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Consultation Document

Natural Resources Wales

Proposed Arrangements for Establishing and
Directing a New Body for the Management of
Wales' Natural Resources



Date of issue: **9 February 2012**

Action required: Responses by **2 May 2012**

Overview

This consultation seeks your views on the proposed arrangements for establishing and directing a new body for Wales' natural resources.

How to respond

Please complete the consultation response form and return it to us no later than Wednesday 2 May 2012 by email or post using the contact details below.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

The consultation document and consultation response form are available on the Welsh Government's website at www.wales.gov.uk.

Contact details

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Data protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Foreword

Wales' natural resources – our air, land, water and biodiversity – are critical to our quality of life. They provide food, water, energy, timber and materials for construction, and a wide range of opportunities for our economy. Our natural resources also provide our stunning Welsh land and seascapes, for us to simply appreciate or as a backdrop for our recreational activities such as walking, bird watching or fishing. And of course our natural resources provide many opportunities which help to sustain our communities.

There are however increasing pressures – both from environmental factors such as climate change, and from social and economic factors. We therefore need to ensure that we are managing our resources in the best way possible, to ensure value for money and achieve the best outcomes for all the people of Wales and our economy. And we need to do that in ways which are sustainable, so that we do not squander the natural assets that future generations will depend on.

As a Government we have been considering how best to take forward the management of natural resources here in Wales. This has been the subject of a previous consultation 'A Living Wales', which we have now followed with a Green Paper 'Sustaining a Living Wales'. In these papers we have set out our aspiration to manage in more joined up ways, considering all the relevant factors of natural resource management at the same time, to help us make better and more sustainable decisions.

Following the 'A Living Wales' consultation, and the preparation of a detailed business case, I have now announced I am minded to simplify our institutional arrangements, by creating a single more joined up body bringing together the functions of the Environment Agency Wales, the Forestry Commission Wales and the Countryside Council for Wales. I have also set out our intention to reinforce institutional changes by bringing forward legislation on sustainable development, environment and planning to modernise our legal framework.

I believe this is an exciting opportunity to shape the future of how we manage our natural resources. A new body would have a key role in many aspects of our lives; protecting our natural resources, supporting economic development, delivering products from our forest estate to support rural businesses, and reducing the risks from flooding and helping ensure quality of life for our people. We would expect it to provide environmental advice and input to our planning processes and to the development of new legislation, helping us to design new regulatory arrangements which simplify processes and encourage investment, whilst maintaining environmental standards.

There will undoubtedly be many challenges to overcome, but removing organisational boundaries would allow us to share the enthusiasm, skills and knowledge of staff, resources, and legal powers to deliver more joined up natural

resource management now and into the future. This consultation will inform my final decisions and help determine how we implement them. I look forward to your views on these proposals.

A handwritten signature in black ink that reads "John Griffiths". The signature is written in a cursive style with a large initial 'J' and 'G'.

John Griffiths AM
Minister for Environment and Sustainable Development

Summary

This consultation seeks views on the proposed arrangements for establishing and directing a new body for the management of Wales' natural resources.

The consultation document describes the strategic context and explains why we are proposing to establish a new body.

It explains our proposals for implementing legal change to establish the new body.

The document describes our ambitions for the new body, together with the way in which we intend to frame its overall purpose. The consultation also sets out some high level objectives and links them to the outcomes we have prioritised through our strategies. We also propose the arrangements for customer and stakeholder engagement, including mechanisms for ensuring complete transparency in the work of the new body.

The consultation describes our proposals for the main functions and powers of the body, including consideration of some elements of Welsh Government functions and Internal Drainage Boards.

It sets out our proposals for the status of the body and how it will be governed, including arrangements for an executive board and wider stakeholder engagement.

It also explains how we propose to take forward issues around cross-border governance and our proposals for the links to Welsh Government Ministers to ensure that the body will be fully accountable to Ministers for delivery of their objectives using the resources placed at its disposal.

The consultation is being carried out in accordance with section 18 of the Public Bodies Act 2011. It is intended as the main consultation on the proposals, although we have identified a number of specific areas of work, such as the future of Internal Drainage Boards wholly or mainly in Wales and the Welsh language scheme for the new body, where we intend to consult further.

Section 1: Background

1.1 Sustaining a Living Wales

The nature, land, water and air of Wales, together with the biodiversity that supports and depends upon them, are our fundamental natural resources¹ – the basis on which everything else is possible. If we are to realise our hopes for a better quality of life and improve our environment for future generations, we need to manage these natural resources to deliver the best outcomes for the people and economy of Wales.

However, the increase in scale and complexity of 21st century challenges such as climate change will require new ways of working if we are to deliver our aspirations. Our response, set out in our Green Paper, ‘Sustaining a Living Wales’ is based on the ecosystem approach², which demands that we look at the environment as a whole and understand its relationship to our social and economic needs, health and wellbeing.

As part of that approach we recognise that our environment, the natural resources that it provides and the effectiveness of the decision making processes around its protection and use, are central to our social and economic objectives. We need to find ways of improving what we do, and how we do it, so that we maintain and improve our environmental assets over time, ensuring that they are there for the benefit of communities, and that our decision processes support our economy, communities and sustainable development. This will include new and innovative approaches and partnerships for delivery, including work with third sector partners and local authorities.

‘Sustaining a Living Wales’ brings together a range of measures which, taken together, will enable us to implement a more joined up way of working. This includes:

- Simplifying our institutional arrangements, removing restricting boundaries, focusing our institutions on Welsh needs and enabling us to simplify our aims, plans and processes.
- Modernising and simplifying our regulatory and management framework, by bringing forward new legislation on environment and planning.

¹ In this paper, Natural Resources include both physical resources (air, land, water) and the ecosystems (biodiversity) which both support and depend upon them. We define natural resource management as any function that supports the protection, improvement or development of natural resources and their sustainable use. The scope of Natural Resource Management therefore ranges from advice and regulatory intervention to protecting the environment (both urban and rural) to active development of ecosystems for uses such as recreation and harvest (e.g. forests).

² The ecosystem approach has been defined by the Conference of the Parties on the Convention on Biological Diversity as ‘A strategy for the integrated management of land, water and living resources that promotes nature conservation and sustainable use in an equitable way recognising that humans with their cultural diversity are an integral part of ecosystems’. ([http://www.cbd.int/ecosystem/.](http://www.cbd.int/ecosystem/))

- Piloting ecosystem based local resource management planning and developing proposals for national spatial planning for the protection, restoration, use and management of the environment, linked to changes to our wider planning and development management regime.

1.2 The Sustainable Development context

We would expect the new body to help us achieve our strategic aims as a Government and our priorities for our environment, society and economy. Sustainable development is our central organising principle, and our Sustainable Development Scheme ('One Wales; One Planet') sets out both our vision of a sustainable Wales and our approach to embedding sustainable development in all our policy and decision making. More detail on this and other Welsh Government strategies is at Annex 1.

The Welsh Government considers that sustainable development means enhancing the economic, social and environmental well-being of communities, achieving a better quality of life for our own and future generations. This needs to be achieved in ways which promote social justice and equality of opportunity and which enhance the natural and cultural environment and work within its capacity – using our fair share of the earth's resources. More information is available from www.wales.gov.uk/topics/sustainabledevelopment/.

The changes proposed in this consultation will be set within the context of sustainable development, our central organising principle, and our proposals to strengthen the public sector focus on sustainable development through our proposed Sustainable Development Bill, on which we will consult during 2012.

1.3 Simplifying our institutional arrangements

This consultation paper focuses on the first of the three measures set out in 'Sustaining Living Wales': simplifying our institutional arrangements. It describes our proposal to create a new Welsh body, by bringing together the functions of the Environment Agency in Wales, the Forestry Commission for Wales and the Countryside Council for Wales ('the three bodies') and possibly some functions of the Welsh Government and the Internal Drainage Boards wholly or mainly in Wales.

1.4 Why are we seeking your views?

In this consultation paper we put forward our proposal for the creation of the new body, the direction for its work, and how it might best be established. We are seeking views to help us shape the new body in ways which will best deliver for the environment, people and economy of Wales, including on:

- our proposal to create a single environmental body;
- the purpose of the body;

- its legal functions, including the option of including some functions that currently form part of the responsibilities of the Welsh Government and other bodies; and
- its governance – including the nature of the body, oversight and accountability to the Welsh Government and stakeholder engagement.

We believe that this is a new and exciting opportunity to shape the future protection and management of the natural resources of Wales and we look forward to hearing your views.

Section 2: What is the case for change?

2.1 The business case

The Welsh Government has undertaken detailed work to evaluate a range of options, including:

- no change;
- sharing services;
- combinations of two of the bodies; and
- creating a new single body.

This involved a substantial evaluation, which was undertaken by staff from the organisations working with Welsh Government officials over a period of more than twelve months. The final report on the work was presented in the form of a strategic outline business case³ which was subject to an external independent review, before being presented to Ministers.

The business case, together with its conclusions, and the report of the independent review, have now been published in full at www.wales.gov.uk/SEB. It sets out the benefits, costs and risks of creating a single body, as well as affordability and an outline plan for its establishment. The options were assessed against Value for Money (Net Present Value) and six qualitative criteria. These are listed below, together with the weighting assigned to them:

- Outcomes for the environment (35%).
- Outcomes for people (10%).
- Outcomes for business and the economy (25%).
- Focus on Welsh Government priorities (15%).
- Organisational and operational resilience (10%).
- Opportunities for staff within Wales (5%).

The business case concluded that a single body was the option most likely to deliver the best outcome on each of the six qualitative assessment criteria. It would also deliver the best net economic benefit after taking account of the cost of change and discounting for inflation (£69m over 10 years). It also concluded that the up front cost of change is affordable and that risks can be managed.

2.2 Factors driving change

There are three main factors driving change:

- the need to modernise regulation and natural resource management;

³ The full business case is available from www.wales.gov.uk/seb.

- the need to focus on Wales' priorities, opportunities and challenges reflected in Welsh legislation and policy; and
- the need to ensure value for money.

Annex 2 sets out the case for change more fully. The main benefits identified during the development of the business case are summarised below.

2.2.1 Improving outcomes – doing things better for Wales

The establishment of a new body is a central component of the Welsh Government's strategy for natural resource management. Combining the functions of the organisations would result in a single organisation with a more complete agenda. It would be better focussed, with one aim, and a single set of priorities, plans and objectives. This would enable a simpler alignment with Welsh Government objectives and the needs of Wales, helping to clarify regulatory and delivery priorities and decisions.

The new body would have a primary focus on delivering better outcomes for, and from, the environment. It would provide a single planning focus for natural resources, linking its management responsibilities for land, forestry, nature (including designated sites), water resources and water quality, flood risk management and fresh water fishing, rationalising and joining up plans as it develops. In addition, it would underpin this by using its regulatory powers proportionately to enable economic development and growth while protecting the environment from inappropriate use and damage. It would therefore provide a key vehicle for implementing the joined up ecosystem approach we believe is necessary.

Delivery would benefit from sharing of resources and skill sets, and a more complete set of legal powers. Combining or pooling skill sets, abilities and knowledge, would allow more effective and resilient services – both at national and local level. Obvious examples are the commercial knowledge and edge that inclusion of forestry teams would bring to the wider organisation and its culture, the greater depth of conservation knowledge in day to day operations that would come from the inclusion of expertise from Countryside Council for Wales, the regulatory expertise of the Environment Agency, and the increased capacity to handle major incidents such as floods, where the on-the-ground workforce within Wales would be greatly increased during incidents.

For business and our economy, the change would simplify the regulatory landscape, by removing organisational boundaries and creating a body which can provide a single consistent view on issues and proposals. Specific benefits to the public, businesses and local authorities would include:

- Responses to planning authorities based on a common shared view, with a single point of contact, simplifying discussions on environmental issues with developers and individuals.
- Earlier and more constructive resolution of conflicting views of the same environmental evidence base, reducing delays on major applications.

- Regulatory simplification: single point of entry and advice for businesses, developers, planning authorities and landowners; simpler and potentially quicker application processes.
- Fewer meetings/simplified stakeholder engagement arrangements.

The change would also free up resources for reinvestment, providing the opportunity to target those resources on 'front line' priorities that make an environmental difference. Reinvestment of some of the savings could also improve policy capacity and the availability of technical expertise, enabling greater focus on the problems which are of particular importance within Wales.

2.2.2 Managing natural resources in ways that fit the needs of Wales

Creating a Wales only body would enable more locally based decision making and accountability: decisions made in Wales, for Wales, taking into account Wales' rich heritage, culture and the language of our customers and partners.

We will continue to protect and enhance the environment and biodiversity, maintaining environmental standards and ensuring compliance with European legislation. However doing things at a Wales level, within our own developing legislative framework, would enable simplification of regulatory and delivery processes so that things are done in ways, and at levels, appropriate for Wales.

The body, working with the Welsh Government and other strategic partners, would be specifically charged with simplifying and integrating regulatory approaches aligned to the future Environment and Planning Bills, which will themselves be set within the framework of the Sustainable Development Bill.

2.2.3 Value for Money for the people of Wales

The business case concluded that there are significant effectiveness and efficiency benefits from establishing a new body. Under existing arrangements many functions or activities, particularly corporate functions, are duplicated or triplicated within the three bodies and with the parent/partner bodies in England and Scotland. Examples include governance arrangements (boards/senior management teams), strategic plans, land use planning advice, corporate planning, finance services and accounts, HR services, procurement, IT services and systems, common operational processes and procedures, accommodation, equipment including capital plant and many others.

Removal of duplicate/triplicate activity would be complemented and reinforced by simplified processes and opportunities to do things differently – because of the removal of national tiers, reduced scale and greater operational freedom.

The scale of the estimated savings is significant⁴. Over and above existing budgetary reductions facing all the organisations, we expect savings, before change costs, of £158m over 10 years. The cost of change has been estimated (with considerable contingency provision) at £69m, much of which would be paid for by savings in the earlier years. After discounting for the effect of inflation, the net value of savings is some £68m over ten years. We intend to reinvest these savings in improving our environment and in environmental services to people and businesses.

