



Department for
Infrastructure

An Roinn

Bonneagair

Department für

Infrastructure

www.infrastructure-ni.gov.uk

RESERVOIRS ACT (Northern Ireland) 2015

Consultation Report - Synopsis of responses to the consultation on the legislation to commence and implement the Reservoirs Act (NI) 2015 and the draft reservoir designation criteria, together with the Department's response.



Draft Consultation report

Introduction

- 1.1 The Reservoirs Act (Northern Ireland) 2015 (the Act) provides a proportionate regulatory and management framework for reservoir safety in Northern Ireland. The Act, when commenced, aims to manage the flood risk from an uncontrolled release of water due to reservoir failure from reservoirs capable of holding 10,000 cubic metres of water above the natural level of the surrounding land. These reservoirs are known as controlled reservoirs.
- 1.2 Some sections of the Act commenced on the day following Royal Assent (25 July 2015) while the remaining sections of the Act will come into operation on such day or days as the Department, by order, appoints. The consultation concerned those sections of the Act that the Department proposes to commence and the Regulations and Order that it proposes to make to introduce the key elements of the reservoir safety regime envisaged by the Act. The consultation also sought views on the draft designation criteria that the Department will apply when giving a designation to a controlled reservoir.
- 1.3 The aim of the consultation was to give those who are involved with, or have an interest in, reservoirs an opportunity to provide comments in relation to the Department's proposals in relation to the introduction of the Act. In particular, comments were most welcome from reservoir managers who are responsible for reservoir safety and reservoir engineers who will play an important role in the supervision, inspection and construction of controlled reservoirs.
- 1.4 The targeted 8 week consultation launched on 29 November 2021 and ended on the 23 January 2022. A letter issued to all those listed at **Annex A**, advising them of the consultation and the link to the consultation document and the response form on the website. Consultees were invited to respond to the consultation, on a consultation response form, by e-mail to FloodingandDrainagePolicy@infrastructure-ni.gov.uk or to submit responses by post by the required date.
- 1.5 Consultation responses will help inform the final commencement orders, regulations, the reservoir designation criteria and the development of any appropriate and affordable grant scheme.

2. Consultation responses

- 2.1 A total of 19 responses were received in relation to the consultation and these were acknowledged.

2.2 All responses have been reviewed and the comments have been categorised in line with the consultation questions to allow a consistent analytical approach. Further details on specific key issues / comments raised in respect of the consultation and the Department's response to those issues/comments, are set out in section 4.

2.3 The consultation asked 8 questions:-

Part 1- Commencement

Question 1 Do you agree that the sections of the Act that the Department proposes to commence, include the key elements of the reservoir safety regime envisaged by the Act?

Part 2- Regulations

Question 2 Do you agree with the level of information that it is proposed is held on the controlled reservoirs register?

Question 3 Do you agree with the level of information that is proposed should be provided by reservoir managers at registration?

Question 4 Do you agree with the standard frequency of visits proposed for a high or medium consequence reservoir?

Question 5 Do you agree that the proposed level of emergency response information displayed at or near a reservoir is sufficient?

Question 6 Do you agree with the proposed approach to stop notices set out in the draft regulations at Annex D?

Question 7 Do you agree that consideration is given to an appropriate and affordable grant scheme to assist with the cost of reservoir safety works?

Part 3 – Designation Criteria

Question 8 Do you agree with the proposed criteria which will be used to give a reservoir a high, medium or low consequence designation?

2.4 Not all respondents answered all of the questions with some preferring to make general comments. The table at **Annex B** summarises the responses received in regard to the consultation questions. Respondents marked with an asterisk (*) did not submit the response on the standard response form.

- 2.5 In general, there was support for the commencement and implementation of the Act with the majority of respondents agreeing with the sections to be commenced. It was evident from responses that provision of financial assistance was a key concern. There was also concern that without financial assistance reservoirs may be discontinued or abandoned resulting in adverse impacts on the environment and wider community.

3. Key issues Raised in responses

- 3.1 This section provides a summary of the key issues raised in the consultation responses. It should be noted that it is not intended to be a comprehensive report of every view expressed but rather a synopsis of the key issues raised by respondents. Section 4 provides a more detailed breakdown of the key issues/comments received and the Department's response.

Question 1 Do you agree that the sections of the Act that the Department proposes to commence, include the key elements of the reservoir safety regime envisaged by the Act?

All respondents that answered this question agreed that the sections being commenced, include the key sections of the reservoir safety regime envisaged by the Act. Two respondents welcomed progress in this area but expressed concern about the length of time taken to commence the Act. A further two respondents commented that commencement should only take place if financial assistance was available.

Question 2 Do you agree with the level of information that it is proposed is held on the controlled reservoirs register?

Eleven respondents (57%) that answered this question agreed with the level of information that it is proposed is held on the reservoirs register. One respondent disagreed stating that it was unrealistic to expect owners of rural lakes and reservoirs which do not generate an income to maintain unnecessary information. One respondent having no objection to the proposed information commented that more information was needed on how information would be used in line with General Data Protection Regulation (GDPR).

Question 3 Do you agree with the level of information that is proposed should be provided by reservoir managers at registration?

Nine respondents (47%) who answered this question agreed with the level of information that is proposed should be provided by reservoir managers to register their reservoir with the Department. Two

respondents disagreed, one stating that the Department, having inspected reservoirs, already has information available and therefore no other information is required; and one stated the information to be provided should depend on the size of the reservoir thereby reducing the level of unnecessary information required.

Question 4 Do you agree with the standard frequency of visits proposed for a high or medium consequence reservoir?

Seven respondents (37%) that directly answered this question agreed with the standard frequency of visits proposed for a high or medium consequence reservoir. Three respondents disagreed. Reasons included probability not being included in the designation criteria would result in unnecessary costs for reservoir owners where likelihood of reservoir failure is low; the accuracy of the data used in the designation criteria and no panel consulting engineers available thereby making costs prohibitive.

Other comments received, recognised that regular visits do seem crucial and further clarification is required for reservoirs which have been classified as medium consequence.

Question 5 Do you agree that the proposed level of emergency response information displayed at or near a reservoir is sufficient?

In directly answering this question eight respondents agreed (42%) with the proposed emergency response information to be displayed while two respondents disagreed with proposals. One respondent stated that contact number only should be provided and another stated that reservoir name, registration number and contact numbers for the Department and Emergency services should be provided.

While not directly agreeing or disagreeing with proposals other comments included a concern regarding the need for information to be displayed at a reservoir where no public access is available and that information should not include the name of the reservoir manager as the Department already has this information.

Question 6 Do you agree with the proposed approach to stop notices set out in the draft regulations at Annex D?

Seven of the respondents (37%) indicated full support for the proposed approach to stop notices. While one respondent agreed that the approach should only apply to new reservoirs and another, whilst agreeing with the approach, disagreed with the proposed Regulation 13: Recovery of costs by the Department.

Other respondents who did not indicate agreement or disagreement raised concerns including the length of time the Department has to decide to give a completion certificate; the scope for financial assistance being inadequate and the need for the Department to retain control to undertake remedial works, if required.

Question 7 Do you agree that consideration is given to an appropriate and affordable grant scheme to assist with the cost of reservoir safety works?

