



COUNCIL – 17TH APRIL 2018

SUBJECT: IMPLEMENTATION OF WELSH GOVERNMENT LAND DRAINAGE BYELAWS

REPORT BY: ACTING DIRECTOR OF CORPORATE SERVICES AND SECTION 151 OFFICER

- 1.1 The attached report was presented to the Regeneration and Environment Scrutiny Committee on 27th March 2018 and updated Members regarding the Welsh Government (WG) approved standard land drainage byelaws. The report also sought comments from the Scrutiny Committee regarding the implementation of these byelaws prior to presentation to Council for approval.
- 1.2 Members were advised that under the Flood and Water Management Act 2010, local authorities in Wales were given additional powers and responsibilities for managing flooding from surface water, groundwater and ordinary watercourse. As part of the new powers, the responsibility for issuing ordinary watercourse consents passed from Natural Resources Wales to the Lead Local Flood Authorities in 2012.
- 1.3 Since taking on these duties and functions, local authorities have noted that powers under current legislation are limited and certain activities which are not currently consented could potentially increase the risk of flooding, especially in more built up areas. To address this issue WG has recently ratified the updated set of its Ordinary Watercourse Byelaws created under Section 66 of the Land Drainage Act 1991. These Byelaws will enable local authorities to supplement existing powers and help with their land drainage and flood risk management functions. All local authorities are being encouraged to adopt the model byelaws (appended to the report) to ensure consistency across Wales and comply with statutory objectives.
- 1.4 The Scrutiny Committee noted that Caerphilly CBC carried out a 6-week public consultation exercise in October 2017 which incorporated a questionnaire seeking views on the proposed implementation of the Land Drainage Byelaws. In total 34 responses were received (with a summary of the analysis appended to the report) and based on the results, there was a large amount of positive support for the implementation of the proposed Byelaws.
- 1.5 Reference was made to the low response rate and it was explained that this had been anticipated as the proposed Byelaws will have little impact upon the majority of individuals. Officers confirmed that there were no responses submitted on behalf of companies and that the individual comments received and the responses prepared are available to view on the Council's website. Discussion took place regarding responsibility for watercourses across private land and liability in the event of flooding, particularly if caused by other parties. It was explained that the landowner has overall responsibility for watercourses on their land and that the proposed Byelaws will give the Council powers to intervene, investigate and take action in cases where there could be a drainage issue or flooding risk. It was also confirmed that the new Byelaws can be delivered within existing staff resources and that Officers are not anticipating an increase in land drainage issues as a result of the new legislation.

- 1.6 Following consideration of the report the Regeneration and Environment Scrutiny Committee unanimously recommended to Council that for the reasons contained therein, the implementation of the Land Drainage Byelaws as recommended by WG be approved.
- 1.7 Members are asked to consider the recommendation.

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Appendices:

Appendix Report to Regeneration and Environment Scrutiny Committee on 27th March 2018 – Agenda Item 10



REGENERATION AND ENVIRONMENT SCRUTINY COMMITTEE – 27TH MARCH 2018

SUBJECT: IMPLEMENTATION OF WELSH GOVERNMENT LAND DRAINAGE BYELAWS

REPORT BY: INTERIM CORPORATE DIRECTOR - COMMUNITIES

1. PURPOSE OF REPORT

- 1.1 To update members regarding the Welsh Government (WG) approved standard land drainage byelaws, and to seek comments from Scrutiny in regard to implementing the land drainage byelaws prior to its presentation to Council for consideration for approval.

2. SUMMARY

- 2.1 Under the Flood and Water Management Act 2010 (FWMA) Local Authorities in Wales were given additional powers and responsibilities for managing flooding from surface water, groundwater and ordinary watercourse. As part of the new powers, the responsibility for issuing ordinary watercourse consents under Section 23 Land Drainage Act 1991 passed from Natural Resources Wales (NRW) to the Lead Local Flood Authorities (LLFAs) in 2012.
- 2.2 Since taking on this consenting duty and wider flood risk management function, Local Authorities have noted that powers under current legislation are limited and certain activities which are not currently consented could potentially increase the risk of flooding especially in more built up areas.
- 2.3 To address this issue WG has recently ratified the updated set of its Ordinary Watercourse Byelaws created under Section 66 of the Land Drainage Act 1991.
- 2.4 These Byelaws have been created to enable LLFAs adopting them to supplement existing powers and help with their land drainage and flood risk management (FRM) functions.