2.3 Risks

In developing the business case, three main risks were initially identified – staff pension costs, ICT costs and VAT status. These risks were assessed and fully addressed, with the solutions to these risks described in the business case. In summary:

- For staff pensions, two viable options were identified. The pension option assumed for business case costing is based on a ‘stay in existing schemes’ scenario. In this scenario, existing staff would have the option of remaining in their current pension funds. However, new members, or members taking a voluntary promotion, would move to the EA Pension Fund. This is effectively cost neutral, with the exception of up front cost of change which is included in the business case costings. This is the most conservative assumption.
- ICT costs were independently estimated by a third party (Gartners) who provided a range of costs, incorporating estimates for both risk and optimism bias. The business case included figures based on the upper end of the range of their estimates.
- Continuing the ability to reclaim VAT (currently available to Environment Agency and Forestry Commission) has been discussed with HMRC/Treasury who have agreed, subject to confirmation of the detail of the legal changes and Ministerial approval, that the body would continue to be able to reclaim VAT.

Some additional risks were also identified and considered. These are summarised, together with mitigation in Annex 3. Where appropriate, costs to account for these risks were included in the business case estimates.

2.4 Stakeholder Concerns

During the development of the business case, discussions were held with a wide range of interested parties, including the three organisations, staff, industry groups, forestry interests and businesses, and environmental groups. A conference was also organised by the Institute of Welsh Affairs, which was well attended.

These discussions highlighted a number of concerns. These include:

⁴ See full business case at www.wales.gov.uk/SEB for further detail of costs, benefits and risks.

- From the forestry sector concerns were raised about security of future timber supply; the continuity of public ownership, and forestry skills.

Our proposal should not negatively affect these issues. We intend to provide the new body with clear duties, targets and direction in respect of managing our forest estate, which would ensure continued support for the rural economy of Wales, including privately owned woodland and forestry businesses. We have made clear our intention to retain the estate, and increase woodland cover in Wales. The forestry staff group would also be the single largest function in the new body, ensuring a continued focus for forestry expertise. We propose for the first time, to allocate dedicated policy resources to forestry within the Welsh Government, providing a clear internal focus and voice.

- From industry, some concerns have been raised that the proposed new body could increase regulation and stifle development. Throughout this consultation we are clear that we intend to improve and simplify how we regulate in Wales, thereby supporting and encouraging industry and demonstrating more clearly that Wales is 'open for business'. In doing this we would intend to continue to work with the Environment Agency in England and the UK Government to maintain common environmental standards and where beneficial, consistent environmental permitting arrangements.
- Some concerns have also been raised about potential conflicts of interest and transparency of decision making. We address these issues more fully in section 6.

2.5 What is the timetable?

We are proposing to create a new single body from all three organisations in April 2013.

In developing our proposals, we have considered a number of different options for this change, including delaying the change until we have completed further work on 'Sustaining a Living Wales' on the grounds that "form follows function". We have, however, decided to proceed more quickly, for the following reasons:

- Developing and implementing an ecosystem approach is a major challenge and would put Wales at the forefront globally on delivering sustainable development. Our view is that early implementation of a single body would help inform and drive further development of the ecosystem approach and 'Sustaining a Living Wales' through the way that it works and makes decisions.
- Even though much of the detail for the single body remains to be fully developed, the work that we have undertaken to develop the business case has provided us with confidence that bringing together the three organisations represents the best option for the future, enabling us to join up our priorities and operational decisions in the most effective way.

- We wish to minimise the period of uncertainty for the staff of the three organisations.
- The environment within which the new organisation would operate will be dynamic and subject to change. 'Sustaining a Living Wales' provides important policy context which will define and shape the principles that the organisation would follow in its decision making and work. However much of our strategy is already set out (see Annex 1) and the policies we describe 'Sustaining a Living Wales' will evolve and develop over time as we learn about and improve the ecosystem approach. So rather than adopting structures and principles which are specifically designed to optimise performance against our current policy position, we believe that the best approach would be to design the new organisation in a way that enables it to respond flexibly to a range of future scenarios and for it to actively participate in and inform the evolution of 'Sustaining a Living Wales'.

For all of these reasons we propose to establish a new body, geographically and culturally aligned to Wales, as quickly as possible. Our preferred date is April 2013, which we believe is challenging but achievable. This date reflects our desire to move quickly, together with the desirability of making the change at the start of a financial year.

Nevertheless we also recognise that an orderly transition is essential. In the event that preparation is delayed for any reason, we would defer vesting until October 2013. The cost of such a delay is provided for in our business case costs.

We will ensure that the responses to the consultation on 'Sustaining a Living Wales' inform the detailed development of the new body as we go forward. We will also ensure that the engagement and consultation responses for the Sustainable Development Bill, together with subject specific consultations such as the Water Strategy, seek views that will inform development of its form and function.

Question 1: What are your views on our proposal to deliver more integrated management by bringing the three bodies together and creating a single environmental body for Wales?

Question 2: In developing our proposals for the body, are there additional measures we could take to address the concerns we have identified in section 2.4 or any other concerns which you have?

Section 3: Legal Powers

3.1 Our main powers

In 'A Living Wales' we set out the broad principles of the ecosystem approach, and sought views on institutional changes, including bringing together the three bodies as proposed in this consultation. Our recent Green Paper, 'Sustaining a Living Wales' further explains our wider ambition, including our intention to further simplify regulatory processes and our proposals to develop new arrangements for the protection and best use of our natural resources.

There are two main ways in which we could create the new body and transfer existing functions to it: (i) through orders under the Public Bodies Act 2011 (available from www.legislation.gov.uk) and (ii) through an Act of the National Assembly for Wales.

We are also likely to need to agree separate transfer of functions orders for some specific matters with the UK Government. We will also need their co-operation to impose certain functions on the proposed new body, for example, in relation to civil contingencies.

3.2 The Public Bodies Act 2011

Subject to meeting certain criteria, the Public Bodies Act 2011 makes explicit provision for Welsh Ministers to create a new body and to transfer functions from the three main bodies to that body, with necessary modifications. It also makes provision for specific changes to Internal Drainage Boards, which we consider later in this consultation, and enables the Welsh Ministers to abolish certain committees. These powers were included in the legislation, and debated in Parliament, during 2011, with the clear intention of providing the powers to make the changes we are proposing to these bodies. They are also likely to be the simplest and quickest approach, to deliver the changes we are proposing.

The Public Bodies Act 2011 contains powers which enable the Welsh Ministers to legislate by secondary legislation in the form of an order, to:

- Establish a new body.
- Modify any of the functions of the Countryside Council for Wales and any of the Welsh devolved functions of the Environment Agency and Forestry Commission.
- Transfer those functions (including modified functions) to one of the bodies, the new body, or any other person exercising Welsh devolved functions.
- Transfer any function of a Welsh Regional Flood and Coastal Committee to (a) a new body (b) Welsh Ministers or (c) any other person exercising devolved functions.

- Transfer any Welsh devolved function relating to the environment from the person whose function it is to (a) a new body, (b) the Countryside Council for Wales or (c) The Environment Agency or Forestry Commission.
- Transfer any functions of theirs to (a) a new body (b) the Countryside Council for Wales or (c) the Environment Agency or Forestry Commission.
- Modify the constitutional arrangements or functions of Internal Drainage Boards wholly or mainly in Wales.
- Transfer any functions of Internal Drainage Boards wholly or mainly in Wales to the Welsh Ministers; any other person exercising Welsh devolved functions; a company limited by guarantee; a community interest company; or a body of trustees or other unincorporated body of persons.

In order to use these powers, the Welsh Ministers will need to meet certain criteria. Section 16 of the Public Bodies Act 2011 provides that the Welsh Ministers may only make an order if they consider that it serves the purpose of improving the exercise of public functions, having regard to efficiency, effectiveness, economy and requiring appropriate accountability to the Welsh Ministers.

The case for change described in section 2 is clearly based on improving the exercise of public functions, including improved delivery, cost effectiveness and providing appropriate decision making at a Wales level.

Section 16 of the Public Bodies Act 2011 also states that the Welsh Ministers may only make an order if it does not remove any existing protection, or prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise.

The main protection issues which arise from our proposals relate to the environment, including forestry. We have made clear throughout this consultation document that our intention is to maintain environmental standards which we believe is consistent with, and would be enhanced by simplifying processes.

The new body would have the power to designate protected sites and regulate to protect the environment. However, we do not intend in this first phase, to confer any additional powers on the body which would increase its ability to restrict legal rights or freedoms, as compared with the powers which the bodies have at present. We will ensure that these principles underpin consequential or supplementary amendments in our order.

The consent of the relevant Secretary of State will be required where an order transfers, or confers a function to the Environment Agency, the Forestry Commissioners or any other cross border operator, and in addition, where an order otherwise modifies their functions. This requirement is provided by section 17 of the Public Bodies Act 2011.

3.3 Our overall approach

The Public Bodies Act 2011 provides the Welsh Ministers with the powers to make most of the changes that we are proposing. However there are also legal and practical constraints. The ability to modify functions within the Public Bodies Act 2011 does not mean that we can give the new body brand new functions. We are therefore proposing to adopt a phased approach to the conferral of functions on the proposed new body.

Initially, in the first phase covered by this consultation, we would use the powers under the Public Bodies Act 2011 to create the body. We propose that the initial order will create the new body and confer a statutory purpose on it. It would also modify (for example, to avoid duplication) various functions of the Countryside Council for Wales and the Welsh devolved functions of the Environment Agency and the Forestry Commission (and functions of any other body which is affected; see section 5), transferring them, along with existing functions which do not require modification, to the new body. This initial work will be set in the context of our wider proposals for public bodies in our Sustainable Development Bill.

In addition to the legal changes, the establishment of the new body will provide a genuine opportunity to review priorities and to change processes.

Further phases, which will be subject to further consultation, will bring forward any legal changes needed to meet the full ambition of 'Sustaining a Living Wales'. We wish to develop our proposals for the ecosystem approach, environmental planning and future regulation, preferably with input from the new body. These proposals, which would enable us to consolidate and further modernise our legislation, will form part of our Environment and Planning Bills.

These Bills will be brought forward under Part 4 of the Government of Wales Act 2006 which enables the National Assembly of Wales to make laws known as Acts of the Assembly.

We will be exploring with the UK Government the possibility of transferring other functions to the new body from UK Ministers, too.

3.4 Consequential amendments (changes to non-devolved legislation)

As we develop further detail on the orders, it is likely that some elements of the change may require consequential amendments to UK legislation. For these aspects we will require consent from the Secretary of State.

<p>Question 3: What are your views on this phased approach? How could we improve on it?</p>
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Section 4: The purpose of the new body

In this section we describe our ambitions for the new body, together with the way in which we intend to frame its overall purpose. We also describe some high level outcomes and link them to the objectives we propose based on how we envisage the new body contributes to the achievement of our strategies.

4.1 Sustainable development and the ecosystem approach

We will be inviting the National Assembly for Wales to legislate for a Sustainable Development Bill during the current term. A new single body, with a clear focus on sustainable development and a remit to work with the Welsh Government to help join up environmental decision making, would help us to develop our economy in ways which enable us to better live within environmental limits and help reverse trends in declining biodiversity, unsustainable resource consumption and associated greenhouse gas emissions.

The new body would have sustainable development as its central organising principle, using the ecosystem approach to inform how it undertakes its work and drawing on science and evidence informed by operational practice. It would also operate within the legal framework provided by international, European and domestic legislation. The new body would be guided by the policies of the Welsh Government, including the range of strategies that the Welsh Government already has in place (see below).

The new body would, therefore, work within the legal framework and the strategic context set by our Sustainable Development Scheme ('One Wales, One Planet') and our wider strategies (Annex 1). It would, however, have significant discretion to shape our future, taking major decisions, which affect the quality of life of people in Wales, and that of generations to come. These would include managing key aspects of flood and coastal erosion risk, National Nature Reserves, managing the Welsh Government's forest estate, undertaking environmental regulation, determining licensing and permitting consents, providing advice to government, business and the public, and making decisions in its day to day operational work.

These decisions are critical to Wales' future. They will directly affect the quality of life of people in Wales and to a significant extent determine the quality of the environment and the value of the environmental assets that our children and grandchildren will inherit. The decisions themselves and the way in which they are made will set the context for development and investment decisions in Wales, both now and in the future. This context is vital for our economy and the jobs it provides.

Regulatory decisions must protect air, water, soil quality and biodiversity to ensure that public health, as well as the environment itself, are protected. But we must also develop the value of our natural assets, in order to provide services such as food, water, timber, and recreational opportunities, to support society and help our economy grow.

In making its choices, the body would need to integrate the protection and management of the environment, and the benefits that the environment provides

for us all, with the need to develop the Welsh economy. This issue lies at the centre of both sustainable development and the ecosystem approach – ensuring that we achieve a long term development path for our society and enable sustainable social and economic development, whilst at the same time protecting and enhancing the environment in which we live, through all of us living and working sustainably.

4.2 Delivering Welsh Government Strategies

There are a wide range of Government strategies and policies that we would expect a new body to help deliver and ensure a joined up approach. These include:

- Sustainable Development Scheme: One Wales; One Planet.
- Environment Strategy for Wales.
- Sustaining A Living Wales: Green Paper.
- Climate Change Strategy for Wales.
- Planning Policy Wales.
- Rural Development Plan and Glastir.
- Wales Woodland Strategy.
- Wales Waste Strategy.
- National Strategy for Flood and Coastal Erosion Risk Management.
- Strategic Policy Position Statement on Water and planned Water Strategy.
- Air Quality Strategy.

Annex 1 summarises the main purpose of these strategies and briefly explains the role of the new body in their delivery.

4.3 Our Ambition

Our overall challenge, set out in ‘Sustaining a Living Wales’, is to secure healthy functioning ecosystems that are diverse, productive and sustainably managed, that deliver for society as a whole, supporting employment and wellbeing.

