RSPB Response to the Pitt Review Interim Report

Key Points:

- The RSPB **broadly agrees** with the findings and recommendations of the Pitt Review's interim report.
- We **particularly welcome** Interim Conclusion 31, and agree that future flood risk management (FRM) will need to work with natural processes to tackle the causes of flooding in the wider landscape.
- We remain **concerned** that the existing scheme appraisal process and funding framework does not give sufficient weight to 'soft engineering' or other cost effective approaches to reducing risk.
- As a result we strongly believe that IC31 should become a Key Recommendation of the final report and call for Defra and the Environment Agency to make a financial commitment to deliver a series of pilot 'natural' or integrated FRM schemes **outside of the current priority score** system.
- We believe that the Environment Agency's approach to dredging and ditch management should be based on evidence and **not** swayed by pressure from landowners and drainage authorities.
- We **strongly support** the suite of Interim Conclusions that address floodplain development, sustainable urban drainage and permitted development for hard surfacing
- We **strongly support** the introduction of a Flood Act (IC33), and recommend that a statutory duty on Operating Authorities to promote sustainable approaches to FRM, including those that work with natural processes.

Introduction

The RSPB welcomes the publication of the Pitt Review's Interim Report and the attention it gives to the broad range of factors influencing flood risk management. Our comments are largely focussed upon those sections of the report that deal with managing flood risk. As such, we have divided our comments into sections that mirror those in Chapter 4 of the report.

Building and Planning

Development Control:

IC8: The RSPB welcomes the reiteration of the crucial role PPS25 should play in managing growth in flood risk. We agree that it is sensible and equitable to secure developer contributions for capital and maintenance of flood risk management works. Such funding should not simply be used for on-site defences but be accessible for catchment wide works and soft flood defence measures that deliver multiple benefits for local communities e.g. green space, and biodiversity. The new Community Infrastructure Levy being developed by CLG as one vehicle for generating income to fund such multiple use schemes.

However, it is important that developer contributions are not misconstrued as a green light for developers to buy themselves out of planning policies and restrictions introduced by PPS25 because of potential legacy issues. By providing an acceptable level of protection developers will encourage further investment and development driving a vicious circle of increased risk that justifies greater flood protection, which attracts more investment. For example, coastal caravan sites are theoretically mobile assets; however, their development has lead to increased investment in fixed leisure infrastructure, ever-larger caravans and increased occupancy periods. As a result, many of the most valuable assets are not mobile and more people are spending more time in flood risk areas.

So once an area is protected it is highly unlikely to return to functional floodplain. As a result, when developer contributions are spent, the general taxpayer will be left to pick up the bill for maintaining or renewing a defence that has come to the end of its life. We therefore question whether of the concept of a defence or development "life" used in this report is useful unless the planning permission is time-limited in some way.

Even if a decision is made to abandon defences, there are likely to be residual costs associated with site clean up, particularly in industrial areas, not to mention issues of social equity and blight. In the light of our concerns, we question whether it is appropriate for developers simply to pay a one-off charge to cover a purely nominal development "life"; or whether they (or the property owners) should instead be subject to ongoing charges, to cover future flood defence costs and/or environmental mitigation needs (eg. from coastal squeeze).

IC9: We **strongly support** the review team's interim conclusion and have recently responded to the CLG consultation on permitted development. Given the powerful response to that consultation in favour of removing the right to lay impermeable surfaces, we look forward to this being worked into planning legislation as soon as possible.

IC10: We **strongly support** the removal of the automatic right to connect to the sewerage system enjoyed by existing developments, and the RSPB will be reinforcing this message in its response to the forthcoming Defra consultation on Surface Water Drainage.

Property level resilience:

IC11-16: We strongly support the incorporation of resilience measures into the Buildings Regulations on their next review in 2010. **However**, there should be clear guidance to planners that flood resilience should not ease restrictions on new floodplain development introduced by PPS 25.

Building regulations will only capture new build and refurbishment, so there remains a question about how those at risk of flooding might be encouraged to take pre-emptive action and whether there is a role for the FRM budget to offer incentives where this is cost-effective (see Annex 1).

