

Sustainability Committee

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Inquiry into access to non-tidal water in Wales

Environment Agency Wales – Written evidence

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Introduction

- 1.1 We are Environment Agency Wales, an Assembly Government Sponsored Body (AGSB), which is part of the Environment Agency for England and Wales.
- 1.2 As an AGSB, we obtain funding and direction from the Welsh Assembly Government, and report back to it.
- 1.3 We have wide responsibilities for managing the environment:
 - Acting as a champion for the environment
 - Reducing pollution and enforcing pollution legislation

- Overseeing the management of waste, water resources and freshwater fisheries
- Reducing flood risk
- Influencing others to achieve positive environmental outcomes by changing attitudes and behaviour

2.0 The Current Situation

- 2.1 We recognise that water related activity is taking place throughout Wales, much of it on a permissive basis.
- 2.2 There is clearly a high demand for access to water in Wales from a range of activities including sailing, rowing, swimming, diving and the various types of angling and paddle-sports. In many places the demand for a particular activity is not met by the supply.
- 2.3 In recent years the demand for access is perceived to have increased and led to the current position whereby sites with existing access are often overcrowded leading to disputes between users and riparian interests.
- 2.4 We acknowledge that land and associated property rights are largely in the ownership of private individuals and organisations. Identifying and approaching those holding riparian property rights, in order to seek permission for access, can therefore be difficult.
- 2.5 Some degree of conflict between users is inevitable where there is insufficient space, control and awareness of the needs of other users. Even where public rights of access do exist, conflicts still occur in particular, over manner of use and access to and from the water.
- 2.6 The key concerns of the users relate to the ownership of rights, regulation of activity and the environmental risks posed by particular activities.
- 2.7 There are currently differing levels of regulation applied to individual activities. Angling for example, requires participants to be licensed whereas this is not the case for other water related activities.
- 2.8 The income we receive from angling licences and boating registration fees enables us to provide a service to anglers and boaters that would not otherwise be guaranteed.
- 2.9 The establishment of the SPLASH grant scheme has led to the provision of more access, improved facilities and greater opportunity for more people to access water in Wales.
- 2.10 If it is deemed necessary to introduce additional regulation then this would necessitate major changes in historic land ownership laws, additional regulation and management controls; and consequently significant resources to deliver.

3.0 Our statutory duties and Ministerial Instruction with regard to water access

Our Statutory Duty

- 3.1 Our primary role is to protect the environment and our key duties with respect to water are provided by Section 6 of the Environment Act 1995 (refer to Annex 2 for details) . It also provides our key recreation duty which is to promote the recreational use of inland and coastal waters.
- 3.2 We recognise that there are many users using water for different types of water-recreation including; swimming, rowing, sailing, gorge walking, sub-aqua and a range of both angling and paddlesports.

Our Ministerial Instructions – the Remit Letter

- 3.3 In addition to our statutory duties we also receive Ministerial instruction through our Remit Letter each year (refer to Annex 3 for details) . In 2009/10 our instructions, relating to water access, included the delivery of:
- Administration of the SPLASH grant scheme
 - An Action Implementation Plan for water related recreation.
 - Promotion of water based recreational opportunities in partnership with CCW.
 - The Sustainable Fisheries Programme
 - Relevant objectives within the Wales Fisheries Strategy

Delivery of Key WAG Strategies

- 3.4 In addition to our own organisational strategies we are also a major player in the development and delivery of key WAG strategies (refer to Annex 4 for details) including;

Wales Environment Strategy, Action Plan 2008 - 2011

3. Access and Recreation

We shall provide opportunities for people to safely enjoy their surroundings and natural environment by enhancing the quality of the natural environment, promoting participation and improving access. Actions are:

10. Promote more opportunities for water-based recreation in Wales:

- (a) By end of March 2009 develop an action and associated communications plan to guide future activity.*
- (b) Create a challenge fund to support projects aimed at creating new or enhanced opportunities for water-based recreation in Wales in 2008/9*

Wales Fishery Strategy - Implementation Plan, August 2009

CB3 Seek to identify and resolve areas of potential conflict between anglers and other recreational users of water-space:

CB9 (c) Need to develop existing and new initiatives to raise profile of and encourage greater participation in angling:

CB9 (d) Need to raise profile of angling opportunities in Wales within UK and neighbouring countries:

4.0 Our Strategies and Policies

In order to deliver our statutory and non-statutory we have developed :

4.1 A Sustainable Access Policy which states that ;

“We will promote sustainable increased access where it will not adversely impact on existing uses and users, or the economic, environmental and conservation value of the site, and associated area, now or in the future. Subject to resources, we will encourage access where managed solutions can be found to remove adverse impacts.”