3. LINKS TO STRATEGY

- 3.1 Land drainage byelaws contribute to the following Well-being Goals within the Well-being of Future Generations Act (Wales) 2015:
- A prosperous Wales
 - A resilient Wales
 - A healthier Wales
 - A more equal Wales
 - A Wales of cohesive communities, and
 - A globally responsible Wales.

- 3.2 The Land Drainage Byelaws link to the authority's draft Well Being Objective 4: Promote modern, integrated and sustainable transport system that increase opportunity, promotes prosperity and minimises the adverse impacts on the environment.
- 3.3 There are further links to the Engineering Services Division Objectives:
 - 3.3.1 To provide safe and efficient transport and land drainage infrastructure through quality service delivered by means of cost effective management, maintenance and improvement of the networks.
 - 3.3.2 To develop engineering solutions and methods which have regard to the value of the natural and built environment and to the principle of sustainable development.
- 3.4 The report supports the Prosperous, Safer and Greener themes of the 'Caerphilly Delivers' in the single integrated plan.
- 3.5 Effective regulation and Management of flooding/flood risk promotes sustainable development, which does not exacerbate flooding. This links to the Caerphilly County Borough Council (CCBC) Flood Risk Management Strategy and Plan.

4. THE REPORT

- 4.1 CCBC is currently designated a LLFA, as created by the FWMA.
- 4.2 CCBC has statutory powers provided by the Land Drainage Act 1991, to consent activities on ordinary watercourses.
- 4.3 Since taking on this consenting duty and wider flood risk management function, LA's have noted that powers under the current legislation are limited, and certain activities which are not currently consented could potentially increase the risk of flooding especially in more built up areas e.g. vegetation tipping, building over culverted watercourses.
- 4.4 It was therefore decided by WG/Welsh Local Government Association (WLGA) in 2013 to set up a Task and Finish Group to oversee a review of the current byelaws with the aim of creating a new set of byelaws to help LLFAs in Wales manage more effectively and consistently activities along ordinary watercourses.
- 4.5 The FWMA identifies 10 bodies with specific responsibilities for managing flood risk, these are known as Risk Management Authorities (RMA). In Wales these consist of Local Authorities, Highway Authorities, Natural Resources Wales (NRW) and water companies. The updated Byelaws ensure better alignment of work between RMAs. NRW has already adopted the updated Land Drainage Byelaws for all areas and watercourses under their control.
- 4.6 The primary function of the new Land Drainage Byelaws is to help LLFAs manage the risk of flooding where it is the highest, through better regulation. However, through careful revised wording and a wide range of activities being covered these byelaws can also benefit the wider environment. By doing so, they will benefit other functions within local Government and help with the delivery of other legislation including the Water Framework Directive and Habitat Directive.
- 4.7 Ultimately, this holistic approach to flood risk management through the use of Land Drainage Byelaws will be in line with the principles of the Well-Being of Future Generations Act and help LLFAs deliver its goals.
- 4.8 These byelaws have been designed by experienced Flood Risk Management (FRM) practitioners following extensive consultation with various local authorities' departments and NRW.

- 4.9 WG and WLGA are encouraging Local Authorities to adopt the model byelaws without any modification to ensure consistency across Wales and avoid potential legal hurdles and a lengthy approval process.
- 4.10 The proposed model byelaws are included within Appendix A.
- 4.11 **Public Consultation**
- 4.12 On the 14th Oct 2017 the draft Land Drainage Byelaws were published on the CCBC webpage to allow members of the public to review and all Risk Management Partners e.g. community and town councils and adjacent local authorities etc. to be consulted and give their comments on the Proposed Land Drainage Byelaws. The closing date for the consultation was the 15th Nov 2017.
- 4.13 Paper copies of the proposed Land Drainage Byelaws and questionnaires were also placed in the local libraries within the county borough. In total 34 responses were received and a summary of their analysis is given in Appendix B.
- 4.14 The councils Flood Risk Management Team has reviewed all the comments received, and a table has been prepared of all the comments together with a response from the team in order to feedback to respondents. The table of responses has recently been published on the Caerphilly County Borough Councils webpage. Based on the survey results there was a large amount of positive support for the implementation of the proposed Land Drainage Byelaws.
- 4.15 It is proposed that CCBC adopt the standard model and seek approval to proceed with the implementation of the Land Drainage Byelaws.