There is, of course, no guarantee that even those who have been flooded will take action to improve their resilience even if funding is available.

Surface Water Flooding and Drainage

IC23: We **remain concerned** that the use of SUDS is still the exception rather than the norm. We **strongly agree** that it is time for Government to decide how to resolve concerns about their legal status as sewers, and their adoption, ownership and maintenance. Given that these issues have been the subject of numerous discussions and over the past decade or more, we are disappointed that the Government's new Water Strategy only offers further consultation rather than action.

We **further recommend** that there should be a stronger presumption in favour of SUDS in the Building Regulations as assessment against the Code for Sustainable Homes becomes mandatory in May this year. This could be further encouraged by other disincentives, such as Water Companies levying a 'surface water run-off charge' on non-household developments by area of impermeable surface, as four companies do currently.

Flood defence

IC27: We **agree** that investment by Environment Agency and other operating authorities should be risk based. The current situation for IDB investment is obscured by a complex mixture of Environment Agency, CLG, Local Authority and ratepayer contributions which we believe masks Government cross-subsidy of agricultural schemes that would not meet national priority scores (see Annex 2).

More generally, we **remain concerned** that the current approach to scheme appraisal and prioritisation by Operating Authorities does not encourage the use of sustainable FRM measures despite an increasingly accommodating policy framework. This is partly an ongoing issue of awareness and operational expertise in 'soft' engineering within Operating Authorities and their contractors.

The RSPB believes there is a strong cases for over-hauling the appraisal and prioritisation framework so that Operating Authorities focus on the *cost-effective* delivery of strategic flood risk management plans through a whole range of measures rather than testing the cost-benefit of individual warning or defence schemes(see Annex 1).

IC 28: We support the use of long-term finance arrangements. Such an approach should help financial security, and improve efficiency. However experience has shown where such contracts are inflexible they can tie significant amounts of public money into schemes designed to deliver priorities that become increasingly 'out of date' over time (See BOX 1).

BOX1 - The Broads PFI: a cautionary tale of long-term investment

The Norfolk Broads are a honey pot for tourists drawn to the beautiful scenery and internationally important wildlife. It is an area that should present the Environment Agency with extensive opportunities to deliver multiple benefits from flood risk management, including storage of floodwater to protect communities and habitat creation and compensation for a number of internationally important and legally protected freshwater wetlands on the East Anglian coastline which are succumbing to sea level rise.

However, because of the contractual obligations of a 20-year PFI between the Environment Agency and Broadland Environmental Services Ltd, these opportunities are being missed. The PFI was agreed in 2001 and commits approximately £120 million of public money to restoring the existing network of 'hard' flood defences to their 1995 level. These agreed standards of defence predate the Government's *Making Space for Water,* and while some works have been essential to protect people and property, many of the schemes would not qualify for protection under today's FRM priority scoring system.

Examples include large areas of marginal farmland, such as at Postwick and Thurne, where the few domestic properties sit above the main river floodplain. Such schemes directly contradict national FRM policy and could also threaten to contravene the legal requirements of the European Birds, Habitats and Water Framework Directives. They also waste money that other communities at a genuinely higher risk from flooding could benefit from. The consequences of this long-term investment strategy will be felt by those communities, as well as the threatened wildlife of the region such as the bittern, for many years after the contract ends.

***We therefore strongly urge caution in the design of further PFIs to deliver major FRM projects*.**

Maintenance of defences and water courses:

IC29: The RSPB **agrees** that the Agency should be more proactive in opening dialogue with landowners on the strategic withdrawal or reduction of maintenance. Many opportunities for sustainable FRM and nature conservation lie in changing or withdrawing the maintenance of defences, but the implications for landowners need to be addressed with full and frank dialogue.

Although we recognise the importance of land drainage schemes for managing risk and maintaining agricultural productivity in certain areas, we are **especially concerned** that the Environment Agency's approach to dredging and ditch management should remain evidence based. The pressure to return to wholesale clearing of ditches not only threatens wildlife, it could also increase flood risk.

