

To: PLANNING AND ENVIRONMENT COMMITTEE	Subject: The Future of Scotland's Waters – Proposals for Legislation
From: DIRECTOR OF PLANNING AND ENVIRONMENT	
Date: 20th March 2002	Ref: D/PL/43/16/CL

1. Purpose of Report

1.1 The purpose of this report is (a) to inform members of the publication of a paper describing the Scottish Executive's legislative intentions with regard to the transposition of the EC Water Framework Directive into Scots Law; (b) to provide initial comments on the paper; and (c) to seek delegated powers to provide detailed comments on the proposals, taking account of the views of different sections within the Council.

2. Background

2.1 The EC Water Framework Directive came into effect in December 2000 and member states have three years to implement it. The Scottish Executive issued a paper in June 2001 entitled 'Rivers, Lochs, Coasts: The Future for Scotland's Waters'. This was the Executive's first indication of its plans for the future management of the water environment in Scotland, as required by the Directive. This first paper was couched in very general terms and in October 2001 I made comments on boundaries of planning areas, and arrangements for the preparation of plans. The second paper, entitled 'The Future for Scotland's Waters – Proposals for Legislation', was issued in February 2002 and focuses on proposals for a Water Environment and Water Services Bill, taking account of the responses to the first paper. It is intended that the Bill will be introduced to the Scottish Parliament later in 2002.

2.2 Responses are sought to the paper by 5 April 2002. In view of the tight timescale for consultation, and the fact that I am co-ordinating a response on behalf of several Council interests, this report contains my initial comments only. I am seeking authority to augment these initial comments, and incorporate the views of others within the Council, in a formal response by the due date.

3. Summary of Proposals and Initial Comments

3.1 The Executive's approach to achieving a comprehensive water management system in Scotland is based on river basin planning to be carried out by the Scottish Environment Protection Agency in the lead role. In the first paper three separate plans were proposed based on SEPA administrative areas but, in response to the views of consultees on the first paper, one River Basin Management Plan (RBMP) based on all Scottish waters is now proposed. The link to other planning regimes, particularly land use planning, is noted and the Bill will require SEPA to consult with other relevant authorities, such as Councils. Duties will also be placed on authorities to assist in preparation and implementation of RBMP's. The Bill will also propose 'sub' river basin plans to deal with more localised issues.

3.2 *My initial comments on this section of the report are as follows:*

- *the relationship between the proposed RBMP and the development plan is unclear and the primacy of the development plan may be undermined in relation to water issues*
- *it will be difficult for a regulatory body such as SEPA to take account of social and economic considerations in RBMP's*

- *the preparation of a Scottish wide plan and more detailed 'sub' plans will involve the collection of massive amounts of data and there is a concern that local authority staff resources could be diverted from other work to deal with this*
- *the paper does not directly address the fact that the current split of responsibility between local authorities SEPA and the Water Authorities with regard to water matters is unclear and there are practical difficulties*

3.3 It is proposed that the river basin management planning system is complemented by control regimes to prevent pollution of water, for water abstraction and impoundment and other engineering works. This would be separate from the need to obtain planning permission for developments. The paper acknowledges that the Bill will need to ensure that there is coordination between the new regime and existing control regimes such as planning. *Initial comments: Licencing systems which run in parallel to planning already exist, for example control of atmospheric pollution. It will be important that the legislation and Government advice distinguish the factors to be taken into account in each regime for water related applications, and make clear the weight that is to be attached to water matters in applications for planning permission.*

3.4 The executive has estimated that the costs of implementing the proposed planning and regulatory regime could amount to £840 million at current prices with the bulk falling to SEPA and the Water and Sewerage Authorities and in the time period 2007-2012. As indicated in paragraph 3.2 above local authorities can anticipate costs involved in contributing to the water planning system and would also be significantly involved in an anticipated spend of £130 million on environmental improvements, for example to urban drainage, flood defences and extra remediation of contaminated land. *Initial comments: It will be important to ensure that, as legislation proceeds, the costs to the various parties involved, including local authorities, are accurately identified and recognised in financial allocations from Government.*

3.5 Two water related matters in which local authorities already have close involvement are sustainable urban drainage systems (SUDS) and flooding. In the case of SUDS the paper explicitly states that any water bodies associated with SUDS will be excluded from the legislation. Flooding is mentioned briefly only in relation to control of engineering operations. *Initial comments: Existing arrangements for implementation of SUDS splits responsibility between the local authority roads function and Water Authorities and this split of responsibility has led to difficulties, particularly in relation to long term maintenance arrangements. Similarly there is a split in responsibilities over flooding. The forthcoming Bill offers the opportunity to resolve these matters and the Executive should reconsider their current stance to exclude both matters from consideration.*

4. Conclusion and Recommendations

4.1 Initial consideration of the Scottish Executive's paper indicates that the proposed Water Environment and Water Services Bill is likely to contain a number of provisions that will impact on several areas of the Council's activity. The full implications of the proposals for the Council have yet to be established. This report comprises an initial response to the paper and the views of other sections within the Council are currently being canvassed to allow a corporate response to be submitted.

4.2 It is recommended that the Committee:-

- (i) Notes the intentions of the Scottish Executive with regard to legislative proposals for Scotland's waters and the initial response to those proposals outlined above; and
- (ii) Authorises the Director of Planning and Environment to obtain the views of other sections within the Council and to submit a detailed corporate response to the consultative paper.



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