There was widespread support for provision of a grant scheme with 18 (95%) of the respondents agreeing that financial assistance was needed. Many stated that support was crucial to cover all inspections and works in the interest of safety and the legislation would be unworkable if not provided. A number of respondents also indicated that without funding being made available that there was the potential for reservoirs to be abandoned or discontinued resulting in the loss of angling facilities and clubs with wider adverse impacts on health and wellbeing, the natural and historic environment and the economy.

One respondent commented that as many reservoirs formed part of cultural heritage therefore public safety concerns should be publically funded.

Question 8 Do you agree with the proposed criteria which will be used to give a reservoir a high, medium or low consequence designation?

Seven respondents (37%) that directly answered the question indicated agreement to the proposed criteria which will be used to give a reservoir designation and one disagreed. Others commented that probability of reservoir failure should be taken into consideration when giving a designation and that a methodology should be developed or Defra's quantitative assessment of the probability of reservoir failure should be used in the designation process. Concern was also raised regarding the Department's estimates of capacity of lakes and reservoirs and made recommendation to take account of local knowledge in the process. One respondent did not have sufficient knowledge about the actual procedure to indicate agreement or disagreement while a further respondent stated that the process requires a technical knowledge which makes it difficult to comment other than in general terms.

4. Specific key issues / comments raised and the Department's response

4.1 Details of the specific key issues / comments raised in respect of the consultation and the Department's response to those issues/comments, are set out below.

| Respondent | Key issues / Comments | Department's response |
|----------------------|---|--|
| Lissanoure Farms Ltd | <p>Concern that the Department has used overtly onerous designations for each reservoir in their initial conclusions of the reservoirs leading to breakdown in trust and reservoir managers carrying out bathymetric surveys at their own cost. This has shown data used by the Department is substantially flawed and owners will not be able to fund unrealistic and unnecessary maintenance.</p> | <p>The Reservoirs Act (NI) 2015 defines what is to be regarded as a controlled reservoir and the Department is required to set out in regulations how the volume of water capable of being held above the natural level of the surrounding land is to be calculated. This was provided in the Draft Regulations at Annex C to the consultation and is consistent with the specifications for calculating the capacity of reservoirs in the rest of the UK.</p> <p>The methodology to produce reservoir inundation models is consistent with the existing UK approach and is used in determining the reservoir designation. The legislation provides for a review and appeal process if reservoir managers are not satisfied with the Department's decision on reservoir designation.</p> |
| | <p>It is unrealistic to expect owners of rural lakes and reservoirs to maintain unnecessary and burdensome data especially since many of these provide a wildlife sanctuary but not income. The Department should already have an appropriate amount of information.</p> | <p>Once the Reservoirs Act is commenced, the controlled reservoir register will be established and maintained by the Department. Other information to be maintained by the reservoir manager, including key information about the operation of the reservoir that could be valuable in the event of an emergency, is consistent with the records maintained under reservoir safety legislation in the rest of the UK.</p> |
| | <p>The Department already has inspected these reservoirs and has this information and therefore no further information should be required.</p> | <p>The management and maintenance regime provided by the Reservoirs Act starts with registration of a controlled reservoir with the Department. A reservoir manager must register their reservoir by providing the information detailed in Schedule 1 to Regulations at Annex C. The Department</p> |

| | | |
|--|---|---|
| | | may not hold all of this information at this time for all reservoirs. |
| | Disagreement with the standard frequency of visits proposed for a high or medium risk reservoir – commented that the designation criteria, in their case, was based on incorrect data as to the amount of water held. The Department has ignored probability – there should be more and better quality data on probability. These dams generally fail after very substantial rainfall. However when a dam is fed by a spring or small stream (small catchment area) rather than a substantial river with a large catchment area, there should be recognition of this in the Department’s designation and they have refused to date to consider. | <p>The Department is required to set out in regulations how the volume of water capable of being held above the natural level of the surrounding land is to be calculated. This was provided in the Draft Regulations at Annex C to the consultation and is consistent with the specifications for calculating the capacity of reservoir in the rest of the UK.</p> <p>The methodology to produce reservoir inundation models is consistent with the existing UK approach and is used in determining the reservoir designation.</p> <p>Like in the rest of the UK, the consequence of an uncontrolled release of water will be used in the designation process until an agreed UK methodology to determine the probability of reservoir failure has been developed.</p> |
| | Query where would emergency response signs be situated - every 10 metres around the lake (which has no public access). The Department has this information and if a dam should fail, they would be able to provide it. | Once section 59 is commenced, the Department will give directions to reservoir managers as to the manner and location of information to be displayed. It is considered that the manner and location may be different depending on availability of public access. |
| | As regards stop notices, suggests that there should be a fully independent appeals system and one that is not influenced by the Department. There should be a provision to appoint specialist surveys who are not on the Department’s panel (to prevent undue influence from the Department). | The legislation proposed at Annex D to the consultation document provides that appeals as to the issue of a stop notice can be made to the Water Appeals Commission an independent body not influenced by the Department. |
| | Advised that at the beginning of the process they were informed that there would be support forthcoming. It soon became apparent that the funds were not available and the Department had been disingenuous with the information they provided. Many of these | Concerns in respect of financial assistance are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed |

| | | |
|--|---|---|
| | <p>bodies do not provide any income and unless appropriate support is forthcoming, it is suspected that many of these lakes will be released.</p> | <p>that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.</p> |
| | <p>Concern that the Department has been over zealous in this interpretation of designation criteria and there has been ‘inflation’ as they have tried to move lakes up in designation. Lissanourne Farms Ltd has two lakes in very rural locations and the Department has overly estimated by a very substantial margin the capacity of the lakes and they have not taken into consideration whether the lakes were spring fed or a small stream with a small catchment area. Therefore there should be substantially more consideration in the legislation to probability rather than saying it is too difficult in the consultation document. Surely the amount of water that feeds a lake is relevant.</p> | <p>The Department is required to give each controlled reservoir a designation of High, Medium or Low Consequence. The consequence of an uncontrolled release of water will be informed by reservoir inundation mapping. Reservoir inundation maps have been produced for each controlled reservoir based on a similar methodology as used in the rest of the UK. The maps when overlaid with relevant data sets will list the receptors and the designation will be determined by the impact on the receptor against the designation criteria. Like in the rest of the UK, the consequence of an uncontrolled release of water will be used in the designation process until an agreed UK methodology to determine the probability of reservoir failure has been developed.</p> |
| <p>Chairman of Ulster Angling Federation</p> | <p>Concern that without funding for service, panel engineers and engineering works many of UAF facilities and coaching HUBS will disappear as clubs walk away from the facilities due to ongoing costs. The Act has the potential to devastate the sport of angling which has been one of the few sports to continue to operate through the pandemic. UAF has worked extremely hard with partner organisations to develop HUB sites with coaches, equipment and facilities to coach kids, girls, ladies and adults and mental health groups and have met all their metrics, they believe it is likely that many of the HUB sites</p> | <p>Concerns in respect of financial assistance and potential impacts are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through</p> |

