

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 Consortiwm Awdurdodau Lleol Cymru	Response from CLA Cymru
EB 39	EB 39



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 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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