

## **Belfast City Council's response to Department of Infrastructure's "Water, Flooding and Sustainable Drainage Consultation"**

Belfast City Council welcomes the opportunity to respond to this consultation on policies relating to water, flooding and sustainable drainage and we note that these policies are being considered for future amendments to primary legislation.

We would also draw your attention to our response to your consultation to the Strategic Drainage Infrastructure Plan (SDIP) in early 2021. We would like to reiterate that long term investment in drainage and waste water infrastructure is required to meet the ambition for growth of the City and to alleviate the impacts of climate change.

### **SECTION 3: Powers for NI Water to implement wider water shortage measures**

#### **Consultation Question 1**

Do you agree that the following list of activities should be included in the list of uses that NI Water may temporarily prohibit or restrict as part of a hosepipe ban, in addition to its current ability to prohibit or restrict watering private gardens and washing private motor cars? • watering plants on domestic or other non-commercial premises using a hosepipe; • cleaning a private leisure boat using a hosepipe; • filling or maintaining a domestic swimming or paddling pool; • drawing water, using a hosepipe, for domestic recreational use; • filling or maintaining a domestic pond using a hosepipe; • filling or maintaining an ornamental fountain; • cleaning walls, or windows, of domestic premises using a hosepipe; • cleaning paths or patios using a hosepipe; and • cleaning other artificial outdoor surfaces using a hosepipe

Belfast City Council would support in principle the extension of the list of uses that NI Water may temporarily prohibit. However it is important that any restrictions are clear, easy to understand and proportionate. It should also be borne in mind that there may be animal welfare issues associated with the maintenance of domestic ponds. Also measures such as awareness training and education regarding the importance of water usage and advice on how to save water may be considered in tandem with actual restrictions. The conservation of water and its careful use as finite resource especially in times of water restriction aligns with the Council objectives to for resilience and reducing the effects of Climate Change.

### **SECTION 4: Powers for NI Water to enter onto private land to carry out works for flood management purposes including construction of sustainable drainage systems (SuDS).**

#### **Consultation Question 2**

Do you agree that NI Water should be given a new power of entry onto land to enable it to carry out works beyond the laying of pipes, such as flood management or sustainable drainage schemes?

The proposal for NI Water to be given the power of entry onto land to carry out works for flood management would be welcomed as this should provide greater scope for the implementation of works to reduce the risk of flooding whilst also expanding the potential for the utilisation of natural drainage systems. However, clear provisions to ensure early

consultation and communication with landowners regarding the scope of the works to be carried out would be a necessity. We would suggest that in first instance DfI would speak to the landowner to negotiate and agree the extent of the access required and that the power of entry onto the land would only be used if no agreement could be reached. There should also be consideration of the longer-term responsibility for the maintenance of such drainage systems. The Council supports the aim of reducing Flood Risk with appropriate flood management and the introduction of sustainable drainage systems (SuDs) as the preferred option, as this is in line with the climate resilience planning policies set out in the draft Local Development Plan for Belfast. In considering the above, we do not support the opt out suggested in the consultation "However, NI Water would not be required to maintain all those works at public expense, if it were preferable to have the works maintained by another party." There is a need for clearer articulation of responsibilities especially where other parties may be expected to maintain or contribute to such provision. Where NI Water exercises these default powers it should have the power to serve notice on an owner to maintain the works. Where an owner/occupier fails to do so or cannot be located then NI Water should be responsible for the maintenance of the work.

## **SECTION 5: Provision of an enabling power for the Department to introduce arrangements to encourage developers to use sustainable drainage systems (SuDS) as the preferred drainage solution in new developments**

### **Consultation Question 3**

Do you agree that the Department for Infrastructure should be given a power to issue future arrangements and guidance on the design, approval, and maintenance of sustainable drainage systems to make SuDs the preferred means of dealing with surface water?

This is something that would be welcomed, any move towards helping to relieve pressure on the stormwater sewage infrastructure is welcome, however, it should be clear that the responsibility for resourcing the advisory system for the different forms of SuDS (hard and soft) alongside commitments to adoption and maintenance would lie with NIW.

This is not the responsibility of local authorities through their Planning and Building Control systems. The increased provision and integration of SuDS requires clear regulation and guidance that should be linked to an effective inspection and regulatory system for enforcement by NI Water.

To support the approach the provision of an enabling power would be welcomed for the Department to put in place mechanisms to encourage developers to utilise sustainable drainage systems (SuDs) as the preferred drainage solution in new developments. This new provision could support the new planning policy provisions set out in the Belfast LDP draft Plan Strategy. The Council as the local Planning Authority is also bringing forward guidance for developers in the form of Supplementary Planning Guidance to support the new LDP SuDs policy. This will seek to assist the shift towards greater use of SuDs by providing clarity and examples in respect of the types of systems, their future maintenance and benefits.

We would also highlight that it is important that developers are encouraged to use sustainable methods and we would recommend the promotion of Nature Based

Solutions/Soft SuDs to cover water quality, quantity and biodiversity, including the need to monitor the effectiveness of measures and evaluate maintenance requirements over time.