| | | |
|---|--|--|
| | <p>they have worked so hard to develop will be lost. Stressed the need for a fund in place similar to the one announced for NI Water last week.</p> | <p>the necessary procedures including being subject to approvals and budget availability going forward.</p> <p>The funding announced in respect of NI Water reservoirs was part of the Price Control 21 (PC21) 2021 – 2027 process which sets out the Regulators assessment of NI Water’s Business Plan and revenue requirements for this 6 year period.</p> |
| <p>Aidan Donnelly – Chairman of Armagh Angling Club</p> | <p>Armagh Angling Club were involved in the process of consultation on the Reservoirs Bill. Broadly supportive of the need to have reservoir safety but emphasizes that this legislation could only be workable if it was backed up with 100% grant aided financial package covering all inspections and proposed safety works if any were recommended. These clubs tend to be small in size and do not have access to huge sums of money in order to cover proposed works or repeated inspections. The loss of reservoirs and angling clubs would be unacceptable and it is a huge risk if finances do not accompany legislation.</p> | <p>Concerns in respect of financial assistance and potential impacts are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.</p> |
| <p>Antrim and Newtownabbey Borough Council</p> | <p>ANBC disagree with the proposed designation criteria and note that the consultation highlights that there is no definition for ‘probability of occurrence’. To classify designation based on the potential adverse consequence alone will result in unnecessary costs for reservoir owners where a likelihood of reservoir failure is low. Query whether it is the intention of the Department to redesign the risk matrix for high, medium or low designation in light of having no agreed application for probability of occurrence.</p> | <p>The Department is required to give each controlled reservoir a designation of High, Medium or Low Consequence. The consequence of an uncontrolled release of water will be informed by reservoir inundation mapping. Like in the rest of the UK, the consequence of an uncontrolled release of water will be used in the designation process until an agreed UK methodology to determine the probability of reservoir failure has been developed. The Act was drafted as such to alleviate concerns during the passage of the Reservoirs Bill through the Assembly process that probability is not being considered in the process (consequence only) and therefore all references to risk were removed. When a UK industry methodology on the probability of</p> |

| | | |
|--------------------|--|--|
| | | reservoir failure has been agreed the Department will be required to take account of probability in the designation process. |
| Jim Haughey UAF | <p>A number of member Angling Associations are very concerned about the reservoirs legislation as it has a high risk of removing the opportunities for angling on reservoir waters in the province. Concerns regarding the impact on the entire aquatic environment, social, health and well-being, economic value of angling and tourism.</p> <p>Present Status and Implementation: concerns regarding costs of inspections as clubs will not have the resources to pay. Concern that without funding clubs may walk away from the facilities due to ongoing costs or declare themselves bankrupt and there is a real danger that reservoirs will be lost as an amenity. Comprehensive funding is required to all those clubs and associations to comply with the legislation. All fees associated with the legislation need to be waived in the case of clubs and associations who provide an amenity for local tourist anglers, nature conservation and contributing to public good health.</p> | <p>Concerns in respect of financial assistance and potential impacts are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.</p> |
| | <p>Assembly Research paper- which discusses issues associated with the Reservoirs Act: ignores issues concerning amenity, fisheries, natural environments, biodiversity etc with only peripheral reference to ‘change in the management and ownership of some reservoirs have caused loss of public access, and concerns over amenity and biodiversity.’ This failure to examine the spectrum of issues arising from legislation is fairly typical of the output of NI Government Departments which is traditionally superficial and poor quality. An appraisal of this legislation is required, the research paper is deeply flawed and should not be viewed as a reasonable appraisal of the proposals.</p> | <p>This was a NI Assembly Research paper and not a paper produced by the Department.</p> |
| | <p>Valuing and Managing Natural Resources: we need careful consideration of the proposed</p> | <p>The Reservoirs Act seeks to regulate the safety of reservoirs to prevent an</p> |

| | | |
|--|---|---|
| | <p>legislation – the UAF is not opposed in principal however the details of the process and the manner in which it is implemented hold a significant risk that many fisheries will suffer or disappear entirely. These waters additionally comprise a natural environmental resource which provides habitat for a range of wildlife and serve the community at large often encompassing public access, footpaths and walkways. There is an opportunity for government to recognise that the natural environment created by these reservoirs is deserving of protection and not a case of simply abandoning waters where new additional legal responsibilities are imposed in the absence of any consideration of finance.</p> <p>Failure to comply with legal obligations: - the very high risk to the future of so many reservoirs raises the question of the status of the legislative proposals in respect of environmental protections for these waters and their surroundings. It would suggest that a Strategic Environmental Assessment would be required and aspects of the Water Framework Directive may be applicable. A step change in the continuing degradation of our environmental assets should surely be the subject of some form of evaluation before the closures commence.</p> <p>Failure to carry out DFI policy on Blue/Green Infrastructure; Belfast Green and Blue Infrastructure Plan 2020; Living with Water in Belfast 2020: The approach to this new reservoirs legislation has ignored any consideration of blue/green infrastructure and the Living with Water in Belfast 2020.</p> | <p>uncontrolled release of water due to reservoir failure thereby protecting people, the environment, cultural heritage and economic activity from the risk of flooding.</p> <p>Environmental impact was considered as part of the policy development. It was considered that the implementation of this legislation would protect the environment by mitigating the risk of an uncontrolled release of water. The environment is also considered in the reservoir designation process to determine the level of management and maintenance required to preserve the integrity of the reservoir.</p> <p>Where a reservoir manager wishes to discontinue or abandon their reservoir, for whatever reason, the planning application process will require due consideration of environmental impacts before any appropriate permissions would be granted and such actions undertaken.</p> <p>The proposed new requirements of the Reservoir Act support the aims of the Living With Water in Belfast Plan. This 12 year, £1.4billion integrated Plan for drainage and wastewater management in Greater Belfast aims to deliver a new, strategic, long term approach to drainage and wastewater management to protect against flooding, enhance the environment and grow the economy by providing the necessary capacity in our drainage and wastewater infrastructure. The Plan promotes the use of blue/green infrastructure to store and slow down the</p> |
|--|---|---|

| | | |
|--------|--|---|
| | | <p>flow of water naturally rather than continuing our reliance on hard engineered measures such as bigger pipes and higher flood defences. Blue/green infrastructure offers many additional benefits to communities than just drainage, such as providing new opportunities for walking and cycling and acting as a catalyst for cultural change in the way we live and travel. Any new blue/green infrastructure storage / attenuation proposals that are brought forward through the Living With Water in Belfast Plan will have to comply with the requirements of the Reservoirs Act, when commenced.</p> |
| | <p>Suggests there is a case to raise the capacity of a controlled reservoirs to allow smaller reservoirs to opt out of the legislation.</p> | <p>The Assembly agreed that reservoirs capable of holding 10,000 cubic metres above the natural level of the surrounding land was the threshold for a reservoir to be regulated and therefore a controlled reservoir under the Reservoirs Act (NI) 2015. This section of the Act was commenced the day after Royal Assent in 2015.</p> |
| | <p>Puzzled by the concept that reservoir managers are made responsible in law for any failure to operate in accordance with the legislation. This must surely be a precedent whereby the legal owner of a property can be relieved of the normal legal responsibility resulting from ownership of an asset which can be directed to the named reservoir manager. It's hard to think of any other situation whereby the owner of a property can absolve himself of any legal responsibility in this manner.</p> | <p>The Reservoirs Act defines who is a reservoir manager for the purposes of the Act. Generally this is the person who manages or operates the reservoir. If no-one manages or operates the reservoir then the default position is the owner of the reservoir. Currently reservoir managers have a common law responsibility for the safety of their reservoir.</p> |
| | <p>Not opposed to new measures for reservoir safety in principal but registering opposition as many aspects remain unexamined. Request that the legislation is halted until it can be given reasonable consideration of many issues which have been so conspicuously lacking to date.</p> | <p>The policy framework for reservoir safety provided by the Reservoirs Act was agreed and passed in the Assembly in 2015. This recent consultation provides details on the further commencement of the Reservoirs Act and the regulations it proposes to make through the Assembly Legislative process.</p> |
| Norman | Concern that many of the provisions included | Sections 1 and 2 of The Reservoirs Act |