Defra's own review of evidence FD2114[1] identified quantifiable evidence that drainage can increase the speed and size of flood peaks quoting one study that found that large-scale

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channel modifications associated with major arterial drainage schemes can lead to increases in peak discharge of up to 60%.[2]

In essence, intensive arterial field drainage merely moves the problem of flooding onto other landowners or communities. Whilst it will remain an important tool to relive flooding in some locations, the approach to field drainage (and other land use linked to it) needs to be strategically planned at a catchment level to ensure public money is being spent wisely and that benefits for flood risk and nature conservation are maximised.

Working with natural processes:

We strongly support IC31 and feel it should be given better profile by being included in the final report's set of key recommendations.

We are **disappointed** that the section of the Review supporting this conclusion makes no mention of the wider biodiversity and amenity benefits of working with natural processes, despite the weight given to these factors in *Making Space for Water* and the Government's new FRM *Outcome Measures*. The absence of direct mention of biodiversity has led to the Environment Agency explicitly downplaying its ambitions for the role of FRM in providing amenity and biodiversity benefits at the World Wetlands Day conference, a high profile event held in February[3].

The RSPB is keen to see Defra, the Environment Agency and Natural England adopt an ambitious approach to IC31. A catchment-based approach to mitigating flood risk offers hope to communities at risk of flooding throughout a catchment, rather than those few who qualify for hard defences. Although there are clearly issues to be resolved, the Foresight *Future Flooding* report (Foresight Group, 2004) starkly illustrates the unacceptable burden that a 'more of the same' approach will place on the taxpayer, the water customer and the environment.

We need bold action to break the current impasse where lack of confidence in natural flood risk management measures prevents investment while lack of large-scale schemes means no new evidence is gathered. We believe Defra and the Environemnt Agency should make a financial commitment to deliver a series of pilot natural FRM schemes outside of the current priority score system.

Such schemes should be linked to other priorities e.g. national and international site condition, public amenity, outdoor education, Water Framework Directive obligations, groundwater recharge etc. Some criteria for prioritising pilot sites and practices are suggested in Annex III.

[2] Bailey, A D and Bree, T. 1981 The effect of improved land drainage on river flood flows, in The Flood Studies Report, Five Years On, ICE, London, pp131-42

[3] www.coastms.co.uk/Conferences/Outputs%20and%20Reports/WWD%202008/WWD%202008%20Huggett.pdf

A new Flood Act

We **agree** that a Flooding Act could be an opportunity to better streamline delivery and clarify responsibilities, and in particular recommend that such an Act introduce statutory duties on Operating Authorities to consider a wider range of approaches to FRM throughout their operational procedures. We would hope that the such an act would require Operating Authorities to demonstrate they have considered soft-engineering measures that work with natural processes and follow the example set in the Water Environment and Water Services Act (Scotland) by placing a sustainable FRM duty on them.

In conclusion,

The RSPB welcomes the interim report as an contribution to the debate about how we prepare, manage and recover from flooding. We hope that the final conclusions will help the Government introduce a more rounded approach to FRM, so that when the next major events occur, the landscape, floodplains and river corridors are restored to play their natural role in slowing the movement of water. This would help reduce the pressure on defences and giving the emergency services and public more time to respond wherever they are in a catchment.

Of course no portfolio of measures will stop floods, but if the Government is serious about addressing the substantial increase in risk promised by climate change, it needs to deliver a more balanced mix of incentive and regulation to promote catchment-scale approaches to FRM.

Annex I

Can the current system deliver Value for Money?

Under the current flood risk management system public money is only invested in two solutions where people or property are vulnerable to flooding or coastal erosion, they are:

- **Warning schemes** e.g. flood maps which allow people to avoid areas threatened by flooding or forecasts and alarms which allow people to move their property and/or escape floodwaters.
- **Defence schemes** that reduce the probability of flooding up to a design threshold.

