Environment and Sustainability Committee

Meeting Venue:
Committee Room 3 - Senedd

Meeting date:
24 June 2015

Meeting time:
09.30

Cynulliad Cenedlaethol Cymru
National Assembly for Wales

For further information please contact:
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Agenda – Supplementary Documents

Environment (Wales) Bill: Consultation Responses

Please note the documents below are in addition to those published in the main Agenda and Reports pack for this Meeting

Environment (Wales) Bill: Consultation Responses (Pages 1 - 358)

Y Pwyllgor Amgylchedd a Chynaliadwyedd
Environment and Sustainability Committee

Bil yr Amgylchedd (Cymru)
Environment (Wales) Bill

Ymatebion i'r Ymgynghoriad
Consultation Responses

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*Ar gael yn Gymraeg | *Available in Welsh

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EB 03	Menai Strait Fishery Order Management Association	Menai Strait Fishery Order Management Association
EB 04	Cadwch Gymru'n Daclus	Keep Wales Tidy
EB 05	Valero	Valero
EB 06	Ffederasiwn y Diwydiant Paneli Pren	Wood Panel Industries Federation (WPIF)
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Joint response from WWF-UK and the Aviation Environment Federation to the Consultation on the Environment (Wales) Bill

10 June 2015

WWF-UK and the Aviation Environment Federation (AEF) are pleased to submit this response to the Environment and Sustainability Committee's Consultation on the Environment (Wales) Bill.

This response focuses solely on the inclusion of emissions from international aviation and shipping (IAS) in the 2050 climate change targets (Part 2 Question 4). WWF-UK and AEF have jointly advised WWF-Cymru on this issue and an edited version of this response is included in WWF-Cymru's response to the Consultation, which is much broader in its scope than this response. WWF-UK and AEF have decided to submit this response separately in order to go into more detail on the specific issue of the inclusion of IAS emissions in the 2050 climate change targets.

Part 2: Climate change. What are your views on what emissions should be included in targets? All Welsh emissions or those within devolved competence?

1. The Welsh Government has an opportunity to show leadership in the UK and internationally by formally including emissions from international aviation and shipping (IAS) in its climate change targets from the outset. However, the current draft of the Environment Bill instead opts to go down the same route as the UK Climate Change Act, which continues to duck the question of IAS emissions [1].

2. The UK still does not formally account for IAS, although Scotland has accounted for IAS since 2010. Scotland has devised its own simple formula for aviation based on departing flights, easily replicable in Wales, and drawn on conventional accounting practices for shipping [2]. The UK government is waiting for clarity on the international climate change framework for aviation, and the only reason it has not acted on shipping is a preference "to maintain a consistent approach to both international sectors" [3]. In the meantime, because it is clear that IAS must be included in the long term 80% emissions reduction that the Act delivers, the UK's carbon budgets for other sectors have been tightened such as to allow 'headroom' for including IAS as soon as the methodological issues are resolved. Formal inclusion will not, therefore, result in a significant change to the carbon budgets for other sectors.

3. The international climate change framework for aviation depends on the market based measure (MBM) for regulating CO2 from international flights currently under development in the International Civil Aviation Organisation (ICAO). ICAO is expected to agree key elements of the MBM at its next Assembly in autumn 2016 [4], and to introduce the MBM in 2020. After the Assembly, the EU will need to decide whether and how to adjust the scope of the EU Emissions Trading System for regulating international flights to or from destinations within the EU [5].

4. We recommend that the Welsh government formally include IAS in its targets from the outset, using similar formulae to those adopted by the Scottish government, with a view to reviewing the formulae as soon as clarity on the international climate change framework for aviation is achieved. This will enable policymakers and stakeholders to have complete information about IAS and make decisions about these sectors that are fully consistent with the objectives of the Environment Bill. It will also underline the importance of fully accounting for IAS in long term emissions targets without imposing any restrictions on Welsh aviation that are not in practice imposed on English and Scottish aviation sectors. By including IAS from day one, the Environment Bill will become the first piece of climate legislation operative in the UK to have complete integrity and credibility on international transport emissions from the outset.

References

1. UK Government: Climate Change Act 2008. http://www.legislation.gov.uk/ukpga/2008/27/pdfs/ukpga_20080027_en.pdf
2. Scottish Government: The Climate Change (International Aviation and Shipping) (Scotland) Order 2010. http://www.legislation.gov.uk/ssi/2010/218/pdfs/ssi_20100218_en.pdf
3. DECC: International aviation and shipping emissions and the UK's carbon budgets and 2050 target (2012). https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/65686/7334-int-aviation-shipping-emissions-carb-budg.pdf
4. ICAO: Resolutions adopted by the Assembly (2013). http://www.icao.int/Meetings/a38/Documents/Resolutions/a38_res_prov_en.pdf
5. European Commission: Reducing emissions from aviation (accessed 2015). http://ec.europa.eu/clima/policies/transport/aviation/index_en.htm

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Date	10 June 2015

AEF is the principal UK NGO campaigning exclusively on the environmental impacts of aviation and promoting a sustainable future for the sector.

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Ymgyrch Diogelu Cymru Wledig
Campaign for the Protection of Rural Wales

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Cyfarwyddwr Director Peter Ogden

The Chairman
Environment and Sustainability Committee
C/o Alun Davidson;
Clerk to the Committee
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June 10th 2015

Dear Alun Ffred- Jones AM

Draft Environment Bill
Submission by the Campaign for the Protection of Rural Wales (CPRW)

The Campaign for the Protection of Rural Wales, Wales' foremost landscape NGO, welcomes the opportunity to respond to the content of the Welsh Government's Draft Environment Bill. Having responded in detail to the issues relating to both the Wellbeing of Future Generations Act and Planning Bill, CPRW's comments elaborate upon some of the points we have made to this Committee in previous representations.

Our comments highlight the fact that whilst supporting the general tenet of the Bill and the desire to manage Wales natural resources in a more integrated and sustainable manner, we find it disconcerting to imagine that a Bill which purports to promote a more sustainable approach of the Welsh environment does not recognise nor make provision in any meaningful way for the stewardship of our most important natural assets and those that form the basis of Wales' thriving tourism industry, the nation's landscapes and seascapes.

It seems to us even more surprising that given that 25% of the land area of Wales is designated because of its national and international landscape importance and the fact these areas coincide with some of the most important natural resources Wales possesses, their role and the potential these areas offer as delivery mechanisms for the sustainable management of their natural resources, is not even mentioned in the Bill.

Our response therefore focuses on the issue that landscapes and seascapes, especially those of national importance, and our belief they provide the overarching framework within which any approach to natural resource management must take place.

The need we contend to recognise this is compelling and if the Bill is to be fit for purpose then it must include strong new provisions which not only recognise the role of landscapes and seascapes.

The Bill must therefore factor in the perspective that people value landscapes not simply because they are attractive places with pretty views, but because of the way they function and provide the backdrop and stage upon which everyone lives their life and as locations which shape an individual's identity as well as providing us all with our personal "sense of place".

In the light of our submissions which we believe will add value and clarity to the provisions of the Bill, CPRW welcomes and looks forward to the opportunity to share and explore further our perspectives and suggested proposals with your Committee.

Thanking you in anticipation

Yours Sincerely,

Peter A. Ogden
Director

Environment and Sustainability Committee

Review of Draft Environment (Wales) Bill

Submission by
the Campaign for the Protection of Rural Wales: (CPRW)

June 10th 2015

Executive Summary

i) Wales' landscapes and seascapes particularly those in our most iconic National Parks and Areas of Outstanding Natural Beauty, are not only amazing places but increasing provide a huge range of public benefits.

ii) Collectively, all our landscapes are increasingly being recognised as Wales' unnoticed and often overlooked natural resource heroes, quietly and consistently providing 21st Century Wales with most of its crucial daily "life support" goods and services.

iii) We believe landscapes and seascapes therefore provide an obvious and compelling unifying framework for the sustainable management of our natural resource.

iv) Likewise our Designated Landscapes covering 25 % of Wales, are unquestionable some of the most important drivers which can energise the actions necessary to promote effective national and local natural resource management.

v) Given the important role all of Wales' landscapes and seascapes play, we belive the Bill should include a clear commitment which recognises landscapes and seascapes as the framework within which the integrated planning and management of Wales' natural resources should occur.

Our recommendations for improvements to the Bill

1. **The context for natural resource management in the Bill, should be more obviously and visibly set against the Welsh Government's desire to further the ambitions of the European Landscape Convention.**
2. **The current Principles of Natural Resource Management must be set in a realistic social and cultural context. Landscapes and seascapes provide the appropriate framework to do this.**
3. **Approaches which promote the sustainable management of Wales' natural resources must recognise the unique role that those landscape designated because of their national / international importance play.**
4. **The consequences of refreshing the Purposes of National Parks and Areas of Outstanding Natural Beauty to reflect the pivot role these areas can play in natural resource management and public Wellbeing, should be reflected in the provisions of the Bill.**

1. The context for our submission

1.1 The Campaign for the Protection of Rural Wales (CPRW) is Wales' foremost membership based landscape NGO and welcomes the opportunity to respond to the content of the draft Environment Bill, which will have a profound effect on both the manner and priorities for the management of the Welsh environment, in the future.

1.2 As a founding member of the Alliance for National Parks Cymru, CPRW also endorses the perspectives, conclusions and recommendations of that submission.

1.3 We also note that whilst the Draft Bill's content is passing through its various stages of scrutiny, the work of the Government's Independent Panel established to "Review Designated Landscapes in Wales" is still ongoing. Given that 25% of Wales is internationally designated as National Parks and AONBs and many of these areas are the nation's natural resource "hot stops", their role as "critical natural resource hubs" delivering a huge range of ecosystems services and their associated benefits, should be properly accounted for and clearly reflected in the provisions of Bill.

1.4 At the moment, the role of these Designated areas as engines driving the delivery of this sustainable approach to the management of their natural resources is worst at risk of being overlooked and at best not adequately reflected in the current provisions of this Bill.

1.5 We strongly suggest that the Committee reflects on the recommendations arising from the Independent Review Panel's deliberations (some of which have already been published). Accordingly and prior to the Bill being endorsed, these proposals should be fully considered and as necessary, additional provisions regarding the future role of these areas are appropriately embedded in the final version of the Bill,

1.6 Notwithstanding these circumstances, this response highlights the key issues which CPRW considers crucial if the challenges of managing the natural resources of Wales in a sustainable and publicly acceptable manner, are to be successfully met.

1.7 Our submission focuses on three key themes which we would expect the Bill to properly reflect and clearly articulate.

1. **The unifying role of landscapes and seascapes in natural resource management**

   1.7.1 A fundamental recognition is required in the Bill, that Wales' landscapes and seascapes although not natural resources in their own right (as defined under the terms of the Bill) are by their nature a series of cumulative "higher order, added value natural resources"

   1.7.2 By their very nature, these added value natural resources provide the overarching contextual framework within which any approaches to the sustainable

management of Wales' natural resources or ecosystems approach occur. Likewise because of their diversity and important role they play in the public's consciousness, they also provide the physical backcloth which ensures the delivery of many of the wellbeing benefits envisaged in the Wellbeing of Future Generations Act.

1.7.3 The importance of the concept of landscapes and their role as the interface between man and nature is clearly enshrined in the Principles of the European Landscape Convention which defines landscapes as

> *"areas as perceived by people, whose character is the result of action and interaction of natural and human / or human factors"*

1.7.4 It is clear from this definition, that one cannot manage natural resources in isolation because their human context adds further values and additional layers of importance and relevance to their status.

1.7.5 Overcoming this difficulty we suggest could therefore be achieved by making specific reference in the Bill to the European Landscape Convention and its role in providing the overarching approach necessary to further the principles of Natural Resource Management.

1.7.6 We therefore suggest

- **the stewardship of landscapes and seascapes at a variety of scales should be recognised as the strategic and guiding framework for managing the interaction between natural resources and human activities.**

1.7.7 Likewise given that Natural Resources Wales (NRW) has already inherited duties and responsibilities to protect the integrity and distinctiveness of all landscapes across Wales, it is therefore also highly appropriate that the Bill includes

- **a specific duty on the Natural Resources Body for Wales to further the principles of the European Landscape Convention when promoting the sustainable management of natural resource across Wales**.

2. The need for the Principles of natural resource management to reflect the importance of a location's "sense of place"

1.7.8 Landscapes and seascapes individually and collectively play a crucial role in defining an individual or community's "sense of place". The need to ensure this contextual integrity is appropriately maintained when implementing an ecosystems approach to natural resource management, is therefore crucial.

1.7.9 Landscapes are places which are more than simply the outcomes of the combined interactions of biodiversity and biotic ecosystems. They are the products of the range of human values and social interactions which shape our ways of life and which over time, increase in importance. This social context must be adequately reflected in the manner in which natural resource management approaches are pursued.

3. The role of Protected Landscapes as deliverers of sustainable approaches to natural resource management

1.7.10 25% of the land area of Wales (and an even greater area of the Marine environment) is designated because of its international conservation importance and the intrinsic qualities of its natural resource. The important role these areas play as a focus for ecosystems services and as the deliverers of coordinated and integrated natural resource management approaches, should be afforded greater recognition in the Bill

1.8 Since the notion of developing a natural resource management approach was first suggested, CPRW has long been a strong advocate of the need for this approach to be undertaken in a strategic, integrated and holistic manner which delivers bespoke approaches to the stewardship of local environments. In promoting this approach we have advocated that this concept will only succeed if it is undertaken:

- in a comprehensive manner within an overarching framework which is socially acceptable and respects the local context within which the particular natural resources exist
- in ways which use, safeguard and preferably enhance the long term integrity of those resources being managed
- in ways which recognise that change should only occur within those acceptable environmental limits which do not threaten the long term integrity of that resource.
- in a manner which operates both geographically and temporally at an appropriate scale and which effectively connects the use of resources on the land with those at sea.

1.9 We believe our suggested “landscape approach” should be recognised in the Bill as it effectively acts as the unifying force which links nature with people, the past with the present and the tangible and intangible cultural associations which individuals have with their surroundings.

1.10 In addition, this approach recognises that “landscapes” not only make a significant contribution to the nation’s economic prosperity, our health, welfare and the quality of life in 21st century Wales, but they also create everyone’s individual “sense of place”.

1.11 **We do not however subscribe to, nor support** the proposition that a "Landscape approach" is achieved simply through the management of natural resources on a large geographic scale. This is a gross over simplification of the concept and one which does not recognise that all decisions regarding natural resource and ecosystems management are nested in a not only a spatial but also social and economic context and an agenda driven by political, corporate and personal needs, expectations and benefits.

1.12 Appendix 1 of our submission explains more fully the relationship we believe should exist between the overarching role of landscapes as the framework and driver for sustainable natural resource management and the desire to promote a resilient environment with "healthy functioning and resilient ecosystems".

1.13 In summary merely striving to create ***"well connected biodiverse and resilient ecosystems"*** as is currently proposed in the Bill, is in our opinion not enough**.**

2. Detailed comments

2.1 The remainder of this submission details how we believe a series of additional refinements to the existing provisions of the Bill, would ensure that the important contribution landscapes and seascapes make to the wellbeing of Wales and to public life, are fully accounted for in the approaches proposed for the sustainable management of the nation's natural resources.

2.2 We believe our suggested amendments would also visibly reinforce the Welsh Government's commitment to the European Landscape Convention and its desire to pursue its implementation in a creative and enthusiastic manner. Given CPRW's interests, our comments are therefore confined to the provisions of Part 1 of the Bill.

Part 1
Clause 4

Principles of sustainable management of natural resources

2.3 Whilst noting the various elements of the Welsh Government's definition of "natural resources" in Clause (2), we suggest that none of these natural resources can or should be managed either individually or in isolation from each other. The human and social context within which they exists means they each interact with the others in different ways in different places so as to create different effects. The outcome of these interactions means that whole is greater than the sum of its parts. It is exactly for this reason that the outcomes of these cumulative and added value relationships, create the individuality of a location's "Sense of place".

2.4 The distinctive and defining characteristics of a place should therefore be accounted for in the principles of natural resource management as these provide not only the context

but also the sensible framework within which approaches to the sustainable management of natural resource should be pursued.

2.5 Whilst therefore supporting the three defining principles of the sustainable management of natural resources in Para 3(1) we believe that Para 3(2) needs to be strengthened to recognise the important locational framework within which the quest to create resilient ecosystems must operate, if they are to be socially and economically acceptable as well as environmentally sustainable.

2.6 **Proposed Amendment.**
Clause 3 Sub section (2)
After
… "*and enhance the resilience of ecosystems and the benefits they provide… "*

add the words
" ***in a manner which respects that location's sense of place,*** … "

2.7 To ensure the proposed Principles expressed in Clause 4 are comprehensive and fully fit for purpose, we also believe the following additions and clarifications would be helpful.

Clause 4(b)
2.8 Whilst agreeing that the spatial scale of action is important, we also believe that it is important to take into account the appropriate time scales over which action should be taken. Sustainable natural resource management will not be instant and if it is to be effective there must be an ongoing commitment to pursuing it and not one that can be easily jettisoned. For this reason we suggest the following addition to Clause 4(b)

2.9 **Proposed Amendment**
Clause 4(b)
After "…*appropriate spatial... "*
add the phrase
".. ***and temporal*** scale for action"

Clause 4(e)

2.10 With regards to this Clause, we note that the neither the terms "resilience" nor "ecosystem" are defined in the Bill. Without any definitions defined, it is difficult to understand the actual or implied scope of these terms or how they are to be interpreted in the context of the various provisions of the Bill.

2.11 We note however that the Explanatory Memorandum expresses ecosystems (as referred to in the Convention of Biological Diversity), as

" *a dynamic complex of plant, animal and micro-organisms and their non-living environment interacting as a functional unit*"

2.12 This definition should be included on the face of the Bill to provide clarity and meaningful intent.

2.13 We also suggest a series of further Principles should be added to the existing set, to provide greater clarity as to how the sustainable management of natural resources should be pursued.

2.14 Including these additional Amendments would also provide a helpful cross reference back to the Goals of the Well Being of Future Generation Act and therefore improve one's understanding of how all the suggested Principles, should be collectively implemented

2.15 Proposed Amendment
Add the following additional sub sections

4(h) guide change within accepted environmental limits and tolerances and in ways which reflect the Precautionary Principle.

4(i) promote the enjoyment of Wales' natural resources in a responsible manner

4(j) ensure that if when pursuing any of these individual Principles, conflict arises with another, the integrity, intrinsic value and public benefits a resource currently provides are not disproportionately devalued or compromised.

2.16 We also contend that an additional Clause should added after the existing / extended list of Principles, to ensure they are all pursued in a manner which recognises and reflects the distinctive context and "sense of place" of the locality in which they exist.

2.17 **Proposed Amendment**
Add a following additional Clause 4(2) to read

In furthering all of these Principles, any action to promote the sustainable management of natural resources, must have due regard to any values which reflect that location's distinctive "sense of place"

Clause 5
General duties of Natural Resources Body for Wales

2.18 We are particualrly concerned that this section promotes a very limited, inward looking mechanistic approach to natural resource management and fails to recognise or reflect the full range of responsibilities NRW has inherited from those three "legacy" bodies which predate its establishment.

2.19 We believe that the Bill should make it clear that the manner in which NRW discharges its role and functions in respect of natural resource management should not be at the expense of any of these inherited statutory obligations.

2.20 We would also suggest that if the relevant Natural Resource Body is mandated to be undertake the principles of sustainable management of natural resources, this should be unambiguously reflected in its General Purposes.

2.21 We therefore suggest that Clause 5(2) and its proposed amendment to the existing Article 4(1) of the 2012 NRW Establishment Order, should simply read

The Body must
(a) achieve the sustainable management of natural resources …

2.22 Likewise having expressed our belief that any approach to natural resource management cannot be implemented without taking into account the specific circumstances which reflect a location's "sense of place", we believe that this principle, especially when it relates to areas designated because of their national landscape importance, should be applied to the existing Subsection 4(1) (b) of Clause 5

2.23 We therefore suggest this subsection should be amended to cross reference to our suggested additional Clause 4(2)

2.24 **Proposed Amendment**
Clause 5 (2) Article 4 (2)
To read
Apply the principles of sustainable management of natural resources "***in a manner which reflects the integrity of a location's distinctive "sense of place"***

Clause 6
Biodiversity and resilience of ecosystems duty

2.25 Whilst supporting the desire to ensure that biodiversity interests are enhanced as a result of natural resource management, we are conscious that public authorities should have a broader responsibility than simply biodiversity enhancement. As part of their remit and statutory responsibilities they should all be expected to view natural resource management as the means of delivering a much wider range of public benefits pursuant with the achievement of the Goals and Objectives of the Wellbeing Act.

2.26 For consistency we therefore believe that the intentions of Clause 3(2) should be mirrored in the provisions of Clause 6 (1) so that all the relevant public Authorities, local authorities and statutory should be required to fulfil this wider responsibility.

2.27 **Proposed Amendment**

Clause 6(2)

After the phrase "*… must take account of the resilience of ecosystems …*"
add the phrase

"…and the benefits they provide in a manner which reflects the integrity of a location's distinctive "sense of place" ... *in particular the following aspects***"**

2.28 Similarily Ecosystem resilience is dependent on more than just the maintenance and enhancement of biodiversity. In welcoming the recognition afforded to wider ecosystem benefits in Clause 3(2), for consistency we believe Clause 4(g) and Clause 6(2) should be worded similarily

Clause 8
Duty to prepare a Natural resource report

2.29 CPRW supports the duty and requirement for NRW to prepare a State of Natural Resources report on the proviso that this includes a section outlining the State of Welsh landscapes and seascapes and in particular those within designated Protected Landscapes.

Clause 9
Duty to prepare, publish and implement a national resources policy

2.30 CPRW again supports this approach as a means of ensuring that the importance of those resources which create opportunities to deliver public benefit, are fully recognised and accounted for.

2.31 We would also however expect the role and status of all areas of national landscape importance (and any proposed for designation in the future) to be fully recognised as critical components of Wales' national natural resource infrastructure.

2.32 In addition their future role and that of their respective Management Plans (as the vehicles for delivering any national agenda and policy priorities for these areas), should be fully articulated in this statement.

2.33 We would likewise anticipate that the outcomes of the Independent Review of the Designated Landscapes of Wales and any recommendations relating to a potentially refreshed or revised national role for Designated Landscapes, should be fully reflected in and accounted for in this National Natural Resource policy document.

2.34 **Proposed Amendment**

After Para 9(3)
add the additional phrase

" .. but in particular the role of any area of land or sea designated because of its national importance"

Clause 10
Area Statements

2.35 We presume that the intention of the Area Statements is to deliver locally, the priority themes of the proposed National Natural Resource Management Policy.

2.36 We are concerned however that 10(1) as currently written does not provide any assurances that the proposed suit of Area statements will cover the whole of Wales, given that their coverage will be at the discretion of NRW.

2.37 We believe if the production of these statements is to achieve the integrated and holistic approach anticipated for natural resource management, they must cover all of Wales.

2.38 **Proposed Amendment**
Clause (10i)
Delete "*…for the areas of Wales that it considers appropriate*.."
And replace with
" ….covering all territorial areas of Wales on both land and at sea"

2.39 With this in mind we are concerned as to how the geography of these Area Statements will be determined given that is NRW's responsibility to decide this.

2.40 We are not convinced that the oft suggested subdivision of Wales on a River Catchment basis is necessarily the correct approach to adopt especially where the character or distribution of those natural resources identified in Clause 2, does not easily or necessarily coincide with the geography of river basins or catchments. We would therefore expect any further Explanatory Guidance to indicate not only the scope of these Area statements, but also how their geography will be determined.

2.41 As highlighted in the paragraphs that follow, we believe there is considerable merit in extending the scope and role of existing Protected Landscape Management Plans. They have the ability to deliver a consistency of approach to natural resource management across large areas and within the special circumstances which make these nationally designated landscape entities different from other areas.

2.42 We are also concerned that the Bill provides no indication of the status or role of these Areas statements in relation to either the proposed Local wellbeing Plans (to be prepared under the Wellbeing of Future Generations Act) or so far as the Local Development Plan or the Strategic Plans to be prepared as a result of the provisions of the new Planning Act (Wales). These relationships should be made clear on the face of the Bill.

2.43 Likewise the Bill does not explain how these Area statements will achieve the integration of natural resource management across the land and sea divide and create effectively bridges between these two significant and very different territorial and administrative domains.

2.44 As referred to above the existing provisions of the Bill do not make it clear how the proposed Area statements will relate to existing Management Plans for National Parks and AONBs. We believe the approaches those currently responsible for the management of these nationally designated landscape areas have pioneered, should be refined and their existing Management Plans become the recognised statutory means by which the delivery of both the sustainable management of the natural resources and the promotion of public wellbeing in these areas, are achieved.

2.45 These Plans should therefore reflect not only how the special qualities of these Designated areas will be conserved and enhanced, but also how any refreshed Purposes recommended by the Government's Independent Review Panel will be pursued.

2.46 **Proposed Amendment**

Clause 10

Add an additional new sub section as follows

Subsection 6(c)

With respect to an area designated because of its national landscape importance, a single enhanced Management Plan should be prepared and adopted as the Area Statement for that designated area; or a geographically extended area beyond its boundaries, whichever is the most appropriate.

……

Appendix 1

The relationship between Landscapes and Biodiversity enhancement in promoting creative approach to Natural Resource Management

1. Why is this important?

2 Whilst any approach to natural resource management must recognise the need to manage ecosystems effectively, creating resilience and integrity in ecosystems relies on more than just an approach focussed solely on biodiversity protection and enhancement.

3. If the objective of an integrated approach to natural resource management is to ensure the long term integrity and connectivity of ecosystems and by implication biological diversity, then there is equally compelling argument that any such action should also maintain the integrity and connectivity of those landscape within which such ecosystems are located.

4. Significantly extending woodland may enhance biodiversity opportunities, but equally could lead to the multitude of human influences, imprints and associations created over time and which characterise the unique identity or "sense of place" of a location, being lost or changed dramatically.

5. The reversal of the fragmentation of landscape character is therefore every bit as important as a key outcome of sustainable natural resource management, as is the desire to achieve the recovery of species and habitats.

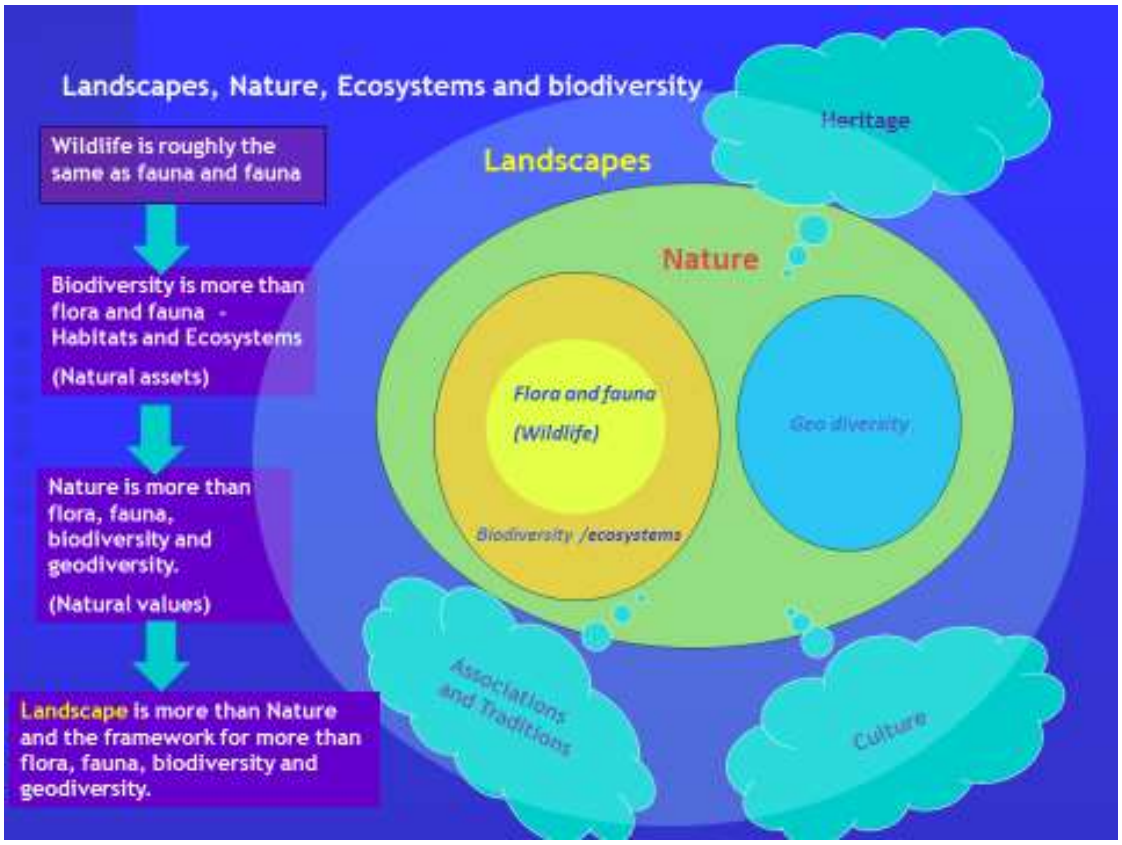
6. To suggest this relationship can be safeguarded by simply "working at a landscape scale" is inappropriate. Landscapes exist at all scales, not just on a big scale. The crucial requirement is that landscapes work in a cumulative, readable and coherent way. The main reason for biodiversity failure is in our view, the loss of the appropriate **landscape context** within which species exist and ecosystems function.

7 Natural Resource management should therefore not be confined to simply managing biodiversity any more than it should focus solely on carbon management. It must be based upon the principle of managing all those elements of the environment which define **its character and integrity and which achieve its long term functional resilience.**

8 Landscapes in general and Protected Landscapes and AONBs in particular, should therefore be the dynamos for natural resource management. The outcomes of any successful sustainable natural resource management approach should be, the reconnection of fragmented elements of our existing landscapes, enhanced biodiversity, improved heritage stewardship, increased access to the countryside, greater learning opportunities and a wider acceptance of the public's environmental responsibility, promoted by community led approaches to landscape stewardship.

9. This is exactly why the much ignored European Landscape Convention provides such an important and sensible overarching framework for the implementation of any Natural Resource management approach. Within this approach, whilst the management of biodiversity and ecosystems is clearly a crucial constituent part, it is not the sole determinant of it.

10. The following diagram explains these relationship:



A Landscape approach to sustainable Natural Resource management

11. It is clear from the above that no matter where they are, whatever their size or shape, landscapes are the canvas on which we build and live our lives and the pillars which underpin our national wealth. They not only link the wellbeing of Welsh people but unite us with our culture and natural heritage in so many distinctive and fascinating ways. They are the foundations on which our inheritance is built.

12. Accepting therefore that landscapes are more than just views and their qualities are the product of values accumulated over long periods of time, it is clear that the management approaches which create places with a distinctive and uplifting character and where change is responsibly directed, are those we need to duplicate.

13. Adopting a **"Landscape approach"** to the management of our natural **and** cultural resources, in ways which ensure that the long term quality of the places which surround and provide for us, are maintained, is the only way this can happen.

14. Wherever they exist therefore, landscapes and not just biodiversity must remain resilient, adaptable and the quality of their constituent assets, must be of a standard that ensures when change occurs their defining values and the resilience of the range of services they provide, are safeguarded and maintained.

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Menai Strait Fishery Order Management Association	Response from Menai Strait Fishery Order Management Association
EB 03	EB 03

Menai Strait Fishery Order Management Association
Porth Penrhyn, Bangor, LL57 4HN

Committee Clerk
Environment & Sustainability Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

11th June 2015

By post and e-mail

Dear Sir / Madam

Consultation on the Environment (Wales) Bill

We are grateful for the opportunity to respond to the consultation on the Environment (Wales) Bill.

The Menai Strait Fishery Order Management Association is responsible for the administration of shellfish cultivation in the Menai Strait. The mussel farming industry in the eastern Menai Strait is the largest and most successful shellfish cultivation area in the UK, and it is based upon the legal framework established by the Sea Fisheries (Shellfish) Act 1967.

The shellfish farming industry in the Menai Strait provides dozens of skilled jobs and year-round employment for local people in this part of rural Wales; and it is also a multi-million pound industry that provides valuable export trade for Wales and the UK overall. Apart from these economic benefits, mussel farming here in the Menai Strait makes a valuable contribution to achieving the objectives of Welsh, UK and EU strategies for sustainable development of marine aquaculture. We are also very proud of the fact that this rural Welsh industry became the first shellfish farming operation in the world to be awarded a Marine Stewardship Council certificate.

Our response to the Bill is attached. In summary, we broadly welcome the proposed changes that the Environment (Wales) Bill will make to the Sea Fisheries (Shellfish) Act 1967. We feel that these changes will help to integrate this Act with the requirements of EC nature conservation legislation. We hope that this will address the concerns that have held up the creation of new Fishery Orders in Wales and that have stood to jeopardise delivery of the objectives of the *Welsh Marine and Fisheries Strategic Action Plan*. Overall, we congratulate the Welsh Government on the content of the Bill.

We have made comments on a few matters of detail and the interpretation of the proposed changes where we feel that these could bring further improvements. We are confident that you will be able to address these through minor amendments or by providing clarifications in supporting guidance and policy documents.

We hope that these comments are helpful. If we can be on any further assistance with this Bill, please do not hesitate to contact us.

Yours sincerely

S. D. Utting

SUE UTTING
Chair, MSFOMA

cc. Rhun Ap Iorwerth, A.M.

Consultation Questions for Inquiry into Environment (Wales) Bill

Part 1: Natural Resources Management

- Do you agree with the Welsh Government's proposals on definitions for 'natural resources' and 'sustainable management of natural resource'? Are there things missing that you think should be included?
- What are your views on the proposals for a National Natural Resource Policy? Is the Bill clear enough about what this will include?
- Do you agree with the proposals for area statements? What should these cover and is the process for their development clear enough in the Bill?
- What are your views on the proposal to strengthen the biodiversity duty on public authorities operating in Wales?
- Are you content with the proposals for NRW to have wider powers to enter into land management agreements and have broader experimental powers?

MSFOMA Response

We have no specific comments on this part of the Bill.

Part 2: Climate Change

- Do you agree with the proposals for the 2050 target?
- For your views as to whether the interim targets should be on the face of the Bill?
- Do you believe that the introduction of carbon budgets is a more effective approach than the 3% annual emissions reduction target that is currently in place in Wales?
- What are your views on what emissions should be included in targets? All Welsh emissions or those within devolved competence?
- Do you agree with the Bill's proposals as to what should happen if the Welsh Ministers fail to meet emissions targets or carbon budgets?
- What should the role of an advisory body on climate change be?

MSFOMA Response

We have no specific comments on this part of the Bill.

Part 3: Carrier Bags

- Do you agree with the proposal that Welsh Ministers should have powers to raise a charge on all types of carrier bags not only single use bags?
- Do you agree with the proposal that Welsh Ministers should have powers to raise different charges on different types of bags on?
- Do you agree that the profits from the sale of carrier bags should be directed to all charitable causes rather than just environmental ones?

MSFOMA Response

We have no specific comments on this part of the Bill.

Part 4: Collection and Disposal of Waste

- For your views on whether the Welsh Ministers need further powers to require that certain types of waste are collected, treated and transported separately?
- Do you agree that non-domestic premises should be required to put their waste out for collection in line with any separation requirements set out by the Welsh Government?

- Whether you agree that the Welsh Government needs wider powers to ban some recyclable waste from incineration?
- What will the impacts of these waste proposals be for you or your organisation?
- Are there other waste proposals that you think should be included in the Bill?

MSFOMA Response

We have no specific comments on this part of the Bill.

Parts 5 & 6: Marine Licensing and Fisheries for Shellfish

- Do you agree with the proposals to introduce charges for further aspects of the marine license process? What will the impacts of these changes be for you?
- Do you agree with the proposals to give Welsh Ministers powers to include provisions in Several and Regulating Orders to secure protection of the marine environment?
- For your views on the proposals to give Welsh Ministers powers to issue site protection notices where harm may have been caused by the operation of a fisheries Order to a European marine site?
- Are there any other marine and fisheries provisions you would like to see included in the Bill?

MSFOMA Response

Marine Licensing

We have no specific comments on this part of the Bill.

Fisheries for Shellfish

Our responses to the different proposals are set out below:-

a) Provisions in Several & Regulating Orders to Protect the Marine Environment

We support the proposals to give powers to Welsh Ministers to include provisions for protecting European Marine Sites and "the marine environment" within Orders made under the Sea Fisheries (Shellfish) Act 1967.

We consider that some clarification is provided on the following points, either in the legislation or supporting documentation (such as policy guidance).

- **Marine environment – what is "*appropriate*" (§5A(1)(b))?** The option for the Minister to include provisions in an Order that are considered "appropriate" for protecting the marine environment will bring this Act into line with other fisheries Acts. However, whilst the scope of what may be "*appropriate*" and what may cause "*harm*" to a European Marine Site is well defined (for instance in the proposed §5F), the scope of what is "*appropriate*" for protecting the "*marine environment*" is not defined and thus open to interpretation. We feel that some clarification should be provided on this aspect of the Bill.

b) Site Protection Notices

We support the proposal that the Minister should be able to issue site protection notices and the associated procedures set out in §74 of the Bill (i.e. the proposed new §5B of the Sea Fisheries (Shellfish Act 1967).

We welcome the inclusion of an appeals procedure in response to site protection notices, and in particular that this procedure includes provision for the Tribunal to suspend a notice while determining an appeal, and ultimately to award compensation if the notice is cancelled.

- **Appeal against site protection notice -** the inclusion of an appeals procedure is a welcome precaution. We would suggest that it could be improved by some minor amendments:-
    - **Timeframes** for the appeals process could be included to give all parties a clear understanding of the schedule for submitting and hearing an appeal. These would provide both the Minister and any person bringing an appeal with some certainty about the process.
    - **Persons (§5C(2)) –** the list of persons in the Bill could preclude the lessees in the Menai Strait Fishery from appealing against a site protect notice. This is because these lessees are not the Grantees of the Order (which is MSFOMA). If it is appropriate to give the licensed operators in a Regulating Order the right to appeal (2(b)), this right to appleal should also be granted to the lessees in a Several Order.
- **Supplementary Provisions (§5F(3)).** We can see no good reason why §5B *et seq* should not apply to existing Fishery Orders once the Bill is enacted. This provision could leave the Minister at risk of being unable to issue site protection notices, with the associated risks of infraction. It would seem a much better idea to apply these new measures with immediate effect to the established fisheries (all of which operate under management arrangements approved by Natural Resources Wales and which are thus highly unlikely to be the subject of such notices).

c) Other provisions

We would suggest that during this period of updating the Sea Fisheries (Shellfish) Act 1967, it could be useful to consider ensuring that §8 of the Shellfish Act and the procedures set out in Schedule I of the Act are compatible with modern times, where is it more effective to distribute notices and copies of the draft electronically rather than "*cause printed copies of the draft order to be published and circulated*" as presently required.

Part 7: Flood and Coastal Erosion and Land Drainage

- Do you agree with the proposals to replace the Flood Risk Management Wales committee with a Flood and Coastal Erosion Committee for Wales?
- Whether you agree with the proposal for powers to be given Welsh Government agents to enter land to investigate alleged non-compliance with an Agricultural Land Tribunal order in relation to drainage?

MSFOMA Response

We have no specific comments on this part of the Bill.

Overarching Question

For your views on the relationship between this Bill and the Well-being of Future Generations Act 2015 and the Planning (Wales) Bill? Are the links and connections between them clear?

MSFOMA Response

We have no specific comments on this aspect of the Bill.

Finance Questions

What are your views on the costs and benefits of implementing the Bill? (You may want to consider the overall cost and benefits or just those of individual sections)

MSFOMA Response

We consider that the Bill should bring benefits to the Welsh shellfish farming industry, as it seems to squarely address the problems that are considered to exist concerning the administration and regulation of shellfisheries in European Marine Sites. By creating clear and straightforward

provisions, the Bill should have a net benefit both to the industry, and to the Welsh Government department responsible for this area.

You may also want to consider:

- How accurate are the costs and benefits identified in the Regulatory Impact Assessment?
- Whether there are any costs or benefits you think may have been missed?
- What is the cumulative impact of the costs or benefits of the Bill's proposals for you/your organisation?
- Do you think 10 years (2016-17 to 2025-26) is an appropriate time period over which to analyse the costs and benefits?
- The cumulative cost and/or benefit to organisations who will be affected by the Well-being of Future Generations (Wales) Act 2015, the Planning Bill and the Environment Bill?
- Are there any other options that would achieve the intended effect of the Bill in a more cost effective way?

MSFOMA Response

We would highlight that the proposed changes to the Sea Fisheries (Shellfish) Act 1967 will endure for more than 10 years, and that limiting the time period for assessing costs and benefits to a shorter period would fail to capture the full potential benefits for these aspects of the Bill.

MSFOMA
11 June 2015

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Ymateb gan Cadwch Gymru'n Daclus	Response from Keep Wales Tidy
EB 04	EB 04

Keep Wales Tidy's submission of evidence to the Environment & Sustainability Committee on the Proposals for the Environment (Wales) Bill

Keep Wales Tidy (KWT) is an independent National Voluntary Organisation with Charitable Status. We are one of Wales' largest and most effective environmental charities**,** covering the whole country and influencing a wide range of organisations and communities**. Our approach leads to sustainable change:** influencing behaviour and enabling individuals, groups and schools to take their own actions. **Our focus is on people** and their connections with the environment. **We deal with far more than litter:** our work encompasses biodiversity, access and recreation, health improvement, food growing, beach awards, Eco Schools, and so forth. **Our work is underpinned by research and policy work** including; Local Environmental Quality Surveys and developing advice for Government and other stakeholders.

Keep Wales Tidy welcomes the opportunity to submit evidence to the committee. Our response to these proposals remains largely the same as to the previous White Paper as our initial thoughts were not included in the amendments.

We have contributed to Wales Environment Link's (WEL) response, but have set out below more detailed response to **Parts 3 & 4** of the Bill which we feel is one of our priority issues and most appropriate to our organisation's specific area of work and expertise.

Part 3: Charges for carrier bags

The Single Use carrier Bag Charge was introduced in Wales in October 2011 in order to reduce the number of plastic bags and their associated impacts on the Wales environment such as:

- The blight on our landscape and contamination caused by non-biodegradable materials
- The significant resource used in their manufacture and distribution
- The negative impact on our countryside, wildlife, biodiversity and marine life

KWT strongly supports the levy and its introduction as outlined in previous proposals as a temporary charge with the **ultimate aim of long-term behaviour change.**

KWT recognises the positive reduction in SUCB use since the levy introduction and the indicative studies which indicate a 'strong and positive' effect on behaviour change.

In relation to extending the Welsh Ministers powers to enable them to set a charge on other types of carrier bags:

1. A WRAP Study on the subject of bag use since the SUCB charge was introduced identified that whilst the number of thin-gauge carrier bags (in the grocery sector) fell by 81% between 2010-2012, the number of 'bags for life' increased by 120-130% (*WRAP, 2013*) and is continuing to rise.

2. Both SUCB's and Bags for Life have a detrimental impact on the environment and are resistant to biodegradation. Therefore, KWT supports the extension of the levy to other types of carrier bags for the reasons set out in the explanatory memorandum.

In relation to the duty on retailers to donate the proceeds from the sale of carrier bags to good causes:

KWT supports the SUCB levy going to environmental causes as a temporary measure with the key aim of affecting long term behaviour change in order to reduce waste, litter and the negative impact on the environment as per the existing guidelines. However, we do not agree with the proposal to widen the criteria to other good causes for the following reasons:

3. The driving force of the SUCB was to reduce the negative impact of the product on the environment. The current donations to environmental causes serves to maximise the effectiveness of the levy and ultimately goes toward addressing the impacts of plastics on the environment whilst additionally supporting those organisations who are working to affect behaviour change in that area.

i. By broadening out the cause criteria, the *raison d'etre* of the levy will be diluted in public perception and will make the ultimate aim (of behaviour change) that much harder to achieve.

ii. According to Dr Carl Hughes of the Wales Centre for Behaviour Change, Bangor University, "*the change pushes reuse and environmental impact to front of mind, raises awareness and reminds at every checkout. This wider impact and the creation of a new social norm have yet to be quantified but achievable change in incremental steps is crucial".*

iii. There is increasing evidence that 'nudging' default or habitual behaviour can lead to long term behaviour change, this has been recognised by the UK government and policy makers in the creation of the *Behavioural Insights Unit*.

iv. A study on the SUCB in Wales found changes in self-reported environmental identity that could produce positive behavioural 'spill-over' effects in the longer term (*Poortinga, Whitmarsh 2013*).

v. A study by Spence et al (*2014)* indicates that broader environmental goals may guide other behaviours in the environmental domain.

vi. 'Environmental identities' are often associated with pro-environmentally conscious behaviour, although any spill-over effects may be inhibited by a 'lack of perceived environmental relatedness' (*Whitmarsh, 2010; Thogersen 2004).*

vii. **This relatedness is currently reinforced by the SUCB charge going to environmental causes**.

4. KWT recognise that the SUCB is ideally a temporary levy with the ultimate aim of long term behaviour change and a significant decrease in the supply, demand and production of plastic bags in Wales. The possible adverse effect of the inclusion of social criteria would be to create a new social norm that would associate buying plastic bags with 'doing good'.

i. Various studies have shown that the most effective behaviour change interventions are values-based and the creation of social norms are one of the most powerful tools that can be used to affect sustained behavioural change. This change can be positive **or** negative.

ii. For example, Huber & Mills (*2005*) warn that energy efficiency measures cannot save energy if they encourage people to use more energy that they would not have used otherwise. Likewise, the SUCB charge cannot claim to reduce harm if it encourages people to contribute to their production and demand by associating their purchase with social good.

5 . Whilst social issues may be more emotive and attractive in the public eye for charity giving, environmental charities have a much greater wider social and economic reach that is often gone unrecognised. Environmental Charities have a direct (and indirect) social and economic impact, as well as contributing to the natural environment. Projects (often based in some of the most deprived areas of Wales) have delivered much wider benefits including:

- Projects that contribute to the local and national economies as well as enhancing the natural environment such as local business support, tourism initiatives and destination management
- Delivery of education programmes such as Eco-Schools which contribute to the wider behaviour change agenda
- Projects in communities which contribute to improved physical and mental wellbeing
- Development of inter-generational activities
- Skills and training within communities
- Behaviour Change projects
- Research work and policy information relating to the natural and built environment and communities of Wales

Despite this, environmental causes receive just 3% of public charity donations compared to Medical research (20%) and Children (15%). (*CAF/NCVO 2009*). We believe that there is a strong chance that the wider criteria would ultimately lead to the SUCB charge going to non-environmental causes. Whilst this may have an impact on some families in Wales, it would not have the reach or the impact that many environmental charities can prove.

6. KWT and many other environmental charities, have experience and expertise in delivering small grants and funding, as well as working with community groups on an all-Wales basis. The Third Sector can therefore make direct links between the levy and the environmental benefit, as well as providing education and changing behaviour.

i. Through this direct link with communities and the environment, environmental charities are also in the best place to provide 'on the ground' evidence of the success of the levy on the environment.

ii. KWT already provide evidence to this end through regular LEQ monitoring and community-based development projects in 'problem' areas.

iii. A 'single-cause' criteria also has the additional benefit of being easier to monitor overall.

9. Many supermarkets opt to give donations to UK based charities as they are not bound by geographical remit. KWT are concerned that relaxing the guidelines will also lead to the SUCB charge being spread further afield outside Wales as many of the affiliated charities will not be bound to Wales.

i. Whilst KWT does not have access to evidence on how the SUCB charge have been spent by other organisations, **KWT can confirm that 100% of our total received funds has remained in Wales**.

10. **The rationale in the explanatory memorandum to broaden the cause criteria due to existing relationships that supermarkets may have with charities does not address the above concerns and ultimately, the overall aim of the levy.**

Behavioural Insights Unit (Ltd): (UK Cabinet Office / NESTA) http://www.behaviouralinsights.co.uk/

CAF / NCVO. (2010). *The impact of the recession on charitable giving in the UK.* https://www.cafonline.org/PDF/UKGivingReport2009.pdf

Huber & Mills (2005). *The Bottomless Well*. USA: Basic Books

Poortinga, W; Whitmarsh, L. (2015). The introduction of a single-use carrier bag charge in Wales: Attitude change and behavioural spillover effects. *Journal of Environmental Psychology*. 36, 240-247.

Spence et al. (2013). Engaging with energy reduction: Does a climate change frame have the potential for achieving broader sustainable behaviour? *Journal of Environmental Psychology*. 38 (1), 17-28

ThØgersen, J. (2004). A cognitive dissonance interpretation of consistencies and inconsistencies in environmentally responsible behavior. *A cognitive dissonance interpretation of consistencies and inconsistencies in environmentally responsible behavior*. 24 (1), 93-103.

Wales Centre for Behaviour Change : (University of Bangor) http://behaviourchange.bangor.ac.uk/ / http://goo.gl/QVsijf

WRAP. (2013). *Effect of charging for carrier bags on bin-bag sales inWales.*http://www.wrap.org.uk/sites/files/wrap/Effect%20of%20charging%20for%20carrier%20bags%20on%20bin-bag%20sales%20in%20Wales.pdf

Whitmarsh, L; (2010), Green identity, green living? The role of pro-environmental self-identity in determining consistency across diverse pro-environmental behaviours. *Journal of Environmental Psychology,*30, 305-314

Part 4: Collection & Disposal of Waste

In relation to the proposed changes to Waste collection and disposal:

KWT supports existing Welsh Policy in regard to Recycling and Recovery of Waste through:

- Towards Zero Waste
- Programme for Government.
- The Environment and Climate Change Strategies for Wales.
- The principles of the European Framework Directive and European Union 7th Environment Action Programme

11. KWT supports the proposals to segregate waste at the source by the public sector and businesses and the ban on energy from waste for the reasons set out in the White Paper. However, in order to address any potentially negative impacts we would urge the committee to consider the consequences of the proposals in terms of practical implications which KWT have been made aware of by individuals and local authorities.

i. **The current requirements for storage provision for waste /recycling in some existing premises are insufficient**, and when planning permission or Change of Use is granted for new business, the area required does not always meet the need for all the storage necessary for the different types of recycling. This can lead to public health issues with collections on highways and negative public opinion. Whilst source segregation of waste is now seen as best practice, 'inconvenience' is still cited as the biggest cause for people not recycling waste.*(e.g.; Koger, S, 2010)*

ii. KWT recognises the significant progress made by the Waste and Fly-Tipping Strategies in recent years but it is still the casethat some fly-tipping is a result of businesses not complying with current waste disposal regulations, and extra requirements with regard to recycling may add to this problem. **If**

solutions are going to work for these small businesses they need to be inexpensive and easy to use. (*UCL, 2006*)

iii. We also note that reducing waste isn't mentioned in the same context as re-use and recycling in the White Paper, and would suggest that reduction should be considered. According to the Welsh Audit Office, the Welsh Government will not reach its target of a 75 per cent reduction in the ecological footprint of waste by 2050 **if Wales does not significantly reduce waste production** as well as increase recycling rates. (*WAO,2012*)

iv. Awareness and understanding are consistently cited as the most significant barriers that prevent people from recycling, as such, KWT strongly supports a '**national restatement on the importance of recycling**' to accompany these proposed changes, as recently highlighted by the NAW Inquiry last year. *(NAW, 2014)*

On the ban of food waste to sewer:

12. KWT supports the proposals to ban food waste to sewer by businesses but would encourage an awareness campaign across Wales (to include householders not currently covered by the Bill) in order to promote understanding of the relation of food waste and other items and the damage to sewers and water courses.

Koger, S ; Winter, D (2010). *The Psychology of Environmental Problems*. USA: Psychology Press

National Assembly for Wales. (2014). *Inquiry into Recycling in Wales.*http://www.senedd.assembly.wales/mgIssueHistoryHome.aspx?IId=9794

UCL. (2006). *Fly-Tipping: Causes, Incentives and Solutions. A good practice guide for local authorities.* http://www.flytippingactionwales.org/files/6513/4857/1834/flytipping-good-practice-guide.pdf

Wales Audit Office. (2012). *Public Participation in Waste Recycling.*http://www.audit.wales/publication/public-participation-waste-recycling

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Keep Wales Tidy

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Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
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Ymateb gan Valero	Response from Valero
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Mr Alun Ffred Jones AM
Chairman
Environment and Sustainability Committee
c/o Committee Clerk
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

Our Ref: ST/WJ/1562

11th June 2015

Re: National Assembly for Wales Environment and Sustainability Committee Consultation – General principles of the Environment (Wales) Bill

Dear Mr Chairman,

1. About Valero

1.1. Valero Energy Ltd owns and operates Pembroke Refinery in south west Wales, as well as six terminals across the UK, and the Mainline Pipeline which links Pembroke with the Manchester and Kingsbury terminals. Valero markets fuel in the UK and Ireland under the Texaco brand, with around 850 independently owned and operated Texaco-branded service stations in the UK. In total, Valero employs approximately 800 people in the UK and supports several thousand other jobs at the refinery, terminals and service stations.

1.2. We therefore welcome the opportunity to respond to the Environment and Sustainability Committee's examination into the general principles of the Environment (Wales) Bill. Our selective response to the Committee's consultation, particularly with regard to those parts of the Bill – namely Natural Resources Management and Climate Change – that impact on Valero's operations in Wales, contains what we consider to be an important contribution to the critical debate on future environmental policy in Wales.

2. Natural Resources Management

2.1. *Do you agree with the Welsh Government's proposals on definitions for 'natural resources' and 'sustainable management of natural resource'? Are there things missing that you think should be included?*

2.1.1. The Environment (Wales) Bill's definitions of 'natural resources' and their 'sustainable management' are, in Valero's opinion, baldly prescriptive and lack the appropriate nuance necessary to assuage concerns from many in the Welsh energy sector on the future direction of environmental policy and regulation. Valero has consistently called on the Welsh Government to broaden the definition of natural resources and their use, to include direct and specific reference to the social and economic processes resulting from natural resources, as opposed to a basic definition of their ecological properties.

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2.1.2. Valero again stresses the need for legislative definitions that provide Welsh Ministers and policymakers, both now and in the future, with a flexible suite of options between varying, and oftentimes competing, priorities concerning ecological conservation and socio-economic development.

2.2. *What are your views on the proposals for a National Natural Resource Policy? Is the Bill clear enough about what this will include?*

2.2.1. Valero reiterates its support for a National Natural Resources Policy (NNRP), prepared and published by the Welsh Ministers, believing that setting a national, high-level direction for natural resources strategy will provide the Welsh Government with the best opportunity to fashion a policy that complements and supports other initiatives; as opposed to operating a fragmented and potentially conflicting set of strategies.

2.2.2. Valero would like to stress that any efforts to implement an NNRP must be compatible with the Welsh Government's various business, economic and enterprise policies. In particular, we believe the NNRP should be designed in such a way as to synchronise with the vision of the recent Energy Wales Statement from the Minister for Economy, Science and Transport, which stated that Wales' energy policy should "maximise benefits from renewables, modernised coal and gas generation, profitable refineries, ports and LNG terminals" and that the Welsh Government wanted "to see a diverse generation mix in Wales that produces affordable and secure supply."[1]

2.3. *Do you agree with the proposals for area statements? What should these cover and is the process for their development clear enough in the Bill?*

2.3.1. In our response to the Welsh Government's 2013 White Paper on the Environment (Wales) Bill, Valero expressed a desire for greater information on the proposals to utilise an area-based approach to natural resource management. Following the publication of the Bill, as introduced, we believe that many of our calls for clarity on the role of area statements remain relevant.

2.3.2. The Exploratory Memorandum to the Bill recognises that "tackling overarching challenges and identifying sustainable solutions requires an approach that takes into account the local context."[2] Valero agrees with this sentiment. However, we feel that socio-economic considerations – as well as information on ecosystems – should play an equal role in the providing the local level evidence base for area statements, particularly if area statements are to inform the development of any local development plans.

3. Climate Change

3.1. *Do you agree with the proposals for the 2050 target?*

3.1.1. Valero notes the Environment (Wales) Bill's proposal to ensure that net Welsh emissions are 80% below the respective baseline years of either 1990 or 1995 by 2050, matching the goal set out in the 2008 Climate Change Act. Valero welcomes the decision by the Welsh Government not to set an even higher rate of reduction in Wales than other parts of the UK,

[1] Edwina Hart, Minister for Economy, Science and Transport, 'Written Statement – Energy Wales Statement', [http://gov.wales/about/cabinet/cabinetstatements/2015/energy?lang=eng], 20th April 2015 [accessed 5th June 2015]
[2] Environment (Wales) Bill, 'Exploratory Memorandum: Incorporating the Regulatory Impact Assessment and Explanatory Notes'. [http://www.assembly.wales/laid%20documents/pri-ld10201-em/pri-ld10201-em-e.pdf], May 2015 [accessed 5th June 2015], p. 30

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which would have a negative impact on the Welsh economy in comparison to Northern Ireland, England and Scotland.

3.1.2. However, whilst Valero is always willing to work with the Welsh Government on these extremely important issues, we would like to acknowledge the many existing layers of climate change legislation that the oil refining sector in the UK already complies with at an international and EU level. Further to this, we would caution all national regulators that in their eagerness to tackle climate change they should avoid imposing additional requirements that would exceed those internationally agreed measures and therefore disadvantage Wales-based industry against other Member State competitors.

3.1.3. Such measures rarely succeed in their intended reduction of greenhouse gas emissions, but simply lead to the transfer of emissions to other localities with less stringent environmental regulation (known as 'carbon leakage'), at the expense of increased financial pressures on domestic industries and employment.

3.2. *For your views as to whether the interim targets should be on the face of the Bill?*

3.2.1. Similarly, Valero feels that any interim targets, specified for one or more years before 2050, should take account of Wales' position compared with national, European and international competitors. Again referencing the recent Cabinet Statement on Welsh energy policy, we welcome efforts to create and maintain "a business friendly and competitive environment for investment and affordable supply"[3] in Wales. This is particularly important to industries, such as the downstream oil industry, which operates within a global investment and regulatory environment.

3.2.2. We are concerned that the inclusion of a statutory requirement to specify interim targets in the Environment (Wales) Bill that subsequently goes beyond internationally agreed targets might create a more disadvantageous regulatory atmosphere for operators in Wales compared to other UK and international competitors. The Welsh Government must carefully consider the possible impact on investment and energy developments in Wales that might result from the introduction of statutory interim targets which deprive Wales of the flexibility needed to adjust to changing needs and priorities.

3.3. *Do you believe that the introduction of carbon budgets is a more effective approach than the 3% annual emissions reduction target that is currently in place in Wales?*

3.3.1. Valero welcomes the replacement of the 2010 Climate Change Strategy's annual target to reduce greenhouse gas emissions by 3% in devolved areas with an alternative approach that provides stakeholders with greater flexibility in meeting their climate change obligations. The proposed introduction of carbon budgets, with the ability to carry amounts from one budgetary period to another, does suggest a potentially more malleable approach than the previous 3% annual reduction target.

3.3.2. However, the acceptability of this approach is dependent on the mechanism in place to decide on carrying a part of the carbon budget either forwards or backwards from one budgetary period to another. At present the Bill simply states that Welsh Ministers may decide, following consultation with the advisory body, to carry amounts from one period to another. The

[3] Edwina Hart, 'Energy Wales Statement'

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Exploratory Memorandum states this approach allows "flexibility, where a need for a slower transition in one area can be balanced with more rapid progress in another."[4]

3.3.3. The lack of detail provided on how the Welsh Ministers might come to their decision on transferring budgets from one period to another – especially as the proposals for carbon budgets are a statutory replacement for the previously non-statutory 3% target – creates a degree of uncertainty as to how this might affect stakeholders on a sector by sector basis. Valero recommends that during the ongoing debate on the provisions of the Environment (Wales) Bill more specific detail is included on how Welsh Ministers might come to determine budgetary allocations from one period to another, how Welsh Ministers engage with stakeholders during the decision making process, and what appellate system might be put in place for stakeholders to seek redress on budget allocation decisions that might impinge on their operations.

3.4. *What are your views on what emissions should be included in targets? All Welsh emissions or those within devolved competence?*

3.4.1. Valero believes that consistency should be maintained with previous Welsh Government climate change strategies, and that the Environment (Wales) Bill should target emissions within the devolved competence of the National Assembly for Wales, as opposed to all Welsh emissions. The potential consequences for 'double counting' of greenhouse gas emissions between various reporting agencies would have serious consequences for industry in Wales, without the further complication of emissions extending beyond Wales' devolved competencies.

3.5. *Do you agree with the Bill's proposals as to what should happen if the Welsh Ministers fail to meet emissions targets or carbon budgets?*

3.5.1. The Bill proposes, in the event of net Welsh emissions exceeding statutory targets or carbon budgets, to require Welsh Ministers' to report to the National Assembly setting out proposals and policies to compensate for excess emissions in later budgetary periods. Valero hopes that this approach will take account of the potential for exceedances that result from remedial activity taken by industry to meet other regulatory requirements.

3.6. *What should the role of an advisory body on climate change be?*

3.6.1. Valero believes a key role of an advisory body on climate change, not specified in the Bill in its present form, should be to represent the views of all interested stakeholders to the Welsh Government on climate change policies, and should take account of stakeholder opinions when formulating their views and advice to Welsh Ministers. We feel that such a function would greatly enhance the independent nature of the advisory body as a forum acceptable to all stakeholders, and help to create a consensus around the eventual shape of the carbon budgeting system. We recommend, at the very least, a stakeholder technical forum to feed stakeholder views directly to the advisory body.

3.6.2. With this recommendation in mind, Valero would welcome others to reconsider the appropriateness of the UK Committee on Climate Change (CCC) to be the default designated advisory body, as set out in the Bill. A standalone and dedicated advisory body with a balanced membership, better able to take account of the whole range of views on climate change policy –

[4] 'Exploratory Memorandum', p. 41

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including those of industry – would be well placed to secure widespread agreement with all interested parties.

4. Conclusion

4.1. One of the greatest challenges facing the oil refining industry in Wales is the increasing regulatory and legislative burden being imposed on the sector at an international, EU and Member State level. A report by industry consultants Purvin & Gertz, prepared for the UK Petroleum Industry Association (UKPIA), has set out many of the concerns within the refining sector. They concluded that there "is the prospect of significant increases in capital expenditure and operating costs for UK refiners as a result of proposed UK, EU and in some cases Global legislation"[5], with an increased risk of further plant closures and threats to energy security.

4.2. This sentiment was echoed by Michael Fallon, in his then capacity as UK Energy Minister, who stressed to a recent UK Energy & Climate Change Select Committee report on the oil refining sector, that the "obvious thing Government must not do is to burden them [oil refineries] with unnecessary new regulatory costs that increase the capital budget and will not be affordable."[6]

4.3. Valero therefore views the proposals outlined in the Environment (Wales) Bill through a prism to ensure that no additional regulatory or legislative requirements be imposed at a devolved level that might place our operations in Wales at a further economic disadvantage in comparison to both our EU and UK competitors. Reassurance from the Welsh Government and all others interested in maintaining a viable oil refining sector in Wales that the statutory proposals contained in the Bill will not have a negative effect on Welsh refining operations would be extremely welcome.

4.4. Once again, Valero is incredibly grateful for the opportunity to air our views in this important debate, and we would be delighted to provide any further details at the committee's request.

Yours sincerely,

Stephen Thornton
Public Affairs Manager

[5] Purvin & Gertz, 'The Role and Future of the UK Refining Sector in the Supply of Petroleum Products and its Value to the UK Economy', [http://www.ukpia.com/files/pdf/therolefutureoftheukrefiningsector.pdf], 10th May 2013 [accessed 8th June 2015], p. 3
[6] House of Commons Energy and Climate Change Committee, *UK oil refining: Third Report of Session 2013-14: Volume I*, 26th July 2013, paragraph 25

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Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Ffederasiwn y Diwydiant Paneli Pren	Response from Wood Panel Industries Federation (WPIF)
EB 06	EB 06

Response to Consultation on General Principles of the Environment (Wales) Bill from the Wood Panel Industries Federation

2) What are your views on the proposals for a National Natural Resource Policy? Is the Bill clear enough about what this will include?

1. The Wood Panel Industries Federation (WPIF) represents all UK manufacturers of wood panels. The industry is the second largest processor of UK-sourced wood, annually consuming some 4.5m tonnes. There are six manufacturing sites across the UK, including one in Chirk, north Wales, and the industry has a combined annual turnover of over £550m, directly employing approximately 2200 people.

2. As well as recovered wood the industry's principle wood inputs are small roundwood, sawmill residues and sawdust. The wood panel industry has evolved the technology to reengineer these sources into its products, meaning that no excess waste wood is produced. WPIF members produce Chipboard, Oriented Strand Board (OSB), and Medium Density Fibreboard (MDF), supplying approximately 60% of UK demand. Demand for these products is growing, and they have a key role to play within the green economy and efforts to support low carbon construction.

3. At present, the wood panel industry is under threat from large bio-energy generators, which, if sourcing even 10% of their wood domestically (the DECC estimate) would use up the entire UK wood basket in energy generation. As such, the replenishing of the wood basket and commercial forestry planning is an issue of significant concern to the wood panel industry, and others, such as the furniture industry, which rely on wood as a resource.

4. The industry requires fair access to the domestic wood basket in a market that is not skewed towards energy generators, and this must be supported by sustainable growth and good management in commercial forestry. The WPIF has concerns that the proposals for a National Natural Resource Policy, as found in the Environment (Wales)

Bill, do not specifically address forestry and the need for a strategy to incentivise commercial planting. Without effective long-term planning, wood is far from being an infinite resource, with replenishment taking many years. The WPIF would like to see a plan to address this matter, and believes that Natural Resources Wales must engage with commercial stakeholders to ensure that plans for commercial forestry planting take into account the resources that industries which rely on the domestic wood basket really require.

5. Commercial forestry planting cannot be seen simply as an environmental issue, however. Planning for commercial forestry must take into account the fact that the availability of wood in Wales is directly impacted by the UK Government's development of bioenergy policy. Forestry replenishment should be planned accordingly, taking into account that the impact of this bioenergy policy on Wales's natural resources needs to be mitigated. Forestry is also a business issue; the wood panel industry is just one of many industries that relies on wood as a resource, and is in danger of being priced out of the market for this resource. It is therefore essential both that a practical and long-term plan for commercial forestry planting is built into the new National Natural Resource Policy, and that this plan is a product of both collaboration with the industries that rely on forestry, and the understanding that environmental, energy, and business policies all feed directly into the issue of forestry.

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Ymateb gan Ymddiriedolaeth Cadwraeth Ystlumod (Cymru)	Response from Bat Conservation Trust (Wales)
EB 07	EB 07

Ymddiriedolaeth Cadwraeth Ystlumod (Cymru)
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c/o Swansea Environment Centre, Pier Street, Swansea, SA1 1RY

Committee Clerk
Environment and Sustainability Committee
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11 June 2015

Environment (Wales) Bill

Thank you for the opportunity to comment on the above Bill. Our response can be made available to the public.

Please note that in addition to the following observations, the Bat Conservation Trust is also a signatory to the response provide by Wales Environment Link.

There is much to be commended in the Bill but there are some areas which need to be made better to help deliver the Welsh Government's aspirations for biodiversity and sustainable development.

Part 1: Natural Resources Management

Do you agree with the Welsh Government's proposals on definitions for 'natural resources' and 'sustainable management of natural resource'? Are there things missing that you think should be included?

Section 2 We note the absence of the word 'landscape' as natural resource although 2(e) does say physiographical features. If 2(e) is another term for landscape then we welcome its inclusion and perhaps the Committee should clarify this.

If it is not, then we would recommend that landscape be included. Whist we accept that landscape is a reflection of geomorphology, flora and fauna, and that it is a result of natural and man-made factors, its absence in the list of natural resources is a serious omission given its significant contribution to the Welsh economy, especially through tourism, which needs to be managed in an appropriate manner. Recognition of landscape in the Bill would be in keeping in support of the European Landscape Convention.

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Section 3(2). The objective, as worded, places the resilience of ecosystems in terms of benefits provided to society. We have consistently advised the Welsh Government that the Convention of Biological Diversity (CBD) and the subsequent decisions of the Council of Parties (CoP) do not place ecosystems solely for the benefit of society but ecosystems should be managed for their intrinsic values and for their tangible or intangible benefits for humans.

Section 4 There is no mention of managing within environmental limits. This is a fundamental element of sustainable management the principle of which is identified in CoP 7 (Kuala Lumpur, 2004) …..*If management of land, water, and living resources in equitable ways is to be sustainable, it must be integrated and work within the natural limits and utilize the natural functioning of ecosystems*. This is also the 6th principle of the 12 Aichi Principles. We would recommend that this section be amended to include living within natural limits.

The precautionary principle. This is a core guiding principle of the CBD and whilst section 4(d) alludes to this in terms of gathering relevant evidence in respect of uncertainties, we would wish to see the Precautionary Principle being specifically included so that where there are uncertainties, then the Precautionary Principle is invoked. We would recommend that this be clarified by including reference to Precautionary Principle.

Section 5. BCT remains concerned that NRW appears to no longer be a Statutory Nature Conservation Organisation but a body that has wider and potentially conflicting responsibilities to include socio and economic issues. Over the last few years we have witnessed a severe reduction in key expert ecological staff initially from CCW and more recently from within NRW. Furthermore, NRW appears to be in a constant state of change and restructuring. We would urge the Committee to recommend the establishment of NRW as an environmental protection agency to deliver the Resilient Wales Goal of the Well-being of Future Generations Act.

Section 6 (1) we very much welcome the strengthening of the current NERC biodiversity duty. We would wish to see the word 'promote' replaced with 'achieve'. Promotion is an output which in itself does not necessarily result in achieving anything.

In addition, we note that there is no mention of a duty to restore biodiversity and would therefore suggest that s6(1) is amended to read :

'*A Public authority must seek to restore, maintain and enhance biodiversity in the exercise of its functions in relation to Wales, and in doing so, promote biodiversity, and achieve the restoration, maintenance and enhancement of ecosystems and its components'*.

Section 6(2) greater emphasis could be given to this section by reference to s7(1).

BCT would ask that consideration is given to switching sections 6 and 7 about. The effect of this would be to give prominence to the list of living organisms and types of habitat of principle importance from which public authorities would be under a duty to restore, maintain and enhance.

Biodiversity targets. We are disappointed that statutory targets have not been included. We have now failed to hit the previous international biodiversity target for 2010 and the State of Nature report 2013 highlighted the on-going losses. If Welsh Government has serious intentions to achieve our biodiversity commitments, we would suggest that there is now a strong argument for greater action. The Bill has accepted the principle of 'environmental' targets in Part 2 for climate change and we see no good reason why targets could not and should not be included for biodiversity in Part 1. These could be done at fairly broad level to cover, protected sites, species, and the wider terrestrial and aquatic environments. We have started to look at possible biodiversity indicators in relation to the Well-being of Future Generations (Wales) Act and this work could inform biodiversity targets.

We would also ask the Committee to consider recommending the introduction of an independent Commissioner with appropriate duties and responsibilities to hold Welsh Government to account.

Section 7(1).This section requires the Welsh Ministers to publish a list of living organisms and types of habitat of principle importance. Whilst we note that section 7(2) goes on to require consultation with NRW as to the List, we consider that section 7(1) could be suitably amended to say

Welsh Ministers to publish a list of living organisms and types of habitat of principle importance which in the scientific opinion of Natural Resources Wales, are of principle importance for et restoration, maintaining and enhancing biodiversity in Wales.

Section 8. We welcome the duty on NRW to report on the state of Wales' natural resources and the extent to which sustainable management of natural resources (SMNR) is being achieved. We suggest an amendment to make it clear that SoNNaR Reports should reflect not only positive performance, but obstacles preventing achievement of SMNR and how these might be overcome.

<u>What are your views on the proposals for a National Natural Resource Policy? Is the Bill clear enough about what this will include?</u>

We welcome the duty under section 9 as a way forward to achieving the revised biodiversity targets. We would remind Welsh Government that Ecosystem management is just one mechanism for delivering this and that this does not preclude other conservation approaches including protected sites (domestic and European) as well as single species conservation measures.