Our vision is of an independent, respected and professional body that plays a central role in the future sustainable development of Wales, fully equipped to ensure the best, most sustainable use of our natural resources, the land, air, water and biodiversity of Wales, for long-term public benefit.

In line with the strategic context set out in Annex 1, we propose that the role of the new body would be focused on helping us to deliver the Welsh Government’s strategic aims for Wales and achieve our ambitions for the long term sustainable use and management of our natural resources. To do this we expect the new body to assimilate and blend the best from the three existing bodies to give us a delivery focused, flexible, informed and innovative organisation that quickly becomes established and respected by the people of Wales.

4.4 Aim and strategic outcomes

We propose to establish a statutory purpose for the body which reflects our intention that this new institution would drive a step change in the sustainable management and use of our natural resources. The exact wording of clauses to define this purpose will be determined after consideration of responses to this consultation.

We developed an indicative high level aim for the body as a working proposition in the business case⁵. In the course of developing the business case we received feedback from stakeholders, which has enabled us to develop our thinking further.

We consider that the proposed aim of the new body should be:

‘To maintain, improve and develop Wales’ natural resources, to deliver benefit to the people and economy of Wales now and into the future.’

We also intend that the provisions which set out the aim of the body will encompass a number of strategic outcomes which help to clarify its overall aim:

1. Contribute to protecting public health and safety and to promoting economic, social and environmental well-being and outdoor recreation.
2. Prevent, minimise, remedy or mitigate the harmful effect on the environment of pollution, alien species and diseases.
3. Further the conservation, restoration and enhancement of ecosystems.
4. Secure the sustainable use, management and consumption of natural resources and ecosystem services.
5. Contribute to both mitigating and adapting to the effects of climate change.

We anticipate modifying section 4 of the Environment Act 1995, so the Welsh Ministers continue to have a power to give statutory guidance to the body on, amongst other things, the contribution that it would be appropriate for the new body to make to achieve sustainable development (and its other purposes). Such guidance would be subject to consultation to ensure transparency. In developing this guidance we would take account of proposals for the wider sustainable development framework for public sector bodies which we expect to establish through the Sustainable Development Bill.

Question 4: Do these proposals provide a good basis for the principal aim and strategic outcomes of the body? How could they be improved?

4.5 Delivery Framework – objectives and success measures

In order to set out the purpose of the body at a more detailed level and to help focus the body on delivering its statutory responsibilities and legal functions, as well as

⁵ ‘Ensure that the people and economy of Wales benefit from an increasingly diverse and resilient environment.’

other Government priorities, we would develop a delivery framework for the body. This would detail our objectives for the body, supported by success statements, linked to the aim of the new body and the outcomes in our strategies to which we want the body to contribute. An illustrative example of what this might look like can be found at Annex 5.

In addition, we intend complementing the Annual Remit letter and detailed Financial Memorandum that we will use to sponsor the body with more detailed guidance on our expectations in respect of supporting our strategic policy objectives, as well as delivering a customer focused and 'place based' service to all users.

We would expect the body to use the delivery framework and the supporting guidance as the starting point for its own strategic planning and performance management approach to deliver our objectives.

Question 5: What are your views on the approach to the delivery framework?

Section 5: The Functions of the body

5.1 The three bodies (Environment Agency Wales, Countryside Council for Wales and Forestry Commission Wales)

For the reasons we have set out already, we propose transferring (in so far as they apply to Wales) all of the main functions of the Environment Agency, Countryside Council for Wales and Forestry Commission to the new organisation.

The three existing bodies currently undertake a broad range of functions which are reflected in the current legislation. The Public Bodies Act 2011 enables us to *modify* functions and *transfer* these modified functions as well as transferring those that remain unchanged to the new body. These same powers also enable us to legislate for how these functions are exercised. In other words, they enable us to stipulate the matters which the proposed new body must have regard in exercising its functions.

In order to deliver our strategic goals and the objectives that we have identified, we would expect, in the first phase of change, to set out functions (or areas of work) for the body based on the existing legislative provisions. These would be expressed as duties and powers.

These functions can be broken down into three main categories:

- Functions that require (duties), or allow (powers) the body to carry out work. These will often be associated with specific activities or work areas. These are summarised in Table 1 (see page 38).
- General powers (such as the ability to raise charges or to take prosecutions) which enable the body to fulfil its functions across a wide range of its work (Table 2).
- Duties to consider issues when carrying out its functions – for example to have regard to various factors, such as conservation or the cost and benefit of a course of action (Table 3).

The general principle underlying our proposals is that in the initial phase, unless otherwise stated, our intention would be to transfer the relevant functions of the three main bodies to the new body. In making the order we would aim to rationalise duplicate functions, taking the opportunity to simplify or update the legislation.

The areas of work, or functions, described in the tables are intended to cover the main functions of the new body, which we believe are needed to fulfil the strategic outcomes and more detailed objectives we have described above and in Annexes 1 and 5. They would, however, be supplemented by transfer of the many detailed duties and powers contained within the existing legislation.

The body would, of course, be required to comply with general legislation, such as health and safety, Welsh language, and equality legislation. We would expect it to consult further on its Welsh language scheme.

Question 6: Are the functions described in tables 1 to 3 a reasonable summary of those required? How could they be improved?

5.2 Other Functions

5.2.1 Navigation

Navigation has recently been the subject of a UK Government review. This has concluded that the functions and powers of British Waterways will be transferred to a mutual organisation in 2013. Environment Agency Navigations will be reviewed further in 2014.

In Wales, the Environment Agency is currently the navigation authority for both the Wye and the Dee, with the work led from within Wales.

The Dee Conservancy is the harbour, navigation and local lighthouse authority for most of the Dee Estuary in North Wales. It was created by the Dee Conservancy Act of 1889 to conserve, improve and control navigation of the River Dee between Chester and the estuary mouth. Environment Agency Wales now carries out the duties and obligations of the Conservancy.

The Environment Agency has advised that it does not wish to retain responsibility for the Dee Conservancy. The Conservancy is of particular importance to Wales and the local economy, both because of the conservation value of the land managed in the Dee Estuary, for the management of flood risk, and for economic reasons (for example Airbus routes A380 wings are transported via the Dee). Our preferred option would be to transfer the Conservancy functions from the Environment Agency to the proposed new body.

Because the Dee Conservancy is not a Welsh devolved function of the Environment Agency we cannot secure this transfer in the proposed order under the Public Bodies Act 2011. We will be discussing the options for change with the Department for Transport. In the meanwhile, the Environment Agency will continue to carry out the duties and obligations of the Conservancy.

No changes are proposed in relation to the Environment Agency's functions in relation to the Wye.

5.3 Changes to Welsh Government functions

In the course of developing the business case we have considered a range of functions currently undertaken by Welsh Government and others, which should be transferred to the new body. We have also considered whether some of the existing functions of the three bodies should be moved to the Welsh Government.

5.3.1 Policy

A principle underpinning our proposals is that strategic policy, including legislation, should be developed by the Welsh Government and that operational delivery (which may include technical advice on policy implications and provision of evidence and data) should be done by the body.

This would require some movement of staff undertaking policy work within the existing bodies to the Welsh Government. Numbers are unlikely to be large, and as this does not involve functional change it is unlikely to require specific legislative action (except for possible inclusion in a staff transfer order). The detail of this would be worked out as part of organisational design arrangements.

There is currently no identified resource within the Welsh Government leading on forestry policy, legislation and compliance monitoring. Although Forestry Commission Wales have fulfilled this role for the Welsh Ministers, there is an opportunity to improve the delivery of forestry policy, and access of stakeholders to Government, through a formal change, by transferring forestry policy to the Welsh Government.

This would also support the Welsh Government's sponsorship role for the new body's forestry remit including tree health and would enable us to take on the inter-departmental liaison role to input to the development of UK International Forestry policy. The team would also take on the forestry policy collaboration role with Defra, Scottish Government and the Northern Ireland Executive. The team is likely to be small and would work closely with technical forestry colleagues in the body to maintain close links between policy and practice.

In line with the acknowledgement that policy development is a continual process with many stages, the body would remain integral to effective policy development by the Welsh Government.

5.3.2 Marine licensing (Marine and Coastal Access Act 2009)

Marine licensing is currently undertaken by a small team within the Welsh Government. There are a number of reasons for considering inclusion of these functions within the new body. These are:

- It would simplify regulation and provide a single point of contact; these permits are often aligned with others which would be provided by a single body.
- Embedding this team within a wider, much larger, regulatory group improves resilience.
- Placing the decisions with the new body enables the Welsh Ministers to fulfil the appellate role.

This work would be set within the sustainable development context and the overall purpose of the body discussed elsewhere in this document. The sustainable

development framework includes the UK-wide Marine Policy Statement⁶ which public authorities must act in accordance with in making decisions such as licensing, and will include the national Marine Plans that will be developed for Welsh seas⁷. We therefore propose to transfer the marine licensing functions from the Welsh Government on the establishment of the new body.

5.3.3 Wildlife Licensing

Wildlife licensing implements legislation concerning the protection of a range of species including birds, badgers and European Protected Species.

The Welsh Government is responsible for wildlife policy including badgers and issues licences under section 10(2) of the Protection of Badgers Act 1992 broadly connected with purposes relating to agricultural and forestry operations, prevention of spread of disease, property damage, and land drainage purposes. Countryside Council for Wales is also responsible for issuing badger licences under section 10 (1) of that Act for scientific conservation, educational and for development purposes. In turn both the Welsh Government and Countryside Council for Wales have a function of issuing licenses in connection with control of foxes in order to protect livestock, game and wildlife under section 10(3). The number of licenses issued by the Countryside Council for Wales is relatively small.

Badger protection is a sensitive issue with potentially significant impact. More than 60% of the licensing work undertaken in Wales is in relation to permits issued to the Forestry Commission and the Environment Agency. For that reason we do not consider the option of moving all Badger licensing into the new body to be a good option.

We are therefore seeking views on two options, either:

- (i) consolidating this function in the Welsh Government, where there is already a specialist role established, or
- (ii) keeping the current distinction with Countryside Council for Wales' functions in respect of badger licensing being transferred to the new body and Welsh Government retaining its current functions.

In relation to European Protected Species, which are protected by the Conservation of Habitats and Species Regulations 2010, and other duties under the Wildlife and Countryside Act 1981, again both the Welsh Government and the Countryside Council for Wales fulfil specific roles, including as the licensing authority, in implementing this legislation and there is scope to streamline present arrangements.

The same arguments for regulatory simplification and resilience which apply to marine licensing are equally applicable to these arrangements. We therefore see benefit in consolidating these functions in the proposed new body. However if this

⁶<http://wales.gov.uk/topics/environmentcountryside/consmanagement/marinefisheries/planning/?lang=en>.

⁷<http://wales.gov.uk/consultations/environmentandcountryside/marineplanning/?lang=en>.

change is made, the potential for conflict of interest with operational functions around the issue of self-permitting would need to be resolved when developing the organisational design for the new body. For instance, the teams responsible for managing land within the body might need to be separate from the wildlife licensing team.

5.3.4 Tree and Plant Health

The current regulatory arrangements for plant health and tree health involve both the Welsh Government and the Forestry Commission as separate authorities responsible for plant health and forest tree health respectively. With the formation of the new body there is an opportunity to rationalise these arrangements.

In relation to tree health, our proposal is that the new body would deliver all of the statutory and operational tree health functions for all trees in any situation in Wales. The body would also be responsible for working with all the other relevant cross border agencies on these operational and related matters. This proposed change would, in our view, offer significant opportunity to develop better links between the wider monitoring and surveillance capacity of the new body.

We would look to consolidate the policy, legislative and compliance monitoring functions for tree health (including forest trees) within the Welsh Government.

Our proposals for forestry policy are relevant in this context.

The proposed arrangements in relation to tree health would effectively mirror the existing arrangements the Welsh Government has on plant health and seeds whereby the Food and Environment Research Agency (Fera) implement statutory and operational functions relating to plant health in Wales as set out in the Plant Health and Seeds Concordat between the Welsh Government and Fera. We do not propose any changes in relation to the Welsh Government's role in relation to plant health which includes policy, legislative and compliance monitoring.

We recognise that disease does not respect borders. Accordingly it is our intention to remain fully committed to working on tree and plant health issues at a UK level when appropriate. This is especially relevant for the specialist research required to help us develop both policy and operational responses.

5.3.5 Agri-environment and Sea Fisheries

Glastir, in respect of land management and aspects of sea fisheries for sustainable marine management, are Welsh Government functions which have a significant influence on the way our natural resources are managed, as well as on our environmental outcomes and the delivery of sustainable development in Wales.

The Glastir All-Wales Element became operational in January 2012 with the Targeted Element scheduled for introduction in January 2013. Overall, Glastir will see incremental growth over the next few years, particularly when set against the fact that several thousand agreements under existing agri-environment schemes (Tir Gofal and Tir Cynnal) have been extended to the end of 2013. In addition the

current proposals from the European Commission for further reform to the EU Common Agriculture Policy (CAP), impacting on direct payments to farmers and the support available under the successor Wales Rural Development Plan planned for 2014, could have far reaching consequences. Fisheries management for most stocks is governed by the EU Common Fisheries Policy (CFP) which is also currently subject to fundamental reform. For both the CAP and CFP reform processes, there is, and will continue to be, a need for significant policy and political input from the Welsh Government.

In addition the scale of any transfer of these functions would add significantly to overall implementation risks. For these reasons no changes are proposed to current arrangements.

Question 7: What are your views on our proposals for changes to Welsh Government functions, including Marine and Wildlife Licensing and Tree and Plant Health? How could they be improved?

5.4 Research and Evidence

Currently research and evidence is developed within the three bodies and the Welsh Government, both through externally commissioned research and through direct investigations. While it is important that the new body should be able to commission research and develop advice itself, we believe that co-ordination and commissioning arrangements can be improved to secure efficiencies, ensure that duplication does not occur and align research investment with Welsh Government priorities. Central co-ordination and establishment of a single framework for external research commissioning, input into UK research programmes and contractual arrangements with the Wales Environment Research Hub should be led by the Welsh Government. To support this approach, the body would retain research and investigative resources, which would work within the framework established by Welsh Government.