5. WELL-BEING OF FUTURE GENERATIONS

- 5.1 This report contributes to the Well-being Goals as set out in Links to Strategy above (3.5). The effective regulation of flooding/and managing flood risk links to the following Well-being Goals, within the Well-being of Future Generations Act (Wales) 2015:
- **A resilient Wales**
Byelaws will lead to the better regulation of flood risk activities, thereby reducing flooding from privately owned land drainage features. By regulating development of watercourses the effects of climate change can be more effectively managed. The implications of flooding can be significant on local businesses so flood prevention enables our businesses and communities to be more resilient in the long term.
 - **A prosperous Wales**
Byelaws will lead to the better regulation of flood risk activities, thereby reducing flooding from privately owned land drainage features leading to a reduction in incidents of flooding and their associated social, economic and environmental cost. The implications of flooding can be significant on local businesses so flood prevention enables our businesses and communities to be more prosperous by ensuring that any possible future flooding instances are prevented where possible.
 - **A healthier Wales**
A clean, green environment where water is seen as a resource, with access to open space, clean air and water are key elements of health and well-being. Caerphilly works hard to integrate across services within the authority to maximise efforts. For instance by working closely with Caerphilly's Planning and Countryside departments and local developers and regulating flood risk activities we can help reduce damage to land drainage features and promote nature based solutions which is a key element of health and well-being.

- **A more equal Wales**

Some of our poorest environmental quality is associated with our most deprived areas. Ensuring that everyone across the county borough has equal access to a clean, green and an attractive environment is a core element of our work, and is supported by the proposed Byelaws. Collaborative networks have been set up with NRW, Welsh Water and other local authorities to ensure an integrated and consistent approach in the application of the byelaws.

- **A Wales of cohesive communities**

By managing flood risk and engaging to maintain a clean community reflects positively on our residents. This demonstrates that we promote communities to be caring and environmentally conscious. This in turn helps to create a tidier, more attractive place for residents, visitors and potential inward investors. Increasing focus, effort and resources will be targeted at preventing flooding risk by involving all key stakeholders when considering solutions.

- **Globally Responsible Wales**

One of Caerphilly's corporate objectives is to reduce carbon emissions and to reduce our contribution to global warming. By managing flood risk activities this will have many biodiversity benefits and will also reduce carbon emissions in the long term.

6. EQUALITIES IMPLICATIONS

- 6.1 An EIA screening has been completed in accordance with the Council's Strategic Equality Plan and supplementary guidance. No potential for unlawful discrimination and/or low level or minor negative impact has been identified, therefore a full EIA has not been carried out.
- 6.2 The adoption of these Byelaws will enable the Council, which is a designated LLFA, to supplement existing powers and assist with land drainage and flood risk management (FRM) functions. This in turn will have a positive impact on the local environment, minimising the risks to the public.

7. FINANCIAL IMPLICATIONS

- 7.1 The consultation and statutory approvals will be financed via the Environmental and Sustainable Development Single Revenue Grant provided by Welsh Government.

8. PERSONNEL IMPLICATIONS

- 8.1 None. This can be delivered within existing staff resources.

9. CONSULTATIONS

- 9.1 All comments received have been incorporated into the report.
- 9.2 External consultations were also undertaken as identified in section 4 of this report.

10. RECOMMENDATIONS

- 10.1 It is proposed that members consider supporting the implementation of the Land Drainage Byelaws as recommended by WG prior to reporting to Council for final approval.

11. REASONS FOR THE RECOMMENDATIONS

- 11.1 To allow CCBC as the LLFA to better manage flooding and flood risk within its area and to comply with the measures outlined in CCBC Flood Risk Management Strategy and Plan. To ensure that the council is compliant with its statutory obligations, and follows a consistent path as recommended by WG/WLGA and neighbouring authorities.

12. STATUTORY POWER

- 12.1 Land Drainage Act 1991.
- 12.2 Flood and Water Management Act 2010.