| | | |
|---------------------------------------|--|--|
| Richardson on behalf of Dr Loughridge | in the Act and in the documentation are intended for areas of water much larger than the one relevant in this response(Galwally Lake). | (NI) 2015 defines a controlled reservoir. Generally this is a structure, lake or other area designed and used for the collection and storage of water and which is capable of holding 10,000 cubic metres of water, above the natural level of the surrounding land. The Department is required to set out in regulations how the volume of water capable of being held above the natural level of the surrounding land is to be calculated. This was provided in the Draft Regulations at Annex C to the consultation and is consistent with the specifications for calculating the capacity of reservoirs in the rest of the UK. Therefore if Galwally Lake is capable of holding 10,000 cubic metres of water, above the natural level of the surrounding land, then it is a controlled reservoir and will fall within the scope of the Reservoirs Act (NI) 2015. |
| | The information proposed to be held on a controlled reservoir register seems appropriate, however, it is difficult to judge the detail in which information will be provided without access to the actual entry, or a draft of it. | When the Reservoirs Act (NI) 2015 is commenced the Department will establish and maintain a controlled reservoirs register. The information to be held on the register is provided in the Draft regulations at Annex C to the consultation document. |
| | Concern about the expectations placed on someone who is designated as a reservoir manager. In most cases it is likely to be private citizens who have no specialist knowledge of reservoir maintenance or flood risk management and without professional guidance, they may well be unable to advise the reservoir type. Some of the personal details required of reservoir managers may also be difficult in some cases, for example, the elderly or infirmed. Concerns also relates to situations where there may be multiple reservoir managers as collaboration in relation to responsibilities may not always be easy or possible. Careful consideration needed about the role of manager and the criteria for such a role, especially for small private lakes included in the legislation. | <p>The Reservoirs Act defines who is a reservoir manager under the Act. Generally this is the person who manages or operates the reservoir or part of the reservoir. If no one manages or operates the reservoir or part of the reservoir then the default position is the owner of the reservoir is the reservoir manager.</p> <p>It is planned that the Department will provide guidance documents on the role and responsibilities of a reservoir manager and this would be available prior to the Act commencing.</p> <p>The Department will also be available to provide advice to reservoir managers as required.</p> |

| | | |
|--|---|---|
| | <p>Regular visits seem appropriate. It would be helpful to know what designation is given to any relevant reservoir before a proper judgement can be made.</p> | <p>Reservoir manager of reservoirs designated as High or Medium Consequence will be required to commission a Supervising Engineer to supervise their reservoir. The frequency of visits that a supervising engineer should make to the reservoir is determined by the reservoir designation. Reservoirs designated as High or Medium Consequence will determine the number of visits by a supervising engineer required to a reservoir.</p> |
| | <p>It is important that emergency response information is available. However, concerns about high level of expectations on an ordinary citizen, especially if elderly or infirm, placed in the role of reservoir manager. Some of the responsibilities indicated e.g. the requirement on managers to ‘provide consistent and easy to understand records’ imply a professional position and level of knowledge and availability which may not be possible for someone who, purely on the basis of location or ownership of land, is given this role. There could also be funding implications associated with displaying information publicly.</p> | <p>The Reservoirs Act defines who is a reservoir manager under the Act. It is planned that the Department will provide guidance documents on the role and responsibilities of a reservoir manager and this would be available prior to the Act commencing.</p> <p>Reservoir Engineers commissioned to supervise or inspect a reservoir will also be able to provide technical advice to reservoir managers, as required.</p> <p>The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward</p> |
| | <p>Concerned about how these regulations relate to private land on which a small reservoir may be situated, not least when there are a number of managers designated on account of their land adjoining the edge of the reservoir.</p> | <p>The Reservoirs Act defines who is a reservoir manager for the purposes of the Act. It is possible that a controlled reservoir may be managed by one manager or by more than one (multiple) reservoir</p> |

| | | |
|--|---|---|
| | | managers. The requirements of the Act apply to each of the reservoir managers and any duties of the reservoir manager must be complied with by each of the managers. To avoid duplication of duties and reduce the administrative burden on reservoir managers, the Act provides that reservoir managers may nominate one of the managers to fulfill any requirements of the Act to which they are subject. Any nomination must specify the name, address and contact details of the nominee. |
| Andrew Muir MLA on behalf of Alliance Party of Northern Ireland | States that it is vital legislation regarding reservoir safety is commenced and implemented as soon as possible. The delay in this legislation coming forward is causing real issues both with regards reservoir safety and management, but also with local development and regeneration of towns and cities across Northern Ireland. District Councils, especially their Planning Functions, should all be afforded opportunity for response to this consultation with each Heads of Planning in each Council alerted. | Comments in relation to the delay in commencement of the reservoir safety legislation are noted. The Department for Infrastructure received statutory responsibility for the Reservoirs Act in June 2021 and is now progressing the commencement and implementation of the Act as soon as is practicable. All District/Borough Councils were provided an opportunity to comment on the consultation. |
| | Important that financial support is available for reservoir safety. Poor reservoir maintenance that impacts upon local development should be remedied as quickly and efficiently as possible with the proposed grant scheme offering support for those reservoir managers who are unable to provide the finances that are needed to fulfill maintenance or safety requirements. Funds provided through a grant scheme will need to be sufficient on a case by case basis to cover costs of maintenance that is required. Regulation 15 refers to the Department paying grants to reservoir managers ‘as it considers appropriate’ - it is important that what ‘is appropriate’ is made clear. | Concerns in respect of financial assistance and potential impacts are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward. |
| | Agrees with the draft designation criteria and aligns with the views expressed by Ards and North Down Borough Council that agreed methodology for assessing probability of an | The Department is required to give each controlled reservoir a designation of High, Medium or Low Consequence. The consequence of an uncontrolled release of |

| | | |
|--------------------|---|--|
| | <p>uncontrolled release of water is needed and should be progressed at speed to ensure economic development is not stymied by being located within potential inundation zones.</p> <p>Also agree with comments from Ards and North Down Council namely ‘it would also query why the legislation in Northern Ireland in respect of controlled reservoirs refers to 10,000 cubic meters compared to 25,000 cubic meters in England and the rationale for electing this smaller volume.</p> <p>Disappointed that section 92 of the Act is not being consulted upon concerning the enforcement action’.</p> | <p>water will be informed by reservoir inundation mapping. Like in the rest of the UK, the consequence of an uncontrolled release of water will be used in the designation process until an agreed UK methodology to determine the probability of reservoir failure has been developed. The Act was drafted as such to alleviate concerns during the passage of the Reservoirs Bill through the Assembly process that probability was not being considered in the process (consequence only) and therefore all references to risk were removed. When a UK industry methodology on the probability of reservoir failure has been agreed the Department will be required to take account of probability in the designation process.</p> <p>The Assembly agreed that reservoirs capable of holding 10,000 cubic metres above the natural level of the surrounding land was the threshold for a reservoir to be regulated and therefore a controlled reservoir under the Reservoirs Act (NI) 2015. This section of the Act was commenced the day after Royal Assent in 2015.</p> <p>The Reservoirs Act 1975 which applies in England and Wales and the Reservoirs (Scotland) Act 2011 also provides for this threshold.</p> <p>Section 92 is included in Commencement Order No 2 (Annex B to the consultation document) and will be commenced when this Order is made.</p> |
| John Hogg & Co Ltd | The potentially significant cost consequences to private owners may have an adverse impact on the environment, tourist facilities and the health and wellbeing of club members and the wider community. Essential that funding is made available or many community angling clubs will cease to exist. Landowners will understandably seek to recover costs from | Concerns regarding the potentially significant costs to private owners and the adverse impacts are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the |