We would ask that you consider amending section 9(1) to remove the word 'contributing to' so that this section achieves sustainable management rather than simply make an un-quantified contribution

We note that there are no proposals for consultation into the documents and consider this to be an omission. Furthermore, we note that the duty applies to Welsh Ministers (plural) and there is therefore a real risk that there might be conflicting tensions between different government departments. We are surprised that this section does not include a duty on Minister(s) to consult at least NRW in developing the NNRP. We recommend this section is amended to introduce a requirement to consult NRW and other persons prior to publication of the NNRP or a revision thereof.

Do you agree with the proposals for area statements? What should these cover and is the process for their development clear enough in the Bill?

What are your views on the proposal to strengthen the biodiversity duty on public authorities operating in Wales?

We very much welcome the strengthening of the current biodiversity duty. We would wish to see the word 'promote' replaced with 'achieve'. Promotion is an output which in itself does not necessarily result in achieving anything.

In addition, we note that there is no mention of a duty to restore biodiversity and would therefore suggest that s6(1) is amended to read :

'A Public authority must seek to restore, maintain and enhance biodiversity in the exercise of its functions in relation to Wales, and in doing so, promote biodiversity, and achieve the restoration, maintenance and enhancement of ecosystems and its components'.

Section 6(2) greater emphasis could be given to this section by reference to s7(1).

Are you content with the proposals for NRW to have wider powers to enter into land management agreements and have broader experimental powers?

BCT can see some merit in having additional powers to suspend statutory requirements for experimental schemes (section 22) , but there must be sufficient safeguards in place and the decision to suspend must be open and transparent. We would suggest that there must be a form of consultation process the results of which should be made public and challengeable.

Part 3: Carrier Bags

Do you agree with the proposal that Welsh Ministers should have powers to raise a charge on all types of carrier bags not only single use bags?

No comment

Do you agree with the proposal that Welsh Ministers should have powers to raise different charges on different types of bags?

No comment

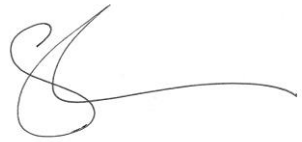
Do you agree that the profits from the sale of carrier bags should be directed to all charitable causes rather than just environmental ones?

BCT does not agree with this proposal. The levy on carrier bags was established as an environmental levy and therefore proceeds should be directed at environment projects. This is even more important at a time when funding for environmental (biodiversity) projects is under great strain and being reduced.

BCT has no comments to make on Parts 4, 5 and 6.

Please do not hesitate to contact me if you have any queries on these comments.

Yours faithfully



Steve Lucas

Swyddog Cymru / Wales Officer
Ymddiriedolaeth Cadwraeth Ystlumod (Cymru) / Bat Conservation Trust (Wales)

Summary of Recommendations

- Ensure that landscape is considered as a natural resource (Section 2)
- Amend the objective of the definition of sustainable management so that ecosystems should be managed for their intrinsic values as well as for their tangible or intangible benefits for humans (Section 3(2))
- Included managing within environmental limits (Section 4)
- Included / clarify the Precautionary Principle (Section 4(d))
- Repurpose the establishment of NRW as an environmental protection agency to deliver the Resilient Wales Goal of the Well-being of Future Generations Act (Section 5)
- Replace the word 'promote' with 'achieve' (Section 6(1))
- Either, make reference to section 7 in Section 6(2) or, to swap Section 6 with section 7
- Inclusion of statutory biodiversity targets (a new section)
- Establishment of an independent commissioner (a new section)
- Replace 'in their opinion' insert 'in the opinion of Natural Resources Wales' (Section 7(1))
- Include 'and obstacles preventing achievement' (Section 8(1))
- Remove the word 'contributing to' to read '….achieves sustainable management…' (Section 9(1))
- Include a duty on Minister(s) to consult at least NRW in developing the NNRP. (Section 9(1))
- When considering suspending statutory requirements for experimental schemes, there must be sufficient safeguards in place and the decision to suspend must be open and transparent. (section 22)
- BCT does not agree that the profits from the sale of carrier bags should be directed to all charitable causes but should remain available for environmental causes.

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Ymateb gan Wheelabrator Technologies Inc. (UK)	Response from Wheelabrator Technologies Inc. (UK)
EB 08	EB 08

Environment (Wales) Bill - Part 4: Collection and Disposal of Waste

A consultation response from Wheelabrator Technologies Inc. (UK)

1. For your views on whether the Welsh Ministers need further powers to require that certain types of waste are collected, treated and transported separately?
2. Do you agree that non-domestic premises should be required to put their waste out for collection in line with any separation requirements set out by the Welsh Government
3. Whether you agree that the Welsh Government needs wider powers to ban some recyclable waste from incineration?
4. What will the impacts of these waste proposals be for you or your organisation?
5. Are there other waste proposals that you think should be included in the Bill?

1. In respect of household waste - given the huge strides being made by Wales already and the ever increasing recycling rate currently being achieved, there is a case for '*if it isn't broken, don't fix it'*. Wales already leads the way in recycling in the UK with collection authorities up and down the country providing multi-material recycling schemes to householders without the need for the proposed powers.

   It's also worth taking into account the forthcoming local authority mergers being proposed by the Minister of Public Services, Leighton Andrews AM, as part of the recommendations put forward by the Williams Commission. Paragraph 3.39 of Sir Paul Williams' report on *Public Service Governance and Delivery* points out that collection costs already vary greatly. We believe additional regulation in this area will increase costs across the board during a period when it would be more prudent to allow the newly-merged authorities to focus on streamlining and improving the best aspects of their combined collection services.

   When considering commercial operators. There could be a cost increase that will have an overly onerous impact on small to medium sized enterprises (SMEs). The impact on small businesses to separate, store and source collection for multiple waste streams could lead to them becoming less competitive in their respective markets. Again, with commercial waste recycling rates as high as they currently are, it seems perverse to 'rock the boat' at this point. The risk is that this additional burden could have a counter-productive effect on recycling rates in this sector.

   WTI is not a waste collector in the UK, but relies upon the waste collection industry to collect, sort and separate waste in order to provide a residual fuel to our facilities. This will apply in respect of Parc Adfer and it is therefore essential that the views expressed by the collection industry are clearly understood and listened to as their experience and knowledge will be key in determining what can and will work.

2. Any further regulation on collection would be difficult to enforce and potentially overly punitive on SMEs – some of which we will hope to have as future customers.

   As noted above, the responses to this consultation by the collection industry must carry a heavy weighting when assessing any changes.

For further information, please contact:

David Spencer, Communications Manager, Wheelabrator Technologies Inc. (UK)
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3. The Environmental Permit regime already has control over restrictions on waste types to Energy from Waste (EfW) facilities and landfill. The lack of sufficient market infrastructure for contaminated recyclable waste included in mixed loads will ultimately mean a ban on EfW could lead to higher exports, more fly tipping and/or illegal activities. The fact that Welsh Ministers already have banning powers under existing legislation also serves to underline the lack of requirement for these proposals.

   In 2013/14 the UK's top ten exporters of RDF alone shipped over 2m tonnes of British resources overseas, estimates for 2015 show that this tonnage is likely to exceed 3m. The cost to the UK was up to £192m in transportation, shipping and processing fees, with the loss of resource capable of powering over 312,000 British homes or circa 1.3% of the UK population. Non-recyclable waste collected from homes and businesses in Ceredigion and Pembrokeshire is already being sent overseas. This is only viable as a short-term solution. Over the longer term it would be more responsible – from both an economic and environmental perspective – to manage this resource within Wales. Exporting this resource means the opportunity to use it to increase recycling rates, generate low carbon energy and unlock the supply chain opportunities associated with both of these processes for Wales-based waste management businesses is ultimately lost.

   By increasing the opportunities for export via these proposed powers, Welsh Government may discourage private sector investment in EfW infrastructure in Wales and actively encourage waste export. These are both issues which are not part of the Wales Waste Strategy. Knock on impacts would include limiting energy security, removing potential investment opportunities in co-location of facilities requiring heat, steam, power or other by-products, and reducing the generation of renewable energy. Wheelabrator has seen first-hand that the Deeside area needs investment, jobs and energy. Indeed, the planning process revealed overwhelming support for Parc Adfer from the business community, industry groups and the public who understood the economic and employment opportunities this scheme represents.

   Outright bans often restrict capabilities to react to changes in market conditions, which ultimately dictate how society's resources are used. Overly prescriptive bans on generic material streams and prescriptive additional burdens on business are unhelpful to the sector and to Welsh businesses in this respect.

   The proposed powers are based on a stated purpose which is premature and unnecessary. The stated purpose to: '*Ensure that valuable recyclable materials/resources are not burnt'* is not aligned to market realities. It assumes that listed materials always hold market value, which is currently inaccurate. It's also premature in that such materials are unlikely to be sent to EfW facilities given other economic and policy measures in place. If such materials arrived at an EfW facility, they would be highly unlikely to have any real value and would likely be contaminated anyway. Banning materials from landfill and EfW would leave them nowhere to go if they were contaminated and there was no available EfW capacity.

   The materials list is too simplistic. There are many different types and grades of paper, plastic, card and wood. The markets, viability and practicability of recycling some grades will of course vary over time. If for instance, 'plastics' are banned, what would happen to those polymers that currently don't

For further information, please contact:

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have a robust market? Stockpiling of such materials when markets are depressed is also unhelpful to further market development and stimulation. Further stimulus to recycled product markets and recycling technologies should be applied before any enforcement to use these markets is implemented via the proposed powers.

Whilst measures to ensure that viably recyclable materials are not landfilled or used as fuel are laudable, the approach here is overly onerous on those parties with little or no influence on the presentation of material for landfilling or recovery. It is unclear as to the proposed level of risk and responsibility that would fall on operators, waste carriers/collection authorities and companies sending waste to EfW facilities. This is of particular concern to Wheelabrator given its position as Preferred Bidder for the North Wales Residual Waste Treatment Project (NWRWTP) contract.

If implemented, the proposals as they stand would also distort the market. Anaerobic digestion and biomass facilities do not seem to be covered by the same duty. Uncontaminated wood, paper or card is as undesirable - if not more undesirable - to an AD plant as it is to an EfW facility. Indeed previous studies have shown that energy recovery is the best environmental outcome for low grade paper and card and this is far more efficient via EfW than AD. In addition, uncontaminated wood is a key fuel of biomass facilities.

4. Impacts on our organisation could be extremely damaging. The ban on materials from EfW, when included as part of mixed loads, could deter commercial operators from using our services. Imposing systems by which they are required to separate materials before sending to our facility will be costly. Alternative waste management facilities exist in England and they will happily accept this material without these activities being required, saving the commercial operators money.

   The introduction of this Bill at this time presents a particular issue for Wheelabrator given the current ongoing discussions with the NWRWTP. The Welsh Government risks appearing to be pulling in opposite directions by, on one hand letting a contract for a residual waste treatment facility and on the other, removing the ability for this facility to operate effectively. The current legislative framework in Wales provides a cap on EfW of 30 per cent by 2025, effectively reducing the fraction that is to be treated in this way to those materials best suited to EfW anyway. With the aspiration to go further to 0 per cent EfW by 2050, the proposed bans will only serve to complicate an already successful waste policy in action. The proposals show a lack of faith and/or impact assessment in existent policy measures.

   It is understood that some of these points could be clarified via the proposed guidance, but a level of ambiguity and uncertainty is still likely to remain regarding interpretation, enforceability and implementation. Guidance for operators, collectors, waste authorities and regulators may not prevent unnecessary cost and bureaucracy for little or unproven environmental, social or economic benefit.

5. If these bans were linked to the R1 formula and only applied to facilities that did not demonstrate that they are recovery facilities and not disposal facilities, this could be more understandable and acceptable. Wales, as with the rest of the UK, has identified the scope for increased amounts of

For further information, please contact:

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renewable energy generation from waste sources, utilising a combination of viable technologies. The potential to deliver combined heat and power schemes at EfW energy projects could also significantly add to overall energy efficiency and Wales could develop best practice examples if these are encouraged.

It should also be noted that provisions within the Environmental Permitting regime make more than adequate provision for the practicable prevention of recyclable materials being sent for energy recovery.

Going forward, the implementation of current policy will mean that landfill will only be required as a contingency outlet and for the disposal of truly residual materials of low or no calorific value and that cannot be physically reused or recycled. The proposals introduce additional cost, bureaucratic burden and uncertainty at a delicate investment point for vital infrastructure in Wales and the delivery of the Wales' Waste Strategy itself. There is a very real risk that the proposed powers will discourage investment in infrastructure, and put in jeopardy the accompanying jobs and economic and service benefits.

NB: *Wheelabrator Technologies Inc. would be very happy to discuss in detail the issues raised in this consultation response with Welsh Government and we would be happy to accept any opportunity to provide oral evidence to the Environment and Sustainability Committee in due course.*

For further information, please contact:

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Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Calor Gas Ltd	Response from Calor Gas Ltd
EB 09	EB 09

Consultation response

General principles of the Environment (Wales) Bill

12th June 2015

This response is submitted by Holly Sims, Corporate Affairs Manager at Calor Gas.

E: hsims@calor.co.uk

Introduction

Calor Gas is the UK's leading supplier of LP-gas fuels. LP-gas fuel has a wide variety of applications, providing a versatile fuel for heating and transport applications. LP-gas has a lower carbon footprint than commonly used alternative fuels including heating oil and solid fuels such as coal and charcoal.

Part 2: Climate Change

- **Do you agree with the proposals for the 2050 target?**

Calor Gas supports the Welsh Assembly Government's objectives for cost-effective decarbonisation of heating and tackling fuel poverty. The company commercialises a range of solutions that support these objectives ranging from efficient gas heating technologies to green gas biopropane that can be used in existing LP-gas boilers.

It is our view that policymakers are yet to realise the full potential of low carbon LP-gas technologies for the cost-effective reduction of emissions in areas of the economy where transformation may be hardest to achieve i.e. off gas grid rural areas. Leading companies are commercialising an array of efficient gas technologies such as gas driven heat pump, hybrid heat pump, micro CHP and fuel cell. These technologies are available for the LP-gas sector and represent a cost-effective low carbon alternative to the current range of LP-gas and Heating Oil Boiler technology. Efficient LP-gas technologies do not require investment in new infrastructure and can reduce consumers' energy bills by up to 50% and address UK decarbonisation goals. **Table 1** presents energy bill and carbon emission savings from LP-gas driven heat pumps, hybrids, micro CHP and fuel cells compared to standard condensing boiler options.

Policy support is required at both a UK and Welsh Assembly Government level to start the UK market and achieve capital cost reductions to close the capital gap with standard condensing boilers. In particular, it is crucial that Westminster funding for the RHI and FiT schemes is secured at the next Spending Review and that inclusion of new cost-effective technologies is considered. At a Welsh Assembly Government level, ECO should also be reviewed, with the aim of securing ECO funding to compliment existing Welsh schemes such as NEST and Arbed, to ensure uptake of energy efficiency measures in off-gas grid homes.

Over the long term, a clear path could be set for future changes in Welsh building regulations Part L with respect to replacement of heating systems. At present, condensing boilers must be fitted. In

future it may be possible to set a new minimum performance standard (for example, requiring controls, or a minimum efficiency for heating equipment or installations).

A long term plan to transition to more efficient low carbon LP gas heating in rural Wales would generate significant policy and economic benefits and render the Government a leader in this emerging field.

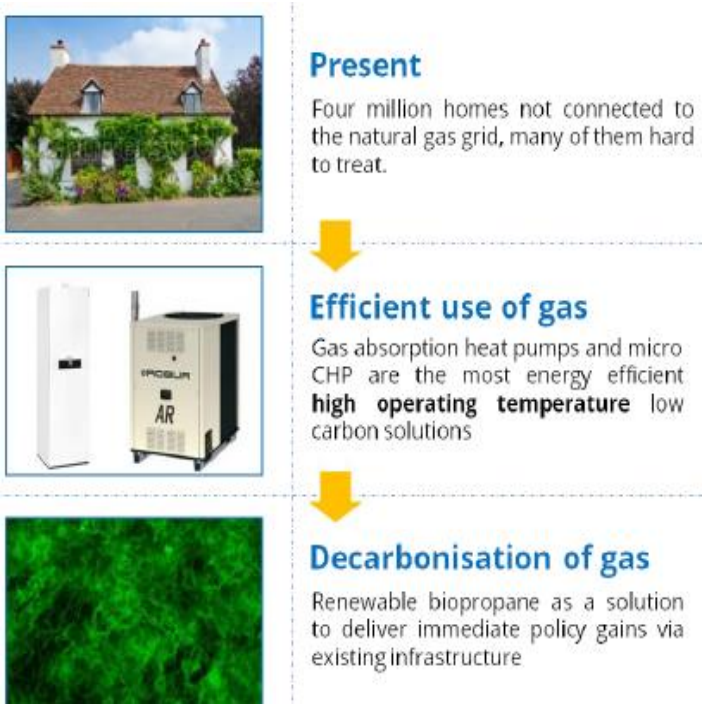
Table 1. Carbon emissions and energy bills from LP-gas driven technologies[1] [2]

Technology	Carbon emissions tCo2/year	Carbon emissions tCo2/lifetime (10yrs)	Energy bills (£/year)	Energy bills £/lifetime (10yrs)
Heating oil boiler	3.39	28.19	£593	£4,933
LP-gas boiler	2.95	24.57	£952	£7916
LP-gas driven micro-CHP	**2.82**	23.47	**£900**	**£7,485**
LP-gas driven heat pump	**2.04**	17.01	**£659**	**£5480**
LP-gas driven hybrid heat pump	**172**	14.36	**£682**	**£5675**
LP-gas driven fuel cell	**1.36**	**11.32**	**£407**	**£3390**

In 2014 Calor's parent company SHV Energy announced a major deal with Finnish biodiesel producer, NESTE Oil, to market and sell biopropane to be produced at Neste Oil's Rotterdam refinery. The agreement to supply some 160,000 tons of biopropane over a four-year period is the first of its kind anywhere in the world. SHV Energy plans to sell the biopropane in several European

[1] Based on fuel demand of 13,975kWh/year
[2] Lifetime emission and energy bills discounted at 3.5% social discount rate

markets including the UK. Replacing existing fossil fuels with biopropane will result in significant carbon savings (carbon footprint for HVO biopropane is 10 g CO2e/MJ as per RED's Annex V, Section D, Disaggregated default values for biofuels and bioliquids.) Indeed the volume of biopropane which could be available for the UK market (i.e. 40,000 tonnes per year) is sufficient to supply fully renewable LPG to 30,000 homes - the equivalent of all of Calor's customers in Wales. There are a number of international research projects investigating other potential production routes for biopropane – including ones at Imperial College and the University of Manchester's Institute of Biotechnology. This makes biopropane a strong long-term low carbon technology option for homes and businesses in off gas grid rural areas – used alongside low carbon gas technologies such as those described above.



- **For your views as to whether the interim targets should be on the face of the Bill?** No response
- **Do you believe that the introduction of carbon budgets is a more effective approach than the 3% annual emissions reduction target that is currently in place in Wales?**

As a business, carbon reduction targets impact on our planning as they provide a viewpoint regarding the future balance of fuels and services required to fuel the economy in the future. Provided the ambitious targets are realistic, medium and long-term carbon budgets can support our planning and investment approach. The important aspect is that Government should not try and pick winners, but leave property owners to decide how to best meeting any targets or regulations.

- **What are your views on what emissions should be included in targets? All Welsh emissions or those within devolved competence?** No response
- **Do you agree with the Bill's proposals as to what should happen if the Welsh Ministers fail to meet emissions targets or carbon budgets?** No response
- **What should the role of an advisory body on climate change be?** No response

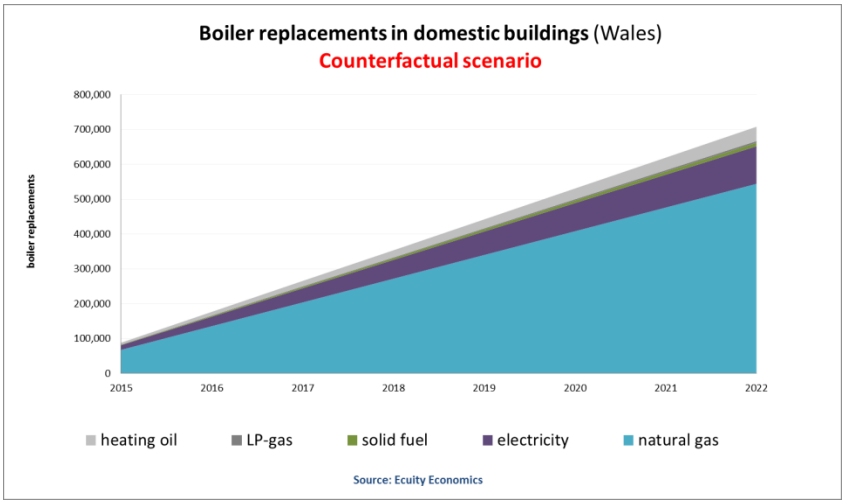
Appendix

A1: Boiler replacement assumptions

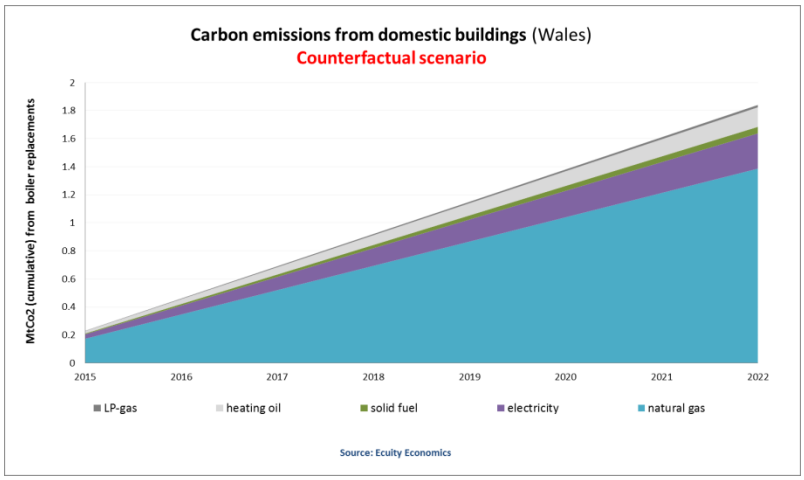
Heating technology	Boiler replacements/year (UK)[3]	Boiler replacements/year (Wales)[4]
Heating oil boiler	87,000	5,140
LP-gas boiler	12,000	709
Gas boiler	1,152,000	68,056
Electric heating (including heat pumps)	228,000	13,469
Solid fuel	21,000	1,241

A 2: Boiler replacements - Counterfactual scenario

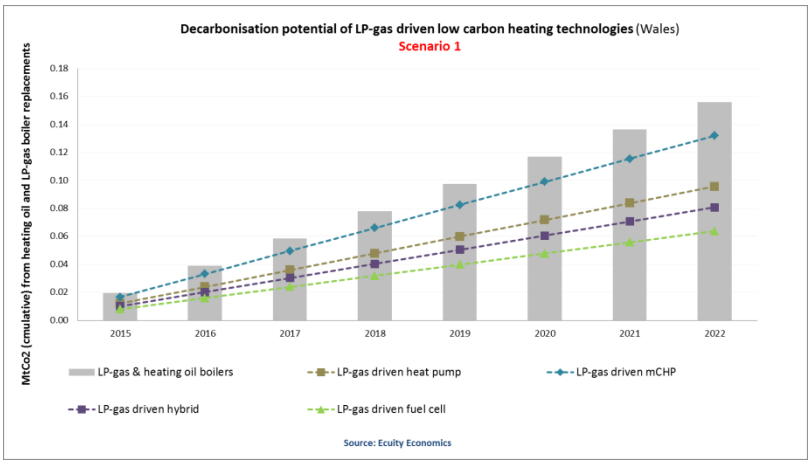
[3] Meeting Carbon Budgets – 2014 Progress Report to Parliament, CCC (2014)
[4] Off-gas consumers, Consumer Focus (2013)



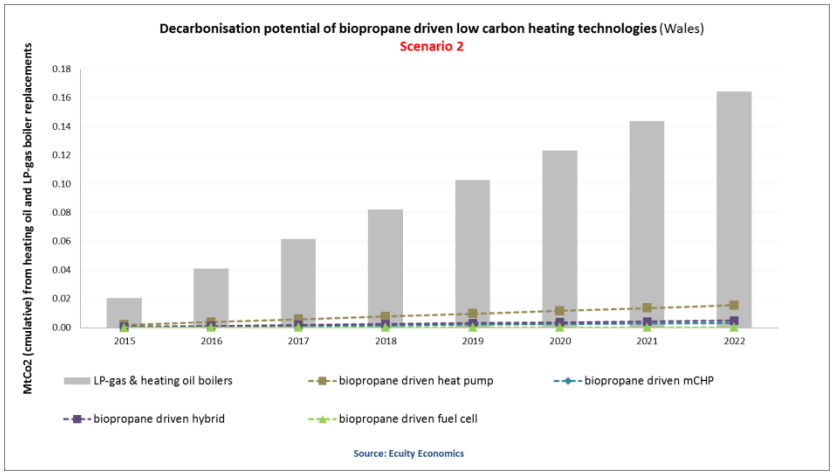
A 3: Carbon emissions – counterfactual scenario



A 4: Carbon emissions – Scenario 1



A 5: Carbon emissions – Scenario 2



Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Cymdeithas Genweirwyr Eogiaid a Brithyll Cymru	Response from Salmon & Trout Association (Cymru)
EB 10	EB 10

Committee Clerk
Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay, CF99 1NA.

June 11th 2008

Dear Committee Members,

Response to the Environment & Sustainability Committee's Consultation over the Environment Bill

The Salmon & Trout Association (Cymru) (S&TA(C)) welcomes this opportunity to respond to the Committee's consultation on the Environment (Wales) Bill.

The Salmon & Trout Association (S&TA) was established in 1903 to address the damage done to our rivers by the polluting effects of the Industrial Revolution. Since then, the S&TA has worked throughout the UK to protect fisheries, fish stocks and the wider aquatic environment for the public benefit. S&TA has charitable status in England, Wales and Scotland and its charitable objectives empower it to address all issues affecting fish and the aquatic environment, supported by robust evidence from its scientific network, and to take the widest possible remit in protecting salmonid fish stocks and the aquatic environment upon which they depend. www.salmon-trout.org

There are three issues over which S&TA(C) would like to make submissions, all three relating to Natural Resources Wales (NRW)'s involvement in fisheries and riverine management issues.

Firstly, we believe that NRW should have regulatory powers and authority over all Welsh rivers, including ordinary watercourses. NRW has statutory obligations under the EU Water Framework Directive to bring all rivers to good ecological status or potential by 2027, and we fail to see how this is feasible without having regulatory

control over the whole of individual river catchments. A recent case study in Conwy, where sea trout spawning gravels were destroyed by a flood defence scheme given agreement by the local council against NRW advice, shows the urgency with which this change in legislation is required. NRW should have as its primary objective the protection and conservation of the environment – in this case the aquatic environment – and such environmental destruction should not be permitted under any but the most urgent extenuating circumstances.

S&TA(C) believes that this regulatory role should be NRW's primary function in the aquatic environment. We would strongly support a close association with deliverers such as the Rivers Trusts (Afoydd Cymru) so that the third sector becomes responsible for implementing river restoration schemes and projects. Evidence shows that the third sector can deliver relevant projects more cost effectively and efficiently than public bodies, albeit with advisory and regulatory input from NRW.

S&TA(C) is especially concerned over freshwater fisheries management – we believe it must be given a high priority within NRW's role. We are generally worried that dedicated fisheries' personnel are slowly giving way to more general staff in the aquatic field and we feel this is a mistake. Fisheries management requires specialist knowledge for it to be delivered, or advised upon, effectively and S&TA(C) urges the Committee in the strongest terms to recommend that a fully functional fisheries team be retained within the national NRW setup, supporting local specialist fisheries operatives in river catchments, and liaising with stakeholders through an Inland Fisheries Group at national level.

S&TA(C) has already given oral evidence to the Committee and would welcome the opportunity to do so again.

Best wishes,

Richard Garner-Williams

Paul Knight
Chief Executive

Richard Garner Williams
Chairman S&TA (Cymru)

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
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Ymateb gan RSPB Cymru	Response from RSPB Cymru
EB 11	EB 11

yn rhoi cartref i fyd natur

giving nature a home

Evidence from RSPB Cymru to the Environment & Sustainability Committee
Environment (Wales) Bill

June 2015

RSPB Cymru is part of the RSPB, the country's largest nature conservation charity. The RSPB works together with our partners, to protect threatened birds and wildlife so our towns, coast, seas and countryside will teem with life once again. We play a leading role in BirdLife International, a worldwide partnership of nature conservation organisations. The RSPB has over 1 million members, including more than 51,000 living in Wales.

Our evidence on the Environment Bill focuses on the areas where we have identified the need for improvement if the Bill is to deliver for Wales' wildlife. We also support the evidence submitted by Wales Environment Link.

1. **Part 1: Sustainable Management of Natural Resources** The Environment (Wales) Bill is not up to the task of halting the loss of Wales' biodiversity and putting it on the road to recovery, due to a critical gap in the natural resources management approach. We do not believe that the new approach to sustainable management of natural resources (SMNR), as set out in the Bill, will address the specific needs of species and habitats that are being lost from Wales.

2. Our primary aim in proposing changes to Part 1 is to ensure that delivery for biodiversity is properly integrated into the new approach, and integral to how we measure success. We call for:

- a statutory target for biodiversity recovery to secure Government leadership and a focus on outcomes;
- specific references to biodiversity to be added to the objective and principles of the sustainable management of natural resources (SMNR); and
- improvements to the new general biodiversity duties.

3. In addition, we consider the process created for SMNR (national policy and area statements) is weak and unlikely to drive action as currently drafted.

4. **Statutory Targets for biodiversity**
   The Well-being of Future Generations (Wales) Act made an important advance in formally recognising that maintaining and enhancing a biodiverse natural environment is a goal of sustainable development, with responsibility for delivery shared by public bodies in Wales. This is necessary if we are to tackle biodiversity loss and improve the health of our natural environment. However, in focusing on making biodiversity a shared responsibility Government is in danger of neglecting its leadership role in relation to the direct steps that are needed to tackle declines and restore biodiversity in line with international commitments.

5. The *State of Nature* report found that many of the species suffering dramatic declines are those with specialist habitat requirements, dependent on appropriate management and protection of their habitats. The objective of SMNR, as set up in the Bill, is to maintain and enhance the resilience of ecosystems and the benefits they provide. We are concerned that this will result in a focus on broad habitat types, based on the ecosystem services identified as priorities. Indeed, this is suggested by a case study in the statement of policy intent, which goes so far as to suggest that considering biodiversity conservation may act as a blockage to NRW fully undertaking its role in relation to SMNR (http://www.senedd.assembly.wales/documents/s40639/Policy%20Intent%20Statement.pdf).

6. The Bill must be amended to make explicit that halting and reversing species declines is a required outcome of SMNR. Otherwise, not only will the new approach fail to benefit priority biodiversity; it could make matters worse for biodiversity by failing to take species' needs properly into account in developing priorities, and by diverting attention and resources away from implementing existing nature conservation legislation.

7. It is a concern that even in the draft Nature Recovery Plan (NRP) published for consultation last year, the Government said little about delivery for priority species. This reflects either: a belief – in our expert view wrong, as we repeatedly stated in discussions of the Wales Biodiversity Strategy Board during the drafting of the NRP – that an approach based on natural resources can automatically be

assumed to deliver benefits for species under pressure; or: a decision that addressing species declines in Wales is not a priority.

8. Public attitude surveys carried out by the European Commission suggest that most people in the UK consider biodiversity loss to be a serious problem. Further, most believe that we have a moral obligation to stop it, as well as recognising that biodiversity and nature provide the basis for our wellbeing and quality of life[1]. At the time of writing, close to 215,000 people have communicated with the European Commission asking that the Nature Directives not be weakened through the current review process which opened in May: protecting nature matters to people.

9. Policy commitments on biodiversity have not been delivered; the 2010 target to halt biodiversity loss, agreed under the Convention on Biological Diversity (CBD), was not met, and the biodiversity outcomes in the Wales Environment Strategy seem to have fallen by the wayside.

10. Revised goals were set under the CBD in Aichi in 2010, which led to the following commitments in the EU Biodiversity Strategy:

    - **A headline target for 2020**: 'Halting the loss of biodiversity and the degradation of ecosystem services in the EU by 2020, and restoring them in so far as feasible, while stepping up the EU contribution to averting global biodiversity loss'; and
    - **the 2050 vision:** 'By 2050, European Union biodiversity and the ecosystem services it provides – its natural capital – are protected, valued and appropriately restored for biodiversity's intrinsic value and for their essential contribution to human wellbeing and economic prosperity, and so that catastrophic changes caused by the loss of biodiversity are avoided.'

11. We have a potentially strong and comprehensive suite of tools to protect and restore nature in both European and domestic legislation – yet these tools are under resourced and not properly implemented, and biodiversity continues to decline. The Environment Bill is an opportunity for the National Assembly to demonstrate its commitment to the recovery of biodiversity in Wales, in line with our international obligations, by setting statutory targets.

12. ***We recommend that the Bill should require the Welsh Ministers to ensure that by 2050, biodiversity has increased by 15%, as measured by a national index based on priority species.*** This index would need to be based on population trends of priority species that are rare or declining, based on the current 'section 42 list' (which will in future fall under s7 of this Bill) – like the UK Watchlist Indicator described in the State of Nature report. It is challenging to

[1] European Commission 2013 Flash Eurobarometer 379. Attitudes towards biodiversity. November 2013.

identify a Wales specific indicator due to a paucity of data for many species and groups, but we are confident this can be achieved, and improved upon over time. It would need to be supported by more comprehensive monitoring programmes. The suggested increase of 15% is meaningful and reasonably ambitious considering the effort that will be required to halt long term species declines. There is precedent for this sort of long-term statutory target in the UK Climate Change Act, reflected in Part 2 of this Bill.

13. ***We also recommend a target to achieve favourable condition of Wales' protected sites.*** We know that our protected sites are the best places for nature, but that they have been allowed to deteriorate largely through absence of appropriate protection or management. Protected sites already deliver multiple benefits[2] and are the logical starting point for securing wider resilience.

14. ***Further provisions in the Bill should require that milestones towards these statutory targets be set*** every five years in the National Natural Resources Policy, and reported against in the SoNaR reports to be prepared every five years by NRW. In order to implement the National Natural Resources Policy effectively, NRW would have to identify the priorities for biodiversity delivery and means of achieving them within Area Statements.

15. The Environment Bill is based on how important nature is to all of us, and we must ensure that nature itself benefits from this new approach. We believe that underpinning existing legislation by including statutory biodiversity targets in the Bill is the only way to ensure future Welsh Governments use their influence across the board so as to ensure biodiversity conservation and recovery are delivered.

16. **Sections 3 and 4: Objective and Principles of Sustainable Management of Natural Resources (SMNR)** The objective of SMNR (s3) is '*to maintain and enhance the resilience of ecosystems'*. As discussed above, we are concerned that focusing the objective at the level of ecosystems could mean that measurement of success occurs at too coarse a scale to encompass changes in species populations. Species and habitats are the building blocks of ecosystems, but may not be considered integral to resilience depending on how this is measured.

17. The principles of SMNR (s4) reflect that nature has intrinsic value which needs to be considered, and set out a number of aspects of ecosystem resilience including diversity between and within ecosystems. As such, they do not appear to *prevent* attention being paid to biodiversity at a fine scale; however, they do not *require* it either, and as we have already mentioned we are not confident that the

[2] E.g. RSPB 2014 Special Sites: Resilient Ecosystems

Government intends this. If the SMNR approach is going to be an effective tool for halting and reversing biodiversity decline, we believe these sections must directly refer to biodiversity. Based on legal advice we suggest the following amendments:

3(1) *In this Part, "sustainable management of natural resources" means –*

a) *using natural resources in a way and at a rate that contributes to[i] achievement of the objective in subsection (2),*
b) *taking other action that contributes to[ii] achievement of that objective, and*
c) *not taking action that hinders achievement of that objective.*

3(2) *The objective is to maintain, enhance and restore [iii] biodiversity [iv] and the resilience of ecosystems and the benefits they provide and, in doing so, contribute to meeting[v] the needs of present generations of people without compromising the ability of future generations to meet their needs*

To 4(g) we suggest adding a new point:

4(g)(vi) The condition of biodiversity (species and habitats) within ecosystems[vi]

Explanation:
i and ii) 'Contributes to' is more results focussed than 'promotes'.
iii)Inserting 'restore', rather than focusing only on the present and the future, also places emphasis on the past and the need to address historic damage and declines.
iv)Inserting 'biodiversity' makes explicit that conserving biodiversity is required as part of SMNR. It makes the objective of SMNR consistent with the 'biodiversity and resilience of ecosystems' duty in s6 of the Bill, and also better reflects the wording of the Resilient Wales Goal in s4 of the Wellbeing of Future Generations Act 2015, which refers to '*a biodiverse natural environment with healthy, functioning ecosystems*'.
v) Inserting 'contribute to' recognises that SMNR alone will not meet the needs of present generations.
vi) This addition seeks to ensure that the specific biodiversity within an ecosystem is considered in relation to resilience.

18. **Section 5: General purpose of the Natural Resources Body for Wales**
Our legal advice is that the formulation of the purpose is weak. The words '*seek to*' should be omitted. In combination with the amendments to section 3 suggested above, this would give NRW a more result- focussed duty.

19. **Sections 6 and 7: Biodiversity and resilience of ecosystems duty**
The duties at s6 and s7 are to replace the duties at s40 (as it applies to Wales) and 42 of the NERC Act, respectively. The s6 duty is arguably more strongly worded than s40 of the NERC Act ('*seek to maintain and enhance biodiversity*' as opposed to '*have regard…to the purpose of conserving biodiversity*'), and introduces a new reporting requirement. However, we would stress that this

requirement to report is based on actions taken, rather than on results achieved. Consequently, the combination of s6 and s7 does not appear markedly stronger – in terms of securing results – than the existing combination of NERC duties, which have not resulted in the action required to halt biodiversity loss. We suggest some amendments to both duties below, but as discussed above we believe this part of the Bill should be strengthened by inclusion of statutory targets for biodiversity recovery.

20. The s6 duty is reframed around the '*resilience of ecosystems*' and we believe that amendments are necessary to make it clear that actions should be taken specifically to benefit biodiversity (species and habitats).

We suggest the following amendments to s6:

6(1) *A public authority must seek to maintain, enhance and restore*[i] *biodiversity in the exercise of its functions in relation to Wales, and in so doing, promote biodiversity*[ii] *and the resilience of ecosystems, so far as is consistent with the proper exercise of those functions.*

To 6(2) we recommend adding a further item to the aspects of the resilience of ecosystems, as per our comments above in relation to the principles of SMNR:

6(2)(f) *The condition of biodiversity (species and habitats) within ecosystems*[iii]

Explanation

i) Adding 'restore' is reflective of s40(3) of the NERC Act which defines conserving biodiversity as '*restoring or enhancing a population or habitat*'.
ii) The current drafting does not refer to biodiversity and the resilience of ecosystems equally but makes the resilience of ecosystems the desired outcome of maintaining and enhancing biodiversity. The amendment seeks to make it clear that outcomes for biodiversity (species and habitats) are also the aim of this duty.
iii) This reflects our proposed addition of s4(g)(vi) above

21. The s7 duty is very similar to the duty Welsh Ministers already have in s42 of the NERC Act (the key difference being that Ministers are required to apply the principles of SMNR in implementing the s7 duty; these would need to be amended to better reflect biodiversity, as we have argued in relation to s4).

We suggest the following amendment to s7 to reflect the requirements of the existing NERC duty:

7(1) The Welsh Ministers must prepare and publish a list of the living organisms and types of habitat which in their opinion are of principal importance for the purpose of conserving, enhancing and restoring biodiversity in relation to Wales.

22. Our comments on the subsequent sections should be considered in the context of our suggested amendments above; without these amendments we are concerned about the impact of Part 1 (at least the missed opportunity for positive impact; possibly negative impact in practice) in relation to biodiversity.

23. **Section 8: State of Natural Resources Report – SoNaRR**
We welcome the duty on NRW to report on the state of Wales' natural resources and the extent to which SMNR is being achieved. This would need to be amended to reflect the requirement to report against statutory biodiversity targets. We also suggest an amendment to make it clear that SoNaR Reports should reflect not only positive performance, but obstacles preventing achievement of SMNR, as follows:

8(1) NRW must prepare and publish reports in accordance with this section containing its assessment of the state of natural resources in relation to Wales, including its assessment of the extent to which sustainable management of natural resources is being achieved including any obstacles which are preventing achievement and how those obstacles may be addressed.

24. It must be clear that, in considering obstacles to progress, NRW must not be limited to commenting on its own functions. For example, it should be made clear if the policy or practice of the Welsh Government or another public body is causing negative impacts or barring progress.

25. **Section 9: National Natural Resources Policy (NNRP)**
We suggest the words '*contributing to*' should be omitted from s9(1) so that Welsh Ministers are required to set out their general and specific policies *for achieving* SMNR.

26. We welcome the fact that Ministers are able to include anything in the NNRP that they consider relevant to SMNR, as this appears to recognise that a broad range of issues and functions could be relevant to the achievement of SMNR – not only 'environmental' ones. We also welcome the requirement for Ministers to take steps to implement the NNRP and encourage others to do the same (s9(4)), but we are surprised and concerned that the Bill does not say more about how the

NNRP should influence actions. For example, there is no general duty on public bodies to take account of the NNRP, and no specification that it should become a material consideration in the planning process. How is 'setting priorities and opportunities' (EM s89) going to actually make anything happen?

27. There is no indication in the Bill or the EM that the NNRP will have spatial elements, although it is intended to provide direction for delivery of SMNR by the Welsh Ministers (EM paragraph 89). If it is to be spatially expressed in any way it will need to be subject to Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA).

28. We are also concerned that the Bill makes no specifications about the process to be followed in formulation of the National Policy, and how it will be validated and adopted.

29. Notwithstanding the requirements in s9(4), it is clear that NRW will be the key body implementing the policy in practice (by virtue of the body's general purpose at s3, the duty to prepare SoNARR (s8) and the duty to prepare area statements (s10)), and that other public bodies will also need to take action if it is to be effective. We are surprised, therefore, that s9 does not include a duty on Ministers to consult at least NRW in developing the NNRP. (It is evident in other environmental legislation that key regulators are consulted on the same policy which they are required to implement and regulate, e.g. the Committee on Climate Change under the UK Climate Change Act 2008). We recommend this section is amended to introduce a requirement to consult NRW, the range of public bodies, and other interested parties prior to publication of the NNRP or a revision thereof.

30. We note that s9(2) refers specifically to what Welsh Ministers consider should be done in relation to climate change. There is no specific mention in Parts 1 or 2 of the need to support climate change adaptation, and we question whether this reference in s9(2) is sufficient. We would expect this to be explained at least in the EM, with reference to the forthcoming Natural Environment Sectoral Adaptation Plan.

31. **Sections 10-15: Area-based implementation of the national policy**
We believe the provisions around area statements are weak, and there is a risk they will end up being little more than area-based work plans for NRW with little or no influence over the activities of other bodies. This is alarming considering the Explanatory Memorandum states that area statements will be the '*delivery mechanism for implementing priorities and opportunities at a local level*' (EM paragraph 89).

32. If the NNRP is to be a high level, non-spatially expressed policy, the area statements will be critical in setting out what actually needs to happen on the ground. Critically, if the area statements are to *implement* the NNRP, they need to influence what is done by bodies other than NRW, because NRW's functions and powers are unlikely to cover all of the issues that the NNRP should cover (since Ministers are empowered to include *anything they consider relevant* in the NNRP). The EM (paragraph 99) describes area statements as an '*evidence base*', but surely they need to be more.

33. There is no requirement for area statements to cover the whole of Wales; we believe there should be. Criteria for NRW to consider when selecting which areas to prioritise for development of area statements would also be helpful.

34. We need some clarity as to how the NNRP and area statements will interface with the Wales National Marine Plan and potentially influence marine management.

35. There is no general duty for public bodies to take account of area statements in delivering their functions. The EM states that the Welsh Ministers' direction making power at s12 will ensure other public bodies contribute to implementation. Is it therefore envisaged that the Minister will direct public bodies to implement area statements as a matter of course (s12), or assumed that public bodies will do so under encouragement from NRW (s10(4)(b))?

36. The only clear direct link made in the Bill with another process is that an area statement should be taken into account in development of a Local Wellbeing Plan (LWP). How important this link will be in terms of securing action will surely depend on how detailed and specifc LWPs turn out to be. We believe the Bill should be made clear that area statements should influence, for example, local development plans and the targeting of rural payments (such as Glastir) by the Welsh Government. As for the NNRP, there is no stipulation around the process to be followed in developing area statements, such as consultation with public bodies and people who could be affected by their implementation, and how they might be validated and adopted. It appears the whole of this process is to be owned by NRW, with no formal adoption or endorsement by the Welsh Government.

37. There is no real indication of what sort of product an area statement is, but surely it will have to be spatial if it is to be meaningful. If this is the case, we assume it will be captured under requirements for SEA and HRA, and we would like the Bill to specify this.

38. The list of public bodies in section 11 does not include the Welsh Ministers, but the Welsh Ministers will have a critical role in implementation (e.g. as a licensing/consenting authority, and as the body responsible for rural payments).

39. **Section 16: Land management agreements**
We welcome the enhanced powers for NRW to make land management agreements, although we have a potential concern that the financial resources available to NRW for the purpose of entering such agreements may not be greater than that which is currently available for entering land management agreements for the current, smaller range of purposes. Thus, the broader applicability of the power could mean NRW committing fewer resources to management agreements for protected sites, for example. Protected sites are crucial to nature conservation, as well as providing a range of valuable benefits to society (thus we would argue they are crucial in the context of SMNR), but their management is critically poorly resourced. This reinforces the need for statutory biodiversity targets, and to ensure that biodiversity (species and habitats) is properly reflected in the definition and principles of SMNR.

40. We are disappointed that the Bill does not make provisions for General Binding Rules, which we believe are a useful tool in enforcing environmental standards necessary to tackle, e.g. diffuse pollution.

41. **Sections 22 and 23: Experimental schemes**
We are alarmed by a case study provided to explain the policy intent of the Bill[3] which suggests one such experimental scheme could be to suspend the 'balancing duty' whereby NRW is required endeavour to *achieve a reasonable balance between— (a) the development of afforestation, the management of forests and the production and supply of timber…, and (b) the conservation and enhancement of natural beauty and the conservation of flora, fauna and geological or physiographical features of special interest*.

42. This duty provides vital protection from unsustainable forestry practices under the section 1 duties of the Forestry Act that remain. The balancing duty was introduced following decades of unsustainable forestry practices driven by the section 1 duty towards timber production, afforestation and forestry. It is also important to retain this duty so that Welsh Government continues to address its domestic, European, EU and international long-term commitments to biodiversity and sustainable forestry policy, regulation and practice, not to mention the Wellbeing of Future Generations Act. We strongly disagree with the implication that a requirement to conserve biodiversity could be a blockage to achieving SMNR. We believe, and our experience bears out, that species' requirements can be integrated into habitat or ecosystem objectives. This is critical in relation

[3] http://www.senedd.assembly.wales/documents/s40639/Policy%20Intent%20Statement.pdf

to forestry where pressure to plant more trees, if not planned carefully, could lead to inappropriate planting on important habitats such as ffridd. This case study suggests that integration is not being properly considered, and lends further weight to our concern that addressing biodiversity loss is not a priority for the Welsh Government.

43. In the light of this we consider that additional safeguards are required in these sections of the Bill. The only limit on the scope of the research and the experimental schemes under s22 is that they must be relevant to NRW's functions and must be likely to contribute to SMNR. Besides the shocking interpretation we have found in the above case study, this leaves open the possibility that the s22 power may be exercised in a way which not only furthers the exercise of NRW's functions but which incorporates the commercial interests of third parties.
44. There should be requirement for more rigorous consultation by Ministers before making provisions to support experimental schemes. This should include consultation with members of the Wales Biodiversity Partnership.

45. Further, we Ministers should be required to undertake some form of risk assessment in deciding whether to make provisions.

46. **Part 3: Charges for carrier bags**
We welcome the proposal to raise a charge on all carrier bags. We are disappointed, though, by the decision to legislate for the funds raised through the carrier bag levy to be disbursed to any good cause. The Environment Bill sets out new ambitions for managing Wales' natural environment, against a backdrop of dwindling funds for the environment in general and nature in particular. We fail to understand why the Welsh Government would choose not to make a clear link between this levy on an environmentally damaging product and projects capable of contributing to the Government's own ambitions around improving the environment.

47. **Part 5: Fisheries for shellfish**
The provisions in Part 5 relate to the protection and management of European Marine Sites, and as such we consider it crucial that they are as robust as possible. We suggest a number of amendments based on legal advice.

48. This new legislation potentially makes easier the process by which the Welsh Ministers can make "Shellfishery Orders", because s72 now allows this to happen without the Welsh Ministers first making secondary legislation. This could therefore potentially increase the making of these Orders by the Welsh Ministers.

49. When making these Orders, the Welsh Ministers will also be subject to Part 6 of the Conservation of Habitats and Species Regulations 2010 (on appropriate

assessment etc), to the extent that an Order is a "plan" or a "project". Both the "assessment" regulations 61/62 and the "review" regulations 63/64 will apply.

50. We are concerned that the definition of '*harm'* in s76 is too narrowly drafted. This s7 definition is important because it feeds into the new provisions inserted by s73 and s74 into the Sea Fisheries (Shellfish) Act 1967. Section 73 provides that an Order made by the Welsh Ministers must contain provisions considered appropriate by the Welsh Ministers for the purpose of preventing any "harm" to any European marine site. Section 74 provides for the service by Welsh Ministers of "site protection notices" to prevent activities that harm, or are likely to harm, a European marine site. We recommend the following changes to s76 to bring it in line with Article 6(3) Habitats Directive.

5F (1)(a) *an adverse effect or risk of an adverse effect on the integrity of the site alone or in combination with other plans or projects*

The suggested inclusion of the phrase '*plans or projects*' would also then need to be explained in s76. We would suggest a new insertion into s76 (2) to read:

Plan or project has the same meaning as under the Council Directive 92/43/EEC on the conservation of natural habitats of wild fauna and flora.

5F (1)(c) should be amended by deletion of the final words "or the Wild Birds Directive (as applicable)", because it has been held by the Appeal Court in Scotland in a court case brought by the RSPB in 2000 that the reference in Art 6(2) Habitats Directive to "in relation to the objectives of the Directive" is a reference to the Habitats Directive, not to the Wild Birds Directive, even when one is relating Art 6(2) to a SPA: see *Royal Society for the Protection of Birds v Secretary of State for Scotland* 2000.

51. Under s5B(1) as inserted by s74, the Welsh Ministers have a discretion, not a duty, to serve a site protection notice if "harm" to a EMS has occurred or is likely to occur. It is appropriate for the power to be triggered not only when 'harm' has occurred or is likely to occur but also where harm may occur. Para 257 of the Explanatory Memorandum supports the need for this change as it makes clear that "may harm" ought to be covered; in our view the Bill does not say that currently. Therefore we would suggest that s74 be amended as follows, which would lessen the evidential burden of harm that the Welsh Ministers must prove before they act.

5B(1) *If it appears to the Welsh Ministers that harm to a European marine site has occurred or may occur, as a result of any activity.*

52. There is no criminal offence created if a person fails to abide by the steps set out in the site protection notice as envisaged in s5B(2). There is instead only a power under s5D(1) for the Welsh Ministers to do what the site protection notice states and to recover costs from the person responsible. We doubt the Welsh Ministers

would wish to take this financial risk, so we believe a criminal offence must be created.

53. s5B(2) and s5B(4)(c) refer to a site protection notice requiring the grantees to '*take steps*', but this needs to be expanded to also cover '*ceasing any stated activities'*. That is, a site protection notice may need to prohibit activities in certain situations, not just require steps to be taken. Para 257 of the Explanatory Memorandum states that "It is noted that a SPN can include a requirement to take action as well as a requirement to abstain from taking certain action" however our legal advice states that this is wishful thinking, as the Bill is not clear enough to draw to this conclusion.

54. There is an appeal mechanism where site protection notices have been served (s5C). However the provisions are silent as to:
    - the time limit by which the appeal must be brought. This must be addressed (an appeal period of 28 days is normal); and

    - whether the steps / prohibitions in the site protection notice remain in force pending the outcome of the appeal. It is essential that the steps / prohibitions do remain in force pending the outcome of the appeal so as to ensure protection of the European Marine Site. Section 5C(4) *suggests* that it is intended that the site protection notice should continue unless expressly suspended, but this still needs to be made much clearer.

55. Section 75 contains a mechanism whereby an Order made by the Welsh Ministers can be varied or revoked. We note that this ability depends on the Welsh Ministers first serving a site protection notice and that notice not being appealed, or any appeal being complete. This is likely to be a delayed process since delays will occur by the relevant person bringing an appeal.

56. We suggest a separate process should apply in relation to the "review" provisions in Part 6 of Conservation Regulations 2010 (regulations 63/64). Under regulation 63 when a European site/European Marine Site is designated then any existing consent for a plan or project must be reviewed. The review must be carried out under "existing statutory procedures" or, if none exists, under directions from the "appropriate authority". It would be very helpful if the new legislation could include a separate "statutory procedure" for variation or revocation of an Order in circumstances required under regulations 63/64, which did not involve the risk of significant delays under the section 75 procedure. This could be achieved through an amendment to section 5E to make clear that under a regulation 63 situation, the Ministers' power to vary or revoke an order is not dependent on first serving a site protection notice.

57. **Part 7: Miscellaneous Section 83: Land drainage**
    Section 83 removes requirements to publish notices of changes to drainage districts and charges in local newspapers, and does not appear to replace these with any other means of communicating the changes. As a land owner, we would query this: in theory, for example, drainage district boundaries could be expanded to include our reserves which could result in our being charged for work that might be detrimental to wildlife. We would suggest there should be some

requirement for interested land owners and residents to be informed in writing of any major changes.

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Local Authority Recycling Advisory Committee (LARAC)	Response from Local Authority Recycling Advisory Committee (LARAC)
EB 12	EB 12

Committee Clerk
Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA.

11 June 2015

Dear Sir/Madam

Consultation on the Environment (Wales) Bill

Thank you for the opportunity to respond to this consultation. The LARAC response is contained below.

The responses below are sent on behalf of the Local Authority Recycling Advisory Committee (LARAC). LARAC is an association of around 75% of local authorities across England, Scotland, Wales and Northern Ireland. Members are waste management and recycling professionals who co-ordinate and operate waste management services. Membership is drawn from all types of authority including statutory Waste Collection (WCA), Waste Disposal (WDA) and Unitary Authorities.

Our response has been peer reviewed by members of LARAC's policy team and executive committee. LARAC Wales members have also been invited to comment on the consultation through the members' discussion forum on our website. All contributions received have been taken into account in drafting the response below.

LARAC has responded to parts three and four of the proposed Bill that relate to carrier bags and the collection and disposal of waste.

LARAC would welcome the opportunity to engage further with the Committee and provide oral evidence.

If you have any queries on this response then please contact me at lee.marshall@larac.org.uk or on 01982 382 650.

Yours faithfully,

Lee Marshall
Chief Executive Officer

Responses to Consultation Questions

Part Three – Carrier Bags

Do you agree with the proposal that Welsh Ministers should have powers to raise a charge on all types of carrier bags not only single use bags?

LARAC believes that this proposal requires further consideration to demonstrate the outcomes it is trying to achieve. The move to consumers using multi use items from single use items is a positive one and LARAC would not want to see the implementation of a blanket charge on all carrier bags work against this ethos.

The littering and waste problems associated with multi use bags are minimal compared with single use bags. Given the original intent of the charge on carrier bags was to reduce the use of single use bags so that their resource and waste impacts are minimised LARAC is unsure what environmental benefits Welsh Government is hoping to achieve by widening their ability to charge beyond single sue bags. The Welsh Government cost benefit appraisal report prepared by Ricardo AEA estimate that only 10% of bags used were 'new' reusable bags for life whilst 18% were still single use carrier bags. This suggests that further work should be done to reduce single use carrier bags further before considering any action on multi use bags.

Do you agree with the proposal that Welsh Ministers should have powers to raise different charges on different types of bags?

LARAC believes that Welsh Government should have a degree of flexibility in the amounts that are charged for carrier bags in order that it influences consumer behaviour. As indicated above LARAC does not support a move to introduce a charge on non-single use carrier bags so 'different types of bag' in this context is restricted to differences in things such as size, material and thickness and not whether it is single or multi use.

In situations where Welsh Government were proposing to change the level at which a charge was set LARAC would expect it to undertake a suitable and thorough consultation exercise with relevant stakeholders before any changes were made.

Do you agree that the profits from the sale of carrier bags should be directed to all charitable causes rather than just environmental ones?

LARAC believes that environmental charities and projects should take precedence over other charities when funds are allocated.

LARAC feels strongly that in the new financial settlement that local government is now required to operate in that there should be a move to enable local authorities to utilise these funds. Projects relating to litter or recycling that in addition to existing services should be supported through these funds. Equally LARAC would support creation of a hypothecated fund for local authorities for an element of the profits that local authorities could bid into for projects related environmental activities.

Part Four – Collection and Disposal of Waste

For your views on whether the Welsh Ministers need further powers to require that certain types of waste are collected, treated and transported separately?

LARAC is of the view that the powers proposed in Section 66 (1) to (3) are not needed. LARAC is of the opinion that these requirements are adequately covered by the Waste (England and Wales) Regulations 2011 and that there is no need to duplicate the requirements in those regulations within the Act.

LARAC has concerns regarding the power for Welsh Government to specific separation requirements and issue codes of practise. The Committee will be aware that the Welsh Government has produced a 'collections blueprint' and that this approach is far from universally agreed upon within the industry across Wales. LARAC fears that the powers contained within the draft Bill will provide Welsh Government with another opportunity to pursue this directive policy when it is clear that the blueprint approach is not applicable for all parts of the country.

Do you agree that non-domestic premises should be required to put their waste out for collection in line with any separation requirements set out by the Welsh Government?

LARAC does welcome the requirement on waste producers under Section 66 (4) as behaviour change will not truly happen until the responsibility is placed directly on the waste producer itself. This is something LARAC would advocate extending to households as well as we feel that to achieve the 70% recycling target Welsh Government has set the public will require some level of compulsion to take part fully in recycling collection systems provided by local authorities. Therefore the inclusion of Section 66 (5) is disappointing and should be removed to allow Welsh Government the ability to bring forward schemes in future that place more responsibility directly on households for the waste they produce and support engagement and participation in local authority recycling schemes.

LARAC believes that any requirement to present waste separately must align with current requirements under the 2011 Regulations to collect separately. That is that 'separately' means recycling waste is presented separately from waste that is going for treatment or disposal in line with current guidance from Welsh Government.

Whether you agree that the Welsh Government needs wider powers to ban some recyclable waste from incineration?

In relation to municipal waste LARAC does not believe that banning material from incineration serves any useful purpose. The statutory 70% recycling rate means that local authorities will be working to secure all recyclable material for reprocessing and utilising incineration only for those materials that cannot be effectively recycled.

There may be merits in considering bans for other waste streams such as commercial and industrial or construction wastes. However as we have highlighted elsewhere, for a ban to truly change behaviour, it needs to be applied to the waste producers rather than waste collectors or the treatment facilities. This though brings with it problems in terms of enforcement and regulation that will need careful consideration. Equally if a material is banned from incineration there needs to be in place a network of technically and economically viable facilities that the material can be taken to instead. The implementation timetables of any such bans will therefore require widespread consultation and careful managing.

What will the impacts of these waste proposals be for you or your organisation? Are there any other waste proposals that you think should be included in the Bill?

The elements in the Bill relating to waste have the potential to increase the burdens on local authorities at a time when they face diminishing resources. LARAC would not welcome any proposals that do this. We have highlighted above areas where we feel there might be potential for this to happen. Equally we feel this Bill does not go far enough in placing responsibility for moving waste up the waste hierarchy on those who produce it, especially domestic households. LARAC would like to see Welsh Government grasp this important issue instead of placing targets on local authorities, who after all are providing the solutions for households and are not the people who are producing the waste.

LARAC is concerned with any proposals that place further burdens on local authorities in this revised economic landscape of decreasing funds. Whilst the Welsh Government ambition to recycle 70% of waste by 2025 is to be applauded, the statutory nature of it for local authorities means that considerable resources will be expended in meeting it. It also means that those with producer responsibility obligations in relation to packaging are getting a 'free ride' in Wales. Local authorities will expend public money collecting and treating packaging from households that companies have a duty to do so under producer responsibility legislation. Local authorities are subsiding the achievements of these producer responsibility targets for these private companies, something that goes against the central ethos of producer responsibility.

LARAC urges the Welsh Government to review the requirements within the Bill and rectify this anomaly. The targets on local authorities should be restructured based on a residual waste target and set in such a way that compels obligation organisations with responsibility for packaging to invest funds in local authority collection schemes. In this way producer responsibility will mean exactly that and public money will not be used to finance the achievement of private sector targets.

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SUBMISSION TO THE

ENVIRONMENT & SUSTAINABLITY COMMITTEE ON THE ENVIRONMENT [WALES] BILL

Introduction

1. The Alliance for National Parks Cymru was set up in 2014. The core membership comprises the voluntary Societies of the three Welsh National Parks, the Campaign for the Protection of Rural Wales and the National Association for Areas of Outstanding Natural Beauty and the Gower Society. Its purpose is to coordinate the voluntary sector's response to the emerging policy and legislative agenda of the Welsh government as it affects designated landscapes. Representatives of these bodies have been responsible for drafting this submission. the submission also comes with the support of the Campaign for National Parks.

2. The Alliance welcomes the opportunity to make a submission to the Committee and so contribute to its scrutiny of the Environment Bill.

3. Our interest lies in securing a sustainable long-term future for those iconic landscapes of Wales that are designated as National Parks and Areas of Outstanding Natural Beauty – a future which ensures the delivery of a wide range of social, economic and environmental benefits that enhances the "Well-being" of the people of Wales, whilst conserving and enhancing the special qualities from which those benefits are derived and for which they are world renowned. We also have an interest in historic landscapes, many of which are in National Parks and AONBs.

4. Our submission is confined to Part 1 of the Bill. From the outset we welcome and support the basic aim of the Bill i.e. the creation of a process by which the sustainable management of natural resources is achieved. Our assessment of the Bill has been led by one fundamental question – **does the Bill support and enhance the role that designated landscapes can play in securing the sustainable and integrated management of natural resources?**

5. **In brief we do not believe that it does, because the essential framework that they provide for the delivery of an integrated approach to ecosystem management is not recognised.** Accordingly, in our submission we aim to show how the framework the Bill provides for natural resource management could be improved, particularly in the context of the role that designated landscapes could play in the delivery of natural resource management - a role that would cover

25% of Wales. We recognise that the approach set out in the Bill is to apply to the whole of Wales and, in that context we commend the approach advocated in the submission by CPRW.

The framework provided by designated landscapes

6. Diagram 1 illustrates the constituents of landscape, with natural resources being just one component, and the way it represents "People and Place" combining to create our "Nations Identity" and locally each community's and individuals "Sense of Place". These are both concepts, which we understand the Welsh Government wishes to promote both through the Well-being Act and the Environment Bill, which are at the heart of the European Landscape Convention. We believe the Convention should be an important part of the Bill.

Diagram1.

7. The stewardship of landscape at a variety of scales provides the framework for managing the interaction between human activities and natural resources – the very essence of the ecosystem approach advocated in the Bill. Wales' designated landscapes [National Parks and AONBs], through their statutory management plans, provide the framework for the delivery of a wide range of services and benefits for individuals and communities locally, nationally and internationally. As a consequence of their unique sense of place, their natural beauty – scenery, tranquillity, biodiversity and cultural heritage – and the opportunities they present for leisure activities, enjoyment, education and personal development, they provide a high quality environment that:
    - is desirable for people to live and work in
    - is good for the health and well-being of individuals and the whole community
    - underpins significant economic activity, most noticeably as a destination for tourists but also through the value they can provide in producing premium products associated with high profile localities
    - enhances the reputation of Wales as a whole as a tourism destination

- provides a network of ecosystem service hotspots i.e. a concentration of the many benefits associated with the many facets of landscape. Their high quality, diverse and often complex landscapes are models of enduring ecological resilience.

8. Accordingly, we believe that they provide the necessary context, across 25% of Wales, to make a significant contribution to the delivery of the full suite of Goals set out in the Well-being of Future Generations Act, including the sustainable management of natural resources. It is within this context that designated landscapes can:-

    - ensure their natural resources are used in new and creative ways to provide prospects to increase economic prosperity and provide appropriate new employment opportunities in those area
    - continue to offer those forms of exceptional opportunities for outdoor recreation and unobtrusive enjoyment of these special areas, which are less likely to be found elsewhere
    - fully respect the distinctive ecosystems values (tangible and intangible) associated with these areas when change occurs
    - guarantee that the resilience of all the resources in these areas are managed within those environmental tolerances that maintain their integrity but enable the well-being benefits they provide to be optimised
    - recognise that current and future generations must share the benefits of the goods and services these areas provide fully and equally.

9. Above all, however, in achieving these 'Well-being Goals', it will be essential to ensure that the integrity of the special qualities which make these areas nationally and internationally important are retained and where possible enhanced.

The Review of the Purposes and Governance of Wales' Designated Landscapes

10. It is important to note that at the same time as this scrutiny of the Bill by the Committee, the Panel undertaking the review of the purposes and governance of Wales' designated landscapes for the Government is taking evidence and will be reporting by the end of July. It has already reached some conclusions with regard the purposes of designated landscapes, which has implications for the achievement of sustainable resource management. Given the geographical extent of designated landscapes and the role they already have in securing an integrated approach to their management it would be unfortunate if the opportunity to enhance the role they can play were not taken during the passage of the Bill.

11. In its Stage 1 Report on the Purposes of designated landscapes the Review Panel has recommended that they should be widened to include inter alia *"the promotion of sustainable forms of natural resource management …"*. If the Government accepts the recommendation [we hope they do], the designated landscapes of Wales would be propelled to the centre of natural resource management stage over 25% of the country, thus formalising what they have already been doing in practice. The stage 2 report from the Review Panel [due at the end of July] could well address further matters of particular relevance to natural resource management. Such matters might include the need for a clear national policy framework for designated landscapes, the extension of the scope of their management plans to include natural resources and the strengthening of the duties of public bodies towards their purposes. Our suggestions for improving the Bill [see below] are derived from the submission to the Review Panel.

Suggested improvements to the Bill

12. So far as the Environment Bill is concerned we believe that there are a number of improvements that could be made to reflect the general context within which natural resource management is undertaken and more specifically to reflect the need for an explicit link that needs to be forged with Wales' designated landscapes, which are well placed to make a significant contribution to the delivery of natural resource management across 25% of Wales.

Definitions

13. As the terms 'ecosystem', 'ecosystem benefits' [or ecosystem services as they are usually called] and 'resilience' are used extensively in the Bill it would seem prudent to give definitions of what exactly is meant by them. Furthermore it should be made clear that the natural resources referred to in the Bill are found both on land and within territorial waters.

Clause 3 [2] - The objective of sustainable management of natural resources

14. We support the objective as it provides recognition of the wide variety of benefits [or services] that they provide. However, it is not clear how the objective would be pursued in the context of the purposes of the designated landscapes of Wales. Given that these iconic areas cover 25% of Wales, we believe that the Bill should make it clear that the objective should be delivered in a way that respects the special qualities for which they have been designated.

Clause 4 - Principles of sustainable management of natural resources

15. We support the principles set out in this Clause, however, we consider that it could be improved in two ways:

    - in 4[g] the reference to 'take account of the resilience of ecosystems' should be extended by the words 'and the benefits they provide' – this would give a clear link back to the objective set out Clause 3[2]
    - a similar qualification to the one proposed for Clause 3 [2] above should be included to the effect that in the context of designated landscapes the principles should operate in line with their statutory purposes and should respect the special qualities for which they have been designated.

Clause 5 – The General Purpose of NRW

16. We note that the change proposed in the General Purposes of the Natural Resource Body or Wales in Clause 5 of the Bill effectively means that the clear reference to 'environment' in its current Purpose is deleted. Environment in that context is taken to mean *"includes, without limitation, living organisms and ecosystems*".

17. The Explanatory Memorandum accompanying the Bill does not specifically highlight nor explain why the term 'environment' has been removed from these Purposes. However, it does indicate that the change is needed to bring NRW's General Purposes into line with the overall process of natural resource management as set out in the Bill.

18. We can only presume, but are not confident, that environment is now supposed to be dealt with under the term 'ecosystem'. We repeat however our concern that because the term "ecosystem" is not clearly defined it is impossible to know whether our supposition is correct or not. **We therefore urge the Committee to request the Minister to indicate whether our assumption is correct and if there are any unintended consequences if the word 'environment' is removed from NRW's purposes.**

19. If there are, we register our strongest concern that effectively the Body currently responsible for the custodianship of the Welsh environment in its broadest sense will no longer be statutorily required to do so, if the change in their Purposes is sanctioned as currently proposed. We trust the Committee will clarify the position on this matter when scrutinising the Minister and in the light of the information they receive, recommend if necessary, that any change which seeks to remove the word environment from NRW purposes should be resisted as it represents an ill-advised and retrograde step.

20. We are also concerned that the crucial link between natural resource management and designated landscapes is not recognised in the 'General Purpose'. We consider that NRW's role in forging this essential link should be formally recognised in the Bill to the effect that they have a **clear and unequivocal duty to further the development and operation of an effective framework for the integrated planning and management, including natural resources, in designated landscapes.**

Clause 6 – Biodiversity and resilience of ecosystems duty

21. Whilst we support the thrust of the Clause we feel that there is room for confusion. It could be construed that the 'resilience of ecosystems' is only concerned with biodiversity. We would argue [and many others too] that ecosystem resilience is dependent on more than just the maintenance and enhancement of biodiversity and we welcome the recognition afforded to wider ecosystem benefits in Clause 3(2). For consistency we would like to see this recognition carried through to Clause 6(2) *'a public authority must take account of the resilience of ecosystems* ***and the benefits they provide,*** *in particular the following aspects…'*

A companion Clause to Clause 6

22. Clause 6 gives effect to the requirements of the Convention on Biological Diversity, to which the UK is a signatory. We support the intent of the Clause. However, there is also a convention – the European Landscape Convention - that enshrines the concept of landscapes and their role as the interface between man and nature. **We believe that specific reference in the Bill to the Convention would assist greatly in providing the framework for the management of natural resources in manner that is fully integrated with human activity. At the same time it would be necessary to mandate NRW to promote the delivery of the Convention within Wales and to further its principles when promoting sustainable resource management.**

Clause 8 – State of Natural Resources Report

23. We support the proposed duty for NRW to prepare such a report. However, given the central role we consider that designated landscapes should have in delivering natural resource management and the benefits that flow from such management, **it should be made clear in the Bill that the Report should include a section on the 'State of Designated Landscapes'**.

Clause 9 – National Natural Resource Policy

24. We agree that such a Policy is needed. We would expect the role and status of all areas designated for the national importance of their landscape or seascape [or combination of both] should be recognised as critical components of Wales' natural resource infrastructure. Thus**, we consider it essential that Bill should include amongst the matters that Ministers should address in Clause 9 (2):**

    - **the role of designated landscapes, especially their management plans, in delivering natural resource management within the framework provided by the full suite of their statutory purposes**
    - **in the context of designated landscapes on the coast how the integrated management of land and sea would be achieved.**

    We would also expect that the outcomes of the Review of the Purposes and Governance of Designated landscapes would be fully reflected in the Policy.