Forest research is currently undertaken at a national level, funded by Defra, on behalf of the three bodies. We would expect the proposed new body to continue to support and participate in these arrangements, working with FCGB.

A key priority for the Welsh Government would be for the new body to take the opportunity to gather evidence of environmental issues on the ground in Wales to inform interventions.

Question 8: Do you agree with the proposals for co-ordination of Welsh Government investment in environmental research? How could we improve them?

5.5 Internal Drainage Boards

Internal Drainage Boards (IDBs) are independent statutory bodies responsible for land drainage in areas of special need, called internal drainage districts. Currently

the Environment Agency is the IDB for eleven internal drainage districts in the North of Wales. Three internal drainage districts have dedicated IDBs:

- The Caldicot and Wentloog Levels IDB (wholly in Wales).
- Lower Wye IDB (mainly in Wales and partly in England).
- Powysland IDB (mainly in Wales and partly in England).

These cover around 20,000 hectares and raise over £1.3m of levies each year to fund activities in their areas.

The Public Bodies Act 2011 provides specific powers to make changes to IDB arrangements, including an obligation to consult the Secretary of State for changes to IDBs that are not wholly in Wales.

There are a number of advantages in the three independent IDBs being incorporated within the new body:

- Better governance. A number of concerns have been raised in past reviews about the governance and probity of IDB arrangements across both England and Wales. Merging these functions into the new body would place governance and financial arrangements within a more robust structure.
- Resilience and economies of scale.
- Simplification of funding arrangements. Currently the Environment Agency and IDBs levy each other and both levy local authorities. A merger would simplify these arrangements.

For the reasons given above we are considering incorporating all internal drainage districts (both those managed by the Environment Agency at present and those which are presently separate organisations) within the new body, which would mean transferring to it the functions of the three IDBs wholly or mainly in Wales.

The IDBs wholly or mainly in Wales are submitting further information to the Welsh Government in relation to this review. We therefore recognise that this needs to be further considered with both the IDBs and Defra before a final decision is made. A further consultation on this specific issue will be undertaken in due course.

Section 6: Governance, Accountability and Transparency

In this section we set out our proposals for the status of the body and how it would be governed. Additionally we describe our proposals for the links to the Welsh Government to ensure that the body would be fully accountable to Ministers for delivery of their objectives using the resources placed at its disposal. We also describe arrangements for customer and stakeholder engagement including mechanisms for ensuring complete transparency in the work of the body.

6.1 Status of the body

The three existing bodies all have a slightly different status and relationship with the Welsh Government. These arrangements are described briefly in Annex 4.

The new body would be established as a Welsh Government Sponsored Body (WGSB). The body would have a board, with an independent Chair and members appointed by the Welsh Ministers. The appointment process would be regulated by the Commissioner for Public Appointments and appointments would be made in accordance with the Commissioner's Code of Practice for Ministerial Appointments to Public Bodies.

This means that the board would be independent of the Welsh Government in its decisions and the delivery of its work. This arrangement has a number of advantages:

- Key decisions and advice would be, and would be seen to be, independent to maintain public confidence. This would include environmental and flood management advice to planning authorities and Welsh Government on developments and policy proposals, permitting, licensing and prosecution decisions.
- Welsh Ministers would not be part of the decision making process. They would retain their appellate role and call-in powers and would have powers to direct.
- Welsh Ministers would not routinely be drawn into operational incident response (e.g. floods, pollution incidents).

6.2 Governance arrangements for the new body

Existing governance arrangements for the board of the three main bodies provide between 8 and 15 members each, depending on the organisation. Taking account of its range of functions, we propose that the new body has a board with around 12 members.

Members would be appointed based on ability, though we would expect that the board should have members whose experience represents a range of interests (e.g. environmental protection and improvement, local government, business and industry, forestry, agriculture, fisheries, recreation and tourism). There would also be a need to ensure that equal opportunities and diversity are inherent in the

appointment process, recognising that public bodies need to reflect society as a whole.

The role of the board would be to provide effective leadership, define and develop strategic direction and set challenging objectives. The board would promote high standards of public finance and uphold the principles of regularity, propriety and value for money. It would ensure that the new body's activities are conducted efficiently and effectively; and it would monitor performance to ensure that the body fully meets its aims, objectives and performance targets.

The Chief Executive Officer (CEO) of the body would be designated by the Welsh Government. The CEO would be appointed by the board with the agreement of Welsh Ministers. As the Accounting Officer, the CEO's responsibilities are set out in the Welsh Government's Memorandum "The Responsibilities of a Welsh Government Sponsored Body (WGSB) Accounting Officer". The CEO would be personally responsible for the proper stewardship of the public funds for which he or she has charge; for the day-to-day operations and management of the body and for ensuring compliance with the requirements of Managing Welsh Public Money. As Accounting Officer the CEO would be accountable to the National Assembly and the Welsh Ministers for their performance and use of public funds.

It would be the personal responsibility of the CEO, as Accounting Officer, to ensure regularity, propriety and value for money, but this in no way detracts from that of members of the board, who each would have a duty to act in a way that promotes high standards of public finance and for ensuring that the body's activities are conducted in an efficient and effective manner. The board would delegate its functions to officers through a scheme of delegation covering both financial and non-financial matters.

6.3 International and cross-border governance

Arrangements for international engagement, for example engagement with Europe, would remain largely UK-led, as now. However the new body and/or the Welsh Government may need to deploy some additional resource to ensure the interests of Wales are properly represented in UK and international discussions in respect of forestry and environmental regulatory matters.

There are a range of mechanisms, such as joint working groups, currently in place to co-ordinate UK wide research and policy development, for example with Defra, the Scottish Environmental Protection Agency (SEPA), Natural England, FCGB and the Marine Management Organisation (MMO). We would expect the new body to participate actively in these groups, and, for example, to replace the Countryside Council for Wales on the Joint Nature Conservation Committee (JNCC). Similarly some activities – such as shared research – would be likely to remain a UK-wide activity.

There are a number of areas where cross-border working would be required. For example two of the three River Basin Management Plans covering Wales are cross-border and there are other complexities around the devolution settlement which would need to be built into the working arrangement for the new body. In order

to ensure effective local management arrangements on cross-border matters the new body would need to establish formal arrangements with the Environment Agency, Forestry Commission in England and Natural England.

There are a range of options for these arrangements, including both statutory and non statutory elements. These arrangements would need to respect the powers of Welsh Ministers and the Secretary of State. Discussions with Environment Agency, Forestry Commission and UK Government Departments are ongoing to establish the best solutions for specific issues.

6.4 Accountability to the Welsh Government

As a Welsh Government Sponsored Body, the new body would be accountable to the Welsh Ministers through the Sponsorship Minister (currently the Minister for Environment and Sustainable Development), and subject to scrutiny by the relevant Assembly Committees.

As a consequence of the recommendation of the Audit Committee of the National Assembly for Wales all new Welsh Government Sponsored Bodies will serve a two year probation period during which they will be subjected to more rigorous scrutiny than normal and greater support from their sponsor department within the Welsh Government. The probation period will conclude with an independent external assessment of the quality and effectiveness of the body's systems of internal control.

In consultation with its sponsoring department a new Framework Document and Management Statement (or scheme of delegation) will be drafted and agreed prior to vesting. This would set out the broad framework within which the body would operate and would detail the terms and conditions under which Welsh Ministers would provide grant in aid. The Environment and Sustainable Development Minister (in consultation with any other responsible Welsh Minister) would also issue an annual remit letter, specifying the new body's contribution to the broad Welsh Government agenda, and would retain responsibility for approving the long term strategic and corporate plans.

It is proposed that aspects of this agenda may be clarified and developed through ministerial guidance and/or directions⁸. This approach gives flexibility to meet changing needs without resorting to complex legislative changes but provides a degree of statutory force.

As part of this ongoing direction, we intend prioritising the work and then monitoring and evaluating the performance of the body through the longer-term delivery framework which we describe in section 4.5 and Annex 5.

⁸ This approach reflects, for example, the Welsh Ministers' existing powers to direct the Environment Agency pursuant to sections 4, 40 and 122 of the Environment Act 1995.

Question 9: Do you agree with the proposals about the status, governance and accountability of the new body? Is there any way we could improve the proposed arrangements?

6.5 Stakeholder engagement proposals

The new body would need to ensure effective engagement with a full range of stakeholders, including (but not limited to) businesses, government, the third sector, other non-governmental organisations, agriculture and landowners, communities and the public. This is essential if the new body is to achieve its wide remit of ensuring the sustainable use of natural resources and ecosystem management. The three main existing bodies currently have a range of statutory and non-statutory stakeholder committees and panels.

Forestry in Wales is guided by the National Committee for Wales. This is a statutory committee established under section 2(3) of the Forestry Act 1967 and is one of three National Committees established by the Forestry Commissioners in Wales, Scotland and England following forestry devolution. The role of the Committee would be replaced by the board of the proposed new body. In taking forward Welsh forestry policy development on behalf of the government, the Forestry Commission has convened a multi-stakeholder Advisory Panel which has advised on the development and implementation of Woodlands for Wales over the last eight years. Although the Panel is non-statutory, statutory committees are convened on a 'task and finish' basis from relevant membership of this panel, to provide advice to the Forestry Commissioners and Ministers on disputed cases under the relevant sections of the Forestry Act.

Currently the Environment Agency has two statutory advisory committees (the Regional and Local Fisheries Advisory Committee (known as FERAC) and the Environment Protection Advisory Committee (EPAC)), together, in some cases, with Local Fishery Advisory Committees (LFACS) and non-statutory Area Environment Groups (AEGs). It also has Flood Risk Management Wales (FRMW), which is largely an advisory committee, but retains an executive role in relation to setting levies for flood protection works on local authorities.

In England, Defra has issued a consultation⁹ which proposes to use the powers in the Public Bodies Act to abolish EPAC, FERAC and LFACS and replace them with more flexible, non statutory arrangements. This consultation includes proposals from the Environment Agency as to how these informal arrangements might work in the future.

The Defra consultation is limited to the abolition of committees in England. However, in our view the work of the proposed new board would have considerable overlap with the work of all of these committees in Wales, and, as previously described, would replace the council of the Countryside Council for Wales. Additionally, for EPAC and FERAC, the same arguments apply in Wales as in England. These are:

⁹ <http://www.defra.gov.uk/consult/2011/11/01/consultation-epacs-rlfacs/>.

- the detailed nature of the relevant legislative sections in the Environment Act 1995 has constrained the committees from evolving easily to tackle modern environmental approaches and challenges such as the Water Framework Directive in a holistic way;
- a desire to enable local communities and civil society to take a more active interest in their environment, encouraging local partnerships and community or civil society led action on local environmental issues and building on existing good practice such as Wildlife Trust engagement and involvement in influencing and delivering local environmental outcomes; and
- reforming arms length bodies and ensuring resources best deliver front line engagement and environmental delivery.

We do not, therefore, see a case for continuing the existing arrangements unamended, particularly as they would need to be substantially changed to avoid duplication with the work of a new board.

Nevertheless, effective engagement with stakeholders would be essential to the success of the work of the new body. We believe it is important that the board of the body and its staff own, and help shape these arrangements. As in England, we are therefore proposing to abolish EPAC and FERAC in Wales, replacing them with more flexible, non-statutory arrangements.

However, the Environment Agency's Regional Flood and Coastal Committee, Flood Risk Management Wales, fulfils a valuable scrutiny function in relation to the Environment Agency's capital programme for flood and coastal erosion risk management, and we recognise the value of retaining a democratically elected executive input to the levy setting process. We do not, therefore, intend to abolish the Committee in these proposals, though some amendment to the structure of the Committee may be necessary in light of the wider remit of the new body.

We also intend to continue provision for the board of the body to run local committees as it sees fit, and we would require the body to bring forward, consult upon and implement proposals to ensure effective stakeholder engagement. This could include a range of approaches, including board subgroups with co-opted members to provide subject specific expertise; more formal links with existing locally based groups; and the use of new and modern technology which did not exist when the current statutory committees were established.

This approach has a number of advantages:

- It ensures flexibility and 'future-proofs' arrangements, ensuring that they can be readily updated and improved.
- The new body would develop and own the new stakeholder engagement proposals and make them work well.
- It allows time for widespread input from the stakeholders themselves to engagement mechanisms.

It also allows flexibility to bring forward more radical engagement methods, including third sector delivery options, as detailed organisational design is undertaken.

Question 10: Have you any views on the approach we propose for the new body in relation to its stakeholder arrangements? How might we improve the approach?

6.6 Regulatory arrangements

6.6.1 Self permitting

There are a number of functions that the three bodies already undertake where they self consent. For example the Environment Agency can issue permits to itself to stock fish, licenses for water abstraction and impoundment and certain environmental permits. The Countryside Council for Wales may also issue itself certain licences in respect to species movement and SSSI consents. Generally arrangements are in place within the current bodies to provide a degree of separation of the operational teams from those that regulate them. In the case of the Environment Agency, their application for certain consents, such as abstraction licences, are copied to the Welsh Government, and may be called-in for determination by the Welsh Ministers.

The main areas where the change would potentially increase self-permitting relate to assents/consents currently issued by Countryside Council for Wales to the other bodies. In practice this would comprise the operational work currently undertaken by Forestry Commission Wales on the forest estate, and flood risk management work undertaken by the Environment Agency. Currently, where these works are undertaken on designated Sites of Special Scientific Interest, the Countryside Council for Wales has to be notified and either a consent, or their assent to the works is required, pursuant to the Wildlife and Countryside Act 1981.

Over the last three years, 33 assents/consents have been issued to Forestry Commission Wales and 206 to the Environment Agency, an average of 11 and just under 70 permissions respectively in each year. Of the 239 assents applied for, only two have been refused in this period: both to the Environment Agency.