| | | |
|---|--|---|
| | their tenants. | Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward. |
| | The level of information provided by reservoir managers at registration should depend on the size of the reservoir there-by reducing the level of unnecessary information required. | The Reservoirs Act (NI) 2015 defines a controlled reservoirs as any structure or area capable of holding 10,000 cubic metres above the natural level of the surrounding land. Therefore it is the amount of water above the natural level of the surrounding land that determines which reservoirs will be regulated. |
| | Disagrees with the standard frequency of visits to a high or medium consequence reservoir as there is currently no panel of consulting engineers available in NI thereby making costs prohibitive. | Once the Act commences, the Department will be establishing panels of reservoir engineers and appointing suitable reservoir engineers to each of these panels to undertake the roles required under the Act e.g. inspection and supervision of a reservoir. |
| | Disagrees with the level of emergency response information - all that should be available is an emergency contact number. | The Reservoirs Act requires a specific level of emergency information to be displayed at or near a reservoir. |
| | Agrees with the proposed approach to Stop Notices but for new build reservoirs. | A stop notice may only be issued if an activity is being carried on, or is likely to be carried on, and the Department considers the activity will or is likely to present a risk to the safety of the reservoir or involves or is likely to involve the commission of an offence under the Act. This could apply to all types of reservoirs and therefore cannot not just apply to new build reservoirs. |
| DAERA Salmon and Inland Fisheries Forum | Concerned about the effects of the legislation on stillwater fisheries in NI in that so many of these will have to be closed, and the water drained, as the cost of inspections et cetera will be unsustainable. Concern about the impact that costs of inspections will have on many angling clubs | Concerns regarding the potential impacts of the legislation on stillwater fisheries, the environment, biodiversity, climate and the wider community are noted. Environmental impact was considered as part of the policy development. It is considered that the implementation of this legislation would mitigate the risk of an |

| | | |
|----------|---|---|
| | <p>which are an integral part of local communities and provide for an activity which causes virtually no damage to the natural environment and the climate when compared to other sports and activities. Concern about the potential impact of costs of inspection requirements and associated actions and resulting increase in fees which could prevent many not taking part.</p> <p>Many of these waters comprise a natural environmental resource which provides habitats for a wide range of wildlife and often includes public access footpaths and walkways. Explains that it goes against a range of government policies to pursue this legislation at a time when world biodiversity must be improved to help repair our climate on the planet. The retention of these bodies of water needs to be seen as biodiversity/c climate positive.</p> <p>When government departments are trying to improve community health through outdoor activity exercise etc it would seem counter-productive to introduce measures which have the effect of closing facilities which offer high quality environments for such outdoor activity. During the Covid pandemic when angling was one of the few sports which was able to continue it has been well established that these bodies of water, provided many opportunities and benefits especially in relation to mental health. Stresses the importance of finding some means to finance these reservoir inspections from government sources – if not there could be widespread closures and draining of our spillwaters. It would be a tragedy if these facilities were closed just at a time when society is coming out of the pandemic and our community begins to function normally once again.</p> | <p>uncontrolled release of water thereby protecting the environment and the health of the wider community. The environment / public health and life is also considered in the reservoir designation process to determine the level of management and maintenance required to preserve the integrity of the reservoir.</p> <p>The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.</p> |
| NI Water | <p>More information required on how information on controlled reservoirs will be used and shared in line with GDPR</p> | <p>The Department will comply with GDPR as regards the information held on controlled reservoirs.</p> |
| | <p>Some clarification is required for reservoirs classified as medium consequence – one visit</p> | <p>The supervising engineer will be required to provide an annual statement to the</p> |

| | | |
|--|---|---|
| | <p>per 12 months for high consequence and one visit per 36 months for medium consequence. Refers to section 26(5) - How often will a statement be required for medium consequence reservoirs as section 26(5) of the legislation requires one statement per year?</p> | <p>reservoir manager of medium consequence reservoirs. It will be for the supervising engineer to determine if a visit is required to enable the statement to be completed. This requirement by regulation to advise of the standard frequency of visits by supervising engineers was provided to alleviate concerns by the Agriculture and Rural Development Committee (when Bill was being progressed through the Assembly) that supervising engineers would visit reservoirs frequently which may add to the management costs. It is expected that supervising engineers will determine visits taking account of their professional judgement – in any case the Act also requires that if the inspecting engineer considers that the supervising engineer should visit the reservoir more frequently than is required by the Regulations the inspecting engineer must specify in the inspection report the intervals, when, or in what circumstances any additional visit should take place.</p> |
| | <p>In relation to emergency response information, states that the provision of personal information on a public display is inappropriate and could present private reservoir managers with concerns. As the Department will have the contact information as part of registration process it is considered that this display should provide the reservoir name, registration number and contact details of the Department and Emergency services only.</p> | <p>The Reservoirs Act requires a specific level of emergency information to be displayed at or near a reservoir and this requires the name of the reservoir manager to be displayed. The controlled reservoir register will be available for public inspection.</p> |
| | <p>In relation to approach to stop notices, some further clarification is required as to how long the Department has to decide whether to give a completion certificate or not.</p> | <p>The draft regulations at Annex B to the consultation document provides that when the Department is satisfied that all the steps specified in the stop notice have been taken it must give the reservoir managers a completion certificate. If a reservoir manager applies for a completion certificate, the Department must make a decision as to whether or not to give a completion certificate within 14 days from</p> |

| | | |
|--|---|---|
| | | <p>the date an application for a certificate is made by the reservoir manager. Where the Department decides to give a completion certificate it must do so within 14 days of making its decision.</p> |
| | <p>Clarification required regarding whether all reservoir managers will be eligible for grant funding, the criteria to apply and other considerations with regards to the scheme.</p> | <p>The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.</p> |
| | <p>Probability should be considered in the designation process as well as the Defra ‘Guide to risk assessment for reservoir safety management’ which provides a quantitative assessment of the probability of failure. Without the consideration of overall risk as a function of consequence and probability reservoir managers will be in a position where new development downstream or a change in environmental or cultural heritage asset designation within the inundation area will automatically change a reservoir designation for potentially low to high risk. Reservoir managers will have no option for the recovery of the additional associated costs but without consideration of overall risk no investment at the site to reduce the likelihood of failure can have any impact on the rating. If overall risk was considered, investment to reduce the likelihood of failure and reduce the risk to an acceptable level would be possible, incentivising reservoir managers to reduce the likelihood of failure. Consider that within such an assessment the overall risk of NI Water service reservoirs, which are likely to be have a high designation</p> | <p>The Department is required to give each controlled reservoir a designation of High, Medium or Low Consequence. The consequence of an uncontrolled release of water will be informed by reservoir inundation mapping. Like in the rest of the UK, the consequence of an uncontrolled release of water will be used in the designation process until an agreed UK methodology to determine the probability of reservoir failure has been developed. The Act was drafted as such to alleviate concerns during the passage of the Reservoirs Bill through the Assembly process that probability was not being considered in the process (consequence only) and therefore all references to risk was removed. When a UK industry methodology on the probability of reservoir failure has been agreed the Department will be required to take account of probability in the designation process. The methodology used to produce the reservoir inundation mapping takes</p> |