Author: Michelle Johnson, Senior Engineer

Consultees: Councillor Sean Morgan, Deputy Leader and Cabinet Member for Economy, Infrastructure, Sustainability and Wellbeing and Future Generations Champion
Councillor D T Davies, Chair Regeneration and Environment Scrutiny Committee
Councillor C Forehead, Vice Chair Regeneration and Environment Scrutiny Committee
Christina Harry, Interim Chief Executive
David Street, Corporate Director – Social Services
Mark S Williams, Interim Corporate Director of Communities
Stephen Harris – Interim Head of Corporate Finance
Marcus Lloyd, Acting Head of Engineering Services
Richard Harris, Internal Audit Manager
Richard Crane, Senior Solicitor
Mike Eedy, Finance Manager
Anwen Cullinane, Senior Policy Officer (Equalities & Welsh Language)
Shaun Watkins, Principal Personnel Officer
Clive Campbell, Transportation Engineering Manager
Kevin Kinsey, Acting Engineering Project Group Manager
Chris Adams, Acting Highway Operations Group Manager
Gareth Richards, Highways Maintenance Manager
Rhodri Powell, Senior Assistant Engineer

Appendices:
Appendix A – The Proposed Model Byelaws
Appendix B – Results of the Online Survey

Appendix A

The proposed model byelaws

Land drainage (Wales) Byelaws

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Land Drainage (Wales) Byelaws

[Name of Local Authority] under and by virtue of the powers and authority vested in them by section 66 of the Land Drainage Act 1991, do hereby make the following Byelaws which are considered necessary for [one or more of] the following purposes:

- a) securing the efficient working of a drainage system in the Council's area,
- b) regulating the effects on the environment in the Council's area of a drainage system,
- c) securing the effectiveness of flood risk management work within the meaning of section 14A of that Act, or
- d) securing the effectiveness of works done in reliance on section 38 or 39 of the Flood and Water Management Act 2010 (incidental flooding or coastal erosion),

Chapter I - Administrative

1. Citation and commencement

These Byelaws have been approved by the Cabinet Secretary for Environment and Rural Affairs Lesley Griffiths and may be cited as **[Name of Local Authority]** Land Drainage Byelaws [2017] and they shall commence on [date].

2. Application of Byelaws

These Byelaws apply to ordinary watercourses situated within the area in Wales of the local authority [or: under the control of the Internal Drainage Board] making these byelaws.

3. Definition and Interpretation

In these byelaws, unless defined below or the context otherwise requires, the terms and expressions to which meanings are assigned by the Water Resources Act 1991, the Land Drainage Act 1991, the Environment (Wales) Act 2016 and the Interpretation Act 1978 shall have the same meanings in these byelaws.

In these byelaws:

The expressions "bank", "drainage", "drainage body", "Internal Drainage Board", "land", "local authority", "ordinary watercourse" have the same meaning as defined in the Land Drainage Act 1991.

"the Act" means the Land Drainage Act 1991

"Animal" means any animal including birds, any horse, cattle, sheep, deer, goat, swine, goose or poultry; but excluding fish and human beings;

"Byelaws distance" means any land lying landward within the following distances measuring horizontally from any watercourse bank:

- (i) if it includes a wall or embankment 8 metres from its landward extent; or

(ii) in other cases 8 metres from the top of the watercourse bank; or

(iii) any land lying 8 metres horizontally from the outer perimeter of a culvert measured from the widest part of the culvert.

“Building or structure” means any structure or erection, and any part of a building so defined, but does not include plant or machinery comprised in a building; It also includes a fence, post, pylon, wall, wharf, bridge, loading stage, piling, groyne, pontoon, revetment, and an engine or any mechanical contrivance; any formwork, falsework, scaffold or other structure designed or used to provide support or means of access during construction work, and any reference to a structure includes part of a structure.

“Consent of the authority” means the prior written agreement, either by email or formal documentation, of any person authorised on behalf of the Authority, and which may include any conditions/restrictions as deemed necessary by the Authority.

"Culvert" means an enclosed channel pipe or conduit for the carrying of a watercourse and any other structure forming part of a culvert including headwall, outlet and trash screen.

"Embankment" means a natural or artificial mound or other raised defence.