4.2 One of our key actions to assist delivery has been the production of A Strategic Plan for Water Related Recreation in Wales

4.3 The Plan, launched in 2008, considers the supply, demand and opportunities for water related recreation under the current accepted legal framework. It identifies a series of strategic Initiatives, Actions and Opportunities.

4.4 Strategic Initiatives are those actions that will create a stronger foundation upon which to build the provision of recreational activity in Wales. They include for example, the better collation of data and provision of information.

4.5 Strategic Actions are needed to fill current gaps in provision and includes the creation of new and improved access to existing sites.

4.6 Strategic Opportunities are larger scale initiatives that will raise the profile of Wales, creating centres of expertise and activity.

4.7 An Implementation Plan outlines the current work of the Agency and other responsible organisations in delivering some of the requirements of the Plan.

4.8 Our future direction, and the outcomes we are seeking, are outlined in our draft **Environment Agency Wales Corporate Plan for Wales 2010-2015**. Through this plan we want to put people and their communities at the heart of everything that we do and by 2015 we want to see:

- The economic and social potential of Wales environmental assets are understood and realised sustainably.
- More people caring for and enjoying their environment and increased participation in water-related sport and recreational activity.

We will achieve this through our support for the development of more and better water-based recreational opportunities and the delivery of large scale strategic projects funded, where possible, through the EU.

5.0 Delivery of our Water Related Access Work

5.1 The focus for much of our water related access work is within our Fisheries, Recreation and Navigation Functions. However, much of the wider work delivered by the Agency, through for example, Environment Protection and Water Resources, also delivers significant benefits, providing the quality and quantity of water required to enable recreational activities to take place.

5.2 In delivering our duties, we work closely with many partner organisations including those in the public, private and third sectors. Examples of each include:

Public sector	Countryside Council for Wales, Sports Council for Wales, Forestry Commission Wales, British Waterways & The Welsh Assembly Government
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Private sector	Riparian owners, fishery and recreation businesses
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Third sectors	National Trust, local sports clubs and associations, youth groups, Rivers Trusts, sport governing bodies
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Recreation

5.3 As part of our duties relating to access and recreation, we review our own capital works and land holdings for opportunities for recreational gains. We also screen consent applications, submitted to us by third parties, and make recommendations as appropriate, in order to protect existing recreational facilities and enhance their provision where possible.

5.4 In June 2008, we launched the **Strategic Plan for Water Related Recreation in Wales**, produced in collaboration with other public bodies in Wales. This was subsequently supported by an Implementation Plan developed with WAG, CCW and Sports Council for Wales (SCW).

5.5 In July 2008, following the production of the Strategic Plan, we launched the **SPLASH – Water Recreation Challenge Fund for Wales**, through which we administer £410k a year on behalf of WAG. The three year scheme (2008-2010) has so far helped fund over 35 water access related projects across Wales, both on tidal and non-tidal waters.

5.6 We make our assets available for recreational use where appropriate although we are not a major land holder in Wales,. One of our major recreation sites close to Bala is home to Canolfan Tryweryn the National White Water Centre. This site is managed under a lease arrangement by Canoe Wales, and has in the region of 100,000 visitors a year.

5.7 We provide advice and guidance to others and have acted as an intermediary in access negotiations.

Angling

- 5.8 Our principal focus is on angling development and promotion, an area in which we have been successful in recent years having increased licence sales by 15 %. We have recently estimated that annual expenditure on fishing in Wales amounts to £148m split roughly equally between inland and coastal fishing.
- 5.9 We administer a rod licensing system, undertake licence checks and prosecute those that fish illegally without a licence. We currently sell over 70,000 rod fishing licences to residents in Wales. The licence gives the right to use a fishing rod and line in England and Wales but does not confer a right to fish. Permission of the owner or tenant of the fishing rights is required before fishing.

Navigation

- 5.10 Our navigation interests within Wales relate to the Rivers Wye and the tidal Dee.
- 5.11 We are the Navigation Authority on the Rivers Wye and Lugg where there is an established public right of navigation. The Wye Navigation Order 2002 sets out a comprehensive set of rules and guidelines for the use of powered and non-powered boats. The Wye Navigation Advisory Committee oversees our management of the navigation and advises on issues and disputes that arise on the river.
- 5.12 In order to promote safe, responsible and enjoyable access to the River Wye, we publish an annual events calendar for the river which not only promotes the events for those that wish to participate but also forewarns other users of activities that are taking place thus reducing conflict. We also produce a canoe guide to the River Wye.

