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Welsh Government

White Paper

Towards the Sustainable Management of Wales' Natural Resources

Consultation on proposals for an Environment Bill

Date of issue: **23 October 2013**

Action required: Responses by **15 January 2014**

Overview

This White Paper sets out the Welsh Government's proposals to provide a modern statutory framework for the sustainable management of natural resources by legislating for a more joined-up and proactive process to deliver lasting economic, social and environmental benefit.

We want to hear your views about the proposals for the Environment (Wales) Bill. The consultation period runs until the 15 January 2014.

Once the consultation has closed, we will publish a summary of the responses. Consultation responses will be taken into consideration when drafting the Bill, before it is introduced in the National Assembly for Wales.

How to respond

Please return the response form attached at Appendix 1 to us no later than 15 January 2014, either by email or post using the contact details below.

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

The Environment Bill Team
Climate Change and Natural Resource Policy
Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ
NaturalResourceManagement@wales.gsi.gov.uk

Further information and related documents

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

Contact details

The Environment Bill Team
Climate Change and Natural Resource Policy
Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ
NaturalResourceManagement@wales.gsi.gov.uk

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.

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Ministerial Foreword



Wales' natural resources – our land, air and water – provide the foundation for how we live and work. Given our fundamental dependence on our natural resources, using them sustainably is both common sense and our best opportunity to secure the long term prosperity, resilience and sustainable economic growth that is our priority.

That said, I do not subscribe to the view that in order to have jobs we have to forsake our environment or that we need to make false choices between economic growth and sustainable living. We can and must aim for both and in the global transition to low carbon economies failing to do so will be as detrimental to our economy as our environment. Our vision must be rooted not only in the priorities of today but also in ensuring the wellbeing of future generations.

In order to secure Wales' future prosperity we need to recognise the value of our natural resources and the services they provide and to manage them carefully for the long term. To do this we need to put in place a modern legislative framework that recognises that our water, land and air are all interlinked and our economy, society and environment are all inter-dependent.

The White Paper proposals have been designed to strip away unnecessary complexity, simplify processes and plans and to deliver a more joined-up approach to natural resource management. Other proposals will enable improvements in resource efficiency, for example on waste regulation, and provisions to promote simplification and clarify the law in a number of areas. These proposals further support this Government's drive for efficiency and to ensure we use our resources to best effect.

As I set out in my autumn statement, this Bill is one of a package of measures that my department is taking forward to ensure that we have the policies and legislation in place to achieve our aims for sustainable growth, resilience and diversity, tackling poverty and resource efficiency.

I welcome your views on these proposals to ensure that we get the right statutory framework for Wales going forward.



Minister for Natural Resources and Food

Chapter 1: Introduction

Summary

The Welsh Government is committed to ensuring that we use and manage Wales' natural resources in a way that will deliver lasting economic and social, as well as environmental benefits.

This White Paper sets out intended proposals on how we will take steps to provide:

- a more integrated statutory framework for the sustainable management of natural resources;
- NRW with statutory functions and duties to support the delivery of its core purpose to ensure that the environment and natural resources of Wales are sustainably maintained, sustainably enhanced and sustainably used;
- legislative provision to enable improvements in resource efficiency; and
- provision to streamline and clarify a number of existing regulatory regimes.

Supporting a more effective approach

- 1.1 The Welsh Government is focused on delivering sustainable economic growth and an improvement in the quality and opportunities for all who live and work in Wales, together with a resilient, healthy environment. All of these goals require the sustainable management and use of natural resources.
- 1.2 The *Programme for Government* contains a number of commitments in relation to natural resource management to deliver on this ambition, including the introduction of an Environment Bill for Wales. The Environment Bill will support the better management and use of our natural resources by enabling a new joined up approach to natural resource management that ensures we get the most benefit for Wales' current and future wellbeing.
- 1.3 The response to both the 2010 '*A Living Wales: a new framework for our environment, countryside and seas*' and the 2012 '*Sustaining a Living Wales*¹', Green Paper showed broad support for a fresh approach to the planning and management of natural resources in Wales. The 2012 Green Paper consulted on the scope and opportunities for simplifying how we manage and regulate the

¹ In the green paper this was termed the 'ecosystem approach'. <http://www.cbd.int/ecosystem>

environment to deliver improved outcomes for the people of Wales. It also sought views on how we might develop natural resource management planning at local and national levels to enable better decision-making. This White Paper builds on the Green Paper in setting out more fully the legislative proposals for natural resource management to support delivery of the vision for improved management of Wales' natural resources through the Environment Bill for Wales.

- 1.4 In doing so the aim is to enable a step change in the delivery of integrated natural resource management in Wales, using the advantage that the comparative size of Wales gives to achieve it. The Environment Bill will provide a new statutory framework for the sustainable management of natural resources by legislating for a more joined-up process focused on delivering lasting economic, social and environmental benefit.
- 1.5 This new statutory framework is one of the many actions being undertaken to enable more joined-up and proactive management of Wales' natural resources, the foundations of which were set out in the *Sustaining a Living Wales* Green paper. This approach was exemplified by the creation of NRW, drawing together three historically separate delivery bodies into a single, integrated natural resource body for Wales.
- 1.6 The autumn statement *Shaping a more Prosperous and Resilient Future* sets out how the Natural Resources and Food department is working to join up the design and delivery of policies and services to achieve long-term sustainable economic growth and wellbeing. The Environment Bill is a first crucial legislative step in a long term policy aim to amend and integrate key areas of the legislative framework in order to support the integrated management of natural resources in Wales.
- 1.7 Our approach to natural resource management builds on the Welsh Government's commitment to sustainable development. The *Programme for Government* reinforces the importance of sustainable development as the central organising principle in defining the best development path for Wales. The Welsh Government's approach to natural resources is the application of sustainable development as set out in chapter 2. The principles of sustainable development are embedded in the legal definitions of natural resource management. The application of these definitions of natural resource management encompassing sustainable development fundamentally underpins the Environment Bill.

Case for change

- 1.8 The Welsh Government's approach to environmental management has delivered considerable successes to date, such as significantly improving waste recycling, introducing charges on single use carrier bags, reducing carbon emissions and improving local environmental quality. However, our development path must be sustainable and we must recognise the value of our natural resources if we are to deliver long term economic growth and well-being for Wales. In order to deliver a strong economy for Wales, we must enhance the natural resources on which our economy relies. Some of these services, such as food, timber and energy, directly contribute to economic activity. Others are indirect, such as climate regulation, water purification and the productivity of soil, but these do not always have a market value.
- 1.9 Some of the most recent evidence, such as the 2011 *National Ecosystem Assessment*² on the state of UK ecosystems, shows a continuing decline in biodiversity and that around a third of the services provided by our natural environment are degraded or in decline. These findings are also reflected in the 2013 *State of Nature*³ report. The report assessed the population or distribution trends of 3,148 species in the UK and found that of these 60 per cent have declined over recent decades and more than one in ten of all the species assessed are under threat of disappearing from our shores altogether.
- 1.10 Scientific evidence also shows that the impacts of climate change are likely to continue to increase, with daily temperatures having increased in Wales by 0.7 C against the 1990 baseline with a projected rise of approximately 1.3 C by 2020⁴. These changes, and the rate at which these changes take place, will have increasingly significant impacts on biodiversity, rainfall, sea levels and extreme weather events, all of which ultimately affect our ability to support a healthy and prosperous society.
- 1.11 There is substantial evidence to suggest more integrated management is needed which better recognises the value of our ecosystems and the services they provide⁵. In Wales, the National Assembly's Sustainability Committee Inquiry into Biodiversity recommended that the Welsh Government should adopt a strategic ecosystems approach to the management of biodiversity in the wider countryside⁶. The UK wide 2010 *Making Space for Nature*⁷ report

² UK National Ecosystem Assessment, (2011) <http://uknea.unep-wcmc.org/Resources/tabid/82/Default.aspx>

³ State of Nature Report, (2013), p6 <http://www.rspb.org.uk/ourwork/science/stateofnature/index.aspx>

⁴ This information is based on the central estimate of the medium emission scenario from the UK Climate Projections, (2009). Climate Change: its impacts for Wales, (2009), Welsh Assembly Government, p3

⁵ UK National Ecosystem Assessment, (2011), p53

⁶ Sustainability Committee Inquiry into Biodiversity in Wales, p8

⁷ Making Space for Nature: A review of England's Wildlife Sites and Ecological Network, (2010)

made a case for a refreshed 'restorative approach' which rebuilds nature and creates a more resilient natural environment for the benefit of wildlife and ourselves.