| | | |
|--|---|--|
| | would be low due to the significantly lower likelihood of failure. The proposed approach will consider such structures as to present the same overall risk as a large impounding reservoir, with a disproportionate investment required in terms of monitoring and supervision. | account of the materials used to construct the reservoir and the type of reservoir i.e. whether it is an impounding or service reservoir. Therefore, NI Water's service reservoir will have been treated differently in the mapping process and the output will provide the impacts to the receptors in the reservoir inundation areas. |
| Clandeboyne Estate | To require private landowners to fulfil these requirements there should be greater financial and professional assistance available in order to meet what is being sought. Reservoirs form part of built and natural heritage. Planning permissions have been granted by local government and in many cases is what has created or compounded the flood risk as they often have been allowed within the flood plain. If the requirements are being driven primarily by public safety concerns then the consequences should be met from public funds. | Your concerns regarding financial assistance and the potential impacts are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward. |
| | Feel that silt levels should not be included in the calculation of reservoir volume unless there is an actual risk that the silt is likely to escape. To that extent believe the measurement calculation should be more nuanced. Check drafting of 2(2) of the regulations at Annex C – should that not say that water that is capable of flowing out over the natural land be excluded for the calculation? At the moment there is a double negative in that provision which suggests that it be included. | It is not proposed to include silt in the calculation of the volume of a reservoir unless it is likely to escape. The drafting of Regulation 2(2) (Annex C) has been checked and is correct – it is only water that is capable of flowing out of the reservoir in the event of an uncontrolled release of water that will be included in the calculation. |
| Ligoniel Environment and Heritage Task Group | Current arrangements do not take account of the consequences of waterbodies owned and/or managed by 3 rd sector bodies for public benefit and use. | The Reservoirs Act defines that reservoir managers are responsible for reservoir safety. It does not make any distinction on whether the reservoir is managed by a public sector organisation, 3 rd sector organisation or a private individual, nor is there any scope to account for the potential use of the reservoir. |

| | | |
|--|--|---|
| | <p>Financial support is required to support this aspect of the value of waterbodies owned and/or managed by 3rd sector bodies. Failure to provide funding or a piecemeal approach to such funding will cause major problems for what are small 3rd sector bodies in terms of liabilities and long term planning. What would have seemed reasonable development of such public use for a range of social and health benefits will now be viewed as unreasonable and irresponsible risks at a trustee/director level.</p> <p>Consequent loss of 3rd sector ownership and management will lead to either a loss of such public use or replacement by government department, or, in the event of being unable to divest these sites, loss of these 3rd sector community groups themselves.</p> | <p>Your concerns regarding financial assistance and the potential impacts are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.</p> |
| <p>Ards and North Down Borough Council</p> | <p>Expressed disappointment that it has taken nearly five and a half years to get to this point despite the relevant government departments having expressed serious concern in respect of damage to human life/health the environment, cultural heritage and economic activity.</p> | <p>Your comments in relation to the delay in commencement of the reservoir safety legislation is noted. The Department for Infrastructure received statutory responsibility for the Act in June 2021 and is now progressing the commencement and implementation of the Act.</p> |
| | <p>Responding to Q6 Stop Notices, Council does not agree with the proposed regulation 13: recovery of costs by Department. It queries why as part of its oversight regime in relation to the Act the Department would be able to recover such costs including investigation costs, admin costs and costs of obtaining expert advice including legal costs.</p> | <p>The Reservoirs Act (NI) 2015 provides a power that the Department may, by notice served, require the reservoir manager on whom a stop notice is served to pay the amount of any costs reasonably incurred by the Department in relation to serving a stop notice.</p> |
| | <p>Council considers grant funding a critical factor in respect of ensuring compliance with the Act and should cover all critical works to bring reservoirs to appropriate standard and enable economic development to proceed within inundation zones. More detail is required on what the Department might consider ‘is appropriate’ to receive funding and would wish such funding to be made available as soon as possible. Regulations</p> | <p>The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The</p> |

| | | |
|--|--|--|
| | <p>should be put in place as soon as practicable to address this critical section of the Act.</p> | <p>Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.</p> |
| | <p>Whilst the Council agrees generally with the proposed designation criteria it is extremely concerned there is not yet an agreed industry methodology for assessing probability of an uncontrolled release of water. Such a standard should be researched and identified immediately given it is more than five years since the Act was introduced as this criterion is pivotal to ensuring that economic development is not stymied by being located in the inundation zones. The issue seems to have arisen from the fact that there is no idea of probability and therefore planning policy is based solely on adverse consequences which is having a detrimental impact on proposals within the major category of development within inundation zones.</p> | <p>The Department is required to give each controlled reservoir a designation of High, Medium or Low Consequence. The consequence of an uncontrolled release of water will be informed by reservoir inundation mapping. Like in the rest of the UK, the consequence of an uncontrolled release of water will be used in the designation process until an agreed UK methodology to determine the probability of reservoir failure has been developed. The Act was drafted as such to alleviate concerns during the passage of the Reservoirs Bill through the Assembly process that probability was not being considered in the process (consequence only) and therefore all references to risk were removed. When a UK industry methodology on the probability of reservoir failure has been agreed the Department will be required to take account of probability in the designation process.</p> |
| | <p>The Council queries how the information (one or more commercial property or business in the reservoir inundation) is calculated particularly in urban areas where land use is subject to frequent change and the category of commercial/business had wide ranging staffing/customer parameters.</p> | <p>The reservoir designation analysis was carried out using OSNI Address data which is maintained by Land and Property Services (LPS) with help from local councils and Royal Mail. OSNI Pointer dataset provides up-to-date information such as postal address, geographical position (XY coordinates), building status, multiple occupancy and building use. Using a Unique Property Reference Number (UPRN), it was possible to join the pointer dataset to another OSNI dataset (known as OSNI Fusion Buildings) which contains the footprint of every address property in NI. By combining the building use data associated with OSNI pointer data with the building floorplan data associated</p> |

| | | |
|------------------------------------|---|---|
| | | <p>with OSNI Fusion Buildings data, it was possible to estimate the potential damages from reservoir flooding to residential and non-residential properties (including commercial).</p> <p>The reservoir designations are required to be re-assessed at least every 10 years.</p> |
| | <p>The Council queries if it would also be appropriate to include designated conservation areas and areas of Townscape/Village Character, each of which is designated under Planning legislation in respect of the architectural or historic interest in each which have a particular character worthy of conservation.</p> | <p>The Department will give this matter further consideration.</p> |
| | <p>Council is disappointed that section 92 of the Act in relation to publication of enforcement is not being considered for consultation at this stage.</p> | <p>Section 92 is included in Commencement Order No 2 (Annex B to the consultation document) and will be commenced when this Order is made.</p> |
| | <p>Council queries why NI legislation in respect of controlled reservoirs refers to 10,000 cubic meters compared to 25,000 cubic meters in England and what is the rationale for electing this volume.</p> | <p>The Assembly agreed that reservoirs capable of holding 10,000 cubic metres above the natural level of the surrounding land was the threshold for a reservoir to be regulated and therefore a controlled reservoir under the Reservoirs Act (NI) 2015. The Reservoirs Act 1975 which applies in England and Wales and the Reservoirs (Scotland) Act 2011 also provides for this threshold.</p> |
| <p>Mid Ulster District Council</p> | <p>Notes that the legislation is being brought into play without any consideration of the financial impact being placed on new duty holders. The Department should as part of the financial impact assessment prepare a grant funded programme that the duty holder including Mid Ulster Council should be able to bid for and obtain financial support to help undertake any planned or programmed remedial or improvement works required to ensure the continued safety of reservoir structures which has inevitably arisen from lack of funding by the Department in this area</p> | <p>Concerns in respect of financial assistance and potential impacts are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a</p> |