Resources to invest in flood risk management will always be limited, and are likely to become ever more stretched as spending struggles to keep pace with sea level rise and extreme weather events associated with climate change. As a result, where schemes cannot be justified the risk to people and property in that area will grow.

However, people are unlikely to move voluntarily because of their attachment to an area and the problem of blight devaluing their property. This has several consequences over and above the direct risk posed to people and their property. As the events in summer demonstrated there remains a significant public cost in providing flood warning and mobilising emergency services when floods hit. There is also a considerable human cost to Environment Agency staff, Police, Ambulance and other services in dealing with flood events and where the disaster reaches a certain scale, emergency funding is provided to local authorities through the Bellwin Scheme.

As the Government's 'Foresight'[4] report noted, the acceptability of increasing flood risk will not simply be defined by economics. Public outrage, particularly in the wake of a widespread disaster or loss of life, could also play a part. This outrage is in itself likely to have costs if Government is forced into the adoption of short-termist responses which are both environmentally damaging and financially unsustainable in the long-term e.g. concrete revetment of coast, like-for-like re-construction of housing and infrastructure in high risk areas.

Even where spending can be justified through the priority score, the limited options open to (or considered by) the Environment Agency, IDBs and Local Authorities mean that public money may be being spent on capital projects even where it might be cheaper to buy out or move the assets being protected. This can prevent the adoption of more sustainable solutions, such as managed retreat or washland creation, particularly where landowner cooperation cannot be secured and the Agency faces the threat of compensation claims should it actively intervene to raise water levels or increase flood frequency[5].

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[4] Foresight Future Flooding, a report produced Office of Science and Technology www.foresight.gov.uk/

[5] The legal distinction between ***abandonment*** of land drainage works and ***active intervention*** to raise water levels is analogous to that described in the context of managed realignment in the paper *Managed realignment: Land Purchase, Compensation and Payment for Alternative Beneficial Land Use* (Defra, 2003).

The RSPB believes that if the Government is serious about delivering the Aims of Making Space for Water there is a clear case for broadening use of public money to facilitate the "portfolio of responses" it talks about. These might include:

- flood warning
- resilience
- alleviation schemes
- migration of assets (eg: of caravan parks or property)
- purchase of property.

We envisage a system that continues to prioritise areas where flood risk poses the greatest social, economic or environmental problems but where the selection of the solution is aided by cost-effectiveness analysis looking at a broad range of options to reduce flood risk and deliver wider Government policy. These may not all be directly funded by the Environment Agency, Defra or even Government, but they must work in an integrated manner to reduce risk.

We are aware that some have argued that compensation should be paid where the maintenance of seawalls or other flood defences ceases. However, we think there should be no automatic entitlement to financial compensation, or, indeed, a legal entitlement to a minimum standard of flood defence.

We support the current position that solutions should be provided on a permissive basis. However, the guiding principle should be getting the best return on public investment by improving the cost-effectiveness of flood risk management and maximising the social, economic and environmental gains from flood risk management activities.

Annex II

IDB's, Public Expenditure & Value for Money

At face value, Direct Government grant for Internal Drainage Board (IDB) capital expenditure appears small in comparison to revenues raised locally and insignificant with respect to overall FRM budget. However, the headline figures reported to Defra through annual returns hide a significant source of central Government revenue in the form of CLG support to *Special Levy* paid by Local Authorities for the drainage of urban areas.

Between 1999 and 2004 the contribution made to IDB income by special levy grew 26%, from £18.8million in 99/00 to £23.7 million in 04/05. Over the same period, agricultural levies grew only 18% from £11.3 million to £13.4 million. A review of IDBs carried out by JBA Consulting[6] on behalf of Defra found that special levy now stands at 47% of total IDB income[7] or approximately £23.1 million for 2004/05[8].

A paper prepared by the Local Authority Flood Defence Group estimated that CLG reimbursed 87% of special levy costs in 2005/06 through the flood defence provisions of the Formula Spending Share (FSS)[9]. If other central Government grants and Environment Agency contributions[10] are added, the total burden on general taxation is around £23.4, million, more than double the £11.6 million that agricultural rate payers provide.