- 1.12 The Welsh Government has previously underlined the importance of a collaborative approach to public service delivery. The *Making the Connections* consultation confirmed our vision in 2004, which was later endorsed by the *Beecham Report* in 2006. While the establishment of NRW in April 2013 has integrated regulatory functions in Wales in relation to natural resource management within one organisation, the proposals set out in this White Paper for a more joined up and proactive framework further support our objectives for delivering more collaborative and cost-effective public services in Wales.
- 1.13 The Welsh Government recognises that scientific understanding and society has moved on and our management of our natural environment and our legislation must evolve. That is why we have created NRW as a single environmental body for Wales. However, in order for Wales to take a more integrated approach, we need a regulatory framework that allows for the consideration of the dynamic interface between our natural environment, our economy and society so that we are able to take decisions that consider the connection between all three spheres.
- 1.14 This is difficult to achieve using the current legislative framework of environmental statutory duties and regulatory functions, as it is one that has evolved gradually over many decades and has developed mostly in response to specific environmental problems. For example, 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. Then over the past thirty years, Governments have implemented successive changes to comply with European legislation on all aspects of the environment which have overlaid and added to the inherited systems.
- 1.15 This array of UK and EU environmental legislation has served its purpose, but it is recognised that it has largely developed to address changing pressures and specific environmental problems over the years and often has a narrow focus. This approach to regulation – reactive and often viewed in isolation from economic and social policy - has led to a complex mix of regulation that doesn't always work together towards a common aim of improving Wales' long term future.
- 1.16 There has been international recognition of the need for a more integrated approach to environmental management. For example, the United Nations' Convention on Biological Diversity (CBD) has endorsed the ecosystem

approach (see Glossary) as its primary framework for the integrated management of land, water and living resources. A progressive example of this approach in practice is the EU Water Framework Directive (WFD), which became part of UK law in December 2003. It requires member states to plan and deliver a better water environment by taking an integrated approach to water management through the development of river basin management plans. The EU Marine Strategy Framework Directive (2006) also aims to achieve good environmental status of the EU's marine waters by 2020 through the application of an ecosystem-based approach to the management of human activities having an impact on the marine environment, while enabling a sustainable use of marine goods and services.

- 1.17 Establishing a regulatory framework in order to take a more integrated approach is a significant challenge. As a first step, we are proposing to use the Environment Bill to ensure the Welsh Government's key delivery body, NRW, will be able to embed sustainable development in the delivery of its functions – that is, in a way that considers the environment, the economy and society.

The role and functions of Natural Resources Wales

- 1.18 The significant work to establish NRW (launched in April 2013) demonstrates the commitment of this Government to an integrated, sustainable approach to the management of Wales' natural resources. As the first organisation of its kind in the UK and the largest sponsored body in Wales, NRW has a unique mix of responsibilities, encompassing land, forestry, nature and wildlife, air quality, water resources and quality, flood risk management and fresh water fishing.
- 1.19 The diversity of its responsibility and activity has already been demonstrated in NRW's first few months. In addition to successfully taking up its wide range of operational responsibilities, NRW has delivered:
- A new customer care centre which has received and dealt with over 26,500 enquiries;
 - A one stop shop providing a single point of contact and single response to planning applications;
 - Nearly 4,000 planning control consultations which have been received through the one-stop shop; and
 - UK Accreditation Service (UKAS) recognition for microbiology analysis at its Llanelli laboratory.
- 1.20 Within the management framework, the Welsh Government has set out the long term outcomes and immediate priorities to NRW in terms of how it should

be focusing its delivery⁸. Through its corporate planning for 2014-17, NRW will develop a performance framework to clearly demonstrate how its delivery plans contribute to these long term outcomes.

Legal origins of powers and duties

- 1.21 NRW's powers and duties are set out mainly in two Orders made by Welsh Ministers in exercise of the powers conferred by Sections 13, 14, 15 and 35 of the Public Bodies Act 2011.
- 1.22 The first of the two Orders, The Natural Resources Body for Wales (Establishment) Order 2012 was made under powers contained in Sections 13 and 15 of the 2011 Act. It established the body and provided it with sufficient powers to prepare the way for taking on the full range of environmental functions in due course.
- 1.23 A further Order, the NRW (Functions) Order (2013) transferred the full range of environmental functions to the Body.
- 1.24 The statutory purpose ascribed to NRW (article 4 of the Establishment Order) is to:
 - (1) "...ensure that the environment and natural resources of Wales are:
 - (a) sustainably maintained;
 - (b) sustainably enhanced; and
 - (c) sustainably used.
 - (2) In this article:
 - (a) 'sustainably' means:
 - (i) With a view to benefitting, and
 - (ii) In a manner designed to benefit, the people, environment and economy of Wales in the present and in the future;
 - (b) 'environment ("amgylchedd") includes, without limitation, living organisms and ecosystems".
- 1.25 The intended effect is to ensure that NRW, in undertaking its functions, considers social and economic interactions as well as environmental factors - in line with the Welsh Government's commitment to sustainable development as a central organising principle. In doing so it recognises that natural resources underpin our economy and the health and wellbeing of our society

⁸ Natural Resources Wales, Remit letter 2013/14 available at: <http://wales.gov.uk/topics/environmentcountryside/consmanagement/nef/publications/seb/remit-letter-2013-14/?lang=en>

as well as our natural environment and highlights that the true value they deliver should be properly factored in to decisions.

- 1.26 That said, as outlined earlier, NRW still operates under the narrow, reactive legislative framework designed for three separate bodies. It is therefore not fully aligned to NRW's core purpose or to the integrated management of Wales' natural resources. The Welsh Government's aim through the Environment Bill is to enable NRW to deliver against its long-term goals of social, economic and environmental well-being.

Legislative and policy context

- 1.27 The Welsh Government is working on a number of closely related Bills that include the Future Generations, Environment, Planning Reform, Housing, Heritage and Access Bills that will ensure that:
- Decisions made by the Welsh Government and its partners support the economy, communities and environment in Wales;
 - The needs of future generations are considered;
 - There are transparent processes and communities are involved in the decisions that affect them;
 - Processes are simplified and work is not duplicated; and
 - Priorities focus on what needs to be delivered and ways to improve are considered, for example by collaborating with others.

Figure (i) Future Generations Bill

The purpose of the Future Generations Bill is help future-proof our communities. The Bill will do this by reinforcing the fundamental role that public services in Wales (such as local councils, health boards and NRW) play by putting the needs of communities, now and in the future at the heart of the decisions they make. This will help us collectively make better choices for a better, more sustainable and fairer future in Wales. It will raise the profile of the key long term challenges our communities face, such as creating jobs, tackling health inequalities, sustaining our culture and tackling climate change.

The Bill will do this by:

- Changing the way that the public service in Wales prioritise their activities and make key decisions that affect people, our communities, the economy and the environment – so that we realise the opportunities that come from tackling our generational challenges in a different way.
- Establishing a national and local framework for setting the long term

outcomes for Wales to drive positive economic, social and environmental action.

- Putting in place a permanent and regular mechanism to help us understand where we are now and whether Wales is taking a more sustainable development path through the publication of a periodic report on behalf of Future Generations. Engagement with communities will be a critical part of this process.

A White Paper consultation was held in 2012 and work is now underway on the final Bill which will be introduced into the Assembly in summer 2014.

- 1.28 There are several areas where the Environment and Future Generations Bill will mutually support each other. The Future Generations Bill proposes to set in place a framework for the long term outcomes of Wales to be established at the national and local level to ensure that the public service is focused on delivering a more sustainable Wales. This will help inform the way we prioritise the management and use of natural resources in Wales to meet social, environmental and economic needs now and in the future.
- 1.29 The proposals in chapter 2 of this White Paper also set out how the process of integrated natural resource management through an area-based approach will help to provide a consistent and clear evidence base on our natural resources. This information will help to inform the setting of outcomes at the national and local level and hence prioritise local delivery. This will feed in vital information on the state, pressures and opportunities relating to our natural resources to inform the better decision making which is at the heart of the Future Generations Bill.

Figure (ii) Planning Reform Bill

The Planning Reform Bill will introduce a step change in the delivery of the planning system by looking again at who does what and stripping away unnecessary complexity.

The proposals will build on the established planning system, which has served us well since 1947, by setting out new roles and responsibilities for Welsh Ministers, local authorities, developers and communities. The changes that will be introduced will ensure that our planning system can proactively make things happen, processes are quicker, it's fair and inclusive and that outcomes are consistent.

A Consultation paper and draft Planning Reform Bill will be published towards the end of 2013. Broadly it is likely to cover:

- Who does what in the planning system, the future roles of Welsh Ministers, Local Planning Authorities, communities and developers;
- Helping local planning authorities to work together to address issues which are of greater than local importance; and
- Making the planning application process more efficient to support other key areas such as stimulating the economy and providing more homes.

- 1.30 Positive planning is all about identifying opportunities to shape the future direction of development to support society's needs. Local authorities are charged with preparing local development plans (LDPs), which are designed to be the spatial interpretation of sustainable development. LDPs should ensure that they fully regard and help deliver the outcomes identified in Single Integrated Plans (SIPs) (see Glossary). SIPs are the integrated outcome based plans of the Local Service Board partners (local authority, health board, police, third sector and others), which tend to focus on social and economic and not fully encompass environmental outcomes. These are currently prepared on a voluntary basis and bring together a number of statutory planning duties placed on organisations. The Future Generations Bill will place the integrated plan and Local Service Board on a statutory basis.
- 1.31 The Environment Bill will help enable positive planning in several key ways. For example, environmental issues, risks and constraints are considered in the development of LDPs alongside many other considerations to inform spatial allocations. However there has never been a consistent and integrated natural resources evidence base - linked to a national strategy or framework - that has been used to inform those appraisals. The proposals for a new area-based approach for natural resource management will help to ensure we

have the evidence needed to better inform the shape and direction of sustainable economic development. This evidence, critically, will help to ensure we identify the right development opportunities to take forward through the positive planning agenda.