"Flood Defence works " means tidal, fluvial or pluvial flood defence structures and works including walls, gates, embankments or bypasses constructed or used for these purposes as well as man-made or natural sand dunes and earth retaining structures or structures constructed or used as a defence against inundation of any land by raising water levels.

“Flood warning system” means any apparatus used by the Authority for obtaining or providing information in relation to and warnings of flood.

"Land liable to flooding" means all land over which watercourse water flows in times of flood, including areas where that water is stored in times of flood.

“Nets” includes

(a) a stake net, bag net or keep net;

(b) any net secured by anchors and any net, or other implement for taking fish, fixed to the soil or made stationary in any other way;

(c) any net placed or suspended in any inland or tidal waters unattended by the owner or a person duly authorised by the owner to use it for fish, and any engine, device, machine or contrivance, whether floating or otherwise, for placing or suspending such a net or maintaining it in working order or making it stationary.

"Occupier" means any tenant, licensee or other person either in occupation of any land or entitled to its occupation.

“Objects or matters” means natural or man-made liquid or solid matters or objects or materials including trees, roots of trees, branches, timber, tins, bottles, boxes, tyres, bricks, stones, soil, wire, rubbish.

"Owner" means the owner of a legal estate, and when the owner is not in immediate occupation shall include an occupier.

"Person" includes where appropriate, reference to more than one person, including a body of persons corporate or non-corporate.

"Sea defence" means any artificial or natural defence against sea water or tidal water including natural or artificial high ground (including sand dunes and cliffs) and any works constructed or used as a defence against inundation of any land by sea or tidal waters, or for

securing adequate watercourse outfalls provided it shall not include any sea defence works which are vested in or under the control of a Coast Protection Authority, a local authority or any Navigation Harbour or Conservancy Authority.

“Tidal control works” means any floodgate, lock, sluice or other structure or appliance provided or constructed for the purpose of defence against sea or tidal water.

“Vegetation” means trees, willows, shrubs, weeds, grasses, reeds, rushes or other vegetation growths;

"Vessel" means any ship, boat, or any other waterborne craft, including hovercraft and any remains of any vessel.

"Watercourse" means any river, stream, ditch, channel or other passage through which water flows including the channel of any watercourse that is for the time being dry but excluding public sewers within the meaning of the Water Industry Act 1991.

"Watercourse bank" means any bank, wall, revetment or embankment adjoining or confining any watercourse from the top to the bottom of the sloping or upright part.

"Watercourse bed" means land forming any part of a watercourse over which water normally flows.

“Water control structure” means a structure or appliance for introducing water into any watercourse and for controlling or regulating or affecting flow, and includes any sluice, slacker, floodgate, lock, weir, pump or pumping machinery;

4. Causing or knowingly permitting

Where by or under these byelaws the doing of any act is prohibited or restricted the same prohibition or restriction shall extend to causing or knowingly permitting the act or restriction to be done.

Chapter II - Control of introduction of water and increase in flow or volume of water

5. Control of the introduction of water, altering flow and volume of water

- (1) Without prejudice to sections 23 and 25 of the Land Drainage Act 1991 no person shall without the consent of the authority take any action to:
- (a) stop up any watercourse; or
 - (b) divert; or
 - (c) impede; or
 - (d) alter

the level of or direction of the flow of water in, into or out of any watercourse.

- (2) In this byelaw ‘alter’ includes creating or extending a watercourse and introducing water which directly or indirectly increases the flow or volume of water in any watercourse within the local authority’s area.

(3) In this byelaw impede includes blocking off or infilling of any watercourse channel, and obstruction of any arch of any bridge or causeway designed of, or which permits the passage of water in any watercourse or land liable to flooding.

6. Interference with sluices, flood and tidal defences

(1) No person shall without consent of the authority operate or interfere with any sluice, flood gate, flood or tidal defence or other water control structure or appliance or flood warning or monitoring system used for controlling, regulating or monitoring the flow of water in, into or out of an ordinary watercourse.

(2) In this byelaw “interfere” includes removing, damaging or disturbing materials forming part of a flood or tidal defence.