## **SECTION 6: Powers for NI Water to adopt certain drainage infrastructure, which is in private ownership and was constructed prior to 1st October 1973**

### **Consultation Question 4**

Do you agree that NI Water should be permitted to adopt and maintain sections of privately-owned drainage infrastructure constructed prior to 1st October 1973, which are critical to the effective operation of its network?

The proposal for NI Water to adopt and maintain sections of privately owned drainage infrastructure prior to 1<sup>st</sup> October 1973 would be supported on the basis that the objectives are to reduce the potential for Flood Risk and consequent harm to the environment. The Council believes it is important that any new legislation should set out circumstances in which NI Water must have regard to when deciding whether to adopt such infrastructure, for example where there is a risk of pollution of a water course or where the operation of the privately owned infrastructure is causing, or likely to cause, risks to public health.

We would also highlight that Belfast City Council deals with many queries from residents and businesses which have been impacted by flooding. A large number of these queries relate to unadopted drainage infrastructure.

## **SECTION 7: Enhanced powers for NI Water to deal with drain and sewer misconnections**

### **Consultation Question 5**

Do you agree that NI Water should be given the power to enter private premises to fix drainage misconnections and recover the costs from the landowner, when the landowner refuses entry and also refuses to fix the misconnection themselves?

In principle the Council supports the proposition that the person responsible for the misconnection should be responsible for the costs of fixing that problem. However, it has significant concerns about the implications of this proposal on landowners who are not responsible for the misconnection having bought the land and/or property in good faith. Easy solutions may not be possible following construction or indeed after other development may have occurred that is beyond the control of the current owners. A very benign example is used to illustrate but there is no indication of the potential costs or complexities that may arise and whether this is proposed to be retrospective. The Department should consider instead having the power to take action against the person responsible for the works which caused the misconnection.

There is no indication as to the extent of what would appear to be potentially a very complex and expensive problem to resolve. The implications and previous failures to identify such misconnections could have implications for the residual landowner rather than the actual party that carried out the works. It is also not clear if there are proposals to ensure existing regulatory provisions are to be used to ensure inspections and compliance are checked by NIW on an ongoing basis.

Broader NI experience of the charges for works by other Statutory bodies is not positive for business or individuals. This would require a significant amount of further detail for effective consideration and a detailed regulatory impact assessment. The Council would support the intent of what is proposed through these provisions, in the interests of sustainable development and environmental protection, especially in relation to the potential for reducing pollution to our local rivers and beaches.

## **SECTION 8: Power for NI Water to register Article 161 agreements in the Statutory Charges Register**

### **Consultation Question 6**

Do you agree that NI Water should be provided with a power to enable it to register Article 161 adoption agreements and bonds in the Statutory Charges Register?

This would seem like a sensible approach so that prospective purchasers are aware of such agreements and bonds. It should, however, be supported by a review process and obligations to ensure such charges are removed on discharge of responsibilities.

## **SECTION 9: Powers for the Department to grant fund Homeowner Flood Protection measures**

### **Consultation Question 7**

Do you agree that legislation should be provided to enable the Department for Infrastructure to introduce a substantive Homeowner Flood Protection Grant Scheme to residents whose properties are susceptible to flooding, and who meet defined eligibility criteria?

In principle this is would be supported as a measure to assist householders, but it would be more effective to address this under Q2 where NIW takes on responsibility and would be able to use their statutory powers. It may be that works by owners may require other permissions including Planning consent that would not be required by the NIW if doing the work directly. We also note that that the pilot Homeowner Flood Protection scheme has been a success helping to assist properties prone to the impacts of flooding.

## **SECTION 10: Powers to provide for easements and additional compensation arrangements for affected landowners to facilitate flood storage**

### **Consultation Question 8**

Do you agree that powers should be provided to enable the Department for Infrastructure to provide for easements and additional compensation arrangements for affected landowners, who have agreed to long term adjustments to their land to facilitate storage of flood waters and help mitigate the risk of flooding?

This should be clearer if it is to be a positive measure for NIW / DfI to carry out partnership work with landowners etc. It should also be stated unambiguously that it includes provision for NIW to positively address the issues around longer-term maintenance as well as the initial works for all types of SuDS.

There should also be clarity as to whether potential implications arising from the legislation relating to Dam Management have been considered as the impounded water within such systems could require designation and specific arrangements under this separate legislation. The Council would support if the overall aim is the reduction in the effects of future flood risk and reducing harm to human life and the environment through more multifunctional consideration of land in areas where this could be a benefit.

We also believe it would be of benefit to the Council who are already planning and implementing these changes on Council assets.

## **SECTION 11: Technical amendments to enable future amendment of subordinate legislation - Powers for the Department to amend, update or revoke the Drainage (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 and the Water Environment (Floods Directive) Regulations (Northern Ireland) 2009**

### **Consultation Question 9**

Do you agree with the proposal to provide a power for the Department to amend, update or revoke the Drainage (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 and the Water Environment (Floods Directive) Regulations (Northern Ireland) 2009?

Belfast City Council would support this proposal, particularly if it means expediting the process and not burdening the NI Assembly processes.

### **Link:**

<https://www.infrastructure-ni.gov.uk/sites/default/files/consultations/infrastructure/water-flooding-and-sustainable-drainage-consultation-report.pdf>