- 1.32 Renewing and increasing infrastructure capacity is essential to Wales' future wellbeing and prosperity. Good progress has been made through the Wales Infrastructure and Investment Plan (WIIP) which identified the short and medium term infrastructure priorities. The Planning Reform and Environment Bills will complement the approach being taken by the WIIP. The Planning Reform Bill will focus on the land use implications of the investment priorities necessary to support our land use development. The Environment Bill will set out a framework to prioritise natural resource opportunities and ensure we have the evidence to inform and underpin investment decisions and the right development opportunities.
- 1.33 The proposals in this White Paper also support other Government priorities. For example, the commitment to a strong, efficient and accessible public service which is essential to the long term wellbeing of Wales and its people. The provisions for clear and consistent evidence through the Environment Bill will ensure that local authorities and other bodies can clearly identify the opportunities, risks and constraints presented by natural resources in their area. This will better inform what shape and direction sustainable economic growth and development needs to take in each area, including building evidence on what capacity our natural resources have to maintain that for future generations.
- 1.34 Finally, the Welsh Government's Historic Environment Strategy for Wales acknowledges that the natural and historic environments are inextricably intertwined and shape the character of the Welsh landscape. Management and interpretation of the natural heritage and the historic environment often have common needs and continuing to integrate approaches to their management will contribute to the well-being of the people of Wales through the delivery of social, environmental and economic benefits. It is intended that consideration of the historic environment is fully embedded into the proposed definition of natural resources, as set out in chapter 2 (see NRM1). In this definition, "landscapes" is the term used to describe many of the physical features of the natural environment, which includes the cultural and historic influences that have shaped the use and management of natural resources. Including landscapes in the definition will ensure that cultural heritage, sense of place and natural beauty shaped by man-made influences must be considered as part of an integrated approach to natural resource management.

Delivering better outcomes

1.35 The proposals in this White Paper reflect how, when making key decisions today, there is a need to consider how the Welsh Government's priorities for long term economic growth and to tackle poverty will be achieved. It is important to recognise the connections between social justice, economic prosperity and the use of natural resources, for current and future generations. The Environment Bill will help to deliver outcomes for our natural environment, for sustainable economic growth and to enhance our communities in the following ways:

- The Environment Bill will focus on establishing a more effective and integrated approach to natural resource management and through this help to bring about significant improvements to our natural environment by:
 - Enabling proactive, long-term and holistic decision making for our natural environment to take place alongside social and economic thinking rather than in isolation;
 - Recognising and build the resilience of ecosystems as an essential component of our long term well-being and not an add on;
 - Enabling early consideration of environmental gains and 'win wins' as part of wider social and economic decision making;
 - Enabling more targeted investment and positive action to address the key causes of environmental degradation; and
 - Increasing the resilience of our natural resources by preparing for future challenges, such as those presented by climate change and also by using our natural resources to improve our resilience to climate change.
- The Environment Bill will establish the legislative framework to enable sustainable growth, supporting businesses and our economy by:
 - Introducing an integrated approach to natural resource management and a number of amendments to streamline existing regulatory regimes. This will lead to simplified processes and benefits to businesses and to increased effectiveness and potential resource efficiency savings for NRW;
 - Providing a robust and consistent evidence base and through this clearer information for businesses and people. It will help us to identify key natural resources opportunities and constraints to aid investment and planning decisions;

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- Enabling NRW to facilitate opportunities for innovative ways of working will help to better support new markets in environmental services such as carbon storage and water management – creating the potential for market growth in environmental sectors and green jobs; and
 - The proposals to further improve Waste segregation may create opportunities for enduring and high quality business opportunities and jobs which support enterprise and promotion of the green growth agenda.
 - The Environment Bill will establish a modern legislative framework to enhance wellbeing and support our communities and people by:
 - Integrated natural resource management will help to provide a consistent evidence base to optimise opportunities to support local development and social or wellbeing outcomes;
 - This may lead to delivering better targeted investment in local environmental improvements, taking into account local needs and pressures on the areas such as deprivation and risks from climate change; and
 - It will help to consider impacts of the environment on physical and mental health outcomes locally, including clean air, water, use of open space, climate change impacts. This may include, for example, prioritising decisions which will help provide better protection for vulnerable people.

Summary of key proposals

- 1.36 Overall, the proposals set out in this White Paper are expected to help deliver our commitment to ensure we use and manage Wales' natural resources in a way which will deliver lasting economic and social benefits as well as environmental.
- 1.37 **Chapters 2 and 3** of this White Paper set out four key components in relation to the sustainable management of our natural resources:

Defining natural resource management (chapter 2)

- Proposed definitions are set out of 'natural resources', 'sustainable management of natural resources' and 'integrated natural resource management'. These will underpin the interpretation and application of NRW's functions and duties proposed for inclusion in the Bill.

Delivering a process of integrated natural resource management (chapter 2)

- The principles of integrated natural resource management should apply where possible in the delivery of NRW's functions and duties. This is set out in a package of proposals to develop and implement an area-based approach to natural resource management.

Opportunities for new ways of working which support integrated natural resource management (chapter 3)

- Legislative tools such as experimental powers may be applied to test and trial innovative approaches which will enable the delivery of integrated natural resource management, within the confines of the law.

Future changes to legislation to enable integrated natural resource management (chapter 3)

- If there are still identified barriers that restrict NRW in the delivery of its statutory purpose, then there is the potential to enable future changes to our primary legislation to fully deliver a joined up approach.

- 1.38 **Chapter 4** sets out proposals aimed at ensuring Wales' resources are used to best effect and avoid needless and inefficient waste – for example by amending and integrating key areas in relation to waste segregation and regulation to enhance recycling rates. In turn, this will further help to realise the wider opportunities brought about by Wales' growing green economy.
- 1.39 **Chapter 5** sets out proposals for the Environment Bill to simplify, streamline and clarify the law for a number of existing environmental regulatory regimes and specifically in relation to the management of Shellfisheries, Marine licensing, Flood and Water and Land Drainage.
- 1.40 Each set of proposals includes a section setting out an overview of the potential benefits and impacts of implementation. This will be used to inform the Regulatory Impact Assessment which will be published alongside the introduction of the Bill. **Chapter 6** sets out further details, including initial consideration of potential impacts on key areas such as sustainable development, equality and human rights and the United Nations Convention on the Rights of the Child (UNCRC).

Chapter 2: Natural Resource Management

Summary

This chapter sets out core proposals for the Environment Bill to establish a statutory framework for the sustainable management of natural resources, through a process of integrated natural resource management. The following form the key elements:

Natural Resources Policy

A national Natural Resources Policy setting out the high-level direction of travel for all natural resources related policy in Wales - including where integrated natural resource management can help to optimise social, economic and environmental benefits for now and the long term. The policy will include targets, measures and priorities for the management of natural resources that complement any outcomes by Government agreed at the national level and in the implementation of responsibilities set out by EU legislation.

Area-Based Natural Resource Management Approach

The Environment Bill will place a requirement on NRW to develop and implement an area-based approach for natural resource management. This will be a planning and priority setting process that coordinates resource use so that the long term sustainable benefits are optimised for the people, environment and economy of Wales in the present and in the future.

State of Natural Resources Reporting

NRW will be required to report, at least every 5 years, on the state of natural resources in Wales. As well as reporting generally on trends, it should report on the on-going successes and challenges of implementing an integrated natural resource management process, including the legislative barriers to this that, in the opinion of NRW, still exist.

Ref	Proposals
NRM1	Establishing a legal definition for the natural resources of Wales
NRM2	National policy and priorities in relation to the natural resources of Wales
NRM3	A requirement for NRW to develop and implement an area-based approach for the sustainable management of natural resources and to ensure evidence from this process feeds into appropriate delivery plans
NRM4	A requirement for NRW to set out the priorities and opportunities for the management of natural resources on an area basis
NRM5	A requirement on other bodies and further directions on how natural resource management should be taken into account
NRM6	A mechanism for reporting on progress towards achieving the national outcomes and priorities for natural resources

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- 2.1 The proposed approach described in this chapter will require NRW to take an even more proactive role in embedding the principles of integrated natural resource management as a single planning focus.
 - 2.2 It will help to better inform decision-makers by assisting them to consider how long-term environmental, social and economic outcomes could be optimised. A clear legislative and policy framework for the sustainable management of natural resources, supported by a robust evidence base, will be critical to inform decisions at both the national and local level.
 - 2.3 To achieve this, we intend to use the Environment Bill to introduce clear requirements on NRW to facilitate an area-based approach to priority and action setting for the sustainable management of natural resources. This will bring together the foundations – the science, the participation and input from the relevant interests and the interdependencies - upon which existing management functions are delivered.
 - 2.4 It will encompass NRW's duties in relation to water, flood, biodiversity, forestry, landscape, access and recreation and how these are considered as a whole. It will provide greater clarity with regards to the range of social, economic and environmental inter-relationships between functioning natural resources and how in turn they can support the delivery of shared outcomes.
 - 2.5 This process aims to clearly present the key challenges, opportunities and risks for the sustainable management of natural resources. It will clarify the strategic agenda for natural resource management in the context of local area needs. It will need to present evidence and information in a clear and concise format that will enable the full range of impacts and opportunities to be considered.
 - 2.6 Working together with the Governance structures being implemented through the Future Generations Bill, it will help those responsible for, affected by, or involved in the management and delivery of our natural resources to fully assess the opportunities presented by their management, as well as understanding where protection of those resources is necessary.
 - 2.7 By establishing a clearer legal framework and a statutory basis in Wales for integrated natural resource management, the delivery of Welsh Government priorities will be better informed, more efficiently delivered and wider benefits achieved. It will enable relevant decisions affecting the management of natural resources taken by the Welsh Government, NRW and other public bodies to consider the long-term economic, social and environmental impact of the decision and to seek to deliver in a more integrated way, with a common direction of travel.