6.0 Protecting the environment

- 6.1 One of the key reasons why demand for water access in Wales is so great is because of its very high quality, attractive environment. There are over 1000 Sites of Special Scientific Interest (SSSI) and 90 Special Areas of Conservation (SACs) as well as important habitats and species widespread throughout the country.
- 6.2 All forms of water based recreation activity will pose some level of risk to the environment and have the potential to cause environmental damage if undertaken irresponsibly.

The environmental risk will vary according to the nature of the activity and in particular:

- When it occurs (e.g. time of year)
- Where it occurs
- Manner in which it is undertaken.

From experience, the most frequently raised concerns are :

6.3 Disturbance of Spawning Fish

Whilst it is possible for many activities, including recreation, to impact on spawning fish, and their spawning areas, we do not have evidence that existing uses have a significant impact and believe that impacts can be removed through good management.

It is an offence to wilfully disturb any spawn or spawning fish or any bed, bank or shallow on which spawn or spawning fish may be. (S.2 of SAFFA)

Recreational activities take place throughout the year and may have adverse impacts on the spawning success of individual fish, the quality of the spawning substrate and the survival of eggs. However, there is little empirical scientific evidence, either way, to demonstrate that significant damage does occur as a result of most activities. When water levels are high in a river, simple passage of canoes over spawning areas is likely to pose less of a risk than, for example, an angler, canoeist or swimmer walking in a river for their activity, however even these activities may be negligible compared to the many natural forms of disturbance e.g. during flood conditions.

Our recent data from River Dee indicates juvenile salmon numbers in the Afon Tryweryn have increased over the last 10 years. The Tryweryn is one of the most heavily canoed/rafted rivers in the UK, where canoeing, kayaking and rafting takes place on over 200 days a year under suitable water flow conditions.

6.4 Obstruction of fish passage

There is little evidence either way that recreational users cause disturbance or hindrance to fish near obstructions. In a relatively confined channel through which fish must migrate, or where fish are sheltering, users may act as a temporary deterrent to their passage. Under SAFFA it is an offence to scare or deter any salmon or trout close to a natural or man-made obstruction or a fish pass.

Anybody who wilfully alters or injures a fish pass or does anything which may obstruct a fish pass and/or make it less effective for salmon and trout migration is committing an offence under SAFFA. This includes any act which scares, hinders or prevents passage of salmon or trout.

6.5 Transmission of Disease/Parasites and Alien Species

All recreational activities that involve participants, and their equipment, moving from one water to another water (particularly from abroad) have the potential to transfer alien species and diseases. Examples include the salmon parasite *Gyrodactylus salaris* (not present in UK) and crayfish plague (already present in UK). We wish to reduce all risks and prevent such introductions from occurring. The greatest threat to fish populations is posed by the movement of live fish and their ova – such movements are currently controlled through fish movement regulations such as import licences and fish stocking consents.

The recreational activities posing the greatest risks of infection or transfer of fish stocks will be those involving direct contact with fish although any contact with water poses a risk.

One of the best means of preventing future introductions is through the education of all water users and the lead angling and canoeing organisations do try to keep their members aware of the risks and preventative measures.

7.0 The Agency's Experience of Facilitating Access

7.1 River Tryweryn

The Tryweryn is a highly designated river being home to freshwater pearl mussels, salmon, otters, lamprey and other listed species. The upper reach of the river is home to the National Whitewater Centre – Canolfan Tryweryn one of the most intensively paddled pieces of water in the country. Canoeing and rafting at the site takes place under elevated flow conditions created by releases of water from Celyn Reservoir.

In 2005, we expanded the canoe access on our land holding on the lower Tryweryn to give year round managed access. Initially, there was immense resistance from local fishery interests, neighbouring landowners and politicians.

Since then, the access has worked very well without the environment impacts on the river predicted by the opponents of the change.

7.2 Afon Glaslyn

In 2008 the National Trust, with advice and assistance from the Agency, CCW, local angling club and Canoe Wales developed permissive access to two lakes and the Afon Glaslyn in Snowdonia. This was on land within their ownership and access was based on a simple flow level system whereby high flows would equate to a green light for canoeing on the river. One section of river remained closed to canoeists during the angling season.

7.3 Lower River Wye

Where navigation rights are established, as on the lower river Wye, there is still a need for ongoing management of issues such as sharing the resource, provision of access and egress points, and information provision for all users. We do this through the production of a River Wye Canoe Guide and a calendar of events. The latter not only serves to promote the events but also forewarns other users of days when more intensive activity is likely to be encountered.