While in principle self consenting may be undesirable, in practice few problems occur with these consents.

We do not, therefore, propose radical change in these areas as part of the process of transferring functions to the new body. However, we would expect the new body to continue to make provision to separate permitting decisions from operational activity.

6.6.2 Strategic Environmental Assessment (SEA) Directive and Habitats Directive

Article 6(3) of the SEA Directive¹⁰ requires Member States to designate bodies to be consulted when a SEA is carried out where required by that Directive. The designated bodies are to be those likely to be concerned by the likely strategic environmental effects of a plan or programme, by reason of their specific environmental responsibilities.

Currently, designated consultees include the Environment Agency and the Countryside Council for Wales. We propose that the new body would be a statutory consultee (a “consultation body”) for this purpose.

In this role, it is probable that where the organisation itself promoted a plan or programme that is subject to the SEA Directive, the new body would itself be a statutory consultee, as well as other bodies designated for this purpose.

Good practice and case law for SEA requires that where a body is responsible for the preparation for a plan or programme and is also the designated consultee, real autonomy must be created within the body that would undertake the consultation required by the SEA Directive. Accordingly, provision would be made to provide an appropriate functional separation between the preparation of the plan or programme and the consultation role required by the SEA Directive.

It is also proposed that where the Habitats Directive¹¹ would require the new body to undertake an appropriate assessment of the effects of a plan or project that it proposes to undertake, an appropriate functional separation will be established between the team developing the project and the team that undertakes that assessment. Where the new body would be responsible for licensing of European Protected Species, appropriate arrangements would be made to ensure the licensing team are separate from project development (see section 5.3.3).

6.6.3 Conservation advice where the body regulates others

The second area where concerns have been raised is where the new body would regulate other parties (e.g. discharge consents or abstraction licences), and where the Countryside Council for Wales currently provides conservation advice through the consultation process.

Firstly, it is important to recognise that the vast majority of consents are not contentious. For these the environmental and public interest is best served by an efficient process where conservation experts and permitting teams work closely together to protect the environment and provide the most efficient service to the applicant. Joint teams would reduce unnecessary formality, bureaucracy and time and costs.

¹⁰ Council Directive 2001/42/EC of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment, OJ 2001 L 197, p.30.

¹¹ Council Directive 92/43/EC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, OJ L 206, 22.7.1992, p. 7.

The new body would have a clear remit to protect the environment and its regulatory decision-making would be independent of government. Transparency would be achieved through a requirement upon the new body to publish a decision document, including the conservation issues identified, and how they have been addressed. For Habitats Directive sites this would be through an Appropriate Assessment, prepared with the full involvement of relevant conservation teams.

In our view, the key issues are that effective regulatory decision making should be independent of the political process and that decisions have a lawful, transparent rationale which balances all relevant interests and, in so doing, protects the environment.

Generally we believe that this would be best served by co-located professionals, with a common goal, focused on environmental protection and sustainable development. This maximises the likelihood of early engagement, identification of problems, and sensible discussion with the applicant to resolve problems before they become major issues.

Question 11: What are your views on these aspects of the regulatory arrangements?

Section 7: Managing the Change

7.1 Shadow Body

There is a well tried methodology for developing new institutions, both public and private, which is to establish a 'shadow body' to lead and undertake the preparation for the handover day, while the legacy organisations retain operational responsibility until the changeover date. The first steps in putting the shadow organisation in place would be to appoint a Chair and then a shadow board. The shadow body would be sponsored by the Welsh Government and would be responsible to Welsh Ministers and the sponsoring department.

While the shadow body is being established, preparatory work is progressing through a series of Welsh Government led workstreams, with staff seconded from the existing bodies. This work builds upon the transition plan set out in the business case.

Following the appointment of the Chair and establishment of the shadow body, the responsibility for delivery of the remaining implementation projects would transfer to the shadow body. The exception would be those projects related to the policy, sponsorship and the legislation required to establish the new body, which would continue to be delivered by the Welsh Government.

7.2 Managing the Legacy

During this process it is essential that the existing bodies continue the professional management of their ongoing delivery responsibilities until the day that the functions are transferred to the new body (vesting day). Accounting Officers would need to remain in place within the legacy bodies until all agreed responsibilities are delivered. Current arrangements in respect of the key sponsoring documents such as the Financial Memorandum, Management Statements and any relevant guidance that has been issued by the Welsh Government would remain extant.

Successful delivery of operational plans by all three existing bodies, and other functions that are to be included, would be critical in managing the risks around successful implementation of a new body. It will be vital to ensure business continuity for the services provided, before resources and responsibility have fully transferred to the new body on vesting.

The existing bodies would need to ensure that the effect on service for customers and stakeholders is minimised while the new organisation is being established. Existing performance monitoring processes currently in place would be retained.

In the transitional period the existing bodies would still be subject to scrutiny by the relevant committees of the National Assembly for Wales.

7.3 Cross Border Management

In addition to the need for effective co-ordination and governance set out in section 6.3, there a range of practical cross border management arrangements which would need to be agreed during the implementation phase such as for the management of the Rivers Dee, Wye and Severn. The majority of these relate to Environment Agency functions, such as the management of cross border rivers, arrangements for emergency response during flood events and charging policy for the single body.

For practical purposes many of these procedures and agreements already exist, because the Environment Agency internal operational boundary follows the political boundary, and 'inter regional' agreements are already in place. These would be reviewed and where necessary formalised, to ensure clear accountabilities and working arrangements. We would also need to ensure practical arrangements, such as cross border warranting of inspectors, are in place to ensure effective response to cross border enforcement issues. There would also be a need to establish arrangements with Natural England for cross border National Nature Reserves.

A number of licensing matters also cross borders, such as particular mobile plant licences under the environmental permitting regime and rod licences. Our expectation, based on initial discussions with the Environment Agency, is that, at least initially, these would continue as joint licences, with common charges, and joint validity. Should changes be proposed in future (or following further analysis during the implementation phase), these would be subject to a separate consultation.

7.4 Services for Wales provided by Environment Agency or Forestry Commission GB

We expect the majority of functions that the new body would exercise in Wales, would be provided from Wales. However we recognise that either for operational reasons or on efficiency grounds it would be preferable for certain functions to be exercised on the single body's behalf by the Environment Agency or Forestry Commission GB. Section 27 of the Public Bodies Act 2011 enables such arrangements to be made, subject to the need to obtain the Welsh Ministers and/or the Secretary of State's consent.

For example, we anticipate transferring to the new body functions relating to the regulation of radioactive waste. The UK pool of expertise in relation to that area is relatively small. Section 27 would enable the new body to enter into arrangements for its functions in that regard to be exercised by the Environment Agency. An arrangement of that nature would require the Welsh Ministers' consent, and, because it would involve the Environment Agency, the Secretary of State's consent.

It would also be prudent, to avoid duplication or on efficiency grounds, for the new body to make arrangements for the provision of some administrative, professional or technical services to support it. Section 28 of the Public Bodies Act 2011 provides that a number of bodies, including the Environment Agency may enter into such arrangements with the new body. Section 29 enables the Forestry Commissioners to do likewise. We anticipate that such arrangements would be sensible in relation to

specialist software and IT services. These arrangements would be put in place for vesting as part of the transition work undertaken by the shadow body.

7.5 Funding arrangements

It is clearly important that our proposed new body is properly funded, both during the transition period and beyond. The total funding for the three bodies combined is presently planned to be some £166m in 2013. The main sources of funding are expected to be grant in aid from the Welsh Ministers (£104m), regulatory charges and flood and coastal erosion risk management levies, commercial income such as timber sales and funding from other sources such as the Welsh European Funding Office. An illustrative list of the regulatory charging schemes is attached at Annex 6.

The Environment Agency also has borrowing powers which can be used in exceptional circumstances, subject to government approval. Our intention is that the proposed body would be funded in a similar way to the three bodies at present.

To achieve this, our legislative intent would be for the new body to be able to raise its own charging schemes for Wales, approved by Welsh Ministers, where this was the most appropriate way forward. We would look to ensure that the body and the Environment Agency have powers to establish joint (or mirror) charging schemes where this is in the best interests of customers or efficiency, or where we envisage the delivery of the function continuing at a UK level, such as with emissions trading schemes.

Our business case sets out in more detail how we propose to fund transition and the cost of change.

7.6 Staff and asset transfers

The Public Bodies Act 2011 requires that, as set out in the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector, the principles laid out in the Transfer of Undertaking Protection of Employment (TUPE) regulations are applied to any transfer. Staff would therefore be transferred into the new body according to the principles laid out in the TUPE regulations, on their existing terms and conditions. It would then be for the new body to negotiate with the Trades Unions any future changes that would help to harmonise terms, conditions and pay and grading as part of the process of setting up the body.

An asset split (including matters such as capital plant, laboratory facilities, buildings and intellectual property rights) would be agreed with the parent bodies and Defra. This would be given effect through an asset transfer order, transferring agreed assets on vesting to the new body. Liabilities which are extant at vesting would likewise be subject to formal transfer.

Tables

Table 1: The main areas of work

Function (area of work)	Illustrative examples
<p>Regulation of industry impacting on, or making use of, the environment and natural resources of Wales, using an integrated approach.</p>	<ul style="list-style-type: none"> • Permits for industrial emissions. • Discharge consents. • Regulatory inspections. • Compliance assessment. • Abstraction permits. • Prosecutions. • Control of non-nuclear radioactive substances and materials. • Disposal of radioactive waste. • Environmental Permitting Regulations. • Noise (under the Environmental Permitting Regulations).
<p>Reducing the effects of pollution on the environment in Wales (by prevention, minimisation, mitigation and remediation).</p>	<ul style="list-style-type: none"> • Awareness raising and promoting good practice. • Inspections. • Site visits. • Identification, designation and remediation of contaminated land (special sites). • Planning development control. • Strategic plans for sectors. • Advice and guidance to land managers to minimise risk of diffuse pollution. • Informing the development of water company investment programme. • Incident response.
<p>Sustainable use and management of forests, increasing sustainable woodland cover and the sustainable production and supply of timber and forest products.</p>	<ul style="list-style-type: none"> • Woodland access and recreation. • Community use and management. • Timber harvesting based on sustainable yield. • Marketing of timber.

Function (area of work)	Illustrative examples
	<ul style="list-style-type: none"> • Incentives and programmes to increase woodland cover. • Regulations to license tree felling and ensure replanting.
<p>Maintenance and management of the Welsh Government Woodland Estate to enhance its contribution to sustainable development.</p>	<ul style="list-style-type: none"> • Continued government ownership of a public forest estate delivering comparable public benefits. • Enhancing and balancing social, environmental and economic benefits from active management of the estate. • Management by third parties as a mechanism for delivering objectives.
<p>Climate change mitigation and adaptation.</p>	<ul style="list-style-type: none"> • Competent authority for the EU ETS and CRC Energy Efficiency Commitment. • Flood and erosion risk management. • Water resource management. • Renewable energy programmes. • Woodland creation programmes. • Woodland diversity programmes to enhance resilience. • Inclusion of climate change assessment in development of long term plans for flood risk and water resource management. • Inclusion of climate change assessment in advice to local planning authorities. • Cambrian Mountains Integrated Rural Development Project.
<p>Conservation, restoration and enhancement of the structure and functions of ecosystems in, or partly in, Wales, including flora, fauna, geological and physiographic features and ecosystem processes.</p>	<ul style="list-style-type: none"> • Designation and management of National Nature Reserves and SSSIs. • Management agreements with landowners and occupiers. • Advise and support the designation of Local Nature Reserves. • Advice to the Welsh Government on designation and management of N2k sites.

Function (area of work)	Illustrative examples
	<ul style="list-style-type: none"> • Advice on development proposals and regulatory consents. • Work to maintain through compliance with for example Water Framework Directive, Bathing Waters Directive, Urban Waste Water Directive, Habitats Directive, Birds Directive.
<p>Conservation, restoration and enhancement of the landscapes and seascapes of Wales.</p>	<ul style="list-style-type: none"> • Designation of National Parks and Areas of Outstanding Natural Beauty. • Landscape Assessment tools – Landmap; Landscape Characterisation Assessment and Seascapes Assessment. • Advice on development proposals, Local Development Plans and National Park and AONB Management Plans.
<p>Improving and increasing access to, and use of, the environment for outdoor recreation.</p>	<ul style="list-style-type: none"> • National trails – advising and proposing. • Advising local authorities, Welsh Government and the public on access and recreation. • Identification of access to open countryside. • Grant aid to local authorities and community groups to improve and enhance access opportunities. • Manage land for public benefit. • Provision of recreation facilities including visitor centres through commercial franchise.
<p>Planning and managing water resources in Wales, including encouraging conservation, redistribution, augmentation and proper use of water.</p>	<ul style="list-style-type: none"> • Strategic planning of water resources. • Management of water through abstraction licence scheme. • Assessment of water availability. • Assessment of water company water resource and drought plans to ensure security of supply to customers.

Function (area of work)	Illustrative examples
Flood and coastal erosion risk management in Wales.	<ul style="list-style-type: none"> • Awareness raising. • Flood warnings. • Construction of defences and other risk management schemes. • Maintenance of defences. • Removal of obstructions. • Advice on Shoreline Management Plans.
Working to prevent or remedy the effects of incidents and emergencies on people.	<ul style="list-style-type: none"> • Flood warning and response. • Supporting services dealing with major fires. • Supporting disease control measures (e.g. foot and mouth disease). • Leading or supporting others in dealing with major pollution incidents (e.g. Sea Empress). • Leading drought management. • Emergency Management Plans.
Encouraging sustainable use of the environment and natural resources by supporting new and existing enterprises.	<ul style="list-style-type: none"> • Long term timber supply contracts. • Supporting commercial recreation facilities. • Grant aid to Local Authorities and local community groups. • Managing and delivering of external funds for other bodies, e.g. Communities and Nature, All Wales Coastal Path, and Ecosystem Resilience Diversity and Compliance Fund.
Prevention or reduction of the spread of pests and diseases affecting all trees and timber products.	<ul style="list-style-type: none"> • Regulation requiring felling of diseased or vulnerable trees or destruction of infected timber. • Leading and supporting disease control measures. • Direct control of invasive species, e.g. Didendum vexillum.