Definitions

NRM1: Establishing a legal definition for natural resource management in Wales

- 2.8 In putting in place the first foundations of a common legal framework for the sustainable management of natural resources in Wales, the intention is for the various aspects to work together in a holistic and integrated way.
- 2.9 The term “natural resources” can be interpreted and understood to mean a range of different things. The term “environment” has a recognised legislative basis⁹, whereas there is no equivalent basis in UK law for “natural resources” or “natural resource management”.
- 2.10 A common English language definition of natural resources is “materials or substances occurring in nature which can be exploited for economic gain”¹⁰. This would therefore be the likely one recognised in law if it were not given a specific definition in relation to the measures contained in the Environment Bill.
- 2.11 The *Sustaining a Living Wales* consultation in 2012 set out our intention to adopt an “ecosystem approach” (see Glossary) to help integrate the delivery of environmental outcomes. The term ecosystem approach comes from the Convention on Biological Diversity (CBD), where it is described as “a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way”¹¹.
- 2.12 The 2012 consultation paper explained how thinking about “ecosystem services” (see Glossary) enables wider social and economic benefits provided by natural resources to be considered. For these models to be applied to the existing legislative and regulatory regimes, it would mean not only that land, air, water should be considered but also the inter-relationships between each other and society as a whole. Current legislation does not always allow that to happen.
- 2.13 The Welsh Government considers that a definition of natural resources should be about that more than exploitation for economic gain. Natural resources include, for example, the ecosystems, geodiversity, biodiversity and biological processes that support all other life on earth and the non-monetised benefits that society gets from them.
- 2.14 A definition of natural resource management will enable the bodies that have functions and duties under the Environment Bill to understand the interpretation and application of those functions and duties. This is a

⁹ Environmental Protection Act 1990, S1.

¹⁰ <http://oxforddictionaries.com/definition/english/natural-resources>

¹¹ <https://www.cbd.int/ecosystem/>

significant challenge in order to agree a definition that expresses this purpose clearly in a way that has the right balance between being too vague and overly prescriptive.

2.15 Other countries around the world (such as New Zealand, Australia and Canada) that have adopted a more integrated approach to managing their natural resources have defined that in law, providing useful models to consider. In doing so, some have chosen to define the *outcomes* of natural resource management rather than the individual elements or processes involved. In the analysis of these definitions, a number of common elements recur:

- Application of integrated natural resource management is at the planning and decision-making stages;
- Coordination/incorporation of resource use is across the range of different resources;
- Delivery of optimised long-term sustainable benefits;
- Reduction of conflicts among natural resource users in part through collaboration; and
- Optimisation of economic, environmental and social requirements.

2.16 Additionally, for Wales, the following key components need to be addressed within the definition:

- It should reflect the primary policy interests, in particular the existing scope of NRW's functions and be consistent with the purpose of NRW;
- It should reflect matters for which Wales has legislative competence, but should also enable consideration of other matters within a consistent framework, for example how NRW gives advice on non-devolved matters; and
- It should reflect the biotic (living) and abiotic (non-living), as well as allowing consideration of depletion and degradation of finite and non-finite resources. To that end it should allow for the consideration of environmental limits.

2.17 The Welsh Government's intended approach is to identify and describe the *resources* to be managed; to define the principles or *process* of integrated natural resource management; and to define the *outputs* that the application of that process is seeking to achieve. Figure (iii) outlines our initial proposal for these definitions.

Figure (iii) Definitions

“*Natural resources*, in relation to Wales, extends to the following matters relating to the *sustainable management* of natural resources:

- a) air, water and soil;
- b) geologic and landscapes;
- c) biomass and biological resources; and
- d) ecosystems”

“*Integrated natural resource management* means a planning and priority setting process that coordinates the maintenance, enhancement and uses of natural resources so that the long term benefits are optimised for the people, environment and economy of Wales in the present and in the future.”

“*Sustainable management* means the collective actions (including non-action) required for managing the maintenance, enhancement and use of natural resources in a way, or at a rate, which will enable the people and communities of Wales to provide for their social, economic and environmental well-being, while maintaining the life-support systems of nature. In doing so, ensuring that the benefit of the use to the present generation does not diminish the potential to meet the needs and aspirations of future generations”.

Sustainable management of natural resources is the output of the process of integrated natural resource management. Collective actions refer to the identified actions of all public authorities and delivery bodies, not just NRW.

- 2.18 The proposed definitions have the advantage of being consistent with the purpose of NRW, as set out in Article 4 of the Establishment Order. The terminology used is also consistent with proposals being developed as part of the Future Generations Bill. In line with that Bill, the sustainable management of natural resources should contribute positively to the long term outcomes for Wales. Outcomes are the desired end state that we are seeking to achieve as a culmination of the actions delivered and benefits deriving from them.

How the definition will have effect

2.19 The definition will have legal effect upon and help to explain the following proposals in this White Paper (please refer to the detailed proposals later in the document):

- **National policy and priorities** (NRM2) – the definitions will help to clarify the purpose and scope of the national natural resources policy;
- **Area-based approach** (NRM3) – the definitions will help to clarify the scope of area-based approach, the process by which it should be undertaken and the outputs from that process;
- **Requirement of NRW to set out priorities on an area basis** (NRM4) - the definitions will help to clarify the purpose and scope on an area basis;
- **Requirement on other bodies** (NRM5) – the definitions will help to clarify how the requirement on other bodies applies, on cooperating, sharing information, jointly planning and reporting on the sustainable management of natural resources;
- **Mechanism for report on progress** (NRM6) – the definitions will help shape the scope of the report on progress towards delivering the sustainable management of natural resources and embedding integrated natural resource management;
- **Powers to enable NRW to trial innovative approaches** (NRM7) – the definitions will help provide the benchmark against which NRW may justify the use of the power to trial innovative approaches, within the confines of their existing functions. For example, in considering the need for sustainable management approaches and the principles that underpin integrated natural resource management alongside limitations of existing approaches;
- **New powers for NRW to enter into management agreements** (NRM9) – the definitions will help to define the purpose for which NRW may enter into management agreements; and
- **Powers to clarify alignment NRW’s duties and its high-level purpose** (NRM11) – subject to National Assembly for Wales’ legislative competence and the conditions of the proposed power, the definitions could be used as a justification against which enabling powers for Welsh Minister to amend primary legislation can be used.

Powers for Welsh Ministers to clarify aspects of the definition

2.20 It is anticipated that the Environment Bill would confer powers on the Welsh Ministers to give guidance, by order, to the interpretation of any of the definitions outlined in this section.

An integrated approach to Natural Resource Management

NRM2: National policy and priorities in relation to the natural resources of Wales

- 2.21 In order to optimise the sustainable management of our natural resources it is important to set a clear direction and priorities for their management. The Future Generations Bill (see paragraph 1.27) aims to set the high-level long-term national outcomes for Wales across all policy areas. In addition, feedback from the *Sustaining a Living Wales* consultation strongly supported the need for the policy and priorities for natural resources to be set out at the national level - owned, agreed and published by Welsh Ministers - and that it should have weight and authority in the consideration of other national plans and strategies.
- 2.22 The Environment Bill will therefore provide the legislative basis for a national natural resources policy aligned to the national outcomes set out through the Future Generations Bill. The policy will identify the key opportunities, trends and priorities for the sustainable management of natural resources on a national basis. It will identify the ways in which we must manage our natural resources, including those in the marine environment, to deliver for the long-term benefit of Wales, as well as the contribution they make at an international level. It will also set out the actions required by the Welsh Government, NRW and other public bodies, including statutory undertakers, to ensure the management of the natural resources of Wales can support the national outcomes. It will form the high-level direction of travel for all natural resources policy in Wales, including the social, environmental and economic impacts and opportunities from natural resources and link to national outcomes and indicators.

Timing of the natural resources policy

- 2.23 Table (i) below outlines indicative timings for the natural resources policy.