The FSS system was superseded by Relative Needs Formula (RNF) in the 2006/07. The formula still uses historic spending in the calculation but unfortunately the impact on total support has been impossible to determine, not least because CLG are at pains to point out the un-hypothecated nature of the funding and application of "damping floors", making calculation of individual elements of support meaningless (persn comm. CLG).

However, given that historic contributions continue to be used as part of the RNF calculation[11] and IDB contributions are mandatory, it seems hard to argue that there is not a direct link between IDB levies and CLG grant received by Local Authorities. As for the use of "damping floors", as a recent review of flood Local Authority defence funding points out, while these slow down the impact of changes a reduction in FSS (now replaced by RNF) almost inevitably leads to a loss of Revenue Support Grant[12].

The review of IDBs carried out by JBA consulting found most LA's are happy with the service provided by IDBs, however this may not be surprising given that they are partly shielded from costs by CLG grant which is allocated on historic spending patterns rather than need. Of course, even where LA's are satisfied that they receive good value, there is no guarantee a

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[6] JBA Consulting (2006) *Internal Drainage Board Review* www.defra.gov.uk/environ/fcd/studies/idbrev/default.htm

[7] See Figure II.3 "Source of IDB Income 2004-5" from JBA report.

[8] Calculated as 47% of the total expenditure for 2004-5 (£49.1 million), taken from Table II.4 "Total IDB expenditure" from JBA report.

[9] Paper dated 6th June 2005 prepared by Alan Thomas on behalf of the Local Authority Flood Group for the "Settlement Working Group" http://www.local.odpm.gov.uk/finance/0607/swg0505/swg-05-45.pdf

[10] There is an element of circularity in funding here because, according to the JBA report, the Environment Agency receives £9 million per year in contributions from IDBs. However, it is impossible to distribute the benefits between various IDB "customers".

[11] *See definition of Flood Defence in Annex VI of Local Government Finance Report 2006/07 (ODPM) http://www.local.odpm.gov.uk/finance/0607/lgfr067s/annexd6.pdf*

[12] Report prepared for Local Authority Flood Group by Rita Hale Associates (2005)

system that applies close scrutiny of capital but allocates the vast majority of its contribution to IDBs through CLG on the basis of historic expenditure represents the best value for the general taxpayer.

Looking at the figures it is difficult not to conclude that they could provide a significant cross-subsidy to agricultural interests, reducing the incentive to re-draw defensive lines, alter maintenance practice or reduce the intensity of drainage. This raises a significant question about whether the current system enables an efficient allocation of Government spend, and delivers flood risk management outcomes consistent with the Government's principles of sustainability.

Annex III

Delivering IC31: Potential criteria for site selection

- There are communities at risk from flooding
- Measures will help SSSI's and Natura 2000 sites achieve conservation objectives.
- Schemes will mitigate flood risk and help nature adapt to climate change by buffering existing high nature conservation value sites and/or providing stepping stones in the wider landscape for vulnerable wetland species.
- Sites that contribute to delivery of the Wetland Vision[13]
- Minerals restoration sites that can provide flood mitigation and biodiversity benefits.[14]
- Sites where measures required to meet Good Status or Good Ecological Potential objectives of the Water Framework Directive can be aligned to reducing flood risk e.g. hydromorphological restoration, silt runoff, diffuse pollution etc.
- Sites where amenity benefit can also be maximised, and where the multiple benefits of a 'natural defence' can be communicated to the public to raise awareness
- Floodplains where existing flood banks are uneconomic to maintain and defend low-grade agricultural land.
- Sites where other sources of funding can be levered in through partnership e.g. EU funding or agri-environment.
- Sites for which the hydrology is relatively well understood and where research and modelling already provides a strong evidence base for developing schemes that work with natural processes.

[13] www.wetlandvision.org.uk

[14] See http://afterminerals.com/, an RSPB partnership project assessing mineral extraction site after-use potential.