7. Operation of watercourse or tidal control works

Any person having control of

- (a) any sluice or flood gate; or
- (b) any water control structure or appliance for controlling or regulating or affecting the flow of water in, into or out of a watercourse

shall use and maintain such structure or appliance in a proper state of repair and efficiency with a view to:

- (a) the prevention of flooding or of any shortage in the flow or supply of water and
- (b) the efficient working of the drainage system in the area of the (local authority/ internal drainage board)

8. Tidal Outfalls

No person shall place or abandon upon the foreshore any object or matter or vegetation which, whether immediately or as a result of subsequent tidal action, may

- (a) impede or be likely to impede the flow of water through the sluices, flood gate, or outfall pipes through the tidal banks or through the watercourses on such foreshore; or
 - (b) impede or be likely to impede the operation of such sluices, flood gate, or outfall pipes; or
 - (c) cause or be likely to cause damage to such sluices, flood gate, or outfall pipes.
-

Chapter III - Potential to cause impediment or obstruction to flow

9. Maintenance of land liable to flooding and watercourse banks

- (1)** No person shall without the consent of the authority plant any tree, deposit or store objects or matters, light a fire or interfere with a watercourse bed or bank within the byelaw distance in such a manner as is likely to:
- (a) cause flooding,
 - (b) impede the flow, or
 - (c) cause or be likely to cause damage to, or
 - (d) endanger the stability of, or
 - (e) affect the efficiency of

a culvert, watercourse bank, watercourse control work, flood defence, tidal control work or sea defence.

- (2)** In this byelaw:

“interfere” includes to dredge, remove, damage or disturb materials forming part of a flood or tidal defence or of a watercourse bank or bed; and to make any excavation or do anything in, to or upon any land like to damage a watercourse bank or bed.

“light a fire” includes committing any action liable to cause any fire to be lit on any land adjoining any watercourse where such action is liable to set on fire any peat land forming the banks of the watercourse or any vegetation growing on land forming the banks of the watercourse.

“store objects or matters” includes depositing or stacking or keeping objects and solid or liquid matters including vegetation and vegetation cuttings.

“objects” include vessels.

10. Building of structures, pipes, etc. on land liable to flooding

- (1)** No person shall without the consent of the authority:

- (a) erect or construct any building or structure

(i) in, on, under or over any watercourse or in or on any bank of a watercourse;

(ii) within the byelaws distance;

(iii) on any watercourse control work, flood defence, tidal control work or sea defence; or

(iv) over any part of a culvert, or within the byelaws distance on either side of it; or

(b) make or cut any excavation or any tunnel or any drain, culvert or other passage for water in, into or out of any watercourse or in or through any bank of any watercourse;

in such a manner or for such length of time as to cause damage to the watercourse bed or banks; or obstruct the flow of water in, into or out of such watercourse.

(2) This byelaw does not apply to any temporary work executed in an emergency.

(3) In this byelaw:

“Emergency” means causing immediate danger to life or property.

11. Repairs to buildings and structures

The person having control of any building, fence or structure in, on, under or over any watercourse, culvert, watercourse bank, flood defence works, tidal control works, tidal or sea defence shall maintain such building, fence or structure in a proper state of repair and efficiency with a view to preventing such building, fence or structure from:

- (a) impeding the flow of water in into or out of any watercourse;
- (b) damaging any watercourse bank, flood protection works, tidal control works or sea defence; or
- (c) creating danger or obstruction to the carrying out of flood defence works by the (local authority/internal drainage board)

Chapter IV - Ensuring the condition of the banks of a watercourse

12. Vegetation

The owner or occupier of any land through which any watercourse flows or on which any sea defence is situated or any adjoining land over which the local authority [/internal drainage board] needs access to get to such land shall maintain all vegetation situated within the byelaws distance and shall remove such vegetation from the watercourse or bank immediately after such cutting so that it does not impede the flow of the watercourse.

13. Driving of animals and vehicles

No person shall use or drive any cart or vehicle of any kind on, over or along any bank of a watercourse control work, flood protection work, tidal control work, or sea defence in such manner as to cause damage to such bank, control work, flood protection work, tidal control work, or sea defence.

14. Damage by grazing animals

No person shall graze, keep or water any animal on any watercourse, watercourse bed or bank, flood protection work or sea defence without:

- (a) taking all such steps as are necessary to prevent the watercourse, the watercourse bed or bank, flood protection work or sea defence from being damaged by such use and
- (b) reporting to the local authority [/internal drainage board] any damage caused to the watercourse, the watercourse bed or bank, flood protection work or sea defence by

the grazing, keeping or watering of animals, as soon as practicable following the occurrence of such damage.