Table (i) Indicative timing of the natural resources policy

Date	Activity
2014/15	The Natural Resources Wales approach to ‘State of Natural Resources’ reporting is developed and reflects the full breadth of the organisation’s remit
Spring 2016	Environment Bill passed (subject to National Assembly approval and Royal Assent)
May 2016	Assembly Elected, new Government formed
2016	Programme for Government sets out its 5 year programme of work
2016	NRW starts work to identify natural resource management opportunities at the national and local level: <ul style="list-style-type: none"> • establishment of area-based partnerships in priority areas; and • engagement with Local Service Boards on needs assessments
2017/18	Natural resources policy – sets out how Wales’ natural resources will be managed to help deliver the national outcomes both for the long-term and for the Programme for Government (2017-2021)
2017/18	NRW begin to implement area-based approach which will reflect priorities in the national natural resources policy and also enable the prioritisations of actions to deliver outcomes agreed locally through LSBs and others
By 2020	NRW produces a “State of Natural Resources” report

2.24 The natural resources policy will then need to be published every 5 years, in line with the timings outlined above, so that it reflects the setting of national outcomes and the priorities of the Programme for Government.

NRM3: A requirement for NRW to develop and implement an area-based approach for the sustainable management of natural resources and to ensure evidence from this process feeds into the appropriate delivery plans

- 2.25 More effective management of our natural environment requires that strategic thought is given to the capabilities and potential of our natural resources and the way they are used now and in the future.
- 2.26 The intention of this proposal is to engender a better appreciation of how ecosystems operate, including the interconnected factors and varying scales at play, to provide a clear schedule of the collective actions that are required to achieve the sustainable management of natural resources.

Climate Change

- 2.27 Sustainable management of natural resources will improve the resilience of our society and economy to the impacts of climate change. As well as actions for current generations, this process will better inform the ways in which we can repair the long-term damage to our ecosystems and build the resilience of the natural environment so that it is prepared for future challenges, such as the effects of climate change.
- 2.28 Resilience to climate change could be enhanced through improved diversity, extent, condition and connectedness of ecosystems. This would help to better support rare habitats and species, maintain and enhance services that natural resources provide and help to reduce the concentration of greenhouse gases in our air.
- 2.29 The management of natural resources to mitigate for climate change may also, for example, help to reduce the concentration of greenhouse gases through the management of peat land for carbon sequestration, or by minimising the effects of climate change through schemes such as sustainable drainage systems. It is recognised that natural resource management plays a crucial role in mitigating and adapting to climate change and need to be managed together, not in isolation. It is intended that proposals for the Environment Bill should build in actions to enhance the resilience of the natural environment to the causes and consequences of climate change.

Integration of functions

- 2.30 NRW is already focused on identifying ways in which the bringing together of its functions can help to enable integrated natural resource management, as well as considering implications on operational delivery at various different

spatial scales. In exploring how to pull together its regulatory and resource planning processes, its evidence gathering and its advice, NRW is developing the experience and expertise to help the Welsh Government implement this new policy and legislative framework.

- 2.31 It is intended that the Environment Bill will set out the requirements on NRW to develop and implement an area-based approach for the sustainable management of natural resources, including those in the marine environment. In line with the proposed definition set out above, this will be a planning and priority setting process with the aim of coordinating resource use so that the long term sustainable benefits are optimised for the people, environment and economy of Wales, in the present and in the future.
- 2.32 This will specifically involve bringing an appropriate range of stakeholders together, at the relevant times, to identify opportunities to deliver the actions outlined in the natural resources policy and other natural resources considerations relevant to the area, at the appropriate spatial scales and in the appropriate locations.
- 2.33 In line with the proposed definition outlined above, this process will be based on the principles of integrated natural resource management and it is expected that the coordination of resource use will be organised around ecosystem services and their benefits.
- 2.34 As well as considering those natural resources listed in the definition, the area-based approach will need to give specific consideration to how the management of natural resources can help address and mitigate for the impacts of climate change.
- 2.35 It is important that on-going dialogue happens at a number of levels, to integrate with other public service and infrastructure planning mechanisms. For example, NRW will have a key role to play with Local Service Boards and will help to provide evidence in relation to the way the management of natural resources underpins the resilience of public services, particularly in relation to mitigating and adapting to the impacts of climate change.
- 2.36 The proposal to place a requirement on other bodies (outlined in NRM5 below) will also mean that other relevant stakeholders will be actively engaged in this process.
- 2.37 NRW can also ensure that the actions it takes focus on local needs and incorporates social and economic evidence that other local services board members provide. At a local level, such action should be expressed and delivered through relevant delivery plans. This could also help, for example, to deliver on the emerging European framework for biodiversity and green infrastructure.

Defining the process

- 2.38 It is proposed that the Environment Bill will not prescribe a specific process for the area-based approach on the face of the legislation. The definition of integrated natural resource management (see above at NRM1) is intended to contain sufficient flexibility for NRW to develop and adapt the approach effectively. This will require consideration of the appropriate scales and geography within Wales; the wide variety of considerations and timetables of other statutory processes and changing policy and political circumstances. The Welsh Government also believes that it is important that NRW is given scope to define the best approach to implementation and to be able to continually refine it.
- 2.39 It is recognised that it will be important for NRW to know exactly what is required in order to comply with the duty. Some parameters are set out in paragraphs 2.43-2.46 below. A power is therefore proposed for Welsh Ministers to give further direction in relation to the process, location and scope, and matters to be considered for the area-based approach, by secondary legislation.

NRM4: A requirement for NRW to set out the priorities and opportunities for the management of natural resources on an area basis

- 2.40 The purpose of this process is to provide clarity in relation to the priorities, objectives and collective actions required within a given area (including where relevant, the marine environment) for the sustainable management of natural resources.
- 2.41 This will enable NRW to provide clarity for stakeholders and other delivery bodies in relation to where opportunities, risks and challenges for the management of natural resources, including mitigation and adapting to climate change, exist. Through having developed these as part of a participatory process, it will help to embed a common vision for the sustainable management of natural resources in those particular areas of Wales.
- 2.42 For each area there will need to be:
- prior written agreement from Welsh Ministers as to the areas to which the process will be applied and the proposed timetable.;
 - a summary of participation – outlining how appropriate stakeholders, including public and private organisations and community groups, have been engaged in the process;
 - a 12-week consultation;
 - a statement of how an integrated natural resource management process is to be applied;
 - a statement of how NRW will use its full range of powers and functions to tackle the opportunities and challenges presented;

- a clear recommendation on the prioritisation of the issues, opportunities and collective actions required to deliver the sustainable management of natural resources within the area;
- a demonstration of how those recommended priorities delivers against local and national outcomes, including the national natural resources policy;
- information on how NRW will work with others to deliver those priorities; and
- what responsibilities and actions other organisations need to take to ensure the sustainable management of natural resources.

2.43 The areas will need to work coherently across Wales to deliver the priorities set out in the national natural resources policy, although there will be no initial requirement for full coverage across Wales.

Figure (v) Area-based natural resource management in practice

Taking an area-based approach provides an opportunity to set out how NRW will deliver local priorities and opportunities, including how these relate to the local shared outcomes agreed as part of the Local Service Board.

For example, an area such as “Taff and Cynon”, taking on board the watersheds of those river catchments, might be considered by NRW an appropriate natural boundary at which to undertake integrated natural resource management. This area would cover the majority of the Merthyr Tydfil Borough area, as well as parts of Rhondda Cynon Taf County Borough, Cardiff, Southern Powys and the Brecon Beacons National Park.

The “Natural Resources: Taff and Cynon” area could, for example, set out:

- What the key issues, challenges, risks and opportunities for natural resources are within the Taff and Cynon area are;
- How the identified opportunities and risks could be managed to deliver on the key outcomes and priorities identified locally and nationally;
- What NRW needs to do to deliver and how will it do that over the next 5 years; and
- What other key players need to do to deliver the opportunities identified in order to optimise the sustainable management of the natural resources.

The area-based approach should also include impacts and implications on interdependent areas, as well as help further inform the objectives of the National Park management plan and Local Development Plans of the respective planning authorities.

Timetable

2.44 It is proposed that the timetable for each area is agreed by the Minister for Natural Resources and Food. This will help to ensure that the process can be developed in a timely manner to address any significant issues and to tie in with other planning processes, including development plans where appropriate.

Frequency

2.45 It is proposed that the national natural resources policy is to be issued every five years, in tandem with the setting of national outcomes through the Future Generations Bill. It follows that NRW will need a mechanism for considering the need to review the approach to each area every five years, following the publication of the natural resources policy.

2.46 After consultation with relevant parties, including the Local Service Board or Boards for that local area, if NRW concludes, and the conclusion is agreed by Welsh Ministers, that the issues, challenges and opportunities are still current and relevant, there will be no need to refresh the area approach. If, however, the outcomes have changed, or the risks and opportunities significantly change, then the approach in that area will need to be reviewed and updated. This approach will enable greater flexibility in the preparation of a specific area in line with other national and local plan-making timetables.

2.47 It is intended that the Environment Bill will not include any further prescription in relation to where or how the priorities and opportunities in a particular area should be prepared. This will be subject to NRW's and Welsh Ministers consideration of the most appropriate and effective spatial scales (linked to the proposal for NRW to develop an area-based approach set out in NRM3), in both the exercise of its functions, the effective use of its staff resource, the timing of other statutory processes to which they need to contribute and to ensure compliance with EU legislation.