Clause 10 – Area Natural Resource Statements

25. Whilst we support the principle of having such statements, we are concerned that there is no indication in the Bill as to the status of the statements or how they relate to the management plans that are required by statute for National Parks and AONBs. We consider it essential for the Bill to specify that the management plans for all designated landscapes should be the means for achieving sustainable natural resource management in their area and in doing so would respect the integrity of the special qualities for which they have been designated. This will be even more important if the 'Purposes' of designated landscapes are widened as proposed by the Review Panel. Further, in the context of coastal designated landscapes, there is no indication of how statements for land and adjacent seas are integrated. We would therefore suggest an addition to Clause 10 subsection (6) along the following lines: '***with respect to an area designated as a landscape of national importance, a single management plan should be prepared and adopted as the area statement for that designated area; or a geographically extended area of its hinterland [including areas of sea], whichever is most appropriate'.***

Clause 16 Land Management Agreements & Clause 23 Experiments

26. Given the central role that designated landscapes will be playing in natural resource management it would seem sensible that the authorities responsible for their management should have the same powers that NRW will have under these Clauses.

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan The Association of Manufacturers of Domestic Appliances (AMDEA)	Response from The Association of Manufacturers of Domestic Appliances (AMEDA)
EB 14	EB 14

AMDEA™
The Association of Manufacturers of Domestic Appliances

Mr Alun Davidson
Committee Clerk
Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay, CF99 1NA.

By email: SeneddEnv@Assembly.Wales

12 June 2015

Dear Sir

Consultation on the Environment (Wales) Bill

AMDEA is the UK trade association for large and small domestic appliances: heating; water heating; floor care and ventilation. We represent manufacturers at UK, European and International level; with government and EU political institutions; in standards and approvals; with non-governmental organisations; with consumers and in the media. AMDEA protects and promotes its members' interests in all these spheres.

All of our members are fully committed to waste prevention, opposed to landfilling of unavoidable waste and support the recovery of value from waste. However we have some member companies with a particular interest in sustainable and effective food waste management, as they manufacture domestic food waste disposers (FWDs). We write to raise the concerns of AMDEA's FWD Group that the proposed Welsh regulation on food waste is based on assumptions and misconceptions that lack scientific rigour and denigrate the environmental reputation of their technology.

Members of our FWD Group include the world's leading producer, InSinkErator, a company that has manufactured food waste disposers for over 70 years and markets these appliances in over 80 countries world-wide. InSinkErator's parent company Emerson Electric Co. also has strong investment interests in mid-Wales, where in Powys, the Emerson electrical engineering business, Control Techniques, employs over 600 at its worldwide headquarters.

As food waste and sewer management are core issues for AMDEA's FWD Group, we have accumulated and are continually developing a vast evidence base of peer-reviewed scientific research conducted by recognised experts and academics worldwide, including countries that lead environmental best practice such as Denmark, the Netherlands and Sweden.

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To summarise our concerns:

- The Welsh Assembly Bill is proposing a ban on the commercial disposal of food waste to sewer on the basis of a report and impact assessment which reflect prejudices relating to food waste disposers that contradict a vast and growing body of robust, peer-reviewed, scientific evidence, in favour of using disposers to recover value from food waste.

- These serious misapprehensions, unsupported by the science, reflected in the Eunomia Impact Assessment, the Explanatory Memorandum and the Bill, threaten to flaw Welsh environmental policy and limit its future ambitions.

- No experts from our industry were consulted on, or quoted in, the previous report "Additional Policy Options" prepared by Eunomia in May 2013, nor the updated Impact Assessment, dated January 2015. Neither report includes a literature review or bibliography.

- The Impact Assessment lacks explanation regarding sources, assumptions and methodology for the modelling. This renders the conclusions inscrutable. Our members are concerned that this failure to clearly present the economic evaluation behind the policy decision to ban commercial disposers may be construed to signify a bias.

- It is possible to identify various critical questions in the assessment regarding the cost-savings projected of some £9.9 million. They are poorly explained, but appear to be based largely on misguided speculation that food waste disposers block the sewers. This directly contradicts the worldwide evidence, a sample of which we present later in this letter.

- Furthermore, in Table 8 of the report the £5.9 million attributed to sewer blockages is assumed to be saved by the policy of banning commercial disposers. Although unexplained this figure is likely to represent total expenditure on sewer blockages in Wales. It is generally acknowledged by sewerage experts that sewer blockages are primarily caused by "disposables" such as wet wipes and sanitary products and fats, oils and greases (FOG). None of these causes will be eliminated by banning disposers.

- It is not apparent how many commercial disposers are assumed to be installed, although industry sources advise AMDEA the number is likely to be relatively small, which calls into question many of the figures quoted, such as energy and water use, CAPEX and OPEX. And it is acknowledged in the report that no data is available on the number of businesses that would be affected by the ban. To this unknown number of affected private sector stakeholders the Impact Assessment may appear to present a determination to ban disposers rather than a commitment to evidence-based policy.

- Reliance on a single solution of separate collection for transport to anaerobic digestion (AD) is high risk and will prove a block on technological innovation in food waste management in Wales. Even countries that have long experience of separate collections and have established treatment infrastructure reach a plateau and are experiencing barriers to further achievement.

- Wales is failing to acknowledge the rapid evolution of the environmental agenda. The recovery of phosphorus from sewage sludge is rising fast on the European Commission's Circular Economy agenda. Environmental policies in Germany, Sweden and Denmark[1] now position waste water treatment as a key focus for resource recovery.

To compensate for the apparent lack of qualified consultation, last year our members requested a technical review of the Eunomia study by a specialist FWD/sewer engineer (Annex 1). This review concluded that any position that the Welsh Government might take relating to food waste disposers on the basis of the recommendations of this study will be flawed; carrying a high risk of departure from evidence-based policy making. The current Impact Assessment appears to represent a further extrapolation from this unreliable source.

Key Food Waste Disposer Facts and Supporting Evidence

- Food waste disposers grind practically all food waste to minute particles (98% are less than 2mm) that are easily carried in the wastewater collection system, as established in Germany[2].

- Easy to use and hygienic FWDs provide efficient capture of food waste in problematic densely populated urban areas, flats, or where terraced properties open directly on to the street. For transient populations in cities, the elderly, infirm, or flatted properties that lack space, storage and carrying out to the street requires a level of commitment not found in the entire population. These considerations have prompted towns and cities such as Stockholm[3], New York[4], Sydney[5] and Odense[6] to adopt FWDs as an additional recycling strategy to capture more food waste.

- Food waste disposers consume minimal amounts of water and electricity[7], yet provide a sustainable means of effectively diverting food waste from landfill and extracting both renewable energy and soil nutrients. Both Denmark and Sweden are monitoring the benefits of encouraging FWD usage to increase biogas production. While in Amsterdam

[1] http://www.food-waste-disposer.org.uk/the-environment/phosphorus-fertiliser

[2] Kegebein, J.; Hoffman, E. and Herman H. Hahn (2001) Co-Transport and Co-Reuse. An Alternative to Separate Bio-Waste Collection? Wasser-Abwasser GWF 142 (2001) Nr. 6 429-434

[3] Tendaj, M.; Snith, Å; von Scherling, M.; Hellström, M.; Mossakowska, A. and Millers-Dalsjö, D. (2008) Kitchen Disposal Units (KDU) in Stockholm. Stockholm Water's pre-study on the preconditions, options and consequences of introducing KDU in households in Stockholm. Stockholm Water

[4] New York City Department of Environmental Protection (June 1997). The Impact of Food Waste Disposers in Combined Sewer Areas of New York City.

[5] Wainberg, R.; Nielsen, J.; Lundie, S.; Peters, G.; Ashbolt, N.; Russell, D.; and Jankelson, C. (2000) Assessment of food disposal options in multi-unit dwellings in Sydney. CRC for Waste Management and Pollution Control Limited. Report 2883R.

[6] Clauson-Kaas,J. and Kirkeby J. COWI (August 2011) Food waste disposers: energy, environmental and operational consequences of household residential use

[7] Market Transformation Programme for Defra (2008) BNXS43: Food Waste Disposers – an overview

Waternet (the local water company[8]) is mounting a retrofit trial of FWDs in 200 apartments to explore improved recovery of critical resources such as phosphates and nitrates at their waste water treatment/sewage plants.

- Food waste disposers can also improve the recovery of other waste fractions. Food waste is a significant contaminant of dry recyclables and research in Japan has found that removing food waste at source, using an FWD, unlocks the potential for recycling other fractions[9].

- FWD do not increase the risk of sewer blockage, as confirmed most recently in Sweden[10]. Ground food waste is 70% water, with a specific gravity similar to faecal waste which the sewers are designed to transport. Over decades the evidence from numerous field studies is that FWD do not impact adversely on the sewers, to cite a few:
  - USA, Atwater (1947) reviewed a decade of FWDs in 300 municipalities and found the apprehensions of sewerage engineers unfounded.
  - Sweden, Nilsson et al.(1990) conducted video inspection of sewers from 100 apartments pre and post FWD installation and found no fouling of pipes. They also conducted a laboratory simulation of 15 years usage and found no fouling.
  - Netherlands, De Koning and Graaf (1996) found no clogging of pipes even at the shallow gradients at which sewers are laid in the Netherlands.
  - Sweden, Karlberg and Norin(1999) video inspected sewers from apartments with and without FWDs and found no effect.
  - New York City Dept. of Environmental Protection (1999) video inspected sewers from 1049 households in four locations in the city and found no fouling or deposits.
  - Germany, Kegebein et al (2001), conducted particulate size analysis and settling velocities of FWD output and found it would be carried more easily than faecal matter, in conventionally designed sewers.
  - Italy, Bolzanella et al (2003) found FWD do not block sewers.
  - Japan, NILIM (2005) found no deposits in sewers
  - Italy, Battistoni et al (2007) found FWD improved wastewater treatment and had no adverse effect on the sewers.

- Fats oils and greases (FOG) are serious problems for sewers but they are not linked to FWD usage. A Water Environment Research Foundation (WERF) study of FOG examined samples from all around the USA. It is the largest study of FOG to date. The WERF researchers say they did not see (by microscope examination) evidence of FWD output in in FOGc samples[11].This has been corroborated by samples from sewers in the

[8] https://www.waternet.nl/projecten/projecten-afvalwater/

[9] Yang, X.; Okashiro, T.; Kuniyasu, K. and Ohmori, H. (2010) Impact of food waste disposers on the generation rate and characteristics of municipal solid waste. J. Mater. Cycles Waste Manag. 12:17-24

[10] Mattsson, J. and Hedström, A. (2011) The incompatibility of food waste disposers with an aging sewer – Fact or Fiction? 12th Nordic Wastewater Conference, Helsinki

[11] Ducoste, J.J.; Keener, K. M.; Groninger, J. W.and Holt, L. M. (2008) Fats, roots, oils, and grease (FROG) in centralized and decentralized systems. Water Environment Research Foundation. IWA Publishing, London.

UK[12]. Authors of the WERF study have gone on to elucidate the mechanism of FOGc formation, which points to grease recovery units being superior to static grease traps.

- FWDs do capture many typical food waste contaminants that have proved damaging to AD plants such as plastic wrappings and bags. These cannot leave an FWD grind chamber.

Anaerobic digestion (AD) is a technology that is already demonstrating vulnerabilities in both safety and systemic failures. In presenting Evidence to the House of Lords in December 2014, the Environment Agency pointed out areas of difficulty which have been encountered with significant incidents at AD sites in England.

In seeking to impose a ban on food waste disposers Wales is regulating against proven technology and restricting policy success to a single solution. Anaerobic digestion is a good solution for food waste and for sewage sludge but physical contaminants (mainly plastic film) are a major operational problem for AD of separately collected food waste. In contrast FWD leave physical contaminants in the kitchen and just deliver clean food waste to the sewer.

AMDEA urges the Committee to consider the evidence supporting a well proven technology in the context of the current environmental agenda, where recovery of critical resources from the sewers, such as phosphorus, is becoming ever more urgent. Wales should not limit its ability to respond to the rapid evolution of technology and contemporary thinking and we would ask the Committee to use its powers to instigate appropriate amendments to the proposed legislation.

Yours faithfully

Douglas Herbison
Chief Executive

[12] J.B. Williams, J.B.; Clarkson C.; Mant C.; Drinkwater, A. and May E. (2012) Fat, oil and grease deposits in sewers: Characterisation of deposits and formation mechanisms. Water Research **46** 6319-6328

Annex 1

Comments on: "Additional Policy Options Analysis for Welsh Government: Costs and Benefits of Extending Waste Framework Directive requirements, Waste Treatment Restrictions, Requirement to Sort and a Ban on the Disposal of Food Waste to Sewer, Report for Welsh Government (Eunomia Report)

Michael Keleman 1/9/14

Following a review of "Additional Policy Options Analysis for Welsh Government: Costs and Benefits of Extending Waste Framework Directive requirements, Waste Treatment Restrictions, Requirement to Sort and a Ban on the Disposal of Food Waste to Sewer, Report for Welsh Government," hereafter referred to as the Eunomia Report, I offer the following detailed review.

I serve in a technical support role as the Manager of Environmental Engineering at InSinkErator, the world's leading manufacturer of food waste disposers, referred to in the Eunomia report as macerators. My primary function is to oversee research and communicate on the impacts of food waste disposers, and after nearly twenty years in the wastewater treatment profession, I am ardent about the benefits of disposers, because they are increasingly being viewed as a part of the global solution to organics management. Disposers facilitate both landfill diversion and resource recovery, so the recommendation by Eunomia supporting a ban on commercial disposers solely on an economic evaluation contradicts contemporary research and trends.

The authors of the Eunomia Report (Ann Ballinger, Peter Jones and James Fulford) are all residents of the UK, and apparently have extensive background and education in the waste industry in the UK (according to their LinkedIn profiles). Unfortunately, even with their experience in waste management, including life cycle assessment, composting and anaerobic digestion (Ann Ballinger), they did not consult with any literature outside the UK and Europe for their evaluation. In fact, the report contains no formal literature review or bibliography. Without a thorough investigation of existing literature on the subject of food waste disposers, the recommendation to prohibit commercial food waste disposers is biased and flawed. Furthermore, it is unfortunate and shortsighted that the authors of the Eunomia Report neglected to include any outside experts familiar with the environmental impacts of food waste disposers before writing their report. (Although the report references WRc, no industry experts were consulted for their evaluations.)

As communities around the world consider alternatives to landfills for effective management of organics, they should consider reviewing "Life Cycle Assessment of Systems for the Management and Disposal of Food Waste.[i]" This evaluation concluded that food waste disposers used in conjunction with any of eight types of wastewater treatment plants results in lower greenhouse gas emissions than landfilling. In addition, if the plant utilizes anaerobic digestion and cogeneration, the impacts of primary energy demand and greenhouse gas emissions are both lower than even composting.

The Eunomia report mentions on page five the goal of Wales to "…improve rates of recycling" yet a ban on disposers contradicts this goal. The report ignores the global megatrend for *The Water Resources Utility of the Future* to transform wastewater treatment plants into Water Resource Recovery Facilities (WRRF) – producers of clean water, energy and fertilizer. [ii] Resource recovery is the ultimate form of recycling, and can be accomplished via disposers. Food waste on average, is at least 70% water, and is basically the same specific gravity as human waste, and so by conveying finely ground material processed in a disposer to the local wastewater treatment plant, municipalities can reclaim the imbedded water as a resource. Also, where anaerobic digestion is utilized, there is a net energy gain on the process as recently modeled by world renowned wastewater treatment academic and author George Tchobanoglous.[iii] This paper also demonstrated the benefits of disposers on nutrient removal at WRRFs.

Annex 1

Comments on: "Additional Policy Options Analysis for Welsh Government: Costs and Benefits of Extending Waste Framework Directive requirements, Waste Treatment Restrictions, Requirement to Sort and a Ban on the Disposal of Food Waste to Sewer, Report for Welsh Government (Eunomia Report)

Michael Keleman 1/9/14

As the trend continues to reduce the negative impacts of eutrophication, municipalities should consider that because sewage is carbon deficient and food waste has a high carbon to nitrogen ratio, when there are sufficient food waste disposers, the better carbon to nutrient ratio can help municipalities meet strict regulatory effluent compliance limits, and in a less energy intensive manner. This paper was recently shared at the European Wastewater Management Conference in Manchester. The Eunomia Report is void of any mention of the benefits of adding supplemental carbon to wastewater for reducing nutrients in the treated effluent.

Contemporary research on food waste disposers resulted in a claim from the latest edition of *Wastewater Engineering* which states,

> *"The challenge in the future is how to extract the energy in wastewater most effectively. For example, food waste could be ground up in kitchen grinders and transported to the wastewater treatment facilities in the collection system.*[iv]*"*

With any engineering report, assumptions are necessary in order to quantify both environmental and economic impacts. Unfortunately, the Eunomia Report bases much of its economic impact of commercial disposers on current residential disposer levels of 3% yielding 6,000 tonnes per year. Arguably, the amount of food waste processed in disposers is difficult to measure and highly variable, but to extrapolate any data for commercial disposers based on an exaggerated residential number is more of a guess than an estimate, and renders any further economic evaluation useless. Furthermore, why is the cost of the disposer mentioned in Section 4.1 on page 42? The cost of purchase is irrelevant to the Wales government because it is covered by the user. With regard to economics, the report contradicts a recent report titled "Sustainable Food Waste Evaluation," which determined that wastewater treatment of food waste via disposers is the least expensive option based on a comparison of five different systems, including composting.[v] The exclusion of the cost benefit of sending ground food scraps to AD in Table 4-1 on page 51 explains why the Eunomia report exaggerates the costs of disposers.

In Section 4.1.1.1 on page 43, if commercial food waste is 3.5 times (21,000 tonnes) that of residential waste (6,000 tonnes), then why is the CAPEX and OPEX FWD (Table 4-1 on page 50) for business approximately 9 times that of household?

In Section 4.1.1.2 on page 44, using the assumption of 0.001 £s/liter and the 300,000 L/month cited in notation 25 would equal 300 £s/month or 3,600 £s per year I water costs. This is only 14% of the value of 25,000 £s/year quoted (from an article from notation 23).

In section 4.1.1.3 on page 46, the report lists 1,300,000 households x 3% penetration x 1% blockages = 390 blockages per year expected due to FWD usage. So what is the actual number of blockages recorded in Wales? If disposers are already negatively impacting sewer networks, it is important to consider the current level of disposer use in Wales. Our best estimates show that on average, less than 5% of residences currently own a disposer, which agrees with the Eunomia estimate of 3%. If the sewers are in poor condition, and the sewer manager is concerned about solids build up during the dry weather, does that mean they are currently relying on wet weather inflow and infiltration to keep the sewers clean?

Additional flow from disposers will not exacerbate existing problems given food waste is the same specific gravity of human waste. More importantly, food waste discharged from disposers meets very fine particle size

requirements of the American Society of Sanitary Engineering (ASSE) - 94% of the material must pass a 6 mm sieve, and so concerns of sedimentation expressed by water authorities in sewers should not be rationale for prohibiting sewers. Potential sedimentation has been studied thoroughly, largely because officials repeatedly mention "concerns of sedimentation," yet no research has substantiated these claims, and none of the studies were referenced in the Eunomia report.

It is highly unlikely the current level of disposer installation results in negative impacts on sewers, especially given the widespread acceptance and use in the US where some areas have as high as 90% adoption rates. Cities like Philadelphia, Tacoma and Milwaukee are actually encouraging the use of disposers to accomplish organics diversion and resource recovery.

Acknowledgement of issues of fats, oils and greases in Welsh sewers within the Eunomia report to support a ban on disposers is interesting given the current low penetration of disposers. In fact, this supports our ongoing research on the phenomena of calcium soaps forming in sewers as a result of free fatty acids (from various sources including bar soap, poorly maintained grease interceptors, and feces) reacting with ubiquitous Calcium. In other words, disposers are not the source of problematic calcium soaps.

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[i] PE Americas. 2011. "Life Cycle Assessment of Systems for the Management and Disposal of Food Waste." InSinkErator.

[ii] The Water Resources Utility of the Future. 2013. National Association of Clean Water Agencies, Water Environment Research Foundation, and Water Environment Federation.

[iii] Harold Leverenz and George Tchobanoglous. 2013. "Energy Balance and Nutrient Removal Impacts of Food Waste Disposers on Wastewater Treatment. Unpublished Report. InSinkErator.

[iv] Tchobanoglous, George, H. David Stensel, Ryujiro Tsuchihashi, and Franklin Burton. 2014. Wastewater Engineering: Treatment and Resource Recovery. 5th Edition. Metcalf & Eddy/AECOM. McGraw Hill-Education. p. 1869.

[v] David Parry. 2012. "Sustainable Food Waste Evaluation." Water Environment Research Foundation.

Document is Restricted

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Ymddiriedolaeth GIG Felindre	Response from Velindre NHS Trust
EB 16	EB 16

Consultation on the Environment (Wales) Bill

David Williams
Environmental Development & Compliance Officer
Velindre NHS Trust

Summary of Key Points / Recommendations

The Bill will benefit Velindre NHS Trust and the patients and donors we serve in respect of managing its environmental impact and working with natural resources and the local community, in particular regarding new construction projects and refurbishments. Areas that will provide the biggest costs for Velindre NHS Trust are Carbon Budgeting and Waste Segregation in terms of both labour and cost. The Welsh Government proposals are clear, however how the priorities and opportunities will be achieved is not.

The 'at least 80% carbon emission reduction' target could be difficult to achieve, however this target must have been researched and will hopefully be achievable by all organisations. Interim targets should be illustrated to convey progress.

The relationship between this Bill and the Well-being of Future Generations Act 2015 and the Planning (Wales) Bill is clearly defined, our natural resources are essential for us to achieve the well-being of a sustainable Wales and the management of our land must be done alongside how we manage our natural resources.

It is great to see Wales step up and look at managing its impact on the environment on a national scale. Unfortunately cost will be a factor in the success of the Bill, particularly regarding Carbon Budgeting and Waste Segregation. These additional costs need to be justified in order to get the support of Welsh organisations and ensure successful implementation of the Bill. Costs and benefits have been accurately defined and explained within the Regulatory Impact Assessment. The 10 year time period is sufficient for analysis of costs and benefits.

Consultation Questions

Part 1: Natural Resources Management

1.1 Do you agree with the Welsh Government's proposals on definitions for 'natural resources' and 'sustainable management of natural resource'?
Agree with the Welsh Government proposals.

1.2 Are there things missing that you think should be included?
None at this present time.

1.3 What are your views on the proposals for a National Natural Resource Policy? Is the Bill clear enough about what this will include?
Proposals are clear; however how the priorities and opportunities will be achieved is not.

1.4 Do you agree with the proposals for area statements? What should these cover and is the process for their development clear enough in the Bill?
Area statements should cover all of Wales at a local level to ensure accurate representation. The three Area Trials are a good approach, may need more though for accurate representation.

1.5 What are your views on the proposal to strengthen the biodiversity duty on public authorities operating in Wales?
I believe it is a good approach, with the four examples listed. Public authorities may struggle if the approach incurs significant cost increases.

1.6 Are you content with the proposals for NRW to have wider powers to enter into land management agreements and have broader experimental powers?
Yes as long as it doesn't add additional bureaucracy and costs with planning applications etc.

Part 2: Climate Change

2.1 Do you agree with the proposals for the 2050 target?
At least 80% could be difficult to achieve, however this target must have been researched and will hopefully be achievable by all organisations.

2.3 For your views as to whether the interim targets should be on the face of the Bill?
Yes they should to illustrate progress.

2.4 Do you believe that the introduction of carbon budgets is a more effective approach than the 3% annual emissions reduction target that is currently in place in Wales?
It may add more pressure to reduce emissions but will it cause additional costs and bureaucracy. Also what will happen if an organisation doesn't meet the requirements of a carbon budget?

2.5 What are your views on what emissions should be included in targets?
Utility emissions and business travel emissions should be included. It is very difficult to monitor patient and visitor travel emissions.

2.6 All Welsh emissions or those within devolved competence?
All Welsh emissions.

2.7 Do you agree with the Bill's proposals as to what should happen if the Welsh Ministers fail to meet emissions targets or carbon budgets?
Cannot find this information in the bill.

2.8 What should the role of an advisory body on climate change be?
A body that provides impartial advice to a range of stakeholders regarding the delivery of the desired outcomes.

Part 3: Carrier Bags

3.1 Do you agree with the proposal that Welsh Ministers should have powers to raise a charge on all types of carrier bags not only single use bags?
Agree.

3.2 Do you agree with the proposal that Welsh Ministers should have powers to raise different charges on different types of bags?
This may be confusing with different prices.

3.3 Do you agree that the profits from the sale of carrier bags should be directed to all charitable causes rather than just environmental ones?
Yes.

Part 4: Collection and Disposal of Waste

4.1 For your views on whether the Welsh Ministers need further powers to require that certain types of waste are collected, treated and transported separately?
No view.

4.2 Do you agree that non-domestic premises should be required to put their waste out for collection in line with any separation requirements set out by the Welsh Government?
It may be unrealistic and impractical to separate waste further than mixed recycling on site due to space and labour restrictions. This may require too many resources and additional labour and costs.

4.3 Whether you agree that the Welsh Government needs wider powers to ban some recyclable waste from incineration?
Yes

4.4 What will the impacts of these waste proposals be for you or your organisation?
There will be a real impact in terms of practical arrangements and additional cost. However, the aim remains the correct one.

4.5 Are there other waste proposals that you think should be included in the Bill?
None at present, but ensuring that any future methods could be included at a later date.

Parts 5 & 6: Marine Licensing and Fisheries for Shellfish

5.1 Do you agree with the proposals to introduce charges for further aspects of the marine license process?
Agree if it protects the marine environment and prevents overfishing

5.2 What will the impacts of these changes be for you?
There will be limited impacts for us.

5.3 Do you agree with the proposals to give Welsh Ministers powers to include provisions in Several and Regulating Orders to secure protection of the marine environment?
Agree with provision of power to reduce harm.

5.4 For your views on the proposals to give Welsh Ministers powers to issue site protection notices where harm may have been caused by the operation of a fisheries Order to a European marine site?
Agree with provision of power to reduce harm.

5.5 Are there any other marine and fisheries provisions you would like to see included in the Bill?
None at present.

Part 7: Flood and Coastal Erosion and Land Drainage

7.1 Do you agree with the proposals to replace the Flood Risk Management Wales committee with a Flood and Coastal Erosion Committee for Wales?
Agree

7.2 Whether you agree with the proposal for powers to be given Welsh Government agents to enter land to investigate alleged non-compliance with an Agricultural Land Tribunal order in relation to drainage?
Agree if it allows sufficient drainage.

Overarching Question

- For your views on the relationship between this Bill and the Well-being of Future Generations Act 2015 and the Planning (Wales) Bill? Are the links and connections between them clear?
  The relationship is clearly defined, our natural resources are essential for us to achieve the well-being of a sustainable Wales and the management of our land must be done alongside how we manage our natural resources.

Finance Questions

- What are your views on the costs and benefits of implementing the Bill? (You may want to consider the overall cost and benefits or just those of individual sections).
  It is great to see Wales step up and look at managing its impact on the environment on a national scale. Availability of financial resource will be a factor in the success of the Bill, particularly regarding Carbon Budgeting and Waste Segregation. These additional costs need to be justified in order to get the support of Welsh organisations and ensure successful implementation of the Bill.

- How accurate are the costs and benefits identified in the Regulatory Impact Assessment?
  Costs and benefits have been accurately defined and explained in Regulatory Impact Assessment.

- Whether there are any costs or benefits you think may have been missed?
  None at present.

- What is the cumulative impact of the costs or benefits of the Bill's proposals for you/your organisation?
  The Bill will benefit us in respect of managing its environmental impact and working with natural resources and the local community, in particular regarding new construction projects and refurbishments. Areas that will provide the biggest costs for us are Carbon Budgeting and Waste Segregation in terms of both labour and cost.

- Do you think 10 years (2016-17 to 2025-26) is appropriate to analyse the costs and benefits?
  10 years is sufficient.

- The cumulative cost and/or benefit to organisations who will be affected by the Well-being of Future Generations (Wales) Act 2015, the Planning Bill and the Environment Bill?
  The Bill will benefit us in respect of managing its environmental impact and working with natural resources and the local community, in particular regarding new construction projects and refurbishments. Areas that will provide the biggest costs for us are Carbon Budgeting and Waste Segregation in terms of both labour and cost.

- Are there any other options that would achieve the intended effect of the Bill in a more cost effective way?
  There may be schemes that are already in place and working well for organisations. These could be used or expanded on rather than introducing new schemes (e.g. we are currently working to achieve ISO14001 certification, there is a fee associated with achieving and maintaining this. Could this certification be used as part of waste and carbon schemes and be enforced for other Welsh organisations to achieve.)

Cynulliad Cenedlaethol Cymru
Pwyllgor Amgylchedd a Chynaliadwyedd
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)
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EB17

National Assembly for Wales
Environment and Sustainability Committee
General principals of the Environment (Wales) Bill
Response from Federation of Small Businesses
EB 17

General Principles of . the Environment (Wales) Bill

FSB Wales Response

12th June 2015

National Assembly for Wales Environment and Sustainability Committee Inquiry into General Principles of the Environment (Wales) Bill

FSB Wales

FSB Wales welcomes the opportunity to present its views to the Environment and Sustainability Committee Inquiry into the General Principles of the Environment (Wales) Bill. FSB Wales is the authoritative voice of businesses in Wales. With 10,000 members, a Welsh Policy Unit, two regional committees and twelve branch committees; FSB Wales is in constant contact with business at a grassroots level. It undertakes regular online surveys of its members as well as a biennial membership survey on a wide range of issues and concerns facing small business.

Climate change is a critical issue for Wales, as indeed it is globally. Together with consumption patterns, the structure of our economy has one of the most significant impacts on climate change. FSB Wales argues that we need to shift our economic activities and growth stimulus efforts to a more distributed model, based around supporting the sustainable development of our local economies. Small businesses are typically more place-based, and present the most significant opportunity to localise economic activity, ensure community resilience and assist in tackling climate change. Any new regulations affecting business should take into account the principles of 'Better Regulation'. For further information about the approach FSB Wales recommends to regulation, please see our *Better Regulation for Wales* report. [1]

Natural Resources Management

The Environment (Wales) Bill provides Welsh Government with a major opportunity to change the landscape of environmental regulation in Wales. Businesses across Wales frequently come into contact with Natural Resources Wales, it is therefore vital that in its role as a regulator it is acutely aware of the sensitivities of the business community. The Bill confers a number of additional regulatory powers on Natural Resources Wales and the Welsh Government. FSB Wales is concerned that the Bill does not provide sufficient detail on how it will impact SMEs in Wales. This is critical, as we believe a more localised economy is a greener economy, and small business are critical to this.

As we stated in our response to the Welsh Government's White Paper consultation on the Environment (Wales) Bill, the nature of the proposals suggest that the detailed policy and implementation will be devised and consulted upon via subsequent regulatory powers[2]. FSB Wales believes this approach, while necessary in some instances, is not beneficial in the current context. There are potentially significant increases in regulatory burdens from the Environment (Wales) Bill that may not be subject to detailed scrutiny by the Assembly.

[1] FSB Wales. 2014. *Better Regulation for Wales*. Available at: *http://www.fsb.org.uk/policy/rpu/wales/images/better%20regulation%20wales.pdf*

[2] FSB Wales (2014). *Environment Bill White Paper Consultation Response: http://www.fsb.org.uk/policy/rpu/wales/images/final%20environment%20bill%20white%20paper.pdf*

Carrier Bags

The Environment (Wales) Bill provides an opportunity to re-evaluate the nature and bureaucracy of the Welsh Government's carrier bag charge. The Welsh Government will be aware that proposals in England relate to firms with more than 250 employees. While FSB Wales does not advocate adopting the English proposals, the Welsh Government could re-examine the regulatory burden associated with the carrier bag charge and consider extending the current opt-out for firms with fewer than 10 employees to all SMEs. This would ensure the charge continues, but relieve SMEs of the accounting burden associated with the charge.

Collection and Disposal of Waste

FSB Wales believes small firms in Wales are ready and willing to play their part in increasing recycling rates in Wales in line with the Waste Framework Directive. It is envisaged that the Welsh Government would use the powers obtained via the Environment (Wales) Bill to place a requirement for waste producers to sort an additional three types of waste as well as food waste. FSB has previously voiced concerns on the issue of the waste collection market in response to the Waste (England and Wales) Regulations 2013[3]. Placing a duty to sort without intervening in the collection market could result in additional costs where customers are unable to realise savings from reduced residual waste collections[4]. Evidence provided in the Eunomia Reports in 2011 and 2013 suggested that proper intervention in the market could increase densities and lead to a reduction in collection costs for waste producers of around 25 per cent[5].

This was based on the assumption that local authorities would be able to regulate the nature of competition in local areas and specify the number of operators who can operate in order to promote transparency of cost (potentially via weight based charging mechanisms) and increase collection densities. Given the scope of materials included in the proposals, moving towards a weight based charging mechanism could be required to ensure those firms who produce very little of certain waste categories are not being charged punitively by collection arrangements. This would also allow for greater flexibility in relation to size of firm. FSB Wales is concerned that this aspect has been neglected and we are not convinced that subsequent reliance on a communications campaign alone will produce the desired results.

As such, FSB Wales believes the Welsh Government should give more detailed consideration to this aspect of reform to accompany the Environment (Wales) Bill. If this issue is not examined further

[3] FSB Wales (2012). *Amending the Waste Regulations 2011 on the Separate Collection of Recycling Consultation Response.*
[4] *Ibid.*
[5] Eunomia (2011). *Options for the Segregation and Collection of Welsh I & C Waste: Report to the Welsh Government*: *http://wales.gov.uk/docs/desh/publications/131014options-for- segregation-of-industrial-and-construction-waste-en.pdf*
Eunomia (2013). *Additional Policy Options Analysis for Welsh Government: Costs and Benefits of Extending Waste Framework Directive requirements, Waste Treatment Restrictions, Requirement to Sort and a Ban on the Disposal of Food Waste to Sewer: http://wales.gov.uk/docs/desh/publications/131021additional-waste-policy-options-en.pdf*

and resolved, there is a real danger that the costs of additional sorting and collection will be shouldered only by the firms producing waste, while the financial benefits would accrue at later stages of the recycling process. FSB Wales believes that any duty must take into account the size of firm and their capacity to respond to the duty's requirements. For instance, the additional space required to store recyclable materials before collection could place significant strain on businesses operating from small premises. A result could be that firms seek larger premises that would inevitably incur increased costs in rent and non-domestic rates. FSB Wales believes it is vital that the burden of regulation is placed in a way that minimises the impact on businesses.

Links between the Environment (Wales) Bill, the Well-Being of Future Generations Act 2015 and the Planning (Wales) Bill

FSB Wales believes there are major connections to be made between the Environment and Planning Bills and the Well-Being of Future Generations Act. As stated above, these legislative changes must not make the regulatory framework more burdensome for small businesses in particular. As we have argued, supported by the right investment and regulatory context, small businesses present a major opportunity to strengthen Wales' local economies. Research we have undertaken with the Centre for Local Economic Strategies shows that small business are far more likely to contribute to local prosperity than larger businesses[6]. A regulatory framework that places undue burdens on small businesses risks undermining this contribution.

The Well-Being of Future Generations Act opens up important opportunities to place-based approaches, resilience and sustainability. This must be underpinned by stronger local economies distributed across Wales, which act as the lifeblood of sustainable places. Place planning must put local economies at the heart of community futures, and this must be supported rather than hampered by legislation like the Environment and Planning Bills.

[6] FSB and CLES (2013). *Local Procurement: Making the Most of Small Businesses, One Year On.*

Federation of Small Businesses Wales
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The Federation of Small Businesses Wales
The FSB Wales is non-profit making and non-party political. The Federation of Small Businesses is the UK's largest campaigning pressure group promoting and protecting the interests of the self-employed and owners of small firms. Formed in 1974, it now has 200,000 members across 33 regions and 194 branches. FSB Wales currently has around 10,000 members, a Welsh Policy Unit, two regional committees and twelve branch committees meaning FSB Wales is in constant contact with small businesses at a grassroots level in Wales.

Lobbying
From the Press and Parliamentary Affairs Office in Cardiff, FSB Wales campaigns with AMs, MPs and MEPs in Cardiff Bay, Westminster and Brussels in order to promote our members' interests. FSB Wales also works closely with local, regional and national media outlets to highlight our members' concerns. Development Managers work alongside members in our regions to further FSB Wales influence at a regional level. More widely, the FSB has Press and Parliamentary Offices in Westminster, Glasgow, Belfast and Brussels to lobby the respective Governments.

Member Benefits
In addition, Member Services is committed to delivering a wide range of high quality, good value business services to members of the FSB. These services will be subject to continuing review and will represent a positive enhancement to the benefit of membership of the Leading Business organisation in the UK.

Vision
A community that recognises, values and adequately rewards the endeavours of those who are self employed and small business owners within the UK.

Cynulliad Cenedlaethol Cymru
Pwyllgor Amgylchedd a Chynaliadwyedd
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)
Ymateb gan Y Sefydliad Cynllunio Trefol Brenhinol yng Nghymru (RTPI Cymru)
EB 18

National Assembly for Wales
Environment and Sustainability Committee
General principals of the Environment (Wales) Bill
Response from The Royal Town Planning Institute Cymru (RTPI Cymru)
EB 18

RTPI Cymru
mediation of space · making of place
cyd drefnu gofod · creu cynefin

Royal Town Planning Institute
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email walespolicy@rtpi.org.uk
Website: www.rtpi.org.uk/rtpi_cymru

12 June 2015

e-mail response sent to: SeneddEnv@Assembly.Wales

Dear Sir/Madam,

Response to: Environment and Sustainability Committee inquiry into the general principles of the Environment (Wales) Bill

The Royal Town Planning Institute (RTPI) is the largest professional institute for planners in Europe, representing some 23,000 spatial planners. RTPI Cymru represents the RTPI in Wales, with 1,100 members. The Institute seeks to advance the science and art of spatial planning for the benefit of the public. As well as promoting spatial planning, the RTPI develops and shapes policy affecting the built environment, works to raise professional standards and supports members through continuous education, training and development.

Thank you for the opportunity to comment on the above consultation.

The response has been formed drawing on the expertise of the RTPI Cymru Policy and Research Forum which includes a cross section of planning practitioners from the private and public sectors and academia from across Wales.

We have the following points to make in relation to some of the proposals outlined in the Bill.

RTPI Cymru supports the general principles of the Bill and its underlying themes, however further clarification is required regarding its position in relation to the various other related Bills – including the Well-being of Future Generations (Wales) Act and the Planning (Wales) Bill. There is a need for strong and clear links between the Environment (Wales) Bill, the Well-being of Future Generations (Wales) Act and the Planning (Wales) Bill. We agree that the principle that connects these three pieces of legislation is the 'commitment to sustainable development', (para 125 of the Explanatory Memorandum) however further information is now required on the direct practical implications of this. See our comments below on links with the NDF, SDPs, Areas Statements, LDPs, Place Plans, and Well-being Plans etc. A table showing the hierarchy of plans, statements and documents could usefully clarify the

links and leads amongst the various documents. This table should also set out the timings of each document, including which takes precedent and when they will be revised etc.

We support the principles for the Sustainable Management of Natural Resources set out in Part 1 of the Bill, as introduced – in particular their relationship to payment for ecosystem services (PES), to projects within wider catchments, the relationship to the newly published water strategy, interim standards on SuDS and opportunities for Natural Flood Management.

The Bill aims to provide Natural Resources Wales (NRW) with "a clear purpose which embeds the principles of sustainable management of natural resources into the decision-making of the body and an overarching objective for the delivery of its functions". (para 52, Explanatory Memorandum) While we welcome this update of NRW's core purpose we refer back to our comments presented to the National Assembly for Wales Environment and Sustainability Committee to inform their annual scrutiny (2015) of NRW - http://www.rtpi.org.uk/media/1309807/rtpi_cymru_nrw_response.pdf. In our evidence we noted some difficulties in the transition from separate authorities to NRW and in general felt the organisation to be struggling to deliver in some key areas. RTPI Cymru's main cause for concern is around resources and whether NRW are adequately resourced, particularly in taking forward the changes set out in the various Bills and Acts that have made, or are making their way through the National Assembly. It is vital that NRW adequately resourced to fulfil their updated purpose.

The Bill sets out a proposal for "a general biodiversity and resilience of ecosystem duty". (para 68, Explanatory Memorandum) This will apply to public authorities. RTPI Cymru supports the principle of the proposal however further clarification is required, in particular relating to how this will be put in place and how it fits with other existing requirements and processes, without duplicating or creating an additional layer of policy.

Paragraph 80 places "a statutory duty to provide an assessment of the state and trend of natural resources in Wales to identify whether progress is being made to meet the objectives of the sustainable management of natural resources". This will take the form of a State of Natural Resources Report (SoNaRR) published by NRW. In addition "Welsh Ministers are required to prepare, produce and review a National Natural Resources Policy (NNRP) document". (para 85 Explanatory Memorandum.) Further information is required on the purpose of the report and NNRP. How does this fit with other policy documents, both existing – such as Planning Policy Wales (PPW), and those proposed under the various new Bills/Acts – such as the National Development Framework (NDF). What role will the NNRP play? We note that paragraph 89 of the Explanatory Memorandum sets out the intention to

“promote integrated policy development, aligning the national policy within the context of the development of the Welsh Ministers’ well-being objectives (in the Well-being of Future Generations (Wales) Act 2015) and the National Development Framework (as proposed in the Planning (Wales) Bill”, however further explanation is required on specifically how this will be achieved. This requires further clarification and should be clearly set out on the face of the Bill. The level of scrutiny also requires consideration and should be comparable with other documents playing a similar role.

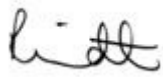
NRW are required to “prepare, produce and review area statements in order to implement one or more of the priorities and opportunities outlined in the NNRP at an appropriate spatial scale”. (para 92 Explanatory Memorandum) Again we question the relationship of area statements with other documents, including Local Development Plans (LDPs) and the new Strategic Development Plans (SDPs), Place Plans and Well-being Plans etc. This is particularly important given that we note the Bill, as introduced states, NRW “must consider whether— (a) another plan, strategy or similar document should be incorporated into the area statement, or (b) the area statement should be incorporated into another plan, strategy or similar document.” (pages 6/7). What scrutiny process will be in place to oversee this?

In relation to climate change the Bill provides for a number of measures to ensure that regular updated information is made available to the National Assembly for Wales on progress in relation to meeting the targets and how the targets and budgets can be met. Further information is required in relation to who would be expected to collect the information. In relation to Local Planning Authorities this could have major implications on their already stretched resources and would need to be dovetailed with the existing data they are required to collect and report to Welsh Government.

Clarification is needed on the implications for the management of designated landscapes. In relation to this we refer to the current independent Review of Designated Landscapes in Wales - http://gov.wales/topics/environmentcountryside/consmanagement/countrysidecoastalaccess/landscapes/?lang=en and RTPI Cymru responses to both Stage 1 and 2 of the Review.- http://www.rtpi.org.uk/the-rtpi-near-you/rtpi-cymru/policy-in-wales/

If you require further assistance, have any queries or require clarification of any points made, please contact RTPI Cymru on 029 2047 3923 or e-mail Roisin Willmott at walespolicy@rtpi.org.uk

Yours sincerely,



Dr Roisin Willmott MRTPI

Director
RTPI Cymru

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Cymdeithas Cyfraith Amgylcheddol y DU	Response from UK Environmental Law Association (UKELA)
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The Environment (Wales) Bill

Evidence Paper to the National Assembly for Wales's Environment and Sustainability Committee

Introduction

The UK Environmental Law Association (UKELA) aims to make the law work for a better environment and to improve understanding and awareness of environmental law. UKELA's members are involved in the practice, study or formulation of environmental law in the UK and the European Union. It attracts both lawyers and non-lawyers and has a broad membership from the private and public sectors.

UKELA prepares advice on proposals of governments and regulators covering a range of environmental law topics, with the help of its specialist working parties. This response has been prepared by Gweithgor UKELA ar gyfer Cymru, the UKELA Wales Working Party.

UKELA has only provided evidence in respect of the provisions in Part 1 of the Bill as these are potentially the most contentious in terms of the coherence, integration and transparency of the bill.

In general, UKELA welcomes the innovative approach to natural resource management in Part 1 of the Bill which will have an important impact on the quality of the environment in Wales. However, we make some suggestions in this evidence paper to improve the Bill in a number of respects.

Summary of Evidence

UKELA has concerns about whether the bill's definition of natural resources, which, although it is 'not limited', should nonetheless specifically include landscapes.

UKELA recommends the expansion of the overall objective of Natural Resources Wales (NRW) so as to more clearly integrate with the Well-being of Future Generations (Wales) Act 2015.

UKELA recommends the expansion of the principles of sustainable management of natural resources to incorporate the preventive and precautionary principles and to include public participation.

UKELA makes recommendations in relation to the biodiversity lists and the biodiversity duty related to them so as to make the provisions clearer, in terms of the (i) content of the duty; (ii) the applicability of the duty; and, (iii) compliance with the duty requirements.

UKELA makes a number of recommendations relating to the National Natural Resource Policy (NNR policy) with respect to the requirements on Welsh Ministers to consult and designed to strengthen the duties imposed on Ministers.

UKELA also highlights the need to establish clear links between the biodiversity lists and the 'biodiversity' duty on public authorities as well as those between the biodiversity lists, the State of Natural Resources Report and the NNR policy.

UKELA recommends that the provisions on Area Statements be revised to remove ambiguity, to better respect the need for consultation and to enhance the observance of related duties.

UKELA generally welcomes the land management agreement provisions but questions whether the provisions take sufficient account of existing domestic legal obligations (including the Human Rights Act 1998).

UKELA does not consider that the case has been made for suspending certain of NRW's existing statutory obligations when exercising experimental powers; indeed, this is viewed as a dangerous precedent.

Detailed Evidence

Part 1: Sustainable Management of Natural Resources

Natural Resources and Sustainable Management of Natural Resources

Do you agree with the Welsh Government's proposals on definitions for 'natural resources' and 'sustainable management of natural resources'? Are there things missing that you think should be included?

1. This Part of the Bill sets out the objective and seeks to implement the "ecosystem approach" contained in the UN Convention on Biological Diversity, which defines ecosystems as "a dynamic complex of plant, animal and micro-organisms, and their living environment interacting as a functional unit". However, the absence of the UN Convention definition is disappointing and weakens the Bill. UKELA, therefore suggests that this should be included in clause 2. Although Natural Resources are defined in that clause there is a need to be explicit about the coverage of the Bill. In this respect, UKELA believes that it should be extended so as explicitly to include protected landscapes, notwithstanding the fact that the current definition is non-exhaustive. Whist it is recognised that the sustainable management of natural resources is a necessary condition for the protection of these assets, it is not necessarily a *sufficient* condition which is why we suggest that they should be explicitly included in the definition of natural resources in clause 2.

2. In respect of sustainable management of natural resources, the drafting of clause 3(2) is fundamental to the overall objective of Natural Resources Wales. It is important, therefore, to ensure that the objective is clear and appropriate. In order to align the legislation with the provisions of the Well-being of Future Generations Act and to emphasise the role of Natural Resources Wales in relation to protection of biodiversity, UKELA proposes that clause 3(2) should be expanded, to read as follows:

> "The objective is to maintain and enhance a bio-diverse natural environment and healthy, resilient ecosystems, and the benefits they provide, and in doing so, to meet the needs of the present without compromising the ability of future generations to meet their own needs"

Principles of sustainable management of natural resources

3. Clause 4(a) should make it clear that action should follow as a consequence of monitoring and reviewing. It is insufficient to require a review without provisions requiring follow up action where the review has identified shortcomings. UKELA also suggests that the existing provisions of clause 4 should reflect the internationally agreed principles of prevention and precaution. Therefore, we propose that clause 4 be strengthened as follows:

> 4(a) – adopt a preventive approach and manage adaptively by planning, monitoring, reviewing action and taking appropriate steps where shortcomings are evident.
> …
> 4 (c) – promote and engage in collaboration and cooperation with relevant statutory bodies and non-governmental organisations.
> 4 (d) – take account of all relevant evidence and where uncertainty exists adopt a precautionary approach.
> …
> 4 (f) – take account of the long-term consequences of actions as well as the short and medium term benefits.

4. Furthermore, a new provision should be included to support public participation, where appropriate, in decision making about the sustainable management of natural resources, particularly in relation to the benefits and intrinsic value of natural resources and ecosystems.

5. UKELA also has some concerns about clause 4(b), as the meaning of the term "appropriate" is unclear. Does it refer to the most appropriate use of public authority resources or to the most appropriate spatial organisation in terms of the objective of resource protection?

What are your views on the proposal to strengthen the biodiversity duty on public authorities operating in Wales?

Biodiversity lists and duty to take steps to maintain and enhance biodiversity

6. The duty under clause 6(1) is a relatively weak duty – simply requiring public authorities to "seek to maintain and enhance biodiversity in the exercise of their functions ... and in doing so promote the resilience of ecosystems. This fails to ensure that the necessary actions will take place. UKELA suggests that omission of "seek to" would strengthen the duty to achieve the desired objective. An alternative, which may be more acceptable, would be to align the wording with that used in the Well-being of Future Generations Act i.e. "take all reasonable steps to maintain and enhance .....".

7. In relation to clause 6(4), it is suggested that the words "Environmental Programme" should be omitted as the accepted reference is the United Nations Convention on Biological Diversity.

8. Clause 6(5) imposes a duty on public authorities to publish triennial reports on how they have complied with their duties. However, the absence of a power to ensure that these reports are published, or of any consequences of not publishing the reports, is worrying, as this will weaken the effectiveness of the legislation.

9. There needs to be more coherence between the definition of a public body in clauses 11(1) and 6(6) – as drafted there is considerable potential for confusion between the two. If s6(6) is not specific to public bodies established in Wales, but intended to apply to all public bodies **operating** in Wales this should be made clear on the face of the Bill. UKELA also considers that the Bill should contain, somewhere in clause 6, a definition of biodiversity which is more closely aligned with that contained in the UN Convention on Biological Diversity.

10. Clause 7(1) requires the Welsh Ministers to prepare and publish a list of living organisms and habitat types of principal importance, and clause 7(3) imposes a duty on Ministers to "(a) take such steps as appear to them to be reasonably practicable to maintain and enhance the living organisms and types of habitat included in any list published under this clause, and (b) encourage others to take such steps". In UKELA's view, it is unclear why "others" should be amenable to encouragement since no other provision in Part 1 appears even to require public authorities to have regard to the list let alone creates any duties in respect of it. In UKELA's view it should be made clear how the information in this list is to be used, for example, by public authorities in fulfilling the biodiversity duty, by NRW in creating the State of Natural Resources Report or by Welsh Ministers in creating the NNR policy.

11. In addition, the absence in this clause of the need to consult interested parties on the preparation of the list (other than Natural Resources Wales) is of concern, particularly given the general support for public participation in environmental decision making, and the specific references to this notion in the explanatory memorandum.

Duty to prepare, publish and implement national resources policy

What are your views on the proposals for a National Natural Resource Policy? Is the Bill clear enough about what this will include?

12. Clause 9 states that Welsh Ministers should publish a document setting out general and specific polices for contributing to achieving sustainable management of natural resources; key priorities and opportunities for NRM; what should be done in relation to climate change; and anything else Ministers consider relevant. Though UKELA broadly welcomes this provision, we suggest that the *risks to* NRM, as well as the 'priorities and opportunities for NRM' should form part of the policy content. Also it would be helpful if there was more detail in the Bill as to what should be included in the policy more generally. Currently, clause 9 requires only that the policy should set out "key

priorities and opportunities for sustainable management of natural resources in relation to Wales, including what they consider should be done in relation to climate change." There is no mention, for example, of any requirement to set these as time-bound objectives, whether the policy should stipulate a hierarchy for the addressing of the priorities and opportunities identified, nor to lay down guidance on what should be done if priorities conflict (which is entirely possible). In addition, there is no mention of the relationship between the NNR policy and the State of Natural Resources report created by NRW. There is also no requirement on Welsh Ministers to consult on the contents of the document. UKELA strongly suggests that there should be a duty on Welsh Ministers to consult on the policy at the outset. Moreover, UKELA has serious concerns about the relatively weak duties on Welsh Ministers to "take such steps [to implement to the policy] as appear to them to be reasonably practicable" and "encourage others to take such steps" (clause 9(4)(a)&(b)). UKELA suggests than an alternative, and stronger, drafting might be: "to take all steps they consider necessary to implement the policy" and to "direct others to take such steps".

Area Statements

Do you agree with the proposals for area statements? What should these cover and is the process for their development clear enough in the Bill?

13. In clause 10 the linkages between the area statements and the NNR policy are unclear. There is also no duty on NRW to implement the policy to be prepared and published under clause 9 and no duty on Welsh Ministers to implement area statements, despite their obvious centrality to the implementation of the NNR policy. UKELA believes that appropriate provisions should be introduced into the Bill in order to ensure that NRW takes account of the policy document and Welsh Ministers take account of area statements in exercising their functions. Furthermore, there should be a requirement for Natural Resources Wales to consult on their area statements, in particular with Welsh Ministers and other relevant stakeholders, such as landowners (see paragraph 55 of the Explanatory Memorandum re "promoting engagement with stakeholders").

Our comments in respect of relatively weak duties on Welsh Ministers in relation to Clause 9, apply equally to the duties of NRW in respect of this clause. Finally in relation to area statements, it seems inconsistent that provision is made in clause 24 for changing the time requirement for the production of the State of Natural Resources Report and National Natural Resources Policy yet no time requirement is specified at all for the production of area statements.

14. There is some ambiguity in the drafting of clause 12 (1) that needs to be corrected. It is unclear as to whether the reference to "them" refers to Welsh Ministers or a public body. Again, the absence of consultation with interests wider than public bodies, such as landowners, is troubling, particularly as Welsh Ministers have the power to direct public bodies to implement area statements. UKELA welcomes the legally enforceable duty under clause 12(3) which allows Ministers to direct a public body, and the accountability and enforcement arrangements for the other duties listed in clauses 10 (the preparation and publication of area statements); 13 (public bodies' obligations to take account of guidance in respect of area statements); and 14 and 15 (duty of public body to provide NRW with information and assistance and vice versa).

15. There is a lack of clarity in respect of the provisions in clause 14 which oblige public bodies to provide information and other assistance to NRW unless this would "have an adverse effect on the exercise of the public body's functions' (cl.14(2)(b)). It is not clear whether 'an adverse effect' could include an adverse *financial* effect. UKELA considers that this contingency should be explicitly addressed.

Land Management Agreements and Experimental Powers

Are you content with the proposals for NRW to have wider powers to enter into land management agreements and have broader experimental powers?

16. The power for NRW to enter into a management agreement with regard to any of its functions is eminently sensible.

17. Management agreements are entered into voluntarily. However, clause 16(2) refers to the imposition of obligations etc. This being the case an appeals process should be provided to ensure compliance with the Human Rights Act.

18. The relationship with existing SSSI management mechanisms under section 28, Wildlife & Countryside Act 1981 (as amended) and these proposals require further clarification.

19. UKELA notes that the clause 17 provisions on successors in title are different to those currently used under section 15 of the Countryside Act 1968. It is not clear why a different approach has been considered necessary nor has this been explained in the Explanatory Memorandum entries relating to cl.17 (at pp. 325-6).

20. UKELA notes that clauses 16-21 do not refer to management agreements entered into in respect of European sites under regulation 16 of the Conservation of Habitats and Species Regulations 2010 (as amended).

21. Proposals under clause 22 allowing the exemption or relaxing or modifying statutory requirements for which NRW is responsible, even with consultation, is of concern and not supported by UKELA. Such a provision would set a dangerous precedent. The power for NRW to conduct research and experimental schemes is sensible but no evidence has been presented that suggests that existing statutory requirements would prove an obstacle to such initiatives?

Overarching Question

For your views on the relationship between this Bill and the Well-being of Future Generations Act 2015 and the Planning (Wales) Bill? Are the links and connections between them clear?

22. Though there are commendable efforts to integrate the requirements of these 'flagship' provisions there are some areas of inconsistency and potential confusion.

23. Perhaps most significant in this respect is the lack of guidance on the integration of, for example: NNR policy, well-being objectives, and the National Development Framework; as well as area statements, local well-being strategies and local development plans.

24. The Environment Bill imposes a biodiversity duty on all public authorities, which are defined (in clause 6(6)) so as to include statutory undertakers. However, statutory undertakers are not subject to well-being objective duties in the Well-being of Future Generations (Wales) Act 2015. Clearly the WFGA provisions are set (for the time-being at least) but it does seem incongruous to have statutory undertakers subject to the biodiversity duty but not (at least not directly) subject to well-being duties, though we realise that this may relate to differing obligations at international level. The point relating to the confusion over the designation of a 'public body' has already been made at paragraph 9 *supra*.

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Comisiwn Cymru ary Newid yn yr Hinsawdd	Response from Climate Change Commission for Wales
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Comisiwn Cymru ar y Newid yn yr Hinsawdd
Climate Change Commission for Wales

Climate Change Commission for Wales: **June 2015**

Response to National Assembly for Wales Environment & Sustainability Committee inquiry - Environment Bill

The Commission was established in 2007 as an important independent forum for developing and driving forward the Welsh programme of action to tackle the causes and effects of climate change. It brings together leaders and representatives from all sections of Welsh society (business, academia, the voluntary sector, environmental groups, political parties, public sector and local government), and seeks to advise Welsh Government on climate change, mobilise action and build consensus across sectors.

The Commission welcomes the introduction of the Environment (Wales) Bill, and particularly the focus on climate change, the creation of a statutory framework for action on climate change including targets for reducing emissions of greenhouse gasses, and setting carbon budgets.

Our response specifically addresses Part 2 - Climate Change, and the following questions:

1. *Do you agree with the proposals for the 2050 target?*

The Commission has for some time been calling for a **stronger framework** for climate change and emission reduction in Wales, and in our response to Welsh Government's Climate Change Policy Refresh last year we called for

- a much clearer structure of responsibility, accountability and reporting across Government and the public sector to enable monitoring of progress against climate change objective, and
- the introduction of statutory targets (within forthcoming legislation) for public bodies to monitor and report on emissions and adaptation performance.

The current 2050 target is in line with the existing UK Climate Change Act (2008), so there is a question about whether it should be going beyond this. What is critical is that these targets are based on the **latest scientific evidence** and any developments in international negotiations. The current Welsh targets (40% and 3% per annum) are also based on analysis undertaken for the 2010 Strategy, so again we would recommend that these are brought up-to-date and based on the latest evidence as presented by the IPCC in 2014.

In addition the Environment Bill has to clearly link to, and strengthen, the requirements of the **Well-being of Future Generations (Wales) Act** and the indicators, milestones and measures that are being developed to support the delivery of the seven wellbeing goals.

2. *For your views as to whether the interim targets should be on the face of the Bill?*

With such a complex issue as climate change we understand the difficulty of placing targets on the face of the Bill. Not including a target would allow for a greater degree of flexibility, however

there could be arguments for including something (perhaps the 40% by 2020 target) to reinforce the Welsh Government's commitment.

3. *Do you believe that the introduction of carbon budgets is a more effective approach than the 3% annual emissions reduction target that is currently in place in Wales?*

Yes – it will set the route map for reducing emissions across all Government departments over appropriate time periods, and is also in line with the UK's approach. We agree that the timing for the budget should be aligned to the electoral cycle and also to the requirements under the Well-being for Future Generations (Wales) Act and development of local Wellbeing plans.

We are slightly concerned that the progress reports will only be undertaken every five years – this may not be sufficiently frequent to hold Welsh Government to account. Currently the Welsh Government reports annually on their climate change targets, and this is the main way that the Commission is able to scrutinise progress and provide advice on areas for improvement. Would the carbon budgets replace the current annual targets, and if so how will progress against emission reduction be reported?

The Commission recently funded the **Tyndall Centre** to carry out a study on carbon budgets for Wales – **copy attached**. This provides an in depth analysis of the evidence for targets and budgets, including what would be a 'fair' budget allocation for Wales, so should be considered as part of the evidence base for the Environment Bill.

We would like to see how the carbon budgets will extend to an analysis of the carbon impact of financial budget setting similar to the emission impact assessment of the fiscal budget that is undertaken in Scotland.

4. *What are your views on what emissions should be included in targets? All Welsh emissions or those within devolved competence?*

To allow for consistency with the United Nations Framework on Climate Change (UNFCCC) reporting guidelines, we advise that all Welsh emissions should be included. The Scottish Government has adopted this approach, although when assessing performance against the targets it allows for the sale and purchase of relevant carbon units (tradable emissions allowances), through the European Union Emissions Trading Scheme (EU ETS). In effect, this means that, when assessing performance against targets, the emissions attributed to the traded sector are those allowed within their annual cap, as opposed to the emissions actually made (see http://www.gov.scot/Publications/2014/06/5527/4. The issue of devolved competence (which may change over time) is probably best addressed when setting the particular value of each target or budget.

It is also worth noting that all Wales emissions are provided on a yearly basis by the National Atmospheric Emissions Inventory report. The latest figures, published on June 9th, shows that although emissions have reduced by 12% compared to base year, they have increased by 10% between 2012 and 2013. This increase is largely driven by emission from the production of heavy industry and a shift from natural gas to coal use in power stations. It would therefore appear that the generation and reporting of all Wales emissions would not require much additional work for the Welsh Government for either the budget period report or the annual update.

As well as considering the devolved / non-devolved issue, it's also worth considering reporting on consumption-based emissions particularly as Wales is a net exporter of energy. This would support action in relation to personal behaviour change and individuals taking greater responsibility for supporting actions that lead to emission reduction.

5. *Do you agree with the Bill's proposals as to what should happen if the Welsh Ministers fail to meet emissions targets or carbon budgets?*

Yes we welcome a **framework for stronger accountability across Welsh Government**, and the emphasis on the need for a **cross-departmental approach** to deliver emission reduction. We would welcome further consideration of accountability outside Welsh Government across the public and private sector bodies – for instance the Scottish Act has a requirement on all public sector bodies to contribute to their climate change targets and this would seem a sensible approach for Wales.

Again we feel that any requirements on the public sector would need to build on and complement the requirements in place through the **Well-being of Future Generations (Wales) Act**.

6. *What should the role of an advisory body on climate change be?*

We feel that there is a need to clarify the role of the various bodies here. The UK Committee on Climate Change, who already advise the UK Government on setting carbon budgets and have significant analytical and scientific capacity, are well placed to advise the Welsh Government on the technical detail e.g. setting initial carbon budgets for Wales.

The Well-being of Future Generations (Wales) Act sets out a clear role for the **new Future Generations Commissioner** in relation to providing advice on climate change (Part 3, Section 19 1a) – the Environment (Wales) Bill should seek to strengthen and clarify this role and not undermine it. A review of the Climate Change Commission for Wales is currently taking place and the findings will inform the future role of the new Commissioner.

ADAPTATION

We note that Part 2 focuses entirely and in much detail on emission reduction. There is no explicit reference to **Adaptation**. This is in marked contrast with legislative frameworks in other home countries. The Climate Change Act 2008 places a duty on the UK Government and the Northern Ireland Administration to place plans before their respective Parliament and Assembly, outlining how they are addressing the risks identified in the most recent UK Climate Change Risk Assessment (which is undertaken every five years). The Climate Change (Scotland) Act 2009 places a similar requirement on the Scottish Government. There is, however, no corresponding legal requirement placed on the Welsh Government.

The **Well-being of Future Generations (Wales) Act** stipulates that Welsh Ministers must take account of the UK CCRA when producing their Future Trends Report, and that Public Service Boards should do so when preparing their Assessments of Local Well-being. Presumably, actions arising from taking account of the UK CCRA will be embedded within Welsh Ministers' Well-being Objectives, and within Local Well-being Plans, and would encourage action to support the Resilient Wales goal. Similarly the Environment (Wales) Bill, as introduced, places a duty on Welsh Ministers to "prepare, publish and implement national natural resources policy … including what they consider should be done in relation to climate change".

As things stand, therefore, actions to adapt to climate change will be embedded within a range of mainstream programmes – as is appropriate for effective integration. The question is whether Welsh Government is content that, if challenged, they could extract from these programmes the actions that when collated would constitute an "Adaptation Programme for Wales". In this situation we think it may be appropriate for this Act to consider placing a specific duty on Welsh Ministers to prepare a National Adaptation Programme for Wales which takes account of the most recent UK CCRA. It would be helpful to look at lessons from the UK National Adaptation Programme and the Scottish Adaptation work to develop the most appropriate response for Wales.

The Commission's **Adaptation sub-group** would be happy to provide further information and insights about this. Further the Commission's **Land Use sub-group** wishes to emphasise the role of land management in adaptation – protecting us from the extremes of storms, flood and drought as well as retaining carbon stocks in peat and other organic soil. The ability of land to sequester more carbon will contribute very little to the overall budget and our land management policies should reflect this.

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Croesawn ohebiaeth
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We welcome correspondence
in English and Welsh

Committee Clerk
Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

By email, 12th June 2015
SeneddEnv@Assembly.Wales

Dear Sir/Madam

CONSULTATION ON THE ENVIRONMENT (WALES) BILL

Thank you for the opportunity to comment on the Environment (Wales) Bill.

Pembrokeshire Coast, Brecon Beacons and Snowdonia National Park Authorities are pleased to submit a combined response as 'National Parks Wales', which I include below.

National Parks Wales would like to congratulate the Welsh Government for introducing this legislation.

Part 1: Natural Resources Management

1. National Parks Wales agrees with the definition of 'natural resources' (Part 1, section 2), and suggests that it may be useful to explicitly include the following resources, possibly in parentheses to existing categories on the list where this is appropriate: renewable and non-renewable energy sources; carbon sources and sinks; nutrient stocks and flows.

   Further, while the appearance of landscape and seascape will to some extent emerge from the management of natural resources, we suggest that they are also natural resources and can be managed in their own right. For these reasons, and in order to deliver the European Landscape Convention, landscapes and seascapes should also be included on the list. This would accord with the purpose of the European Landscape Convention to protect, manage and plan all landscapes, outstanding and ordinary, at local, regional, national and international levels.

   National Parks Wales welcomes the use of the Convention on Biological Diversity principles for the ecosystem approach. These suggestions will help ensure that vision and effort extends beyond the more utilitarian aspects of natural resource management.

2. National Parks Wales recommends that the definition of 'sustainable management of

natural resources' (Part 1, section 3) could usefully define 'ecosystem' within the Bill. We agree with using the definition given in Para 18 of the Explanatory Memorandum, from Article 2 of the Convention on Biological Diversity: "a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit", as.

3. We find Part 1, section 3 (2) rather unclear and perhaps misleading: it seems to imply that resilience is an independent, adjustable quality of ecosystems, whereas we suggest it is largely intrinsic. We suggest therefore that rephrasing the objective is necessary, reflecting a purpose of reducing human pressures on ecosystems in order that their intrinsic values and functions are not compromised.

4. We suggest that Part 1, 4 (b.) should be amended to read "…appropriate spatial **and temporal** scale for action."

5. While agreeing the importance of evidence-based management, National Parks Wales suggests that the 'Principles of sustainable management of natural resources', (Part 1, 4 (d.) and 4 (e.)), should also encapsulate the precautionary principle and the need to consider the (ir)reversibility of effects on ecosystems. The evidence base should include defining favourable conservation status for all habitats of principal importance in Wales.

6. National Parks Wales suggests that the numbered items under Part 1, section 4 (g.) could consider the dynamism and development or evolution of ecosystems (including change under climate change).

7. National Parks Wales generally welcomes the proposals for a National Natural Resource Policy. Significant human factors affecting biodiversity and ecosystem health relate to land management and use of marine resources, and the main gains are likely to be realised by ensuring these factors are the focus of the Policy. The impacts of Policy in ameliorating these factors could be included in the measures of success of sections 3 and 4 of the Bill. Alternatively, or in addition, these could be set out explicitly in the Nature Recovery Plan for Wales.

8. Part 1, sections 9 and 10. We suggest that policy and planning should take a natural resource-based approach and that 'areas' will naturally emerge from this, as artefacts of the pragmatic implementation of policy. For example, catchments and groundwater units are an obvious basis for water management decisions. Other resources are naturally fragmented (e.g. soil types, woodland), and we envisage that for these there could be Wales-wide, region-wide or cross-catchment policies – that is, a thematic approach.

   This is not to say that areas could not also be used for implementation of thematic plans. For example, landscape character could be used to set area boundaries, in much the way that protected landscape plans currently operate. Subject to any data sensitivities, State of Natural Resources monitoring and survey data should ideally be capable of disaggregation and scaling to any area in order that interventions can be targeted to add the most value and in order to reduce monitoring costs.

   Local Records Centres will be pivotal to collation, verifying and distributing data.

   We suggest that the State of Natural Resources Report (SoNaRR) would be more appropriately framed as a wider State of Nature Report (SoNaR) to reflect the broader list of natural resources suggested in our comments, and to reflect the intention of the Convention on Biological Diversity. Establishing baseline and trend data, and resourcing these monitoring and surveillance programmes, is essential to management and evaluation of it. While we recognise that a broad range of

information is currently collected, it is not always complete or timely enough for fully-informed management decisions to be made, and review is desirable in order to better service statutory and other requirements.

9. We welcome references to national parks as places where ecological, economic, social and cultural matters bear directly on decision-making at the appropriate scale (para 41 of the Explanatory Memorandum).

10. Part 1, section 10(6) (a.) and (b.) provide for consideration of protected landscape plans, amongst other plans, in the context of natural resources plans, and National Parks Wales welcomes this. Part 1, section 12 provides for Welsh Ministers' power to direct public bodies to address matters within an Area Statement. National Parks and Areas of Outstanding Natural Beauty - while experienced in delivering natural resources management - have additional functions, notably conservation of the cultural heritage and the historic environment, promotion of enjoyment and understanding of the special qualities, which must be taken into account in any plans for or affecting the protected landscape. Moreover, National Parks Wales suggests that these additional functions would not automatically be served by a natural resources plan. However, the role of natural resources planning could be extended in order to include these functions, using protected landscape plans as a model, thereby achieving integrated management of Wales' landscapes. These plans could also incorporate Well-being and Future Generations Act commitments. In short, we suggest that National Park and AONB Management Plans could assume the role of Area Statements for their areas, automatically covering 25% of Wales' land area. We ask the Committee to recommend an amendment that will enable Welsh Government or Natural Resources Wales to delegate responsibility for preparing an Area Statement to another body. This would enable a National Park Authority to take the lead in preparing an Area Statement for the National Park and if appropriate the surrounding area.

11. We would welcome clarification on how Area Statements would relate to the national plans such as the Nature Recovery Plan, and processes such as the designation of protected sites. National Parks Wales would be pleased to discuss planning approaches and content further. National Parks Wales' response to Stage 1 of the Review of Designated Landscapes in Wales suggested that the Environment Act 1995 section 62ii duty on public bodies to have regard to National Park purposes needs revision, to the effect that "In exercising or performing any functions in relation to, or so as to affect, land in a National Park, any relevant authority must support the National Park Management Plan as adopted under section 66(2) of the 1995 Environment Act and report annually on how this has been achieved." We suggest that a similar requirement will be needed in relation to support of management in support of Area Statements and improving the state of nature.

12. Part 1, section 6. National Parks Wales warmly welcomes the proposal to strengthen the biodiversity duty, and promotion of ecosystem resilience, on public authorities and statutory undertakers in Wales and the requirement to demonstrate compliance with the Convention on Biological Diversity. We suggest that the definition of "biodiversity" given in paragraph 56 of the Explanatory Memorandum is included in the Bill. National Parks Wales welcomes the primacy given in the Explanatory Memorandum to the inter-relationship between biodiversity and ecosystems and the understanding shown on how this relationship governs all other matters.

    We suggest that caution is needed with some terms: ecological "diversity" and "richness" have specific, and distinct, meanings.