In keeping with our statutory duty on the Wye, we have established the Wye Navigation Advisory Committee. This acts as a forum for the exchange of views, raising of awareness of issues and management of the recreational use of the river.

7.4 SPLASH Grant Scheme

Although only in its second year, this scheme has been able to assist in increasing recreational provision across Wales and for a range of activities. Projects have included new and improved access to lakes for fishing and boating, and the development of canoe access arrangements on the Rivers Wye and Usk.

7.5 Fishing Access

Our role in negotiating and advising on access is also applicable to angling opportunities. We have worked with Associated British Ports to encourage the opening of Port Talbot Docks for fishing – control of access and people on this site being the owners concern. In Cardiff, we have provided assistance to the Cardiff Harbour Authority as they develop Cardiff Bay as a multi-use water recreation resource. An Angling Development Officer has recently been appointed by the Authority.

7.6 Information Provision

The provision of information relating to access can be critical. The Agency has made river level information available via a 'Rivercall' phone line for a number of years. In 2008, we introduced an online water level system. This has proved to be extremely popular with anglers and canoeists who are able to assess whether conditions are appropriate for their activity prior to embarking on their journeys.

We have produced and distributed a free angling guide to all of our rod licence holders in Wales promoting over 650 fisheries.

7.7 Based upon our experience we believe that in order to remove the obstacles to progress and to develop fully sustainable recreational use of non-tidal waters in Wales then three main issues must be addressed. These are;

- **Provision of access**
- **Necessary management, controls, and communication**
- **Resources to deliver the provision of access and management**

These three issues are interdependent, for example the provision of access in the first place is not achievable without appropriate resources to deliver effective management of that access.