Relationship to other planning processes

2.48 The following section sets out the relationship between this process and other plan-making processes.

- **Natural Resource Management and Land-Use Planning**

2.49 It is intended that a consultation on the Planning Reform Bill will be published towards the end of 2013 on the proposals to reform the land-use planning system in Wales. Many of the proposed changes will promote greater collaboration between planning authorities and earlier involvement of statutory consultees, communities and stakeholders.

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- 2.50 Integrated natural resource management is key to supporting the proposed reforms. It is common sense that the actions that are needed to manage, use and safeguard our natural resources to sustain the needs of current and future generations are understood. This should inform the shape and direction of economic growth and development needs if it is to be sustainable, as well as helping us to understand better the potential limits and capacity of our natural resources, wherever possible.
- 2.51 For managers of natural resources, an understanding of the potential social and economic development needs of an area is important, so that natural resources in Wales are not managed in a static way. That way, the management of natural resources can be shaped to achieve “win-win-win” outcomes both for the environment, economy and society as a whole.
- 2.52 The land-use planning system has a critical role to play, particularly in shaping the future direction of development to support society’s needs, but also in contributing to the sustainable management of natural resources. It already does this in considering environmental issues, risks and constraints, alongside many other considerations to identify appropriate locations for future housing, business, industry, services and leisure, amongst other things. These decisions are informed by evidence and advice from NRW and other stakeholders at a national, strategic area and local authority level. What’s more, local development plans (LDPs) are subject to Strategic Environmental Assessments and Sustainability Appraisal processes to demonstrate how this has been achieved.
- 2.53 However, in the past the environmental evidence base has not been brought together in a consistent way. In addition, consideration has only been given to potential impacts, rather than to the potential opportunities presented by the sustainable management of our natural resources to deliver national and local outcomes. The Environment Bill will therefore put in place a framework for a more consistent, proactive and prioritised natural resources evidence base, which is aligned to agreed national and local shared outcomes. This will be used to inform the full range of instances where evidence in relation to natural resources is required.
- 2.54 Through the development of an area-based approach and priority setting process, NRW will be able to clearly present the key challenges, opportunities and risks for the sustainable management of natural resources. It will advise on what the strategic priorities for the management of natural resources should be in the context of local area needs. It will present evidence and information clearly and concisely, enabling the full range of impacts and opportunities to be considered.
- 2.55 An area-based approach therefore presents an opportunity to work smarter and to provide robust and reliable evidence. The quality of the information provided will be key to achieving this. The proposals for natural resource management as a whole will ensure that this evidence base is developed with a broad range of stakeholder groups.

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- 2.56 Delivery against EU legislative requirements will continue to be a key priority. Such an area based approach will require Strategic Environmental Assessment (SEA) in accordance with European Directive 2001/42/EC. The requirements for SEA are set out in European Directive 2001/42/EC”, on the assessment of the effects of certain plans and programmes on the environment”. This will be integrated into the process, informing how it is done so as to minimise any additional administrative burden. In real terms, the process of integrated natural resource management should better fulfil the requirements and purposes of these regulations. The same will also apply to Habitats Regulations Assessment (HRA), although a separate report may be required.
- 2.57 To ensure that the other significant players participate in this process, there will be a requirement on public bodies to co-operate, share information, jointly plan for and jointly report on the management of natural resources, of which climate resilience and climate mitigation will be a key strand. This must ensure that NRW can work with other bodies to secure a consistent evidence base to inform both their work and other public bodies and to ensure natural resource considerations are factored in from the outset.
- 2.58 The Governance structures being put in place as part of the Future Generations Bill are a key part of this. It is anticipated that through provision in the Future Generations Bill that NRW will become a statutory partner of the Local Service Board (LSB). They will work collaboratively with the key service providers on the board and in the area to identify and agree a series of high-level outcomes that guide their work.

- **The Marine Environment**

- 2.59 There are already mechanisms that have recently been put in place for the integrated management of the marine environment coupled with approaches to ensure the joined up management of the interface between land and sea.
- 2.60 The Marine and Coastal Access Act (2009) provides Welsh Ministers with the power to produce Marine Plans for Welsh seas for the purpose of furthering sustainable development through taking an ecosystems based approach. Marine Plans will set out the policies of Welsh Ministers for, and in relation to, the sustainable development and management of the inshore and offshore waters, and will be in accordance with the UK Marine Policy Statement. Public bodies taking decisions that may affect the marine environment must take account of the UK Marine Policy Statement and any Marine Plan.
- 2.61 The natural resources policy will inform and support the existing marine planning process. It is intended to provide a direction for management of the natural resources in the marine environment to support the long-term outcomes for Wales.

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- 2.62 The area-based approach for the sustainable management of natural resources is also appropriate in the marine environment. In this case, it will be important to embed any marine action for natural resources with the Marine Planning process; the Welsh Government's intention is to produce Wales' first marine plans by 2015.
- 2.63 The EU Marine Strategy Framework Directive (2006) provides an important driver for achieving Good Environmental Status (GES) of our waters by 2020. The Directive defines GES in Article 3 as: "The environmental status of marine waters where these provide ecologically diverse and dynamic oceans and seas which are clean, healthy and productive". The area-based approach as a local process would need to contribute to overall delivery of GES by taking account of the 11 descriptors of GES.

- **Integrated Water Management**

- 2.64 Integrated water management is applicable at a local, regional and national scale. From discussions and engagement so far with stakeholders in the development of the draft Water Strategy there is a clear message that, in order to improve water quality and benefit from water services, there is a need for a more joined up and integrated approach to water management in Wales.
- 2.65 It is acknowledged that there is a need for a catchment based approach, which recognises the value of community knowledge and experience in helping to identify challenges and opportunities. The proposed area-based approach should be designed to capture the activity and action taken at a community level that contributes to the management of water at a catchment level, alongside other activities. Ultimately, water and land management actions at a catchment level should be integrated.
- 2.66 There are clear responsibilities under a broad range of international and domestic legislation to ensure actions are in place to improve the quality of the aquatic environment. The approach of integrated natural resource management advocates a process that is more participatory and facilitates the involvement of communities in decision-making.
- 2.67 This approach will ensure that those that manage water, those that benefit from good quality, reliable water and those that have the potential to have an impact on our water assets, are part of the agenda setting and decision making process.
- 2.68 The draft Water Strategy is due to be published for consultation toward the end of 2013 and will provide further detail on our proposed approach to integrated water management.

- **National Parks and Areas of Outstanding Natural Beauty (AONB) management plans**

2.69 Under Section 66(1) of the Environment Act 1995, each National Park Authority is required to prepare and publish a National Park Management Plan for their Park. Although preparation of the Management Plan is the prime responsibility of the National Park Authority, its preparation requires active engagement and support from all key stakeholders who will assist in its delivery.

2.70 The challenge for the area-based approach will be to ensure that the evidence it uses, together with the collective actions it identifies for the sustainable management of natural resources, are embedded within the relevant delivery plans of a wide range of organisations, including National Park Management Plans.

2.71 The Countryside and Rights of Way Act 2000 places a duty on local authorities responsible for Areas of Outstanding Natural Beauty (AONB) to develop an AONB management plan, in consultation with the advisory committees, which sets out the local authority's policies for the AONB and how they should be achieved. The management plans are required to address not only the environmental priorities for the AONB but also the social and economic issues in the area. There may be merit in looking at, for areas which include AONBs, where aspects of the proposed area-based approach could be aligned with the preparation or revision of AONB management plans.

- **Other plan-making processes**

2.72 There are already a number of statutory and non-statutory planning processes that help deliver natural resource management on the ground, in particular relating to flood risk and water resource management, marine, forestry and landscape planning, biodiversity and nature conservation management, some of which have been addressed in more detail above.

An illustrative list is set out below.