13. Part 1, section 16. National Parks Wales supports the proposals for NRW to have wider powers to enter into land management agreements and have broader

experimental powers beyond those it currently possesses. We suggest that NRW will require adequate financial and staffing resources to grow - and, importantly, maintain - a portfolio of management agreements into the long term, and to pursue experimental approaches, including, where relevant, cross-border initiatives. Experience in Wales' national parks shows that there is considerable scope to complement and add value locally to the (necessarily strategic) national agri-environment schemes, and also to encourage land managers to enter into national schemes by providing local 'stepping-stone' approaches. Examples include the Black Mountains Upland Restoration Project in the Brecon Beacons, the Conserving the Park project in Pembrokeshire Coast, and catchment sensitive farming in Llyn Tegid catchments in Snowdonia.

NRW's capacity to develop Area Statements and implement them with partners will require resourcing. These demonstrate what can be achieved through collaboration and partnerships: new powers are not always required. Expert collaboration with local and regional partnerships was a highly-valued function of the NRW legacy bodies, and continuity in this is essential if Area Statements are to add value in terms of experimentation, accessing structural funding, partnerships and so on.

Part 2: Climate Change

14. Part 2, section 29: National Parks Wales welcomes the proposals for the 2050 target and fulfilment of the Climate Change Act 2008. We suggest that all Welsh emissions should be included; this will give Welsh Government leverage to seek emissions reductions out-with devolved competence. We assume that emissions within devolved competence will include those generated non-domestically, i.e. outside of Wales.

15. National Parks Wales agrees with the provisions set out in Part 2, section 42(2). A strategic inventory of carbon sources, sinks and fluxes in Wales would assist in establishing where the main gains are to be had, and where additional safeguards need to be in place.

16. National Parks Wales is unable to compare the carbon budgeting vs 3% annual emissions reduction target approaches. However we suggest that the 3% reduction approach has the benefit of providing clarity and consistency for planning into the future and makes a clear and projectable statement of intent.

17. Part 2, section 42. National Parks Wales agrees with the proposals for addressing a failure to meet targets.

18. Part 2, section 44. National Parks Wales welcomes the proposals for an independent advisory body on climate change. We suggest it has a number of tasks, including setting emissions reduction targets and limits of acceptable change for all relevant sectors, advising Welsh Government and NRW on emissions trading opportunities and assisting NRW to develop emissions trading projects, for example land-based Payments for Ecosystem Services projects.

Part 4: Collection and Disposal of Waste

19. Part 4: National Parks Wales agrees that non-domestic premises should be required to put their waste out for collection in line with any separation requirements set out by the Welsh Government and that Welsh Government needs wider powers to ban some recyclable waste from incineration.

20. Part 4. National Parks Wales is generally supportive of proposals to increase recycling and waste energy recovery rates and to reduce landfill. However, account should be taken of the waste hierarchy with greater focus on waste reduction.

Parts 5 & 6: Marine Licensing and Fisheries for Shellfish

21. Part 5. National Parks Wales welcomes the proposals to amend Part 1 of the Sea Fisheries (Shellfish) Act 1967 and considers them to be a valuable inclusion in the Bill.

22. Part 6. National Parks Wales generally supports the principle of cost recovery with regard to marine licensing.

Part 7: Flood and Coastal Erosion and Land Drainage

23. Part 7, section 82. The proposals with regard to a Flood and Coastal Erosion Committee for Wales appear to rationalise and broaden the current arrangements.

24. Part 7, section 85. National Parks Wales is supportive of the proposal of powers of entry for Welsh Government agents where access has been refused as a means of determining compliance with Agricultural Land Tribunal orders. National Parks Wales views this proposal as a means of better ensuring protection of soil resources, water quality and affected property.

Overarching Question

25. National Parks Wales broadly welcomes the suite of legislation constituted by the Environment (Wales) Bill, the Planning (Wales) Bill and the Well-being of Future Generations Act 2015.

26. National Parks Wales considers the links between them to be clear. However we suggest that there are additional links to be made between Area Statements/State of Natural Resources reporting and Planning Policy Wales/local plans (including local development plans). This should enable integration and streamlining.

Thank you again for the opportunity to comment. If you require any clarifications please do not hesitate to contact me.

Yours faithfully,

Tegryn Jones
Chief Executive, Pembrokeshire Coast National Park Authority

On behalf of **National Parks Wales**: Brecon Beacons National Park Authority, Pembrokeshire Coast National Park Authority and Snowdonia National Park Authority.

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Ymateb gan Cymdeithas Llywodraeth Leol Cymru	Response from Welsh Local Government Association (WLGA)
EB 22	EB 22

RESPONSE TO WELSH GOVERNMENT CONSULTATION ON THE ENVIRONMENT BILL

12th June 2015

WLGA • CLlLC

INTRODUCTION

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities and the three fire and rescue authorities are associate members.

2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh local government and the communities they serve.

3. The WLGA welcomes the opportunity to contribute to the scrutiny of the Environment Bill (the Bill) undertaken by the Environment and Sustainability Committee

General

4. The WLGA makes the observation that the Environment Bill has a collection of apparently disparate actions and functions with a lack of clarity of purpose.

5. Part 1 of the Bill states its purpose is to promote the Sustainable Management of Natural Resources; Part 2 states its purpose is to require Welsh Ministers to meet targets for reducing emissions of greenhouse gases.

6. Parts 3, 4, 5, 6 and 7 provide no clear statement as to their purpose or inclusion within the Bill.

7. The Environment Bill is the first piece of proposed legislation laid before the National Assembly for Wales since the Well-being of Future Generations (Wales) Act 2015 became law and yet there is minimal reference to it on the face of the Bill. The Environment Bill has to be seen to embrace the sustainable development principles primarily in that it will indicate how to embed the principles into future legislation and secondly the Bill is being introduced by the same Minister who delivered the Well-being of Future Generations (Wales) Act 2015

8. The Well-being of Future Generations (Wales) Act 2015 (WFG Act) places a duty upon public bodies '*to carry out sustainable development s3, [the process of improving the economic, social,* **environmental** *and cultural well-being of Wales by taking action in accordance with the sustainable development principle'…s2]* (emphasis added)

9. The WFG Act also identifies 7 well-being goals and 5 ways of working to show that public bodies have applied the sustainable development principle namely: long term, prevention, integration, collaboration and involvement. The only reference in the Bill to the WFG Act appears in Schedule 2 paragraph 8 where an amendment is proposed.

10. Within the Explanatory Memorandum (EM) (paragraph 1 states : ' *…..The Bill supports the Welsh Government's wider work to help secure Wales' long term well-being, so that it benefits from a prosperous economy, a healthy and resilient environment and vibrant, cohesive communities…*' This makes a veiled and selective reference to the well-being goals within the WFG Act and yet surely managing natural resources MUST be undertaken in a globally responsible way and ALL public bodies have a duty to contribute towards the achievement of all 7 goals.

11. The acronym SSSI is defined as Site of SPECIAL Scientific Interest and not as stated in the list of acronyms as a Site of SPECIFIC Scientific Interest – this is in both the Bill itself and the EM

12. Under paragraph 145 in the EM the year 1010 is referred to instead of 2010

Part 1: Natural Resources Management

Do you agree with the Welsh Government's proposals on definitions for 'natural resources' and 'sustainable management of natural resource'? Are there things missing that you think should be included?

13. The list of natural resources does seem to be comprehensive and the inclusion of the caveat ….'but is not limited to'…. is sufficient to be all inclusive.

14. To enhance the links with the WFG Act we recommend that under s3 (2) of the Bill between 'meet the' and 'needs' the words 'social, economic, environmental and cultural well-being' should be inserted.

15. The WFG Act introduces SD Principles and SD governance which surely should be referred to in the sustainable management of natural resources otherwise Natural Resources Wales (NRW) will have one set of principles to adhere to under the WFG Act and another set of principles of sustainability under the Bill- perhaps s4 of the Bill should have the heading 'The application of Sustainable Development Principles in the Sustainable Management of Natural Resources.

16. Reference is made in s3 (1) to the 'resilience of ecosystems'. Consideration should be given to clarifying the understanding and providing a definition of 'ecosystem' and an 'ecosystems approach'. The **Article 2 Convention on Biological Diversity 1992** definition within the Explanatory memorandum (paragraph 17) should be on the face of the Bill.

What are your views on the proposals for a National Natural Resources Policy? Is the Bill clear enough about what this will include?

17. '*The action a public body takes in carrying out sustainable development must include - (a) setting and publishing objectives ("well-being objectives") that are designed to maximise its contribution to achieving each of the well-being goals, and (b) taking all reasonable steps (in exercising its functions) to meet those objectives*' WFG Act s3(2).All strategic and policy decisions must be seen to be contributing towards the achievement of the Well-being Goals within the WFG Act. Therefore it follows that a National Natural Resources Policy must also contribute towards the achievement of the well-being goals and be seen to do so. The Bill must be amended to include the connection between sustainable development in the WFG Act and the development of the NNR Policy. If not, then the Minister would be determining one policy (in the WFG Act) to be implemented by public bodies and another (in the Bill) which would be contrary to the WFG Act.

18. Clarification is needed on how the timescale for the National Natural Resources Policy fits with the preparation of the National Development Framework. Work is expected to start on the NDF imminently and continue until Spring 2018. The Bill should be amended to make clear whether the NNRP covers land and marine and, if marine is included, what the relationship with the Marine Plan is?

Do you agree with the proposals for area statements? What should these cover and is the process for their development clear enough in the Bill

19. According to the Explanatory Memorandum the area based approach is to integrate the management of natural resources at a local level – integrate with what? Is it the integration of the management of natural resources within Natural Resources Wales or for natural resources management being integrated with the management of social, economic and cultural well-being?

20. The WLGA agree with s10 (1) of the Bill that '*NRW must prepare and publish statements for the areas of Wales that it considers appropriate for the purpose of facilitating the implementation of the National Natural Resources Policy'.* It is essential that this be linked with the well-being assessment and development of Well-being Plans, something which is not clear within the Bill. The Area Statement should be part of the collective data brought to and shared at the PSB table.

21. In s10 (3) the Bill states that NRW must state how they propose to address the risks, priorities and opportunities for sustainable management of Natural resources in the area- will the 'area' be co-terminus with the PSB area?

22. It is not clear within the Bill as to whether the Area Statements will be subject to consultation. The Bill should be amended to state that other public bodies should/could have an input into the development of the Area Statement because Local Authorities, other PSB members, invitees and other partners may address and deliver on the risks, priorities and opportunities identified. Without consultation or input how can Local Authorities be expected or directed to implement an Area Statement if they disagree with the proposals and/or the method of implementation?

23. The production and publishing of the Area Statement must rest with NRW and must apply the sustainable governance principles form the WFG Act of long term, preventative, collaboration, involvement and integration, however the operational delivery of the Area Statement may rest within the public, private or third sector.

24. The WLGA expresses its concern with respect to s12 'Welsh Ministers' directions to implement area statements'. In particular s12 (1) which proposes that Welsh Ministers may direct a public body to take such steps as appear to them to be reasonably practicable to address the matters specified in an area statement under s10(3). There needs to be clarification that when the Minister is directing a public body the decision is not only based on the area statement but takes into consideration (and evidences that consideration) that the state of the social, economic , cultural and environmental well-being have informed the Ministers' decision as to what is 'reasonably practicable'.

25. The Ministers' approach would also be contrary to the role and function of the PSB to analyse the social, economic, environmental and cultural well-being of the PSB area, before determining a well-being plan for the PSB area, as determined in the WFG Act.

26. What are the resource implications to implementing Area Statements? It will be unrealistic to 'direct' public bodies to implement them. Should it be expected that the Area Statements will be time limited and have dates for when NRW will implement different aspects? Is it anticipated that this will be covered in the accompanying guidance?

27. Furthermore s13 (1) states that….'a public body must have regard to any guidance given to it by the Welsh Ministers about steps that should be taken to address the matters specified in the area statement..' Having taken 'regard to any guidance' is the public body compelled to follow that guidance? What, if any, are the implications of not following the guidance? Is there recourse to challenge the guidance as not being 'reasonably practicable'?

28. The implementation of Area Statements may require changes to Local Authority planning policy or land management, any changes to land management have the potential of needing to involve private individuals or businesses, (groups which cannot easily be directed.)

29. Likewise if the Area Statement requires changes to LDP policies this can only be done at the time of a statutory review of the Local Development Plan

What are your views on the proposal to strengthen the biodiversity duty on public authorities operating in Wales?

30. S7 (1) does not state the frequency with which 'the Welsh Ministers must prepare and publish a list of living organisms and types of habitat which in their opinion are of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales'. The phrase '*in their opinion*' could result in the said list changing several times during an administration and at each change of Minister.

31. Clarity must be provided on what criteria constitute 'principal importance'. Whatever is included in the list whether it be Invasive Alien Species (to be eradicated); species to be specifically protected and encouraged (e.g. Red Kites, Black Grouse, Sphagnum Moss) the Minister must be required to state the principal importance for each inclusion on the list?

Are you content with the proposals for NRW to have wider powers to enter into land management agreements and have broader experimental powers?

32. Insufficient expertise/knowledge to comment.

Part 2: Climate Change

Do you agree with the proposals for the 2050 targets?

33. The proposals are in line with recommendation of the Committee on Climate Change which states that the United Kingdom should aim to reduce Kyoto greenhouse gas emissions by at least 80% below 1990 levels by 2050. This was deemed as an appropriate UK contribution to a global deal aiming to reduce Kyoto gas emissions to between 20-24 billion tonnes by 2050.

For your views as to whether the interim targets should be on the face of the Bill

34. To maintain consistency with the Well-being of Future Generations (Wales) Act 2015 the phrase 'interim targets' could be replaced with 'milestones'. The milestones on the face of the Bill would provide a clear focus and statement of intent.

Do you believe that the introduction of carbon budgets is a more effective approach than the 3% annual emissions reduction target that is currently in place in Wales

35. The introduction of carbon budget targets could provide a greater focus and they have the benefit of being flexible (i.e. they can be adjusted every 5 years to keep on track).

What are your views on what emissions should be included in targets? All Welsh emissions or those within devolved competence?

36. All Welsh emissions should be included. That would be a stronger message as to how serious Wales is about addressing Climate Change and emissions than if it

was only on devolved competence. Any organisation wishing to do business in Wales must understand how we do business.

37. To include only those within devolved competence would ensure the Welsh Government has control /influence over relevant emissions. However, it would not be demonstrating working towards the Well-being goal of being a globally responsible Wales: ' *A nation which, when doing anything to improve the economic, social, environmental and cultural well-being of Wales, takes account of whether doing such a thing may make a positive contribution to global well-being'.*

38. We must however ensure that there is no 'double counting' and there must be clarity to confirm what has been emitted in Wales.

Do you agree with the Bill's proposals as to what should happen if the Welsh Ministers fail to meet emissions targets or carbon budgets?

39. There obviously needs to be accountability by Welsh Ministers both collectively and individually for the achievement or/and non-achievement of meeting emissions targets and carbon budgets as proposed in s39 (1) (2).

40. The WLGA welcomes this approach and the restrictions within s32 (2), that carbon budgets, interim emission targets (milestones) cannot be changed unless certain conditions are met. This will ensure continuity within an administration even if Welsh Ministers' portfolios change.

41. Referring back to 39 above regarding accountability s41 is not clear whether the final statement for the budgetary period is a collective report or whether reflecting s39 (2) each Welsh minister must account for their performance against the carbon budget covering their areas of responsibility.

42. Within s42 the Welsh Ministers must lay before the National Assembly for Wales a report setting out proposals and policies to compensate for excess emissions in later budgetary years, there seems to be no recourse or penalty for successive failure to meet emission or carbon budget targets.

43. It must also be clear that collectively the Welsh Ministers may have met their targets and budgets, it must not be acceptable that inaction and continuing

failure or disregard to meet targets from one Welsh Minister is 'compensated by' or necessitates increased action from another Welsh Minister.

What should the role of an advisory body on Climate Change be?

44. Within the Well-being of Future Generations (Wales) Act [s19 (1) (a)] *the Future Generations Commissioner advises public bodies on climate change.* . By definition in the Act Welsh Ministers are a 'public body'. The Act does not state that the Commissioner for Future Generations must be designated by the Minister to provide advice on climate change.

45. Concern must be expressed as to why the (UK) Committee on Climate Change is the default advisory body. Is there an intention to 'disband' the current Climate Change Commission for Wales?

46. The independence of the advisory body could be called into question with s46-s49:-

i. s46 '*…If requested to do so by Welsh ministers, the advisory body must provide the Welsh Ministers with advice, analysis, information or other assistance that is relevant to – (a) the exercise of the Welsh Ministers' functions under this Part or (b) any other matters relating to climate change*

ii. s47(1) ' *In exercising its function under this Part, the advisory body must have regard to any guidance given to it by the Welsh Ministers* ' and
s49(1) '*….Before laying draft regulations before the National Assembly for Wales in accordance with s48(3) the Welsh Ministers must (a) request advice from the advisory body about the proposal to make the regulations and (b) take the advisory body's advice into account.'*

The Welsh ministers are therefore seeking advice, analysis and information from the advisory body and they must request advice from the advisory body in proposing new regulations yet, at the same time, they are providing guidance to the advisory body.

Part 3: Carrier Bags

Do you agree with the proposal that Welsh Ministers should have the powers to raise different charges on different types of bags?

47. In principle we have no issue with this proposal. Local Authorities have been provided the power to enforce current regulations on single use carrier bags, and although there is no indication in the consultation, we presume the intention would be to extend the powers of local authorities for other types of carrier bags.

48. Business and the public have overwhelmingly accepted and adjusted to the charge for single use carrier bags. The bulk of the work which has fallen to Local Authorities has been in terms of education of businesses, the provision of information and guidance documents etc. on websites, and in printed form; dealing with complaints; and ensuring large multi-site businesses who deliver goods in Wales comply.

49. The work associated with the inclusion of other types of bags within the regulations will constitute new burdens upon local government. Guidance documents will need to be amended and published. Enforcement guidance (clarified in Schedule 1) will need to be amended, consulted upon, changed and implemented. There will be costs for training of officers, and if there is an expectation of proactive business interaction to ensure compliance, those associated officer costs.

50. A different charge for different types of carrier bags may influence the type of bag purchased.

51. Any charge difference between different bags could be determined by for example : made from re-cycleable , sustainable material or biodegradable which could then encourage producers of carrier bags to be more sustainable in their production

Do you agree that the profits from the sale of carrier should be directed to all charitable causes rather than just environmental ones?

52. .The WLGA confirms that it agrees that the profits from the sale of carrier bags should not be retained by the seller but should be applied to 'charitable purposes' as determined within the Charities Act 2011 s1-4

Part 4: Collection and disposal of Waste

For your views on whether the Welsh Ministers need further powers to require that certain types of waste are collected, treated and transported separately

53. There is an argument that occupiers of non-domestic property should start to separate some of their waste materials, to bring them more in line with practice in the household sector. However, there are a number of caveats to this.
    a. First, could this be achieved by raising awareness, persuasion and voluntary means (as has largely been the case in relation to households) rather than resorting to legal powers?
    b. Second, if it is decided that powers *are* needed, should there be a *de minimis* threshold for small businesses (e.g. based on turnover)?
    c. Third, the Bill refers to waste being collected '*in accordance with any applicable separation requirements*'. Under current legislation the 'separation requirements' are that paper, glass, plastic and metal must be collected separately **but** this is subject to the necessity and TEEP tests. It is possible that the outcome of these tests will be that separate collection is not required to achieve high quality recycling or that it would not be TEEP to introduce separate collections at the current time (such arguments would, of course, have to be substantiated with evidence).

54. These possibilities must therefore be taken into account if Ministers are given any additional powers to require the separate handling of materials. Otherwise, separation requirements imposed by Ministers on businesses could be incompatible with the collection arrangements deemed appropriate at the time by the local authority. Since the local authority would not be allowed to mix materials once they have been collected separately this could result in significant additional costs and may mean it is no longer TEEP for the authority to collect this waste.

55. Therefore, should Ministers be given further powers, the proposals they are allowed to make should acknowledge explicitly the 'necessity' and 'TEEP' tests and respect the consequent decisions made by the local authority in question.

Do you agree that non-domestic premises should be required to put their waste out for collection in line with any separation requirements set out by Welsh Government?

56. As above, there should be a restriction on any separation requirements that might be introduced by Welsh Government such that they are consistent with the collection arrangements deemed appropriate by the local authority.

57. Consideration also needs to be given to the particular circumstances of some small commercial enterprises where it may be impracticable to either store and/or separately present a range of materials at the kerbside. The practicalities of town centre businesses storing and presenting separated materials should not be overlooked. Even if it is TEEP for the service there needs to be an element of practicality with regard to the individual businesses and their storage and presentation circumstances.

Whether you agree that Welsh Government needs wider powers to ban some recyclable waste from incinerators

58. Such a ban would be unenforceable. From a local authority perspective, households are given every opportunity to recycle materials using the collection systems they have available to them. Moreover, local authorities have been taking extensive measures to encourage residents to recycle. As they strive to achieve challenging Statutory Recycling Targets (SRTs) it is not in their interests for any potentially recyclable materials to be missed.

59. However, it cannot be ruled out that some households will place recyclable material in their residual waste bin or bag – through error, ignorance or blatant disregard of requests to recycle or because the 'recyclable' material is in some way contaminated rendering it no longer recyclable. It would be neither safe nor practical to expect local authority operatives to check every residual bin or bag for recyclable materials to prevent them going for incineration**.**

60. Likewise, for similar reasons, it would not be sensible or fair to place EfW plant at risk of breaking such a ban. (Indeed, some pre-sorting and some post–recovery - e.g. of metals - will occur at EfW plant, further increasing the amount of recyclable material that is extracted from the waste stream)**.**

61. WLGA believes there should be an assumption that household residual waste bins contain no practicably recyclable materials. The SRTs are driving local authorities to capture as much recyclable material as possible without the need for an (unenforceable) ban.

What will the impacts of these waste proposals be for you or your organisation?

62. For the local authorities that WLGA represents the impacts *could* be as follows:
    a. Being faced with requests to collect materials from non-domestic properties that have been separated out in ways that make it difficult and more expensive/uneconomic to collect (or if full costs are passed on this could result in business closure/relocation, impacting on the local economy/jobs)
    b. Having requirements imposed that are unenforceable and/or raise health and safety issues – e.g. trying to stop residents placing recyclable waste in their residual waste; trying to 'police' food waste being discharged to sewers
    c. Being subject to penalties in some such cases (e.g. if recyclable material is found in residual waste when a ban has been imposed on its incineration.

Are there any other waste proposals that you think should be included in the Bill?

63. WLGA argued at the time of the White Paper that the waste proposals should not be included within the Environment Bill. Our responses above largely sustained this position (or suggest several caveats will be needed if new powers were to be introduced).

64. The Bill may, however, be an opportunity to revisit the SRTs given that there have been numerous developments since the targets were first set. This might mean allowing more time for targets to be met rather than having to set lower targets.

65. Local authorities have performed well to get to current levels of recycling but the easy steps have now been taken and each additional percentage will become progressively harder to achieve. Pressing ahead with the existing SRTs on the current timetable runs the risk of authorities facing fines for non-compliance at a time when they are already facing substantial financial pressures.

66. It would be preferable to review the targets and ensure progress can be maintained without the fear of fines and giving a message of failure, when, in fact, the 'goalposts have been moved'.

Part 5 & 6: Fisheries for Shellfish and Marine Licensing

Do you agree with the proposals to introduce charges for further aspects of the marine licensing process? What will the impacts of these changes be for you?

67. As proposed in the Explanatory Memorandum – cost recovery is a sound basis for charging. Where charges are made, the systems and processes will need to be effective and efficient with clearly defined timescales and deliverables. It will not be acceptable to charge for a service and see inadequate delivery.

Do you agree with the proposals to give Welsh Ministers powers to include provisions in Several and Regulating Orders to secure protection of the marine environment?

68. Insufficient experience/knowledge to comment

For your views on the proposals to give Welsh Ministers powers to issue site protection notices where harm may have been caused by the operation of a Fisheries Order to a European marine site?

69. Insufficient experience/knowledge to comment

Are there any other marine and fisheries provisions you would like to see included in the Bill?

70. Although it should not necessarily be on the face of the Bill, perhaps better to be included in guidance associated with the Bill; there needs to be some provision for dealing with emergency situations. Local Authorities with a coastal protection remit (Maritime Authorities are required to obtain marine licences for the maintenance of Flood Defence Works or for the maintenance of drainage) find delays can occur in the current turnaround of applications. The delays undermine the Local Authorities' ability to respond quickly to events requiring urgent attention. A more responsive/ interim/ emergency licence provision could be helpful.

Part 7: Flood and Coastal Erosion and Land Drainage

Do you agree with the proposals to replace the Flood Risk Management Wales committee with a Flood and Coastal Erosion Committee for Wales?

71. The current role/function of Flood Risk Management Wales committee as a Regional Flood and Coastal Committee established under the Flood and Water Management Act 2010 is not compatible with governance arrangements of NRW in respect of flood risk management.

72. The WLGA agree that there is a need for an independent source of advice for Welsh Ministers on flood and coastal erosion risk management in Wales.

73. Acknowledging that the Welsh Ministers [under s82 26C (1)] shall '…..*make provision about the membership of the Flood and Coastal Erosion Committee*…. The current membership of FRMW includes representatives from NRW, Local Authority, environmental groups, and academia with a range of expertise. The WLGA suggests that the diverse nature of the representatives should be reflected in the FCEC

Whether you agree with the proposal for powers to be given to Welsh Government agents to enter land to investigate alleged non-compliance with an Agricultural Land Tribunal order in relation to drainage

74. In principal, the WLGA has no issue with this proposal. Whoever is authorised by Welsh Ministers must be able to recover costs associated with exercising this

power. The Bill should be amended to make clear what action /process should be followed if there is non-compliance.

Overarching Question

For your views on the relationship between this Bill and the Well-being of Future Generations (Wales) Act 2015 and the Planning (Wales) Bill

75. In addition to specific detail and correlation identified in the comments in this document we wish to include :

i. The Planning (Wales) Bill contains provisions to introduce a National Development Framework (NDF) and in some areas of Wales a Strategic Development Plan (SDP). Together with the existing Local Development Plan tier, these plans comprise the development plan for areas of Wales. These plans are subject to a level of public scrutiny and therefore we would expect that the development plan would be a mechanism for delivering the planning and management of natural resources at a national and local level. Locally, we would expect the Local Development Plan and SPG (Supplementary Planning Guidance) to be a vehicle for delivering against an Area Statement.

ii. The Planning (Wales) Bill has a provision that in preparing a SDP, the strategic planning panel must have regard to current national policies, therefore we would expect this reference to incorporate the NNRP and Area Statements. With regards to the preparation of the National Development Framework, the Bill is not so specific; the Bill should be amended to confirm that Welsh Ministers should have due regard to the NNRP during the preparation of the National Development Framework particularly when we expect that the NDF will consider renewable energy schemes.

Neville Rookes

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Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Sefydliad Rheoli ac Asesu Amgylcheddol	Response from Institute of Environmental Management and Assessment
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Welsh National Assembly Consultation on Environment (Wales) Bill:

Response by the Institute of Environmental Management and Assessment

Introduction

1. The Institute of Environmental Management & Assessment (IEMA) is the professional home of over 15,000 environment and sustainability professionals from around the globe. IEMA's role is to support individuals and organisations to set, recognise and achieve global sustainability standards and practice.
2. Our members lead and deliver sustainability in their organisations at all levels, using IEMA standards as their foundation. Equipped with their extensive knowledge and skills, they improve environmental and sustainability performance and drive competitiveness, productivity, resilience and growth. Through the services we provide, IEMA members continuously improve their knowledge, their influence and their network so that they can play a leading role in making their businesses more profitable, less wasteful and future-proof.
3. As an organisation we are independent and international, gathering members' views and experience to deliver evidence to Governments, information to business, inspiration to employers and great stories to the media that demonstrate how to transform the world to sustainability.
4. When responding to consultations IEMA's key aims are: 1. To inform decision-making based on robust and relevant information available at the time; 2. To remain independent and seek to offer impartial credible professional advice; and 3. Where possible, to consult and engage with a range of interests and groups within IEMA membership.
5. The following response has been produced from consultation with IEMA members based in Wales, and is supported by IEMA's prior research.

Summary of Key points

1. There is broad support from IEMA members for the measures outlined in the Bill
2. IEMA members support the carbon targets included in the Bill. IEMA supports the need for professional urgency on Climate Change and encourages individuals, businesses, organisations and Governments to all show climate leadership.
3. There are calls to examine the timescale of review to ensure a durable, coherent policy landscape which is not subject to short term political change
4. There are calls to align the waste and resource management section of the Bill more towards a more circular economy approach.

IEMA response to Consultation Questions

Question: Do you agree with the Welsh Government's proposals on definitions for 'natural resources' and 'sustainable management of natural resource' (sections 2-3 of the Bill)?

1. There was support for the proposals on definitions from the IEMA membership.

Question: Is the Bill clear enough about what the proposals for a National Natural Resource Policy (Section 9 of the Bill) will include?

2. There was overwhelming agreement from IEMA members that the proposals for a National Natural Resource Policy included were clear.

Question: What are your views on the proposals for a National Natural Resource Policy?

3. There is broad support for the proposals for a National Natural Resources Policy
4. There are some concerns from the IEMA membership whether there will be any real benefit that can be delivered from the policy.
5. IEMA members noted that there is nothing in the requirement which gives a timescale for the policy other than it is reviewed with the general election. There should be a requirement to ensure a long term perspective to overcome the political cycle and avoid short term measures being introduced. In prior research IEMA members have called for consistent policy drivers to provide certainty and confidence to organisations (the need for a durable, coherent policy landscape, which is not subject to short term political change)[1]
6. IEMA members indicated that the Policy should highlight potential areas that NRW should focus on.

Question: Do you agree with the proposals for area statements (section 10 of the Bill)?

7. There was strong support for from IEMA members in regards to the proposals for area statements.
8. Members suggested that Climate Change, Forests, Sustainable energy resources and flooding should be included in area statements, as well as outlining how the market will be supported in maximising value from our natural resources and waste recovery.

Question: Do you agree that public authorities should have a strengthened biodiversity duty on public authorities operating in Wales?

9. There was overwhelming support from the IEMA membership that public authorities should have a strengthened biodiversity duty.
10. From IEMA's prior research, 77% of IEMA members don't believe that Public Authorities in the UK are actively addressing their duty to demonstrate regard for

[1] http://www.iema.net/system/files/position_statement_climate_change_and_energy_v4.pdf

conserving biodiversity in all their actions. Therefore is strong support to both strengthen the duty and the ability of Public Authorities to apply the duty. [2]

Question: Are you content with the proposals for NRW to have wider powers to enter into land management agreements and have broader experimental powers (section 16 of the Bill)?

11. There is overwhelming support from IEMA Members for the proposals for NRW to have wider powers to enter into land management agreements and have broader experimental powers.

Question: Do you agree with the proposals for the 2050 target?

12. There is overwhelming support for the proposals for Welsh Ministers to ensure that the net Welsh emissions account for the year 2050 is at least 80% lower than the baseline.
13. From prior research, IEMA Members call for climate leadership at all levels. As we approach and exceed environmental limits, IEMA supports the need for professional urgency on Climate Change and encourages individuals, businesses, organisations and Governments to all show climate leadership.[3]

Question: Should the Bill also include interim carbon targets between now and 2050?

14. There is overwhelming agreement for IEMA members on the inclusion of interim carbon targets

Question: Do you believe that the introduction of carbon budgets will provide a more effective approach than the 3% annual emissions reduction target that is currently in place in Wales?

15. There is overwhelming agreement from the IEMA membership that the introduction of carbon targets will be a more effective approach.

Question: What emissions should be included in targets?

16. There was overwhelming agreement from the IEMA membership that All Welsh Emissions should be included in carbon targets.
17. IEMA Members did express concern over the potential implication of the isolation of Wales from existing controls both at UK and European scales.

Question: Do you agree with the Bill's proposals as to what should happen if the Welsh Ministers fail to meet emissions targets or carbon budgets?

18. There is overwhelming agreement for the proposals from IEMA members

[2] http://www.iema.net/news/next-government-must-implement-nature-wellbeing-act-rebuild-uks-natural-capital
[3] http://www.iema.net/system/files/position_statement_climate_change_and_energy_v4.pdf

Question: What should the role of an advisory body on climate change be?

19. IEMA Members identified three key areas for the Advisory Body on Climate Change:
20. 1) It should have powers to initiate changes or improvements in order to meet the targets;
21. 2) To hold the Welsh government to account if it fails to meet its statutory duties;
22. 3) To communicate success or failure and then to communicate the consequences of that success and failure, to both the government but also to the Welsh people.

Question: Do you agree that non-domestic premises should be required to put their waste out for collection in line with any separation requirements set out by the Welsh Government?

23. There is overwhelming agreement for this from IEMA members

Question: Do you agree that the Welsh Government needs wider powers to ban some recyclable waste from incineration?

24. There is strong support in the Welsh Government needing wider powers to ban some recycling waste from incineration.

Question: What will the impacts of these waste proposals be for you or your organisation?

25. There is uncertainty over what the impacts of the waste proposals outlined in the Bill will be in organisations. Responses ranged from negative cost implications to having potentially positive cost implications, providing that cost effective collection and suitable infrastructure was implemented.
26. There is also uncertainty over the timescale over which the there could be cost implications, with some organisations indicating that whilst there would be no immediate costs, there may be potential costs later on.

Question: Are there other waste proposals that you think should be included in the Bill?

27. There is broad support from IEMA members for the proposals in the bid, with a number of respondents suggesting there should be additional measures included in the bill to align it to circular economy approach.
28. From prior research, IEMA members have called for more work from both organisations and government to align to a more circular approach to resource management. IEMA has found that 89% of IEMA members polled say that according to their experience, they do not believe that Government departments and agencies are joined up in their delivery of coherent and clear messages to help organisations improve the efficient use of resources.[4]

Question: What other proposals do you think should be in the bill?

[4] http://www.iema.net/news/members-say-government-not-joined-sustainable-resource-management

29. IEMA members call for further emphasis on circular economy concepts such as waste minimisation and protection of resources through resource efficiency- shifting the position to conservation of use over end-of-life management.

Question: Do you have any comment on the costs and benefits identified in the Regulatory Impact Assessment?

30. IEMA members suggest the costs and benefits should be in line with UK assessments of this issue

Question: What is the cumulative impact of the costs or benefits of the Bill's proposals for you/your organisation, and are there any other options that would achieve the intended effect of the Bill in a more cost effective way?

31. IEMA members advise that the public authorities should not introduce excessive costs on Welsh businesses that may damage their competitiveness with organisations in the rest of the UK. There are calls to balance the concepts of the Bill's proposals with a national context.
32. IEMA members indicate that it is too early to accurately assess the cumulative costs or benefits of the Bill on organisations.

Question: What are your views on the relationship between this Bill and the Well-being of Future Generations Act 2015 and the Planning (Wales) Bill? Are the links and connections between them clear?

33. IEMA members are clear on the relationship between the bills, and it is a good starting point for further action.
34. IEMA members indicated that Climate Change Adaptation requirements whole should be assessed in line with economic developments aspirations

Question: Are there any other considerations that you would like to share in regards to the Bill?

35. There is broad agreement and support for the Bill from the IEMA membership.
36. IEMA members stress the importance of the rapidly approaching dates of international climate change agreement implementation, and that these should be borne in mind with implementation.
37. IEMA members call for increased emphasis on resource efficiency at all levels. This includes increased consideration of resource management in regards to resources originating from other countries, including managing the interaction externally at the international context.
38. IEMA members indicate that more needs to be done to on the National Natural Resource Policy section, as whilst it may be adequate to protect habitats and biodiversity, it may not be enough to provide protection of other natural resources.
39. There are calls from the IEMA membership to ensure the measures described in the Bill are monitored and that accountabilities are assigned for its delivery.
40. There are concerns as to how prescriptive the bill is, and how that could impact the organisational competitiveness and the overall economic success of the Welsh Economy.

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Cymdeithas Siopau Cyfleustra	Response from Association of Convenience Stores
EB 24	EB 24

ACS Submission: Environment (Wales) Bill

1. ACS (the Association of Convenience Stores) welcomes the opportunity to respond to the National Assembly for Wales' consultation on the general principles of the Environment (Wales) Bill. ACS is a trade association, which represents over 33,500 stores across the UK, including Spar UK, Nisa Retail, Costcutter and thousands of independent stores.

Carrier Bags

2. ACS opposes the proposal in the Environment (Wales) Bill to extend the carrier bag charging scheme to include bags for life and other bags. The current scheme, which only required charging for single use bags, has been extremely successful in charging consumer habits and reducing bag use. There is no evidence to suggest that bag for life are being used as single use carrier bags. Extending the scheme to bags for life and other bags would also place additional reporting burdens on retailers.

3. ACS opposes the need for an obligation on retailers to pass on the net income from the bag charging scheme to charitable causes. Retailers have engaged positively with the carrier bag charging scheme and have passed on the income to good causes. There is no evidence to suggest that retailers are using the bag charging scheme as a revenue raising tool. ACS' Voice of Local Shops survey of independent retailers shows that Welsh retailers contribute significantly to charities and local communities with 85% undertaking work in their communities.

Waste Disposal

4. ACS believes that the collection and disposal of waste should remain a voluntary commitment for retailers. By imposing a requirement for separation of waste, this will place additional burdens on retailers such as training and implementation costs.

5. In this submission, ACS will be responding to questions under part 3 (Carrier Bags) and part 4 (Collection and Disposal of Waste) from the consultation document. Please see our detailed response below.

Part 3: Carrier Bags

Do you agree with the proposal that Welsh Ministers should have powers to raise a charge on all types of carrier bags not only single use bags?

Do you agree with the proposal that Welsh Ministers should have powers to raise different charges on different types of bags on?

6. ACS opposes the proposals that would allow Welsh Ministers the power to raise a charge on all types of carrier bags. The existing scheme is working well to change consumer habits, moving them away from single use carrier bags towards reusable bags. According to ACS' UK-wide member survey of carrier bag use, 56% of the respondents representing more than 2300 stores, sell bags for life, though in relatively low numbers.

7. All members who responded to the survey answered that they charge at least 10 pence for bags for life, and typically ranged between 10-20 pence; this would suggest that the price is sufficiently high so as to avoid customers substituting single-use bags to bags for life. This would also indicate that retailers are not dispensing bags for life for free, apart from when customers are replacing their worn out bag for life.

8. Given the higher charge that retailers already operate for bags for life in their stores and consumers' growing inclination toward reusing bags for life, it would appear that there is no need for other kinds of bags to be included within the scope of the levy. Instead, efforts should be made to ensure that consumers are continuing the trend of reusing bags for life.

9. Some retailers also offer at cost, other kinds of reusable bags to their customers, including hessian bags and cotton tote bags. It would be confusing to both retailers and consumers alike if certain bags (such as bags for life) were included in the levy and others were not included, or then included at a later stage. It is therefore preferable to continue with the current system.

10. By including more bags within the bag charging scheme there would also be additional burdens on retailers to record and report more information on the bags and what they are using the proceeds for. We urge the Welsh Government to carefully consider the additional burden this will place on retailers when the existing scheme is already working well.

11. To conclude, ACS supports Option D stated in the impact assessment "amend the existing powers in the Climate Change Act 2008 so that the regulations may require sellers to apply the net proceeds of the charge to any good cause but do not exercise the powers to amend the Single Use Carrier Bag (Wales) Regulations 2010".

Do you agree that the profits from the sale of carrier bags should be directed to all charitable causes rather than just environmental ones?

12. ACS welcomes the proposal to allow the profits from the sale of carrier bags to be directed to all charitable causes rather than solely on environmental causes. However, we oppose the need for a duty and sanctions to be places on retailers. Retailers across Wales have supported the carrier bag charging scheme in good faith and the opportunity to pass the net income from the charge is a positive outcome of the charging scheme.

13. ACS polling has shown that shops in Wales are most likely to raise money for charity, with 90% stating that they give money to good causes, in comparison with an average of 76% across Britain. Arguably, there is a strong correlation between this high percentage and the introduction of the carrier bag levy in 2011.

14. These results show that there is already a high compliance in Wales among convenience store retails, despite the fact that a large number do not have to report back their proceeds to the Welsh Government as they have ten or fewer members of staff working in their stores. This would therefore suggest that the Welsh Government does not need to intervene further to encourage retailers to donate their proceeds to good causes.

Part 4: Collection and Disposal of Waste

For your views on whether the Welsh Ministers need further powers to require that certain types of waste are collected, treated and transported separately?

Do you agree that non-domestic premises should be required to put their waste out for collection in line with any separation requirements set out by the Welsh Government?

What will the impacts of these waste proposals be for you or your organisation?

15. ACS believes that Welsh Ministers do not need further powers to require that certain types of waste are collected separately. Many retailers already have recycling procedures in place in store to separate out waste. Imposing a requirement on businesses to separate waste would place significant burdens on retailers and cause operational disruption in store.

16. For convenience stores this would be particularly burdensome because the small format nature of their stores means there is little space available to sort and separate out waste. The broadly accepted definition of a convenience store is one that is below 3,000 square feet. Independent retailers in general have the smallest stores, with 49%[1] of independent retailers trading out of stores below 1000 square feet. For these retailers it will be challenging to find space in store to manage the separation of waste.

17. There would also be significant costs incurred by retailers to invest and set up a system in store to manage waste safely. This would also require significant staff hours and the training of staff. For retailers that already operate a separation scheme for waste, they would have review existing procedures and incur costs changing these process to match the Government scheme. For retailers that operate a national level, it would be beneficial to have consistency with existing UK measures.

18. ACS supports Option 1 stated in the impact assessment “do nothing”. We however believe that businesses should be incentivised by the Welsh Government to implement their own recycling schemes on a voluntary basis.

For further information please contact Julie Byers, ACS Public Affairs Assistant via email Julie.Byers@acs.org.uk or 01252 533008.

[1] ACS Local Shop Report

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
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Oxfam Cymru response to the Environment and Sustainability Committee inquiry into the general principles of the Environment (Wales) Bill

1. Introduction

Oxfam Cymru works with others to overcome poverty and suffering. We focus our work on vital issues to tackle the root causes of poverty, from life's basics - food, water, health and education - to complex questions around aid, climate change and human rights. Oxfam Cymru welcomes the opportunity to provide written evidence to the above inquiry and hope that we can assist the committee in developing this draft legislation. We are also a member of Wales Environment Link and Stop Climate Chaos Cymru and endorse the submissions of these networks.

2. Summary of recommendations

- When planning & managing Wales' natural resources at a national and local level, the Bill needs to recognise planetary boundaries and the contribution Wales needs to make to living within global environmental limits.
- We would like a more ambitious 2050 target that takes current evidence into account, is based on global equity and fairness and acknowledges historical emissions.
- We would like the Bill to incorporate consumption based emissions.
- We would like a requirement to undertake and publish a carbon assessment of the annual fiscal budget and major strategies and infrastructure.
- The lack of environmental data available at a Welsh and local level needs to be urgently examined and addressed.
- We would like to see greater policy coherence – particularly in relation to Wales' global responsibility and how this will be reflected in the Environment Bill.

3. Planning and managing Wales' natural resources at a national and local level

3.1 Our planet is shared by over seven billion people. While a small number of people use the majority of resources, too many face extraordinary challenges in building dignified lives where they have access to essential resources such as food and water. We appreciate that this legislation is for the sustainable management of resources in relation to Wales but there has to be a recognition within the legislation that the natural resources listed in Part 1, Section 2 do not have discrete local or national boundaries. As such we need to look at natural resource use in the context of planetary boundaries. Recognition of the planetary boundaries in which Wales operates is essential for the delivery of the 'prosperous Wales' goal which recognises the limits of the global environment and the 'globally responsible Wales' goal within the Well-being of Future Generations Act.

3.2 Oxfam Cymru's recent report 'The Welsh Doughnut: A framework for environmental sustainability and social justice'[i] begins the process of identifying which environmental boundaries might be useful for incorporation into a Welsh national analysis. The picture painted by the Welsh Doughnut is stark. Wales significantly outstrips proposed boundaries in nearly all the environmental domains identified. The report shows that Wales' impact on planetary boundaries is far beyond what its population size can justify. The 'doughnut' concept could offer a useful policy development tool to

help public bodies design globally responsible policy that delivers environmentally and socially while also strengthening Wales' economic wellbeing.

4. Creating a statutory framework for action on climate change including targets for reducing emissions of greenhouse gasses

Oxfam Cymru strongly supports having a legislative framework for action on climate change including targets for reducing greenhouse gas emissions.

5. Do you agree with the proposals for the 2050 target?

5.1 A 2050 target is consistent with approaches to climate change legislation taken by other European countries such as Scotland, Finland and Denmark. A statutory long term target shows a clear commitment to deliver and will help improve planning across the public sector to take effective action.

5.2 The 'at least 80%' by 2050 target is consistent with the UK Climate Change Act 2008 but the evidence and science of climate change has progressed significantly since then. The latest IPPC report for example, warns that climate change is happening more quickly than previously thought. The Tyndall Centre for Climate Change (that has previously advised Welsh Government through the Climate Change Commission for Wales) and the Stockholm Environment Institute now call for higher targets and for developed countries to base targets on a fair global contribution.

5.3 A recent Oxfam report 'Let them Eat Coal'[ii] highlights that climate change is already costing lives and making the fight to end hunger even harder. By 2050, on current trends of burning fossil fuels climate change threatens to put back the fight against hunger by several decades. There could be an extra 25 million malnourished children under the age of five by 2050 compared with a world without climate change – which is the same number of children under five in the EU. There is a price to pay for every tonne of CO_2 emitted, and it is paid in cash and in the lives and livelihoods ruined in communities far from the security and safety nets of the rich world.

5.4 The IPCC says that to meet the internationally agreed target to limit warming to below 2^oC, global emissions in the electricity sector would have to reach zero before 2050. Reductions would have to be much faster in rich countries most responsible for climate change in order to be fair. There is an inherent inequality in the causes of climate change. Just seven of the richest, most powerful economies – the G7 – have been collectively responsible for half of all CO_2 emissions since the industrial revolution. It is these past emissions which have caused the climate change being experienced now.

5.5 These issues of global equity and fairness are increasingly prominent in climate discussions and international negotiations. The Environment Bill needs to reflect these concerns and as a developed country Wales should acknowledge historical emissions and base targets not only on the global carbon budget but on what is a fair Welsh contribution. Oxfam Cymru would like to see a more ambitious 2050 target that takes current evidence into account, is based on global equity and fairness and acknowledges historical emissions.

6. Do you believe that the introduction of carbon budgets is a more effective approach than the 3% annual emissions reduction target that is currently in place in Wales?

6.1 As part of Stop Climate Chaos Cymru, we have long called for carbon assessment of the annual fiscal budget and major strategies and infrastructure. This work should be carried out via the Welsh Government's integrated assessment approach to budget setting and as part of an ongoing assessment to meet the carbon budget and the requirements of the Well-being of Future

Generations Act. Such budget assessments should be made public as part of the budget scrutiny process.

7. What are your views on what emissions should be included in targets? All Welsh emissions or those within devolved competence?

7.1 Oxfam Cymru is concerned that there is no obvious mention within the draft Bill of emissions relating to Welsh consumption of goods and services. There are two methods for measuring our consumption of CO_2. Emissions can be measured on either a territorial or consumptive (footprint) basis. Territorial emissions are those relating only to the CO_2 produced within Wales. Consumptive emissions take a broader approach and include estimates of CO_2 embedded in our imports of goods and services.

7.2 We appreciate that there are difficulties in accurately estimating consumptive emissions and that results tend to be more dated than territorial data due to a more complex methodology. However, in order to deliver on the 'prosperous Wales' goal which recognises the limits of the global environment and the 'globally responsible Wales' goal within the Well-being of Future Generations Act, it is vital that consumptive emissions are taken into account.

7.3 There are currently inconsistencies across Welsh Government in the use of a consumption based approach for developing strategy, for example the Wales Waste Strategy used consumption based methodology as a basis for its development. The latest carbon footprint work commissioned by the Welsh Government (via the Climate Change Commission for Wales) remains unpublished.

7.4 Consumption emissions could be included directly in carbon budgets or included in the National Indicators. At the very least, Oxfam Cymru would like to see a consumption emissions reporting duty in the Environment Bill similar to that within the Scottish Climate Change Act as follows:

7.5 Reports on emissions attributable to Scottish consumption of goods and service
(1) The Scottish Ministers must lay before the Scottish Parliament a report in respect of each year in the period 2010–2050 containing the following information.

(2) The report must, in so far as reasonably practicable, set out the emissions of greenhouse gases (whether in Scotland or elsewhere) which are produced by or otherwise associated with the consumption and use of goods and services in Scotland during that year.

(3) The report may also contain such other information as the Scottish Ministers consider appropriate.

7.6 A duty within the Environment Bill requiring the Government to calculate and report on emissions produced anywhere in the world that result from Wales's consumption of goods and services would be a significant step forward in helping rich countries understand their responsibility for climate change. It demonstrates that justifying inaction by blaming countries such as China is untenable, as a huge portion of China's emissions result from the production of goods for developed country markets. This measure will also make it harder to 'hide' emissions overseas by closing Welsh businesses and outsourcing their work, which would make little difference to Wales's overall carbon footprint.

8. Any potential barriers to the implementation of these provisions and whether the Bill takes account of them

8.1 One significant issue encountered in the production of the Welsh Doughnut report was the lack of available environmental data at a Welsh level. This lack of data means that information on natural resources in Wales is less clear than it is elsewhere in the UK. In the case of carbon footprint results, this was due to the fact that although data exists it has yet to be published. For other data sets, for example land-use change, nitrogen cycle and ocean health insufficient Welsh data sets were available. This issue needs to be addressed by Natural Resources Wales not only to allow for evidence based policy making but also to ensure effective implementation of both the Well-being of Future Generations Act and the Environment Bill. If we do not know the current or historical state of our natural resources, how can we manage them sustainably or measure direction of travel?

9. Whether there are any unintended consequences arising from the Bill

9.1 As previously indicated, there are clear links between the Environment Bill and the Well-being of Future Generations Act. At present, insufficient clarity is provided on the relationship between the reporting requirements under each Bill. We would like to see greater policy coherence – particularly in relation to Wales' global responsibility and how this will be reflected in the Environment Bill.

9.2 Poorly designed and implemented environmental policies can exacerbate global poverty. For example, the rapid growth in the use of bio-fuels to cut fossil-fuel use for transport in order to reduce carbon emissions has resulted in food-price crisis and land grabs. During the food price crisis of 2007-09, bio-fuel production diverted food crops for use as fuel, significantly pushing up food prices FAO (2011). Planting crops to produce bio-fuels has also been a major driver of large scale land acquisitions in developing countries. In many cases, bio-fuels companies have taken control of the land and water that marginalised agricultural communities, particularly women farmers, depend upon for their livelihoods Bailey (2008).

For more information please contact Hayley Richards:

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[i] http://policy-practice.oxfam.org.uk/publications/the-welsh-doughnut-a-framework-for-environmental-sustainability-and-social-just-346207

[ii] https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp204-let-them-eat-coal-climate-g7-060615-en.pdf

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Date/Dyddiad 9th June 2015
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Your Ref/Eich Cyf **My Ref**/Cyf WM/OM/CSP/BDI/I/he

Committee Clerk
Environment and Sustainability
Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Dear Sir

RE: Consultation on the Environment (Wales) Bill

I would thank the National Assembly for Wales Environment and Sustainability Committee for the opportunity to comment on the Environment (Wales) Bill. I will however be focusing these comment solely to the waste management issues the Bill introduces.

The views and opinions express within this response do not necessarily represent the views of the Vale of Glamorgan Council, its Elected Members, Executive or any other senior officer. Neither does it supersede any other response that you may receive from the Council, but should be taken into consideration in parallel with any other such response.

While I would support any effective legalisation or measures that would assist Wales move to a more sustainable nation that makes the most of its resources and enhances its environment. I do not believe that the Bill's waste management proposals, if made law, will enable Welsh Government (WG) help tackle the environmental challenges and improve waste management processes in Wales.

If we in Wales are going to achieve a circular economy as defined by WRAP as an alternative to a traditional linear economy (make, use, dispose) in which we keep resources in use for as long as possible, extracting the maximum value from them then recover and regenerate products and materials at the end of each service life WG and regulator need to adopt more complete and adoptable enforcement policy to tackle the traditional way society looks at waste management which is still out of sight out of mind mentality by the general waste producer.

Continued overleaf…

I would therefore welcome the Committee's inquiry into the general principles of the Bill as I believe that in respect to Part 4 particularly the Bill contains significant idealistic and unworkable legislative proposal that will fail to achieve the goals that failures to achieve the waste objectives let alone the Bill overall aims.

Although the Environment and Sustainability Committee are seeking comments on primary legislation which provides the authority from which the more detailed secondary legislation will be derived. It will be regulations and explanatory memorandums that will ultimately provide the detail of how the primary legislation will deliver the more sustainable and joined up way WG wished to achieve by Royal Assent in the spring of 2016. Therefore any comments or observations made to Committee at this time would need to be caveated until the secondary legislation is also fully consulted on.

I strongly believe that the Bill's proposals to implement landfill and Energy from Waste bans are completely unrealistic and unachievable and would urge the Committee to explore this during the hearings. I do not want future generations burdened with either laws that have no consequence or costs of enforcing them that is utterly disproportionate to the environmental advantage that they are convince to achieve for the sake of an poorly conceived plan that will just result further strain to people, the waste industry, regulatory bodies and the tax payer.

It is my belief that the proposals on waste bans are not acceptable for no other reason that the effective regulation of waste management in Wales already stands on feet of clay. Such legislation will only increase the burden on the already stretched regulatory resources, and in conditions of weak economic growth, reduced UK government finance to WG and public sector austerity it is unsustainable. At a time when the EU intention is in the direction of reducing direct policing of environmental controls, rather than

I would therefore maintain that the Bill's proposed regulations for banning recycling and organic waste are far more stringent than necessary to protect public health and the environment, and WG is significantly underestimating" the costs the new legislation would impose on industry and the tax payer . I would further argue that WG's proposals are "fundamentally flawed" because they focus on the utopian objectives rather than evaluating the partialities and cost which appears to be resulting is a set of unenforceable waste laws that do not reflect actual performance of real life sources

Therefore having provided my general observation in respect to the overarch aim of the waste management matters within the consultation paper, provided below are my observation and comment in answer to the specific question raise within the consultation:

Part 4: Collection and Disposal of Waste

- For your views on whether the Welsh Ministers need further powers to require that certain types of waste are collected, treated and transported separately?

Continued overleaf…

Response:

If Welsh Ministers are minded to steamroller the waste philosophy to industry and commercial waste producers the more power they have the better. But whether it is appropriate to have the power to force and possible adversely affect their trading status is a matter that Ministers will need to reflect on. At this time it would appear that irrespective of any consultation reply warnings from the commercial sector that such powers will have a negative impact on them WG appear to be minded to carry on regardless in obtaining and implementing these powers.

- Do you agree that non-domestic premises should be required to put their waste out for collection in line with any separation requirements set out by the Welsh Government?

Response:

Traditionally, undertakings and businesses have procured their waste collection services independently with few spending much time choosing a service provider as a quality of service is difficult to assess. Cost is often the key or deciding factor and I believe it will continue to be so irrespective of the Bill's requirements. Separate recycling food waste collection is seen as an unnecessary additional costs and it's unlikely that any company will opt for it without being forced to do which will require policing and possible enforcement.

I do not believe that this is necessary and that infrastructure and market is not mature enough in Wales to allow this to be achieved and the regulation bodies insufficient resourced to make it happen. Clearly it will be apparent that requiring non-domestic premises to adopt the WG 'Blue print' will at best result in the cost being lead on the customer and at worse complete apathy and failure to comply by the non-domestic sector. It would also be unwise to force any industry to place all of its eggs in one legislative basket when WG should also be taking measures to remove what it considers burdens on business.

Before any requirement business is considered WG need to ensure that Anaerobic Digester (AD) developers must engage with both collection contractors and their customers to demonstrate the advantages of separate food waste collections. Without this type of jointed up practices I wouldn't be surprised to see a number of distressed AD assets appearing on the market in the short term, ripe for the plucking by the more savvy private equity funds or project developers. Are WG confident of the long term future for AD given the failure of some of their financial supported local authority procurement programmers?

- Whether you agree that the Welsh Government needs wider powers to ban some recyclable waste from incineration?

Response:

Given that the EU Waste Framework Directive (2008/98/EC) via the 2010 and 2011 regulation already provides Member States with the power to go beyond the minimum in

Continued overleaf…

setting up separate collection for at least paper, metal, plastic and glass wastes I would suggest that the power to impose a blanket ban on these and other waste materials being delivered to Energy Resource Facilities (ERF) is not needed to meet the aims of their National Waste Strategy, 'Towards Zero Waste'.

I would also express my concerns that implementing such a ban could threaten the viability of such facilities where the combustible index (c i) of the feedstock would be radically reduced making their future operation economically unviable. Given that WG have made a multi-million pound investment in partnership with my and four other local authorities in SE Wales at the recently opened Viridor Energy from Waste (ERC) Plant in Cardiff there must be the fear that the WG could be queried or criticized for inappropriate use of public money by supporting a venture that their own polices could be putting at risk of being expensive failure should the future feed stock's c i, without combustible recyclable or organic wastes result in the plant becoming commercial unviable.

- What will the impacts of these waste proposals be for you or your organisation?

Response:

The waste proposals within the Bill will have a major impact on my and all other Welsh local authorities. The financial impact of compliance alone will prove prohibitive at a time of exceptional budgetary pressures. There is a desperate need for statutory guidance and draft regulations to alleviate the fear that the Bill's waste measures will result in local authorities being able to meet its new duties without major grant support to meet the inspection, compliance and enforcement needs that the Bill requires. It is also my view that unless WG extends these proposals to include the householder themselves then the local authority is being condemned to failure being powerless themselves to achieve what WG requires within the Bill.

All of which is at a time when the medium to long term outlook for waste sector is facing significant challenges to some degree or another, local government funding for recycling is, and will continue to be, squeezed; UK reprocessing capacity is being buffeted by global market and the investment landscape for new waste infrastructure remains challenging; and the strategic planning necessary to ensure that the UK extracts the maximum material and energy value from its waste is not happening in a holistic way have serious longer term consequences for the UK's, let alone Wales', where there is still a considerable void of reprocessing capacity, resources and waste sectors.

- Are there other waste proposals that you think should be included in the Bill?

Response:

IF WG is serious about improving waste management processes and allow local authorities to have the tools to meet their policies then I would suggest that clause 66 Requirements relating to separate collections etc. of waste must include within 45AA occupiers of premises within paragraph (a) or (b) of section 75(5) of the Environmental Protection Act 1990 including waste from domestic properties, caravans and residential homes and that the existing householder householder's duty of care as provided by

Continued overleaf…

Section 34(2A) of the Environmental Protection Act 1990 (inserted by the Household Waste Duty of Care Regulations 2005) should be amended to include penalties for householder's up to £5,000 on conviction in the Magistrates Court or an unlimited fine if convicted in the Crown Court for failure to comply without reasonable excuse.

Although, I believe that the Bill's legal requirements, specifically the bans on undertakings and local authorities are likely to be unenforceable in practice, they need to place a legal requirement on all waste producers to have to separate their wastes. I would draw attention to the use of seat belts in motor vehicles which ultimately needed law to make it happen.

If WG feel that they are not abler to deliver extended householder 'Duty of Care' then I would suggest at a very minimum that a WG supported and financed campaign be included to give out a consistent message and help change consumer attitudes. I would not of sign up to something retailers, waste management companies and local authorities know they can't achieve. It must be more constructive to shape something possible where one size won't fit all.

Overarching Question;

For your views on the relationship between this Bill and the Well-being of Future Generations Act 2015 and the Planning (Wales) Bill? Are the links and connections between them clear?

Response:

Part 4: Collection and Disposal of Waste of the Bill appears to have been shoe-horned into the Bill without any synergies to the other parts. It is difficult to see what the proposed relationship between this Bill and the Well-being of Future Generations Act 2015 and the Planning (Wales) Bill is or the connections between them

Finance Questions

What are your views on the costs and benefits of implementing the Bill? (You may want to consider the overall cost and benefits or just those of individual sections)

Response:

I do not believe that the true cost of implementing the requirements of the waste measures, practically the compliance costs have been fully considered and fail to see how the benefits will outweigh the financial budget on all waste collectors and the regulatory body which will ultimately be passed down to the communities either in increased prices or reduced public service provision.

You may also want to consider:

- How accurate are the costs and benefits identified in the Regulatory Impact Assessment?

  I am not confident that the few impacts and cost have been taken into consideration within the Regulatory Impact Assessment and would suggest that the Committee seek strong assurance whether they have from WG.

- Whether there are any costs or benefits you think may have been missed?

  Yes, the significant additional costs of compliance.

- What is the cumulative impact of the costs or benefits of the Bill's proposals for you/your organisation?

  Possible reduction in other public services and reduces recycling performance leading to possible failure to meet WG statutory recycling targets.

- Do you think 10 years (2016-17 to 2025-26) is an appropriate time period over which to analyse the costs and benefits?

  Given that the additional cost would need to be meet immediately by all collection and treatment undertakings considering a10 years analysis may be a case of putting the 'cart before the horse' and result in a lot of pain to these bodies before an outcome is determined.

- The cumulative cost and/or benefit to organisations who will be affected by the Well-being of Future Generations (Wales) Act 2015, the Planning Bill and the Environment Bill?

  No comment

- Are there any other options that would achieve the intended effect of the Bill in a more cost effective way?

  Yes, a less prescriptive approach which would allow more flexibility would allow the effect of the Bill to be delivered in a more cost effective way

I hope that our comments and observation as they relate to your consultation paper are of some value to you and would be happy to expand on any aspect of my above response, should you feel that to be appropriate.

Yours faithfully,

Clifford Parish
Operational Manager Waste Management and Cleansing
Rheolwr Gwaith Rheoli Gwastraff a Glanhau

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Ffederasiwn Cenedlaethol Manwerthwyr Papurau Newydd	Response from National Federation of Retail Newsagents (NFRN)
EB 27	EB 27

NFRN
The voice of the independent retailer

Submission from the NFRN to the National Assembly for Wales' Environment and Sustainability Committee's consultation on the Environment (Wales) Bill

Introduction

1. The National Federation of Retail Newsagents (NFRN) would like to thank the National Assembly for Wales' Environment and Sustainability Committee for the opportunity to present the views of its members on the Environment (Wales) Bill, in particular on the issue on carrier bags.

2. The NFRN is one of Europe's largest employers' associations, representing over 15,000 independent retailers across the British Isles. We are a membership led organisation that is democratically structured; policy is made by annual conference and its implementation is overseen by our National Council and National Executive Committee.

3. The NFRN assists the independent retailer to compete more effectively in today's highly competitive market, through the provision of practical help and assistance, commercial support, deals and buying opportunities, training, expertise and service. It also represents its members' interests at governmental and parliamentary level, as well as within the news and magazine industry.

Response

Part 3: Carrier Bags

Do you agree with the proposal that Welsh Ministers should have powers to raise a charge on all types of carrier bags not only single use bags?

4. The NFRN does not agree with the proposal that Welsh Ministers should have powers to raise a charge on all types of carrier bags, not only single use bags.

5. Our members are very supportive of efforts to reduce the usage of single use carrier bags and commend the government's record on this issue. However, despite assurances that these powers will only be used if the supply and disposal of other types of bags is seen as being detrimental to the environment, we have concerns about the outcomes of such a decision and believe other actions could be more appropriate than introducing additional levies on other types of carrier bags.

6. As has been noted in the factsheet, the significant increase in the sale of bags for life following the introduction of the single use carrier bag levy was expected. If the government were to impose a levy on these bags we feel it would not have the same effect as the original levy because consumers need to use some form of transporting device for their shopping.

7. The Federation feels that a bag for life is more preferable to a single use carrier bag as it can be used on multiple occasions, due to its hard wearing qualities, so shoppers need less of them to carry their shopping, than they would need single use carrier bags.

8. Instead of these powers, we feel the onus should be on the providers of bags for life to raise awareness of the importance of recycling these bags and other types of carrier bags.

9. Also, as bags for life have become a popular option following the original single use carrier bag levy, it should be important that these types of bags are increasingly being made from recyclable materials. If this is not the case then the responsibility should be put on the providers to pursue providing alternatives that can be recycled.

10. Providers of bags for life should also be obligated to make more effort to raise awareness that a bag for life can be returned and replaced should it become unusable. By doing this the majority of bags for life should be returned to the provider who would then be required to dispose of the returned bags, further encouraging them to pursue only providing recyclable bags for life.

11. Finally, we are concerned that charging for carrier bags of other varieties will defeat the object of the original legislation, as it will add a cost to all carrier bags, which may result in members of the public choosing to use single use bags again.

Do you agree with the proposal that Welsh Ministers should have powers to raise different charges on different types of bags?

12. The NFRN does not agree with the proposal that Welsh Ministers should have powers to raise difference charges on different types of bags.

13. As noted in our answer to the previous question, we do not feel that a charge should be levied on bags for life and certainly do not support this charge being of a different value to the one already in place for single use carrier bags as it may encourage the public to opt for the cheapest bag as opposed to the one that is less harmful to the environment.

Do you agree that the profits from the sale of carrier bags should be directed to all charitable causes rather than just environmental ones?

14. The NFRN does agree that the profits from the sale of carrier bags should be directed to charitable causes other than just environmental ones.

15. For independent retailers the opportunity to support local causes gives them the chance to give back to their local community and build up relationships with local people, creating a more appealing environment in which to live and work.

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Ymateb gan Ymddiriedolaeth Natur Cymru	Response from Wildlife Trusts Wales
EB 28	EB 28

In addition to the evidence below, Wildlife Trusts Wales have contributed to, and endorse, Wales Environment Link (WEL) evidence.

SECTION 1 – RECOMMENDATIONS FOR INCLUSION

INTRODUCTION

Despite current policy, strategies and legislation to protect and enhance biodiversity it is in a state of major and continuing decline (Welsh Government's Nature Recovery Plan[1], the UK National Ecosystem Assessment[2], State of Nature Report[3] etc). For example, the State of Nature highlights that 60% of the 3,148 species that were assessed had declined in the last 50 years and 31% have declined strongly. A new Watchlist indicator assessing the state of 155 priority species showed that numbers had declined by 77% in the last 40 years.

Wales, along with other nations, have failed to hit its national and international agreed commitments and **non-statutory targets** (See Environment Strategy for Wales[4]) to:

- halt biodiversity loss by 2010, agreed under the Convention on Biological Diversity (CBD)(**The Environment and Sustainability Committee held an inquiry into that failure**[5]) and
- ensure that 95% of all international sites are in favourable conservation status (FCS) by 2010 and 95% of Sites of Special Scientific Interest (SSSI) in FCS by 2015 – with all sites being in FCS by 2026[6]. (**NB.** A rapid review in 2006 judged that conservation features at only 47% of Welsh (SSSIs) were in favourable condition[7])

It is worth noting that the decline of biodiversity is not because traditional conservation efforts have failed. This decline is due to the enormous scale of the challenge caused by;

- the failure to sufficiently integrate nature conservation into Government policy areas such as agriculture and economic development
- a lack of significant long-term funding
- a lack of leadership to gain the political momentum to tackle the issues causing the decline in biodiversity and
- a lack of accountability and no consequences for the failure to meet non-statutory targets.

We welcome Welsh Government's intentions to tackle some of these issues. The Environment Bill is an opportunity to reinforce the 'Resilient Wales' goal of the Well-being of Future Generations (WFG) Act. It can give a new statutory driver to recover biodiversity and restore the services that we need from it. However, in order to achieve this goal, we believe that there are a number of key elements missing from the Bill – namely:

- statutory biodiversity targets;
- mechanisms for delivery for action to halt the loss of biodiversity and to restore it;
- consequence's for not delivering on the above; and
- sufficient independent scientific advice/ consultation

Statutory independent scientific advisory panel

Part 1 of the Bill proposes

- new biodiversity duties (Clause 6(1) and 7(3)) for public authorities and Welsh Ministers
- the creation of a number of new reporting commitments, biodiversity lists, a State of Natural Resources Report, Area Statements and a National Natural Resources Policy and

[1] Draft Nature Recovery Plan http://gov.wales/docs/desh/consultation/140910-nature-recovery-plan-consultation-en.pdf
[2] UK National Ecosystem Assessment http://uknea.unep-wcmc.org/
[3] State of Nature Report http://www.wildlifetrusts.org/news/2013/05/22/state-nature-60-uk-species-decline-groundbreaking-study-finds
[4] Environment Strategy for Wales (2006) http://gov.wales/docs/desh/publications/060517environmentstrategyen.pdf
[5] Committee Report on the Inquiry into Biodiversity (2010) http://www.assembly.wales/Laid%20Documents/CR-LD8384%20-%20Sustainability%20Committee%20Inquiry%20into%20biodiversity%20in%20Wales-31012011-208859/cr-ld8384-e-English.pdf

[7] From 2006 CCW Rapid Review of SSSI in Wales - As reported in the UK NEA - Chapter 20: Status and Changes in the UK's Ecosystems and their Services to Society: Wales downloaded from http://uknea.unep-wcmc.org/Resources/tabid/82/Default.aspx

- NRW and/or Welsh Ministers to implement the policies or Area Statements and encourage others to take such steps.

However, many of these processes have very few consultation requirements (if any). For example, there is no duty for Welsh Government to consult on the National Natural Resource Policy (CL9) even with NRW. This detracts from greater scrutiny and may constitute an inappropriate manner of rulemaking contrary to the **Aarhus Convention**[8] which provides the right to participate in environmental decision-making. This states that "***Arrangements are to be made by public authorities to enable the public affected and environmental non-governmental organisations to comment on, for example, proposals for projects affecting the environment****, or plans and programmes relating to the environment, these comments to be taken into due account in decision-making, and information to be provided on the final decisions and the reasons for it*".

To increase accountability and transparency, we **recommend** that

- the Bill sets up an **statutory independent scientific advisory panel** – a **Biodiversity Commission** - to advise on all the new requirements in Part 1 of the Environment Bill and WFG Act Resilient Wales Goal. In practice would be the **Welsh Biodiversity Strategy Board** thus requiring little new resources. However, as these groups include environmental NGOs, amongst others, Welsh Government should compensate NGO participants for their time and associated expenses.
- The Commission should be chaired by a **new independent Biodiversity Commissioner** who should report to the Wellbeing and Future Generations Commissioner.
- The Commission and Commissioner have the same rights and responsibilities as the other Commission and Commissioners.

As biodiversity and ecosystem services are our life support systems, biodiversity at least requires a position on a par with the other Commissioners.

Biodiversity targets

We recommend that the Environment Bill has an opportunity to make statutory the current commitments under the Environment Strategy for Wales (p36)[9] and the **EU Biodiversity Strategy**[10]**, namely** :

1. To ensure that all **designated sites** are truly in favourable conservation status (FCS) by 2026 (or have the management in place by 2026 to allow FCS to be achieved)
2. **A headline target for 2020**: "Halting the loss of biodiversity and the degradation of ecosystem services in the EU by 2020, and restoring them in so far as feasible, while stepping up the EU contribution to averting global biodiversity loss.";
3. **2050 vision**: "By 2050, European Union biodiversity and the ecosystem services it provides – its natural capital – are protected, valued and appropriately restored for biodiversity's intrinsic value and for their essential contribution to human wellbeing and economic prosperity, and so that catastrophic changes caused by the loss of biodiversity are avoided."

Targets two and three could be implemented by a **15% increase in biodiversity by 2050** with interim targets set every five years. We would also **recommend** that the Bill require NRW to implement the Lawton Review[11] - Making Space for Nature - by Sir John Lawton. This report into protected sites found that they need to be '**better, bigger, more and connected'** to secure wider ecological resilience.

The Environment Strategy for Wales foreword was given by the then Minister for Environment, **Carwyn Jones AM,** where he pledged his ***"ongoing commitment to delivering the vision set out in the Strategy***" (e.g. halting the loss of biodiversity by 2010, and FCS by 2026). We hope that this is still the case, and that the revised targets will be put into the Environment Bill.

