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Our Ref:
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Date: 2 April 2014

Dear Stella

RESERVOIR BILL COMMITTEE MEETING 25 FEBRUARY 2014

Briefing from representatives of Belfast City Council, Craigavon City Council and Newry & Mourne District Council.

At its meeting on the 25 February 2014, the ARD Committee received oral briefing from Belfast, Craigavon and Newry & Mourne Councils and written evidence from the Northern Ireland Local Government Association (NILGA). Rivers Agency has been asked to comment on the issues raised and its comments are set out below.

Costs and Financial burden on Councils and support for Grant Scheme

Representatives from all of the Councils expressed concern in relation to the costs of implementing the legislation and the financial burden that it would place on local government. Given the costs of inspections, supervision and the potential remedial works, support for the introduction of a grant scheme which would be available to all reservoir managers was endorsed. NILGA raised concerns regarding Council's having to fund remedial works for reservoirs where an owner cannot be traced or is irresponsible.

Rivers Agency Comment

Some Council areas have had inspections of their reservoirs undertaken. This reflects best practice and is welcomed. Provided the inspection reports are of suitable standard, they will be recognised under the Reservoirs Bill, when enacted, as pre-commencement inspection reports and therefore will negate the need to have an inspection undertaken within 1 year of the risk designation taking effect.



It is worth restating that the supervision and inspection regime proposed is based on industry best practice for the management of reservoirs and, under common law, reservoir managers are already responsible.

The Minister has indicated her willingness to explore, in more detail the possibility of meeting the costs of public safety measures, in particular the costs to not-for profit-organisations. The precise costs of these works will not be known until after the first inspection of reservoirs has taken place. It should be noted that this commitment was for not-for profit organisations and only for works in the interests of safety. As advised in my previous letter in response to the issues raised at the Committee meeting on 18 February 2014, Rivers Agency is currently seeking to establish the potential costs of financing a grant scheme for reservoir safety for these organisations. However, when undertaking this task, the Agency will consider the potential costs for a number of options, including grant scheme for all reservoir managers for supervision, inspection and works in the interests of safety. These potential costs will be shared with the Committee at the earliest opportunity.

Rivers Agency will have powers under the Bill to undertake works in an emergency situation, where an owner cannot be traced or is irresponsible, in order to avoid a potential dam breach. The costs of such works may be recoverable. The Bill does not confer such powers on Local Councils and nor will they be expected to fund works in these circumstances. However, they may be involved, given the role they play in civil contingency management in the event of an emergency.

Preparation of Flood Plans

Representatives from the Councils and NILGA supported the need for multi agency flood plans and questioned the need for individual reservoir flood plans. Comment was made on the lack of information in the Bill on what is to be included in flood plans.

Rivers Agency Comment

The legislation, as drafted, provides the Department with the power, by regulation, to make provision for the preparation of flood plans for controlled reservoirs. The regulations will provide the detail in respect of flood plans, for example, what is to be included in a flood plan and who is to prepare a plan. It is likely that any regulations will be limited to preparation of an 'on-site' plan for a reservoir, which will include a reservoir inundation map and what steps and who is to be contacted in order to control, or mitigate the effects of flooding likely to result from an uncontrolled escape of water from a reservoir. Any regulations will be subject to consultation with key stakeholders, interested parties, the public and the ARD Committee.

Reservoir Manager

Craigavon Borough Council raised concerns regarding responsibility for dams which are not wholly owned by the Council and are outside its control. In particular, mention was made of private houses having been built on the dam at Craigavon Lakes and, in the case of Lurgan Park Lake, a public road.

It was also indicated that Craigavon Lakes was a shared resource between the Council and Rivers Agency, as the Agency depends on the lakes for flood attenuation and, therefore, should contribute towards the cost of maintaining the Lakes.

Rivers Agency Comment

The Bill stipulates that a reservoir manager is the person or organisation that manages or operates the reservoir, or part of the reservoir and, where there is no manager or operator, the owner, by default, is the reservoir manager.

The Bill also excludes a road or railway embankment from being part of a reservoir if it is not integral to the functioning or operation of the reservoir. However, if a road is part of the dam, then it is deemed to be integral to the functioning of the reservoir and, therefore, the owner of the road will be a part manager of the reservoir. The Bill requires reservoir managers to co-operate and managers may nominate a single reservoir manager to act on their behalf.

Craigavon Lakes were constructed to facilitate the drainage for the new town of Craigavon and provides flood attenuation for watercourses which flow into Lough Neagh. Rivers Agency or its predecessors had no responsibility in the construction of these lakes and there are no designated watercourses in the immediate vicinity of the Lakes which Rivers Agency maintains under the Drainage (NI) Order 1973.

There is no historical or contemporary reason for Rivers Agency to become involved in the management or operation of Craigavon Lakes and, therefore, the Agency is not a reservoir manager or part manager.

All impounding reservoirs provide some degree of flood attenuation. The Agency has constructed reservoirs for attenuating flood flows where there has been significant flooding or potential flooding problems in certain catchment areas, for example, at Kiltonga Reservoir. In such cases, Rivers Agency will readily accept its reservoir manager responsibilities.

Designation of reservoirs

During the presentations it was made clear that the probability of reservoir failure should be considered when determining risk designation.