Table (ii): Illustrative list of plans, strategies and selected duties relevant to sustainable management of natural resources

Plan/strategy/ duty title	Basis of plan/strategy	Lead body	Primary purpose of plan/strategy	Extent
River Basin Management Plans	EU Water Framework Directive	NRW/Welsh Government	Deliver an integrated approach for the protection and sustainable use of the water environment	All Wales - three river basin areas – two which include parts of England
National Flood and Coastal Erosion Risk Management Strategy	Flood and Water Management Act 2010	Welsh Government	Set out national objectives and measures for management of flood and coastal erosion risks	All Wales
Shoreline Management Plans	Not a statutory plan, but forms part of implementation of EU Flood Directive	Coastal Groups, which are local authority-led	Ensure risks of coastal processes are understood and planned for	All Wales coast (four covering Wales)
Catchment Flood Management Plans	Not a statutory plan, but forms part of implementation of EU Flood Directive	NRW	Establish Policies to deliver sustainable flood risk management for the long term.	All Wales on river catchment basis (ten covering parts of Wales)
Local Flood Risk Management Strategies	Flood and Water Management Act 2010	Local authorities	Set out objectives and measures to manage local flood and coastal erosion risk	All Wales covering every local authority
Water Resource Management Plans	Water Industry Act 1991	Water Companies	Manage and develop water resources so as to ensure future water supply	
Drought Plans	Water Industry Act 1991	Water Companies	Set out measures for managing drought	All Wales (three covering parts of Wales)
Special Areas for Conservation management plans	Not a statutory plan, but forms part of implementation of EU Habitats Directive	NRW	Set out measures to maintain or restore favourable conservation status	Designated Special Areas of Conservation
Noise maps and action plans	Environmental Noise Directive	Welsh Government/ Local authorities	Reduce excessive ambient noise levels	Designated sites
Air Quality action plans	Environment Act 1995	Local authorities	Achieve air quality standards and objectives	Designated air quality management areas

AONB Management Plans	CROW 2000	Local authorities	Further the purposes of the designation	AONBs
Rights of Way Improvement Plans	CROW 2000	Local authority	Improve the rights of way network	All Local Authorities
Forest Management Plans	Non-statutory plans	NRW	Contribute to sustainable forest management	WG Forest Estate
National Park Management Plans	Environment Act 1995	National Park Authority	To further the purposes of the designation	3 National Parks
"National Park" Duty	Environment Act 1995, s.62.	Duty on all relevant authorities	In exercising or performing any functions in relation to, or so as to affect, land in a National Park, any relevant authority shall have regard to the purposes of the National Parks.	Relevant authorities within 3 National Parks
Local Biodiversity Action Plans	Convention on Biodiversity	Local Authority/ Local Partnership	Support UK Biodiversity Action Plan by identifying local priorities	All Wales
Biodiversity Duty	NERC Act 2006, s40.	Duty on all public bodies	Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.	All Wales
Climate Change Adaptation Reports	Climate Change Act 2008	NRW National Parks Some areas of LA functions	Assess and manage climate risks in relation to the devolved functions of a body	All Wales

2.73 The implementation of the requirement for NRW to develop and implement an area-based approach (see NRM3) and to set out the priorities and opportunities of natural resources on an area basis (see NRM4) are intended to bring aspects of these planning processes together and drive the integration and alignment of actions contained in them. A key aim is to ensure that evidence on which those plans are made is shared and that the decisions guided by those plans are not taken in isolation from other drivers, including the economic and social opportunities and challenges they address. Notwithstanding this, it is recognised that, particularly in the

short term, these plans may continue to exist in an operational capacity, as they often contain more detailed evidence.

- 2.74 Over time, there is the opportunity for the area-based approach to replace significant elements of the various plan preparation stages that currently exist in relation to the management of natural resources at the local area level – such as stakeholder input, assessing impacts on other areas and informing other plans and strategies. There may also be opportunities to include the necessary information to comply with some plan-making duties outlined in other legislation.
- 2.75 The proposal set out to clarify the alignment of NRW’s duties with the new high-level purpose (see NRM11) will give Welsh Ministers powers to make amendments that eliminate differences between the current legislation and the purpose of sustainable management of natural resources, as outlined above. This includes opportunities for removing or merging aspects of the legislation to streamline elements of the current range of plans and planning processes.
- 2.76 It is envisaged that there would be constraints to these powers, which would only be used if it could be clearly demonstrated that the main purpose and functions of those plans, strategies and duties could be delivered through the area-based approach and it was conducive to delivering a clearer legal framework.
- 2.77 It is recognised that careful consideration will be needed where there are specific obligations under EU Directives, particularly if the approach would require the re-transposition of Directives. Any future proposals would be fully consulted on, as set out in NRM11.

NRM5: A requirement on other bodies and further directions on how natural resource management should be taken into account

- 2.78 As set out under the definitions section (see NRM1), the desired output of the integrated natural resource management process is the sustainable management of natural resources. That means the collective actions (including non-action) required for managing the maintenance, enhancement and use of natural resources in a way, or at a rate, which enables people and communities to provide for their social, economic and environmental well-being in Wales.
- 2.79 It is recognised NRW is only one of many organisations involved in delivering those actions. Responsibility and ownership for the planning and management of natural resources needs to be shared.
- 2.80 Public bodies currently have to consider a broad range of environmental data, evidence and advice when making decisions. This may not always be fully taken into consideration in a timely way.
- 2.81 Mechanisms exist (such as the Strategic Environmental Assessment Directive and Sustainability Appraisals) which are designed to build

environmental evidence into the decision making process from the outset and to ensure that plans and programmes are designed to optimise the economic, social and environmental benefits. However, quite often the challenge is in analysing the full range of evidence and presenting this in ways that enable the full range of opportunities and benefits, both monetised and non-monetised, to be understood.

- 2.82 It is intended that the Environment Bill will help to overcome this challenge by introducing a requirement on public bodies to co-operate, share information, jointly plan for and jointly report on the management of natural resources, of which climate resilience and climate mitigation will be a key strand.
- 2.83 This must ensure that:
- The appropriate bodies are required to come together to assist NRW to undertake an area-based approach for the sustainable management of natural resources;
 - NRW can work with others to secure a consistent evidence-base to inform their work;
 - Agenda setting for the sustainable management of natural resources is undertaken collaboratively and priorities, risks and opportunities are factored in at the outset; and
 - Organisations will assist NRW to report on the implementation of actions, to inform the state of natural resources reporting.
- 2.84 By way of example, the advice NRW provides to Local Service Boards will be consistent with and aligned to the issues identified in local needs assessments undertaken. If evidence is presented consistently and there is a requirement to jointly plan, then there is a higher likelihood that it will be taken into account. In that way, an area-based approach may help provide evidence to inform single integrated plans (SIPs) (see Glossary and paragraph 1.30). This may, for example, look at how risks, such as severe climate events, impact geographically on issues identified in the Strategic Needs Assessment, for example, care of vulnerable people.
- 2.85 The proposal will enable NRW to gather additional evidence to help more fully consider the economic and social benefits of natural resources and the health and resilience of underpinning ecosystems. An area-based approach will be set out in a way that clearly outlines the actions others can take and how these deliver across other organisations' objectives, as well as their own. It will enable better decision-making by ensuring openness and accessibility of evidence.
- 2.86 As a safeguard, it is intended that the Environment Bill will also introduce a power for Welsh Ministers to issue direction on other bodies to co-operate, share information, jointly plan for and jointly report on the management of natural resources, if they are not doing so already.

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- 2.87 This approach will avoid placing a specific “have regard to” duty on public bodies, but instead will outline the importance of working together at the earliest possible opportunity to share evidence, jointly plan and deliver for the sustainable management of the natural resources of Wales.
- 2.88 Following the implementation of these measures, there will be a clear framework in place in which public bodies and NRW can co-operate. This approach is designed in tandem with the proposals in the Future Generations Bill, which is looking to put sustainable development at the heart of high-level public decision making, and the Planning Reform Bill, which is seeking to encourage earlier involvement in more strategic planning matters.

Cross-border issues

- 2.89 It is proposed that this requirement will apply to all public bodies, including statutory undertakers, operating wholly or mainly in Wales. For areas where the management of natural resources requires actions across national borders, or where interventions in Wales have cross border implications, NRW would be required to consult with the relevant bodies. There are already cross-border co-operation arrangements in place with the Environment Agency (Article 7 of the Functions Order) and through the relevant Memorandums of Understanding (MOUs) with other environmental bodies, which may need to be reviewed.

NRM6: A mechanism for reporting on progress towards achieving the national outcomes and priorities for natural resources

- 2.90 In alignment with the Future Generations Bill proposals, the Environment Bill will gather and present evidence in relation to the current and potential trends in the future and pressures on the natural resources of Wales, which ultimately impact on social, economic and environmental well-being.
- 2.91 This new legislative framework will also enable NRW to gather evidence on the current environmental regimes; for example, how fit they are for delivering an integrated approach to natural resource management and make recommendations to Ministers, (either via the mechanisms sets out in the Future Generations Bill, or in its existing capacity to do so) on where future legislative, administrative or policy changes need to be made.
- 2.92 It is proposed that the most appropriate mechanism for reporting will be in line with the proposals under the Future Generations Bill, but will also need to deliver other reporting requirements, for example, the requirements of the Joint Nature Conservation Committee (JNCC), as part of the Climate Change annual progress report, or as part of wider reports such as the UK National Ecosystem Assessment.
- 2.93 It is intended that the Environment Bill will introduce a new duty for NRW to report on progress towards the sustainable management of natural resources, in particular how effective they and other bodies have been in using the full range of their functions to deliver the priorities identified

through the area-based approach. In doing this, NRW must seek ways to integrate the range of its existing reporting requirements.

- 2.94 Additionally, in relation to proposals to develop an area-based approach and to set out priorities to manage natural resources on an area basis (see NRM3 and NRM4), NRW could make recommendations to Welsh Ministers as to where opportunities exist to streamline existing natural resource management processes. Similarly, in relation to the proposal to give NRW experimental powers for trialling different management and permitting approaches (see NRM7), there is an opportunity to gather evidence to build a case for future legislative changes, where the use of these powers has demonstrated that this is the only way to achieve the sustainable management of natural resources.