Whilst setting targets is relatively easy, monitoring and measuring against the targets will be more difficult. There is currently a monitoring system in place for designated sites. Regarding species and habitats, we already have a lot of information and we are developing a set of indicators to measure progress towards the Resilient Wales Goal which should be used to monitor and measure the Biodiversity targets – thus no duplication of effort is required. This indicator(s) may be based on one or more of

[8] Aarhus Convention - http://ec.europa.eu/environment/aarhus/
[9] http://gov.wales/docs/desh/publications/060517environmentstrategyen.pdf
[10] http://ec.europa.eu/environment/nature/biodiversity/comm2006/2020.htm
[11] https://www.gov.uk/government/news/making-space-for-nature-a-review-of-englands-wildlife-sites-published-today

- the biodiversity list required under Clause 7 of the Bill (NERC Act section 42 list),
- the Watchlist Indicator from the State of Nature,
- the Red Lists for threatened species
- Welsh Government Sustainable Development wild bird lists and index and or
- Living Planet Index

Also, this reporting and monitoring can be improved over time as better data (and data on more groups of species) becomes available. By 2050 we would have also 35 years of State of Natural Resources Reports. Progress towards the targets could be reported in the new Wellbeing Plans, National Natural Resources Policy and State of Natural Resources Report, thus no new reporting mechanism is required.

Why? Statutory targets help drive political change, prioritise action and direct funding. For example,

- Environment Bill includes targets to reduce greenhouse gas emissions by 80% by 2050. In announcing this commitment, the Minister Carl Sargeant AM stated "***Including statutory targets will allow us to better evaluate progress, provide certainty to help drive investment...and confirm achievable targets to work towards"***.
- Section 3 of the Waste Measure 2010[12]sets targets for Local Authorities in respect of recycling and makes those that do not meet them liable to a **financial penalty**. For every 1% missed from Welsh Government targets, Local Authorities get fined £400,000[13]. Statutory targets in waste helped take recycling from a less than 10% in 2000 to a Wales average of 54.3% today. The Minister Carl Sargeant AM stated "*We are still the only UK government that has set **statutory recycling targets** and **this focus is delivering results**"*[14].

Recently, the Minister wrote to Local Authority Chief Executives asking them to maintain their ecological expertise so that they could undertake their forthcoming duties (WFG Resilient Wales Goal) and their existing duties (NERC Duty) let alone the new duties under the Environment Bill. We believe that the response that the Minister received was broadly 'give us more money'. However, we are aware that the Sustainable Development Grant from Welsh Government to Local Authorities is in many cases being used, almost exclusively to meet waste targets with little or no money spent on, or hypocathed to, biodiversity – leading to ecological jobs being lost or under threat.

Welsh Government has highlighted the benefits of statutory waste targets[15] including providing more green jobs and increasing skills as well as ensuring that everybody can contribute. We believe that these outcomes and more can be achieved through setting biodiversity targets – see the EU Report on the **Economic benefits of Natura 2000**[16] and the DEFRA report on the **Benefits of Sites of Special Scientific Interest**[17]**.** The DEFRA report has estimated that every £1 spent on maintaining SSSIs, it delivers £8 worth of benefits to the economy and society - this is likely to be an underestimation. These reports highlight the significant **multiple benefits** including economic benefits from restoring our most precious sites and biodiversity. However, as previously noted only 47% of Welsh SSSIs are in favourable condition.

Therefore, we **recommend** that the Bill set consequences for non-delivery of the targets.

General Binding Rules

We are disappointed that the General Binding Rules have not been included within the Bill – but acknowledge they are proposed as a possible experimental measure (CL22). We support the use of General Binding Rules in order to tackle offences such as diffuse pollution which has a significant adverse impact on biodiversity including both nationally and internationally designated sites such as SSSIs. General Binding Rules could help tackle poor environmental practice and diffuse pollution which is currently outside current regulatory system – particularly poor land management practices in rural locations.

The scale of poor land management practice is, as evidenced by NRW[18], the reason why many water bodies fail the Water Framework Directive in Wales. General Binding Rules have the potential to bring equity and proportionality

[12] The Waste Measure 2010 http://gov.wales/topics/environmentcountryside/epq/waste_recycling/legislation/measure2010/?lang=en
[13] See Capital Times https://www.cardiff.gov.uk/ENG/Your-Council/News/Capital-Times/Documents/Capital%20Times%20June%202015%20English.pdf
[14] http://www.letsrecycle.com/news/latest-news/wales-hits-record-54-recycling-rate-201314/
[15] http://gov.wales/topics/environmentcountryside/epq/waste_recycling/zerowaste/?lang=en
[16] http://ec.europa.eu/environment/nature/natura2000/financing/docs/ENV-12-018_LR_Final1.pdf
[17] http://randd.defra.gov.uk/Default.aspx?Menu=Menu&Module=More&Location=None&Completed=1&ProjectID=17005
[18] http://naturalresources.wales/media/1785/water-strategy-for-wales.pdf

to regulation for relatively minor, but widespread, poor practice. They have the potential to encourage more sustainable land management practices and key environmental outcomes.

This model has been used to great effect in Scotland enabling resources to be freed up to concentrate on serial offenders.

Stronger Wording

In many places the Environment Bill uses weak language which in turn could create weak policy or get-out clauses. Examples include:

- '**consider** the appropriate scale…
- '**Promote and engage…**
- '**take account** of all relevant evidence and gather evidence in respect of uncertainties
- **Take account** of…
- **Seek to** achieve
- **Have regard to**
- **For contributing**
- **They consider relevant**
- **As it appears to them**
- **Reasonably practicable**
- **otherwise have an adverse effect on the exercise of the public body's functions**

We would like stronger language used such as 'give effect to…' , 'must ensure', 'achieve', 'deliver'. However, we are unsure of the legal definitions and would **recommend** that the Committee to look into the definitions of the above wording and suggest appropriate language that will clearly **drive action** to recovery nature.

SECTION 2 – SPECIFIC COMMENTS ON THE BILL

CL2 (a) Natural resources

Natural Resources are partly defined as 'animals, plants and other organisms'. The Explanatory Memorandum states that the list does not include description of scale at which individual components exist such as habitat or landscape. The list is supposed to be building blocks of ecosystems. However, biological diversity (biodiversity) is the basis of ecosystems. Therefore, we **recommend** that 'animals, plants and other organisms' should be changed to 'biodiversity'. This will also have the effect of creating consistency within the Bill (e.g. CL6 – Biodiversity and resilience duty) and external commitments such as the EU Biodiversity Strategy to halt the loss of biodiversity by 2020. The term 'Biodiversity' is consistent with the Explanatory Memorandum as it does not imply scale but is *the* building block of ecosystems.

CL5 - General purpose of NRW

We have previously evidenced a number of concerns regarding NRW's purpose to the Committee. Principally, a reduction in ecological expertise and that NRW '***has a wider statutory purpose'*** putting perceived socio-economic considerations ahead of environmental protection.

As Wales' **Statutory Nature Conservation Body** (SNCB), NRW is required to show clear, strong and strategic leadership on the natural environment as well as protecting **and enhancing biodiversity**. Therefore, we would like to see the re-establishment of NRW's primary responsibility, the protection and enhancement of the environment including biodiversity.

As such, based on legal advice obtained by RSPB, we **recommend** '*seek to*' should be omitted as it is weak language. In addition, WTW **recommend** that the general purpose of NRW, to align with the WFD Act and their role as the SNCB, should include, 'The Body must;

- achieve, deliver and champion the **Resilient Wales Goal** of the Well-being of Future Generations Act.
- apply the **'Sandford Principle'** "*If it appears that there is a conflict between economic, social or environmental purposes, NRW shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area.*"

CL3 - Sustainable management of natural resources

CL (1) - As the general purpose of NRW (CL 5 of the Environment Bill) is to achieve sustainable management of natural resources as defined by CL3 – we **recommend** that CL3(1) 'sustainable management of natural resources should include;

- ensuring the maintenance and enhancement of biodiversity (as per the CL7 list of the Environment Bill – currently NRW are not charged with this duty).
- ensuring that the EU Biodiversity Strategy is achieved in Wales
- ensuring that all statutory designated sites are favourable condition by 2026 and implement the Lawton Review – Making Space for Nature
- ensuring Wales has a coherent and resilient ecological network
- the 'Sandford Principle'
- adaptation to climate change

We also **recommend**, based on legal advice obtained by the RSPB that in CL3(1)(a+b) 'promotes is' replaced by 'contributes to'

CL3(2) - The resilience of ecosystems appears to be explained later under principles of sustainable management (CL4). The Explanatory Memorandum gives a purposive approach to interpretation – which gives the objective a potentially very wide remit. This then can deliver tensions within the interpretation of the Bill between e.g. windfarms on peatland delivering a resilient climate via renewable energy but degrading peatland adding to climate change. Therefore, the use of the Sandford principle, in CL5, gets around those tensions.

The Environment Bill or the Explanatory Memorandum should also clarify that 'ecosystems' is based on the CBD definition: "a dynamic complex of plant, animal and microorganisms and their non-living environment interacting as a functional unit".

In order to make sure that there is consistency within the Bill on biodiversity, that the Bill delivers for biodiversity and based on legal advice obtained by the RSPB be we **recommend** that the objective is strengthened by being changed to "*The objective is to maintain, enhance and restore biodiversity and the resilience of ecosystems and the benefits they provide and, in doing so, contribute to meeting the needs of present generations of people without compromising the ability of future generations to meet their need"*

CL4 – Principles of sustainability management of natural resources

CL4(a) require NRW to "Manage adaptively, by planning, monitoring and reviewing action", however there is no requirement to act following review. Therefore, we **recommend** a change that requires NRW to act following review, assisted by the Biodiversity Commission and Commissioner.

The Bill should recognise the importance of biodiversity – the building block of ecosystems - as well as ecosystems. Therefore, we **recommend**, based on legal advice obtained by RSPB, that "*The condition of biodiversity (species and habitats) within ecosystems*" is added to section 4(g). We also **recommend** this section should include the management of ecosystems '*within the limits of their functioning'*, the precautionary principle and considering the effect of management decisions '*on adjacent and other ecosystems'.*

CL6 Biodiversity and residence of ecosystems duty

The duty states "*A public authority* must **seek *to*** *maintain and enhance biodiversity in the exercise of its functions in relation to Wales, and in so doing promote the resilience of ecosystems,* ***so far as consistent with the proper exercise of those functions***".

While this duty is stronger than the existing duty to "*have regard to the purpose of conserving*" biodiversity (s. 40 NERC Act 2006) it still leaves a lot of unanswered questions, namely:

- **What is the mechanism for delivery of action**?
- **What will this legislation require public bodies to do differently?**
- **What are the deliverables**
- **What are the consequences for non-delivery?**
- **Is *'so far as consistent with the proper exercise of those functions'* a get out clause?**

The only mandatory action under this Clause is to publish a report on what Public Authorities have done to comply with the duty before end of 2019 and before the end of every third year thereafter. We **recommend** earlier and more frequent reporting is needed. Indeed, **there are very few mandatory requirements** to do anything other than produce reports, statements, or policies within this Part 1 of the Bill. What we need is to enable action,

monitor and report against such action, and for there to be clear consequences for non-compliance (e.g. similar to the recycling targets).

We believe that duty could be stronger – therefore we **recommend**

- CL6(1) changed to – (a) *A public authority must maintain, enhance and restore biodiversity in the exercise of its functions in relation to Wales, and in so doing, promote biodiversity and the resilience of ecosystems, so far as is consistent with the proper exercise of those functions.*
  (b) A public authority achieve the 'sustainable management of natural resources' and apply the 'principles of sustainable management of natural resources' which have been given meaning by section 3 and 4 respectively of the Environment (Wales) Act 2016.
- CL6 (2) includes '*The condition of biodiversity (species and habitats) within ecosystems'*.
- CL6 (5) should be changed to
  (a) "*A public authority to which subsection (1) applies must publish an annual report on what it has done to comply with the duty in that subsection in the previous year, and what deliverables will be achieved in the forthcoming year to comply with the duty, including what resources will be allocated to fulfilling their duty. This report should be produced following consultation with the Biodiversity Commission and Commissioner and NRW*"
  (b) *A public authority to which subsection (1) applies should have sufficient ecological expertise and allocate appropriate resources to deliver their new duty*.

In the case of local authorities, **as per the Minister letter to Local Authorities recently**, we **recommend** that CL6(5)(b) should require them to have sufficient staff and resources to implement their duties under Land Use Planning and the new Biodiversity Duty (e.g. Biodiversity Enhancement Officers and Planning Ecologists). Other Public Authorities should be required either have their own ecological experts, or at the very least, to have access to ecological expertise (e.g. local Wildlife Trusts or Biodiversity Enhancement Officers acting as paid consultants via a Service Level Agreement).

We **recommend** that the Bill include **consequences for non-delivery**, such as penalties e.g. 1% of public authorities budget is deducted annually and put into a Welsh Nature Fund.

CL7 – Biodiversity lists and duty to take steps to maintain and enhance biodiversity

Welsh Ministers are to publish a list of living organisms and types of habitat which are of principal importance for the purposes of maintaining and enhancing biodiversity (the 'list'). This list is likely to be the current NERC section 42 list. However, the Bill does not appear to

a) Require Welsh Ministers to consult with anyone other than NRW – however, it is not clear if CL4 (c) requires NRW to consult with external organisations such as environmental NGOs.
b) Require other public authorities to maintain and enhance the biodiversity on the list (currently they don't even have to regard to the list).
c) Detail how Welsh Ministers will a) take such steps as appear to them to be reasonably practicable to maintain and enhance features on list b) encourage other to take such steps.

Similar to CL6, the duty still leaves a lot of unanswered questions. **Therefore, we recommend that**
CL 7(1) be changed to - *The Welsh Ministers must, in consultation **with NRW and the Biodiversity Commission**, prepare and publish a list of the living organisms and types of habitat which in their opinion are of principal importance for the purpose of conserving, enhancing **and restoring** biodiversity in relation to Wales"*
CL7(2) *Before publishing a list under this section the Welsh Ministers must consult the NRW and the **Biodiversity Commission** as to the living organisms or types of habitat to be included in the list*
Section CL7(3) be replaced by "Without prejudice to section 6 and in consultation with NRW and the Biodiversity Commission

*a) the Welsh Ministers must, maintain, enhance **and restore** the living organisms and types of habitat included in any list published*
b) *all public authorities must, maintain, enhance and restore the living organisms and types of habitat included in any list published under this section*.
c) Welsh Ministers and public authorities must publish an annual report on what it has done to comply with the duty in CL7(3)(a+b) in the previous year, and what deliverables will be achieved in the forthcoming year to comply with the duty, including what resources will be allocated to fulfilling their duty."

We **recommend** that the Bill include **consequences for non-delivery**

CL8 – Duty to prepare and publish state of natural resources report

There is no detail on the content report**.** We are also concerned about the capacity for NRW to solely report on and prepare reports on the state of the natural resources in Wales. We are concerned that it will be difficult

- for NRW to report objectively on their own performance or be critical of other public bodies
- for NRW to report on the state of natural resources given the significant loss of ecological expertise within the organisation.
- To report using data that comes from environmental NGOs whose funding is not secure and, or the significant amount of voluntary recorders that are organised through environmental NGOs

Therefore, we **recommend** that NRW should consult with, and co-produce, the State of Natural Resources Report with the Biodiversity Commission and Commissioner. We **recommend** that Environmental NGOs, and long term scientific studies (e.g. guillemots on Skomer), are properly funded to deliver the required data. In addition, we **recommend** that the report should highlight the obstacles to the targets and duties within the Bill being achieved.

Clarity is required on how SoNaRR will deliver sufficient monitoring and reporting on the marine environment, given the paucity of baseline data. We seek clarity on how Wales' **marine environment** will monitored and reported on to improve the current data and meet the 2020 target of Good Environmental Status under the Marine Strategy Framework Directive.

CL9 - National Natural Resources Policy (NNRP)

There is no duty to consult on contents of policy, even with NRW. In addition, the duties are weak as they only require; "*Welsh Ministers must take such steps as appear to them to be reasonably practicable to implement the policy " and "*Welsh Ministers must encourage others to take such steps"

We **recommend** that

- Welsh Ministers consult with, and co-produce, the NNRP with the NRW and the Biodiversity Commission and Commissioner.
- all Public Bodies should be required to implement, and report on, the NNRP

WTW would like clarification on whether the NNRP will include **marine** resources or is it the Welsh Government's intention to only include marine resources within the Wales National Marine Plan (WNMP)? Also, how will the NNRP will be integrated within current and emerging marine policy?

CL10 - Area Statements

There is no duty for NRW to consult on Area Statements – the geographical area they cover, the number of Area Statements in Wales or the content of the statement.

NRW can ask other public bodies to provide information or other assistance in preparing area statements (CL 14). Pubic bodies must oblige unless it is incompatible with their own duties or would "*otherwise have an adverse effect on the exercise of the public body's functions*". The latter point could be used as a get-out clause, leaving the system open to abuse, if the public body stated that they don't have the time or resources to comply with the request. Also, while NRW are tasked with implementing the areas statements but there is currently no requirement for Welsh Ministers to implement them.

We **recommend** that

- NRW consult with, and co-produce, the Area Statements with the Biodiversity Commission and Commissioner.
- there needs to better controls on what constitutes having an 'adverse effect'
- a general duty is included for all public authorities (including Ministers) to take account of, and implement, area statements.
- the Bill includes the same requirements on public bodies to cooperate with the WFG Commissioner and that there consequences from a refusal to co-operate?

It is not clear within the Bill whether Area Statement would pertain to the Welsh **marine** area or if this is solely fulfilled by the WNMP. If the latter is the case WTW would seek clarity in how terrestrial Area Statements would interact with the WNMP and how the land – sea interface would be managed.

CL 12 Directions to Implement Area Statements

The Bill does not give Welsh Ministers the power to direct themselves to address the Area Statements e.g. putting resources into achieving the area statements. Therefore, we **recommend** that the Bill is amended to allow Welsh Ministers to direct themselves.

CL22 - Power to suspend statutory requirements for experimental schemes

We support powers that allow NRW to achieve sustainable management of natural resources. However, we are concerned that this clause could open the door to practices that will have a negative impact upon the environment especially as statutory requirements could be suspended for up to 6 years. For example,

- trialling biodiversity offsetting which has been shown to lead to a net loss of biodiversity[19].
- the case study within the Policy Intent Statement to enable NRW on behalf of Welsh Ministers to suspend the 'balancing duty' between forestry operations and nature conservation.

Therefore, we would **recommend** that, prior to suspending statutory requirements, NRW and Welsh Ministers consult with the Biodiversity Commission and Commissioner. Also, that the power to suspend statutory requirements for experimental schemes should include a requirement to monitor the impact of suspension of the statutory requirements and to revoke the suspension if it is suspected that undue damage is being caused.

CL57 - Charges for Carrier Bags

The single-use carrier bag charge was introduced as a type of 'green levy' to enable behaviour change by encouraging a reduction in the usage of plastic bags because they have a significant negative impact upon the environment due to:

- The use of **natural resources** in production - plastic bags are made from polyethylene, a product of petroleum, which is a non-renewable resource.
- They are not **biodegradable** and take hundreds of years to breakdown - when they do eventually breakdown, it's into a "plastic dust" which contaminates wildlife, the soil and the water, the towns and countryside, the oceans and the seas.
- Plastic bags are responsible for the **suffocation** and deaths of animals through unintentional digestion or inhalational - animals mistake them for food and can die as ingested plastic bags obstructed their digestive systems.
- **Entrapment** – many terrestrial animals and marine life get entangled in plastic bags and starve to death as a result.

The justification for the inclusion of 'bags for life' and minimum charging on all types of carrier bag is well made in the explanatory memorandum. However, **we are disappointed that, given the significant environmental harm caused by plastic bags, the Environment Bill calls for the proceeds of the carrier bags to go to 'any good cause' rather than 'environmental good causes'.** We believe that legislation that reduces the number of environmentally harmful carrier bags produced (and littered) should benefit organisations that work to protect the environment. Without such link, there is no connection between cause and effect and does not re-enforce attitude and behavioural changes. The possible adverse effect of the inclusion of social criteria (any good cause) would be to create a new social norm that would associate buying plastic bags with 'doing good'.

We could not imagine if a Health (Wales) Bill was introduced and included a levy on junk food in order to reduce the levels of obesity in Wales, it would legislate that the money raised be spend on 'any good cause' rather than 'health initiatives to combat obesity and associated health issues'. Spending a 'junk food levy' on pollution prevention would do little to challenge people to consider the impact of junk food on obesity levels.

We also disagree with the explanatory memorandum that just because sellers have an existing relation with non-environmental charity is sufficient justification for not requiring them to apply the net proceeds to purposes that will benefit the environment. This requirement does not 'cut across existing relationships', it merely alters them – if a seller has an existing relationship with a charity there are many other ways that relationship can flourish (being their charity of the year, staff volunteering or salary sacrifice, in-store promotion days such as bag packs). In addition, the current proposals enable sellers give to 'good causes' outside Wales rather than requiring the proceeds to be kept in Wales. Whilst social issues may be more emotive and attractive in the public eye for charity giving, environmental charities have a much greater wider social and economic reach that is often gone unrecognised.

Therefore, we **recommend** that the Bill enact Schedule 6 of the Climate Change Act as amended by the Waste (Wales) Measure 2010 which requires the sellers to apply the net proceeds to purposes that will benefit the environment. However, the Bill should make it explicit that the proceeds are used to help the Welsh environment or we will continue to see biodiversity loss and species extinction in Wales.

[19] Curran et al 2014 Is there any empirical support for biodiversity offset policy? http://ec.europa.eu/environment/integration/research/newsalert/pdf/biodiversity_offsetting_habitat_386na3_en.pdf

It is worth noting that environmental charities have a direct (and indirect) social and economic impact, as well as contributing to the natural environment. Projects (often based in some of the most deprived areas of Wales) have delivered much wider benefits. This is the basis of our very successful partnership with the Co-operative Food.

The **Welsh Wildlife Heroes** campaign is run by Wildlife Trusts Wales and funded entirely by the money collected from the single-use carrier bag charge in The Co-operative food stores in Wales. This funding is being used by the six Wildlife Trusts in Wales to focus the **Welsh Wildlife Heroes** campaign towards:

- Empowering the people of Wales, especially in **Communities First** areas, to become wildlife heroes by working with them to create wildlife friendly gardens, improve the greenspace within their community and school as well as increasing their access to the environment.
- Supporting native species and improving habitats for some of Wales's rarest and most endangered wildlife.

We would therefore like to invite the Committee to visit a Welsh Wildlife Hero community event to show you how the single use carrier bag levy is helping both Welsh communities and the environment.

CL 72 – 76 Marine

The definition of 'harm' is defined too narrowly and we **recommend** that it should instead say "an adverse effect or risk of an adverse effect on the integrity of the site alone or in combination with other plans or projects" to bring it in line with Article 6(3) Habitats Directive.

Currently Welsh Ministers can only serve a site protection notice if "harm" to a European Marine Site (EMS) has occurred or is likely to occur. We **recommend** that this process should be triggered also where "harm may occur".

It is unclear under CL74 as to how the cost will be recovered for damage to an EMS as there is no legal basis for a criminal offence and therefore no legal requirement for cost recovery.

Under CL 74 5B (2) and 5B(4)(c) there is reference to "take steps" we **recommend** that this wording to be strengthened as this current wording still allows for harmful activity to take place within EMS.

CL77 – 81 Marine

WTW welcome the proposal under CL78 to introduce further charges for marine licencing and the associated monitoring activates under the licence, interpretation of results of monitoring and costs of dealing with the licence. We also welcome the proposals under CL79 for the licencing authorities to seek a deposit and where necessary charge supplementary fees for the work undertaken.

However, we are concerned that these proposed charges will not be fully equivalent to cost recovery. We would **recommend** full cost recovery to ensure that the marine teams of both the Welsh Government and NRW are sufficiently resources to fulfil all of their functions.

It is also unclear within Part 6 of the Bill if the fees and charges that taken under the marine licencing duties will be reinvested within the Welsh Government and NRW marine departments or if they will be available to other departments? We **recommend** the need for these fees to be directly reinvested back into the marine departments to support future marine work including licencing.

We **recommend** that the proposal under part 6 is improved to enable an increase in the **evidence base** for the marine environment to inform future licencing decisions and activities in the marine environment (e.g. marine energy or mineral abstraction). This could be achieved via a mechanism within the Bill for the licencing authorise to charge a fee or levy to contribute towards research/evidence gathering. The Bill could also provide a statutory duty for developers to release data on the marine area to the public domain once the outcome of the plan or project has been determined. These or similar mechanisms would aid the marine regulator and competent authorises in combating the paucity of data within the marine environment, this would in turn reduce the risk of damage to sensitive marine systems.

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Bywyd Gwyllt y Byd Cymru (WWF Cymru)	Response from World Wildlife Fund Cymru (WWF Cymru)
EB 29	EB 29

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Evidence from WWF Cymru to the Environment & Sustainability Committee
Environment (Wales) Bill
June 2015

As members of WEL and SCCC, we have contributed to, and support the submissions they have made. The information provided in this response, is additional detail to the major matters raised by WEL and SCCC.

SUMMARY of key points

- We agree with WG intention to legislate to embed an ecosystem approach at the heart of sustainable management of natural resources and to legislate on climate action in Wales. These are necessary steps to deliver the wellbeing of current and future generations in Wales, as expressed in the WFG Act 2015.
- Unfortunately, the history of failure to adequately protect Wales' biodiversity renders legislation necessary to drive a change so that these fundamental building blocks, which ultimately provide our ecosystem services, are afforded the priority necessary to ensure environmental sustainability in the long term.
- We agree that it is sensible and important to amend the purpose, powers and functions of NRW to ensure effective delivery of the WFGA and an ecosystem approach.
- In terms of coherence with WFGA, we do not feel there is anything contradictory in the Bill but the Bill could improve clarity in regard to the hierarchy of obligations between theActs and further clarify the definition of public authorities.
- There are several instances where duties are more weakly worded than in WFGA, due to the inclusion of qualifying words and phrases. These should be removed.
- We welcome Welsh Government's inclusion of the climate section within the Environment Bill. In general it has the potential to be deliver an effective governance framework.
- We however have concerns around some aspects of the proposals including coherence of the measurement structure including the emissions counted, lack of regular reporting and the level of scrutiny.

Part 1 : Natural Resources Management

hat are your views on the proposal to strengthen the biodiversity duty on public authorities operating in Wales?

1. WG intention's to legislate to embed an ecosystem approach at the heart of sustainable management of natural resources is innovative and leading the way on governance frameworks for sustainability globally, recognising in law, humanity's dependence on and responsibility for an environmentally sustainable future.

2. The WFG Act reference group specifically looked at what was required to 'live within environmental limits'. We agreed that decisions in regard to the environment needed to better recognise and manage the risks associated with breaching or approaching breaching such limits. Biodiversity is a fundamental building block of ecosystems and their services but the seriousness of its decline has not been addressed and given sufficient weight by public bodies. Therefore strengthening the duty through this legislation is a good idea.

3. We would make a general point that, as with the initially published WFGA, most of the duties seem unnecessarily weakened by qualifying phrases, which only serve to obfuscate what is required. There are various versions of this, which could easily be amended by addition or removal of small clauses within the existing Bill. For example,
    a. Duties in Sections 7.3, 9.4 and 10.4 all use a phrase "take such steps **as appear to** them to be reasonably practicable to maintain and enhance….". This wording seems unnecessarily circuitous when compared to similar qualifications in the duties under WFGA where the only requirement is 'to take all reasonable steps'. The phrase '**appear to them to be'** could be replaced by **'are'.**

    b. The duty in Sec 6.1 to ' promote resilience of ecosystems' could be strengthened by changing section 6.2 from "In complying with subsection (1), a public authority must **take account of** the resilience of ecosystems," to ' **have due regard** to the resilience….'.

    c. Finally, 9 (1) on publishing an NNR Policy states "their general and specific policies **for contributing to achieving**" SMNR. Given this refers to a policy setting, "contributing to" could be removed, since a policy is by its nature a statement of intent about how to reach an outcome, and can easily be qualified.

Your views on the relationship between this Bill and the Well-being of Future Generations Act 2015 and the Planning (Wales) Bill? Are the links and connections between them clear?

There are several areas where clarity could be improved.

4. Section 6, Biodiversity and resilience of ecosystems duty, applies to additional public authorities compared to the WFGA public bodies. We welcome this. It is important that all public bodies will be contributing to an environmentally sustainable future for Wales.

5. However, this means there are authorities here who are not subject to the WFG duty but who they are is not totally clear because the definition of a public authority includes at section 6 (6) (e) ' a public body' and then gives some examples. The examples do not include bodies such as the Arts council of Wales, nor NRW which are public bodies under WFGA. However, they may be captured by section 6 (6) (f) (ii).

6. Therefore there is a likelihood of confusion in understanding and application of the duties in WFGA alongside the various duties within this Bill. We recommend some clarification be provided on this. We also think there should be a clear explanation of why NRW is *not* subject to this duty, as this seems counter-intuitive to the intention of this section.

7. Section 6 focuses on enhancing biodiversity to promote the resilience of ecosystems. In so doing, bodies need only 'take into account' *one* of the principles in section 4. It also seems that none of the public authorities in section 6 have a clear duty to ensure the sustainable management of natural resources (SNRM) (section 2). Given that these bodies are expected to contribute to achieving Goal 1 of the WFGA in regard to 'efficient and proportionate' use of resources, this is a puzzling omission. Paragraph 42 of the explanatory memorandum states that the intended effect of section 2 includes 'aiming to improve resource efficiency' and para 45 talks of sustainable use of secondary resources. Therefore, clarity on why section is not an obligation on other public bodies would be useful.

8. For public bodies covered by WFGA and EB, there is no contradiction in setting objectives to contribute towards the goal and the duty here in regard to biodiversity and ecosystem resilience. In fact, these duties should strengthen the weight given to environmental considerations in decision making. Statutory guidance can clarify still further that in setting and meeting WFGA objectives, they must maintain and enhance biodiversity and promote the resilience of ecosystems. Or put another way, they should not set objectives which are injurious to the resilience of ecosystems.

9. It would also be useful to provide specific reference in the EB in regard to the WFGA duty to set and meet objectives. This could help avoid confusion about the hierarchy of obligations in the following contexts:
    (a) between the SD Duty (including the duty to set and meet objectives) and the General Biodiversity Duty (sec 6);
    (b) between the SD Duty (including the duty to set an meet objectives) and the Specific WM Biodiversity Duty (sec 7);
    (c) between the SD Duty (including the duty to set and meet objectives) and the new General Purpose Duty of NRW (sec 5.2).

Part 2: Climate Change

WWF Cymru strongly supports having a legislative framework to tackle climate change. We have recommended Wales strengthen its governance framework for emission reduction including via a statutory emission reduction targets and a comprehensive action plan on how that will be achieved. We therefore welcome Welsh Government's inclusion of the climate section within the Environment Bill. In general it has the potential to be an effective governance framework in particular placing the accountability to meet GHG targets on the Welsh Ministers (clause 28) and the requirement for a cross Ministerial plan for how to meet them (Clause 39).

We however have concerns around some aspects of the proposals including:

- Coherence of the measurement structure including the emissions counted
- Lack of regular reporting and the level of scrutiny

Do you agree with proposals for the 2050 target?

1. We welcome the provision for a statutory climate change target. We believe that a binding long term 2050 target gives commitment to deliver and provides a certainty which is necessary to inspire investor confidence and drive decarbonisation. In terms of the amount of emission reduction by that date, we consider the key criteria for establishing this are:
   -keeping global temperatures below 2 degrees (This objective is consistent with global environmental limits and global well being in Goals 1 and 7 of the Wellbeing of Future Generations Act)
   -the UNFCC's core principle of "differentiated responsibility" (which requires countries emitting a proportionate share of GHG).
2. We would like to see evidence from Welsh Government on their proposed target of 80% to assess against these principles and understand why Welsh Government consider this target right for the Wales.

3. Discussions across EU states on the 2025 decarbonisation target have produced a range of proposals of between 80-95% reduction against the 1990 base level. The Tyndall Centre has recently produced a report for the CCCW on 2 degree budgets for Wales. Have these considerations been integrated into Welsh Government's target setting?

Views on whether the interim target should be on the face of the Bill

4. We would require a target on the face of the Bill for the current Welsh Government target of 40% reduction by 2020. Welsh Government has made much out of their ambitious 2020 commitments. We believe these should now be enshrined in law. It is important to ensure the momentum for ambitious reductions by 2020 is maintained and we ensure this ambition is not reduced through the process of budget setting. The Bill's proposal not to start the budgets until 2018 leaves too long a stretch of time for uncertainty of Welsh Government's plans for emission reduction and the 2020 target would offer certainty and momentum in the interim period.

5. The Statement of Policy Intent (SoPI) which suggests that only one interim target will be set by Welsh Ministers also uses terms which might be of concern, in order to make cuts at the "most economically effective rate"[1] and "some technologies or change in plant need a long lead in time and some behaviours take time to change". This suggests that progress for some areas, for example heavy industry or power generation will be excluded and allowed slower than needed emission reduction. We recommend that the Committee explore this inclusion with the Minister for clarity of its purpose.

Do you believe that the inclusion of carbon budgets is more effective approach than the 3% annual emissions reduction target that is currently in place.

6. We believe that a budget measurement system is an effective approach when accompanied by appropriate reporting and scrutiny opportunities on an annual basis and also has appropriate principles required for the setting of the budgets.

7. This is demonstrated through the provisions in the UK Climate Act which alongside the budget planning and reporting required on a 5 yearly cycle has a requirement for an annual statement of UK emissions (Section 10). This links in with a report from the CCC which is produced in advance of the Government's report to which the government needs to respond. The UK Act (section 12) includes indicative annual ranges of targets based on the budgets

[1] SoPI page 8-9

and these can be used as a proxy for whether the emission reduction is heading in the right direction.

8. The Scottish Act has annual targets but the other main difference is the level of reporting detail and scrutiny required alongside this. The Scottish Act requires Scottish Ministers to provide the Scottish Parliament with a report on annual targets, by the second autumn after the target year, which must state whether the annual target for the year has been met, and if not it must explain why not. Section 34 of the Act includes a list of additional information the report must also contain, including carbon units purchased, electricity generation and more.

9. The current Environment Bill proposals do not provide for any annual reporting from the Welsh Government or scrutiny by Advisory Committee or NAW which WWF Cymru believes is a critical gap in the Bill provisions. We would recommend a form of annual reporting and scrutiny – at least as storng as Scotland's- is included within the Bill. WWF Cymru has a few ideas which we can explore with the Committee in more detail. What is important when considering what form the reporting should take is the level of detail on emissions or impact of polices that stakeholders consider necessary to assess Welsh Government progress.

10. Whether Welsh Government considers the WFG Act's reporting requirements to provide this annual reporting is unclear and we would suggest this is something the Committee explores with the Minister. It is certainly not something that is specified within the Bill.

11. The UK Act sets parameters for its budget setting which is something that should be included in the Environment Bill. WWF Cymru will be considering this further and we recommend that the Committee explore this with the CCC. For example, there is no legal requirement in the UK Act for the CCC or the Secretary of State to set a '*cost effective'* budget, we suggest Welsh Government might include this as a parameter when setting their budgets in Clause 32 (3). This will not only ensure that emission reductions are along the right trajectory but are in line with the requirements of the WFGA. It provides a requirement for budgets to be set at a level which seeks to achieve the 2050 target in a cost effective manner and would ensure that the the cost is not delayed and is not disproportionately loaded on future generations.

12. We would like the Committee to explore with the Minister what is meant by "most economically effective rate" in the SoPI and whether it covers the above interpretation or means something else which would be of concern (as explained in Paragraph 10).There are details in Clauses 39, 41,42 and 43 on statements and reports for the 5 year budgets which are worth flagging up.

The reporting and statement cycle appears to be an odd order of events. This means that at the start of next budgetary period, the first event will be the clause 39 report on how to meet the carbon budget for the new budgetary period with proposals and policies covering the areas of responsibilities of each Welsh Minister, then followed by the clause 41 final statement concerning the previous budgetary period to which it relates, and then finally a clause 42 report on policies and proposals to compensate for any excess emissions in the previous budgetary period. It would be a more logical order, with Clause 39 report following – and taking account of – the clause 41 and 42 reports, particularly with respect to any shortcomings they may identify as to progress with reducing Welsh emissions over the previous period.

13. Clause 39 uses the words 'proposals and policies'. To add a sense of urgency in the process and to avoid Welsh Ministers being content to leave matters at the proposals stage without the Act requiring them to follow through with actual delivery. We would suggest adding the word 'actions'.

14. As part of Stop Climate Chaos Cymru and CCCW, WWF Cymru has long called for carbon assessment of the annual fiscal budget and major strategies and infrastructure. This is a requirement within the Scottish Act and has led to demonstrable reprioritisation of spending. We therefore recommend that this is a requirement within Section 2 of the Environment Bill. Wales could improve on the Scottish system by requiring a life cycle assessment or at least carbon footprint assessment which would capture not just direct carbon impacts but also the indirect ones. This would be more in keeping with the integrated long term approach embedded through the Wellbeing of Future Generations Act.

What are your views on what emissions should be included in the targets? All Welsh emissions or those within devolved competence?

15. This is a complex and technical area of climate legislation. WWF believes that all emissions from Wales should be included as is the case with the current cross party commitment to 40% reduction by 2020. That target can only be achieved by work from both UK and Welsh Government and also by the effectiveness of EC regulation.

16. Basing targets on all Welsh territorial emissions makes it easier to show progress towards UN-inspired targets of 40% reduction by 2020 and 80% reduction by 2050.

17. Obviously currently, many key drivers of Welsh emissions are not within power of WG, such as energy, however, this is legislation for the long term and devolved powers will change over time, with proposals already in train for this. Elsewhere in the Bill, Welsh Government has shown much foresight in future proofing the legislation and such an approach would be important here.

Targets based on territorial emissions don't need to be reassessed when more things come within devolved competency.

18. Until then however the all Wales emissions tend to both obscure and hide delivery by Welsh Government itself. Energy production is not in the control of Welsh Government but makes up much of Welsh emissions movements. The all Wales figures therefore do not provide sufficient analysis of Welsh Government policy impact. Whilst the analysis of emission within devolved competence offers more insight into the impact of Welsh Government policies, the way it has been presented in the Welsh Government annual report did not offer the detail that would enable sufficient assessment of Welsh Government activity or delivery.

19. Possible alterative mechanisms could be provided in the annual reporting alongside the all Wales emissions which could draw on examples for the Scottish and UK annual reporting. We can provide further details on this to the Committee. We would welcome the Committee exploring with the Minister how they anticipate providing assessment of its programmes' impact within all Wales emissions.

20. WWF Cymru would certainly also expect to see separate assessment of carbon embedded in the products we export and also import – our carbon footprint or consumption. The Well-being of Future Generations Act Goals 1 and 7 requires Wales to make a positive contribution to global well-being and us resources proportionately so to not include this would seem at odds with existing commitments.

21. We recommend the Welsh Government formally include international aviation and shipping emissions (IAS) in its climate targets from the outset. This could initially be achieved using similar formulae to those adopted by the Scottish government[2]. Inclusion will underline the importance of fully accounting for IAS, enabling policymakers to make informed decisions about these sectors without imposing any restrictions on Welsh aviation that are not in practice imposed in England and Scotland. The Welsh Environment Bill could become the first piece of climate legislation in the UK to have complete credibility on international transport emissions from the outset[3].

22. Section 16(2)(c) of the Scottish Act makes this a one-way power – once shipping and aviation are brought in, then they cannot later be removed from the calculations. The Environment Bill does not do this, for reasons unknown,

[2] http://www.legislation.gov.uk/ssi/2010/218/pdfs/ssi_20100218_en.pdf
[3] This issue is discussed in more detail in the joint submission from the Aviation Environment Federation and WWF-UK.

therefore we recommend that there are amends to that effect in line with the Scottish Act.

Do you agree with the Bill's proposals as to what should happen if the Welsh Ministers fail to meet emissions targets or carbon budgets?

23. We are pleased to see responsibility to "each" Minister (section 39(2)) as this helps mainstream climate action across government.

24. Clause 42 requires a report on policies and proposals to compensate for an excess of emissions over the net Welsh emissions account, if the budget has been exceeded, to be published "as soon as reasonably practicable" after laying the final statement in clause 41. The compensatory action for carbon budgets is to be welcomed. However the timing of this is odd as explained above as is the apparent reporting of the Advisory Body to Welsh Government. We would seek clarity in this section from the Minister.

25. We consider that a more regular reporting and scrutiny system (as outlined above) would help reduce the possibility of missing the carbon budgets. Five years is too long to wait to make compensatory actions.

26. It is worth noting Section 28- the general purpose of the Welsh Bill - carries with it a requirement that Welsh Ministers meet 'targets' for reducing emissions of greenhouse gases from Wales, which is not so overtly stated in Scottish or the UK Acts. While it is hard to envisage any separate enforcement of clause 28 alone by way of judicial review, it would be helpful in such a case to have clause 28 on the face of the Bill, should any future legal proceedings challenge, for example, some detailed decision leading to the predicted or actual failure to meet emissions reductions in Wales.

What should the role of an advisory body on climate change be?

27. The Advisory body needs to have in-depth expertise therefore we support the involvement of the UK Committee on Climate Change as the Advisory Body. We also accept the power to appoint a Welsh advisory body in place of the UK body, if such a body can be similarly resourced and staffed with expertise in the future.

The relationship between this Bill and the Well-being of Future Generations Act 2015

28. This has been covered through questions above.

I gael mwy o wybodaeth, cysylltwch â / For more information, please contact:
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Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Catering Equipment Suppliers Association	Response from Catering Equipment Suppliers Association
EB 30	EB 30

The Committee Clerk: Alun Davidson
SeneddEnv@Assembly.Wales

12 June 2015

The Catering Equipment Suppliers Association (CESA) is the trade association representing over 170 companies that supply commercial catering equipment – from utensils to full kitchen schemes – throughout the United Kingdom. The association is the authoritative voice of the industry, it is also a member of the European Federation of Catering Equipment Manufacturers and is the chair of its technical committee.

Wales is a leading centre for the manufacturing of commercial catering equipment and arguable the leader in food waste disposal technology (FWDs) in the United Kingdom with leading CESA member companies based in Wrexham and Blaenau Ffestiniog. These companies supply the UK, European and international markets. Being able to supply their home market is a fundamental part of the companies' commercial reputations as they seek to expand their wider client base.

CESA supports the aims of the Environment (Wales) Bill in preventing food waste and minimising the use of landfill. However our members are particularly concerned by section 4 of the Bill where it relates to the management of food waste. We are deeply worried about the prescriptive proposal to ban commercial food waste disposers (FWDs) to sewers – a policy which has no basis in independent scientific evidence and is a retrograde step in the operation of commercial food service waste management for Wales. Statistics available to CESA show that there are in excess of 15000 catering and hospitality establishments distributed throughout the country most of which would be negatively impacted by the current Bill. By our estimation around 2400 commercial food waste disposers will be in use, either alone, with dewaters or as part of an integrated on-site composting system.

The use of FWDs is a tested and proven technology with which many Welsh businesses are already achieving key planks of the Welsh waste policy. Over decades of use, food waste disposers have proved, in robust and extensive scientific tests, to be one of the most

environmentally sound, carbon and cost efficient means of capturing and recovering value from food waste. Expert monitoring has further demonstrated that they cause no detrimental effect to sewerage systems or additional loading for waste water treatment works. They have been proven to significantly increase biogas extraction where anaerobic digestion is used, prevent contamination of food waste by objects that can impede further processing and improve the quality of other dry recyclables.

There are also proven effective means of undertaking separation of food waste at source. Food waste disposers can also be a key part in food management schemes that currently enable larger caterers such as the armed forces, hospitals, prisons and universities to completely recycle their food waste on site using integrated systems combining FWDs, dewaterers and composting equipment. Wales has a number of these on-site food management schemes in operation. The ban will discourage investment in innovative, environmentally friendly,cost effective and efficient schemes that use this technology. Wales is a leading centre for the design and manufacture of such technology in the UK. Dewaterers can also be used with an FWD to remove the water content from food waste which reduces weight and ensures uncontaminated high quality feedstock for AD or composting.

The use of FWDs by the catering sector also reduces the attendant risks of storing food waste for collection both in terms of odours and vermin and the overall hygiene in and around the kitchen area. This is especially true in inner city areas where the proximity of domestic residences and catering waste can be the source of social friction. The use of FWDs also minimises the temptation of some businesses to resort to fly tipping.

CESA questions the basis of the Impact Assessment that is used to justify the Bill's proposals on food waste management for the following reasons:

- The Impact Study seeks to justify a policy of banning the use of food waste disposers to sewer using a model to produce outcomes which we believe cannot be substantiated. In suggesting that savings of £9million could be gained by banning food waste to sewer some £5.6m is seen as a result of avoiding blockages. Understanding how these figures are achieved by the study is impossible with the data made available. Severn Trent have said blockages for the whole of their area of 7.7 million people cost £10 million pa and most of this is caused by wipes and other objects being flushed down toilets. This figure seems to cast considerable doubt on the Impact Assessment figure. A significant body of published scientific research and expert environmental impact assessments all support the use of food waste disposers and shows how they are not the cause of blockages. The problem of fats, oils and grease(FOG) in sewers is a significant issue but it is not caused by food waste disposers.

- The Impact Assessment fails to clearly address the cost of this ban to the most affected segment of the Welsh economy: Catering services in both the private & public sector. There are approximately 2400 FWDs in use by businesses in Wales. The equipment has a 10-12 year life cycle but no estimates of the potential costs and loss of working capital to impacted businesses are made. The businesses affected will range from B&Bs, High Street shops and restaurants and the catering facilities of hospitals, schools, offices, prisons and military installations.

- The Impact Assessment fails to recognise that regulation will close the Welsh market to highly successful, established North Wales manufacturing businesses and impede the potential development of an enzyme production company in South East Wales which is a UK wide leader in its field.

- We are also surprised that given the roles our member companies play in the Welsh economy that at no time were they contacted by the researchers. This despite the fact that the companies concerned and this trade association had made representations to the Administration.

As the Welsh economy emerges from the most challenging economic environment contrast 1920s, the Impact Assessment fails to clarify the direct costs to food service establishments in Wales that have already invested in food waste disposers, to enable them to deal responsibly and hygienically with this waste stream. At a time when operators are still facing the severest business constraints, they will be forced to write off an investment that already fulfils the function in the most sustainable manner and they will also face heavy additional liabilities of re-training staff, unplanned storage requirements, mandatory collections and additional un-budgeted treatment charges.

Industry experts predict that the costs, for collection and treatment alone, will be in the range of £100 per tonne of food waste. Recent estimates for the average restaurant measn that this would be an annual collection charge of £4,400, rising to £18,000 for larger hotels, an additional £15,600 for individual universities and £12,500 for hospitals. For many smaller undertakings pubs, cafes and bed and breakfast establishments the impact will be considerable.

The Case for Food Waste Disposers

Food waste disposers that discharge to sewer supporting dewatering systems, or provide material for onsite composting, all comply with the EU's Waste Framework Directive.

- FWD to sewer waste management systems are primarily used in smaller establishments (eg B&Bs) as an effective means of capturing food waste. They eliminate the common contaminants such as cling film and plastics that are already proving a barrier to effective AD processing. General rejection rates at AD plants can

run at 15-20% and the rejected waste goes to landfill. FWD waste has all such contaminates removed at source and therefore is 100% efficient in its treatment at source.

- In hospitals, food waste disposers are a vital means of maintaining hygiene and avoiding infection on wards and in kitchens. In prisons and military establishments they aid security by reducing the number of external contractors' vehicles entering the premises.

- When a FWD is used in conjunction with a dewatering system it reduces the volume and weight of food waste for transport to processing facilities. This reduces both cost and carbon emissions, prior to the extraction of soil improver and biogas. As we have mentioned previously Welsh companies are at the forefront of the development of innovative dewatering technology and onsite composting for the catering industry.

- FWD to onsite composting is a totally self-contained system, which removes all burden from local authorities and provides PAS 100 quality compost.

- The international scientific community has conducted robust and scientifically objective studies into the use of FWDs and their output. The Chartered Institution of Water & Environmental Management (CIWEM)[1] position paper is the most up to date and comprehensive evaluation of this work. Despite a number of consultative opportunities the water industry has not provided any comparable evidence. The oft cited Water UK 2009 paper has no referenced scientific base for its contention.

- Any suggestion that the costs incurred by the ban on food waste disposers are justified by waste targets and EU policy objectives is not recognised in the established scientific evidence base on the use of the equipment, much of which has been commissioned by water authorities in nations that are leaders in environmental practice. In Sweden, studies have shown that the resource value of food waste is effectively captured, without need for carbon-intensive additional food waste collections.

- The current European Commission consultation on the circular economy recognises that Sweden, Denmark, the Netherlands and Germany either have or are exploring the recovery of phosphorous and other nutrients from Waste Water Treatment Works. This would potentially enhance the value of sewage sludge and the future management of organic waste from the sewers.

[1] http://www.ciwem.org/policy-and-international/policy-position-statements/food-waste-disposers.aspx

While our members wholly support the reduction of food waste, in catering preparation and service there will always be left over food. Operators have already invested in proven technology to manage this hygienically and sustainably and the sector cannot carry the additional burden of a policy that threatens its commercial viability, to the benefit of other commercial sectors.

During a period of severe constraint on public finances and competition for those resources it is important to note that the catering industry's use of FWD technology does not rely on public funding or subsidy. This is in stark contrast to the 'single solution' separate collection AD model being advanced which has seen £600 million made available to local authorities to support separate collection, grants to encourage construction of AD sites as well as the renewable energy certificates given to AD operators which are 300 percent higher than those granted to AD sites linked to existing Waste Water Treatment Works.

Our members are committed to maintain environmental diligence but are very concerned that the Welsh Administration is proposing the ban of a proven method for managing and recycling food waste. It is not cost effective to replace this with a 'single solution model' for recycling food waste despite the risks and uncertainties that exist with AD systems.

We cannot understand the reasons for the proposed placing of a ban on equipment that is already helping Wales meet its waste targets and which can make a larger contribution without the need for detailed planning requirements or complex logistical structures.

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Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan RenewableUK Cymru	Response from RenewableUK Cymru
EB 31	EB 31

RenewableUK Cymru Response to the Environment and Sustainability Committee Inquiry on the general principles of the Environment (Wales) Bill

1. RenewableUK is the representative body for the wind, wave and tidal energy industries operating in the UK. RenewableUK Cymru also represents members with interests in solar, biomass, and other forms of renewable energy technologies in Wales. We represent around 600 corporate members in the UK and our active membership in Wales covers the vast majority of Wales' commercial renewable generation interests.

2. Our members have interests in renewable energy at all stages of the planning and development process. Our membership portfolio includes those companies with an interest in carrying out Environmental Impact Assessments and related development work, through to companies who are primarily involved in the operation, construction and maintenance of projects on and offshore in Wales.

3. RenewableUK Cymru's vision is of a Wales that makes full use of its renewable energy resource by 2050 and we aim to ensure that the maximum benefits of this accrue to Wales.

4. Wales has faced a number of obstacles to the achievement of its targets for renewable energy generation and development in Wales has lagged behind the rest of the UK. This committee has previously examined many of these issues (our evidence to the committee previously is available here) and we, in conjunction with our partners in industry and Government have sought to overcome many of these barriers. We have since worked with Government to produce a register of community benefit for onshore wind, and continue to work with partners in order to alleviate concern over transport issues in mid Wales.

5. RenewableUK Cymru will be happy to provide oral evidence to the committee on any matters that may be of interest arising from this paper.

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Climate Change

6. We fully support the introduction of statutory emissions targets and interim emission targets. The 2050 emissions reflects current UK policy. The introduction of this Bill is an opportunity for the Welsh Ministers to set direction through targets that reflects Wales' ambitions as a leader on sustainable development, as reflected in One Wales: One Planet, Well-being of Future Generations (Wales) Act, and Energy Wales: A low carbon transition. In this sense we suggest that the Committee may wish to consider whether Wales should have emissions targets above and beyond the targets set by UK Government and EU directives.

7. Emissions targets will be a key way of ensuring Wales' continues to be seen as an attractive place to deploy renewable energy generation in the coming decades and will provide policy stability that our investors request.

Marine Licensing

8. This presents an opportunity to clarify the Marine licensing process and align it with processes for terrestrial planning and environmental permissions where appropriate. In particular we believe the bill presents an opportunity to introduce statutory timescales for determination of applications (and examination if relevant), as is the case in the terrestrial planning system and has more recently been achieved in the Planning (Wales) Bill for [terrestrial] Developments of National Significance.

9. As Wales attracts more and more interest from Wave and Tidal energy developers, a clear and predictable Marine licensing regime will be significant selling point for Wales as an investment location.

For more information or clarification please contact Matthew Williams:
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Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Marine Energy Pembrokeshire	Response from Marine Energy Pembrokeshire
EB 32	EB 32

The Committee Clerk
Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay, CF99 1NA.
Sent by email to SeneddEnv@Assembly.Wales

12th June, 2015

Dear Clerk,

RE: Consultation on the Environment (Wales) Bill

Marine Energy Pembrokeshire (ME^P) welcomes the opportunity to comment on the general principles of the Environment (Wales) Bill.

1. The Marine Energy Pembrokeshire working group contains all wave and tidal developers who are interested in Welsh Territorial Waters and includes Welsh Government, The Crown Estate, Pembrokeshire County Council, Welsh European Funding Office, Natural Resources Wales – Marine Licensing, The Port of Milford Haven, RenewableUK, Marine Management Organisation, Tidal Energy Limited, Marine Energy Limited, Wave Dragon, Pelamis, Marine Current Turbines, OWEL, Marine Power Systems, OpenHydro, Minesto, Tidal Stream, Atlantis, SeaCatt, Swansea Bay Tidal Lagoon, Seabased, Carnegie, Ledwood, Mustang Marine, Nova Innovation, Wave Power, Repetitive Energy, Instream, Harris Pye, Pembroke Port, Anglesey Energy Island, the Energy Technology Institute, Offshore Catapult, Low Carbon Research Institute, Seacams, Innovate UK, Menter Mon and Wave Hub.

PLEASE NOTE Whilst all of the above are integral members of the working group the comments raised within this letter **do not contain their individual or organisational input or viewpoint as MEP members.**

In summary, our response at this stage of the bill, focussing on relevant key areas of ME^P remit is:

2. We supports the approach of sustainable management of natural resources at a national and local level, creating a statutory framework for action on climate change including targets and enhancing the powers available to NRW to undertake experimental schemes. Marine energy as a significant natural resource for Wales should be specifically included. We expand on our points below particularly relevant to Marine Licensing (Part 6).

3. The Bill is an opportunity to have more effective planning of regulatory processes and a more predictable and consistent framework for environmental decision making. Industry comment on the potential complexity with devolved and non-devolved planning in the wave and tidal stream sector e.g. Marine Licenses are decided by Welsh Ministers with the Marine Management Organisation providing a Section36 License.

4. Specifically on marine licensing in Wales, in 2014, following recommendations from the MEP working group, a consenting subgroup was established with the primary aim of reviewing best practice on a UK level and providing recommendations to Welsh Government and NRW on how Wales can streamline the consenting process.

The consenting subgroup contains representatives from industry who have experience in the consenting process in Scotland, Wales and Northern Ireland, along with NRW (Advisory and Licensing), Welsh Government (Energy Policy) and The Crown Estate.

5. These recommendations have been sent to Welsh Ministers, NRW and Amber Rudd, MP and maybe relevant for the Environment and Sustainability Committee. Below are those most potentially relevant to the Environment (Wales) Bill.

R 1 Risk-based proportionate and phased approach to consenting

6. MEP recommends that Welsh Government should adopt a policy to enable NRW to take a risk-based, proportionate approach to consenting for marine renewable energy projects. A risk-based approach would ensure that **proportionality** is considered in regulatory decision making and enable smaller, early stage and shorter-term projects to progress without being restricted due to unnecessary levels of precaution in the consenting processes.

7. An example of a risk-based approach to consenting is Marine Scotland's **Survey, Deploy and Monitor Licensing Policy**. This approach recognises that the level of required environmental data should be proportionate to the type and size of the project and the potential risks associated with the device at a particular location. It therefore allows for a phased approach to wave and tidal developments, whereby the initial deployment of a small number of devices can be gradually scaled up to a commercial scale array. In-built learning objectives and environmental monitoring from each phase of development informs subsequent stages.

8. An example of this type of phased approach is the MeyGen tidal stream project in the Pentland Firth. Ultimately, this approach could reduce the cost and time of monitoring and data collection for lower-risk proposals (which is crucial for early stage projects) and provide a clear consenting route map for larger projects. This should simplify the process, facilitating earlier consenting decisions, thus making Wales more attractive. Industry feedback indicates a belief that there is stronger policy support in Scotland through the provision of a risk-based approach to consenting. **Proposed Action – Welsh Government and NRW to review a risk-based, phased approach to consenting and consider its application in Wales.**

R 3 Develop a consenting framework with indicative timescales

9. Industry state that the consenting process in Scotland has been more prescriptive with defined stages and timetables. The process is smoother and timescales are followed. MEP recommend the development of a framework for all stages of the consenting process up to award of license, to include indicative timescales from NRW Marine Licensing Team. This would provide developers with

increased clarity as well as providing them with confidence that the regulator will be working to the same structured timetable**. Proposed Action – NRW to develop a framework with timescales that are achievable.**

10. The above are 2 of 7 recommendations that could be assisted in the Environment (Wales) Bill that considers compliance is appropriate to the extent of environmental risk.

11. Charges for further aspects of the Marine License process should consider the nascent as yet, non-commercial aspect of marine energy (wave and tidal stream) and be proportionate to the resources and timescales of delivery.

12. ME[P] would be happy to elaborate and be engaged further in the process and welcomes the opportunity to comment.

13. ME[P] welcomes the collaborative approach thus far from Welsh Government and NRW in engaging with ME[P] and industry. Having representatives from the NRW Marine Licensing Team and Advisory team together with Welsh Government Energy Policy as part of the consenting sub-group is very positive and "unique from an industry perspective". ME[P] believes that Wales has the potential to be a world-leader in the marine energy market – as a significant generator and, just as importantly, as an exporter of marine energy knowledge, technologies and services. Welsh Government and NRW has a key role to play in enabling the consenting process to be as efficient as possible.

Yours sincerely

David Jones
MEP Project Director

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Cyngor Sir Ceredigion	Response from Ceredigion County Council
EB 33	EB 33

Part 1: Natural Resources Management

Do you agree with the proposals for area statements? What should these cover and is the process for their development clear enough in the Bill?

See previous County Council comments on the Environment Bill White Paper.

What are your views on the proposal to strengthen the biodiversity duty on public authorities operating in Wales? (Clause 6)

The County Council is in support of the proposal to amend the wording of the biodiversity duty, although there are concerns that this is not necessarily strengthening the duty, because of the implications of the proposed phrasing. The words '*seek to*' imply that public authorities must look to maintain and enhance, but there is no 'real' requirement. The later part of the wording '…*so far as consistent with the proper exercise of those functions*' in any event allows for the flexibility should there be a conflict within the public authorities duty. Therefore CCC would propose that the words '*seek to*' are removed to ensure that it is a clear duty, rather than what might otherwise be construed as a token requirement.

In Clause 6 (5) there is a requirement for public authorities to publish a report every three years. CCC has no adverse comments on this but note that suitable resources will be need to be made available to public authorities in order to achieve this additional requirement. There are also resource issues with the strengthening of the bill, and with public authorities being able to implement it without support from Welsh Government.

Part 3: Carrier Bags

Do you agree that the profits from the sale of carrier bags should be directed to all charitable causes rather than just environmental ones?

The purpose of the charge was to compensate for the environmental impact of carrier bags. If the profits are opened up to other charities, then the whole ethos of the charge is lost: it would then merely be a means of funding charities rather than delivering environmental benefits. If there are businesses that are having difficulties finding charities to provide the profit to, then better support should be given to these businesses rather than changing who they can provide it to. The Council would therefore oppose this change.

Part 4: Collection and disposal of waste

For your views on whether the Welsh Ministers need further powers to require that certain types of waste are collected, treated and transported separately?

Clause 66 – Requirement relating to separate collection

(1) CCC is pleased to see that the materials requiring separate collection have not been specified at this time.

Do you agree that non-domestic premises should be required to put their waste out for collection in line with any separation requirements set out by the Welsh Government?

(5) CCC is disappointed that, whilst there is an obligation for Local Authorities to collect domestic waste separately, there is no obligation for domestic properties to present it separately. LAs should at some point be given powers to require residents to comply with legislation which affects the performance of the authority.

What will the impacts of these waste proposals be for you or your organisation?

Clause 67 – Prohibition on disposal of food waste to sewer

CCC supports the treatment of food waste by Anaerobic Digestion and has some concerns about how the food waste would be identified and how a ban would be enforced. It also considers that regulating this would be an onerous additional task for any organization at a time when cutbacks are being made.

Whether you agree that the Welsh Government needs wider powers to ban some recyclable waste from incineration?

Clause 68 - Power to prohibit or regulate disposal of waste by incineration.

CCC considers that the current legislative requirements, in particular the high statutory recycling targets in Wales, are sufficient to drive sustainable waste management practices, particularly through recycling. Energy from waste and landfill bans are therefore considered to be unnecessary.

For example, in relation to uncontaminated paper, card and plastic, CCC can envisage a number of scenarios under which EfW may be preferable to recycling. For paper and card, ecological foot-printing analysis "shows a greater benefit for efficient Energy from Waste treatment over composting. So, if recycling options are not available, this will be the preferred route[1]." The proposal to ban paper and card from Energy from Waste facilities will therefore result in poorer environmental outcomes in circumstances where recycling options are not available. This is particularly the case for low grade paper and card for which recycling options are limited. A similar situation exists for plastics whereby, in ecological foot-printing terms, both high efficiency EfW treatment and landfill are preferable to open-loop recycling[1].

June 2015

[1] "*Towards Zero Waste, Collections, Infrastructure and Markets Sector Plan for Consultation"*, The Welsh Assembly Government, March 2011

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
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Ymddiriedolaeth Genedlaethol
National Trust

A NATIONAL TRUST WALES RESPONSE TO THE CONSULTATION ON THE GENERAL PRINCIPLES OF THE ENVIRONMENT (WALES) BILL

June 2015

Introduction to the National Trust

The National Trust is the largest conservation organisation in Europe. We are an active partner in protecting, enhancing and providing access to Wales' natural and historic environment. We protect and conserve 50,000 hectares of dramatic Welsh landscapes and 157 miles of coast much of which falls within protected landscapes. National Trust Wales also owns 10% of all the land designated as a Site of Special Scientific Interest (SSSI) in Wales. Within these areas we provide access, recreation, and educational experiences. We have 240 tenant farmers and also farm some land in hand and in partnership with commoners. We also act as a private landlord for 326 properties across Wales, primarily in rural areas and have recently begun to install appropriate renewable technology on our land to demonstrate the sustainable benefits they can bring to rural areas.

Summary Overview

National Trust Wales see ourselves as a key partner for Welsh Government and NRW in the protecting, enhancing and managing our natural and historic environment. We have engaged with both Welsh Government and NRW at every opportunity leading up to the introduction of this Bill and hope to be able to continue to engage in the future.

We would like to state our broad support for the principles outlined with regard to natural resource management. We are pleased and proud to have an Environment Bill which is aiming to establish long term and joined up decision making for protection and management of our natural and historic environment. We are keen to see a future where we look to build resilience of ecosystems in a holistic way in order to confront new and emerging challenges.

However, despite supporting the general principles of this Bill we are concerned about some of the specifics relating to this.

We would like to have seen more exploration of how we can join up thinking around the planning system and natural resources management. With a new Planning Bill, and the Historic Environment Bill which have both been brought forward in this legislative period we feel that opportunities have been missed for original thinking about how natural resource management planning can inform a planning system which channels development to those areas in which it will be most appropriate and best contribute to a sustainable future. We are also concerned about Area Statement and the lack of consultation built into the process of their creation. Finally we are confused as to if or how National Natural Resources Policy and Area Statements related to the marine environment, something on which we have been seeking clarity for some time.

Part 1

Biodiversity

We welcome the Welsh Government's intention to introduce a strengthened biodiversity duty in Wales. We hope that this will be a first step towards achieving commitments Wales has made under the Convention of Biodiversity- 'to halt the loss of biodiversity and the degradation of ecosystem services in the EU by 2020'.

We feel that this biodiversity duty would be further strengthened by the inclusion of targets and a system of reporting in relation to these targets. Inclusion of targets and reporting would allow us to better evaluate progress, to celebrate successes where appropriate, and where progress is insufficient to address the reasons for this. Without such a system progress towards biodiversity commitments will remain inscrutable.

Definition of Natural Resources

We are very concerned to note that landscapes are no longer included in the definition of natural resources as they were in the White Paper. At that time we stated,

'We strongly support the inclusion of landscapes in this definition as a distinct aspect of our natural and historic environment with their own intrinsic value.'

We are concerned that the removal of landscapes from the legal definition of natural resources will lessen the consideration and protection that they will receive in the

future, especially in relation to National Natural Resource Planning and Area Statements. Our landscapes provide context for the interlinking ecosystems of Wales, are crucial for forming our sense of place and provide the basis for our tourism industry. We so no reason that they should not be considered a natural resource. While we recognise that difficulty in quantifying and target setting around landscapes we remain adamant that protection and enhancement of landscapes should be maintained and considered as an overarching and ongoing objective in natural resource planning.

National Natural Resources Policy and Area Statements

As it stands we feel that both National Natural Resources Policy and Area Statements will fall short of the holistic approach they seek to achieve due to a lack of consultation and coordination with other processes.

Firstly the NNRP has no requirement for consultation on its contents, we feel that major land owners such as ourselves and other interested parties should be provided with an opportunity to participate in this environmental decision making process.

We are concerned at the isolated manner in which it is proposed that Area Statements will be developed. If natural resource management is to be a holistic system of resource management on a national scale then there needs to be a means of meaningful interaction with other systems including the planning system. We would have liked to see a thorough consideration of how the natural resource boundaries correspond with current and future administrative boundaries, LDPs and the current single integrated planning areas. In order to achieve holistic management Natural Resource Management Planning should inform all other planning process. We are also concerned about the lack of consideration of the historic environment. We would like to see a formal process through which Cadw and other bodies with expertise in heritage and the historic landscape can input to Area Statements.

We are also concerned that there is no provision around a consultation process to be followed when producing an Area Statement, with NRW being responsible for the preparation, production and reviewing of these statements. As an organisation we are interested in how landowners and managers such as ourselves will be engaged. We are also keen that NRW are aware of the need to engage with the public throughout this process and would value details of how this will be achieved. If such consultation and engagement is not adopted Area Statement risk simply becoming work plans for NRW, which is not reflective of their intended holistic nature.

We would also like some clarity as to whether and how the National Natural Resource Plan and the Area Statements will address the marine environment. Although the Explanatory Memorandum make reference to the fulfilling commitments under the Marine Strategy Framework Directive it remains unclear to us whether the NNRP will be used to inform marine resource use and policy in Wales or whether this area will be developed separately under the Wales National Marine Plan.

We are also unclear as to how Area Statements will relate to marine areas. If the Area Statement is to deal solely with the terrestrial area it must be clear how the land-sea interface will be managed.

General Binding Rules

National Trust Wales supports the use of General Binding Rules in relation to sustainable management of natural resources through secondary legislation. The can be used to tackle poor environmental practice that is outside the current regulatory system – particularly poor land management practices in rural locations.

For this reason we are disappointed to see them omitted from the Bill.

Experimental Schemes

We understand the need for the power under Section 22 to give Welsh Ministers the power, upon application to NRW, to suspend statutory requirements for experimental schemes. However we also urge that caution is taken with new approaches. There should be full acknowledgement of the importance and potential of existing tools in developing and operationalising new approaches. There should also be a conscious effort to avoid compromising safeguards which have been put in place to protect our environment and the people who rely on it.
We would like to see the following:

- more rigorous requirement for consultation, with the Bill identifying certain statutory consultees who should always be consulted on certain types of schemes;
- requirement for a risk assessment process to be developed; and
- controls on the types of experimental schemes that can qualify.

As NRW will be able to use external persons to carry out experimental schemes, there should be full transparency of who these 'other persons' are, so that any commercial or third party interests are declared.

Land Management Agreements

National Trust Wales is aware of the value of long-term management agreements and considers the broadening of scope and the requirement to register obligations under an agreement a useful reform measure.

Part 4

Separation of waste by the waste producer

We have an enquiry which is currently live with the Environment Bill scheme. Specifically this question relates to Part 4 of the Bill as drafted, specifically 45AA;

(4) An occupier of premises in Wales who presents controlled waste for collection (whether by a waste collection authority or by any other person) must do so in accordance with any applicable separation requirements.

(5) Subsection (4) does not apply to an occupier of premises within paragraph

(a) or (b) of section 75(5) (domestic property and caravans).

Our question relates to whether holiday cottages such as those run by the National Trust would be classed as business or residential/ domestic properties.

We fully support the aims of the Welsh Government with regards to improved waste separation and higher recycling rates. While we do all we can signpost and facilitate waste separation in our holiday properties if we were to be asked to take overall liability for waste separation in premises of this nature in the future this may pose an issue for us an organisation. We hope this issue can be addressed satisfactorily with the Bill team.

For more information please contact;

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Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Cyswllt Amgylchedd Cymru	Response from Wales Environment Link
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Cyswllt Amgylchedd Cymru
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Environment (Wales) Bill

June 2015

1. Summary of Key Points and Recommendations

- The Bill's provisions for biodiversity could be strengthened by the inclusion of targets and direct reference to biodiversity in the objective of sustainable management of natural resources
- The Bill should clarify how landscape and seascape protection, and their future stewardship, will be enhanced by new provisions on sustainable management of natural resources
- The principles of sustainable management of natural resources should include impacts on adjacent and other ecosystems, management within the functioning of their limits, the precautionary principle and principles for dealing with conflict; qualifying language should be addressed so as not to limit aspects of resilience
- NRW's statutory purpose requires strengthening and increased clarity
- General binding rules should be reinstated in the Bill
- More safeguards should be included in relation to the power to suspend statutory requirements for experimental schemes
- We welcome statutory climate change targets: effective monitoring and reporting will be key to ensuring that Welsh Government proposals and policies drive emissions reduction
- Annual reporting and the 40% emissions reduction targets should be retained from the current Climate Change Strategy
- The carrier bag levy should go to environmental charities operating in Wales
- We support the provisions on collection and disposal of waste
- We support the proposals to introduce charging for marine licensing and would welcome a clause that requires such fees to be directly reinvested back into the marine responsibilities of Welsh Government and NRW
- Sections defining harm to the marine environment and the use of this concept to trigger site protection notices require broader definitions
- A criminal offence should be created for failing to abide by the steps set out in site protection notices
- The Bill should include a separate 'statutory procedure' for variation or revocation of an Order in circumstances required under reg 63/64, to avoid significant delays under the section 75 procedure.

2. Part 1: Natural Resources Management

2.1. Biodiversity

2.1.1. WEL welcomes the Welsh Government's intention to introduce a strengthened biodiversity duty in Wales. This is necessary because policy commitments on biodiversity have not been delivered; the 2010 target to halt biodiversity loss, agreed under the Convention on Biological Diversity (CBD), was not met, and the biodiversity outcomes in the Wales Environment Strategy seem to have fallen by the wayside.

2.1.2. Revised goals were set under the CBD in Aichi in 2010, which led to the following commitments in the EU Biodiversity Strategy:

- **A headline target for 2020**: 'Halting the loss of biodiversity and the degradation of ecosystem services in the EU by 2020, and restoring them in so far as feasible, while stepping up the EU contribution to averting global biodiversity loss'; and
- **the 2050 vision:** 'By 2050, European Union biodiversity and the ecosystem services it provides – its natural capital – are protected, valued and appropriately restored for biodiversity's intrinsic value and for their essential contribution to human wellbeing and economic prosperity, and so that catastrophic changes caused by the loss of biodiversity are avoided.'