Rivers Agency Comment

The legislation, as drafted, requires the Department to take into account, in so far as it is reasonably practicable to do so, the consequences of an uncontrolled release of water and the probability of reservoir failure. However, while research is ongoing, there is currently no recognised methodology for determining the probability of reservoir failure. Therefore, the risk designation of an impounding reservoir will initially be predominately based on the consequence or impact on human life, economic activity, environment and cultural heritage of an uncontrolled release of water as a result of dam failure.

Once an agreed methodology is in place to determine the probability of reservoir failure, this will be taken into account by the Agency in a review of the risk designations for all controlled reservoirs in Northern Ireland.

Impact of downstream development

Concern was raised that consideration had not been given in the Bill to the impact of development taking place in the downstream inundation area on the risk designation of the reservoir and the consequential increased costs for the reservoir manager.

Rivers Agency Comment

This is incorrect as the new version of the Planning Policy Statement (PPS15) includes a planning policy to manage development in the downstream inundation area of a controlled reservoir. The public consultation on the review of PPS 15 ended in early January and we await the outcome.

The new policy entitled 'Development in proximity to Reservoirs' places an onus on the developer to ensure that the flood risk has been assessed and that there are suitable measures in place to manage and mitigate the identified flood risk. All applications will require the developer to provide DOE planning with a flood risk assessment, prepared by a reservoir panel engineer, detailing any necessary upgrading to the reservoir and its management regime. This will require the developer to engage and to reach agreement with the reservoir manager(s) on the proposed development. The financing of any associated costs in respect of the reservoir and its supervising/inspecting regime would be a matter between the developer and the reservoir manager. This should provide assurance regarding reservoir safety so as to enable development to proceed. Where such assurance is not forthcoming, planning permission will be refused.

If development in a reservoir inundation area is allowed, Rivers Agency will review the risk designation on its completion and advise the reservoir manager(s) of any changes to the designation and any changes to the supervising/inspecting regime. The Department will have the powers to review a risk designation at any time it considers that the designation is no longer appropriate.

Effect on property owners

Concerns were raised regarding the effect on property owners downstream, in particular the price of property and the availability of insurance.

Rivers Agency Comment

The Reservoirs Bill seeks to introduce a management regime for reservoirs in order to reduce the likelihood of total dam failure. The Agency considers that the introduction of such a regime on high and medium risk reservoirs should provide assurance that reservoirs are being managed in accordance with industry best practice and, therefore, do not pose an unnecessarily high risk to the public or to property. It is, therefore, anticipated that the legislation would not impact on the availability of insurance, the cost of insurance premiums, or the price of property in a reservoir inundation area.

Reservoir Inundation Maps

Craigavon Borough Council commented that they 'understand that flood inundation maps need to be updated and are based on data and assumptions that are no longer current'. The availability of reservoir inundation maps to members of the public was also raised, in particular, maps indicating the risk designations of reservoirs.

Rivers Agency Comment

Rivers Agency has produced draft Reservoir Flood Inundation Maps, which show the extent of inundation following a total dam failure. These maps were primarily produced to assist the Agency in the development of reservoir safety policy and to determine the provisional risk designation of the 151 impounding reservoirs in Northern Ireland that are capable of holding 10,000 cubic metres or more of water.

The Agency will be producing more detailed Reservoir Flood Inundation Maps which will show depth, velocity and time of inundation to better assess the consequences of total dam failure on the inundation area and give a more accurate risk designation. These maps will use existing data and any new data that becomes available and will assume total dam failure. These more detailed maps may also be used for Emergency Planning purposes or in the preparation of flood plans.

Reservoir Flood Inundation Maps contain information that is deemed to be sensitive in terms of national security and therefore controls are necessary in relation to the disclosure of this information. Rivers Agency, therefore, is adhering to the National Protocol for the handling, transmission and storage of Reservoir Flood Inundation Maps for England and Wales, which has been amended to include Northern Ireland.

Under this protocol, the draft maps which the Agency has already produced, which only show the dam breach outlines, are considered to be Type 1(A) and may be made available to reservoir owners/managers and to the ARD Committee on request and to the general public once the Reservoirs Bill has been enacted. The more detailed maps which will be produced in the future, and which will provide details of depth, velocity and timings, will be made available to reservoir owners/managers but will not be made available to the public.

Reservoir engineers

Representatives raised concerns in relation to the availability of reservoir engineers. They alluded to be fact that there is only one inspecting engineer in Northern Ireland and the potential lack of competition when seeking to commission such an engineer.

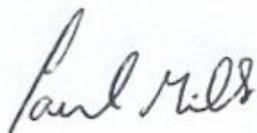
Rivers Agency Comment

There is currently a list of reservoir panel engineers from which reservoir managers can commission for the purpose of supervision and inspection of their reservoirs. Although there is only a small number of reservoir engineers from Northern Ireland on these lists, Rivers Agency has been promoting the Reservoirs legislation at various conferences and seminars in order to encourage reservoir engineers to consider making their services available to reservoir managers here.

When the legislation has been enacted, the Agency will write to all reservoir engineers on these lists and seek confirmation of their willingness to provide services in Northern Ireland. Those who accept this offer will be appointed to the initial panels of reservoir engineers for Northern Ireland. This should alleviate any concerns regarding the availability of engineers and the potential lack of competition in the short term. In the longer term, the Department will draw up a list of panel engineers following a Northern Ireland specific application process.

I would be grateful if you would bring this to the attention of the Committee.

Yours sincerely



Paul Mills
Departmental Assembly Liaison Officer

If you have a hearing difficulty you can contact
the Department via the textphone on 028 9052 4420



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