| | | |
|--|--|--|
| | <p>of work. Funding packages should be prioritised to reservoirs now designated as high or medium consequence and which requires sizeable capital improvement works to ensure their integrity and continued good maintenance going forward.</p> | <p>grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.</p> |
| | <p>Any data required to be held on the controlled reservoirs register should be in accordance with Data Protection principles.</p> | <p>The Department will comply with GDPR as regards the information held on controlled reservoirs.</p> |
| | <p>Display of emergency response information should only provide reservoir name, registration number and contact details for the Department and Emergency Services.</p> | <p>The Reservoirs Act requires a specific level of emergency information to be displayed at or near a reservoir.</p> |
| | <p>With regard to stop notices, Department should retain control to undertake immediate remedial work if required in the event that more than one landowner is involved due to potential for delay or dispute.</p> | <p>The Reservoirs Act (NI) 2015 defines that a reservoir manager is responsible for reservoir safety. The Department has enforcement powers which it may exercise, if required, to ensure reservoir managers comply with their responsibilities. The Act also provides emergency powers which applies where it appears to the Department that immediate action is needed to protect persons or property against an escape of water from a controlled reservoir. The Department may take any measures that it considers necessary to remove or reduce the risk to persons or property or to mitigate the effect of an escape of water.</p> |
| | <p>The planned approach to designation suggests that probability of an uncontrolled release of water will not be considered as there is presently no agreed industry methodology. This seems to neglect the guidance within Defra ‘Guide to risk assessment for reservoir safety management’ which includes a quantitative assessment of probability of failure. Without the consideration of overall risk as a function of consequence and probability reservoir managers will be in a position where new development downstream or a change in environmental or cultural heritage asset designation within the inundation area will automatically change a reservoir designation for potentially low to high risk. Reservoir managers will have no</p> | <p>The Department is required to give each controlled reservoir a designation of High, Medium or Low Consequence. The consequence of an uncontrolled release of water will be informed by reservoir inundation mapping. Like in the rest of the UK, the consequence of an uncontrolled release of water will be used in the designation process until an agreed UK methodology to determine the probability of reservoir failure has been developed. The Act was drafted as such to alleviate concerns during the passage of the Reservoirs Bill through the Assembly process that probability was not being considered in the process (consequence only) and therefore all references to risk</p> |

| | | |
|-------------|---|---|
| | <p>option for the recovery of the additional associated costs but without consideration of overall risk no investment at the site to reduce the likelihood of failure can have any impact on the rating. If overall risk was considered, investment to reduce the likelihood of failure and reduce the risk to an acceptable level would be possible, incentivising reservoir managers to reduce the likelihood of failure. The cost of any improvement work necessitated by new development within the zone of consequence downstream should be equally apportioned to that development to mitigate unnecessary or unsustainable cost to the reservoir operator.</p> | <p>were removed. When a UK industry methodology on the probability of reservoir failure has been agreed the Department will be required to take account of probability in the designation process.</p> <p>In respect of Planning the DfI Rivers Technical Guidance Note 25 ‘<i>The Practical Application of Strategic Planning Policy for ‘Development in Proximity to Reservoirs’ Provides the following guidance:</i> 3.8 ‘<i>When obtaining assurance regarding reservoir safety, the developer should engage with the Reservoir Manager (if it is a different party). This will also provide an opportunity for the Reservoir Manager and developer to jointly consider any structural improvement works required to make the reservoir safe or other implications the development may have for the Reservoir Manager. The funding of such works is a private matter between the developer and the Reservoir Manager.</i>’</p> |
| Ryan Greer | <p>An affordable grant scheme is essential to provide reservoir managers of environmentally and historically sensitive reservoirs with meaningful support to ensure that both public safety and environmental requirements are met. In cases where a body of water is designated as a reservoir due to its capacity, the potency of the legislation ensuring regulation and safety of this body of water must be matched by support to ensure that it cannot simply be abandoned or discontinued where this would be detrimental to the surrounding natural and historic environment.</p> | <p>Concerns in respect of financial assistance and potential impacts are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.</p> |
| Cllr Andrew | Considers the classification is applied too | The Reservoirs Act (NI) 2015 defines a |

| | | |
|--------------------------------------|---|--|
| Clarke – Mid and East Antrim Council | <p>rigidly. Some room must be given for reservoirs which do not neatly fall into these classes, for example, an old ornamental pond in grounds of stately home and which is home to all sorts of wildlife and locals have fishing rights. It is perhaps two metres at the deepest point. Widespread anger and media coverage that a small isolated pond would be treated the same as Spelga Dam and despite several engineer’s reports no evidence of structural fault was found.</p> | <p>controlled reservoirs as any structure or area capable of holding 10,000 cubic metres above the natural level of the surrounding land. Therefore it is the amount of water above the natural level of the surrounding land that determines which reservoirs will be regulated and not the size of the reservoir. The definition of a controlled reservoir commenced the day after Royal Assent in 2015.</p> |
| | <p>Suggests that the legislation should provide for discretionary designation where there are strong historical or environmental interests and no evidence of any danger. For example, by strengthening section 16.10 to read “local knowledge ‘shall’ be taken into account” and another way is to minimise, rather than rule out the probability of a failure taking place as part of an assessment.</p> | <p>The Department will change, as suggested, the wording in the designation criteria to read ‘local knowledge shall be taken into account’.</p> <p>The Department is required to give each controlled reservoir a designation of High, Medium or Low Consequence. The consequence of an uncontrolled release of water will be informed by reservoir inundation mapping. Like in the rest of the UK, the consequence of an uncontrolled release of water will be used in the designation process. The Act was drafted as such to alleviate concerns during the passage of the Reservoirs Bill through the Assembly process that probability was not being considered in the process (consequence only) and therefore all references to risk were removed. When a UK industry methodology on the probability of reservoir failure has been agreed the Department will be required to take account of probability in the designation process.</p> |
| | <p>Suggest that the Department seek to be as transparent as possible in the information they allow to the public. Suggest only restricting information to those reservoirs considered ‘strategic’ i.e. part of the NI Water system, or close to population centres.</p> | <p>The National Protocol provides the guidance for the Department as to the release of information in relation to controlled reservoirs.</p> |
| | <p>In the case of Kilwaughter Castle, the engineers report stated capacity of 100,000 cubic metres thus given a high consequence</p> | <p>The Reservoirs Act (NI) 2015 requires the Department to set out in regulations how the volume of water capable of being held</p> |