We are well on the way to 2020 and we need redoubled commitment from Government if Wales is to deliver against this target and not repeat the failure to meet the target to halt the loss of biodiversity by 2010, which prompted the 2011 Sustainability Committee inquiry into biodiversity in Wales. The Committee recommended that interim targets be put in place to ensure the 2020 target is achieved, along with a fully funded and resourced biodiversity strategy. Neither of these recommendations has been taken forward and action for biodiversity is still woefully under-resourced. It does not appear that the Bill will change this.

2.1.3. Even with a strengthened biodiversity duty, we are concerned there may be little improvement on the ground for biodiversity because the structure of this duty allows other considerations to take precedence in decision making. The new duty is only stronger in its requirement to report on progress, which in itself is not a guarantee that more action will be taken on the ground.

2.2. Requirement for Statutory Biodiversity Targets

2.2.1. WEL has, for the past two years, strongly argued that biodiversity targets should be included in the Environment Bill. We believe that the Minister's justifications for the inclusion of climate change targets apply equally to biodiversity, in particular that 'including statutory targets will allow us to better evaluate progress […] and confirm achievable targets to work towards.'

2.2.2. We believe that statutory targets for 2050 should be included, which achieve:

- an increase in biodiversity compared with current levels; and
- all protected sites to be in favourable condition (this is specified for 2026 under the Environment Strategy for Wales, so may be achievable as an interim target)

We believe there should be an interim target or targets, to be set within the National Natural Resources Policy.

2.3. Reporting and Measuring Progress on Statutory Biodiversity Targets

2.3.1. Progress towards the biodiversity target should be measured with reference to a national biodiversity index. It is important that a species measure is used or we will not know whether the new management approach benefits biodiversity. The national biodiversity index would be an index specified by the Welsh Ministers, which is an accurate record of the population trends of species identified as being of principle importance for the purpose of maintaining and enhancing biodiversity in section 7 of this Bill (which replaces the old Section 42 of NERC 2006). We have been assured by Welsh Government officials that the existing s42 list will remain the relevant list under this new section; any future revisions of the list must apply the same rigorous, criteria-based approach.

2.3.2. Reporting on progress towards the targets should form part of the five-yearly State of Natural Resources Report, with additional reporting required during the year of any interim target, but NRW should advise the Welsh Ministers annually on progress. This will allow the Assembly and other interested parties to hold the Government to account on progress in a transparent way.

2.4. **Definition of Natural Resources**

2.4.1. Whilst landscapes are no longer included in the definition of natural resources, as they were in the White Paper, we believe they do have an important role to play in the implementation of natural resource management processes. Landscapes are defined in the European Landscape Convention as ‘an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors.’ These important relationships should be recognised in the Bill, as landscapes provide the overarching context within which natural resource and ecosystems management take place. This is particularly the case in Wales’ Protected Landscapes, some of the most important ‘hot spots’ for ecosystems services. The opportunity these areas provide and their potential role as major deliverers of sustainable natural resource management (as recommended by the Independent Panel currently reviewing Designated Landscapes in Wales), should be recognised.

2.4.2. We are concerned that an unintended consequence of this omission is that landscapes and seascapes, particularly those in Protected Landscape areas, may not be given the consideration and protection that they deserve within the provision of the Bill. Likewise, they may not be given sufficient

consideration by NRW as part of their function to sustainably manage natural resources in Wales. The Minister should clarify how landscape and seascape protection, and their future stewardship, will be enhanced by the Bill and how the special circumstances and future role of Wales' Protected Landscapes will be taken into account.

2.4.3. In order to strengthen the definition of sustainable management of natural resources, we believe that Sections 3 (1) (a) and (b) should be amended to 'contribute to' the achievement of the objective in Section 3 (2) rather than 'promote', which our legal advice tells us is a weaker formulation.

2.4.4. In order to ensure the objective in Section 3 (2) delivers for biodiversity we believe it should refer directly to biodiversity as well as ecosystem resilience, because:

- species and habitats (biodiversity) are the fundamental components of ecosystems and as such are important indicators for the health of ecosystems: species declines may continue if attention is not paid at the appropriate scale for measurement of resilience;
- inclusion of biodiversity in the objective, as well as ecosystems, makes the objective more consistent with the biodiversity and resilience of ecosystems duty in Section 6; and
- inclusion of a reference to biodiversity makes the objective more consistent with Goal 2: A Resilient Wales, in the Well-being of Future Generations Act (WFG Act), which specifically refers to 'a biodiverse natural environment with healthy functioning ecosystems'.

Section 26 of the Bill, or the explanatory memorandum, should clarify that the definition of 'ecosystems' is based on the Convention on Biological Diversity (CBD) definition: 'a dynamic complex of plant, animal and microorganisms and their non-living environment interacting as a functional unit'.

2.4.5. Section 4, Principles of sustainable management of natural resources, should recognise the importance of biodiversity as well as ecosystems. Some important principles are missing from this list, including management of ecosystems 'within the limits of their functioning' and considering the effect of management decisions 'on adjacent and other ecosystems'. These are included in the CBD Principles. We also believe that inclusion of the precautionary principle would strengthen this section, and would be compatible with CBD Principle 9. It is important to include principles relating to the management of conflicts when making natural resource management decisions.

2.4.6. Given our concerns that certain important principles are missing, we have concerns with some of the qualifying language employed. In sections 4 and 6, certain aspects of resilience are specified 'in particular'. Applying the usual rules of statutory interpretation, this operates as a limiting factor, and precludes any other aspects of resilience from being included (sections 391 to 393 Bennion on Statutory Interpretation 5th Edition). If these sections are not amended to be comprehensive then we recommend the addition of the words '(but without limitation)' after 'in particular'. This would ensure that important factors are not excluded.

2.5. General Purpose of Natural Resources Body for Wales

2.5.1. WEL is concerned that the new statutory purpose for NRW is weak. It requires NRW to '**seek to achieve** sustainable management of resources in relation to Wales' but sustainable management of natural resources is defined as 'using natural resources in a way and at a rate that **promotes** achievement of the objective' in Section 3 (2). This means NRW's purpose is essentially to **'seek to achieve to promote' the objective**. The purpose could be strengthened by removing the words 'seek to', in combination with the amendments to the definition of sustainable management of natural resources suggested in paragraph 2.5.2.

2.5.2. The purpose in Article 4 (1)(a) refers specifically to sustainable management of natural resources in Wales. In Article 4 (1)(b), the application of the principles of sustainable management of natural resources is not confined 'in relation to Wales'. Consequently, our legal advice tells us that NRW *can* take account of the resilience of ecosystems outside Wales, including (for example) diversity and connections between ecosystems in Wales and elsewhere, providing consistency with goal 7 of the WFG Act. This is not clear in the way the legislation is drafted, however.

2.5.3. A specific reference to the WFG Act duty to set and meet well-being objectives could help avoid confusion for public bodies about the hierarchy of obligations between the SD duty and the duties established by sections 5, 6 and 7. It would also be useful to clarify the differing definitions used in regard to public bodies between the WFG Act and sections 6(6) and 11 of this Bill. This would clarify for the public bodies, as defined by the WFG Act, their responsibilities under this Bill. For example, the Natural Resources Body for Wales is not listed under section 6(6) as being subject to the biodiversity duty. It may be included as 'a public body' but this is not clear.

2.6. National Natural Resources Policy and the Area Statements

2.6.1. The National Natural Resources Policy (NNRP) has no requirement for consultation on its content. Welsh Ministers are able to include anything that they consider relevant to the sustainable management of natural resources. Welsh Ministers are required to have regard to the State of Natural Resources Report (SoNaRR) in the production of this policy, but we are concerned that this does not provide sufficient safeguards to ensure that the NNRP will benefit the environment. The lack of provision for public consultation contravenes the Aarhus Convention on the right to participate in environmental decision-making.

2.6.2. Once the NNRP is in place, it must be reviewed after each general election, but there is no specific time frame for review, and no requirement to take action if the policy is found to be in need of revision. It is important that this policy remains current, and that action is taken to deliver it. The Minister should clarify who will be responsible for delivering the NNRP, how progress will be reported on, and how the policy will drive action on the ground.

2.6.3. Section 9(2) of the Bill states that the NNRP should include what Ministers consider should be done in relation to climate change. There is no explanation in the EM about what this means. The Minister should clarify what will be included in the NNRP on climate change, and how this will differ from the five-yearly reports setting out how each carbon budget will be delivered under Section 39 of the Bill. Will the NNRP focus on adaptation to climate change, for example? We note there is no other specific reference to adaptation to climate change in the Bill.

2.6.4. There is no reference to the marine environment in section 9 or section 10, Area Statements. The Minister should clarify whether the NNRP will be used to inform policy on marine resource use in Wales or if it is the Welsh Government's intention to develop this separately within the Wales National Marine Plan (WNMP). Should the former be the case, further consideration will need to be given to the timescale for the adoption and review periods of the WNMP and that of the NNRP and how these will integrate. It is also unclear whether Area Statements would pertain to the Welsh marine area or if this will be solely fulfilled by the WNMP. If the latter is the case, it must be clear how terrestrial Area Statements would interact with the WNMP and how the land – sea interface would be managed.

2.6.5. We are concerned that section 10(1) appears to give NRW sole discretion on which areas of Wales require Area Statements. There is no requirement for consultation on the scale or type of area to be covered and no provision about the process to be followed when producing an Area Statement. There is also no timescale for when Area Statements must be produced, leading WEL to be concerned that, if no Area Statements were to be produced in the next few years, there would be no means of holding NRW to account for this. Furthermore, it is not clear what the actual product will look like: will it be akin to a spatial plan, and should it be subject to SEA and Habitats Regulations Assessment?

2.6.6. The EM states the intention for priorities identified in Area Statements to be incorporated into the local well-being plans introduced by the WFG Act, but this appears to be optional, rather than a requirement. There is no overt link between Area Statements and Local Development Plans, which we feel is an important omission from the Bill. LDPs will have a significant impact on the implementation of Area Statements, as they control land use change which affects biodiversity, landscape and factors which influence flooding, soil quality and greenhouse gas emissions.

2.7. General Binding Rules

2.7.1. WEL is disappointed to see that General Binding Rules, as proposed in the White Paper, have been omitted from the Bill. We strongly feel that these would be a useful tool if used appropriately. We support their use in order to tackle diffuse pollution, alongside other offences, as they have a significant impact upon biodiversity including both nationally and internationally important sites (e.g. SSSIs, and SAC). General Binding Rules could help tackle poor environmental practice that is difficult to capture under the current regulatory system – particularly poor land management practices in rural locations.

2.7.2. The scale of poor land management practice is, as evidenced by NRW, the reason why many water bodies fail the Water Framework Directive in Wales. General Binding Rules have the potential to bring equity and proportionality to regulation for relatively minor, but widespread, poor practice. They have the potential to encourage more sustainable land management practices and key environmental outcomes. Therefore, we are disappointed that the legislative hook has not been included within the Bill that allows for criminal and civil sanctions. These include restorative orders, stop notices, prison sentences and fines to suit the offence (e.g. a leaking septic tank may cost thousands to repair and small fines may not be sufficient incentive to create the required operator response).

2.8. Power to suspend requirements for experimental schemes

2.8.1. WEL is concerned about the power under Section 22 to allow Welsh Ministers, upon application of NRW, to suspend statutory requirements for experimental schemes. Whilst we understand that there may be good reason for needing this power, we believe that extra safeguards need to be included to ensure that any suspension of statutory requirements does not cause unacceptable risk of damage to the environment. We would like to see the following:

- more rigorous requirement for consultation, with the Bill identifying certain statutory consultees who should always be consulted on certain types of schemes;
- requirement for a risk assessment process to be developed; and
- controls on the types of experimental schemes that can qualify.

As NRW will be able to use external persons to carry out experimental schemes, there should be full transparency about whom these 'other persons' are, so that any commercial or third party interests are declared.

3. Part 2: Climate Change

3.1. Carbon Budgets

3.1.1. WEL welcomes the introduction of statutory climate change targets in the Bill. We strongly believe that statutory targets will drive forward action on climate change in Wales. We have included some key points to note from WEL's point of view on this section, but we would like to also state support for Stop Climate Chaos' more detailed evidence on this part of the Bill.

3.1.2. The EM does not clearly state that the provisions in the Bill will replace the Wales Climate Change Strategy, with its 3% annual emissions reduction targets. The Minister should clarify whether the current Climate Change Strategy will cease to operate or will continue until 2020 to meet the 40% reduction target set in the Strategy. We would like to see the 40% target retained as an interim target under the Bill. We believe that the strengths of the current strategy are that it disaggregates actions in areas of devolved competence from wider actions, enabling a focus on the effectiveness of

Welsh Government policies. The Welsh Government also reports annually on progress with the strategy, which enables scrutiny and accountability.

3.1.3. We believe the main advantages of the provisions laid out in the Bill are the requirement for the Welsh Government to set out proposals and policies for how each carbon budget will be met, and the requirement to set out compensatory measures if a budget is not met. Currently, reporting on progress of the Climate Change Strategy does not give a clear idea how Welsh Government policies are contributing to emissions reduction, because many of the indicators used to measure progress have incomplete data or do not relate directly to the actions detailed in the 2010 Delivery Plan. Also, the delivery plan has not been comprehensively reviewed for effectiveness or updated when programmes have come to an end, e.g. Sustainable Travel Towns.

3.1.4. We have some points of concern with the detail of the provisions, particularly when comparing them to the UK Climate Change Act. The main ones are:

- In Section 33 (3) the Welsh Ministers are given a power to 'set a limit on the net amount of carbon units by which the net Welsh emissions account for a period may be reduced' as a result of crediting or debiting carbon units. In the UK Act this is a duty. If a limit were not set, we are concerned there would be a risk that a large proportion of the budget could be met by trading carbon units rather than reducing emissions in Wales.
- If Wales exceeds its carbon budget, Welsh Ministers must lay a report detailing proposals and policies to compensate for excess emissions in later budgetary periods. We welcome this provision, but believe it could be strengthened by including a deadline in the Bill.
- We are concerned that there is no limit on the proportion of unused carbon budget can be carried forward to future budgets. If, for example, a carbon budget is easily met due to economic factors, rather than as a consequence of Welsh Government policies and actions, then the next budget could be much larger as a consequence, removing the motivation for further action. We believe this stores up problems for the future and we are already seeing the consequences of this with the current 3% annual target, with initial large reductions as a consequence of the economic downturn and subsequent rising emissions in recent years.

4. Part 3: Charges for Carrier Bags

4.1. WEL welcomes the proposal to raise a charge on all carrier bags. The average number of plastic carrier bags found on Welsh beaches in 2014 was over 80 items/km (MCS, 2014). We are aware that the ability to raise a charge on single use bags in Wales has produced a significant behavioural chance in reducing the amount of single use bags. That said, the more durable, longer-lasting 'Bags for Life' are less biodegradable and therefore have a greater impact on the environment. These should therefore be included in the charge, in order to ensure that single use bags are not displaced by other types of bags which are only used once. We would like to see a minimum pricing policy to encourage them to truly be used as a Bag for Life. This should be applied regardless of material to ensure a

consistent policy. We suggest the minimum charge should be at least triple that of the single use bags. This would make consumers clear that these have a larger environmental impact and also sends out a much stronger message that they should be reused.

4.2. WEL strongly disagrees with the proposal for the carrier bag levy to go to all charities. We would like to see the levy go to environmental charities and environmental improvement schemes given that the remit of these charities involves helping to support our natural environment and, in many cases, work to directly mitigate the negative impact of plastic carrier bags. We also advocate the need for Welsh-raised carrier bag money to go to environmental charities operating in Wales, given that Wales may not, in many cases, be directly benefitting from this charge.

5. Part 4: Collection and Disposal of Waste

5.1. WEL supports the proposals relating to the collection and disposal of waste and agree that Ministers require these extra powers to require the separate collection of waste if they are to implement imminent EU requirements for the separate collection of metal, paper, plastic and glass, as some local authorities still collect these together. We also support the power to ban certain recyclable materials from incineration as it is important that materials are recovered rather than lost to the economy.

6. Part 5 & 6: Fisheries for Shellfish and Marine Licensing

6.1. WEL agrees with the proposals to introduce charges for marine licensing, including for the reasons set out in Part 6, 72 (A) of the Bill; monitoring of an activity authorised by the license, and monitoring in accordance with complying to conditions attached to a licence. We also welcome provisions under Part 6, 79 for licensing authorities to request deposits on account of fees payable and provisions to charge a supplementary fee for activities undertaken by the licensing authority.

6.2. That said, it is currently unclear within Part 6 of the Bill who will be the beneficiary of fees charged for marine licensing where Welsh Ministers are the licensing authority. For instance, will fees be allocated to cost recovery of that specific function (i.e. cost recovery for environmental regulators such as the NRW) or could fees accrued be spent within other Welsh Government departments? We would welcome a clause that requires such fees to be directly reinvested back into the marine responsibilities of Welsh Government and NRW to remove any ambiguity. We believe this is important to enable sufficient resourcing for the Welsh Government and NRW marine teams to carry out all of their duties.

6.3. We believe there should be a requirement for commercial marine users to provide data collected as part of their application to the public domain once an outcome of a plan or project has been determined. It is well known that there is a paucity of data in the Welsh marine area and evidence gaps are resulting in regulator and developer uncertainty as well as resulting in risk of damage to areas of sea that are under-researched and/or under-monitored.

6.4. ‘Harm’ in section 76 is at present too narrowly drafted. This section 76 definition is important because it feeds into the new sections 73 and 74. The definition at s76

(a) should say ‘an adverse effect or risk of an adverse effect on the integrity of the site alone or in combination with other plans or projects’ to bring it in line with Article 6 (3) Habitats Directive. The suggested inclusion of the phrase ‘plans or projects’ would also then need to be explained in s76. We would suggest a new insertion into new s76 to read ‘Plan or project has the same meaning as under the Council Directive 92/43/EEC on the conservation of natural habitats of wild fauna and flora’.

6.5. We believe that section 74 could be significantly improved: under s5B(1) as inserted by section 74 the Welsh Ministers have a discretion to serve a site protection notice if ‘harm’ to a EMS has occurred or is likely to occur. We would argue that it would be appropriate for the power to be triggered not only when ‘harm’ has occurred or is likely to occur, but also where harm may occur (as appears to be desired, according to the EM). Therefore we would suggest that the language in 5B(1) be altered to read: ‘if it appears [...] that harm to a European marine site has occurred or may occur.’ This wording lessens the evidential burden of harm that the Welsh Ministers must prove before they act.

6.6. As currently worded, there is no criminal offence created if a person fails to abide by the steps set out in the site protection notice as envisaged in s5B(2). There is only a power under s5D(1) for the Welsh Ministers to do what the site protection notice states and to recover costs from the person responsible. This is ineffective as the Welsh Ministers will not wish to take this financial risk. A criminal offence therefore must be created.

6.7. Sections 5B(2) and 5B(4)(c) refer to a site protection notice requiring the grantees to ‘take steps’, but this needs to be expanded to cover ‘ceasing any stated activities’. Furthermore, there is an appeal mechanism where site protection notices have been served (s5C). However, the provisions are silent as to:

- the time limit by which the appeal must be brought. This must be addressed (an appeal period of 28 days is normal); and
- whether the steps/prohibitions in the site protection notice remain in force pending the outcome of the appeal. The latter is essential so as to ensure protection of the European marine site.

6.8. New section 75 contains a mechanism whereby an Order made by the Welsh Ministers can be varied or revoked, which is helpful, but this ability depends on the Welsh Ministers first serving a site protection notice and that notice not being appealed or any appeal being complete. Whilst the intent is sound, it is likely to be a delayed process since delays will occur by the relevant person bringing an appeal. There are ‘review’ provisions in Part 6 of Conservation Regulations 2010 (see regulations 63/64). Under regulation 63 when a European site/European marine site is designated, any existing consent for a plan or project must be reviewed. The review must be carried out under ‘existing statutory procedures’ or, if none exists, under directions from the ‘appropriate authority’. It would be very helpful if the new legislation could include a separate ‘statutory procedure’ for variation or revocation of an Order in circumstances required under reg 63/64, which did not involve the risk of significant delays under the section 75 procedure. An amendment is needed to section 5E to say, in essence, that ‘where we are dealing with a reg 63 situation then the power to vary/revoke is not dependent on first serving a site protection notice’.

6.9. Although we broadly support the proposals for marine licensing and shellfisheries with the Bill, legislation to sustainably manage the marine environment in Wales already exists and has done so for many years through the provisions within the EU Birds and Habitats Directives, EU Marine Strategy Framework Directive, and more recently, through the adoption of the Marine and Coastal Access Act (England and Wales). The Marine and Coastal Access Act (MACA) provides the legislative tools to effectively manage fisheries in Welsh inshore waters within their environmental limits and in a sustainable way. WEL believes that the greatest benefit to the protection and sustainable development of the Welsh marine area will only be realised through the timely and effective implementation of existing legislation. The Welsh Government is committed to delivery of a review of fisheries bye-laws to new regulation orders under MACA by 2015, and WEL believes that delivering this commitment is a priority, if Wales is to secure sustainable fishing practices now and in the future.

Wales Environment Link (WEL) is a network of environmental, countryside and heritage Non-Governmental Organisations in Wales, most of whom have an all-Wales remit. WEL is officially designated the intermediary body between the government and the environmental NGO sector in Wales. Its vision is to increase the effectiveness of the environmental sector in its ability to protect and improve the environment through facilitating and articulating the voice of the sector.

The following WEL members support this document:

Afonydd Cymru

Amphibian and Reptile Conservation

Bat Conservation Trust

Buglife Cymru

Butterfly Conservation Wales

Campaign for the Protection of Rural Wales / CPRW

Keep Wales Tidy

Landscape Institute Wales / Sefydliad Tirwedd Cymru

Llais y Goedwig

Marine Conservation Society

Oxfam Cymru

Plantlife Cymru

RSPB Cymru

Vincent Wildlife Trust

Wildlife Trusts Wales

WWF Cymru

YHA

Ymddiriedolaeth Genedlaethol / National Trust

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Cyngor Sir Penfro	Response from Pembrokeshire County Council
EB 36	EB 36

Pembrokeshire County Council response to Environment (Wales) Bill NAfW PROVISIONAL RESPONSE PENDING CABINET APPROVAL

Part 1: Natural Resources Management
Do you agree with the Welsh Government's proposals on definitions for 'natural resources' and 'sustainable management of natural resource'? Are there things missing that you think should be included?
1.1 Definitions should include the diversity and the interaction of all of the terms described, and not limited to geological processes, physiographical features, and climatic processes. A definition of ecosystems should be included in Part 1. Particularly given the reference to ecosystems and biodiversity made in Sections 4 and 6 respectively and later in the Bill.

What are your views on the proposals for a National Natural Resource Policy? Is the Bill clear enough about what this will include?
1.2 The Bill is clear enough on the proposals for a National Natural Resource Policy (NNRP), and the links between the NNRP, state of natural resources reports and area statements is detailed further in the explanatory notes.
PCC would expect the arrangements for the consultation, the intended scope and scale on the NNRP to be set out in advance.

Do you agree with the proposals for area statements? What should these cover and is the process for their development clear enough in the Bill?
1.3 The proposals that NRW consider whether another plan or strategy or similar document should be incorporated into the area statement or that the area statement should be incorporated into another plan strategy or similar document are welcomed. This provides the opportunity for plans and strategies to be aligned and ensure that plans and strategies are comprehensive and complementary.

1.4 PCC maintains the need for appropriate local representation in area statements and any partnerships/collaboration, whilst already using those partnerships and groups which already exist to avoid duplication. The Single Integrated Plan / LSB (for current and future local authorities) may be the appropriate level for consideration of area statements.

What are your views on the proposal to strengthen the biodiversity duty on public authorities operating in Wales?

1.5 The proposals to strengthen the biodiversity duty are welcomed. Further duties to public authorities will require Pembrokeshire County Council to publish a report on what has been done to comply with this duty by the end of 2019 and every three years after this. PCC would seek to ensure that reporting would marry up with other mechanisms in place for reporting, including the periodicity of those reports. Biodiversity Action Reporting System (BARS), Biodiversity Partnerships, Special Areas of Conservation Relevant Authorities Groups (SAC RAGs), Annual Planning Performance Reports, Local Development Plan Annual Monitoring Reports, Single Integrated Plans etc. Any reporting would also need to recognise the continued focus on efficiency savings by public authorities. Given the commitment to a new local government footprint, it is worth noting that second and subsequent reports would be undertaken by the smaller number of larger local authorities.

1.6 PCC would also wish for the WG to commit to funding for biodiversity partnerships and to SAC RAG officers to continue building resilience for the environment of Pembrokeshire.

Are you content with the proposals for NRW to have wider powers to enter into land management agreements and have broader experimental powers?

1.7 A definition of experimental powers and schemes is needed or at the least some description/example of the types of things which would be considered under experimental powers. The reference to the Payments for Ecosystems Services (PES) has been removed since the White Paper consultation. PCC assumes that PES would be considered an experimental scheme, and clarification is sought as PCC still maintain the stance given in the previous White Paper proposals that it is not appropriate for NRW to act as facilitators, brokers and accreditors of Payments for Ecosystem Services Schemes.

1.8 NRW would be best placed as 'knowledge providers' and possibly also a role to up skill others, with other functions of Payments for Ecosystems Services (PES) perhaps better delivered by either an independent or an arm's length operator, to secure separation between regulatory functions and 'eco-banking'.

1.9 PCC welcomes the opportunities for enabling innovative approaches for more sustainable management of natural resources; however there are concerns with the proposed powers to suspend statutory requirements for experimental schemes. PCC would expect robust and reasoning and evidence for any suspension of legislation.

Part 2: Climate Change

Do you agree with the proposals for the 2050 target?

2.1 PCC welcomes the climate change proposals. No further comments.

For your views as to whether the interim targets should be on the face of the Bill?

2.2 No comment.

Do you believe that the introduction of carbon budgets is a more effective approach than the 3% annual emissions reduction target that is currently in place in Wales?

2.3 No comment.

What are your views on what emissions should be included in targets? All Welsh emissions or those within devolved competence?
2.4 No comment.

Do you agree with the Bill's proposals as to what should happen if the Welsh Ministers fail to meet emissions targets or carbon budgets?
2.5 No comment.

What should the role of an advisory body on climate change be?
2.6 No comment.

Part 3: Carrier Bags
Do you agree with the proposal that Welsh Ministers should have powers to raise a charge on all types of carrier bags not only single use bags?
3.1 No comments.

Do you agree with the proposal that Welsh Ministers should have powers to raise different charges on different types of bags?
3.2 No comments.

Do you agree that the profits from the sale of carrier bags should be directed to all charitable causes rather than just environmental ones?
3.3 The purpose of the charge is for environmental benefit, therefore PCC considers that the proceeds should be towards environmental charitable causes.

Part 4: Collection and Disposal of Waste
4.1 Pembrokeshire County Council has responded to the waste questions via the Welsh Local Government Association.

Parts 5 & 6: Marine Licensing and Fisheries for Shellfish
Do you agree with the proposals to introduce charges for further aspects of the marine license process? What will the impacts of these changes be for you?
5.1 PCC is broadly in agreement with these proposals but seek confirmation that the integrity of European marine sites is protected.

Do you agree with the proposals to give Welsh Ministers powers to include provisions in Several and Regulating Orders to secure protection of the marine environment?
5.2 No comments.

For your views on the proposals to give Welsh Ministers powers to issue site protection notices where harm may have been caused by the operation of a fisheries Order to a European marine site?
5.3 PCC welcomes these proposals.

Are there any other marine and fisheries provisions you would like to see included in the Bill?
5.4 PCC would welcome mechanisms to deal with invasive non-native species.

Part 7: Flood and Coastal Erosion and Land Drainage

Do you agree with the proposals to replace the Flood Risk Management Wales committee with a Flood and Coastal Erosion Committee for Wales?

Whether you agree with the proposal for powers to be given Welsh Government agents to enter land to investigate alleged non-compliance with an Agricultural Land Tribunal order in relation to drainage?

6.1 PCC agrees with this proposal.

Overarching Question
For your views on the relationship between this Bill and the Well-being of Future Generations Act 2015 and the Planning (Wales) Bill? Are the links and connections between them clear?

Finance Questions
What are your views on the costs and benefits of implementing the Bill? (You may want to consider the overall cost and benefits or just those of individual sections)
7.1 PCC still has concerns over the anticipation that implications will be cost neutral with the potential for efficiency savings over time.

You may also want to consider:
How accurate are the costs and benefits identified in the Regulatory Impact Assessment?

Whether there are any costs or benefits you think may have been missed?
8.1 Some consideration needs to be given to the impact of the changing local government footprint, with some economies of scale resulting from fewer larger authorities.

What is the cumulative impact of the costs or benefits of the Bill's proposals for you/your organisation?
8.2 The preferred option states marginal costs for other organisations and PCC has concerns about this.

Do you think 10 years (2016-17 to 2025-26) is an appropriate time period over which to analyse the costs and benefits?
8.3 It is pragmatic, balancing the need for benefits to be established over the long term the rapidly changing face of the public and third sectors, and known 'unknowns' such as the emerging local government map, any renegotiation of the Westminster settlement to Wales (Barnet), renegotiation of the terms of Britain's membership of the European Union and the proposed referendum.

The cumulative cost and/or benefit to organisations who will be affected by the Well-being of Future Generations (Wales) Act 2015, the Planning Bill and the Environment Bill?

Are there any other options that would achieve the intended effect of the Bill in a more cost effective way?

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Mechline Developments Ltd	Response from Mechline Developments Ltd
EB 37	EB 37

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Environment and Sustainability Committee
National Assembly for Wales
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9th June 2015.

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Consultation: General principles of the Environment [Wales] Bill.

Mechline Developments Ltd are submitting this evidence to the Environment and Sustainability Committee of the Assembly, in response to its consultation on the Environment (Wales) Bill. We are generally supportive of the Bill and its objective of minimising waste, enhancing recovery and re-use of materials and reducing the amount of food waste sent to landfill. Our concerns relate to the 'single solution' model for separate collection of commercial food waste to Anaerobic Digestion - as well as placing a blanket ban on commercial food waste to sewer, which has failed to consider significant innovation in this sector. As written, this Bill will prevent certain on-site innovative technologies from being used in Wales and we believe this is a significant opportunity lost for Wales. The evidence we present shows that our *on-site* process (enzyme bio-digestion accompanied by a waste reduction programme) ***does*** and ***should*** have a place in the sustainable management of end-of-life food waste in Wales. We call for an urgent amendment to the Bill to allow commercial foodservice operators to use enzyme bio-digestion processes, where it can be considered to be the most Technically, Economically, Environmentally and Practical (TEEP) solution in that given scenario.

Our substantive concerns:

A) The Cost Benefit Analysis[1] created by Eunomia for the Welsh Government to examine if a ban on food waste to sewer could be justified is *fundamentally incorrect* when applying the assumptions to on-site enzyme bio-digestion and therefore *cannot* be relied upon.

1. This assessment only focused on maceration of (*untreated*) food waste to sewer. We know that if this model were run again, using metrics for use of enzyme bio-digestion, there would be an economic and environmental case for sending some *treated* food waste to sewer. Our main criticism of this model is that:

[1] Eunomia (May 2013). Report for Welsh Government: Additional Policy Options Analysis for Welsh Government: Costs and benefits of Extending Waste Framework Directive requirements, Waste Treatment Restrictions, Requirement to Sort and a Ban on the Disposal of Food waste to Sewer. Chapter 4 focuses on the ban on disposal of food waste to sewer.

a. Enzyme bio-digestion **<u>does not</u>** cause drain blockages[2], which as Eunomia puts it '*contributes significantly to the total impacts'* (pg 50).
b. The **Water Research council** (**WRc**) were commissioned in 2013 to review the outputs from Mechline's enzyme bio-digestion system and concluded:
c. '*Waste$_2$O™ is the only digestion system to gain WRc approval. To gain it, a product must be subjected to a rigorous series of technical tests. In the case of Waste$_2$O™'s certification, WRc independently confirmed that the waste water released from the machine meets with accepted industry norms and is 100% safe for the public sewer systems*.' Andy Drinkwater (2013) Senior Programme and Project Manager, WRc
d. Enzyme bio-digestion outputs are substantially different to macerated food waste in terms of treatment requirements (and costs) at the sewage treatment works.
e. Enzyme bio-digestion uses at least *50 times less water* than maceration
f. Enzyme bio-digestion consumes slightly more than 1/3 of the energy used in an equivalent maceration process
g. Purchase and installation costs of an enzyme digestion system is half that of an equivalent maceration process

2. The ban on food waste to sewer (Section 34D 5 of the Environment Bill) is enhanced, through the notion of protecting the sewer network from high load organic disposal, created by traditional macerators / food waste disposers – even though domestic macerators are not affected by the proposed legislation. Waste water discharge from enzyme bio-digesters have been proven by **WRc** to cause no damage to sewers and are below the water industry norms. Yet through association our innovative British solution, with a strong Welsh Bio-Science partner will be banned due to legislative inflexibility within the current bill.

3. In reality enzyme bio-digestion reduces food waste to a microscopic liquid suspension that has a far finer consistency than that of drinks such as milk, orange juice, shakes, smoothies etc, or from macerators fitted with dewatering equipment that the legislation *may* allow.

4. We call on Wales to re-visit the 'evidence' under which they are introducing a ban on all generic food waste to sewer.

B) The Bill (as written) will have a *direct negative* impact on Welsh businesses, in two ways:

1. Impact on Welsh Hi-Tech Bio-Science Industry. Significantly for the Welsh economy, Mechline Developments have for 10 years, been in partnership with 'Biological Preparations Group' – currently employing 62 people directly, through their manufacturing base in Caerphilly and head office in Cardiff – with considerable more local businesses engaged through their supply chain. They are UK and European market leaders in biological science, basing their products on microbial, enzyme and plant extract technology – they spend approximately £2.5 million with their UK based suppliers, with Welsh suppliers including Gwalia, Tower Print, Brenntag, SEIP, Cambrian, Albany Oak, Berry Smith,

[2] WRc were commissioned in 2013 to examine the sewer outputs from Mechline's 'Waste$_2$O' system and agreed these outputs are *fundamentally different* to macerated food waste and certified the outputs as being '*100% safe for the public sewer system'*. We can share these reports and certification from WRc if the Welsh Government require.

Teamworks and others. They are already suppliers for all 400+ UK enzyme bio-digestion systems as well as those in Europe, the USA and the Middle East. Furthermore the export market for Mechline's enzyme bio-digestion system is currently flourishing in the USA and Middle East (for example the major USA supermarket chain Walmart is currently trialling the system), all of which provides the potential for greater employment growth for Biological Preparations in Wales and their supply chain. Banning usage of such technologies could create a business vacuum and do irreparable harm.

2. **Impact on hospitality and food service sector.** The Catering Equipment Suppliers Association (CESA) indicate this sector is a significant employer with 15,121 catering outlets in Wales, with approximately 2,400 outlets predicted to have Food Waste Disposal (FWD) units. Although, for environmental reasons, many of these maceration type processes are not a good food waste disposal system - from the operational and functionality perspective of a commercial kitchen, they provide a very hygienic (bin and vermin free) solution. Introducing separate collections, especially when space is limited, could impose an undue cost and bureaucracy on sector that is only just recovering from deep recession.

C) The 'single solution' separate collection model that the Environment Bill advocates, could for some hospitality and food service sector establishments, cause considerable problems and costs that have not been addressed. The 'TEEP' test should be applied.

1. Part 4, Section 67 (6) of the Environment (Wales) Bill, states that the Welsh Ministers may by regulations, allow food waste to be sent to sewer in specified 'circumstances'. We would like clarity over what would qualify as an 'exception' to this rule.

2. Under the Waste Framework Directive, waste producers can deviate from the rules for separate collections of dry recyclables (not currently applied to food waste) if they apply the 'practicality test'. Under this test separate collections are only necessary if they are technically, environmentally and economically practical (the 'TEEP' test). This is intended to be quite a high legal hurdle, but does allow for some flexibility in some circumstances. We believe hospitality and food service establishments should be exempt from separate collections of food waste and allowed to discharge food waste to sewer, under TEEP principals, in the following scenarios:

    a) **Where bin storage space presents a major risk to the business.** Bin / Waste storage areas can have a lot of issues associated with them such as unsightly high street storage, mal odour and vermin or insect infestations. If the food waste bin area is particularly close to the kitchen, this could create a major hygiene and infection risk to the business – which is one reason why macerators became so popular. Similarly, if the logistics required to transport the food waste creates transfer risk (contamination) or requires significant additional infrastructure, possibly because storage space simply does not exist or is impractical, or where 'hygiene' risk (especially in Hospitals, Care Homes, Schools etc) was identified as a major issue, then we believe businesses should be able to opt out of these schemes, if it put their business at genuine risk or cost disadvantage.

b) **Where the AD plant is too far away to make it the best economic or environmental solution for the food waste.** As yet, Wales have not constructed all the AD plants they need to meet their food waste requirements – and there is always a risk the proposed plants will not get built. This could add considerable 'food waste miles' and cost onto collection rounds, the burden of which will fall on the catering establishments in Wales. Mechline are in the process of commissioning a Life Cycle Analysis (LCA) from one of the UK's leading waste consultancies to determine the point at which AD does not make sense and enzyme digestion becomes economically and environmentally more favourable. In these circumstances, the producers ***should*** be able to choose enzyme bio-digestion as their preferred food waste treatment route.

c) In the healthcare sector/ NHS Wales: Mechline have installed over one hundred enzyme bio-digestion units in hospitals in England, Wales, Scotland and Northern Ireland. At Stockport NHS Foundation Trust near Manchester, the hospital replaced their macerators with enzyme digestion units and have shown projected savings of more than **£96,000 over 5 years, with payback on the machines achieved within 12 months** (see NHS Case Study in Appendix A). Primarily hospitals use macerators to get rid of food waste because it provides them with a very practical simple solution to manage their hospital food waste simply. Adding extra bin routes (through the hospital) as well as providing additional collection points will cost the NHS time, money and resource. We are concerned the Welsh Government has not assessed the impacts of this legislation on the NHS or checked they have the capacity to meet these requirements. We believe they should also be given the choice to 'opt' out of this scheme.

d) **In high security settings (for example at the Ministry of Justice, Ministry of Defence, Prisons, Hospitals etc):** These sites require very minimal vehicle movements, to reduce security risk and may not wish to introduce additional collections for food waste – we therefore believe this provides good enough grounds for an exemption.

e) **Plan B**? : Any disruption of the collection system due to bad weather, mechanical breakdown or through disputes will only exasperate storage issues and health risks from putrefying waste. There is a 'cost' to ensuring that a satisfactory Plan B model exists. This does not appear in the Bill or Explanatory notes.

D) Treatment of *all* food waste through the planned Welsh Anaerobic Digestion network should be considered as a 'risk'. Enabling secondary choices could help 'de-risk' this proposal.

1. Although we are supportive of AD being used to recover food waste for the energy from waste principle as yet Wales have not constructed all the AD plants they need to meet their food waste requirements. There is always a risk that construction is severely delayed through lack of finance, planning permission and/or environmental permits – the latter of which both require public consultation. There is always the risk that an existing plant can also have an operational failure and close.

2. Our enzyme bio-digestion system (and potentially others), and other technologies can provide a service in the 'gaps' that cannot be serviced by the current infrastructure, or in scenarios where a proposed plant does not get built (or fails). In a scenario where the plant does not get built, a whole region could meet TEEP criteria and it is vital a hospitality establishment, can choose to reduce their business costs by selecting other treatment routes. We do not require public consultation or planning scrutiny, or require complex financing (or external funding of any sort) and long-term commitments for our treatment process.

3. As explained, we are in the process of commissioning a Life Cycle Analysis (LCA) from one of the UK's leading waste consultancies to determine qualification of TEEP principles, relative to location, logistics, energy consumption / pollution, site conditions, infrastructure costs, risk, etc, to qualify where enzyme bio-digestion becomes economically and environmentally the more favourable solution than other options. By not keeping the door open for such technologies such as enzyme bio-digestion, we believe Wales will have missed a key opportunity to build a resilient food waste strategy.

E) Additional food waste prevention and reduction strategies will need to be introduced (and paid for) alongside AD infrastructure to ensure this part of the waste hierarchy is delivered.

1. There is no incentive for AD or In-Vessel- Composting operators to encourage food waste prevention or reduction in Wales, because they make generate more profits the more food waste they process. This means the Welsh Government will need to subsidise communication campaigns aimed at food waste reduction and re-use, to ensure this part of the waste hierarchy is delivered.

2. When customers use systems such as enzyme bio-digestion, once the initial capital investment has been made, running costs are reduced the less end-of-life food waste that is thrown away. In Mechline's case all $Waste_2O$ units are now sold with inbuilt bluetooth technology (which in turn helps us sell our machines), which allows the user to instantly see how much waste (and money) they have thrown away ***that*** day (with collection rounds you may only find this out once a week or even once per month). This waste reduction system was developed with waste specialists in Ricardo-AEA Group, who based the concept (and accompanying waste reduction programme) on WRAP's work, both of whom are experts at maximising waste reduction at customer premises. When we commission an LCA on our process, we intend to monetise the benefits of our waste reduction strategy (using WRAP's look-up tables) and share this with the Welsh Government. Mechline are already seeing customers using our metric management techniques, reduce food waste by up to 50%.

3. We would also highlight recent French legislation, which prohibits supermarkets from sending edible in date food to waste processing facilities. Instead they must set it aside and facilitate distribution to food charities. The new Environment (Wales) Bill, could also

adopt a holistic approach to reducing food waste and help the nation's poor and destitute – currently this is a golden opportunity, which appears to have been missed.

F) Environment Bill clarity, enforcement and cost.

1. As discussed, the Bill specifically introduces a ban on all generic food waste to sewer: 67 34D (b) 'knowingly cause or knowingly permit food waste produced on or brought onto the premises to be discharged, into a public sewer or a sewer or drain communicating with a public sewer.

2. However the Bill then makes numerous statements identifying exceptions. 34 D 6–7. Clarification is sort, over the definition and application of the '**circumstances'**, '**exceptions'**, and '**different'** situations that will exist, whereby discharge of food waste to sewer could be allowed. No references exist in the guidance notes, which will provide confusion with compliance issues.

G) Background to Mechline Developments Ltd and the Waste$_2$O Enzyme Bio-Digestion Process

Mechline are a wholly British, multi-award winning[3] manufacturer of equipment to the commercial hospitality and food service industry. We have over 30 years experience in understanding how a commercial kitchen needs to function to maximise operational (profitable) capacity, ensure kitchens meet legislation and environmental and corporate social responsibility (CSR) targets.

Of note, is the patented and multi-award winning[4] enzyme bio-digestion product Mechline Developments developed, the **'Waste$_2$O'** – which utilises innovative bio-science techniques and enzymes developed by Biological Preparations Group. This provides an on-site treatment solution for a commercial kitchen's *unavoidable end-of-life* food waste. End-of-life food waste is placed in the unit and treated using enzyme bio-digester technology (similar to enzymes found in your stomach), producing a 'grey water' discharge that is safely sent to mains sewer. The system operates in a very different way to maceration – both in terms of its outputs (see below) and resource usage. Maceration utilises approximately 3 times as much electricity as Waste$_2$O and approximately 20-36ltrs of water per minute (4,000 to 7,000ltrs per day), whereas Waste$_2$O uses a maximum of 600ltrs of water per day.

Mechline commissioned **WRc** (the Water Research council) to do *extensive* and *frequent* testing of the Waste$_2$O wastewater discharge to demonstrate the outputs are very different to macerated (untreated) food waste. They subsequently certified the outputs as being '*100% safe for sewer discharge'* – meaning they do not cause drain blockages. The small amount of organics and the water extracted from the food waste in Waste$_2$O is subsequently recovered at the sewage treatment works. The results (from Waste$_2$0 samples) indicates that:

- The pH values are within the pH 6.0 to pH 8.0 range required.
- The BOD and COD values were within the range required for sewer discharge
- The suspended solids values are within and towards the lower end of the ''normal" trade effluent range
- The Fats Oils and Grease values are within and towards the lower end of the "normal" trade effluent range.

Waste$_2$O in use in commercial environment

[3] Mechline have won the Cat… …nt supplier of the year award in 2015, 2013, 2012, 2011, 2010, 2009, 200…

[4] CEDA Innovative Product o… …national (FCSI)/ Catering Equipment Suppliers Association (CESA… …and North Buckinghamshire Chamber of Commerce Business Excellence and Innovation through Technology Award (2010), and Caterer & Hotelkeeper's Equipment & Supplies Excellence Award for Hygiene & Waste and overall 'Green Award' (2010). SPACE Group Best product award (2012).

The $Waste_20$ by Mechline and Biological Preparations offers a very different model of end-of-life food waste treatment than that allowed by the Environment (Wales) Bill. The enzyme bio-digestion process avoids road transport and associated energy usage and pollution and does not require financing (or on-going subsidies) by investors or the Welsh Government.

We are about to commission a Life-Cycle-Analysis (LCA), from one of the UK's leading waste management consultancy companies, that should enable a comparison of our process against the model of separate collection and AD (as well as a comparison against other treatment technologies). We believe our process won't be the best solution in all scenarios but will be the best economic and environmental option in a range of other scenarios and therefore should have a place in the hierarchy of Wales's food waste treatment options. When the results of this LCA are published, we intend to share these with the Assembly, so they can be used to inform the final published version of the Bill.

Mechline would also like to emphasise to the Assembly that the $Waste_2O$ is now also operating at the '***waste reduction***' end of the waste hierarchy. *All* our new machines are sold with integrated waste volume sensors, operated through bluetooth technology, enabling the user to instantly download and view how much end-of-life unavoidable food waste has been thrown into the system that day and to inform the operator of the associated *costs* associated with throwing this food away using qualified WRAP figures. Mechlines food waste reduction strategy was designed in collaboration with Ricardo-AEA Group, who followed WRAP's food waste reduction approach. This approach understands that when customers are made aware of the money they are throwing away, it has a huge impact on their behaviour. Mechline have shown that well managed kitchens, using metric management techniques can reduce food usage by 50%. Using WRAP's look-up tables, we intend to further monetise the benefits of our food waste reduction programme in our independently commissioned LCA.

Conclusions

Andy Drinkwater – WRc – Senior Project & Programme manager.
"the $Waste_2O$™ really does come into its own as a complementary process for sustainable food waste management – you don't have to wait for waste to be collected and driven off-site and it doesn't block the drains, so it seems like the best option."

Mechline Developments are concerned that current 'new' technologies have not been fully appraised and costed, which means the evaluation underpinning the Bill is incomplete. As it currently stands, this will mean innovative on-site solutions are barred from use in Wales and it could inhibit the opportunity for further innovation in this sector. We are also extremely concerned the impact the new legislation could have on the Welsh High-Tec Bio Science Industry, the Welsh hospitality and food service industry, the Welsh NHS and other sites that may wish to reduce vehicle movements due to security (such as prisons).

We strongly advocate waste producers being able to apply 'TEEP' principals to determine the best technical, economic, environmental and practical route available to them for their food waste, enabling them to opt out of separate collections and where necessary discharge their food waste to the sewer network, in a way that does **NOT** cause blockages or additional costs of the Water Authorities. We support the use of AD, but do not believe it can provide a universal solution for all food waste in all scenarios in Wales and should be complimented by other non-large scale alternatives.

We call for an urgent amendment to the Bill to allow commercial foodservice operators to use enzyme bio-digestion processes, where it can be considered to be the most Technically, Economically, Environmentally and Practical (TEEP) solution in that given scenario.

We are currently compiling further research on potential impacts of our process via a Life-Cycle-Assessment, which we would aim to forward to the Committee in the coming weeks. We would also be available to give more information and oral evidence to the Committee should that be requested.

Thank you for the opportunity to make comment on the Bill.

Peter Galliford
Director
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Appendices :
Yorkshire Water Case Study
Hospital Case study
WRC Accreditation

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Y Pwyllgor ar Newid Hinsawdd	Response from Committee on Climate Change
EB 38	EB 38

Committee Clerk
Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay, CF99 1NA

12 June 2015

Dear Sir or Madam,

Re: Environment and Sustainability Committee inquiry into the Environment (Wales) Bill

The Committee on Climate Change welcomes the Committee's enquiry into the Environment Bill. We would like to offer some initial observations from our experience as advisors to the UK Government on carbon budgets and to the Scottish Government on annual targets. We are ready to act as the advisory body as outlined in the Bill, and will provide more detailed advice to the Welsh Government when requested to do so.

From our UK experience, we recommend the use of carbon budgets. They have ensured that continuous progress is being made towards the UK's legislated target to reduce emissions by at least 80% by 2050.

For carbon budgets to provide an effective signal of requirements for emission reduction it is necessary that they should be set some time in advance. This provides a level of predictability for firms and households to plan and invest for a low-carbon economy.

The implication for the proposed first budget (2016-2020), which would not be set until 2018, is that it can only function as a baseline. It would describe the business as usual level of emissions to 2020 based on the current Welsh targets and primarily rely on existing proposals and policies.

For subsequent budgets, it is important to provide long-term visibility. Countries are meeting in Paris in December to agree on targets out to 2030 and the UK Government will set the Fifth Carbon Budget for the period 2028-2032 in 2016. We would suggest that the Bill provides for the first three budgets to be set by the end of 2018.

Setting budgets to 2030 would allow for reports on proposals and policies to cover a 12 year period, allowing greater visibility and in line with other international and national efforts. In Scotland, for example, the government will publish their third report on proposals and policies in 2016 which will cover how they plan to meet their 2028-2032 annual targets.

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We note that the proposed budget periods are not in line with the UK's carbon budget periods. We understand that this is to coincide with the Welsh legislative cycle and the Well-Being of Future Generations Act reporting periods. That seems sensible but officials will have to coordinate to ensure they understand the implications of UK-level policy for meeting the Welsh budgets and, similarly, the impact of the Welsh targets and policies for the overall UK commitments under the Climate Change Act and international agreements.

Finally, progress reporting is an important aspect of the UK carbon budget system, helping governments to revise policies to meet budgets when necessary. This reporting needs to take place at sufficiently regular intervals. It should also be timed to occur at a point in the policy-cycle where, should the Government wish to accept recommendations, there is time for action that will have an impact on emissions.

I look forward to meeting the Committee and answering any questions when I provide oral evidence on the 2nd of July.

Yours,

Matthew Bell

Chief Executive

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Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
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CLA CYMRU

Consultation Response

Environment (Wales) Bill

Evidence to the Environment and Sustainability Committee

Date: 12 June 2015

A. Summary

1. CLA Cymru represents the interests of over 3500 owners and managers of rural land, accounting to approximately half the land mass of Wales. The vast majority of our members live and work in the countryside with businesses dependent on the natural environment.

2. CLA Cymru recognizes the importance of the Environment Bill and makes the following comments and recommendations:

    (i) CLA Cymru has concerns with the range of powers conferred to Welsh Ministers in this Bill. Natural Resource Management is a long-term endeavour and must be removed from the short term nature of politics if sustainable management is to be achieved. As an issue the environment is too important to allow for a democratic deficit.

    (ii) The Bill, as drafted, has a wide scope with regard to the sustainable management of natural resources. Long-term sustainability is dependent on the three pillars: economic, environmental and social. Society cannot afford to have one pillar elevated above the others.

    (iii) CLA Cymru has concerns over the robustness of the evaluation of cost with regard the new reporting regime for Natural Resources Wales and their ability to deliver within their budgets.

3. CLA Cymru are disappointed that the draft Environment Bill does not appear to provide the robust framework for Natural Resources Wales (NRW) to take forward Natural Resources Management as envisioned by the White Paper.

4. Furthermore, CLA Cymru would suggest that this purpose is diluted by the disparate range of issues covered by the Bill.

B. Natural Resources Management

5. The Bill as it currently reads is more wide-reaching than was previously indicated in consultation and discussion. Although section 1 of the Bill gives a purpose of promoting the sustainable management of natural resources, section 3 (1) offers a very wide definition of what this entails and provides no context for who should have regard for these provisions.

6. Whilst the wording of the objective outlined in section 3 (2) has synergy with the Well Being of Future Generations Act (Wales) 2015, that Act is framed by a focus on public bodies. CLA Cymru suggests that the draft Environment Bill should have the same scope.

7. As outlined above, sustainability has three pillars and cannot be achieved if one pillar is given precedence over the others.

8. NRW received funding from the Nature Fund to trial the area-based land management approach in three catchments. To date there have been no reports of the benefits or challenges of this approach. CLA Cymru are concerned that the timescale and duration of these projects have not allowed for the collection of robust evidence and question whether this approach should be enshrined in law before we have a sufficient evidence base and appropriate time to undertake cost benefit analysis of results..

9. There has been no substantive consideration or engagement with private landowners on how the area based approach will be implemented.

C. Reporting

10. CLA Cymru is concerned that the requirement in section 6 (5) for public bodies to report on compliance with the Environment Bill is duplication of provisions already enacted in the Well-being of Future Generations Act (Wales) 2015.

11. Although this provision is framed as an update of requirements in section 40 of Natural Environment and Rural Communities Act 2006, CLA Cymru considers that reporting requirements are already being addressed by the Well-being of Future Generations Act (Wales) 2015, and that the need for more extensive information should be clarified in that Act as opposed to with a separate provision in the Environment Bill especially considering the financial and wider resource constraints faced by the public sector in Wales.

12. Currently, NRW is required to produce a wide range of reports and maps in accordance with a wide range of European and domestic directives, laws and regulations. Many of these are statutory with requirements and goals removed from Welsh Government influence. Further clarification is needed on the hierarchy and prioritisation of existing reports in relation to new ones.

13. CLA Cymru welcomes the analysis of cost to NRW but questions if this was completed with consideration for the projected budgetary decrease. NRW is not solely a reporting body and its' wider services should not be constrained by this duty.

14. CLA Cymru questions to what extent the new layer of reporting introduced by the Environment Bill is integrated with existing requirements. The Explanatory Memorandum does not adequately explore the issue. More work needs to be done to integrate reporting requirements so that the Environment Bill does not just become another layer of bureaucracy.

15. It is widely understood and agreed that area statements and landscape scale land management will, logically be water basin or catchment based. CLA Cymru suggests that these existing reports and maps statutorily produced by NRW would be a good starting point.

16. The Bill, as drafted, makes several references to reports and actions that "must" be completed. There is no indication of the repercussions on NRW of failure to do so and, considering the bills lack of scope for who is affected by its provisions, the consequences this would have on the wider rural community and economy. Austerity may necessitate prioritisation.

17. The list of public bodies in section 11 does not align with the list used in the Well-being of Future Generations (Wales) Act 2015. The exclusion of NRW from the list causes concern as they are both land managers and regulators.

18. This point is of particular note with regard to section 12. CLA Cymru recognises the importance of a mechanism whereby Welsh Ministers can direct public bodies to address issues identified in an area statement but how much regard has been given to failure to comply with such requirements.

19. CLA Cymru would caution that this power should only be used in extreme circumstances. Such a wide reaching provision could be viewed as the first step to compulsory purchase by the back door.

20. Section 12 (5c) provides Welsh Government with the ability to make direction around under this section enforceable by mandatory order but makes no provision for public bodies to appeal such orders.

21. Finally, CLA Cymru would like to highlight that to be effective, information such as area statements will need to be easily accessible to all. Complex interactive maps are problematic in the face of slow rural broadband.

C. Land management agreements

22. CLA Cymru acknowledge the benefits of landscape scale land management and that there are examples of beneficial work, especially around flood risk alleviation, where more flexible land management agreements would be useful.

23. This section, as drafted, seeks to extend the conservation covenant beyond its current use on designated land only. It should be acknowledged that no environmental benefit is a free good and the bill or supporting documentation does not provide adequate cost benefit analysis of this provision.

24. Depending on their nature, land management agreements enforceable in perpetuity could have a significant effect on the capital value of the land. The Bill makes no provision for financial reimbursement and the inexplicit wording opens the door to using land management agreements as a regulatory tool.

25. As drafted, the provision for land management agreements opens the door to further erosion of private landowner rights.

26. Section 16 (3) which outlines who can enter into an agreement has a wide scope. Whilst land management agreements would be straightforward in an owner-occupier context, not enough regard has been given to the issue of how much control an individual would need to exercise over land to be able to enter into an agreement considering the intent to have such agreements enshrined as a land charge under the Land Charges Act 1972.

27. In the case of a 100 year, peppercorn rent agreement, who would have the ability to enter into a land management agreement? If it's the owner, would consideration be given to the activity being carried out on the land by the person utilising it? If it's the renter, they could potentially be diminishing the value of an asset not their own.

28. CLA Cymru suggest this could be a significant issue with regards to common land? The Bill makes specific reference to people with sporting rights implying that the Lord of the Manor would have the power to enter into a land management agreement but CLA Cymru would question the extent to which this is be possible in instances where the agreement would affect the registered rights of a commons grazier.

29. Section 17 has no regard for change of land use or change of policy. For example, NRW have introduced new shoreline management plans which, due to new priorities and funding cuts, have decreased the number of sea defences that will be maintained. If a landowner has entered into a land management agreement that requires them to maintain a sea

defence, would the land owner have to maintain his defence as per his agreement, even though it has become redundant?

30. The provisions around land management agreements confer significant and wide-reaching powers to NRW. Whilst such agreements have been possible on protected sites, we do not feel that sufficient regard has been paid to the nature of private land ownership and management in extending these provisions to non-designated land.

31. CLA Cymru suggests that a sensible approach would be to trial the idea with a specific area, such as agreements for flood alleviation. The process and benefits could then be analysed and further consulted upon before the provision is introduced wholesale.

32. CLA Cymru are broadly supportive of the experimental schemes as introduced in the Bill but emphasise that robust cost benefit analysis and consultation with the appropriate individuals and stakeholders is essential for each individual scheme.

D. Climate change

33. Climate change targets need to be addressed and the setting of interim targets to measure progress is evidence of Wales' ambition to be a forerunner in taking action to manage climate change. However, CLA Cymru questions to what extent this can be addressed by Welsh Ministers alone considering that climate change is a global issue.

34. Furthermore, many climate change targets and data are held on an international or UK level and it is difficult to see how Welsh Government can be held responsible for targets considering that baseline data cannot be regionalised to this level. Additionally there are uncertainties with regard to the evolving devolutionary settlement and the control that Wales holds over its own affairs.

35. In the setting of interim targets and goals, it is important that these factors are taken into consideration so that what is put in place is achievable.

36. The 100,000 hectare target for tree planting derived from the Land Use and Climate Change group has been widely denounced as unachievable by industry and professional bodies yet it remains as a key climate change target. It would require 5,000 hectares of planting per annum to 2050. At present, there have been 2,400 hectares of planting since the target was set. Setting interim targets for this goal would only result in continual failure to meet them.

37. In context of powers devolved to Welsh Government, CLA Cymru is concerned that agricultural industry will unfairly bear the brunt when addressing climate change targets. This is already evident in discussions around water pollution where agricultural diffuse pollution

accounts for only 15% of failing water bodies under the Water Framework Directive yet is receiving a disproportionately high level of interest from water companies and Welsh Government.

38. A core theme for the Rural Development Programme 2014 – 2020 is climate change impact yet funding for renewable energy is for on-farm use only, whilst grant funding will be available for capital assets that improve climate change impact such as slurry stores. Historically, the application processes and requirements have been burdensome and place too many barriers in the way of a farmer wanting to access funding.

E. Land Drainage

39. CLA Cymru recognises the benefits of the power of entry provision in section 85 but there must be recognition that non-compliance is sometimes due to licensing barriers or exceptional circumstances., e.g unfavourable climatic conditions, hence these measures should only be employed in extreme circumstances.

F. Linkages with Well-being of Future Generations Act 2015 and the Planning (Wales) Bill.

40. CLA Cymru are concerned that the new reporting requirements for public bodies are duplications of requirements in the Well-being of Future Generations (Wales) Act 2015. As currently drafted, the Environment Bill essentially doubles the bureaucratic burden.

41. More clarity is needed between these three areas of legislation so that stakeholders and business engagement is not impeded. Lack of consistency in application would be extremely detrimental.

42. Finally, we would like to reiterate that sustainability must have regard for the economic and social repercussions as well as environmental ones. The Environment Bill cannot be given preference if sustainability is to be achieved.

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cyfeillion y ddaear cymru
friends of the earth cymru

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
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Consultation on the General Principles of the Environment (Wales) Bill
Response by Friends of the Earth Cymru

Introduction

Friends of the Earth Cymru is part of Friends of the Earth England, Wales and Northern Ireland, and supports a unique network of local campaigning groups working in communities throughout Wales. Friends of the Earth Cymru inspires the local and national action needed to protect the environment for current and future generations, and believe that the well-being of people and planet go hand in hand.

We welcome the opportunity to respond to the general principles of the Environment (Wales) Bill and hope that we can assist the committee in developing this draft legislation. We will be focusing our response primarily on Part 2: Climate Change, with some comments on parts 3 and 4, and the committee's overarching question.

Summary of recommendations

- Strong support for a statutory framework on climate change and the approach taken in general, support for proposals on carrier bag charging and waste.
- Concerns regarding the criteria for setting the long term target and lack of information on interim targets.
- Questions regarding the emissions included, and how all emissions from Wales can be reported upon.
- Strong concerns regarding scrutiny, accountability and regular reporting.
- Clarity needed on how processes fit with the Well-being of Future Generations Act (WBFG Act) and current policy commitments.

The need for legislation in the following areas;

Creating a statutory framework for action on climate change

1. We strongly support having a legislative framework for tackling climate change and have long called for this in Wales. We are part of Stop Climate Chaos Cymru and endorse its submission. We believe that a binding long term 2050 target gives a clear message of commitment to deliver and provides a certainty which is necessary to inspire investor confidence and drive decarbonisation. This is the approach taken in other European countries and states which have or are planning climate change legislation such as Finland,

Scotland, the UK and Denmark and has been cited by the environmental law organization ClientEarth as an essential component of good governance that drives a climate transition.

2. Despite currently having agreed targets in policy to reduce emissions the non-binding nature of these targets, and that all government departments have not taken responsibility for delivering the changes necessary, have been barriers to their achievement. There's also been a lack of systematic planning to achieve these cuts such as a detailed regular report on proposals and policies, and a lack of scrutiny on progress by an independent body. A statutory framework can help deal with these weaknesses.

3. However there are positive elements that we currently have in Wales and are not included in the legislation, such as annual reports on progress, annual targets and an interim target of 40% by 2020. It remain to be seen whether the legislation adequately replaces these elements, as outlined further in this response.

Reforming the law on charges for carrier bags

4. We agree that Welsh Ministers should have powers to raise a charge on all types of carrier bags, and that differential rates be chargeable if that achieves the policy aim (reducing waste).

5. However we disagree with the proposal to extend the remit of carrier bag revenue being directed to all charitable causes. Firstly, we see no evidence – and none is provided – that the current designation to environmental charities fails to fulfil a useful purpose. Secondly, there are many charities to which funding could be diverted under this new definition but which might not conform with the Government's intentions. For example Eton College would fit the criteria proposed.

Powers to Welsh Minister in relation to waste recycling; food waste treatment and energy recovery in business

6. The Welsh Government has concluded that separate collection of certain types of waste provides the best outcomes, but this does not currently take place, which lends credence to the view that Welsh Ministers need further powers to require separate collection.

7. We agree that non-domestic premises should be bound by legislation on separate collection of waste because they are a significant source of waste. The most recent figures (2007) indicate 3.6 million tonnes of waste arose from industrial and commercial sources, which is more than double the amount of domestic waste in the same year (1.6 million tonnes).

8. We agree that the Welsh Government should ban recyclable waste from incineration. However, we would prefer to see this power on the face of the Bill rather than through further regulation. This would be quicker and easier.

9. We also suggest that there should be a tax on waste sent for incineration as a further incentive for waste authorities to concentrate on reduction of waste, reuse and recycling. At present the landfill tax fulfils that purpose for landfill, but the commissioning of incinerators simply provides an avenue for waste authorities to send that same waste to incineration with no financial penalty. Careful analysis would determine the level of the incineration tax vis a vis the landfill tax. For futher information, read Dr Chris Edwards' submission to the Environmental Audit Committee[1].

[1] http://www.publications.parliament.uk/pa/cm201213/cmselect/cmenvaud/328/328vw05.htm

Any potential barriers to the implementation of these provisions and whether the Bill takes account of them;

10. In order to implement the process of carbon budgeting, setting interim targets and reporting on progress in Part 2, the advisory body, whether it be the UK Climate Change Committee or another body, will need to give sufficient attention to policies, structures and data from Wales, including collecting new data.

Whether there are any unintended consequences arising from the Bill;

11. The Bill and Explanatory Memorandum (EM) do not explain the intention regarding the current policy targets of 3% annual emission reduction and 40% by 2020 target, or whether the current Climate Change Strategy would continue. The first carbon budget (2016-2020) would only have to be set by the end of 2018 (Section 31(4)(a)) and in order to continue progress in the meantime the 40% by 2020 target should be included in the Bill or the Minister should commit to its continuation as a policy target otherwise there is a risk of going backwards in the short term.

The financial implications of the Bill;

12. As mentioned in paragraph 10, the advisory body will need to be adequately funded. Due to additional work in preparing reports and plans and meeting the requirements of the Bill the climate change division of the Welsh Government is also likely to need additional capacity and resources.

The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation.

13. The process of setting interim targets and carbon budgets must be transparent and based on best available evidence. Although we accept that it is the Minister who ultimately has the power to set these, it must be based on science and the principle of fairness and equity, and follow the advice given by the advisory body.

14. The Welsh Government's Statement of Policy Intent (SoPI) is full of references to the need for flexibility. Whilst we accept and believe it is desirable for regulations to respond to the latest science and the need to cut emissions quicker or deeper, a system of checks and balances and high level of accountability and scrutiny is necessary in order to counter-balance these Ministerial powers. Where flexibility is given there could for example be provision in the Bill that it is only to strengthen or speed up emission reduction that they should be used rather than the current possibility of weakening or slowing down progress if this is left too open.

Consultation Questions

Part 2 – Climate Change

- **2050 Target**

15. The target for 2050 is set out as "at least 80%" and we would emphasise that this is indeed a bare minimum requirement. This is consistent with the UK Climate Change Act 2008 but the evidence and science of climate change has progressed significantly in the past 7 years and the latest IPCC report warns that climate change is happening with greater speed than previously thought. Bodies such as the Tyndall Centre for Climate Change and the Stockholm Environment Institute now advocate higher targets and for developed countries to base targets on a fair global contribution. We would recommend that the committee take evidence from these organisations.

16. The basis for the UK's fourth carbon budget was a global carbon budget with a greater than 50% chance of exceeding two degrees warming. We believe that this is too risky and that targets and budgets should be set in line with IPCC projection for an "unlikely" 2 degrees warming (33% risk). We therefore recommend that the advisory body for setting carbon budgets for Wales draws primarily on the latest work of the IPCC and properly reflects the global trajectory towards an unlikely risk of going beyond two degrees.

17. In addition, the issues of global equity and fairness is increasingly centre stage in climate change discussion and international negotiations, and this long term framework for tackling climate change from Wales' perspective should reflect those concerns. Developed countries are now acknowledging their historical responsibility for emissions, and targets should be based not only on a safe global carbon budget but what is a fair contribution from different countries – the UNFCC's core principle of "differentiated responsibility". The Stockholm Environment Institute and EcoEquity have developed an interesting project and tool for assessing climate equity[2].

18. In light of these principles, and Wales' role as a global leader in sustainable development, we believe that Wales should adopt a tougher 2050 target than proposed, and we recommend that an appropriate and fair target for 2050 is 95% reduction.

- **Interim targets;**

19. We believe that the current policy target of 40% by 2020 should sit on the face of the Bill, and the proposed dates for other interim targets should be included, possibly to be set by regulation but with a level of ambition signified by the Minister during the progress of the Bill and based on the principles outlined above and a steep trajectory towards the long term target.

20. In Wales we currently have policy targets for 3% annual cuts and 40% cuts by 2020 and are moving significantly away from this approach in this Bill. Jumping straight to a 2050 target without identifying any milestone in legislation is concerning and does not give indication of the speed required to achieve the long term target nor give decision makers an opportunity to set ambitious objectives in legislation. This differs from the approach taken in both the UK and Scotland's Climate Change Acts.

21. It is the total greenhouse gas emissions over the whole period form now to 2050 that matters, not solely the end point. A steep trajectory to 2050 is required in order to avoid 2 degree warming. We would propose an 80% target for 2030 based on risk and equity as outlined in paragraphs 17-18. This is ambitious but achievable with electrification of heating and transport, decarbonising electricity and cutting energy demand with energy efficiency.

22. The Statement of Policy Intent (SoPI) suggests that only one interim target will be set by Welsh Ministers, does not indicate the intended date for the target and states that it will be based on the latest scientific and "technical evidence" in order to make cuts at the "most economically effective rate"[3].

23. This language raises concerns regarding what is considered "economically effective" and why this has been highlighted in particular. Questions should be raised to ensure that this and the repeated statement in the SoPI of needing a long lead in time and taking time to change does not mean that interim targets will be driven by a slow transition and risk more emissions overall as well as leaving us at risk of not hitting the 2050 target[4].

[2] http://climateequityreference.org/the-climate-equity-reference-project/

[3] SoPI page 8-9

[4] SoPI pages 8 & 10

24. Early intervention and front-loading emission reduction is both desirable and is the only way to achieve decarbonisation cost effectively, as shown by evidence from the Stern Review, the IEA World Outlook reports and UNEP Emissions Gap reports.

25. There could be provision inserted that an interim target proposed by the advisory body cannot be lowered by Welsh Ministers, but could be increased.

- **Carbon budgets approach as compared to 3% annual target;**

26. We support the proposal for 5-year carbon budgets and agree that they are a sound way to progress with emission reductions, combined with targets and scrutiny.

27. Ministers should accept the independent advice of the advisory body and should not be allowed to derogate from the budgets proposed.

28. As set out in paragraph 16 and 17 the basis of setting the carbon budget must be avoiding two degrees warming, planning a steep pathway to meeting long term targets, awareness of the benefits of early intervention, and global fairness and equity.

29. Both the Scottish and UK Acts have an annual check on the direction of travel. The Scottish framework has gone in a different direction with annual targets rather than carbon budgeting in this respect and therefore might not be as comparable as this proposal, but the UK Act (Section 12) includes indicative annual ranges of targets as well as carbon budgets. The issue of fluctuation due to weather or market forces can be overcome by instructing the advisory body to take this into account in their assessments so that it is their independent judgment of whether the targets have been met takes those factors into account. We are concerned that without anything sitting below the 5 year carbon budget that there is a risk of unwittingly falling behind on progress.

30. With no provision outlined for annual reports we are concerned at the loss of regular reporting and scrutiny by the Assembly and the public. We would like to see as a minimum a requirement for an annual statement on progress made towards the budget and targets. Ideally we would like to see indicative annual ranges of targets as well and are open to considering other options for achieving this aim.

31. As part of Stop Climate Chaos Cymru we have long called for carbon assessments of the annual fiscal budget and major strategies and infrastructure. This work should be carried out under these proposals through the Welsh Government's decision-making procedure as part of the ongoing assessment to meet the carbon budget, as well as requirements under the WBFG Act, therefore no additional work should be necessary. However we would like to see a requirement for these to be made public and part of scrutiny of proposals and budgets not only retrospectively at times of reporting (as far ahead as 7 years later).

- **What emissions should be included;**

32. This is a complex and technical area of climate legislation and we will be seeking further advice on the detail of the proposals set out.

33. However our starting point is that all emissions from Wales should be included, but that we should also be able to evaluate emissions within (increasing) devolved competencies, and that there is responsibility for Wales' carbon footprint or consumption and our international responsibilities.

34. One positive from the current strategy is that it does disaggregate government actions in areas of devolved competencies from wider actions. Despite not being currently effective due to a lack of detail and legal

framework we do believe that it is essential to be able to assess what the contribution of Welsh Government policies and actions are, not only the emissions Wales produces overall.

