

CLA(4)-03-13 Paper 14

To the Chair of the Constitutional & Legislation Affairs Committee, from Wales
Environment Link

Dear David,

I understand the Constitutional and Legislative Affairs Committee will shortly be considering the Draft Second Order to create Natural Resources Wales (NRW). As you may be aware, WEL member organisations have given oral evidence to the Environment and Sustainability Committee's inquiry into the Order and the network has also submitted written evidence. As many of our concerns relate to the remit of the C & LA Committee, we would like to draw the Committee's attention to the letter which we sent to the Chair of the Environment and Sustainability Committee on 14th December last year. I attach this letter as formal evidence for your consideration.

The two main issues raised in the letter relate to the weakening of the nature conservation duty and arrangements under the new body for stakeholder engagement. In relation to the first point, of serious concern is the weakening of the nature conservation duty resulting in the removal of "necessary protection" under the nature conservation duty, which is not compliant with the Public Bodies Act 2011. To ensure compliance with this Act, the Government must commit to implementing at least the status quo as the bare minimum and amend this duty in the current draft Order.

We hope the Committee will investigate these matters and urge the Welsh Government to provide clarity in the next iteration of the Order.

We welcome the Committee's scrutiny of the Order and our members would be happy to provide further information on this if required.

Regards,

Raoul Bhambral

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Lord Dafydd Elis-Thomas AM
Chair, Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay
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14 December 2012

RE: Natural Resources Wales new draft Second Order

Dear Dafydd,

Further to our previous letter (9 October) and evidence session in front of the Environment and Sustainability Committee (14 November), WEL has had the opportunity to review the new draft Second Order for Natural Resources Wales (NRW). Following that review, WEL would like to reiterate its concerns around the draft Second Order to you and members of the Committee.

We know the Environment and Sustainability Committee will be scrutinising the draft Order further. WEL hopes that this letter will assist the Committee in making recommendations to the Government to amend the Order.

1 Strength of the Nature Conservation Duty

WEL still has serious concerns over the wording of the Nature Conservation duty which results in a weaker duty than that which currently applies to some of the legacy bodies. In particular, it creates a duty narrower and weaker in its obligations than the existing CCW duty and is therefore not a true transposition. As the removal of “*necessary protection*” is prohibited under the powers of the Public Bodies Act 2011 (Section 16 (2)), we believe that this is a serious compliance issue that needs to be addressed.

WEL believes that it would clarify this point if the Minister were to explain to the Committee and stakeholders how he has complied with the requirement under S16 (2) of the Public Bodies Act 2011. Therefore, WEL would be grateful if the Committee were to ask the Minister this question.

One suggestion to resolve the issue of the weaker Nature Conservation duty would be to transpose verbatim the present CCW duty (s131 Environment Protection Act);

“The Countryside Council for Wales shall discharge those functions -

- (a) for the conservation and enhancement of natural beauty in Wales and of the natural beauty and amenity of the countryside in Wales, both in the areas designated under the National Parks and Access to the Countryside Act 1949 as National Parks or [under the Countryside and Rights of Way Act 2000] as areas of outstanding natural beauty and elsewhere;*

An alternative option would be the following specific amendments that the Committee should recommend to the Welsh Government to address these concerns:

- Delete the caveat (new Article 5A(2)(b)) from the new Nature Conservation Duty (Schedule 1, new Article 5A(1)) – in order to be compliant with the Public Bodies Act 2011 and avoid weakening the current CCW duty
- Amend new article 5A (Schedule 1) – replace 'to promote nature conservation' with 'to further nature conservation' as the latter wording which comes from the current EAW duties is stronger.

To ensure changes to improve and strengthen the Nature Conservation duty are effective, WEL is of the view that the statutory purpose (as set out in the First Order) needs to be amended to remove the current ambiguity and create a new body with a clear environmental remit and a strong leadership role with respect to the protection and enhancement of the natural environment, ecosystems and biodiversity.

2 Stakeholder engagement

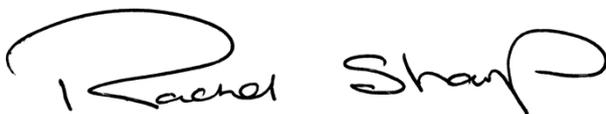
In order to increase openness and transparency, at the request of the Committee (at the evidence-giving session on 14 November), WEL submitted additional evidence on 20 November, regarding proposals for external stakeholder groups that we want to see incorporated into the Second Order. These requirements include NRW setting up a top-level Stakeholder Advisory Committee to advise the CEO and the Board; as well as a Scientific Advisory Committee to provide expert advice on scientific and technical matters relating to natural resource management and nature conservation. Furthermore, WEL and its members would like more detail on how NRW will engage with environmental NGOs; not only as stakeholders but also as delivery bodies for further conservation work.

WEL would be grateful if you could consider these critical concerns in your own deliberations. We also hope that you will recommend that the Government considers these amendments prior to laying the final version of the Second Order in February.

If you wish for any further clarification or assistance please do not hesitate to contact Raoul Bhambral, Advocacy Officer for WEL, on raoul@waleslink.org.

Many thanks for your consideration.

Warm regards,



Rachel Sharp
Chair of WEL Living Wales Working Group

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