Chapter V – Incidental provisions

15. Control of animals

The owner or occupier of any land through which any watercourse flows or on which any sea defence is situated or any adjoining land over which the local authority [/internal drainage board] needs access to get to such land to carry out any work or inspection, shall ensure that, during the progress of any work or any inspection animals on such land are kept under proper control and supervision or, if such control and supervision is not possible, are not kept on such land.

16. Interference with local authority [/internal drainage board]'s functions

No person shall interfere with:

- (a) access required to any land by the local authority [/internal drainage board] or of their agents to carry out their flood management functions; or
- (b) the carrying out of their functions.

Chapter VI – Exemptions

17. Emergency works

These Byelaws shall not apply to any work executed in an emergency but a person executing any work so excepted shall, as soon as practicable, inform the Council in writing of the execution and of the circumstances in which it was executed and comply with any reasonable directions the Council may give with regard thereto.

18. General Permitted Developments

These byelaws shall not apply to any development by a drainage body in, on or under any watercourse or land drainage works and required in connection with the improvement, maintenance or repair of that watercourse or those works.

19. Ladders and scaffold towers

- (1) These Byelaws shall not apply to any work requiring the temporary erection and use of ladders and scaffold towers (“equipment”).
- (2) For the purposes of this paragraph, the specific conditions are—
 - (a) the suitability of river conditions is reviewed by the operator each working day;
 - (b) the equipment is erected on each working day on which it is required; and
 - (c) the equipment is removed at the end of each working day and is stored outside the river and its banks.

Chapter VII – Miscellaneous

20. Penalty

By section 66(6) of the Act every person who acts in contravention of, or fails to comply with, any of the foregoing Byelaws, is liable on summary conviction in respect of each offence to a fine not exceeding the amount prescribed from time to time for level 5 (£5,000) on the standard scale referred to in section 37 of the Criminal Justice Act 1982 and a further fine not exceeding forty pounds for every day on which the contravention or failure is continued after conviction.

By section 66(7) of the Act if any person acts in contravention of, or fails to comply with any of these Byelaws the Council may without prejudice to any proceedings under section 66(6) of the Act take such action as may be necessary to remedy the effect of the contravention or failure and may recover the expenses reasonably incurred by it in doing so from the person in default.

Appendix B

Results from the Online Survey

Analysis is summarised below, based upon the questions asked during consultation:

Question

1. From the analysis **94% agreed** and 6% disagreed that in addition to powers already held by Caerphilly Council, that no person should undertake works which will stop up, divert, impede (block) or alter without the approval of the council.
2. When asked about works affecting a structure controlling the flow within a watercourse, **97% agreed** and 3% disagreed that no person should be able to interfere with a flow controlling structure without the approval of the Council.
3. **97% agreed** and 3% disagreed that any person owning or having control of a flow control structure must maintain it in a proper state of repair for the purpose of preventing flooding and management of the drainage network.
4. A total of **97% agreed** and 3% disagreed that certain activities that can cause flooding should be restricted.
5. From the analysis **94% agreed** and 6% disagreed that building over/near a culvert/watercourse should be restricted.
6. A total of **97% agreed** and 3% disagreed that any person owning or having control of a building, fence or structure on, under or over a watercourse/ culvert should maintain it in a proper state of repairs for the purpose of preventing flooding and management of the drainage network.
7. **85% agreed** and 15% disagreed that a person owning or occupying land where there is a watercourse, that they should be responsible for the maintenance and removal of vegetation causing restriction in flow.
8. From the analysis **91% agreed** and 9% disagreed that in certain circumstances animals should be restricted from damaging watercourse bed and banks.
9. **94% agreed** and 6% disagreed that in certain circumstance animals and vehicles should be prevented from trafficking through a watercourse, for the purpose of preventing damage.
10. A total of **94% agreed** and 6% disagreed that when the Council is undertaking its duties on land, that animals should be controlled/ supervised and access should not be interfered with.

In order to gauge overall satisfaction on flood risk management within Caerphilly County Borough.

11. 68% agreed and **32% disagreed** that the Council does all it can to manage flooding in the area.