35. Consumption emissions. Given the Well-being of Future Generations Act goal for Wales to make a positive contribution to global well-being. There are various ways to achieve this, from including it directly in carbon budgets, including them in the National Indicators through carbon footprinting rather than this Bill, or Scotland's Climate Change Act has a requirement to report on emissions attributable to Scottish consumption of goods and services[5]. We are happy to discuss these options further.

36. Aviation and shipping. Wales' share of emissions from international aviation and shipping should be included. Our preference is for this to be on the face of the Bill from the start. Failing this there should be a clear commitment from Ministers and a timetable in the Bill for Ministers to enact this following advice from the advisory body. The SoPI does not commit to this and refers to there not being international agreement on how to allocate these emissions. We recognise that flexibility may be necessary in order to respond to any international development but urge the committee to look at the regulation on this matter introduced by the Scottish Government in 2010 as an example of how this could be carried out now[6].

37. Actual emissions from the EUETS traded sectors should be included rather than the allocation of emissions whatever Wales' emissions in those sectors actually are. This has been proposed by the UK CCC to the UK Government with regard to their 5th Carbon Budget and we support this view.

- **Failing targets or budgets**

38. The Bill specifies that if a carbon budget is not met that a report must be laid setting out proposals and policies to compensate (Section 42). For any target it is up to Ministers to make a statement explaining why the target has or has not been met (Section 43 (6)). It is not clear what action should be taken if a target has not been met and this should be clarified.

39. The compensatory action for carbon budgets is to be welcomed. A similar system could be added for missing targets.

40. However the emphasis should be on planning to achieve targets and budgets and a system of checks and balances to avoid failing on either measure in the first place. Regular reporting and scrutiny is essential to this, as outlined in paragraphs 29 & 30 on the importance of having annual reporting.

41. The requirement for a report on proposals and policies (Section 39(1)) is an essential component of this process and one that is currently missing from climate change strategies. The Scottish experience in developing and using such a report (the RPP) is interesting and worth considering.

42. We are pleased that the responsibility of "each" Minister is to be set out in this report (Section 39(2)) and emphasise that sectoral plans are important to ensure that one particular sector or department of government doesn't lag behind or fail to make its contribution.

43. The statements and reporting process (Sections 39, 41, 42 and 43) seems to be an odd order in the Bill and a timeline of how it would work in reality and fit with Assembly terms and other reporting requirements would be useful.

- **Role of advisory body**

[5] Section 37 http://www.legislation.gov.uk/asp/2009/12/section/37

[6] Scottish Government, The Climate Change (International Aviation and Shipping) (Scotland) Order 2010 http://www.legislation.gov.uk/ssi/2010/pdfs/ssi_20100218_en.pdf

44. We welcome the sections on the advisory body and its role. It is crucial that this advisory body is fully independent of government and has the resources and expertise necessary in order to provide the information and advice required and scrutinise the Welsh Government's progress.

45. We believe that currently the UK Climate Change Committee is the body that holds this expertise and could deliver this role. However we also support the ability to designate another body to carry out this role if for example a specific Welsh climate change centre of excellence is established in future.

46. We seek clarification that the wording "person" in Section 44 is legal terminology for such a body and does not mean that an individual would be designated. The SoPI seems to suggest that an individual could be appointed[7], and we do not believe that this would be suitable or fit the requirements for resources and range of expertise necessary to carry out the tasks.

The relationship between this Bill and the Well-being of Future Generations Act 2015

47. There is clearly a link between Part 2 of this Bill and the Well-being of Future Generations Act (WBFG Act), with the climate change framework part of implementing the requirements for milestone under Section 10(3) of the Act.

48. Goal 7 of a globally responsible Wales is not fully reflected in this Bill, and in order to align there should be reference in this Bill to consumption emissions and to carbon budgets and targets being fair and equitable.

49. The timings of the processes under both these pieces of legislation need to be set out. On the face of this Bill it seems that there is no scrutiny, answerability or reporting on progress made except for in the report on the carbon budgets which will happen every 5 years and with a lag of 18 months to 2 years after the budgetary period (due to a lag in the emissions data being available). This would mean that a government was only answerable for the actions of the last government.

50. However taken with the WBFG Act there would be annual reporting on a well-being report, which would include progress on climate change but not a full assessment. It is not currently clear what the relationship is between the reporting processes under both bills.

51. Section 46 (b) of this Bill sets a duty on the advisory body to provide advice and assistance to Welsh Ministers on matters relating to climate change, and Section 19(1)(a) of the WBFG Act states that the Future Generations Commissioner may provide advice on climate change. There may need to be a Memorandum of Understanding or other similar document between these two bodies in order to ensure that there is no conflict and that their roles dovetail one another.

[7] SoPI page 15

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Cyfoeth Naturiol Cymru	Response from Natural Resources Wales
EB 41	EB 41

Cyfoeth Naturiol Cymru / Natural Resources Wales

Written evidence to Environment and Sustainability committee – General principles of the Environment (Wales) Bill.

June 2015

SUMMARY

The creation of Natural Resources Wales (NRW) was the first step towards the integrated management of Wales' natural resources. We are developing Natural Resource Management (NRM) as the core approach to the delivery of all our responsibilities. Nevertheless, not all our functional legislation facilitates this way of working. We welcome the introduction of the Environment Bill as it represents the key second step on the journey towards integrated and sustainable management of natural resources. This Bill, along with the Wellbeing of Future Generations Act and the Planning Bill, places sustainable development at the heart of strategic decision making across Wales not just in NRW but across the wider public, private and third sector. **Everyone** will need to grasp the new ways of working set out in the Environment Bill if we are to find innovative solutions to the biggest challenges facing the natural resources of Wales.

The need for the legislation:

1. Our air, land, water, wildlife, plants and soil – our 'natural resources' – provide us with our basic needs, including food, energy, health and enjoyment. When cared for in the right way, they can help us to reduce flooding, improve air quality and supply material for construction. They also provide a home for some rare and beautiful wildlife and iconic landscapes, which improve our wellbeing and boost the economy via tourism.

2. But these natural resources are coming under increasing pressure – from climate change, from a growing population and from the need for energy production, amongst others.
3. Decades of work to understand, protect and improve our environment have taken us a long way.
4. Yet despite this, the continuing decline in biodiversity and the threats to the ability of our natural resources to continue to deliver benefits to society, poses a significant risk to the well-being of Wales. The evidence we present in our report *Snapshot of the State of Wales' Natural Resources* (Annex 1), underlines the **need for a step-change in the approach to natural resource management by all parts of the public, private and third sector in Wales.**
5. Much of the environmental legislation governing the work of NRW is functional and does not facilitate more integrated and flexible approaches to the management of our natural resources.
6. Part One of the Environment Bill builds on the best Welsh and international evidence base. We believe the provisions will facilitate a **flexible and adaptive** approach to secure the integrated and sustainable management of natural resources in Wales.
7. The definition of sustainable management of natural resources in Section 3 and the principles set out in Section 4 of the Bill are clearly aligned to the Ecosystem Approach principles defined by the UN in the Convention on Biological Diversity. We support the definition and principles.
8. Section 5 of the Bill refines our general purpose to align it to the definition of sustainable natural resource management and the principles. We are happy with the proposed changes, as the new purpose aligns much more closely with our long term vision for our organisation. Nevertheless, we recognise that the **new purpose will not change our underpinning functional legislation** but provides a more helpful framework to develop NRM ways of working.

Implementation

9. The management of our natural resources is a **shared responsibility** not just the concern of NRW.
10. At the moment public bodies and other organisations are focussing on their specific responsibilities or duties under the WFG Act and perceive that the proposals in the Environment Bill relate solely to NRW. Unless this gap in understanding is addressed, it is likely to create major challenges for implementation.
11. Under the WFG Act, the formation of Public Service Boards (PSBs) and inclusion of NRW as a core member provides an important opportunity to join up and integrate approaches to implementation.
12. However PSBs will not necessarily represent the interests of land managers (agriculture and forest/woodland), the business sector or environmental NGOs. Other arrangements may need to be developed to ensure these groups can participate effectively.
13. Area Statements could provide us with an opportunity to streamline the number of other plans that we and others produce.

14. Co-production and collaboration is central to how we propose to develop the State of Natural Resources Report and Area Statements. Annex 2 and 3 set out our propositions of how we want to work with others to produce them.
15. We are concerned that Section 15 of the Bill is too open ended and raises the expectation that NRW will provide information and lead on the implementation of area statements on behalf of other public bodies. Clarification is needed to set limits around the assistance that NRW could be asked to provide.

Financial Implications of the Bill

16. The provisions in the Environment Bill are central to our purpose of delivering an integrated approach to the sustainable management of natural resources in Wales. As the NRW business case demonstrates, efficiency savings will be realised in the longer term for us and our partners.
17. However, in the **short to medium term, implementation of the requirements in the Bill will require us to dedicate significant staff time to get through the initial increase in work.**
18. This investment is essential if we are to realise savings and efficiencies in the longer term. As we develop a better understanding of the likely costs we will discuss funding with Welsh Government.
19. Thereafter, NRM will be embedded across the organisation and will be at the heart of everything we do.

The Environment (Wales) Bill is a once-in-a-generation opportunity. Taking a joined up approach to managing our natural resources will help us to tackle old problems in new ways. To find better solutions to the challenges we face – and create a more successful, healthy and resilient Wales, now and in the future.

1. Introduction

1.1 Many of the proposals in the Bill are central to the role and remit of NRW. Our response is divided into eight sections in line with the Parts of the Bill. We have used the Committee's term of reference to structure our response. We have addressed questions two and three in our sections on 'Proposals' and 'Implementation'. Question four is addressed for each part, in paras 2.4, 3.2, 5.4, 6.2, 7.2 and 8.5 below. We do not think it is our role to address question five. We have provided more detail on the proposals on sustainable natural resource management, waste and flood risk management. The covering note cross references the different sections of this submission with the terms of reference and consultation questions defined by the Environment and Sustainability Committee.

2. Part one – Sustainable management of natural resources

2.1 The need for the legislation

2.1.1 Our air, land, water, wildlife, plants and soil – our 'natural resources' - provide us with our basic needs, including food, energy, health and enjoyment. When cared for in the right way, they can help us to reduce flooding, improve air quality and supply materials for construction. They also provide a home for some rare and beautiful wildlife and iconic landscapes we can enjoy and which boost the economy via tourism.

2.1.2 The scale of the challenges facing our natural resources in Wales is demonstrated in our report, *Snapshot of the State of Wales' Natural Resources* (Annex 1) which sets out the latest evidence from our monitoring of natural resources across Wales. Decades of work to understand, protect and improve our environment have taken us a long way. But these natural resources are coming under increasing pressure – from climate change, from a growing population and from the need for energy production.

2.1.3 In 2010, Wales, alongside other administrations in the UK and Europe, failed to meet international biodiversity targets agreed under the UN Convention on Biological Diversity[1] and triggered a number of government led reviews in Wales[2], Westminster[3] and Brussels[4][5]. The policy and scientific consensus that emerged underlined the need for a more **integrated** approach to the management of natural resources, focussing much more explicitly on the **benefits** to society of **resilient ecosystems** and the need for flexible, **adaptive management.**

2.1.4 Much of the environmental legislation governing the work of NRW is functional and does not facilitate the integrated, flexible and adaptive approaches to the management of our natural resources identified as so important in the policy and scientific evidence. The proposals in the Environment Bill, along with the WFG Act, Planning Bill, and UK Marine and Coastal Access Act (2009) provide the legislative framework to drive adaptive management of our natural resources in Wales allowing us to look at the whole picture.

2.2 Proposals for Sustainable Management of Natural Resources

2.2.1 If we are to secure new solutions to old problems we must encourage innovation and creative problem solving by working with others. The Environment Bill along with the WFG Act and Planning Bill facilitates such an approach. We anticipate the need for additional legislation in the future as we gather more evidence and learn from the early implementation of Area Statements.

2.2.2 The definition of sustainable management of natural resources in S3(1) and S3(2) and the principles set out in Section 4 of the Bill are clearly aligned to the principles defined by the UN Convention on Biological Diversity. We support these proposals.

2.2.3 S5(2) of the Bill refines our general purpose to align it to the definition of sustainable natural resource management and the principles. We are happy with the proposed changes, as the purpose aligns much more closely with our long term vision for the organisation:

> *Proud to be leading the way to a better future for Wales by managing the environment and natural resources sustainably.*

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[1] 2010 Biodiversity Target: https://www.cbd.int/2010-target/about.shtml
[2] http://www.assembly.wales/Laid%20Documents/CR-LD8384%20-%20Sustainability%20Committee%20Inquiry%20into%20biodiversity%20in%20Wales-31012011-208859/cr-ld8384-e-English.pdf
[3] http://uknea.unep-wcmc.org/Resources/tabid/82/Default.aspx
[4] EC 2020 Biodiversity Strategy: http://ec.europa.eu/environment/nature/biodiversity/comm2006/2020.htm
[5] EC Green infrastructure Strategy: http://ec.europa.eu/environment/nature/ecosystems/index_en.htm

Nevertheless, it is important to recognise that the proposed change will not alter our underpinning functional legislation. The revised purpose serves an important role in clearly defining a framework in which we can develop NRM ways of working across the organisation and with other parts of the public, private and third sector in Wales.

2.2.4 We welcome the proposals in Section 6 of the Bill for a revised biodiversity duty for Public Bodies. Strengthening the current biodiversity duty is critically important because it will ensure that the wider public sector integrate the principles of sustainable management of natural resources and the resilience of ecosystems within their decision making processes. The improved accountability resulting from the introduction of tri-annual reporting on compliance with the duty will also address a gap identified in the 2010 Defra review of the biodiversity duty.

2.2.5 On the specific requirements in the Bill for the sustainable management of natural resources, we welcome the proposals in Section 8, 9 and 10 of the Bill which set out a flexible legislative framework to facilitate **adaptive management** of our natural resources:

1. The **State of Natural Resources Report (SoNaRR) will be developed by NRW** and will set out the current evidence base and the potential risks to the ability of natural resources to deliver long-term benefits for the wellbeing of Wales. Developed collaboratively, SoNaRR will help set the scene, will look ahead, and will prompt and be a catalyst for change. Our proposal for developing the first statutory SoNaRR is contained in Annex 2.

2. The **National Natural Resources Policy (NNRP) will be developed by Welsh Government** and will need to set the vision and "plan" for managing the issues and opportunities associated with Wales' natural resources. We believe this document plays a critical role. It needs to be clear on:
    a. priorities and outcomes **without** prescribing the activity or means of delivery;
    b. tackling conflicts at the national level through the integration of policy;
    c. alignment of funding mechanisms.

    In practice, we believe that the NNRP will be critical to driving integration and efficiency, addressing the conflicts and strategic challenges around the use and management of natural resources at national and local levels. If this does not happen there is a risk that Area Statements will get bogged down, trying to resolve issues locally when they really need to be addressed nationally.

3. The **Area Statements developed by NRW** will facilitate local action and delivery of the national priorities using the NRM approach. Developed **collaboratively**, Area Statements will be evidence based – drawing upon evidence at the catchment and landscape scale as well as more local information. It will drive action to the appropriate level of decision making. We will use them as vehicle to engage people, communities and stakeholders in decision making. It will also need to put in place systems to **monitor** activity and report on outcomes. In the last 18 months we have set up three NRM trials to test and develop practical approaches to the implementation of NRM across Wales, to inform future

development of Area Statements. Our proposal for taking these forward is contained in Annex 3.

4. The **second SoNaRR** will then capture the evidence obtained from both local delivery (Area Statements) and the overall national picture.

2.2.6 The Area Statements will also help us understand any barriers to adopting a more integrated approach to the management of natural resources. For example, working with a particular group of people in a place may highlight that a specific piece of legislation is driving a way of working that has a negative impact on the environment. Using this evidence, NRW will review if our guidance or interpretation of the law is the cause of the problem. In this situation we would work with stakeholders to revise our guidance, in line with our commitment to adaptive management. If the under-pinning legislation is the source of the problem, then the provisions in S22(1c) and S23(3) of the Bill will allow us to put a case to Welsh Ministers to temporarily suspend the specific piece of legislation. If we secure Ministerial agreement, we expect to continually monitor and review progress and will report to Ministers with recommendations which either support a future case for legislative change or not. These provisions therefore allow for adaptive management and governance.

2.2.7 Co-production is one of the central principles of sustainable management of natural resources as reflected in Section 4c of the Bill. We are committed to working collaboratively with a wide range of stakeholders in order to better identify environmental problems and solutions. This is not always simple or straight forward and we welcome the provisions in Sections 12, 13 and 14 of the Bill to place a clear duty on the wider public sector to work with us to prepare SoNaRR and Area Statements. Although we recognise that we must support other parts of the public sector with the provision of information and evidence, we are concerned that Section 15 is too open ended, and raises the expectation that NRW will provide information and lead delivery of Area Statements for other public bodies.

2.2.8 We welcome Sections 16-21 that set out revised powers for entering into management agreements for the achievement of any of our functions. Our current powers are limited to nature conservation, landscape and recreation interests. We consider this change will complement the set of tools needed to manage natural resources adaptively. Some examples of how these may be applied include:

- Permitting flooding of land in order to complement or even reduce the need for hard flood defences.
- Management agreement with landowners to block up drains to restore peat bogs. Furthermore funding could be derived from water companies if a saving in water treatment costs for sediment removal was identified.
- Management agreement with a private woodland owner to manage their woodlands and sell timber, or to include sales of timber in NRW e-sales auctions i.e. act as a broker for private woodlands and timber purchasers.

These could potentially be considered forms of “payments for ecosystem services”.

2.3 Implementation

2.3.1 We are concerned that public bodies and businesses may not yet fully appreciate the importance of looking at the Environment Bill alongside the WFG Act, Planning Bill, and Marine and Coastal Access Act, and do not understand the linkages and flows of information between the "products" produced under each piece of legislation. At the moment organisations are focussing on their specific responsibilities or duties under the WFG Act and perceive that the proposals in the Environment Bill relate solely to NRW. Unless this gap in understanding is addressed now, it is likely to create major challenges for implementation. Of equal importance is the risk of duplication, missing major opportunities for streamlined and efficient sharing of information and evidence.

2.3.2 Under the WFG Act, the formation of PSBs and inclusion of NRW as a core member, provides an important opportunity to join up and integrate approaches to enable the implementation of provisions in the Environment Bill. We recognise the value of using the PSBs to foster a common understanding of the opportunities and benefits in a particular place. There will be opportunities to share evidence from both SoNaRR and the Area Statements to inform the preparation of needs assessments and well-being plans. However, it is important to recognise that PSBs will not necessarily represent the interests of land managers (agriculture and forest/woodland), the business sector or environmental NGOs. These are potentially significant gaps. It may therefore be necessary to develop other governance mechanisms linked to PSBs to facilitate decision making or in some cases, create separate processes.

2.3.3 Our approach to Area Statement will need to be flexible. It will vary according to the priorities identified in the National Natural Resources Policy, the type of resource at stake, the location and the stakeholders involved (see Annex 3). We will draw on the learning from catchment approaches to managing our water environment. Catchment approaches are evolving to consider landscape scale solutions as they address such difficult issues as diffuse pollution. We recognise that our underpinning environmental evidence will normally be at a catchment or a landscape scale. But we may need to translate this to different spatial scales to make it more meaningful and compelling for the people, communities and decision makers we need to work with in the spirit of the principles of sustainable natural resource management.

2.3.4 We recognise that the Area Statements could provide us with an opportunity to streamline the number of other plans that we and others produce. It means that issues which have traditionally been covered in a separate functional plan could be included in the Area Statement and no longer be produced separately. This will be a change for our staff as well as affected partners and stakeholders. Nevertheless, it is important to recognise that a number of plans that we produce are required under EU Directives with clearly defined requirements. Subsuming these within the Area Statements will require a longer time frame. The scope for including other plans within an Area Statement will also be very sensitive to the geographical scale and

the timetable for their production. This will require careful negotiation with Welsh Government as well as other partners and stakeholders.

2.3.5 We believe the requirement in the Bill S10(6) for NRW to consider whether "another plan, strategy or similar document should be incorporated into the Area Statement" is appropriate, and should extend to plans and strategies beyond the jurisdiction of NRW. The drive to ensure integration can be aided further through the use of the S13 power to issue guidance to other public bodies, and the S14(2) power for NRW to request assistance. It may be simpler and stronger to have a duty on public bodies to consider for themselves where and how they could implement measures through their existing plans and programmes.

2.4 Financial implications of Part 1 – Sustainable Management of Natural Resources for NRW

2.4.1 Through the development of the Regulatory Impact Assessment (RIA) by Welsh Government in the summer and autumn of 2014, NRW staff have provided advice and evidence to inform the approach, assumptions and costs underpinning the Natural Resource Management aspects. We provided the best information available to us at the time. The RIA sets out four options for implementation of the Area Statements. We acknowledge that these were developed as illustrative examples and should not be seen as NRW's preferred approach. As we have refreshed our own NRM transformational programme, we have developed a better understanding of the scale of the changes we need to implement such as IT, staff training, new systems and process to develop Area Statements. These will undoubtedly incur additional costs which we are currently estimating.

2.4.2 As the NRW business case demonstrates, efficiency saving will be realised in the longer term for us and our partners. Nevertheless, in the short to medium term the Environment Bill will require us to invest staff time and money to realise savings and efficiencies in the longer term. Thereafter, NRM will be embedded across the organisation and will be at the heart of everything we do. As we develop a better understanding of the likely costs we will discuss funding with Welsh Government.

3. Part Two: Climate change

3.1 The need for the legislation

3.1.1 We believe the Part 2 provisions provide an appropriate framework for the development of climate change targets and carbon budgets for Wales. In early 2014 we recommended the consideration of statutory Welsh climate change targets. In the Ministerial briefing we stated that "Statutory emission reduction targets in Wales would raise their profile, but more importantly would be a clear signal across government departments and beyond of the imperative of ensuring they are met".

3.1.2 Statutory emission reduction targets foster long term and robust strategies, policies and investments by the public sector, business and industry to ensure their compliance with the targets. It provides a greater degree of certainty for business,

acting as a clear signal of future intent that should provide confidence for expansion of the green economy.

3.1.3 Other devolved administrations that have climate change mitigation targets also have provisions for adaptation as well. The UK Act includes statutory requirement for a 5-yearly reviewed National Adaptation Plan for England and the Scottish Act makes requirement for Scottish Ministers to produce an adaptation programme, report on progress and update.

3.1.4 We recognise that Part 1 of the Environment Bill includes principles of 'manage adaptively' 'take account of the short, medium and long-term consequences', 'take account of the resilience of ecosystems' including 'the adaptability of ecosystems'. We also note that the NNRP must consider climate change mitigation and adaptation. It follows that the Area Statements will need to specifically address climate change. The WFG Act by implication also requires public bodies to consider long-term and preventative measures in the exercise of their duties under that Act. Together we acknowledge this constitutes a programme for adaptation.

3.1.5 However in the absence of a specific National Adaptation Programme, Welsh Ministers may wish to consider whether by integrating programmes for adaptation into these functions, all sectors are covered. Careful monitoring will need to take place to assess whether there may be gaps. If any gaps emerge appropriate mechanisms should be put in place to address those gaps.

3.2 Financial implications of Part 2 for NRW – Climate Change

3.2.1 We will inevitably be drawn into activities in relation to Part 2 of the Bill in several ways, for example, providing information and advice in the setting, monitoring and achievement of targets. This would be consistent with our current roles and functions.

3.2.2 In our remit letter for 2015-16 Welsh Government has provided us with £825,000 specifically to examine how we might become a "carbon positive" organisation. In undertaking this work, we expect to gain a better understanding of the financial implications for NRW.

4. Part Three: Charges for Carrier Bags

4.1 We are supportive of the additional powers for Welsh Minsters to charge for other carrier bags. We believe this change will further support the incentive for reuse, thus safeguarding valuable resources. Reducing the number of bio-degradable carrier bags in use across Wales will, over time, reduce the number littering our rivers, beaches and marine environments and inadvertently entering the food chain. This measure provides a useful mechanism to establish and raise awareness of the behaviour change necessary to deliver Welsh Government ambition for zero waste.

4.2 We would support a policy preference for environmental good causes to benefit from the proceeds of the carrier bag charges. We recognise a possible role

for NRW to work with environmental charities to help inform how such monies could be put to best use to maximise the benefits for the environment and people of Wales.

4.3 There are no cost implications on NRW of this Part.

5 Part Four: Collection and Disposal of Waste

5.1 The need for the legislation

5.1.1 We believe the proposals will assist delivery of Towards Zero Waste policy objectives and increase the quantity and quality of recyclates, supporting the establishment of a circular economy in Wales.

5.1.2 The focus of many of the policy and legislative drivers to date has been on municipal waste. This has been very successful, with Local Authorities collectively achieving 54% recycling rate last year. However, household waste accounts for just 16% of the overall waste produced in Wales. The vast majority of waste is generated by the industrial, commercial, construction and demolition sectors. The proposals will apply to all waste streams and hence has implications for all sectors.

5.1.3 The existing separate collection regulations are limited in effectiveness as they only place a requirement on waste collection operators, including private companies, social enterprises and local authorities, to provide their customers with separate collections for paper, metal, plastic and glass. There is no direct responsibility for the producer to participate.

5.1.4 Any change to waste legislation must take care to avoid any perverse environmental or economic outcomes. Such issues could result, in part, from the lack of suitable treatment /reprocessing facilities within Wales and further afield. Whilst we strongly support the principles of waste recovery and the obvious benefits to the economy and environment of Wales from the appropriate recycling of wastes as a resource, this can only be in the context of wastes being managed appropriately, with necessary environmental safeguards.

5.2 Proposals for separate collection and disposal of waste

5.2.1 We believe the proposals in Section 66 to require non-domestic premises to put their waste out for collection, will provide a clearer and more enforceable framework.

5.2.2 We support the proposals for materials, such as food waste, to be collected separately. This will divert these materials from disposal at landfill or incineration, enabling a useful resource to be captured and recovered/recycled. Any proposed changes would require detailed modelling and the benefits of international experience where available, to ensure that all potential outcomes - positive and negative - are identified to avoid perverse consequences.

5.2.3 The inclusion of wider powers to ban some recyclable waste from incineration set out in Section 68 is sensible and working in conjunction with proposed landfill bans, would provide a useful additional driver to ensure resources are not wasted.

This will also provide flexibility for the Welsh Government to modify the legislative regime in support of future policy objectives. The consequence of any future proposed changes would need to be fully considered (as in this case) before introduction.

5.2.4 In addition, when considering Local Authority Recovery Targets, Landfill Allowances Scheme and landfill tax, it is not yet clear that further regulatory interventions are necessary. We would like to see further voluntary measures to increase participation in recycling (for businesses) and by the waste industry considered alongside proposals for regulation and enforcement. These measures aim to change behaviour and so there is also a need for education to effect behaviour change, by Welsh Government, waste service providers (private sector and Local Authorities), and other appropriate bodies including NRW.

5.3 Implementation

5.3.1 We will continue to work with Welsh Government to provide technical information and to advise on the practical implications of the proposed changes. It is likely that the provisions will require NRW to produce advice, guidance and training for our staff as well as for our customers. Some permits and compliance assessment tools will need to be varied to take account of the additional requirements. These new duties will also require additional inspection of waste producers.

5.3.2 To ensure that the implementation of these requirements are effective it is important that Welsh Government provide adequate funding to the regulator to enable an appropriate compliance and enforcement regime.

5.3.3 Whilst we support the proposal in Section 67 to ban food waste from disposal at sewer, we do not believe NRW is the most appropriate body to regulate. We would have limited interaction with the businesses affected by this requirement; sewerage undertakers or Local Authority food hygiene inspectors may be better placed to regulate this.

5.3.4 Some small businesses may have limited space for separate recycling bins for all the waste streams. Also, if only small quantities of some waste categories are produced, small businesses may have difficulty obtaining a waste contractor at an economic rate. Early feedback from companies surveyed as part of the 2012 waste arisings survey has indicated that companies are already recycling and segregating where it is economic to do so, whereas small businesses find this more challenging. There may be opportunities to innovate. For example, drawing on initiatives from Europe where street-level recycling schemes operate for small businesses. Collection system providers could also adapt their service with encouragement from Welsh Government, prompting the markets to respond and adapt to these changes so that this material is appropriately managed and recycled and recovered in a timely fashion, avoiding unnecessary stockpiling of material.

5.3.5 We are happy to work with Welsh Government and the Waste and Resources Action Programme to consider how we can aid waste producers, particularly small

businesses, and to ensure that waste management service providers understand the new requirements and adapt their waste management practises.

5.3.6 Within our offices and facilities we want to help the move towards a circular economy in Wales, though our own actions in relation to our own use of resources. We already actively manage our waste aiming to minimise waste at source and ensuring any waste we do produce is stored securely, segregated and transferred for recycling. We are happy to share the experience we have had with others.

5.4 Financial Implications of Part 4 Collection and disposal of waste for NRW

5.4.1 We have worked with Welsh Government in their development of the indicative regulatory impact assessment to consider the implications of the waste provisions on NRW. We are happy that the indicative costs presented provide a reasonable reflection of the costs we may incur implementing these new regulatory duties. The provisions included in the Bill will allow Welsh Government to develop regulations. Additional information related to the implementation of these regulations will also be available. We understand that the regulations will be subject to a further RIA. This process will refine the cost estimates and provide us with greater certainty on the likely costs we will incur.

6 Part Five: Fisheries for shellfish

6.1 Need for the legislation

6.1.1 We believe the changes proposed in the Bill will help to enhance the management and protection of marine protected areas and the wider marine environment.

6.1.2 Currently the Sea Fisheries (Shellfish) Act 1967 grants the Minister the powers to issue a certificate to the grantee of a Several or Regulating Order to cease activities within the prescribed area in which their rights are exercisable, only if they are not properly cultivating the ground. The new proposals will strengthen and widen the Minister's ability to intervene in the operation of a Several or Regulating Order if it is perceived the grantee's activities or external circumstances such as impacts from non-native species are causing environmental harm by the issuing of a Site Protection Notice.

6.2 Financial implications of Part five for NRW – fisheries for shellfish

6.2.1 There are minimal cost implications on NRW of this Part. NRW may be required to provide evidence to help determine whether environmental harm would occur.

7 Part Six: Marine Licensing

7.1 Need for the legislation - Marine Licensing

7.1.1 We agree that having a wider suite of charging powers will allow NRW to achieve greater cost recovery in undertaking its delegated functions under the Marine Licensing regime. This will enable NRW to continue to offer services such as more thorough pre- application advice, which will benefit both the applicant and NRW's licence determination process. In summary, it will allow NRW to provide a marine licensing regime that has fairer charges and is fit for purpose. We are part of a Welsh Government Working Group developing the approach to implementation working with marine stakeholders across Wales.

7.2 Financial implications of Part six for NRW – Marine Licensing

7.2.1 The powers will enable cost recovery therefore having a positive financial impact on NRW.

8 Part Seven: Miscellaneous

8.1 Need for the legislation - Flood risk management committee

8.1.1 We believe that it is appropriate to disband the current FRMW committee and replace it with a new committee that advises at a Wales wide basis on the whole of the flood risk management agenda. NRW is one of 28 statutory flood and coastal risk management authorities and our current committee's remit is limited to the activities of NRW on managing river and coastal flood risk. The management of local sources of flooding such as surface water and coastal erosion is led by Local Authorities in partnership with water and sewerage companies. A wide range of infrastructure operators and resilience partners play key roles. Therefore it is sensible to have a committee, led by and responsible to Welsh Ministers, with the remit to look at the complete picture, to ensure investment is targeted and action delivered in the most efficient and effective way.

8.1.2 We believe it is very important for the new committee to be a key conduit for advising on the strategic direction for flood risk management. This includes advising on the shaping and implementation of WG's national Flood and Coastal Erosion Risk Management Strategy, discussing the resolution of barriers to effective flood risk management and sharing of good practice approaches.

8.2 Need for the legislation - S83. Repeal of requirements to publish in local newspapers etc.

8.2.1 We welcome the repeal of what is now an outdated form of communication. It will enable NRW to offer a more bespoke and effective approach to how it consults local communities on proposals relating to its management of Internal Drainage Districts (IDDs), such as boundary revisions, the raising and allocation of drainage rates etc.

8.3 Need for the legislation - S84. Power to make provision for appeals against special levies

8.3.1 We welcome the addition of this appeal mechanism to the Welsh Ministers regarding the special levies charged to Local Authorities by NRW.

8.3.2 Following the transfer of functions of the Welsh Internal Drainage Boards, NRW now sets these levies, along with land owner rates, to recover costs incurred from the exercise of functions relating to land drainage within our IDDs. Therefore we recognise the need to create an alternative mechanism for Local Authorities for arbitration on NRW's IDD levy setting.

8.4 Need for the legislation - S85. Power of entry: compliance with order for cleansing ditches etc.

8.4.1 We welcome the intention to clarify that agents authorised by the Welsh Government have the right of entry to land to enable investigation of alleged non-compliance with an ALT Order in cases where access is refused by a party to that Order. There was previously no mechanism to allow for entry to land to enable investigation

8.5 Financial Implications of Part 7. Miscellaneous – Flood Risk Management for NRW

8.5.1 The typical annual costs for the running of NRW's current committee are circa £21,000. As the new committee's remit and function will be to advise the Welsh Government, with its Chair responsible to Welsh Ministers and secretariat provided by WG, it will be appropriate for NRW's flood Grant-In-Aid to reduce by that amount.

8.5.2 NRW estimates it costs £40,000 in staff time preparing papers and attending its current committee meetings. A significant proportion of that work involves monitoring and reporting project and financial progress on its annual flood risk management capital and revenue programme. The Bill's proposals for the scrutiny of that work to come under the remit of NRW's Board means this work will continue at current levels, but reporting to a different body. NRW is expected to play a key role in the Welsh Government's new committee, due to our all-Wales remit to collate and supply data on flood risk management implementation on a strategic and operational basis. As such, we see the Bill's proposed changes to NRW's roles as cost neutral in terms of NRW's future governance requirements and input to the new committee.

9 Part 8: General

9.1 We have no comments or observations on this section.

10 Schedules

10.1 We acknowledge the inclusion of Schedule 2 Para 8 – which makes an amendment to WFG Act so that it refers to the potential role of Area Statements as an importance evidence base to support the well-being needs assessment.

10.2 There is a key opportunity here for the Environment Bill to help provide further clarity around the links to the land-use planning, and marine planning systems in line with our comments in para. 2.3.1 above. For example, we would suggest a similar amendment to the S3. Planning (Wales) Act to ensure that s60 (5) of the Planning and Compulsory Purchase Act (2004) (PCPA) includes reference to the NNRP.

10.3 A similar clause could be inserted at Section 6, in PCPA - 60I (6) referring to Area Statements.

10.4 Consideration should be given to inserting a paragraph in Schedule 6 (3) of the Marine and Coastal Access Act (2009) “Marine plans to be compatible with certain other plans” to draw reference to the National Natural Resources Policy.

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Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Confor	Response from Confor
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Confor response to the consultation on the General principles of the Environment (Wales) Bill

Part 1:

Sustainable Management of Natural Resources Management

Do you agree with the Welsh Government's proposals on definitions for 'natural resources' and 'sustainable management of natural resource'? Are there things missing that you think should be included?

In 1.3 subsection (2) we believe that natural resources should be specifically mentioned, "The objective is to maintain or enhance the resilience of ecosystems to sustain the natural resources and the benefits they provide and, in doing so ….."

Section 4. The Principles of Sustainable Management of Natural Resources.

Sub section (c) seeks to promote collaboration and co-operation, this should carry specific references to private and public sectors and NGO's to require WG and others to consult with them.

Sub section (d) the reference to "evidence" is too vague, the principles should take account of all existing relevant evidence, including statutory legislation, existing standards and guidance or best practise, both national and international incorporating specific references to them. In the case of management of forests the UK Forestry Standard (UKFS) is the overarching reference standard for sustainable forest management in the UK, it is an internationally agreed standard which the UK has a duty to report on and applies to all UK forests and woodlands. UKFS enshrines the UK's commitment to implementing the MCPFE Pan-European criteria and indicators for sustainable forest management.

The UKFS and the associated guidelines encompass the entire forest environment including open areas and water bodies, the Environment bill, as it applies to forested land areas, should not seek to undermine the UKFS, duplicate it or impose additional burdens on forested areas which already operate under wide ranging constraints.

UKFS states;

"Sustainable forest management is 'the stewardship and use of forests and forest lands in a way, and at a rate, that maintains their biodiversity, productivity, regeneration capacity, vitality and their potential to fulfil, now and in the future, relevant ecological, economic and social functions, at local, national, and global levels, and that does not cause damage to other ecosystems'. (MCPFE, 1993)" Source UKFS 2011.

Sub section (e), states "take account of the benefits" as a principle. The UN Convention on Biological Diversity (UN CBD) describes the Ecosystems approach as "a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way". To be equitable the "benefits" in section (e) should be stated as economic, social and environmental in accordance with UN CBD and the sustainable development principle (the common aim) contained in the Wellbeing of Future Generation (Wales) Act.

(g) Recognise that whilst genetic diversity may be a desirable trait, natural afforestation usually happens without it, forests would, if left alone, go through a cycle of pioneer species followed by others later and many of these "natural" ecosystems, such as boreal forests, have evolved without

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In general, section 4 should make specific reference to protecting and enhancing the productive potential of the natural resources.

The Principles of Sustainable Management of Natural Resources (section 4) and the Objectives of Sustainable Management of Natural Resources (section 3) should not seek to add further to the burden of regulation nor should it impose significant extra responsibilities over and above the existing statutory regulation, guidelines and best practise which our industries already operate under, to do so could reduce the ability and capability of our rural industries in Wales to be competitive on the world markets. Reducing the viability of welsh businesses would have unintended consequences as more of the products society demands would have to be imported from around the world with all the undesirable consequences that has of increased carbon footprints and using resources from areas of the world with less stringent environmental standards than our own.

Section 5 & 6 should carry a specific requirement for NRW and other public bodies to consult with the private sector and NGO's, (N.B. this would be covered if the requirement to consult was in section 4, the principles.)

Section 8. The duty to prepare, publish the State of Natural Resources Report (SoNRR).

NRW should be required to consult with, and take full consideration of the views of, the private sector before they prepare and published the SoNRR and, include in the report information on the sustainability of the resources and the progress towards protecting and enhancing the productive potential of natural resources, as required by UKFS, Woodlands for Wales, (WfW), Wellbeing of Future Generation (Wales) Act, Timber Standard for Heat & Electricity etc.

Section 9. The duty to prepare, publish and implement national natural resources policy.

The WG should be required to consult with, and take full consideration of the views of, the private sector before they prepare, published and implemented the National Natural Resources Policy. The policy should provide clear and concise statements to spell out the priorities and opportunities for sustainable management of natural resources.

Do you agree with the proposals for area statements? What should these cover and is the process for their development clear enough in the Bill?

Section 10. Area Statements.

We believe Area Statements will be divisive, parochial, narrow minded and often counterproductive, many natural resources do not respect artificial man made boundaries and area statements will not take account of the requirements of other areas, the reason for their proposal is to "specify the priorities, risk and opportunities sustainable management of natural resources which NRW considers need to be addressed in the area". This will lead to a blinkered, restricted process whereby each area is considered as a separate unit which directly conflicts with section 3(c) of the Bill and will hinder achievements of the objectives (subsection 2) in other areas. For instance, the productive capacity of an area would be linked to the demand in that area and not take account of the requirements or demands in other areas, examples would be food or timber production may not be a priority for an individual area if they have a small populations with low demand and no processing capacity in the area, whereas food or fibre production may be a high priority for an urban area which has no capacity to produce the commodity and therefore no influence on areas that do produce it.

There is no definition on the size or location or boundaries of these areas, we find it difficult to comment with this detail missing, will they conform to local authority boundaries? Natural resources are not specific to any boundary and creating another different boundary would mean that the area statements would cross local authority administration areas, this would be chaos. Much better to look at this at a wales level, the National Natural Resources Policy will be at a Wales level so the area statements should also define the priorities at a national scale.

Woodlands for Wales (WfW) is the Welsh Governments aspirational 50 year standard for "all the woodlands that exist in Wales now, and those that will be created in the future, irrespective of size, location or ownership". The strategy foreword states "our intention that all the woodlands of Wales should collectively act as the Welsh national forest". The requirement to produce area statements that "specify the priorities, risks and opportunities" in small specific areas is in direct conflict to the WfW aspirations which requires all the forests in Wales to act collectively, policy must be more joined up in this regard, there is no precedent, requirement or basic sense in dividing the forest asset into small unconnected units.

Are you content with the proposals for NRW to have wider powers to enter into land management agreements and have broader experimental powers?

Section 16. Only if they are required to consult and take the views of the private sector on board

Part 2: Climate Change

Do you agree with the proposals for the 2050 target?

Section 35 (1) replace the word "may" with "should" "the Welsh minister SHOULD by regulation…"

The section should require WG to specifically include greenhouse gas emissions (GHGE) from transporting the goods or activities purchased or received by Wales that could have been produced by Wales had it not been for a reduction in the productive potential of the welsh natural resources. To get an accurate picture of carbon and other greenhouse gas emissions attributable to Wales we should account for all forms of transport including shipping, aviation and including road and rail transport of the goods and services received by Wales, even if, especially if, these goods and services are produced elsewhere in the UK as well as internationally and count those emissions as Welsh emissions

Part 2

Climate Change

Section 31. Do you believe that the introduction of carbon budgets is a more effective approach than the 3% annual emissions reduction target that is currently in place in Wales?

No, the process of defining, measuring and recording the GHGE and attributing these to Wales is hugely complicated, the same holds true for the many methods we may use to mitigate against, and reduce, the GHGE attributable to Wales. Carbon budgets would be a moving target which adds another further level of complexity to an already tortuous process which is begging for simplification now. Whilst reducing the carbon budget in future years by carrying some of it forward is a laudable aim the prospect of adding to future years carbon budget is just kicking the can down the road, better to have annual targets that can be judged every year and in the event of failure be acted upon in good time, a simple principle of less moving targets to hit.

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The bill is very clear about the end date for the target as being 2050 and that the target is 80% lower than the baseline, it is however very confusing on the interim targets and dates for these interim targets, there seems much confusion between “interim target years” and “budgetary periods” which is unnecessarily complicated.

We believe the 2050 Emissions target should be divided equally between the total number of years between the enablement of the act and 2050 with a proviso of being able to move a limited amount between years as provided for in section 40, 41 and 42 of this bill. This would enable the judging of the WG progress towards achieving the 2050 emissions targets to be much simpler.

Do you agree with the Bill’s proposals as to what should happen if the Welsh Ministers fail to meet emissions targets or carbon budgets?

Yes, but section 42, (2) should stipulate a set time limit for ministers to lay the report before the National Assembly not be left to “as soon as reasonably practical”.

What should the role of an advisory body on climate change be?

To advise and to audit the final statement eluded to in section 41 and to call WG to account in the event of any failure reported in the statement. The advisory body should not be an individual but should be comprised of the minimum number of individuals required to be truly independent and objective, the “Committee on Climate Change” would be a suitable advisory body.

As a general point on the whole Environment (Wales) Bill with regards to forestry, much that is contained in the Environment (Wales) Bill as introduced is already legislated for under often many other international and UK standards, Acts, Bills and Best Practise Guidance and we feel inclusion in the Environment (Wales) Bill contributes nothing extra and only serves to complicate matters further.

For your views on the relationship between this Bill and the Well-being of Future Generations Act 2015 and the Planning (Wales) Bill? Are the links and connections between them clear?

It is very easy to make connections and links between the individual bills, the difficulty is in interpreting those links and acting on that. There is a real danger that connecting the three bills will lead to indecision and stagnation by individuals and organisations that will not, or cannot, make an appropriate decision due to lack of guidance on the priorities within each of the bills.

The bill should make clear who is responsible for establishing the priorities and where they would be published.

Finance Questions; *What are your views on the costs and benefits of implementing the Bill? (You may want to consider the overall cost and benefits or just those of individual sections)*

The costs alluded to in the explanatory memorandum deal, as far as it is possible to tell, with the cost to the public sector of implementing the environment bill, there is no mention or prediction of the likely costs to the private sector in Wales.

There may be small one off costs to the private sector associated with producing and publishing a NNRP in Wales, which will be limited to the costs of WG consulting with them.

Preparing and publishing a SoNRR by NRW will entail further costs to the private sector, again costs incurred in consultation but in addition there will be costs incurred in collecting and collating information on the resources owned by the private sector, some 51% of the forested land area in Wales is under private ownership, to achieve a realistic figure of the resources contained in these areas will lead to some cost incurred by the owners.

Area Statements will be potentially the largest cost to the private sector, again contributions to the initial data collection will incur some costs but the concept of managing the forest resource on an area by area basis will drastically increase the ongoing costs of management. Specifying the priorities,

risks and opportunities of the sustainable management of natural resources which NRW considers need to be addressed in the area will inevitable mean that land managers will have to interpret the priorities in each area statement and have different management prescriptions in each one, this is an ongoing, undefined cost.

Not knowing the intended boundaries of the areas is also not helping, it may be that some forest holdings may be located in several different areas and possible in several different local authority areas as well, the potential costs for consulting with each is huge and with the possibility of different priorities in each multiplies this enormously.

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Stop Climate Chaos Cymru
Response to the Environment and Sustainability Committee Stage 1 inquiry on the Environment (Wales) Bill
June 2015

Introduction

Stop Climate Chaos Cymru is a coalition of groups from across civil society committed to taking
combined action in Wales to combat climate change, and limiting its impact on the environment and the world's poorest communities. Together with our sister organisations in England and Scotland our combined supporter base embraces more than 11 million people spanning over 100 organisations across the UK - from environmental and development charities to unions, community and faith groups and women's organisations.

We believes that climate change is the biggest challenge facing the world in the 21st century and we must take immediate action to tackle this, otherwise we face environmental, economic, cultural and social impacts which will affect future generations, and disproportional impact people in poverty within Wales and across the globe.

This year is particularly important for tackling climate change globally with the UN COP21 meeting in Paris at the end of the year and momentum building towards a fair global deal. This legislation is a key part of Wales' commitment towards that global deal, and we hope that it will be an opportunity to show the world our ambition for Wales and the importance we place on our global responsibilities. It of course leads on from the ground-breaking Well-being of Future Generations Act and is the first opportunity to enact some of the provisions in that Act.

We are proud of the continued strong cross-party commitment in Wales to tackling climate change, and the way Wales led the way with annual carbon reduction targets and 40% by 2020. We hope to build on this with this legislation without losing some key aspects of 2010 Climate Change Strategy.

Our comments are restricted to Part 2: Climate Change of the Environment (Wales) Bill.

A statutory framework for climate change

We have long campaigned for a strategic framework for climate change in Wales and statutory targets, and are very pleased that the Environment Bill contains proposal to introduce carbon budgets and targets. This is a significant development which we hope will receive cross-party support and we hope we can help make it as robust as possible.

We believe that a carbon budget management system is an effective approach when combined with adequate planning, reporting and scrutiny mechanism, with budgets set based on scientific advice and the principles of keeping warming below 2 degrees and differentiated responsibility.

Targets and emissions

A statutory long term target is an essential component of a framework on climate change and shows a clear commitment to deliver for the long term. A 2050 target is consistent with approaches to climate change legislation taken by other European countries such as Scotland, Finland and Denmark.

The target for 2050 is set out as "at least 80%" and we would emphasise that this is indeed a bare minimum requirement. The target should be based on the latest science in order to keep us within a likely chance of avoiding 2 degrees warming. We would recommend looking at the report of the IPCC and work of the Tyndall Centre on setting both global carbon budget and targets, and the responsibility of different countries.

It is not only the end goal of 2050 but the trajectory taken towards the target that is important. We believe that a steep trajectory is necessary and desirable. This should be made clear in the Bill in order to guide the work of the advisory body in setting the carbon budgets and any interim targets.

The current policy target of 40% reduction by 2020 should not be lost as a result of this legislation, indeed it is an opportunity to enshrine it in law. With the first carbon budget not likely to be set until 2018 it is important that momentum for ambitious reductions by 2020 is not lost or reduced due to this gap and uncertainty.

Fairness and Equity

The issues of global equity and fairness are increasingly prominent in climate change discussion and international negotiations, and this long term framework for tackling climate change should reflect these concerns. Developed countries are now acknowledging their historical responsibility for emissions, and targets should be based not only on a safe global carbon budget but what is a fair contribution from different countries – the UNFCC's core principle of "differentiated responsibility". We would like to see targets and budgets based on global equity and fairness.

What emissions should be included

Our starting point is that it is important to include all emissions from Wales. As well as being the basis for the current 40% target this also future-proofs the legislation to ensure consistency of reporting as devolved competencies grow over time.

However in order to demonstrate to what extent real action is being taken by the Welsh Government and the impact it has it is necessary to have reporting that disaggregates actions in areas of devolved competence.

Our global responsibilities

The Well-being of Future Generations Act contains the goal of being a globally responsible Wales, and this Bill is one of the first opportunities to show what is meant by this in practice. In terms of greenhouse gas emissions it requires recognising the impact of our consumption on the world, or our footprint.

A requirement within the Environment Bill to calculate and report on emissions produced anywhere in the world that result from Wales's consumption of goods and services would be a significant step forward in helping rich countries understand their responsibility for climate change. It demonstrates that justifying inaction by blaming countries such as China is untenable, as a huge portion of China's emissions result from the production of goods for developed country markets. This measure will also make it harder to 'hide' emissions overseas by closing Welsh businesses and outsourcing their work, which would make little difference to Wales's overall carbon footprint.

Scrutiny

We are concerned that the provisions in the Bill do not provide sufficient scrutiny of Welsh Government and their actions. Current there is only the presentation to the Assembly of the Final Budget Statement, and for policies and proposals where carbon budget are not met. This is far less than the current Welsh Government's reporting in the 2010 Climate Change Strategy which states "We will regularly review our actions and provide annual progress reports to the National Assembly for Wales". Stop Climate Chaos Cymru does not consider 5 years to be sufficiently frequent and suggest some form of annual reporting to the Assembly is necessary in order to progress with sufficient speed.

Annual reporting

We believes that annual reporting by Welsh Government on their progress towards the budgets or interim targets is required. This is a requirement of the UK and Scottish Acts and a current requirement in the Climate Change Strategy 2010. To remove Welsh Government reporting to only every 5 years would not provide the scrutiny or possible accountability to progress and drive emissions in the right way. Annual reporting is also an essential aspect of stakeholder engagement in the understanding of and contribution to emission reduction.

There are a number of forms this reporting could take in terms of the level of detail and what is reported on and we are happy to discuss this further.

We believe that advice from the advisory body should form part of the annual reporting, as it does in the UK Act.

Reporting on policies and sectoral plans

One of our key asks in relation to the Welsh Government's climate change refresh has been to produce a detailed action plan every 5 years evaluating existing and planned programmes and actions to achieve the required emissions reduction targets. We are therefore pleased that Section 39 sets a requirement on Welsh Ministers to prepare a report.

There is however no information within the Bill on the level of detail that this Policies and Proposals report requires. Stop Climate Chaos Cymru would seek clarification from the Minister about the level of detail in that report and we will also consider possible provisions within the Bill to ensure it provides the detail needed.

We are pleased that the responsibility of "each" Welsh Minister is emphasised in Section 39(2). Right across government, all sectors and department must play their part in reducing emissions and set this as a priority to work towards. The report must contain detail sectoral plans in order to drive delivery.

Impact assessments

We have long advocated carbon assessments of the annual fiscal budget and major strategies and infrastructure. This work should be carried out under these proposals through the Welsh Government's decision-making procedure as part of the ongoing assessment to meet the carbon budget, therefore no additional work should be necessary. However we would like to see a requirement for these to be made public and part of scrutiny of proposals and budgets not only retrospectively at times of reporting (as far ahead as 7 years later).

Advisory body

We welcome the role set out for an advisory body and believe that setting budgets, targets and reports in line with independent advice is crucial.

The advisory body needs to have in-depth expertise and adequate resources to carry out its duties under this Part. We support designating the UK Climate Change Commission as that body, but also agree that there should be the possibility of appointing a Welsh body to carry out this role in future if resource and expertise is made available.

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EB 44	EB 44

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Inquiry into the general principles of the Environment (Wales) Bill – Evidence from the Welsh Retail Consortium (WRC)

1 Introduction

1.1 The Welsh Retail Consortium (WRC) is the authoritative voice of the retail industry in Wales, from independents to large multiples.

1.2 The WRC leads the industry and works with its members to shape debates and influence issues and opportunities that will help make that positive difference. We care about the careers of people who work in our industry, the communities retail touches and competitiveness as a fundamental principle of the industry's success – our 3Cs.

1.3 Our members have been at the forefront of initiatives to improve resource efficiency and reduce waste, as demonstrated through the *A Better Retailing Climate* initiative. In January 2013 our sister organisation the British Retail Consortium (BRC) published a comprehensive report detailing progress across a range of issues including reducing waste and packaging and helping consumers make more sustainable choices. This document also contained a new set of targets and commitments to 2020 agreed by retail signatories. A 2014 progress update was published in January 2015.

2 Executive summary

2.1 This submission focuses on the proposals in part 3 of the Bill regarding carrier bags and makes the following key points

- The Welsh levy for single use carrier bags is a success and has dramatically reduced single use carrier bag usage.
- The purpose of the original charge and regulations was to create a small behavioural nudge in the right direction commensurate with the relatively low impact of carrier bags. The relatively small scale of impact of carrier bags does not warrant aggressive legislation.

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- Extending the levy to reusable bags is counter intuitive and indeed could drive customers back to using single use bags.
- Increasing and extending the levy jeopardises public goodwill towards this initiative and is likely to cause confusion.
- If implemented, there will be a considerable cost to our members.
- The Northern Ireland experience suggests that there is no environmental benefit from extending the charge to reusable bags.

3 Success of the Welsh levy for single use carrier bags

3.1 Given the success of Welsh single use carrier bag charge in terms of public support and environmental impact, there is no reason in our opinion to extend the levy to plastic reusable bags for life. We do not believe that extending the carrier bag charge will add anything to the existing regulations in improving the environment. In fact, rather than encouraging customers to reuse bags they might just revert to purchasing single use bags, reversing the progress made in Wales.

3.2 One of our supermarket members reports a reduction of over 90% in single use carrier bags in its stores in Wales. This reduction has been accompanied by an increase in sales of all reusable bags as customers adjust to the levy. Additionally, this retailer reports that at times when customers forget their bags, or purchase more than the bags they have can hold, an inexpensive reusable bag is their usual preferred option.

3.3 It is important to remember that the purpose of the original charge and regulations was to create a small behavioural nudge in the right direction commensurate with the relatively low impact of carrier bags. The relatively small scale of impact of carrier bags does not warrant aggressive legislation.

4 Extending the levy to reusable bags is counter intuitive

4.1 We welcome the fact that the Welsh Government intends to continue to monitor the amount of reusable plastic carrier bags distributed in Wales and would not use the proposed extended enabling powers unless the sale of reusable bags continues to rise and outstrip sales growth. However we do not believe that a mandatory charge on low cost reusable plastic bags is appropriate as it will penalise customers for doing the right thing and being environmentally conscious.

4.2 Re-using bags is a totemic environmental behaviour and the extension of this principle to other areas would make a big difference in sustainable consumption. Extending the levy to reusable bags is counter-intuitive for our customers who are being encouraged to switch to reusable bags.

4.3 There is no evidence available to suggest that extending the levy will have any further environmental impact. In fact, extending the levy to reusable bags may have the following unintended consequences:

- **Encouraging consumers to revert to purchasing single use bags** – which calls into question the purpose of the initial single use carrier bag levy and its success to date in

reducing the number of single use bags distributed. Some retailers have removed single use carrier bags from their stores and, in order to remain competitive against their competitors in terms of being able to provide a low cost bag option, would consider reintroducing them if the 5 pence charge is extended to low cost reusable bags.

- **Forcing customers to purchase more expensive and more durable reusable bags**. While reuse of these more durable bags is a positive behaviour, it is worth nothing that they need to be used far more than a low cost reusable bag in order to offset their carbon footprint. An Environment Agency study found that while conventional, lightweight carrier bags made from high-density polyethylene (HDPE have the lowest carbon footprint of any type of bag; a reusable carrier bag made from low-density polyethylene (LDPE) has to be used at least 4 times to have less environmental impact. In contrast, a heavier more durable bag, made from non-woven polypropylene (PP) and a cotton bag would have to be used at least 11 and 131 times respectively[1].

4.4 If a charge for low cost reusable bags is introduced, it will have a greater impact on impulse shopping, which is more likely to take place in small and independent retailers and in local communities. It is also likely to have a greater impact on lower income families who are less receptive to environmental initiatives and more likely to make more frequent, smaller purchases.

5 Costs to retailers

5.1 If the carrier bag levy was to be extended reusable bags, introducing it would come at considerable cost to our members' businesses, for example in terms of IT and unique bag bar-coding for Welsh stores.

6 Experience in Northern Ireland

6.1 One member states that it currently goes beyond the requirements of the carrier bag charge in Wales and donates the proceeds of its bag for life (low cost reusable bags) scheme and its range of reusable bags to good causes. However, this is not the same as donating 5p from each bag for life because they are more expensive to source and replace. When the Northern Irish charge was extended to cover bags sold for less than 20 pence in January 2015, this retailer had to increase the price of a bag for life to enable it to comply, making it uncompetitive with a single-use bag.

6.2 Extension of the single use carrier bag charge creates a 'dominoes' effect, in that increasing the price of any bag makes the next bag up look attractive. One member reports that since the extension of the charge in Northern Ireland, bag for life usage has reduced by 50% but the more expensive re-usable bags have gone up by roughly the same amount.

[1] Environment Agency. Life Cycle Assessment of Supermarket Carrier Bags Report: SC030148

6.3 Another member reports that customer usage of single use bags and bags for life in Northern Ireland is reverting towards the same sort of levels experienced prior to the charge coming into effect.

6.4 In conclusion the Northern Ireland experience suggests that there is no environmental benefit from extending the charge to reusable bags.

7 Profits from the sale of carrier bags

7.1 We welcome the fact that should Ministers choose to make regulations requiring retailers to pass on the net proceeds from the 5 pence carrier bag charge, these regulations would enable retailers to pass on proceeds to any type of good cause rather than restricting them to environmental good causes in particular.

7.2 However, we believe that the current voluntary code is the appropriate approach and is working well. We are keen to work with our members and the Welsh Government to ensure that the voluntary code continues to be effective.

8 Collection and Disposal of Waste

8.1 The concern here is whether retailers will have to physically separate these streams of waste at store – this can be an issue for smaller stores where space is very limited. We would welcome confirmation on whether it is acceptable for the waste contractor to collect these streams as comingled recycling separated from general landfill waste. This comingled recycling can then be sorted at the first level Materials Recovery Facility (MRF).

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EB 45	EB 45

TIDAL LAGOON POWER

The Committee Clerk
Environment and Sustainability Committee
National Assembly for Wales
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Sent by email to SeneddEnv@Assembly.Wales

12 June 2015

Consultation: General principles of the Environment (Wales) Bill

Tidal Lagoon Power aims to drive a critical change in the UK's energy mix by developing infrastructure to harness natural power from the abundant natural resource of the rise and fall of the tides.

Tidal Lagoon Power welcomes the introduction of the Environment (Wales) Bill to promote the sustainable management of natural resources. We recognise the Bill cannot exhaustively list what might be defined as natural resources, though tidal, wind and wave natural resources seem to be notable omissions.

We support the introduction of legislation to address climate change and greenhouse gas emissions through statutory emissions targets, and milestones by way of interim emission targets. This is an opportunity for Welsh Ministers to lead the way on more ambitious targets to take action on climate change.

Further opportunities include the integration of climate change with natural resource management, reflecting the fundamental influence that climate change has on the management of natural resources; the mainstreaming (through legislation) efforts to adapt to climate change; and a statutory recognition that climate change adaptation and mitigation actions are complementary[1].

The Bill is also an opportunity to clarify marine license processes and introduce statutory timescales.

Please contact me at catrin.jones@tidallagoonpower.com or 07867129796 if you have any queries or wish to discuss further.

Yours sincerely

Catrin Jones

Tidal Lagoon Power

[1] Pages 51 and 14: Climate Change Annual Report, December 2014, Welsh Government.

Tidal Lagoon Power Ltd Registered in England and Wales No. 08163554 Registered Office: Pillar & Lucy Hodges, Merchants Road, The Docks, Gloucester GL2 5RG Tel 01452 303 892

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Ymateb gan Cyngor Bwrdeistref Sirol Conwy	Response from Conwy County Borough Council
EB 46	EB 46

Yr Amgylchedd, Ffyrdd a Chyfleusterau / Environment, Roads & Facilities
Pennaeth Gwasanaeth / Head Of Service - Geraint Edwards, BEng(Hons) CEng FICE

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Dyddiad / Date: **12.06.2015**

Dear Sir/Madam,

CONSULTATION ON THE ENVIRONMENT (WALES) BILL

I write in response to the above consultation on behalf of Conwy County Borough Council. Responses are only included to those questions on which we wish to comment.

Part 1: Natural Resources Management

- ***Do you agree with the proposals for area statements? What should these cover and is the process for their development clear enough in the Bill?***

  Flooding may be a key sustainable management issue in a number of areas. It is assumed that flooding will be incorporated into the area statements through inclusion of existing documents (FRMP etc.)

- ***What are your views on the proposal to strengthen the biodiversity duty on public authorities operating in Wales?***

  This duty may increase funding requirements for some schemes. Provided funding can be made available, we support this proposal.

Part 3: Carrier Bags

- ***Do you agree with the proposal that Welsh Ministers should have powers to raise a charge on all types of carrier bags not only single use bags?***

  Raising a nominal charge on all carrier bags would promote reuse, and ultimately reduce carrier bags being disposed of that can still serve a purpose or be reused.

- ***Do you agree with the proposal that Welsh Ministers should have powers to raise different charges on different types of bags?***

  A consistent charging approach should be applied that is easy for the general public to understand.

- ***Do you agree that the profits from the sale of carrier bags should be directed to all charitable causes rather than just environmental ones?***

It would make sense for money from the sale of carrier bags to be directed towards environmental causes in order to promote waste avoidance, waste minimisation and reuse initiatives.

Part 4: Collection and Disposal of Waste

- ***For your views on whether the Welsh Ministers need further powers to require that certain types of waste are collected, treated and transported separately?***

  We are supportive of further powers to require that certain types of controlled wastes are collected, treated or transported separately, in accordance with the separation requirements of Welsh Government Municipal Sector Plan *Collections Blueprint* and the revised waste framework (TEEP) of the *Waste (England and Wales) Regulations 2011*.

  In particular, we would support a requirement to separate food waste for collection.

  We support the requirement for an occupier of a premises who presents controlled waste to do so in accordance with any applicable separation requirements, and that a person commits an offence if the person fails without a reasonable excuse to act in accordance with any applicable separation.

  As a local authority and collector of both domestic and commercial waste, we would be interested in a code of practice to be considered to assist us as a collector of waste to structurally encourage producers of waste to comply with any applicable separation requirements.

- ***Do you agree that non-domestic premises should be required to put their waste out for collection in line with any separation requirements set out by the Welsh Government?***

  Yes. Domestic premises can be structurally encouraged to conform to separation requirements by Local Authorities operating collection service provision in line with the *Collections Blueprint* and under powers available in the Environmental Protection Act 1990. Commercial collection service provision and design can be managed internally by Conwy to encourage separation requirements set out by the Welsh Government, however at present there are differing collection offerings available to businesses on the open market which may not necessarily encourage voluntary separation of waste in line with separation requirements.

- ***Whether you agree that the Welsh Government needs wider powers to ban some recyclable waste from incineration?***

  Yes. Powers to ban some recyclable wastes from incineration would contribute towards positive environmental benefits, resource security and increased employment opportunities in the recycling industry. Cost savings may be realised for business and organisations from avoided landfill tax, residual treatment and revenue from recyclates if restrictions on what can be disposed of via incineration as well as landfill are considered.

- ***What will the impacts of these waste proposals be for you or your organisation?***
  A requirement for non-domestic premises to separate more waste in line with applicable separation requirements will enable Conwy to encourage current trade waste customers to separate more material for recycling and to divert waste away from landfill and to

market benefits of recycling more (disposal savings) to attract new clients. This in turn may encourage local economic benefits.

We may need to react to unprecedented customer demand in the area for specific separated collections (e.g. food) should there be limited competition from alternative service providers. Investment may be required in services to implement and proactively expand commercial waste collection offerings in lead up to any major variations.

Commercial waste collection services are offered throughout the county by the Council and by private contractors. We would maintain requirement for adequate and safe waste storage/containment throughout the county to avoid potential highway obstructions/hazards by business and/or collectors of waste.

Parts 5 & 6: Marine Licensing and Fisheries for Shellfish

- ***Do you agree with the proposals to introduce charges for further aspects of the marine license process? What will the impacts of these changes be for you?***

  The fees in section 72A (2) could be considered unfair in a number of cases. Where a beach recharge scheme has been put in place the license will generally require post scheme monitoring as a condition. If there are additional fees for first the monitoring and then the analysis, this condition could be seen as a way of raising extra fees rather that a necessary process for the scheme. It is considered that more clarity is needed on which activities these additional fees would be applicable to.

- ***Do you agree with the proposals to give Welsh Ministers powers to include provisions in Several and Regulating Orders to secure protection of the marine environment?***

  Local Authorities incur costs associated with the classification of shellfish harvesting areas, which should be reimbursed to local authorities in relation to any new Several or Regulating Orders made, which have the effect of increasing the numbers of active fisheries, and hence statutory sampling duties required to be met and undertaken.

- ***For your views on the proposals to give Welsh Ministers powers to issue site protection notices where harm may have been caused by the operation of a fisheries Order to a European marine site?***

  We agree with the proposals.

That concludes our response to the consultation.

Yours faithfully,

G.B. Edwards
Head of Environment, Roads & Facilities

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The Wye & Usk Foundation

Registered Charity No. 1080319

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Response from The Wye and Usk Foundation to the **Environment and Sustainability Committee's** inquiry into the **Environment (Wales) Bill**

12th June 2015

The **Wye and Usk Foundation** and its umbrella body, **Afonydd Cymru** are registered charities concerned with the fisheries and ecology of rivers in Wales. Together with NRW and others they form the delivery arm of the partnership that is working to restore these crucial, natural resources and ecosystems. Clearly the new bill is a very significant and important piece of legislation affecting all of Wales's natural environment.

We acknowledge that the legal and technical aspects of the consultation have been well rehearsed and documented in the consultation response by Wales Environment Link and we have signed up to this. In addition further points have been made by:

RSPB Cymru

Wildlife Trusts of Wales

Keep Wales Tidy

….and we endorse their position in these other well researched documents.

However there are a few points we feel we would like to add to the consultation of a more general nature.

1. Inland fisheries are an important part of Wales' natural resource 'portfolio' and economy too. Aspects of their management touch on the biodiversity considerations outlined in the Bill. Successful fisheries can become self-funding with anglers and fishery owners contributing in way that assists in the improvement of riverine biodiversity.

2. Uniquely, the green tourism, biodiversity protection and enhancement that a healthy riverine ecosystem brings fits well with the Bills aspiration but requires further integration into how fisheries should be managed with the plethora of existing legislation. Currently enshrined is the Marine and Coastal Access Bill 2011 (incorporating and updating the Salmon and freshwater fisheries Acts). Water quality via the Water Framework Directive; Species – the Habitats Directive and many others and it would be good time to review WGs strategy for inland fisheries too.

3. Common Binding Rules. Although it is disappointing that CBRs are not included in Bill, we can see the argument that existing rules, regulations and laws provide a sufficient framework for the correct conduct of land use operations (farming and forestry) However, the poor results in a number of outcomes (eg water quality, Biodiversity achievement) point strongly to significant short comings in the application of the current regulatory process. We maintain that it is impractical to have a regulatory body (NRW) who is also expected to deliver projects and work outcomes ……and regulation. The whole notion of Paid Ecosystem Services will not be practical unless there is efficient and effective regulation of what might be termed "ecosystem disservices". Who for example who see a benefit from investment to achieve better water quality if all and sundry continue to pollute upstream?

4. Carrier Bag levy: We are very pleased to confirm that there has been vastly fewer carrier bags retrieved in our 100 mile annual litter picks. However the damage to the environment from plastic waste from other sources is well documented and remains a huge concern.. We felt the Bill might have been an opportunity to provide some possibility in the future to deal with other plastic containers that might be reused in preference to thrown away by promoting a levy on non-reusable containers of any sort.

The Wye and Usk Foundation Afonydd Cymru June 2015

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
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Ymateb gan CIWM Cymru Wales	Response from CIWM Cymru Wales
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Committee Clerk
Environment and Sustainability Committee
National Assembly for Wales
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Friday 12 June 2015

Dear Sir or Madam

Response to the Consultation on the Environment (Wales) Bill

We have received a copy of the above draft for comment as part of your consultation process.

The Chartered Institution of Wastes Management (CIWM) is the professional body which represents over 6,300 waste and resources management professionals, predominantly in the UK but also overseas. The CIWM sets the professional standards for individuals working in the waste and resources management industry and has various grades of membership determined by education, qualification and experience.

CIWM is recognised as the foremost professional body representing the complete spectrum of the waste and resources management industry. This gives the Institution the widest possible view and, perhaps more pertinently, an objective rather than partial view, given that our goal is for improvement in the management of all wastes and resources.

The Cymru Wales Centre Council of the Chartered Institution of Wastes Management welcomes the opportunity of contributing to the Consultation on proposals for the Environment Bill.

In relation to the current Consultation document, our points are provided as responses to the specific questions raised, in relation to the information received, as follows below and in the next pages.

Response from CIWM Cymru Wales to the Consultation on the Environment (Wales) Bill

Part 1: Natural Resources Management

Do you agree with the Welsh Government's proposals on definitions for 'natural resources' and 'sustainable management of natural resource'? Are there things missing that you think should be included?

The definition of sustainable management of natural resources does not include the principles of the sustainable use of secondary resources even though this is acknowledged that this can help to sustainably maintain, enhance and use natural resources in paragraph 45 of the explanatory memorandum. The absence of this factor will result in this aspect being neglected within the management of Natural Resources Wales due to pressure on resources within that body.

What are your views on the proposals for a National Natural Resource Policy? Is the Bill clear enough about what this will include?

The National Natural Resource Policy proposals do not include the use of secondary resources and should do to monitor the extent that secondary resources are being utilized in Wales and how much this is

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contributing to the sustainable maintenance, enhancement and use of natural resources in Wales. If Wales is to become a more sustainable nation the extent of the use of secondary resources needs to be part of the national monitoring proposals and included in the State of Natural Resources Report (SoNaRR) to deliver the purposes set out in paragraph 89 of the explanatory memorandum.

Do you agree with the proposals for area statements? What should these cover and is the process for their development clear enough in the Bill?

What are your views on the proposal to strengthen the biodiversity duty on public authorities operating in Wales?

Are you content with the proposals for NRW to have wider powers to enter into land management agreements and have broader experimental powers?

Part 3: Carrier Bags

Do you agree with the proposal that Welsh Ministers should have powers to raise a charge on all types of carrier bags not only single use bags?

Yes, however why include cotton bags and not jute/hemp bags for life which are not mention nor are biodegradable plastic bags,

Do you agree with the proposal that Welsh Ministers should have powers to raise different charges on different types of bags?

Yes

Do you agree that the profits from the sale of carrier bags should be directed to all charitable causes rather than just environmental ones?

Yes

Part 4: Collection and Disposal of Waste

Yes

For your views on whether the Welsh Ministers need further powers to require that certain types of waste are collected, treated and transported separately?

Some local authorities and waste businesses feel that they should be able to develop and implement their own evidence bases under the Waste Regulations/TEEP. Regulation already covers this, and question why they need to do more. However it is recognised that the waste regulations only cover 4 materials paper, glass, metal and plastics and in Wales' waste strategy there are other materials that need to be included in these requirements.

Do you agree that non-domestic premises should be required to put their waste out for collection in line with any separation requirements set out by the Welsh Government?