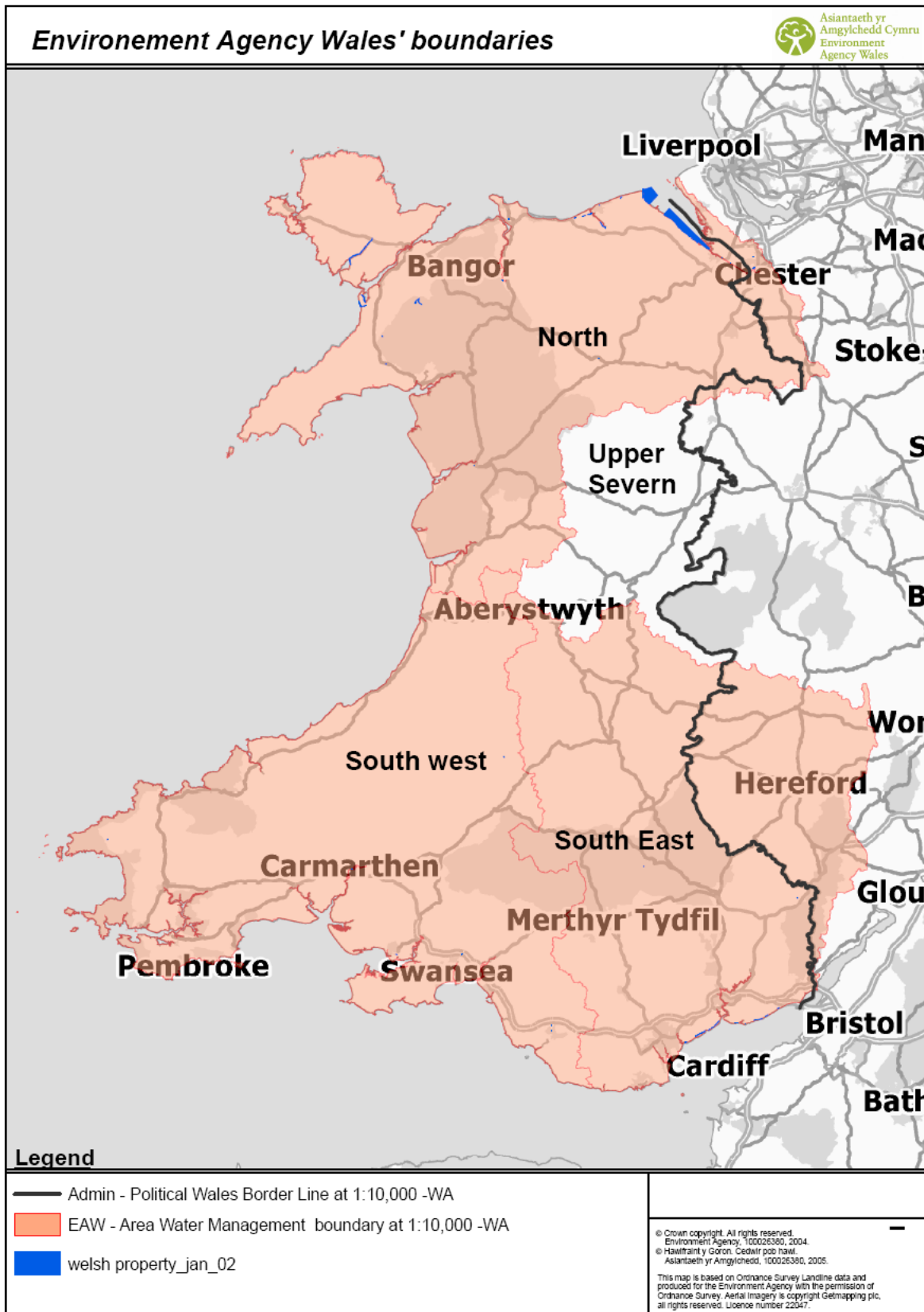
8.0 What we can do to help

We will continue to deliver our core duties in order to promote water access in Wales in particular by:

- Continuing to deliver and support actions within the Water Related Recreation and Wales Fisheries Strategy Implementation Plans.

- Providing advice to facilitate negotiations on voluntary access agreements.
- Delivering the SPLASH grant scheme through to its completion (currently 2010/11).
- Exploring opportunities to increase access through our own land holdings and share this approach with other public bodies.
- Working with others to increase our knowledge of the potential environmental impacts of recreational activities and to encourage responsible access.
- Exploring innovative options for funding and delivery of improved access.

Annex 1 – Map showing Environment Agency Wales and associated land-holding



Annex 2 – Key Legislation

Environment Act, 1995

6 *General provisions with respect to water*

(1) *It shall be the duty of the Agency, to such extent as it considers desirable, generally to promote—*

(a) *the conservation and enhancement of the natural beauty and amenity of inland and coastal waters and of land associated with such waters;*

(b) *the conservation of flora and fauna which are dependent on an aquatic environment; and*

(c) *the use of such waters and land for recreational purposes;*

and it shall be the duty of the Agency, in determining what steps to take in performance of the duty imposed by virtue of paragraph (c) above, to take into account the needs of persons who are chronically sick or disabled. This subsection is without prejudice to the duties of the Agency under section 7 below.

(6) *It shall be the duty of the Agency to maintain, improve and develop salmon fisheries, trout fisheries, freshwater fisheries and eel fisheries.*

Annex 3 – Text from 2009/10 Remit Letter

Recreation

25. I am pleased with the performance of the Agency in administering the new 'SPLASH' grant programme in 2008/09 and would like you to continue in 2009/10. I would like CCW to support you and others in the finalisation and implementation of the action plan putting into effect the strategic plan on water related recreation in Wales. I will also be expecting CCW to provide you with advice based on the evaluation of the exemplar projects carried out in 2008 and their recreation survey work. I will also expect you to work with CCW to promote water based recreational opportunities via the website and as part of the follow up to the Strategic Plan.

Fisheries

26. Agree with the Minister for Rural Affairs the projects to be undertaken, taking into account the financial provision available within the Agency's budget.

27. The Agency delivers its responsibilities and objectives in the Welsh Fisheries strategy implementation plan.

28. Deliver an efficient and effective regulatory regime to protect fisheries and promote a sustainable inland fishing industry

29. Contribute to review of Sea Fisheries Management.

Annex 4 – Text from Key WAG Strategies

Wales Environment Strategy, Action Plan 2008 - 2011

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- (d) Create a challenge fund to support projects aimed at creating new or enhanced opportunities for water-based recreation in Wales in 2008/9*

Wales Fishery Strategy - Implementation Plan, August 2009

CB3 *(Seek to identify and resolve areas of potential conflict between anglers and other recreational users of water-space:*

- Assess the effectiveness of recreation water access arrangements and their impact on the environment, economy and other recreational activity.*
- Investigate potential effect of recreational activity during the winter period on spawning fish.*

CB9 (c) *Need to develop existing and new initiatives to raise profile of and encourage greater participation in angling:*

- Explore opportunities to 'roll out' Wye Passport Scheme.*
- Continue with initiatives to improve participation by under represented groups.*

CB9 (d) *Need to raise profile of angling opportunities in Wales within UK and neighbouring countries:*

- Promoting festivals to spotlight Welsh fisheries.*
- Developing Cardiff Bay as a major venue for national and international coarse fishing competitions.*
- Support further developments in bank side facilities and angling infrastructure to benefit resident and visiting anglers.*