Function (area of work)	Illustrative examples
Maintaining, improving and developing fisheries for salmon, trout, eels, lampreys, smelt and freshwater fish.	<ul style="list-style-type: none"> • Regulating fisheries exploitation. • Licensing. • Habitat and access improvement. • Promotion of angling.
Increasing public understanding of the value of the environment and natural resources of Wales and the importance of sustainable use.	<ul style="list-style-type: none"> • Supporting outdoor environmental education programmes. • Come Outside programme. • Provision of facilities and opportunities for everyone to visit the countryside. • Advice to local authorities on recycling. • Fly Tipping Action Wales. • Valleys Regional Park.
Increasing public involvement in decisions about the use and management of the environment and natural resources of Wales.	<ul style="list-style-type: none"> • Community use of assets including leasing and direct management. • Water Framework Directive engagement. • Volunteering on National Nature Reserves. • Open Council meetings. • Consultation on the Clwydian Range AONB extension.
Protection of public health and well-being through the management decisions that it takes.	<ul style="list-style-type: none"> • Regulation of large and complex industrial processes to minimise the impact on air quality, noise and peoples' health. • Promotion of use of the countryside by all and the health benefits it brings. • Flood risk management.
Providing advice to Ministers or any other public body (including those outside Wales) on relevant functions of the body, including those with a UK and international relevance.	<ul style="list-style-type: none"> • Joint Nature Conservation Committee. • Infrastructure Planning Commission.

Table 2: General powers which would apply widely across functions

Function
To acquire, own, manage, use and dispose of land and other property.
To carry out engineering and building operations.
To acquire and sell standing timber and forest products and promote the supply, sale, use and conversion of timber and forest products.
To establish and run, or assist in establishing and running, enterprises for the sustainable use of the environment and natural resources.
To carry out and commission research.
To provide expert and technical advice.
To carry out or promote experimental projects or schemes.
To institute criminal proceedings.
To make payments or give grants or loans.
To accept gifts (within agreed limits and in appropriate circumstances).
To charge for the provision of products and services.
To form or participate in corporate or charitable bodies, to exploit intellectual property, to delegate powers to charge and share profits and to participate in joint ventures.

Table 3: The main factors which the proposed new body will have to have regard to in exercising its functions

Function
The likely costs and benefits (this includes both costs to the environment and costs to people and organisations).
The economic, social and cultural interests of the people of Wales, including the desirability of conserving buildings, sites, landscapes and objects of archaeological, architectural, engineering or historical interest.
Actual and possible ecological changes, including in particular the effects of climate change.
The desirability of promoting equality of access for all persons in Wales to the benefits that the environment and natural resources can provide.
The potential cross border impacts of all natural resource management decisions.

Annex 1: Strategic Delivery Needs

We expect the new body to help us achieve our aims as a government and our priorities for the environment, communities and businesses in Wales. These are summarised below to provide a broad context for the purpose, aims and objectives that we describe for the new body.

1.1 Sustainable Development

The Welsh Government has made sustainable development its central organising principle. The Welsh Government's Sustainable Development Scheme ('One Wales; One Planet') sets out the Welsh Government's vision of a sustainable Wales and its approach to embedding sustainable development in all its policy and decision making.

In Wales, sustainable development means enhancing the economic, social and environmental well-being of communities, achieving a better quality of life for our own and future generations. This needs to be achieved in ways that promote social justice and equality of opportunity and which enhance the environment and work within its capacity – using our fair share of the Earth's resources.

A healthy environment is a key aspect of sustainable development. Our Ecological Footprint (one of our five headline indicators of sustainable development) tells us how much we are consuming in relation to global resource availability.

We are bringing forward proposals for a Sustainable Development Bill in the current term of the National Assembly for Wales. A new single environment body, with a clear focus on sustainable development and a remit to work with the Welsh Government to help join up environmental decision making, would help us to develop our economy in ways which enable us to better live within environmental limits and help reverse trends in declining biodiversity, unsustainable resource consumption and associated greenhouse gas emissions.

1.2 Environment Strategy for Wales

The Environment Strategy provides an overarching framework within which many other more detailed or sector specific strategies sit. It sets out 39 outcomes we want to achieve for the Environment in Wales as a whole by 2026.

More detailed policies to deliver the outcomes in the Environment Strategy have since been developed, for example on climate change, waste and flood and coastal risk management. It does, however, set out our aspirations on some issues that have not been separately covered in other policy documents for example in relation to radioactivity and chemicals. The Strategy also reinforces our wider intention to ensure that public health and wellbeing is protected and that the most vulnerable people and the worst quality environments are prioritised.

1.3 Sustaining a Living Wales

In February 2010, in the light of the failure to meet a series of biodiversity targets, we began the development of our Natural Environment Framework “A Living Wales”. This is based on the ‘ecosystem approach’ – looking at the environment as a whole and setting out a much more integrated way of managing the environment that improves the health of the underlying ecosystem. The approach has also been adopted in the European Union’s Resource Efficiency Roadmap and the EU Biodiversity Strategy, which emphasise an ecosystem approach. The approach is also contained in the UK Government’s white paper and business plan on the natural environment, which aims to promote an integrated approach, moving from biodiversity loss to net gain, by creating a coherent ecological network of protected sites and wider countryside measures and developing resilience by supporting healthy well-functioning ecosystems.

We will seek to improve and simplify the legislation in this area via an Environment Bill in 2013/14 and the new body would be a big step towards the integrated working we are seeking more widely and will be vital to our plans for implementing an ecosystem approach through natural resource conservation and management.

1.4 Climate Change Strategy for Wales

Climate change remains one of the most challenging issues facing us in the 21st century. The Welsh Government has a clear role to play in tackling climate change and has set out its strategic approach in the Climate Change Strategy for Wales, published in October 2010. Our Strategy confirms the level of our ambition in tackling the causes and consequences of climate change and sets out our commitments and the approach we are adopting to reduce greenhouse gas emissions and to ensure that Wales is well-prepared to manage the impacts of a changing climate. We reaffirmed these commitments in 2011 in our Programme for Government which we are now taking forward.

The new body would play a critical role in helping us achieve our targets for land management, land use change and forestry, as well as administering emissions from those sectors that are regulated through domestic and EU legislation. The body would be a key catalyst in helping to deliver our Adaptation Framework.

1.5 Planning Policy Wales

Planning Policy Wales (PPW) and Minerals Planning Policy Wales (MPPW) set out Welsh Government planning policies for the use and development of land. Together with Technical Advice Notes, they provide the policy framework for the preparation of local planning authorities’ development plans and decisions on individual planning applications.

The new body would provide an important source of technical expertise to support the further development of national planning policy. The new body would also retain a number of important statutory consultee roles in relation to the preparation of development plans and decisions on planning applications and development consent

orders. The new body would need to ensure that it discharges its statutory planning functions in an efficient and timely way and plays that it plays a full part in improving the delivery of the planning service.

1.6 Rural Development Plan and Glastir

Both the Rural Development Plan and our new Agri-Environment Grant Scheme, Glastir, have an important influence on land management and environmental outcomes across Wales. Currently the three separate bodies have various advisory and implementation roles within this policy process.

1.7 Wales Woodland Strategy

Our strategy for woodlands in Wales sets out a vision for more diverse woodland estate, a substantial increase in woodland cover and a wider use of this natural resource, especially our public forest estate. The new body would be responsible for delivering these ambitions both through its direct management and via its promotion and regulatory role.

1.8 Wales Waste Strategy

The Wales Waste Strategy “Towards Zero Waste” sets out, at a high level, how the Welsh Government will build on the successes achieved through Wise About Waste – The National Waste Strategy for Wales (2002). It describes a long term framework for resource efficiency and waste management between now and 2050. Towards Zero Waste is our overarching waste strategy document; it is not a detailed action plan. Delivery actions will be developed in sector plans such as the Collection, Infrastructure and Markets Sector plan and others that will follow. The new body would work closely with the Welsh Government in the development of these plans and their operational implementation. It would be the lead regulator for the management of waste. It would regulate waste disposal and recovery through environmental permits, monitoring and enforcement.

1.9 National Strategy for Flood and Coastal Erosion Risk Management

The statutory National Strategy for Flood and Coastal Erosion Risk Management in Wales sets out the Welsh Government strategic policies and objectives for flood and coastal erosion risk management. It sets the framework that would help communities, the public sector and other organisations to work together to manage flood and coastal erosion risk. It supports local decision-making and engagement in flood and coastal erosion risk management, making sure that risks are managed in a co-ordinated way across Wales.

The new body would have a key role in managing flood and coastal erosion risk, helping to co-ordinate operational activities across Wales, leading on flood warning and developing and maintaining flood and coastal defences alongside other risk management initiatives.

1.10 Strategic Policy Position Statement on Water and planned Water Strategy

In line with the commitment in the Programme for Government, the Welsh Government is developing a Water Strategy which will set the future direction for water policy and the delivery of water services in Wales.

The Strategy will ensure that sustainable development and the principles of 'Sustaining a Living Wales' are embedded in all aspect of the water policy and will build on the policy direction set out in the Welsh Government's Strategic Policy Position Statements on Water published in 2009 and 2011.

The new body would be the lead regulator for environmental water quality and water resources and a range of associated functions.

1.11 Air quality Strategy

The new body would work with the Welsh Government to deliver the UK Air Quality Strategy in Wales. The Strategy sets air pollution standards to protect people's health and the environment. The body would also work to achieve European target and limit values and the cross-border transfer of pollutants.

1.12 Environmental permitting and industrial regulation

The new body would be responsible for delivering environmental regulation of about 300 major industrial sites in Wales ranging from steelworks, power stations, larger manufacturing and process industries and agricultural premises for emissions to air, land and/or water. The main regulatory vehicle is the Environmental Permitting (England & Wales) Regulations 2010 (EPR) which is the domestic transposition of the European Integrated Pollution Prevention and Control (IPPC) regime. From 2013 the Industrial Emissions Directive (IED) will replace the IPPC regime and six other European Directives and will be transposed into law in Wales using the EPR as the regulatory framework.

The Environment Agency is currently working with the Welsh Government and UK Governments to develop the EPR and associated implementation requirements. Except where Welsh Government policy or separate regulatory circumstances in Wales indicate a need for different regulatory approach this regime will be delivered consistently across Wales and England. The new body would be expected to continue to contribute to the development of the EPR regime and its associated implementation.

1.13 Radioactivity

There are a range of UK strategies relating to the management of radioactive materials and substances. The Welsh Government works closely with the other UK administrations, the environmental regulators (including the Environment Agency), and the Office for Nuclear Regulation to ensure a consistent framework for the regulation of radioactive substances across the UK with the aim of minimising

risk to human health and the environment. The new body would be expected to contribute to maintaining consistent and effective regulation in this area.

1.14 Outdoor recreation and management

The new body would continue to have an important role in planning and providing for opportunities for outdoor recreation and its management. This role would be bolstered by bringing together the expertise in the current bodies, with the potential for better integrated plans and more coordinated investment. The priority will be to ensure that increased enjoyment of the outdoors contributes significantly to the economy and wellbeing of Wales and its people. This agenda makes an important contribution across Government priorities; for example in improving health (Creating an Active Wales), boosting the rural economy through activity tourism (Economic Renewal Programme, and the tourism strategies of the Regional Tourism Partnerships), supporting regeneration through access and greenspace provision (Heads of the Valleys and Valleys Regional Park, Environment Strategy Wales) and supporting the grass roots provision for a number of outdoor activities that feed into competitive sport (Climbing Higher). This will require the new body to support responsible participation in outdoor recreation from all sectors of society, with the particular emphasis on families and children highlighted in the Programme for Government; to provide quality fit for purpose places and facilities that support the full spectrum of outdoor recreation activities; and to ensure that effective delivery mechanisms are in place to meet the aspirations of the many stakeholders from local walking clubs to activity tourism providers whilst balancing the needs of other land uses.

1.15 Public Service Delivery

The Welsh Government's approach to public service delivery (Figure 1) is based on its values: Delivering Results, Valuing People and Achieving Excellence, and on Making the Connections and the Beecham Review of Local Service Delivery. These provide a long term approach for developing people, skills, tools and the focus on outcomes that we need.

Figure 1 – Enabling Government Framework



1.16 Regulatory Simplification

The Welsh Government's approach to regulatory simplification is to seek simpler, more streamlined regulation, improving processes and consolidating and updating relevant legislation.

There are some differences in approach with the UK Government and, in some areas, this may extend existing operational divergence between formerly cross-border bodies. However, where appropriate, we will look to maintain a common regulatory framework, for example in relation to the EU Emissions Trading Scheme or aspects of the Environmental Permitting regime, where this meets the needs of Wales.

The new body would be expected to help us develop and deliver our distinctive approach to simplifying regulation.

1.17 Local Government and the Simpson Review

The Simpson Review sets out thinking and recommendations for Local Government arrangements within Wales. This includes new governance and delivery frameworks, together with proposals to improve and develop the evidence base.

The new body would need to work with local government at all levels, forming effective partnership working arrangements, including the sharing of services where appropriate. It would also provide the lead focus for wider natural resource management, helping the Welsh Government to develop new arrangements for environmental regulation and consenting, including through our Environment and Planning Bills.

Annex 2: The Case for Change

In this section we explain the case for change, to set out the context for the proposals, and for the issues on which we seek specific views in the document.

1.1 Why do we need to change?

By managing our natural resources¹² with the aim of achieving sustainable development we believe we will find the best balance between protection, improvement and development of these resources with their sustainable use for the people of Wales and the Welsh economy, both now and into the future. Although all the tools for taking forward a new approach to natural resource management are not available to either the existing bodies or even a new body, there will be opportunities presented through our legislative programme to develop this approach and the new body would help us drive this work forward.

