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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 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.