues are beyond the scope of PPS 15 and should properly be addressed through the appropriate legislation. Other specific issues arising are as follows:

##### Issues

- The allowance within the policy for culverting of a short length of watercourse in order to access a development site should prescribe an acceptable length;

- Culverting of a watercourse should only be permitted where other options such as bridging are not feasible;
- The role of sustainable drainage in reducing the need for flood alleviation works or the culverting of watercourses should be expressed in the policy;
- Support for encouraging the removal of culverts and the reintroduction of natural watercourses, but concern that this is not an explicit requirement of the policy.

#### Department's Response

- It would not be possible to prescribe limits for culverting of watercourses that would be appropriate in all situations. The Department considers that this matter needs to be considered on a case by case basis;
- DARD Rivers Agency has advised that because bridging is often not feasible, that it would be too restrictive to insist on it as a first option;
- The use of sustainable drainage is promoted in the J&A to this policy and encouraged elsewhere throughout the document;
- The Department cannot enforce the removal of culverts and the reintroduction of natural watercourses, therefore whilst this is encouraged, it cannot be expressed as an explicit requirement of the policy.

#### 4.10 **Policy FLD 5 – Development in Proximity to Reservoirs**

This policy was not commented upon widely. Three respondents (mainly Environmental Groups) thought that the policy should set out a presumption against development in proximity to reservoirs. Two respondents (one Business Group and one Council) regarded the policy as being overly restrictive, particularly in regard to the requirement for a developer of new development to provide assurance in regard to reservoir safety. Specific issues included the following:

#### Issues

- New development should not be permitted within the flood inundation zone of a reservoir (unless it aims to reduce flood risk);
- The onus placed upon the developer (rather than the reservoir owner / manager) to provide assurance about reservoir safety is overly restrictive and onerous;
- Concern about the costs that will be incurred by the developer in providing assurance about reservoir safety;
- Objection to the requirements of the FRA for new development;

- Objection to the requirement for a FRA for replacement buildings in 'like for like' circumstances;
- Objection to the presumption against development where the FRA indicates potential for sudden and deep inundation.

#### Department's Response

- Having had detailed engagement with DARD Rivers Agency in the development of this policy and taking into account the implications of the emerging Reservoirs Bill, the Department is satisfied that the flood risk to development within the flood inundation area can be properly managed. It would therefore be considered too restrictive to preclude development;
- The Department considers that there is a fundamental need for assurance about reservoir safety as a prerequisite to granting planning permission for development within the potential flood inundation area. It is considered reasonable to require the applicant to provide such assurance as he is the party seeking planning permission and the one likely to benefit from the grant of permission. It is noted that where there is existing development in the flood inundation area, that the reservoir owner / manager will be responsible for meeting the higher standards required by the Reservoirs legislation once it becomes effective;
- The J&A states that the funding of such costs is a private matter between the developer and the reservoir owner / manager. Again, it should be noted that such costs are only likely to be incurred in circumstances where development will result in the risk / impact classification of the reservoir (under the provisions of the Reservoirs Bill) being increased (for example in flood inundation areas where there is no existing development);
- The issue raised by one respondent queried why the FRA for new development should be required to assess the downstream flood risk in the event of an uncontrolled release of water due to reservoir failure, as reservoir safety, maintenance and management was viewed as the responsibility of the reservoir owner and should be enforced through the reservoirs legislation.

The Department accepts the Rivers Agency view that there is a need for the FRA to take account of catastrophic failure of the reservoir, no matter how unlikely, because of the potential consequences. Accordingly, there is a need for the developer to assess the risk to his development, particularly from the emergency evacuation aspect and having regard to the likely flow paths of the flood water.

- The Department accepts the Rivers Agency view that a FRA is still needed to address emergency evacuation procedures, even though the actual flood risk to the replacement building may remain much the same.
- The Department considers that it is appropriate to preclude development in areas within the potential flood inundation area (for example immediately below a reservoir) where the potential for sudden and deep inundation means that safe escape routes and adequate lead in times may not be possible.

#### 4.11 **Annexes**

Whilst comments were tendered on all 5 Annexes to the document, only Annex C (Sustainable Stormwater Management) attracted particular comment and criticism. Whilst there was widespread support for the positive promotion of SuDs in the Annex, there was also significant concern (largely but not exclusively from Environmental groups) that there is no requirement for development to utilise sustainable drainage methods.

4.12 Concerns of a specific and largely technical nature were also raised by 2 respondents (1 agent and 1 professional body).

#### Department's Response

- The reason why the Department cannot presently make the use of sustainable drainage mandatory is set out in section 4.3 of this Summary Report;
- Officials have engaged with NIEA officials (represented on the Stormwater Management Group) in reviewing the draft document so as to promote the use of sustainable drainage more positively in the final PPS;
- Officials have liaised with NIEA officials (represented on the Stormwater Management Group) in order to address the criticisms of a technical nature. Amendments to address these concerns are reflected in the final PPS.