Some local authorities and waste businesses feel that this may not be necessary but it is clear that there are no legal requirements for waste producers to separate the recyclable fraction of their wastes and put it out for collection separately. This is a potential problem where there is a requirement for some materials to be separately collected under the waste regulations but there is no legal requirement for the waste

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producers to put the materials out separately, and therefore the requirements cannot be implemented effectively. This strengthens the requirements of the Waste Framework Directive and brings us in line with similar measures in Scotland. Consideration will need to be taken on space requirements.

Whether you agree that the Welsh Government needs wider powers to ban some recyclable waste from incineration?

Materials should only be banned from incineration if there is not a viable cost effective recycling or reuse option. Careful consideration should be given to the cost to business that rely on incineration of materials such as paper sludge and wood e.g. Shotton as they are energy intense.

e.g if you ban wood from landfill and incineration, then recycling market collapses – just what do you do with the wood, would it be all wood or certain grades of wood?

We note that the proposals set out in the white paper for banning of certain materials from landfill have been removed due to potential duplication of powers that Welsh Government already has under the Waste Measure 2010.

What will the impacts of these waste proposals be for you or your organisation?

Increased costs to provide the separate commercial services, which will increase prices for customers. This will place extra burden on the waste producers where the costs are passed on; this can result in some waste collection businesses potentially losing business where some companies provide co-mingled collections and can undercut the prices of providing fully separate collections. Such an approach will only work if all waste collections companies have to provide the same type of service. This then relies on the standard of enforcement that Natural Resources Wales (NRW) can provide. As a result of the lack of any additional finance to cover the costs of implementing the current waste regulations separate collection requirements the level of compliance is currently low because NRW are only able to pursue this matter within its current inspections of waste management facilities and scheduled waste carrier stops with no additional effort. Even to do this where poor compliance is found at a waste facility at a routine compliance inspection it will result in considerable additional effort (excess of one week's work) in assembling the required information and notifying the waste carriers that potentially delivered the waste in question that they may have committed an offence and further additional time to follow this up through the due process of compliance notices provided for in the regulations.

How do you enforce the bans. If one piece of wood is in a mixed waste skip, is it acceptable? What levels of the banned materials would be acceptable in practice. What may be the effects of these bans on waste movements between Wales and England as a result?

Are there other waste proposals that you think should be included in the Bill?

There appear to be no proposals to ban food waste to landfill or incineration and that may be a useful addition.

Part 7: Flood and Coastal Erosion and Land Drainage

Do you agree with the proposals to replace the Flood Risk Management Wales committee with a Flood and Coastal Erosion Committee for Wales?

Yes

Whether you agree with the proposal for powers to be given Welsh Government agents to enter land to investigate alleged non-compliance with an Agricultural Land Tribunal order in relation to drainage?

Yes

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Overarching Question

For your views on the relationship between this Bill and the Well-being of Future Generations Act 2015 and the Planning (Wales) Bill? Are the links and connections between them clear?

No, they appear in conflict in places. Promoting new developments in flood zones.

Finance Questions

What are your views on the costs and benefits of implementing the Bill? (You may want to consider the overall cost and benefits or just those of individual sections)

This will increase costs, but unable to calculate without more details on the regulation of the bill and how well it will be enforced.

You may also want to consider:

How accurate are the costs and benefits identified in the Regulatory Impact Assessment?

Whether there are any costs or benefits you think may have been missed?

What is the cumulative impact of the costs or benefits of the Bill's proposals for you/your organisation?

Do you think 10 years (2016-17 to 2025-26) is an appropriate time period over which to analyse the costs and benefits?

The cumulative cost and/or benefit to organisations who will be affected by the Well-being of Future Generations (Wales) Act 2015, the Planning Bill and the Environment Bill?

Are there any other options that would achieve the intended effect of the Bill in a more cost effective way?

Should you have any query with regards to our response, please do not hesitate to contact us.
Kind regards

Celine Anouilh
CIWM Regional Development Officer for Wales

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
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INTRODUCING VIRIDOR

Part of the FTSE 250 Pennon Group, Viridor's stated purpose is to give resources new life, transforming 'waste' into high quality recyclables, raw materials and energy.

Viridor supports 100 UK local authorities and over 30,000 customers through a network of 320 facilities. Viridor is currently investing over £1bn in 'next generation' social infrastructure to translate 'zero waste' policy into practice.

Each year Viridor transforms over 1.5 million tonnes of materials into high quality recyclate, and yet more into more than 900 Gigawatt hours of renewable energy. In total it safely and efficiently manages around seven million tonnes of recyclables and waste materials for customers from all sectors across the UK.

Employing over 3,000 people, Viridor strives to be an environmentally, socially and economically sustainable business. All sites and services are operated under the company's business management system incorporating the highest environmental, quality, health and safety, and energy management standards.

For more information, please visit www.viridor.co.uk

EXECUTIVE SUMMARY

1. The comments here submitted relate to proposals under Part 4 of the Environment (Wales) Bill 2015.
2. The proposals put forward under RE1 of the recent Welsh Government consultation on proposals for an Environment Bill have significant potential to disincentivise the collections market.
3. Wales is already achieving impressive recycling targets and Welsh Ministers have sufficient powers in this area.
4. Local authorities and businesses should be free to make decisions based on local needs and circumstances.
5. The proposals regarding further limits on inputs into energy plants are premature and over-the-top, especially as there are currently only two EfW facilities in Wales. They show a lack of faith and/or impact assessment in existent policy measures.
6. Government policy should not have the effect of reducing the appetite for private sector investment in Wales, while potentially limiting energy security

and reducing the generation of renewable energy. Wales needs business choice, investment, jobs and energy. The approach here is overly onerous on those parties with little or no influence on the presentation of material for landfilling or recovery.

7. A better focus from the Welsh Government would be on how the proposals for an Environment Bill would affect the current and growing issue of the export of waste (as 'Refuse Derived Fuel' or Solid Recovered Fuel) for energy recovery.
8. Viridor would therefore welcome action regarding: (a) sites storing material over and above their permitted capacity; (b) sites accepting material for which there is no available market, leading to abandonment.

COLLECTION AND DISPOSAL OF WASTE

9. While the principle of asking for recyclables to be presented separately by individuals and businesses is generally sound, it may not be appropriate for an increased range of materials to be presented and collected in a pre-segregated manner by all parties.
10. A 'one size fits all' approach would be unnecessarily costly and cumbersome on collectors and businesses alike, and should not be demanded of all councils, businesses, commercial operators and industry regardless of circumstances.
11. The proposal of regulation by NRW is also unclear with regard to how enforceable the proposals would be. They would deliver additional functions, cost and burden on the regulator. Viridor is concerned that this diversion of resources could be to the detriment of NRW's focusing on dealing with and preventing real waste crime in the form of blatantly illegal and environmentally damaging activity which is still widespread (with a high risk maintained by current economic and legal drivers). The fact that Welsh Ministers already have powers under existing legislation also serves to underline the over-the-top nature of these proposals.
12. The greatest levels of participation in recycling are achieved when collection systems are straightforward, easy and convenient for people and businesses. Urban (and other) households and SMEs especially often do not have the space or storage ability for multiple containers for fully source segregated systems. This, along with the additional complication and media/community/political resistance, can result in lower participation rates.
13. A choice of systems should be available for local authorities and businesses to identify and procure the most appropriate and cost-effective systems for their local conditions, needs and circumstances, rather than choice being restricted.
14. The potential political impact of enforcement action against businesses for non-compliance, where wider public benefit is unclear, also needs to be considered as a specific factor.
15. This specific proposal appears to be lacking in pragmatism, carrying a risk of reputational damage to Welsh Government. Such proposals show a lack of faith and/or impact assessment in existent policy measures.

OVERARCHING QUESTION

16. Any linkage between the different bills would appear to be indirect and somewhat vague. It is evident that they are intended to be complementary, although some of the specific and onerous requirements of the Environment Bill may be counter-productive.

FINANCE QUESTIONS

17. The proposals are premature as there are currently only two EfW facilities in Wales, one being a low capacity plant using novel technology with a chequered history of operational efficiency, the other utilising robust technology but not yet operational.
18. The proposals introduce additional cost, bureaucratic burden and uncertainty at a delicate investment point for vital infrastructure in Wales and the delivery of the Wales Waste Strategy itself. This additional cost and bureaucracy does not appear to have any corresponding economic, environmental or social benefit. What's more, it is unclear as to the enforceability of the proposals without putting undue resourcing (cost) onto the regulator.
19. It would be unfortunate if Government policy had the effect of reducing the appetite for private sector investment in Wales, whilst potentially limiting energy security and reducing the generation of renewable energy. Wales needs business choice, investment, jobs and energy. This approach could cause unwarranted market distortion, reduced investment in facilities in Wales and reduced levels of renewable energy generated.

ADDITIONAL COMMENTS

20. As stated above, while the principle of asking for recyclables to be presented separately by individuals and businesses is sound, it may not be appropriate for an increased range of materials to be presented and collected in a pre-segregated manner by all parties.
21. A better focus from the Welsh Government would be on how the proposals for an Environment Bill would affect the current and growing issue of the export of waste (as 'Refuse Derived Fuel' or Solid Recovered Fuel) for energy recovery.
22. The Welsh Government may wish to clarify this, particularly as these proposals seem designed to discourage investment in EfW infrastructure in Wales, counter to the Wales Waste Strategy, and to actively encourage waste export which is not subject to these provisions.
23. Viridor would therefore welcome action regarding: (a) sites storing material over and above their permitted capacity; (b) sites accepting material for which there is no available market, leading to abandonment. Viridor considers that the current regime for financial provision is adequate to cover all reasonable foreseeable circumstances and associated costs.
24. Viridor would be pleased to give oral evidence relating to this submission to the Committee over the summer, if invited.

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Undeb Amaethwyr Cymru	Response from Farmers' Union of Wales
EB 50	EB 50

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Part 1: Natural Resources Management

Do you agree with the Welsh Government's proposals on definitions for 'natural resources' and 'sustainable management of natural resource'? Are there things missing that you think should be included?

Whilst the definitions of 'natural resources' and what constitutes 'sustainable management of natural resources' appear superficially to be sensible, there are significant concerns as to the how these will be interpreted, and the environmental and economic implications of those interpretations.

What are your views on the proposals for a National Natural Resource Policy? Is the Bill clear enough about what this will include?

Any such National Natural Resource Policy must:

(a) Be based upon firm evidence, as some natural resource policies implemented to date have been based upon misapprehensions and weak or incorrect evidence, thereby causing damage rather than benefits.

(b) Take account of economic impacts for private businesses, public authorities, public bodies and all others potentially affected by such a policy

(c) Ensure that such a policy does not place Welsh businesses at a competitive disadvantage to those in other countries by enforcing restrictions and targets over and above those agreed at an international level

(d) Ensure that any policy does not result in a net adverse impact, for example by resulting in an increase in activities considered to be detrimental to the environment in countries other than Wales

Do you agree with the proposals for area statements? What should these cover and is the process for their development clear enough in the Bill?

The proposals in terms of area statements risk exacerbating existing differences between areas which already exist, for example in designated areas such as National Parks where planning restrictions and additional costs adversely impact on residents and businesses.

Any additional restrictions or guidelines introduced as part of an area statement which must be taken account of by, for example, a local authority, will add an additional layer of bureaucracy and

complexity, and could perceivably lead to those authorities having to abide by and implement multiple approaches within single unitary areas.

There is no overt obligation to take account of the economic impact of individual area statements, nor of the pre-existing economic states and needs of areas which may be included in area statements.

As with all elements of the Bill which may result in additional costs and restrictions for private businesses, public authorities and public bodies, additional funding should be made available in order to compensate for such costs, not least given the current state of public finances.

What are your views on the proposal to strengthen the biodiversity duty on public authorities operating in Wales?

The proposal risks adding to costs for local authorities which are already struggling to cope with severe funding cuts – costs which could in turn be passed on to residents and businesses – while also restricting those authorities' ability to support economic development within the areas for which they are responsible.

Are you content with the proposals for NRW to have wider powers to enter into land management agreements and have broader experimental powers?

The Farmers' Union of Wales objects to any additional powers being granted to public bodies, including National Resources Wales, where the owners of land and rights do not have a veto on entering agreements which have an impact on their businesses and may devalue their property.

Notwithstanding this, where agreements are entered into the owners of land and rights must be compensated for their losses, both in terms of losses to their businesses and reductions in the value of their land. Such losses would accrue, for example, where agricultural use of land is restricted, and as a result the agricultural value of the land is degraded, and where such an agreement remains binding following the sale of such land.

Part 2: Climate Change

Do you agree with the proposals for the 2050 target?

The proposals for all climate change targets should not be over and above those agreed at an international level, otherwise the economic development of Wales would be placed at a competitive disadvantage compared with those in other countries not subject to such targets.

What should the role of an advisory body on climate change be?

To advise the Welsh Government on ensuring targets and actions are realistic and proportionate in an international context; attainable without compromising the ability of Welsh businesses to

compete against equivalent businesses in other countries; and that restrictions and targets in Wales no not have a net adverse impact by displacing emissions to countries which have lower standards.

Part 4: Collection and Disposal of Waste

Do you agree that non-domestic premises should be required to put their waste out for collection in line with any separation requirements set out by the Welsh Government?

Notwithstanding concerns regarding the implementation of other elements of Part 4 of the Bill, there is concern that in the absence of Welsh Government controls over waste labelling (plastic container labelling etc.) the requirement to separate waste may lead to unfair actions being taken against those who inadvertently fail to separate waste which is poorly labelled.

Part 7: Flood and Coastal Erosion and Land Drainage

Whether you agree with the proposal for powers to be given Welsh Government agents to enter land to investigate alleged non-compliance with an Agricultural Land Tribunal order in relation to drainage?

In the context of this question and the wider issue of cleansing ditches, the only comment we would make is that in the overwhelming majority of cases dealt with by the FUW it is restrictions introduced by the authorities which reduce the degree to which ditches are cleansed, and failure by the same to cleanse ditches, dredge etc. as a result of misguided environmental pressures which have led to problems such as flooding.

Overarching Question

What are your views on the relationship between this Bill and the Well-being of Future Generations Act 2015 and the Planning (Wales) Bill? Are the links and connections between them clear?

Whilst the purpose and implications of the Well-being of Future Generations Act 2015 may be clear to those involved in its drafting and progress through the National Assembly, this is certainly not the case for members of the public who will be affected by this suite of legislation.

Whilst some links and connections between the Act and Bills are relatively clear, others are not. Above all else, the complexity and nature of this suite of legislation makes predicting outcomes, positive or otherwise, impossible.

However, as already indicated, there is a general concern that the overwhelming impact will be an additional layer of costly bureaucracy with adverse impacts for Welsh administrations, Welsh businesses and Wales' economy as a whole.

As such, it is essential that the Welsh Government and National Assembly for Wales ensure proportional implementation and appropriate funding which negates such adverse impacts.

Finance Questions

What are your views on the costs and benefits of implementing the Bill? (You may want to consider the overall cost and benefits or just those of individual sections)

We note that the 61 page document entitled "Environment (Wales) Bill Impact Assessments" refers to page 215 of the Environment Bill Regulatory Impact Assessment, but does not include this document. Moreover, the latter document does not appear to have been made available either on the Welsh Government website or elsewhere.

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
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Ymateb gan NFU Cymru	Response from NFU Cymru
EB 51	EB 51

NFU Cymru Consultation Response

To:

Date: 10th June 2015

Contact: Rachel Lewis Davies
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NFU Cymru submission to Environment & Sustainability Committee Scrutiny of the Environment Bill

1. NFU Cymru welcomes the opportunity to respond to the Environment & Sustainability Committee Scrutiny of the Environment Bill which is broad and far reaching. We would highlight that the Environment Bill through its impact on how Natural Resources Wales (NRW) will operate in future has the potential to have a profound impact on farm businesses, regulating activity across a broad range of land management functions. For this reason, the views of the farming community are highly relevant to the Environment Bill and its implementation.
2. In our response, it is our aim to comment on those elements relative to agriculture and land management only.

Part 1 Sustainable Management of Natural Resources

3. NFU Cymru notes Part 1 of the Bill aims to promote the sustainable management of natural resources and we would make the following comments:

Revised general purpose

4. We observe that the revised general purpose appears to de-emphasise the social and economic aspects of sustainability with the *'used for the benefit of the people, environment and economy of Wales today and in the future*' revised to *'meeting the needs'.* Whilst we acknowledge the clear links between the Environment Bill and the Well Being of Future Generations Act (2015) we foresee potential tensions existing between this revised general purpose and the seven well-being goals which places a strong duty for all public bodies to carry out sustainable development reflecting the need to improve the economic, social, environmental and cultural well-being of Wales. It is not clear how these tensions can be resolved and which duty would take precedence where they appear to be in conflict.
5. In our view, it seems somewhat counter-intuitive that environmental considerations are to be provided for in the Environment Bill and the social, economic environmental and cultural aspects for in the Well Being Act. Overall we remain concerned that the revised purpose challenges the definition of sustainability in the Well-being Act and will have implications for wider Welsh Government policy including the 'Green Growth' agenda.
6. We strongly believe that given the close relationship between farming, food production and environmental protection it is vital the Bill provides a clearer duty to contribute towards promoting sustainable food production.

7. With respect to the principles of sustainable management of natural resources detailed in section 4, we would emphasise the need for this section to include specific reference to farmers and landowners who own and manage much of the land area of Wales.

Biodiversity and resilience of ecosystems duty

8. We note that this will change from the requirement for public bodies to *'have regard to'*, and they will now be required to *'seek to maintain and enhance biodiversity'*. There will also be a new reporting requirement on how the duty is being met. Whilst it is clear how this revised duty is appropriate to some public bodies for others its relevance is less clear; the cost-benefit of applying such a duty together with the reporting requirement is not clear, particularly when the Well-Being Act will place a strong duty for all public bodies to carry out sustainable development, reflecting the need to improve the economic, social, environmental and cultural well-being of Wales and report annually on their progress.

Biodiversity lists and duty to take steps to maintain and enhance biodiversity

9. We note that Welsh Ministers must prepare and publish biodiversity lists and have a duty to take steps to maintain and enhance biodiversity. The list will reflect the living organisms and types of habitats which are, '*in the opinion'* of Welsh Ministers, of principle importance following consultation with NRW. We would highlight that 'opinion' may be interpreted as allowing for an element of subjectivity through this process.

State of natural resources report

10. With respect to the duty on NRW to prepare and publish a state of natural resources report, we would highlight the need for this to be based on robust, empirical evidence.
11. We note that Welsh Ministers must have regard to the most recent state of natural resources report when preparing or revising the national natural resources policy and have concerns that para 50 of the Explanatory Notes states that in preparing the state of natural resources report, NRW must be guided by its general purpose. We would re-iterate that the revised purposed has de-emphasised the social and economic strands of sustainability leading us to have some concerns that these elements will be not adequately considered in the report, which will be a key driver of future policy.
12. It is vital that reporting is oriented towards the ability of ecosystems to meet the needs of society, economy and environment now and in the future and we would also highlight the need, given the predicted challenges to the global food production system, for adequate assessment and indicators relating to agriculture productive capacity and extent to be included as a vital ecosystem service that is likely to be increasingly important in coming decades. This will be necessary if the Bill is to align itself to the Well-being of Future Generations Act (2015) and in particular the seventh goal of a globally responsible Wales.

National natural resources policy

13. From the information provided it is not clear how the duty to prepare, publish and implement national natural resources policy will operate in practice and whilst we note

this policy will be aligned to the electoral cycle we foresee that the 'measures' that Welsh Minister will take to implement the policy may well not be.

14. We cite the Glastir Scheme as one such example. This will be viewed as a key method of achieving the aims of the national natural resources policy on farms in Wales, however, this scheme is funded via the Rural Development Programme which operates in a seven year framework and currently offers contracts extending to five years. The national natural resources policy could result in a shifting of objectives at differing timeframes to the measures that operate to deliver on the policy and it is possible that we could see farmers under contract no longer aligning with the latest policy.
15. We would further highlight that the aims, priorities and focus areas for EARDF are established by the Commission and whilst we acknowledge the flexibility that does exist, no account is taken of this within the Bill.

Area statements

16. We note that NRW will be required to prepare and publish statements for the areas of Wales it is considers appropriate for the purpose of facilitating the implementation of the national natural resources policy. The Bill does not appear to define the appropriate spatial scale, nor does the Bill specify the approach that will be adopted in their development. We have concerns that this could lead to a variation in approach in development and implementation which could, in effect, lead to a post code lottery approach for farmers, who after all own and manage much of the land falling under the national natural resource policy.
17. The process of area planning described appears 'inward looking' and we ask how wider considerations such as the provisioning of services required beyond the area boundary can be adequately taken into account.
18. We ask for information on the process by which area statements (both development and implementation) will be monitored and evaluated and more importantly benchmarked against each other. Crucially, in our view, this assessment should consider their performance in environmental, social and economic terms.
19. We note the role of NRW and other public bodies are set out within the Bill but there is no reference to how private sector businesses particularly farmers will be engaged in the development of area statements.
20. Nor does this section of the Bill acknowledge that many of the policy tools and levers relating to the environment and more broadly impacting on farm businesses are determined in Brussels or Cardiff and not at the level of the area statement so we foresee a situation where much of the action in taking forward the implementation of the area statements will take the form of smaller projects with varying degrees of success.
21. We request further information on what analysis has been undertaken on the range of plans public bodies are under a duty to prepare and ask which plans will have higher priority and how, ultimately, they can be reconciled into a coherent plan of action.
22. Finally we refer to the three pilot areas in Rhondda, Tawe and Dyfi and ask what assessment has been undertaken of the impact of this work so far? How have landowners been engaged in the preparation of the area statement for each respective area and what action has resulted? How have the area plans for each pilot area engaged with the existing policy levers such as Glastir? Has a 'blueprint' of an area statement been developed as a result of the pilots that can be shared with stakeholders so that we can better understand how the process will operate?

23. Our observation, at this stage, would be that we are no clearer of how Natural Resource Management will operate at the ground level and would stress that for the area statement model of working to move forward, there is a need to establish:
    - Clearly presented, locally relevant ambitions for environmental protection or enhancement which have been developed in a participatory way with those farming businesses concerned.
    - The development of voluntary, partnership approaches that deliver the shared ambition
    - Dedicated officers who understand the sector, and are able and willing to make pragmatic decisions based on what is practically and economically achievable.

Land management agreements

24. We note Section 16 (1) which gives powers to NRW to make an agreement with a person who has an interest in land in Wales about the management or use of the land. Whilst the Explanatory Note describes that the agreements will be voluntary, Section 16 (2) (a) of the Bill states that a land management agreement 'may impose on the person…..obligations in respect of the use of the land'. We would emphasise that land management agreements **must always be voluntary** and this should be clearly stated on the face of the Bill.
25. With respect to the registration of management agreements with the Land Registry we seek clarification that this registration will only be applied for the duration of the contract and will be removed thereafter. Management Agreements require a landowner to manage their land in a particular way for which they receive compensation for the duration of the contract. Once that contract has elapsed and compensation has ceased to be paid it is unrealistic to expect the landowner to be bound by the requirements of the contract in perpetuity.

Powers to suspend statutory requirements for experimental schemes

26. In terms of powers to suspend statutory requirements for experimental schemes and powers of NRW to conduct experimental schemes, NFU Cymru can see the merit of having this provision. These powers must not, however, be used as a mechanism to impose or trial yet another layer of regulation which will lead to a further increase on the regulatory burden on farmers which adds costs and impacts on the ability of farmers in Wales to be competitive with farmers in other nations. Rather NRW must be a body that works in partnership with business to deliver better outcomes for the environment, economy and society. We would reiterate that NFU Cymru is not in favour of General Binding Rules and advocate voluntary, partnership approaches to deliver environmental outcomes.
27. Finally, with respect to Section 1, we would acknowledge that managing the environment is a complex process, however, the Bill is vague in how it will interact with legislation and suite of actions already in operation. We are unclear and remain unconvinced about the capacity to deliver on the ambition of the Bill, particularly within NRW.

Part 2 Climate Change

28. NFU Cymru notes Section 2 of the Bill relating to climate change and the requirement to achieve the 2050 emissions target that is at least 80% lower than the baseline; interim emissions targets; and the establishment of carbon budgets for each budgetary period. We would make the following comments:
29. It is important that Welsh Ministers utilise the latest scientific and technical evidence. We would highlight that results from the UK GHG Research Platform suggest that emissions from some agricultural sources may be significantly lower than currently estimated
30. It is also important that estimates of potential emissions reductions are made at the most economically effective rate, particularly for agriculture, reflecting the realities and practicalities of implementation at the farm scale.
31. We believe that agriculture is one sector where some changes to deliver mitigation will require a long lead-in time e.g. livestock breeding.
32. It is not clear why the proposed timings of the carbon budgets are not aligned with those in the UK Climate Change Act
33. We believe that the proposal to provide the Welsh Ministers with the power to amend, add or modify the list of greenhouse gases or the baseline targeted by the Act should be in line with international reporting guidelines.
34. Climatic impacts may also limit abatement by both agriculture and land-use, land-use change and forestry (LULUCF). We highlight there is limited understanding of the mitigation potential for both 'sectors' under the range of potential future climates at this stage.
35. We ask what consideration has been given to the EU discussions on agriculture as part of the Climate and Energy 2030 package
36. With reference to the Advisory Body is it not clear how a sectoral balanced representation can be achieved to provide guidance to Welsh Ministers, also the extent to which the Advisory Board will be required to take into account the Well-being of Future Generations Act (2015) and, in particular, the seventh Well-being goal has not been specified. We would emphasise the need for the Advisory Body to consider our global responsibilities in providing advice to Welsh Ministers.
37. We identify that a key challenge will be ensuring that in meeting reductions targets in Wales, the emissions of another nation are not increased through displacement of production. This challenge has not been adequately considered in the Bill.
38. Recent research by the JRC which demonstrated the potential risk of setting unrealistic mitigation targets for the agricultural sector. An economic assessment of GHG mitigation policy options for EU Agriculture considers a range of policy options to reduce emissions from EU agriculture by up to 28% by 2030. The report highlights that mandatory targets reduce herd size, yield and crop acreage (for fodder) with the beef sector hit hardest. In addition the EU's trade balance is projected to worsen for almost all products. However increases in productivity make up some of the difference between supply and demand. The report's conclusions include the statement that "the more flexible the mitigation policy instruments are implemented, the less are the production effects on an aggregated EU level and hence also any potential emissions leakage effects".
39. Finally we would highlight that 'decarbonisation' and green growth relies on the development and implementation of an 'enabling' regulatory and planning framework and the Bill appears to have missed the opportunity to adequately consider and

address the very real barriers to uptake that are experienced by those wishing to take forward renewable energy projects across a range of scales.

Part 4 Collection and Disposal of Waste

40. We highlight the need for 'rural proofing' this aspect of policy and it is vital that the costs of collecting different waste types separately must not be pushed onto farmers and/or residents within rural communities. We stress that costs are often much higher in rural areas when compared to urban areas where transport costs are lower and where it is cheaper and easier for waste separation facilities to exist.
41. In terms of waste separation there is a need to recognise that if some waste types are banned from going for incineration, options must be available for these waste types to go to other facilities with similar gate fees. If incineration is not permissible for some waste types but the costs of sending the waste to other facilities is higher this may increase the rates of fly-tipping as there is disincentive for waste carriers to dispose of the waste responsibly.
42. We would highlight that fly-tipping is an issue for many farmers and landowners and there is very little support available to assist them as there is no statutory duty placed on local authorities to investigate fly-tipping on private land. This omission from the Bill is disappointing and we foresee that taking action to address fly-tipping on private land could be an increasing problem in coming years as the public finances become ever-more strained.

Part 7 The Flood and Coastal Erosion Committee

43. NFU Cymru notes Section 82 of the Bill which provides for the establishment of Flood and Coastal Erosion Committee for Wales (FRMW). This will remove and change some of the statutory functions of the current Flood Risk Management Wales Committee from that of scrutiny committee to a committee with a wider advisory/consultative role.
44. We understand that this is in response to the recent review carried out by NRW on FRMW which expressed concern about dual accountability and overlap between this committee and the NRW Board. We also note the review identified that FRMW Committee members displayed varying levels of understanding of flood risk management issues and we ask what assessment has been made on the levels of understanding of flood risk management issues held by members of the NRW Board. Overall NFU Cymru would stress the need for agricultural representation on both the Flood Risk Management Wales Committee and the NRW Board.

Part 8 Power of entry: compliance with order for cleansing ditches etc

45. We note the clarification of the law under Section 85 of the Bill which gives powers of entry to ensure that an order from an Agricultural Land Tribunal under Section 28 of the Land Drainage Act 1991 has been complied with. This has the potential to benefit members who suspect that a landowner has not undertaken works set out in the Order. We would highlight the need, in the first instance, to make efforts to establish dialogue with the landowner prior to powers of entry being used – it may be possible that there is a good reason why the work specified in the Order had not yet been undertaken.

NFU Cymru Consultation Response

NFU Cymru would conclude by observing that this Bill is part of a series of Bills put forward by Welsh Government and we would reiterate that it is not entirely clear where the Environment Bill fits in with the other Bills – the need to balance environmental with the social and economic needs of Wales cannot be overstated. NFU Cymru looks forward to attending the Environment and Sustainability Committee Scrutiny session in the coming weeks.

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
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Ymateb gan Geoconservation Cymru – Wales (GCW)	Response from Geoconservation Cymru – Wales (GCW)
EB 52	EB 52

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Environment (Wales) Bill
Welsh Government Consultation

15th June 2015

Response from Geoconservation Cymru – Wales (GCW), formerly the Association of Welsh RIGS Groups (AWRG)

Preamble This response to the *Environment (Wales) Bill* is made on behalf of the Association of Welsh RIGS Groups (AWRG) which is in the process of changing its name to Geoconservation Cymru – Wales (GCW). AWRG was established in April 1999, bringing together the RIGS [1] groups in Wales with geologists from the then Countryside Council for Wales and British Geological Survey with the aim of conserving and promoting Welsh geodiversity [2].

AWRG worked with the Welsh Government in a full Audit of Regionally Important Geodiversity Sites in Wales completed in 2012 and, around and since then, responded to the *A Living Wales* (2010), *Natural Resources Wales* (2012), *Sustaining a Living Wales Green Paper* (2012), *Nature Recovery Plan for Wales* (2014) and *Landfill Disposals Tax* (2015) Consultations.

We regard partnership and communication of geodiversity and geoconservation (including other conservation organisations in biodiversity, local government and the National Assembly for Wales and Welsh Government) as essential objectives in the holistic and sustainable management of the natural resources, landscapes and services of Wales. The relevant Aims & Objectives are set out in Appendix A, abstracted from the GCW Constitution (2015).

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[1] RIGS were designated as Regionally Important Geological/Geomorphological Sites in the UK Nature Conservancy's *Earth science conservation in Great Britain : A strategy* (1990), being of a standard worthy of recognition and protection as non-statutory sites, to complement the SSSIs and NNRs under statutory protection. RIGS sites in Wales are now known as Regional Geodiversity Sites.

[2] Definitions collated from Scotland's *Geodiversity Charter* [Scottish Geodiversity Forum, 2012, in partnership with the Scottish Government, Scottish Natural Heritage and British Geological Survey; England's *Geodiversity Charter* [English Geodiversity Forum, 2014, in partnership with Natural England and the British Geological Survey]; the Association of Welsh RIGS Groups [supported by the Welsh Assembly Government] and GeoConservation UK [supported by Natural England *et al.*]. For fuller definitions, see Appendix B

Our Response to the Environment (Wales) Bill

1. The essence of our response is that the Bill gives scant recognition to the significance of geology and soils in Part 1 : Sustainable Management of Natural Resources and none whatsoever to the role and importance of geoconservation and geodiversity - to the detriment not only of these key aspects of protection for the geological environment and character of Wales but therefore also for its role in sustainability and environmental services it provides.

2. Apart from the singular inclusion of *geological features and processes* in Part 1, Natural Resources 2(d), there is no further use of the terms 'geology' or 'geological environment' in the Bill even though geology controls or influences many aspects of air, water & soil; minerals; physiographical features; climatic features & processes listed in 2 (b) – (f) as well as biodiversity, ecosystems and habitats.

3. By comparison, there is extensive use of the term 'ecosystems', 'biodiversity' and 'habitat' in the elaboration of, and duties with regard to, 'natural resources' and the Natural Resources Body for Wales (NRW) in Part 1, especially in sections 3 (Sustainable management of natural resources), 4 (Principles of sustainable management of natural resources), 6 (Biodiversity and resilience of ecosystems duty) and 7 (Biodiversity lists *etc.*).

4. It is our case that this omission, and the consequential imbalance in the definitions and duties regarding natural resources and their sustainability, requires correction, without which these aspects of the Bill are flawed and its aims and objectives compromised.

The causes of omission, imbalance and ambiguity

5. In the broadest sense, the term 'Nature' in both scientific and general usage implies both the organic, living (bio-) and inorganic, 'non-living' (geo-) working together to create the physical environment. However, the terms biodiversity and bioconservation are frequently *narrowly* defined and restricted just to the living environment – and that equally important geodiversity and geoconservation are often excluded from recognition in environmental policy and funding for geoconservation.

6. This serious narrowing of the definition, recognition and application of geodiversity pervades public, private and governmental organisations *inter alia* and is bound to influence the nature and level of acceptance of geoconservation and geodiversity in this Bill and all other bills and Policies.

7. Moreover, the essential problem is compounded by all subsequent definitions, applications and policies when they rely - knowingly or unknowingly - on an initial, narrow definition. Those drafting application and policy without scientific knowledge simply repeat the flaw. Exclusion of the geological half of 'nature' is rarely deliberate and comes instead from this lack of understanding.

8. Geoconservation and geodiversity have a good pedigree in the publications and policy of the UK's Statutory Conservation Agencies and other organisations but their continuity into downstream publications and policy – including this Bill – is inconsistent, unreliable and often subject to individual author's understanding. There is a frequent necessity to re-state the case for their recognition. Extended justification for the definition and use of the terms is provided in Appendix B.

Since the terms geoconservation and geodiversity underlie basic understanding and communications in this broad field, consistency and stability of the nomenclature across all uses is essential.

The case for specific inclusion of Geoconservation and Geodiversity in the Bill

9. Wales' geodiversity and its conservation and accessibility are an integral part of the scientific, historical, industrial, educational, cultural, aesthetic and recreational landscapes and heritage of Wales With regard to benefits to the environment of Wales in general terms, geoconservation and geodiversity draw attention to a fundamental component of the physical landscape and control of its operating processes, the underpinning of biodiversity and a strong influence on the cultural and socio-economic environments developed over time.

10. This awareness is obscured – and therefore often ignored and uncomprehended – through its largely subsurface expression, which makes the occurrence of surface outcrops and exposures, and their conservation and opportunity for scientific study, informing national policies and strategies, public education and amenity all the more important. Active geoconservation also improves environmental quality.

11. With regard to benefits to biodiversity, geodiversity provides the fundamental underpinning of the biosphere, through the chemical and physical character of the rocks and, together with climate, is the principal determinant of the structure and composition of the plant communities. Many habitats and ecosystems – such as salt marsh, tidal and estuarine habitats, sand-dunes, limestone pavement, bogs & mosses, mountain rockwalls - are primarily 'geosystems' first and thence 'biogeomorphic' systems. For all these reasons, geodiversity is also a major determinant of human land use and provides a wide range of ecosystem and related services (see Appendix C). Geodiversity is not a sub-set of biodiversity – it *creates* biodiversity.

12. Geodiversity also carries both the record of past climate change as well as the principal evidence for modelling future climate change, and the sensitivity of active geomorphological and soil sites frequently provides an early signal of progressive anthropogenic climate change.

13. The geodiversity of Wales has few peers for such a concentration of geological interest in a small nation and featured strongly in pioneer global geological research in the early-mid 19th Century. Major geological systems – the Cambrian, Ordovician and Silurian - recognised worldwide, retain their early Wales nomenclature. Its geodiversity therefore not only underpins much of Wales' industrial and historical heritage but so too does its very scientific study.

14. Wales was also a very early (if not the first) centre for soil survey and mapping in the UK. Prof G W Robinson at Bangor University first published on Anglesey soils in 1917, with the first full time "soil surveyors" appointed in 1924 leading to soil maps in 1928. He also linked soils to the underlying geology when Greenly published his classic Anglesey geology map and memoir in 1919. Soils rarely feature in environmental policy and yet they underpin all biodiversity interest and the role of soils in mitigating a wide range of sustainable environmental issues, especially climate change, requires clear identification in the Bill.

15. Geoconservation is essential in the maintenance of geodiversity since the removal of any geological resource is final and cannot re-grow or be re-introduced, whereas biodiversity can recover or be restored through habitat-recreation and species re-introduction. Wales has 76 National Nature Reserves (NNR) many of which are iconic sites for their geodiversity – for example, the large-scale upland glaciated landscapes of Cwm Idwal, Yr Wyddfa and Cadair idris, the coastal sites at Morfa Dyffryn and Morfa Harlech, and the caves at Dan yr Ogof. All are NNRs whose geodiversity defines the landscape and underpins the biological interest. There are currently c. 400 Sites of Special Scientific Interest (SSSI), out of 1329 SSSIs, designated primarily or substantially on their geological importance in Wales, and a further 924 Regional Important Geodiversity Sites (RIGS) across Wales to which there is no reference in the Bill and which collectively underline the importance of Wales' geodiversity to all of the issues covered by the Bill.

16. Finally, Wales outstanding geodiversity is recognised internationally, and provides huge opportunities for education, recreation and improving the health of the nation. The two Welsh UNESCO geoparks (GeoMôn and Fforest Fawr), for example, are demonstrating the key role that geodiversity can play in stimulating local tourism and generating sustainable economic development. Many country parks and designated walks in Wales, designed not only for public enjoyment but also activity linked with health and wellbeing, are established in former quarries and areas of land degradation and GCW is active in placing relevant geological information in the public domain including notice boards and trail guides in these and other locations.

It is therefore our principal request that in order to avoid ambiguity and exclusion, the terms **geodiversity** and **geoconservation** be written into and given equal status with biodiversity in the Introduction and General Duties of the Environment (Wales) Bill, and that explicit reference is made to them thereafter and as appropriate, wherever the specific reports, policies and implementations warrant.

Yours sincerely,

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Geoconservation Cymru – Wales (GCW, formerly AWRG)
Executive Committee of GCW and former Chair of AWRG,
Inaugural Chair of Gwynedd & Môn RIGS, Inaugural Chair of UK RIGS
(now GeoConservation UK)

APPENDIX A

The Title, Aims & Objectives of Geoconservation Cymru - Wales

1. The name of the organisation is Geoconservation Cymru - Wales (hereafter abbreviated as GCW) and formerly known as "The Association of Welsh RIGS Groups" (AWRG).

2. Subject to the matters set out below, GCW and its funds and any property shall be administered and managed in accordance with this constitution by the members of the Executive Committee, constituted by clause 7 of this Constitution.

3. The Aims of GCW shall be to encourage the identification, conservation, appreciation and promotion of what were first collectively known as Regionally Important Geological/Geomorphological Sites (RIGS) and are known currently as Regional Important Geodiversity Sites (RIGS) in Wales, for education and public benefit, through the following Objectives, by:

a. acting as the national coordinating organisation for the Geoconservation and Geodiversity movement in Wales, and regional Welsh Geoconservation (RIGS) Groups, hereafter abbreviated as WGG;

b. collaborating with the National Assembly of Wales, Statutory conservation and regional Geoconservation organisations in Wales, including Natural Resources Wales / Cyfoeth Naturiol Cymru, and the wider UK, towards common objectives;

c. focusing on common purposes and issues in meeting the needs of geoconservation at every level, including the protection of RIGS;

d. promoting and maintaining standards and systems of nomenclature, recording and documentation;

e. maintaining access to, and updating, a database of Welsh RIGS

f. identifying and working to secure resources to enable GCW and WGG to work effectively;

g. developing appropriate structures to enable GCW to promote and support the movement nationally;

h. advising and assisting in the implementation of relevant national policies and strategies;

i. maintaining a watching brief over the wellbeing and efficacy of WGG and representing the geoconservation interest in areas of Wales which, from time to time, may lack an active WGG;

j. working with other organisations, such as geological groups, educational institutions, Wildlife Trusts *etc.* and those caring for the historic environment (*e.g.* Cadw, the National Trust) to achieve common objectives;

k. representing the voluntary sector of geoconservation in Wales on the Executive Committee of Geoconservation UK and in the UKGAP;

l. implementing a bilingual policy whenever possible with constraints of expertise and finance;

m. reviewing these objects from time to time.

The Aims & Objectives of Regional Welsh Geoconservation Groups

4. The Aims and Objectives of each regional WGG in Wales shall be to:

a. identify, survey and document non-statutory sites of geological, geomorphological and related discipline interest in Wales, in discrete named Regions defined by current national and unitary boundaries, on criteria such as the use of sites for educational fieldwork, scientific study, historical, aesthetic, cultural, wildlife, recreational values and related aspects. These sites will be subject to appropriate scrutiny before proceeding to notification.

b. notify and promote the establishment and protection of such geodiversity sites for future generations with local planning/minerals/National Park authorities (including incorporation into Unitary Development Plans) and other relevant non-statutory organizations;

c. maintain an active policy with regard to the site assessment, long-term monitoring, protection and management of geoconservation sites.

d. promote an interest/awareness in geoconservation amongst the general public by whatever practical means deemed appropriate.

e. In all other respects, the Aims and Objectives of each regional WGG shall be to support and uphold the general Aims and Objectives of Geoconservation Cymru - Wales within its agreed regional boundaries.

APPENDIX B : GEODIVERSITY

Geodiversity is defined as the variety of rocks, minerals, fossils, landforms and soils, together with the natural processes that shape them. Geodiversity is a foundation for life and our society. It provides the fundamental underpinning of the biosphere, through the geochemistry, structure and water/thermal conductivity of rocks and soils and is actively altered by surface geomorphological processes. Geodiversity influences landscape, habitats and species as well as our economy, historical and cultural heritage, education, health and wellbeing [2].

[2] Collated from Scotland's *Geodiversity Charter* [Scottish Geodiversity Forum, 2012, in partnership with the Scottish Government, Scottish Natural Heritage and British Geological Survey; England's *Geodiversity Charter* [English Geodiversity Forum, 2014, in partnership with Natural England and the British Geological Survey]; the Association of Welsh RIGS Groups [supported by the Welsh Assembly Government] and GeoConservation UK [supported by Natural England].

Definition and Significance of Geodiversity

Geodiversity is defined as the variety of rocks, minerals, fossils, landforms and soils, together with the natural processes that shape them. Geodiversity is a foundation for life and our society. It provides the fundamental underpinning of the biosphere, through the geochemistry, structure and water/thermal conductivity of rocks and soils and is actively altered by surface geomorphological processes. Geodiversity influences landscape, habitats and species as well as our economy, historical and cultural heritage, education, health and wellbeing [2].

Geodiversity is internationally recognised by the Recommendation of the Committee of Ministers of the Council of Europe (2004) that states: 'geological heritage constitutes a natural heritage of scientific, cultural, aesthetic, landscape, economic and intrinsic values, which needs to be preserved and handed down to future generations'. This is also an essential consideration in the application of the European Landscape Convention (2002). The International Union for Conservation of Nature (IUCN) Resolution 4.040 on 'Conservation of geodiversity and geological heritage' (2008) provides a benchmark statement of the wider role and relevance of geodiversity, recognising that 'the conservation and management of geological heritage need to be integrated by governments into their national goals and programmes'. Geodiversity also provides a wide range of ecosystem and related services listed in Appendix C, abstracted from the AWRG response to the Living Wales Consultation of 2010.

Biodiversity is underpinned by **geodiversity**. Without the variety of rocks, landforms, soils, water and nutrients that support the locally, nationally and internationally valued habitats, species and ecosystems these could not exist. Unless the geodiversity is robust and conserved then the range of biodiversity will be diminished. **Geodiversity**, like other aspects of the natural environment, is threatened. For example, poorly planned development can destroy geodiversity and irrevocably change natural processes. Similarly, lack of management and co-operation can lead to the progressive decline of geodiversity and loss of access to critical geodiversity sites. Careful management of geodiversity, and an understanding of its environmental value, has wide economic, social, cultural and educational benefits. In particular, integration of geodiversity into the 'ecosystem approach' will better inform robust adaptations to climate change, as well as supporting policy such as that described in the Government paper The Natural Choice. Lack of action will lead to loss of geodiversity and missed opportunities for science, education and society.

APPENDIX A : GEODIVERSITY SERVICES

The following provides some examples of Services that Geodiversity provides, abstracted from the AWRG response on 8th December 2010 to the *Living Wales* Consultation.

Geodiversity in Regulating Services:
Atmospheric and oceanic processes
Dynamic circulation
Global heat regulation
Terrestrial processes
Rock, carbon & water cycles
Geomorphological processes e.g. landslides
Flood control – water infiltration in the landscape, run-off
Water quality, quantity and storage

Geodiversity in Supporting Services:
Bedrock – landscape, resource – stone, sand & gravel
Soil – growing medium, soil profile development, weathering,
Habitat provision – caves, cliffs, limestone pavements, ponds, valleys, moorland, salt marshes etc.
Land as a platform – buildings, airports, sport
Burial and storage – human, animal, waste including nuclear
Protection – coastal & flood defences

Geodiversity in Provisioning Services:
Mineral resources – Superficial and bedrock
Food and drink – soils for food plants, meat (sheep, cattle, pigs) water, beer, wine & whisky
Nutrients – minerals inc. salt, zinc

Fuels – coal, gas, oil, uranium etc.
Construction materials – stone, including limestone and sandstone, slate, shale, sand and gravel, cement, glass, copper
Industrial minerals – quartz, calcite etc
Ornamental – fossils and minerals, e.g. Welsh gold

Geodiversity in Cultural Services
Environment quality – landscape both local and national (Country parks, AONBs, National Parks, Geoparks)
Geotourism and leisure – landscape both local and national (Country parks, AONBs, National Parks, geoparks)

Cultural, spiritual and historical meaning
Folklore, sacred sites, 'sense of place'
Artistic inspiration – art (Turner to Kyffin Williams), sculpture, literature, poetry
Social development – local geological societies, field visits, walks & talks

Geodiversity in Knowledge Services
Earth History – evolution and landform; major Welsh contribution to the understanding of the Earth and natural systems
Physical processes
Geoforensics
History of research – unconformities/geological time/mountain building/evolution
Environment monitoring – glacial retreat, sea-level change, acidification
Education and employment – field skills training, on & offshore exploration through the management of sites, areas and wider landscapes

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Llinos Price	Llinos Price
EB 53	EB 53

Evidence to the Environment and Sustainability Committee of the National Assembly for Wales

The General Principles of the Environment Wales Bill

General Comment – Good Environmental Governance under the framework of Sustainable Development (Well-Being of Future Generations)

1. The proposal to legislate in order to develop a more integrated approach to managing the environment and natural resources of Wales, underpinned by the **ecosystem approach** within the context of sustainable development, is welcome and necessary. The Explanatory Memorandum[1] accompanying the bill (paragraphs 12 and 13), explains that the Welsh Government's intention and justification for the creation of Natural Resources Wales[2] and for legislating for the environment is the need to develop a framework for better management of natural resources underpinned by the **ecosystem approach** and the **United Nations' Convention on Biological Diversity (CBD) principles**[3]. As stated in paragraph 17 of the EM, 'the application of an ecosystem approach to the management of natural resources is crucial for sustainable development'. This intent is supported.

2. Biodiversity underpins all ecosystem services and there is a danger that the provisions in the bill within Part 1 as currently drafted, particularly in relation to the definitions of 'sustainable natural resource management' and the purpose of Natural Resources Wales are not adequate to ensure the right balance between environmental protection and exploitation. The precautionary principle should be incorporated into the legislation

3. Chapter 1 of the Environment Bill White Paper (and previously the Living Wales consultations) set the context for a more integrated approach to the sustainable management of our natural resources in referring to the 2011 National Ecosystem Assessment on the state of UK Ecosystems[4], and the State of Nature Report (May 2013)[5], which indicated that around a third of the services provided by our natural environment are degraded or in decline. It also refers to the National Assembly for Wales' Sustainability Committee Inquiry into Biodiversity in Wales (January 2011)[6], which recommended that the Welsh Government should adopt a strategic ecosystems approach to the management of biodiversity in the wider countryside through the Natural Environment Framework and that this ecosystems approach should be central to the Government's efforts to achieve the 2020 targets. The Welsh Government accepted this recommendation in its response to the report (March 2011)[7].

[1] Environment (Wales) Bill – Explanatory Memorandum: http://www.assembly.wales/laid%20documents/pri-ld10201-em/pri-ld10201-em-e.pdf
[2] Welsh Government Living Wales Consultation pages: http://gov.wales/topics/environmentcountryside/consmanagement/nef/?lang=en
[3] The 12 principles of the ecosystem approach (CBD): https://www.cbd.int/ecosystem/principles.shtml
[4] http://uknea.unep-wcmc.org/
[5] http://www.rspb.org.uk/Images/stateofnature_tcm9-345839.pdf
[6] http://www.assemblywales.org/cr-ld8384-e.pdf
[7] http://www.assemblywales.org/gen-ld8491-e.pdf

4. The EM states in paragraphs 10, 11 and 12 that 'The 2011 Welsh Government's 'Programme for Government 'built on the 2010 'A Living Wales: a new framework for our environment, countryside and seas' consultation in setting out a number of commitments in relation to natural resource management, including the introduction of an Environment Bill.' And 'In 2012, the 'Sustaining a Living Wales' Green Paper set out proposals on the scope and opportunities for simplifying how we manage and regulate the environment to deliver better outcomes for the people of Wales. The central proposal in the Green Paper was to move towards an **ecosystem approach**', and 'In 2013, the Welsh Government published a White Paper for an Environment (Wales) Bill. The White Paper set out a framework for better management of resources, focusing on Wales' natural resources and waste. In doing so, it included specific proposals for a new area-based approach to integrate natural resource management at a local level, underpinned by the ecosystem approach and the **United Nations' Convention on Biological Diversity (CBD) principles**'

5. The case for legislative change as expressed in the EM, the statement of policy intent and other relevant documentation such as the environment bill white paper and living Wales consultations is misleading and contradictory. The narrative set out the context of environmental degradation and the need for a more integrated ecosystem approach as the driver for change, which would represent the need for stronger environmental governance. In contrast, the proposals in Part 1 of the bill such as the proposal to change the statutory purpose of Natural Resources Wales (see below), and the terminology and definitions in the bill – 'sustainable natural resource management' – may not properly reflect the ecosystem approach model, but rather a more utilitarian methodology and approach focussed on ecosystem services and ecosystem resilience without adequate reference to biodiversity and/ or ecological limits (environmental protection). These definitions should be amended to reflect the ecosystem approach and to incorporate the precautionary principle.

6. The Henry VIII proposals that appeared in the draft white paper have reappeared in the Environment Wales Bill in relation to NRW's experimental powers and schemes. Concerns regarding the use of such framework provisions to amend primary legislation through secondary legislation were raised by stakeholders and the Assembly's Constitutional Affairs Committee during the Assembly's consideration of the environment bill white paper. This proposal has no evidence base and remains a broad framework power to amend primary legislation through secondary legislation. These provisions also appear to be potentially in conflict with the European environmental legal framework and wider international obligations (See further detail in reference to 22(1) below.)

7. The documents accompanying the bill and the preceding white paper etc include several references to current environmental legislation - and in particular that which relates to the remit of NRW - acting as a barrier and creating conflicts. Chapter 1 of the Environment Bill White Paper (Paragraphs 1.13 -1.14 -1.15 and 1.25-1.26) stated that 'the current legislative framework of environmental statutory duties and regulatory functions does not consist of a regulatory framework that allows for consideration of the dynamic interface between the natural environment, the economy and society to enable decisions that consider the

connection between all three spheres, because it has evolved over many decades and mostly in response to specific environmental problems'. These sections also claim that 'the current environmental legislation is narrow in focus, reactive and often viewed in isolation of economic and social policy; and that NRW operates under a narrow, reactive legislative framework designed for three separate bodies'. Paragraph 13 of the EM states that Natural Resources Wales 'remains bound by the weaknesses in the existing legislative framework, consisting of more than 230 pieces of statute.'

8. No comprehensive analysis of the legal framework within which Natural Resources Wales operates has been undertaken and therefore it is not clear what evidence sources have informed this view.

9. A thorough review of the legislation should be undertaken to inform any proposal for fundamental changes to existing legislation, involving consultation with practitioners and about the efficacy or otherwise of legal provisions in terms of their intended outcomes, in keeping with the Arhaus convention[8].

[8] The Aarhus Convention: http://ec.europa.eu/environment/aarhus/

Part 1 – The Sustainable Management of Natural Resources

Providing Natural Resources Wales with a general purpose linked to statutory 'principles of sustainable management of natural resources' defined within the Bill – A significant change to Wales' only statutory 'environmental body'

1. This proposal is a significant amendment and represents a fundamental change to the remit of Wales' only statutory **environment** body.

2. Chapter 1 of the EM (Paragraph 2) states that the Bill 'provides Natural Resources Wales (NRW) with a general duty that **aligns fully** with the statutory **principles for the sustainable management of natural resources.**' NRW already has a purpose, which was introduced under the body's establishing order[9].

3. The proposal in the bill is to replace the current purpose in its entirety, including Part 2, section 4 (5) which states that the 'purpose does not give the body the power to exercise any of its functions in a manner contrary to the provisions of any other enactment of any EU obligation'. This redrafting changes the body's current legal remit as it stands under the Natural Resources Body Establishment Order[10] and Natural Resources Body for Wales Functions Order[11]. It is proposed that the current purpose of NRW and the clauses attached to it are completely replaced with new wording. This includes a proposal to remove the word **'environment'** from the statutory purpose of Natural Resources Wales. This is a significant amendment and represents a fundamental change to the remit of Wales' only statutory **environment** body. The definitions of 'sustainable natural resource management' and the need to strengthen environmental governance in Wales will need to be considered in reference to the purpose of NRW.

4. In creating NRW the Welsh Government was limited to effectively amalgamating the existing statutory functions of the legacy bodies and some functions of the welsh government e.g. marine licensing (as it was done through secondary/ subordinate legislation with powers delegated to it under the Public bodies act 2011 (UK Bill). In drafting the two legal orders, whilst the remit of the body did not fundamentally change from that of the legacy bodies, a new statutory 'purpose' was created, which requires NRW to ensure that: "the environment (which includes without limitation living organisms and ecosystems) and natural resources of Wales are sustainably maintained, enhanced and used for the benefit of the people,

[9] The Natural Resources Body for Wales (Establishment) Order 2012: http://www.legislation.gov.uk/wsi/2012/1903/made
[10] The Natural Resources Body for Wales (Establishment) Order 2012: http://www.legislation.gov.uk/wsi/2012/1903/made
[11] The Natural Resources Body for Wales (Functions) Order 2013: http://www.assembly.wales/Laid%20Documents/SUB-LD9223%20-%20The%20Natural%20Resources%20Body%20for%20Wales%20(Functions)%20Order%202013-26022013-243490/sub-ld9223-e-English.pdf

environment and economy of Wales in the present and in the future". **The Establishment Order makes clear that the purpose does not give the body power to (a) do anything that it would not otherwise have the power to do, or (b) exercise any of its functions in a manner contrary to the provisions of any other enactment or any EU obligation. In simple terms, this indicates that the purpose does not override the core statutory duties and functions that the body must fulfil under UK and EU law (and implementing regulations).**

5. Replacing the purpose as currently drafted shifts the balance of power between NRW's purpose and its core statutory duties in determining the delivery of NRW's functions, including its role as a statutory advisor and consultee. The proposal to change NRW's purpose in the bill will also change the balance between its purpose (as introduced in the body's creation) and its core statutory duties (from existing environmental legislation). This issue was referred to in the white paper, which stated "There is a need to ensure that the primary legislation for which NRW has responsibility to deliver sufficiently takes account of its **high level purpose**." The drafting and definitions will again be critical in terms of NRW's core role as an environment body.

6. It is implied that there is a change to the core role of NRW as an 'environment' body, which advises on environmental impacts and contributes to sustainable development through the delivery of its environmental remit; to a model where the body is required to give **equal** consideration to social, economic and environmental factors in the delivery of its remit.

7. Whilst requirements of NRW under European law (e.g. the Water Framework Directive, the Environmental impact assessment directive, the strategic environmental assessment directive and the habitats and birds directive) remain, the new purpose will be a determining factor in the body's planning advice as a statutory consultee in the town and country planning system.

Enhancing the powers available to Natural Resources Wales (NRW) to undertake land management agreements and experimental schemes – Framework legislation - The *"Henry VIII" power* – Section 22(1)

1. The Environment Bill White Paper[12] included within in it a proposal (NRM11) to give "Welsh Minister/s the power to make specific changes to primary legislation where it can be demonstrated that the current law is contrary to the definition, purpose and objectives of integrated natural resource management." The white paper did not provide a definition of integrated natural resource management and also stated that it was not known at the time how these powers would be used (paragraph 3.50).

2. Stakeholders raised concerns regarding these Henry VIII provisions in the environment bill white paper with the Environment and Sustainability Committee in its evidence sessions held on the 4th and 12th of December 2013[13] and the 15th January 2014.

3. The Constitutional and Legislative Affairs (CLA) committee wrote to the Welsh Government on this matter in February 2014, and the Welsh Government – the Minister for Natural Resources and Food Alun Davies - responded[14]. The correspondence was on the environment committee's agenda on the 13th March 2014[15] as a paper to note, but was not subject to discussion. The letter raised concerns regarding the proposed use of the Henry VIII powers in the environment bill white paper.

4. The Minister's response states:
   "In relation to the points you raise we are in the process of analysing the consultation responses and I would highlight that proposals for inclusion in the draft Bill are not yet finalised – the consultation on the white paper being a key part of the development of the Bill."

   "There are two possible powers outlined in the white power for Welsh ministers to amend acts of parliament and the Assembly by way of secondary legislation. NRM11 sets out a proposal for a power to effect changes to the primary legislative framework that governs the management of natural resources in certain circumstances. *An additional proposal*

[12] Welsh Government White paper - Towards the Sustainable Management of Wales' Natural Resources Consultation on proposals for an Environment Bill (March 2014): http://gov.wales/docs/desh/consultation/131029environment-bill-white-paper-consultation-en.pdf
[13] 4th December 2013E&SD cttee: http://www.senedd.assembly.wales/ieListDocuments.aspx?CId=225&MId=1903&Ver=4 ; 12th decembeer 2013 E&Sd cttee: http://www.senedd.assembly.wales/ieListDocuments.aspx?CId=225&MId=1904&Ver=4; 15th January 2014 E&SD cttee: http://www.senedd.assembly.wales/ieListDocuments.aspx?CId=225&MId=2010&Ver=4
[14] Letter from the CLA committee to the Welsh Government on the Henry VIII provisions in the environment bill white paper; and the welsh government's response: http://www.senedd.assembly.wales/documents/s25008/Paper%203.pdf
[15] http://www.senedd.assembly.wales/ieListDocuments.aspx?CId=225&MId=2020&Ver=4

(SM4) would provide welsh ministers with the power to amend the water act by order in certain circumstances, including if they are satisfied that it will make it easier to consolidate one or more Water Acts"

If taken forward ***I would offer reassurance that the intention is for the powers to have limited and very specific scope to effect changes to the primary legislative framework that governs the management of natural resources. This would only apply in very specific circumstances and to specific legislation – that is where it can be demonstrated that the current law is contrary to the definition, purpose and objectives of the framework for integrated natural resource management and that all other means of addressing those issues have been actioned. Any such amendments would also have to ensure continued compliance with EU obligations. A misconception that was raised at the environment and sustainability committee on the 12th of December that this is a general power that will enable the consolidation of environmental legislation through secondary legislation*** *– this is not the case and my officials will clarify the intention and limited scope of the power.*

5. Whilst the Henry VIII power as referenced in the White Paper (referred to above) has not been included in the bill as indicated in the draft white paper, and has been linked with a specific provision in the Bill i.e. 22(1) on the experimental powers and schemes of Natural resources wales, **it remains broad in its scope to suspend provisions in primary legislation through secondary legislation.** It is also unclear how this proposal relates to European and UK law on habitats and designated sites.

6. According to the Statement of Policy Intent[16], Section 22(1) of the Bill Provides the Welsh Ministers with the **power to suspend provision(s) in legislation**, in relation to an application from NRW of that provision on a specific person, for the purpose of undertaking an experimental scheme.

7. It is noted that certain consultation procedures have been attached to this proposal (see Annex 1 of the Statement of Policy Intent). The process as set out in the policy statement states that NRW will be responsible for identifying the appropriate provisions within legislation and why these provision blocks an experimental scheme. It states that Welsh Ministers must consult with any person to be affected by the suspension, assess whether the proposal is necessary to enable an experimental scheme and to contribute to sustainable management of natural resources. Welsh Ministers will also assess the implications in relation to compliance with EU legislation. Finally, it states that Welsh Ministers will then consider the proposed Order to temporarily suspend legislation through the **affirmative procedure. These provisions are inadequate in terms of consultation and scope for Assembly (and public) scrutiny. The proposal in its entirety will set an unacceptable precedent in environmental law, and is not supported.**

[16] Environment (Wales) Bill - Statement of Policy Intent
http://www.senedd.assembly.wales/documents/s40639/Policy%20Intent%20Statement.pdf

8. The illustrative case studies attached to this proposal are included in the Annex of the Statement of Policy Intent (See Annex 1 of this document), in particular the example of suspending the balancing duty in the forestry act are of concern. No assessment of current environmental law, and in particularly that which related to the statutory duties and functions of NRW as they currently stand has been undertaken.

9. Any perceived **conflict** about the existing legal framework is likely to be driven by the opinion that current environmental protection legislation is a **barrier** to economic development, a constant theme running through the bill's accompanying documents, as well as in the narrative around the purpose and statutory remit of Natural Resources Wales since its creation. This notion of conflicts and barriers has not been tested and has no supporting evidence base.

Llinos Price

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Dŵr Cymru	Welsh Water
EB 54	EB 54

Dŵr Cymru Welsh Water response to the Environment (Wales) Bill Consultation

Thank you for the opportunity to comment on the Environment (Wales) Bill and supporting Explanatory Memorandum/Regulatory Impact Assessment (EM/RIA) that were introduced into the National Assembly for Wales on 11 May 2015.

This submission is from Dŵr Cymru Welsh Water, the statutory water and sewerage undertaker that supplies over three million people, mostly in Wales. We are owned by Glas Cymru, a single purpose, not-for-profit company with no shareholders where all financial surpluses are returned to customers. Between 2001 and 2015, we have returned some £250 million to our customers through customer dividends, social tariffs and accelerated investment. We provide essential public services to our customers by supplying their drinking water and then carrying away and dealing with their wastewater. In this way, we make a major contribution to public health and to the protection of the Welsh environment. Our services are also essential to sustainable economic development in Wales. Welsh Water supports £1 billion per annum of economic activity and some 6,000 jobs.

General

In October 2013 the Welsh Government published a White Paper, *"Towards the Sustainable Management of Wales' Natural Resources"*, outlining its proposals for an Environment Bill. Our response of January 2014 was generally supportive of the Welsh Government's proposals in relation to this important new piece of Welsh primary legislation. That remains the case.

Dŵr Cymru will need more time to examine and consider in detail the provisions in the draft Bill introduced in May 2015 and the associated EM/RIA before we can reach an informed view of the full implications for us. That is a theme that underpins many of our comments below. We are particularly mindful that any new duties or burdens being placed upon us will coincide with a period during which we have undertaken to have falling water prices relative to inflation for our customers.

We stand ready to support the Committee's scrutiny of the Bill and would be happy to appear before it if Committee Members would find that useful. Looking ahead, we have some detailed comments on particular clauses within the Bill which we would be happy to share with the Committee in due course when it is examining the Bill at a clause by clause level.

Part 1

Although we have yet to consider in detail the implications of Clauses 1-5 which set out the Bill's principles and an associated change to the purpose of Natural Resources Wales (NRW), Dŵr Cymru is committed to sustainable development and is a Charter signatory. The nature of our business means that we must plan for the long-term, so we are generally supportive of measures designed to encourage everyone to consider the longer term consequences of their actions.

Clause 6 will place a new biodiversity and resilience of ecosystems duty onto public authorities. The definition of public authorities for this purpose includes statutory undertakers, and explicitly covers water and sewerage undertakers (Clause 6(7)(f)). This change was not heralded in the 2013 Welsh Government's White Paper.

Dŵr Cymru is already under a number of biodiversity and conservation related duties, notably section 40 of the Natural Environment and Rural Communities Act 2006. We endeavour to deliver these duties as part of our business and operations. For example, much of our investment programme is driven by environmental legislation intended to secure benefits for ecosystems, particularly the Water Framework and Habitats Directives. In addition, we look to add value through our everyday activities,

such as the way we manage the land and water we own or through looking for opportunities to deliver biodiversity benefits through our flagship "*Rainscape*" sustainable drainage initiative.

We have not, though, yet had the chance to examine the extent to which the reworded duty being introduced via Clause 6 will represent an additional burden on us. For example, the proposed duty requires the promotion of the *'resilience of ecosystems'*, a phrase that is not defined within the Bill. Clarification will be required on what actions relevant public authorities are expected to undertake to deliver this new duty. We also note that paragraph 42 of the Explanatory Notes says the duty, "*applies to biodiversity in a global sense*": whilst this is a very worthy aspiration, it may imply unrealistic assumptions about the skill sets available within Welsh public authorities, including Dŵr Cymru.

The EM/RIA says (at paragraph 250) that, "*It is not anticipated that the enhanced duty [in Clause 6] will result in net financial costs*" and argues that most of the public authorities on whom the new duty will fall will anyway be required to take many of the requisite steps by virtue of their new duties under the Well-being of Future Generations (Wales) Act 2015. However, the 2015 Act does not apply to statutory undertakers, so this is a new burden on us. There may, at the very least, be an increased reporting duty arising from Clause 6(5): the EM/RIA seems to dismiss this by saying (at paragraph 256) that, "*For the remaining public authorities not covered by the Well-being of Future Generations (Wales) Act 2015, it is expected that they could comply with the reporting requirements through existing reporting mechanisms, for example, any annual reports they produce*".

More generally if, as the EM/RIA argues, the enhanced duty is, "*not an additional burden on public authorities*" (paragraph 250), we would question why the change is being proposed.

Much may depend on the way Welsh Ministers exercise their new duty under Clause 7 to publish lists of organisms and habitats that are of principal importance for the purpose of maintaining and enhancing biodiversity in Wales.

If enacted, this Part of the Bill will also introduce a regime of natural resource management planning. We welcome the proposed national natural resources policy to be produced and implemented by the Welsh Ministers (Clause 9) and we think that the state of the natural resources reports that NRW will publish periodically have the potential to be a very useful tool (Clause 8).

However, particularly at a time when NRW is facing significant budgetary pressures, we continue to have reservations about the potential burden that the preparation of Area Statements may represent for it (Clause 10). (Although Dŵr Cymru is not a "public body" for this purpose), these Statements will represent a potential new burden for the public bodies (listed in Clause 11) that may have a role in their implementation. The purpose and role of these Statements is not yet entirely clear to us. For reasons of practicality, we would like an assurance that the geographical coverage of the Area Statements will dovetail with the water catchments that are generally acknowledged – including by NRW itself – as the most appropriate building blocks for water environment planning functions.

We will need to consider in detail the implications of Clause 16 which relates to land management agreements. On the face of it, it looks significantly wider in scope than section 39 of the Wildlife and Countryside Act 1981 which it will replace. Although we note that agreements will generally still be voluntary, statutory water undertakers are currently obliged to enter into such agreements in the circumstances set out in section 156(4) of the Water Industry Act 1991 (the 1991 Act): clarification of the relationship between Clause 16 and section 156(4) of the 1991 Act will be needed.

Clauses 22 and 23 will confer on NRW an enhanced power to carry out research and experimental schemes. We welcome this provision and would like to work with NRW to explore various ideas, such as a different approach to permitting in coastal waters.

The EM/RIA suggests (e.g. at paragraph 143) that this provision would enable NRW to trial Payments for Ecosystem Services and General Binding Rules (GBRs). As we made clear in our response to the Welsh Government's White Paper, Dŵr Cymru is a strong advocate of GBRs as we believe that they would be a useful addition to the NRW's regulatory toolkit, offering a 'light touch' form of regulation of various potentially polluting activities such as the application of pesticides or the operation of septic tanks. There is a ready-made and well-established model in Scotland that seems to be working well, so we are disappointed that there are no specific provisions on the face of the Environment Bill to introduce a statutory system of GBRs here in Wales.

Part 2

We welcome the Welsh Ministers' continuing commitment to reduce greenhouse gas emissions from Wales. Dŵr Cymru is also committed to reducing our greenhouse gas emissions: in 2007 we voluntarily set ourselves the target of reducing our carbon footprint by at least 50% by 2035. We have already reduced our annual emissions by 18% since 2007/08. As a major electricity consumer, our emissions are greatly influenced by the carbon attributable to energy supplied through the national grid, but our additional investment in renewable energy has allowed us to meet our targets to date.

Part 3

We have no comments on the provisions relating to carrier bag charges.

Part 4

Dŵr Cymru has yet to consider the implications for us as a business of the Bill's provisions relating to waste collection, including its separation.

Within this Part there is a provision (Clause 67) prohibiting the disposal from non-domestic premises of food waste to sewer. Sewer blockages caused by fat, oil and grease entering our sewerage are a real problem: we spend about £7 million annually clearing sewer blockages, money that otherwise might be returned to our customers or spent more constructively on environmental improvements. Against that background Dŵr Cymru is very supportive of the Welsh Government's efforts to reduce this abuse of our public sewerage networks.

That said, much remains unclear to us about how Clause 67 will work in practice and, in particular, how effectively it is likely to be policed. Table 30 of the EM/RIA anticipates that sewerage undertakers will see £5.3 million savings because of *"Avoided water treatment costs"*, but also says (at paragraph 542) that, *"To ensure the separate collection of waste by business waste producers it has been assumed that NRW would inspect 1% of business premises per year. The total number of businesses in Wales is assumed to be 88,000. NRW would confirm that food wastes were not being disposed of to public foul sewer at these visits"*, so a very small number of businesses will be visited by the regulator. One of the main sectors that should be targeted is the fast food industry, but we doubt that it will be high on the NRW's priority list of business sectors to inspect.

While we have, as noted above, yet to consider the provisions in detail, we wonder whether there may be a good case for involving local authority Environmental Health Officers (EHOs) in policing the prohibition. EHOs already routinely visit such establishments, so might be better placed to carry out these sorts of checks. In our response to the 2013 White Paper we suggested that General Binding

Rules might have a role in tackling this problem by requiring that fast food outlets install sink strainers and grease traps: this is one of the reasons why we are disappointed that there are no specific provisions relating to General Binding Rules on the face of the Bill.

Given the relationship with our sewerage infrastructure, we would have liked to have seen an obligation placed on NRW to consult Dŵr Cymru when investigating potential offences and considering prosecutions under Clause 67. We also believe there is a good case for conferring on statutory sewerage undertakers like ourselves concurrent powers to enforce this prohibition.

As part of our further consideration, Dŵr Cymru will need to consider the implications of the Bill's definition of food waste. We will also want to examine the relationship of the new provisions with the existing trade effluent regime and our other powers in the 1991 Act that enable us to protect our sewerage infrastructure.

Parts 5

Although we need to examine this in more detail, our initial review suggests that this Part will not impact on us.

Part 6

Generally we agree that our regulators should be able to recover the costs they reasonably incur in administering regulatory regimes. However, until we know the levels of charges and scope of services to which the charges will apply, we cannot assess the potential additional burden on us.

Part 7

We would welcome the establishment (under Clause 82) of a Flood and Coastal Erosion Committee for Wales to advise Ministers. An independent committee such as this would help to ensure greater transparency in decisions made by Ministers and provide an opportunity for appropriate representation to be made by the wider academic and engineering world. Dŵr Cymru would be keen to work with the Committee.

We have yet to review in detail the other miscellaneous provisions in this Part of the Bill but it looks unlikely that they include anything that will affect Dŵr Cymru directly.