| | | |
|--|---|---|
| | <p>designation. However previous bathymetric survey had been carried out by the Department and measured it at under 20,000 cubic metres. The substantially wrong higher figure was the basis of flood plan analysis likelihood of homes being affected etc. The Department refused to share any information or the calculations for the extent of flooding on the grounds of National Security.</p> | <p>above the natural level of the surrounding land is to be calculated. This was provided in the Draft Regulations at Annex C to the consultation and is consistent with the specifications for calculating the capacity of reservoirs in the rest of the UK.</p> <p>The methodology to produce reservoir inundation models is consistent with the existing UK approach and is used in determining the reservoir designation. The legislation provides for a review and appeal process if reservoir managers are not satisfied with the Department's decision on reservoir designation.</p> |
| <p>Antrim and District Angling Association</p> | <p>Agrees that the legislation is required in general terms but to apply it unilaterally to small reservoirs or bodies of water such as Potterswall Dam is seriously flawed. It is a small shallow dam which takes water from a small pipe and even if the dam was to give way instantly the volume of water is very small. Concern at having to pay needlessly engineers to make safety assessments etc.</p> | <p>The Reservoirs Act (NI) 2015 defines a controlled reservoir as any structure or area capable of holding 10,000 cubic metres above the natural level of the surrounding land. Therefore it is the amount of water above the natural level of the surrounding land that determines which reservoirs will be regulated and not the size of the reservoir.</p> <p>The Department is required to give each controlled reservoir a designation of High, Medium or Low Consequence. The consequence of an uncontrolled release of water will be informed by reservoir inundation mapping. Reservoir inundation maps have been produced for each controlled reservoir based on a similar methodology as used in the rest of the UK. The maps when overlaid with relevant data sets will list the receptors and the designation will be determined by the impact on the receptor against the designation criteria. Like in the rest of the UK, the consequence of an uncontrolled release of water will be used in the designation process until an agreed UK methodology to determine the probability of reservoir failure has been developed.</p> |
| | <p>Compare a small shallow reservoir to the</p> | <p>The Reservoirs Act (NI) 2015 defines a</p> |

| | | |
|--|---|--|
| | <p>existence of two weirs on the Six Mile Water at Dunadry where in large floods the back up of flood water from these weirs extends from Dunadry to Templepatrick and above. Queries why this legislation is being enacted when there are far larger risks elsewhere.</p> | <p>controlled reservoir, and what is not a controlled reservoir. For the purposes of the Act ‘a weir which does not serve a functional or operational purpose as regards a controlled reservoir’ is not a controlled reservoir.</p> |
| | <p>ADAA is a community organisation providing for the varied needs of a wide spectrum of people including the less well off. The needless additional fees for inspections etc means our members fees will have to increase and as a result many will be denied the opportunity to fish. ADAA receive no financial assistance from government and it is appalling that it appears this Act is being implemented without regard to the impact it may have on a wide section of society. The Association feels very strongly that the approach is very damaging to the economic considerations, social welfare, health, environment and climate of people in the province.</p> <p>Concern that the Association may have to cease operating this dam despite an increase in fees and the negative consequences of this on the environment, social, health and well-being, climate and biodiversity. There is also very valuable built history and this includes Potterswall Dam – this aspect must be taken into account.</p> | <p>Concerns in respect of financial assistance and potential impacts are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.</p> |
| | <p>The proposal for reservoir managers to be responsible in law for failure to operate in accordance with the legislation and with a potential fine of up to £20,000 and one year in jail is quite frankly ridiculous in the context of this Association’s position and role and of course the many others in a similar situation.</p> | <p>Reservoir managers currently have a common law responsibility to maintain their reservoirs. In respect of the potential penalty, this would apply where a reservoir manager fails to comply with a stop notice.</p> |
| | <p>All the negative consequences of enacting this legislation are primarily due to a silo approach to these matters taken by the Department concerned and the Association requests the Assembly to have a major review of this matter and ensure that the numerous issues mentioned by the Association are taken</p> | <p>The Reservoirs Act (NI) 2015 provides the policy framework for the reservoir safety management and maintenance regime for controlled reservoirs. This policy was agreed and passed by the Assembly in 2015. This consultation provides details on the further commencement of the</p> |

| | | |
|--|-----------|--|
| | on board. | Reservoirs Act and the regulations it proposes to make through the Assembly Legislative process. |
|--|-----------|--|

List of consultees – Targeted consultation

Reservoir Managers / owners of reservoirs in Northern Ireland

Institution of Civil Engineers

British Dam Society

Engineers Ireland

Office of Public Works (ROI)

District /Borough Councils

Ulster Farmers Union

Ulster Angling Federation

CIWEM

NIAPA

Ulster Coarse Fishing Federation

Defra,

Welsh Government,

Scottish Government

UK Reservoir Safety Regulators – SEPA, EA, NRW

Annex B

Summary of the responses raised in regard to the consultation questions.

| Respondent | Questions | | | | | | | | | | | | | | | |
|---|------------------|----|--------|----|----|----|----|----|----|-----|-----|-----|-----|-----|--------|-----|
| | Part 1 | | Part 2 | | | | | | | | | | | | Part 3 | |
| | Q1 | Q2 | Q3 | Q4 | Q5 | Q6 | Q7 | Q8 | Q9 | Q10 | Q11 | Q12 | Q13 | Q14 | Q15 | Q16 |
| Lissonoure Farms Ltd(Mr Mackie) | A | C | D | C | D | C | D | C | - | C | - | C | - | C | - | C |
| Ulster Angling Federation* (Gary Houston) | - | - | - | - | - | - | - | - | - | - | - | - | A | C | - | - |
| Aidan Donnelly*(Chairman Armagh Angling Club) | A | - | A | - | A | - | A | - | A | - | A | - | A | C | A | - |
| Antrim and Newtownabbey Borough Council* | A | - | A | - | A | - | D | C | A | - | A | - | A | - | D | C |
| Jim Haughey (on behalf of UAF)* | General comments | | | | | | | | | | | | | | | |
| Dr N Richardson (on behalf of Dr G Loughridge) | A | C | A | C | - | C | - | C | - | C | A | C | A | C | - | C |
| Alliance party of Northern Ireland | A | C | A | C | A | C | A | C | A | - | A | C | A | C | A | - |
| John Hogg & Co Ltd | A | C | A | - | D | C | D | C | D | C | A | C | A | C | - | C |
| DAERA Salmon and Inland Fisheries* (Jim Haughey Chairman) | General comments | | | | | | | | | | | | | | | |
| NI Water | A | - | A | C | A | - | - | C | - | C | - | C | A | C | - | C |
| Clandeboyne Estate (Ian Huddleston) | A | C | A | C | A | C | A | - | A | - | - | C | A | C | A | C |
| Ligioniel Improvement | A | - | A | - | A | - | A | - | A | - | A | - | A | - | A | - |

| | | | | | | | | | | | | | | | | | |
|--|------------------|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|--|
| Association | | | | | | | | | | | | | | | | | |
| Ligioniel Environment and Heritage Task Group* | General comments | | | | | | | | | | | | | | | | |
| Ards and North Down Borough Council | A | C | A | - | A | - | A | - | A | - | A | C | A | C | A | C | |
| Armagh, Banbridge and Craigavon Borough Council | A | - | A | - | A | - | A | - | A | - | A | - | A | - | A | - | |
| Mid Ulster District Council | - | C | - | C | - | C | - | C | D | C | - | C | A | C | - | C | |
| Ryan Greer | A | - | A | - | A | - | A | - | A | - | A | - | A | C | A | - | |
| Cllr Andrew Clarke, Mid and East Antrim Council* | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | C | |
| Antrim and District Angling Association* | General comments | | | | | | | | | | | | | | | | |

Key A = Agree
D = Disagree
C = Comments provided