## 5. **Clarification**

5.1 The main points identified by respondents as requiring clarification are noted in this section under the relevant headings of revised Draft PPS 15. In general, most points of clarification have been raised by only one or two respondents. The Department's response is also set out below.

## 5.2 **Preamble**

- Need to clarify the status of Revised PPS 15 relative to the Strategic Planning Policy Statement (SPPS);
- Need to clarify the status of Revised PPS 15 relative to existing development plans.

### Department's Response

- The transitional arrangements set out in the Draft SPPS, state that '*..until such times as both a new local plan strategy and local policies plan are adopted, and found to be sound, councils will apply the retained operational policies contained within the listed documents.*' Revised PPS15, when published in final form, will therefore continue to be applied until Councils have their adopted plans in place.
- The Department considers that the status of Revised PPS 15 relative to existing development plans is set out clearly. This matter is addressed more fully in Section 4.4 of this Summary Report.

## 5.3 **Role of Development Plans**

- Need to clarify how the Strategic Flood Maps will be integrated into the Local Development Plan (LDP) and inform decision making;
- Need to clarify the circumstances when a LDP may exceptionally zone or bring forward a site susceptible to flooding;
- Need for more clarity on how Sustainable Drainage (SuDs) measures are to be promoted in LDPs.

### Department's Response

- This will be a matter for the new LDPs which Councils will bring forward subsequent to the transfer of planning functions in April 2015;
- It is envisaged that the circumstances in which a LDP will promote development on a site susceptible to significant flood risk will be rare. As such circumstances cannot be readily anticipated it is not considered appropriate to attempt to prescribe them;
- Officials have liaised with NIEA officials (represented on the Stormwater Management Group) in regard to the concerns expressed seeking additional clarity as to how LDPs should promote the use of SuDs. The final PPS is amended accordingly.

## 5.4 **Policy FLD 1 – Development in Fluvial (River ) and Coastal Flood Plains**

- Need to clarify whether either or both requirements of a FRA need to be satisfied;

- Uncertainty as to how Rivers Agency determines flood defences as being structurally adequate for the purposes of the policy (Exception a);
- Need to clarify what is meant by proposals of '*sub-regional*' importance;
- Need to clarification on how '*economic importance*' is to be assessed;
- Need to clarify whether either or both criteria need to be satisfied in regard to the assessment of proposals of overriding regional or sub-regional economic importance;

#### Department's Response

- The text has been amended in the final PPS to confirm that both of the main FRA requirements need to be satisfied;
- Noted - the assessment of the adequacy of flood defences is a matter for DARD Rivers Agency;
- The J&A (paragraph 6.23) by way of example states that a proposal of sub-regional economic importance could be one that provides employment for a substantial number of people living in one or more Council areas;
- The Department considers that the economic merits of a proposal needs to be considered on a case by case basis and therefore does not propose further clarification in this regard;
- The text has been amended in the final PPS to confirm that both of the criteria need to be satisfied.

### 5.5 **Policy FLD 5 – Development in Proximity to Reservoirs**

- There is a need for more clarity and greater detail on the requirements for a FRA in regard to reservoir flood risk.

#### Department's Response

- Having engaged further with DARD Rivers Agency, some further detail on FRA in regard to reservoir flood risk is now included in Annex d of the final PPS.

## 6. **Presentation**

6.1 Several respondents commented that the document was well structured and well written and there was no general criticism in this regard.

6.2 Notwithstanding the above, there were 2 respondents (Agent and Professional Body) who commented that the PPS in general, and Policy FLD 3 J&A and Annex C in particular, need to use precise and consistent definitions in regard to sustainable drainage systems.

### Department's Response

The Department has reviewed the use of terminology in regard to sustainable drainage liaised with relevant bodies in doing so. The final PPS has been amended accordingly.

## **List of Respondents**

SM Pigs limited  
Limavady Borough Council  
Margaret Ritchie MLA (on behalf of Ms. Y. Brown)  
Antrim Borough Council  
Jonathan Bradshaw  
Castlereagh Borough Council  
Armagh / Banbridge/ Craigavon Council Cluster  
Landscape Institute NI  
Ulster Angling Federation  
NILGA  
NI Environment Link  
Consumer Council  
RTPI  
McCloy Consulting  
Moyle District Council  
CNCC  
Michael Burroughs Associates (on behalf of City of Derry Airport)  
RSPB  
Belfast City Council  
Ballymena Borough Council  
Ministerial Advisory Group for Architecture and Built Environment  
Institute of Civil Engineers  
National Trust  
South East Education and Library Board  
Fermanagh District Council  
Construction employers Federation  
Historic Monuments Council