The reasons we need to change can be categorised into three main groups:

- We need to improve outcomes for the environment, people and economy of Wales.
- We want to ensure we take decisions which are fit for the needs of Wales, devolving more decisions where appropriate, ensuring that we act locally to improve our environment and protect jobs and investment within Wales.
- We need to ensure value for money in the context of public finance, environmental and delivery pressures.

These are set out in more detail below.

1.1.1 Improving outcomes – a new approach to natural resource management in Wales

The land, water and air of Wales, as well as the biodiversity that both sustains and depends on it, are essential to our success – as individuals, society, and as a country. If we are to realise our hopes for a better quality of life and improve our future prospects, we need a new approach to ensure that our environmental resource is protected, improved, and used in sustainable ways that benefit us all and safeguard the interests of future generations.

There are, however, many challenges. The EC's Resource Efficiency Roadmap (September 2011) states:

¹² In this paper, Natural Resources include both physical resources (Air, Land, Water) and the ecosystems (biodiversity) which both support and depend upon them. We define natural resource management as any function that supports the protection, improvement or development of natural resources and their sustainable use. The scope of Natural Resource Management therefore ranges from advice and regulatory intervention to protecting the environment to active development of ecosystems for recreation and harvest (e.g. forests).

“Over the 20th century, the world increased its fossil fuel use by a factor of 12 whilst extracting 34 times more material resources. Today in the EU, each person consumes 16 tonnes of materials annually, of which 6 tonnes are wasted, with half going to landfill. Trends show, however, that the era of plentiful and cheap resources is over. Businesses are facing rising costs for essential raw materials and minerals, their scarcity and price volatility are having a damaging effect on the economy. Sources of minerals, metals and energy, as well as stocks of fish, timber, water, fertile soils, clean air, biomass, biodiversity are all under pressure, as is the stability of the climate system. Whilst demands for food, feed and fibre may increase by 70% by 2050, 60% of the world's ecosystems that help produce these resources have already been degraded or are used unsustainably. If we carry on using resources at the current rate, by 2050 we will need, on aggregate, more than two planets to sustain us, and the aspirations of many for a better quality of life will not be achieved.”

Wales benefits from a good quality environment which underpins our quality of life, and provides opportunities for both our people and economy.

However we are not immune to these pressures. The National Ecosystem Assessment has indicated that, while some ecosystems are getting better at delivering services, such as crop production from farmland and climate regulation by woodlands, over 30% of services assessed were found to be in decline, and others degraded, such as marine fisheries, wild species diversity and soil quality.

We have responded to these challenges by developing our proposals for a new approach to natural resource management in Wales. ‘Sustaining a Living Wales’ proposes a new, integrated approach to managing the environment, including joining up existing organisational strategies. The approach demands new ways of working which make connections between different aspects of the environment and positively manages the environment as a whole to deliver social and economic benefits.

1.1.2 Managing natural resources in ways that are fit for the needs of Wales

Modernising regulation and management

Governments have sought to regulate and manage the environment through a series of separate approaches and for a variety of reasons, with legislation on different aspects of the environment evolving separately to address changing pressures.

Town and country planning was introduced in the 1930s and 1940s largely to address concerns about urban sprawl and protect open land between towns. National Parks and Areas of Outstanding Natural Beauty (AONB) have been designated since 1949 to preserve their special qualities. Pollution controls were progressively introduced to improve air and water quality in the face of heavy industrialisation and urbanisation. Nature conservation legislation was developed to protect specific nature sites and species.

Each of these regimes has had their own legal basis, delivery bodies and systems. Then, since joining the European Union in 1972, governments implemented successive changes to comply with European legislation on all aspects of the environment which have overlaid and adapted the inherited systems.

Our current principal statutory delivery bodies also have origins in very different legislation and times. The Forestry Commission (which has a GB remit) dates back to 1919 (though legislation was refreshed in 1967). The Environment Agency (which works in England and Wales) was established in 1996 from an amalgamation of the National Rivers Authority, Her Majesty's Inspectorate of Pollution and local authority waste regulation. The Countryside Council for Wales was established as a Wales only body as a result of the integration of the Countryside Commission and Nature Conservancy Council in 1991.

Businesses need clarity and consistency from regulators to give them confidence to make investment decisions. However the current regulatory landscape is perceived as complex and industry can receive mixed messages from different public bodies. Regulation needs to be simplified and streamlined, with more joined up processes and decision making which facilitates and encourages economic growth without lowering environmental standards.

The Public Bodies Act 2011 provides the Welsh Ministers with the power, by order, to modify the functions of Countryside Council for Wales, the Welsh devolved functions of the Environment Agency and Forestry Commission and to establish, and transfer functions, to a new body. Alongside those organisational changes, the new primary legislation powers of the National Assembly for Wales provide further opportunities to refresh the legislation that has developed over the years to put in place a more unified approach, fit for future needs.

Divergence of legislation, resources and policy

Since the devolution of the majority of environmental competence to the Welsh Government in 1999 we have seen increasing divergence across the UK on environmental policy, with differences in priorities, resourcing and legislation. This divergence is likely to be extended further as we take forward the ecosystem approach and introduce new Welsh bills for Sustainable Development, the Environment and Planning.

We need a new focus on natural resource management to support sustainable development and new arrangements that facilitate early engagement and early resolution of problems. The delivery landscape is complex, with a lack of coherence in environmental planning at both strategic and local level. These factors detrimentally impact on the delivery of Welsh Government policy and environmental improvements and can impact upon major economic development opportunities. The 'Sustaining a Living Wales' green paper offers the opportunity to comment on our wider proposals to deal with these complex issues.

1.1.3 Value For Money – Finance, Environmental and Delivery Pressures

Welsh Government budgets are increasingly constrained as a result of the wider UK retrenchment in public sector expenditure. There is therefore an imperative to look at increasing value for money of current spending and delivery systems. Set alongside this reduction in funding are increasing pressures to deliver, including a range of statutory obligations, many of which are derived from European legislation.

More widely, environmental pressures continue to increase. Mitigating and adapting to flood risk and coastal erosion are major pressures. The need to implement ecosystem management to improve biodiversity outcomes, to invest in better working with land managers, owners and farmers, and to provide enhanced policy input to the development of future phases of agri-environment schemes will add to pressures on existing and future bodies.

Future delivery of the Welsh Government's environmental aims therefore depends on freeing resources to deliver against these new pressures, prioritising better, removing duplicate activities and creating opportunities to do things differently and more cost effectively.

1.2 How will the creation of a single body help address these problems?

1.2.1 Improving outcomes

The establishment of a new body forms a central component of the Welsh Government's strategy for natural resource management. Combining the functions of the organisations would result in a single organisation with a more complete agenda and a single set of strategic and operational plans and objectives. This could enable a simpler alignment with Welsh Government objectives and the needs of Wales, helping to clarify regulatory and delivery priorities and decisions.

The new body would have a primary focus on delivering better outcomes for, and from, the environment, linking its management responsibilities for land, forestry, nature sites, water resources management, flood risk management and fresh water fishing with integrated natural resource management. It will underpin this by using its regulatory powers proportionately to enable economic development and growth while protecting the environment from inappropriate use and damage. It therefore provides a key vehicle for the integration required.

Environmental outcomes would also benefit from a single focus for environmental management, which over time would enable rationalisation of strategies and a more joined up approach. Delivery would benefit from sharing of resources and skill sets, and a more complete set of legal powers. The change would also free up resources for reinvestment, providing the opportunity to target those resources on priorities that make an environmental difference.

Reinvestment of some of the savings would improve policy capacity and the availability of technical expertise within Wales, which would focus on the problems which are of particular importance within Wales. Combining or pooling skills sets and abilities would allow more effective and resilient services – both at organisational and team level. An obvious example is the ability to handle major incidents such as floods, where the organisation’s resources within Wales would be greatly increased during incidents, due to an increased on-the-ground workforce.

1.2.2 Managing natural resources in ways that fit the needs of Wales

Working within a Wales only body would enable more locally based decision making and accountability, decisions made in Wales, for Wales taking into account the rich heritage and culture of Wales and the language of our customers and partners.

We will continue to protect and enhance the environment and biodiversity, maintaining environmental standards and ensuring compliance with European legislation. However doing things at a Wales level, within our own developing legislative framework, would enable simplification of regulatory and delivery processes so that things are done in ways and at a local level appropriate for Wales.

The change would simplify the regulatory landscape, by removing organisational boundaries and creating a body which can engage with planners and businesses to provide a single consistent view on issues and proposals. It would also enable a single point of entry and advice for developers, planning authorities and other consenting bodies, (including the Infrastructure Planning Commission and its successor), landowners and regulated industries.

The body, working with the Welsh Government and other strategic partners would be specifically charged with simplifying and integrating regulatory approaches aligned to the Environment and Planning Bills, which would themselves be set within the framework established by the Sustainable Development Bill.

Benefits to the public, businesses and local authorities would include:

- Planning applications: timely, consistent, expert advice to local planning authorities based on a common shared view (one message not three), with a single point of contact, simplifying discussions on environmental issues with developers and reduced meetings.
- Developing consent orders: timely, consistent, expert advice on nationally significant infrastructure projects to applicants and the Infrastructure Planning Commission and its successor, based on a shared common view, with a single point of contact.
- Earlier and more constructive resolution of conflicting views of the same environmental evidence base, potentially reducing delays on planning applications and development consent orders.

- Regulatory simplification: a single point of contact for businesses; simpler and potentially quicker consenting processes.
- Fewer meetings/simplified stakeholder engagement arrangements.
- Local development plans: timely, consistent, expert advice to local planning authorities and the development sector, based on a common shared view, with a single point of contact and with rationalisation of witnesses required for examination of LDPs.

1.2.3 Value for Money

Our work so far has concluded that there are significant effectiveness and efficiency benefits from establishing a new body. Under existing arrangements many functions or activities, particularly corporate functions, are duplicated or triplicated within the three bodies and with the parent bodies in England and Scotland (where applicable). Examples include governance arrangements (boards/senior management teams), strategic plans, advice on development proposals, corporate plans, finance services and accounts, HR services, procurement, IT services and systems, common operational processes and procedures, accommodation, equipment (including capital plant) and many others.

Removal of duplicate/triplicate activity would be complemented and reinforced by simplified processes and opportunities to do things differently – because of the removal of national tiers, reduced scale and greater operational freedom.

The scale of the estimated savings is significant¹³. Over and above existing budgetary reductions facing all the organisations, we expect savings, before change costs, of £158m over 10 years. The cost of change has been estimated (with considerable contingency provision) at £69m, much of which would be paid for by savings in the earlier years. After discounting for the effect of inflation, the net value of savings is some £68m over ten years. We intend to reinvest these savings in improving our environment and in services to people and businesses.

¹³ See full business case at www.wales.gov.uk/SEB for further detail of costs, benefits and risks.

Annex 3: Business Case extract – Risks and Mitigation

Risk	Mitigation
<p>Key dependency fails to deliver on time (e.g. Legal workstream, Critical IT). This may cause problems for both the change process and the legacy organisations.</p>	<p>Specific project management attention to critical path issues; retain flexibility on vesting date; allow for contingency (6 months) in business plan costs Adequate resourcing and capacity planning.</p>
<p>The option may not deliver effectively because a common purpose does not develop (including loss of economic outputs from forestry as a result of conflict with other SEB objectives).</p>	<p>High quality senior managers appointed, clear aims and objectives implemented, including clearly defined duties and outcomes which protect forest interests. Organisational structure design promotes integration and shared outcomes.</p>
<p>Regulatory decisions may not be seen to be transparent or independent of Welsh Government.</p>	<p>WGSB with independent chair and board would ensure appropriate governance arrangements Consider separating regulatory/delivery elements into separate business units during detailed organisational design. Specific consideration of SEA in organisational design workstreams. Commit to publishing decision documents including conservation advice for decisions.</p>
<p>Negative stakeholder response.</p>	<p>Work to secure support before change. Actively manage the brand during transition and from the start to create positive opportunities to raise awareness and gain public support Increase communications and engagement.</p>
<p>Ineffective forestry policy links within Welsh Government – e.g. Rural Development Plan opportunities.</p>	<p>Make provision for proper policy support within the Welsh Government.</p>
<p>Change may adversely impact upon staff and organisational performance during and after transition</p>	<p>Use the opportunity provided by change to motivate staff (new challenges, remove national constraints, more area ownership). Ensure appropriate training and support is in place. Accept some short term impacts.</p>

Risk	Mitigation
<p>Business critical activities, including services from England/Scotland, may be disrupted as a result of change (this change may be either as a result of the creation of a SEB or as a result of ongoing financial pressures and associated change in the legacy bodies).</p>	<p>Operational planning to focus on business critical resilience during transition. Specific review of contingency planning for major incidents.</p> <p>Transition workstream to focus on service transfer and ongoing provision, including building strong corporate relationship with service providers.</p>
<p>Current organisational skills and relationships may be lost because of staff reductions or because the staff are currently located outside Wales.</p>	<p>Early identification of key individuals and retention measures. Analysis to identify key skills gaps for new body and prioritisation of reinvestment to recruit into areas of skill shortage. Continue with bought in services where needed.</p>
<p>Disruption to cross border working arrangements.</p>	<p>Ensure clear accountabilities and where appropriate service level agreements. Actively manage issues through transition workstream.</p>

Annex 4: Current Governance Arrangements and Stakeholder Engagement

Current Governance Arrangements

Environment Agency Wales

Environment Agency Wales is part of the Environment Agency which is established as a non-departmental public body in England and Wales, as well as being a Welsh Government Sponsored (WGSB). The Environment Agency has a Chair and a Board which is legally constrained to between 8 and 15 members. One of these is appointed by the Welsh Ministers, with the rest appointed by the Secretary of State for the Environment in England.

The Board delegates its functions to sub committees (Pensions, Audit, Remuneration and the Flood Defence Finance Committee) and to the Chief Executive Officer (CEO) who is the Accounting Officer and a member of the Board. Functions are then further delegated to Executive Directors and officers via the financial and non-financial schemes of delegation.

Countryside Council for Wales

Countryside Council for Wales is a Wales-only body and is also a WGSB. Countryside Council for Wales is established with a Chair appointed by Welsh Ministers, a Council of between 8 and 12 members who are also appointed by Ministers and a CEO whose appointment is confirmed by the Minister. The Council's powers are delegated to the CEO, who is the Accounting Officer but is not a member of the Council. The Council has an Audit and Risk Committee and a Remuneration Committee (there is no requirement for a Pensions Committee, as Countryside Council Wales does not run its own pension scheme but is part of the PCSPS). Executive Directors are appointed by a panel chaired by the CEO that includes a Council member. Day-to-day management is controlled through schemes of delegation to staff that cover financial and non-financial matters.

Forestry Commission Wales

The Forestry Commission is a non-Ministerial Department. The Forestry Act 1967 (as amended) and the Forestry Act 1979 set out the principal legislative framework within which the Commission operates. They also set out the principal duties and powers of the Forestry Commissioners. The Forestry Commission is considered to be a Crown body.

The Forestry Commission is also regarded as a non-Ministerial government department. Since devolution the Commissioners have been required to exercise their functions separately in England, Scotland and Wales and are accountable, and report separately to the Secretary of State for Environment, Food and Rural Affairs, Scottish Ministers and the Welsh Ministers. Forestry Commission Wales' Director is its Accounting Officer. The Commission is therefore also a cross-border public authority.

The Forestry Commission is headed by a board of Commissioners which meets to consider cross-border issues where they could impact on the Commission's capacity to fulfil its statutory duties, to determine the strategic direction for the Forestry Commission and to maintain an overview of corporate risk. Although the vast majority of Ministerial functions in relation to the Forestry Commission are now devolved, by agreement of Ministers in the three countries, certain functions and responsibilities are delivered on a GB-wide basis. In recognition of the devolved nature of forestry, the Commissioners under section 2(3) of the Forestry Act 1967, have delegated a significant proportion of their responsibilities to the National Committees in each country.

Stakeholder Engagement

Environment Agency Wales

The Environment Agency has three statutory advisory committees at Wales level: the Environment Protection Advisory Committee, the Regional Flood and Coastal Committee for Wales, Flood Risk Management Wales and the Fisheries, Ecology and Recreation Advisory Committee. Members are appointed by the Environment Agency and are nominated by the Welsh Local Government Association. Their chairs are appointed by Welsh Ministers. There are also a range of non-statutory local area stakeholder engagement arrangements.

Countryside Council for Wales

The Countryside Council for Wales has no formal advisory arrangements beyond its executive council.

Forestry Commission Wales

On behalf of Ministers, Forestry Commission Wales has managed the non-statutory Woodland Strategy Advisory Panel. This Panel has played a successful role in helping to shape our strategy for woodlands in Wales over recent years and has operated through a multi-stakeholder, consensus based, approach. We would hope to continue with, and build on, this practical mechanism for balancing economic, social and environmental benefits from our woodland resource.

Forestry Commission Wales has also used the membership of the Advisory Panel to form statutory advisory committees on a case-by-case basis to deal with the small number of regulatory disputes arising from forestry legislation. This has proved a highly efficient approach to achieving an appropriate balance between non-statutory and statutory stakeholder input.

Environmental Compact

All three organisations are signatories to an Environmental Compact with the environmental third sector in Wales. This compact describes how the organisations should engage and work together.

Annex 5: Delivery Framework

Delivery framework - Natural Resources Wales

Outcome Themes	Objectives	What will success look like?	Relevant Welsh Government Indicators with new Body influence ranking*
<p>Protecting, maintaining, improving and developing our natural resources</p> <p>1. Contribute to protecting public health and safety and promoting wellbeing</p> <p>2. Prevent, minimise, remedy or mitigate the harmful effect on the environment of pollution, alien species and diseases</p> <p>3. Further the conservation, restoration, enhancement and use of ecosystems</p> <p>4. Secure the sustainable use, management and consumption of natural resources and ecosystem services</p> <p>5. Contribute to the mitigation of and adaptation to the effects of climate change</p>	<p>1. Manage air, land, water and biodiversity to protect and improve ecosystems, enabling sustainable delivery of services</p> <p>2. Secure better management of terrestrial & marine ecosystems through integrated natural resource planning</p> <p>3. Support the development of integrated National Infrastructure planning that recognises the benefits from, and threats to, the sustainability of Welsh ecosystems</p> <p>4. Promote the management of water, including bathing waters, to deliver sustainable supply, water framework directive improvements and wider ecosystem service benefits</p> <p>5. Contribute to GHG abatement by regulation, and by managing land and influencing its management by others to reduce GHG emissions</p> <p>6. Support the adaptation of ecosystems to a changing climate, ensuring they are able to sustain delivery of their services</p> <p>7. Promote risk based climate change environmental adaptation to all relevant authorities and sectors</p> <p>8. Support the minimisation of waste in Wales, through regulation and other programmes and manage its impact on ecosystems in Wales and internationally</p> <p>9. Manage tree health outbreaks to balance social, economic and environmental impacts</p>	<p>1. Integrated place based natural resource plans will be an established and influential part of all aspects of decision making concerning the sustainable management of Welsh natural resources</p> <p>2. Welsh ecosystems will show positive condition trends with environmental limits less frequently reached</p> <p>3. A coherent and resilient ecological network, both terrestrial and marine, has been planned and ways of achieving it are in place</p> <p>4. Air and water quality concerns in Wales become less and less frequent due to the active approach taken to 'up front' planning</p> <p>5. The importance of soil condition becomes as recognised as that of air & water and a similar management focus on soil management is developed by the body and other land managers</p> <p>6. New development, including major infrastructure, is sited and designed from the outset to incorporate improvements and avoid negative impacts that undermine the sustainability of the relevant ecosystems and their services</p> <p>7. The body acts as an exemplar of environmental management, pioneering innovative initiatives to reduce its own footprint and that of Wales as a nation</p> <p>8. The body is viewed as a champion of sustainable renewable energy both in its direct delivery and through its wider work</p> <p>9. The Welsh environment is demonstrably better adapted to a changing climate and environment based adaptation solutions are widely adopted</p> <p>10. Land use and land management, including increases in woodland cover, has changed in line with Welsh Government policy</p>	<p>1. Annual emissions of basket of greenhouse gases (by sector) – B</p> <p>2. Net greenhouse gas emissions from land use, land use change and forestry (LULUCF) – B</p> <p>3. Quantity of municipal waste per person per annum – B</p> <p>4. Quantity of industrial & commercial waste produced per annum – A</p> <p>5. Level of water leakage – B</p> <p>6. Per capita consumption of water – B</p> <p>7. Volume of water abstracted from the environment – A</p> <p>8. Trends in Biodiversity Action Plan species and habitats – B</p> <p>9. Percentage of features on Protected Sites in favourable or recovering condition – A</p> <p>10. Trends in wild bird population index – B</p> <p>11. Proportion of woodland managed to the UK Forestry standard – A</p> <p>12. Level of woodland creation – B</p> <p>13. Woodland diversity – A</p> <p>14. Emissions of toxic air pollutants and concentrations in the air – A</p> <p>15. Days when air pollution was moderate or higher</p> <p>16. River water quality – biological and chemical – A</p> <p>17. Bathing water quality – B</p> <p>18. Percentage of sensitive habitat area exceeding critical levels for acidification & eutrophication – B</p>
<p>Sustainable use of our natural resources for the benefit of people and the economy, now and into the future</p> <p>1. Contribute to protecting public health and safety and promoting wellbeing</p> <p>2. Prevent, minimise, remedy or mitigate the harmful effect on the environment of pollution, alien species and diseases</p> <p>3. Further the conservation, restoration, enhancement and use of ecosystems</p> <p>4. Secure the sustainable use, management and consumption of natural resources and ecosystem services</p> <p>5. Contribute to the mitigation of and adaptation to the effects of climate change</p>	<p>10. Protect life and property through effective delivery of flood risk management, land management and regulation of emissions to air & water</p> <p>11. Promote sustainable natural resource management as a positive regeneration tool</p> <p>12. Manage directly and influence natural resource management, to contribute positively to sustainable economic development</p> <p>13. Increase public understanding and participation in relevant aspects of Natural Resource Management</p> <p>14. Promote and actively manage access to, and use of, landscape, greenspace and outdoor recreation facilities to benefit the health & well-being of all</p> <p>15. Promote and help secure sustainable renewable energy from the Welsh environment</p> <p>16. Manage land under direct control, including the public forest estate, to deliver integrated and balanced social, economic and environmental benefits</p> <p>17. Manage freshwater fisheries and influence marine fisheries to achieve balanced services and sustainable fish populations</p>	<p>11. People are less and less affected by flooding and those who are can cope better, even if the potential for flood incidents increases in future</p> <p>12. Enterprise and businesses reliant on sustainable natural resource management make an increasingly valuable contribution to improving Wales' economic performance</p> <p>13. The sustainable use of natural resources is recognised as a more integral part of people's lives, actively informing their decisions both individually and at a community level</p> <p>14. People in Wales are healthier and happier as a result of a deeper engagement with the environment and the opportunities it supports</p> <p>15. The landscape and seascape of Wales continue to develop and change in line with an ecosystem approach and their value becomes more widely appreciated as a result</p> <p>16. Farmers, foresters & fishermen will be increasingly recognised as delivering wider and sustainable benefits to the environment and society, as well as running profitable businesses</p>	<p>19. Value add to Welsh grown timber – B</p> <p>20. Welsh forestry sector GVA – B</p> <p>21. Proportion of municipal waste recycled or composted – B</p> <p>22. Percentage of people volunteering – B</p> <p>23. No of fisheries assessed by ICES and sea Fisheries Cites to be in safe biological condition – C</p> <p>24. Percentage of people stating they could access a park or open space easily – B</p> <p>25. Percentage of adults who frequently use the outdoors for informal recreation – A</p> <p>26. Annual cost of damage due to flooding – A</p> <p>27. Probability of flooding of assets at risk – A</p> <p>28. Percentage of new development permitted in the floodplain – A</p> <p>29. Incidents of protected sites damaged – A</p>
<p>More for Customers</p> <ul style="list-style-type: none"> – Customer facing – Joined up – Authoritative and open – Enabling 	<p>18. Offer an excellent customer focused service and champion that Wales is 'open' for sustainable business</p> <p>19. Actively work to help the Welsh Government achieve its strategic policy objectives</p> <p>20. Deliver integrated and authoritative evidence for government and customers</p> <p>21. Develop organisational resilience & responsiveness to ensure the expectations of all customers are met</p> <p>22. Develop a 'whole' Wales customer service centred on people and places</p>	<p>17. The body provides an innovative 'place based' service that is capable of operating strategically and locally for all its customers, across the whole of Wales</p> <p>18. The body becomes quickly recognised by the business community and others, as actively supporting Wales ambitions to improve its economic performance by seeking sustainable solutions for natural resource management</p> <p>19. Environmental advice to government, business, communities and civil society informed in part by an authoritative science programme, is clear and consistent and is always framed around achieving sustainable development</p> <p>20. The organisation will consistently meet its targets, including financial performance, and will become recognised as an exemplar of natural resource management</p> <p>21. A higher proportion of the body's budget is spent on natural resource management and a lower proportion is spent on process</p> <p>22. It is clear to those who are regulated by the new body and others who have a stake in effective regulation that processes are transparent and increasingly relevant, proportionate, timely, risk-based and enabling</p> <p>23. Where legislation gives discretion to decision makers, this will be increasingly used to help implement an ecosystems approach aimed at achieving sustainable development</p> <p>24. The body works with, and through, others and whenever possible enables others to lead the delivery of natural resource management and sustainable use of natural resources</p>	<p>Cabinet office & Welsh Government benchmarks will be used to establish indicators for corporate performance</p>
<p>More for Staff</p> <ul style="list-style-type: none"> – Well led – Well trained – Well matched 	<p>23. Manage a well led and motivated organisation that becomes the Professionals 'employer of choice'</p> <p>24. Develop an external facing organisational culture that is based on flexibility, innovation, evidence and delivery</p>	<p>25. Exceptional candidates will be attracted to work for the body due to its profile and relevance</p> <p>26. Staff will have diverse and rich career paths and many will utilise their skills across different functions of the body as a deliberate strategy throughout their careers</p> <p>27. The collective workforce of the body is recognised as being as diverse as Welsh society</p> <p>28. Staff and stakeholders will recognise a common culture where the diverse functions of the body are equally respected and excellence is the acknowledged standard</p>	<p>Cabinet office & Welsh Government benchmarks will be used to establish indicators for corporate performance</p>

*New Body influence ranking

- A – indicators more influenced by the new Body's actions than other factors
- B – indicators about equally influenced by the new Body and by other factors
- C – indicators more influenced by other factors than by the new Body's actions

Annex 6: Illustrative list of charging schemes

1. Environmental Permitting
 - waste facilities
 - installations
 - radioactive substances (RSR) – nuclear and non-nuclear
 - mining waste
 - mobile plant
 - Groundwater
 - Water Quality
2. Other waste charges
 - Registration of Carriers (ROCAS)
 - Scrap metal exemptions
 - Notifiable waste exemptions
3. Water Abstraction and Impoundment
4. Trading schemes
 - Emissions Trading
 - Aviation
 - Carbon Reduction Commitment
5. Rod and net licences
6. Navigation licenses
7. Hazardous waste
8. COMAH (joint scheme with Health and Safety Executive – Control of Major Accidents and Hazards)
9. Changes in regulations have been migrated into Agency schemes from 2011
 - Producer Responsibility – WEEE
 - Producer Responsibility – Batteries
 - Producer Responsibility – Packaging
 - International Waste Shipments
10. Flood Risk Management
 - Land Drainage Consents