Overview of potential impact of proposal

- 2.95 It is anticipated that the proposals in this White Paper in relation to the introduction of a joined-up approach to managing our natural resources are likely to be cost neutral and have the potential to generate efficiency savings over a longer period of time. The focus of this legislation is to provide a framework which will, over time, replace significant elements of the various plan preparation stages that currently exist in relation to the management of natural resources at the local area level. It will seek to streamline existing planning frameworks for the management of natural resources, rather than establishing an additional one.
- 2.96 Work is on-going to explore opportunities to rationalise and streamline existing processes and to combine other statutory and non-statutory functions that NRW undertakes. This includes an assessment of the existing natural resource management functions of NRW and the current levels of resource input (staff and programme costs), as part of NRW's organisational development programme. In addition, there are opportunities to look at changes being proposed within the land-use planning sector to identify opportunities for streamlining and simplification (for example, early developer involvement at the pre-application stages).
- 2.97 The proposals for the area-based approach may require NRW to work in different ways, including more participatory and collaborative approaches and it is expected that there will be cultural and skill capacity implications. Many of these have already been recognised, and are being acted upon, as part of the on-going business planning and organisational development, through the change management programmes within the new body.
- 2.98 There could potentially be secondary implications on resource requirements in relation to other public, private and third sector organisations participating in a more collaborative natural resource planning processes. However, early views from stakeholders suggest that the benefits of a more collaborative approach would merit the engagement and input up front, could potentially reduce challenge further down the line and could enable a consistency of approach across the wider public and private sector.

2.99 For instance, possible benefits for public bodies and stakeholders in early engagement with NRW's natural resource management work include:

- Enabling the early development of a consistent and robust evidence base to support the preparation of Local Development Plans and Strategic Environmental Assessments;
- Opportunities to look strategically at environmental challenges and opportunities (for example, flood risk, water supply, working with ecology and landscapes) at various spatial scales (local to regional), which will add value and unlock opportunities for economic growth, wider community benefit and environmental enhancements; and
- Providing greater certainty that constraints and impacts have been identified and can be mitigated, thus improving confidence for investors that development allocations are deliverable.

2.100 Any cost implications for implementing the natural resource management proposals are likely to fall directly to Welsh Government and NRW. However despite the initial duties and functions adding to existing duties, they have been designed very much with integration and simplification in mind. The Welsh Government will continue to work closely with NRW to develop the proposals, including any financial implications. It is currently anticipated that, over the medium to long-term, the proposals will ultimately represent a cost saving for both Welsh Government and NRW and successful implementation could lead to long-term savings for wider public bodies.

2.101 For example, by embedding consideration of climate resilience and climate change mitigation into the proposals for integrated natural resource management, there will be a longer term cost savings to the Welsh Government as well as public sector bodies in terms of economic, environmental and social benefits, which strongly outweigh the future costs of non action. We will seek to quantify these benefits as part of on-going work to identify the opportunities to integrate resilience management and resource efficiency measures into existing processes.

Consultation questions

1. Do you agree with the overall package of proposals in relation to natural resource management in chapter 2?
2. Do you agree with the approach to define natural resources, sustainable management of natural resources and integrated natural resource management in Wales?
3. Do you agree that climate resilience and climate change mitigation should be embedded into our proposed approach to integrated natural resource management at both national and local levels?
4. Do you agree that the setting of national outcomes and priority actions for natural resource management should follow the five-year cycle for national outcome setting in the Future Generations Bill?
5. Do you agree that the area-based approach will help provide a clear, prioritised and focussed approach to delivery?
6. Do you agree that the approach is flexible enough to enable significant elements of the plans for natural resource management to be replaced in the future?
7. Do you agree with placing a requirement on other public bodies to co-operate in the area-based approach?
8. Do you agree that NRW should be the lead reporting authority for natural resources?
9. Do you have any comments on the impact of these proposals (for example, impacts on your organisation)?

Chapter 3: Natural Resources Wales – New opportunities to deliver

Summary

A number of proposals are set out in this chapter to provide NRW with new statutory functions and duties to support the delivery of its core purpose and the new framework for integrated natural resources management. These legislative tools will help to test and trial innovative approaches which will enable the implementation of integrated natural resource management and actions required to deliver the sustainable management of natural resources.

This chapter also sets out a proposal for future legislative change to further enable integrated natural resource management. These seek to address identified barriers that restrict NRW in the delivery of its high level purpose – that is to ensure the environment and natural resources are sustainably maintained, sustainably enhanced and sustainably used.

Ref	Proposals
NRM7	Powers to enable NRW to trial innovative approaches to integrated natural resource management, to achieve the sustainable management of natural resources
NRM8	Furthering the role of NRW to stimulate the use of market mechanisms to pay for ecosystem services
NRM9	New powers for NRW to enter into management agreements with land owners and businesses for the sustainable management of natural resources
NRM10	Exploring new powers for the implementation of General Binding Rules
NRM11	Powers to clarify the alignment of NRW's duties and other primary legislation with the new high-level purpose

Opportunities for innovative ways of working

NRM7: Powers to enable NRW to trial innovative approaches to integrated natural resource management, to achieve the sustainable management of natural resources

- 3.1 The proposals in the previous chapter set out the legislative foundations for the sustainable management of natural resources, through the adoption of a more integrated approach. The principles of integrated natural resource management should be applied wherever possible in the delivery of NRW's existing functions and duties, as well as to those proposed new duties.
- 3.2 However there may be occasions where this is not possible, or it is more difficult, due to limitations of NRW's existing functions or because of established operational practices. Furthermore, integrated natural resource management will require new and different approaches, some of which may be untried and untested.
- 3.3 It is considered that NRW should have experimental powers to test and trial innovative approaches. Whilst these powers will need to sit within the scope of its existing functions, they should be designed to further the delivery of NRW's core purpose and specifically to further the sustainable management of natural resources (as set out in the definition proposals at NRM1).
- 3.4 NRW already has experimental powers to make and carry out experimental schemes or projects. These fall under the Countryside Act (1968) and are generally designed to facilitate the enjoyment of the countryside, or to conserve or enhance its natural beauty or amenities. This involves the development or application of new methods or concepts which illustrate the appropriateness of the scheme in question for the countryside generally or for a specific area. To establish a scheme or project NRW may also rely on general incidental functions set out in Article 9 of the Establishment Order.
- 3.5 The existing powers are limited to the purposes outlined above but could be useful in relation to looking at the opportunities and challenges at an area level.
- 3.6 The proposal is intended to clarify and enable a number of additional possibilities, for example:
 - The ability to test new integrated approaches to permitting, such as cooperation between different operators rather than regulating them all independently;
 - Catchment trading schemes – particularly in relation to Payments for Ecosystem Services (see NRM8);
 - Short term trials of technical approaches to permitting to allow for technological innovation (recognising that some powers already exist in relation to the Industrial Emissions Directive and Environmental Permitting Regulations);

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- Simultaneous applications for different consents – respecting that this may not always be the best option for all involved; and
 - Testing the regulatory impact of distinctive new Welsh approaches.
- 3.7 It is proposed that, whilst NRW should be responsible for developing and designing any new schemes, before it can use the experimental powers it will be required to obtain formal approval from the Welsh Ministers who will agree the terms of the scheme. It is also proposed that NRW will be required to consult with relevant parties on the design of the scheme. This will enable the full range of implications of the scheme to be considered at the outset and will help raise the profile of the proposed use of the power.
- 3.8 Following the implementation of an experimental scheme, there will be a requirement for NRW to report fully on the outcomes and conclusions of the scheme. If evidence suggests that the experimental scheme should be rolled out to a wider area of Wales, and where it is demonstrated that a change in legislation would be the only way to enable this, then Welsh Minister may use their enabling power (set out in NRM11) to achieve this.
- 3.9 Experimental schemes would need to be carefully designed to ensure no breach of any EU legal requirements or other international obligations, including from the scheme itself. It is recognised that compliance with EU legislation is likely to limit the opportunities for trialling in some areas, since in many cases the purposes for which derogations from EU law are allowed are tightly defined.

NRM8: Furthering the roles of NRW to stimulate the use of market mechanisms to pay for ecosystem services

Figure (vi) Ecosystem services

Ecosystem services are the services provided by the natural environment that benefit people. These include: natural resources for basic survival, such as clean air and water; natural processes, such as climate regulation and crop pollination; raw materials for industry and agriculture; contribution to good physical and mental health, for example, through access to green spaces, and social, cultural and educational benefits from our interaction with nature.

Maintaining, enhancing and restoring ecosystem services is recognised as essential for sustainable economic growth, prosperous communities and promoting wellbeing in Wales.

Some of these services, such as food and timber, have a clear financial value in the marketplace. Other services - like flood and water control, filtration of pollution and pollination that are equally vital to our continued wellbeing - do not. This has created an imbalance in the way in which decisions affecting the natural environment are made where those 'hidden' services that are not valued, are likely to be under provided or exploited. The *National Ecosystem Assessment 2011* considered that the value of pollination services alone in the UK is £430 million per annum¹².

Payments for ecosystem services (PES) is one of the principal ways in which a market can be created in order to help to put a value on the services offered by our natural resources. PES schemes involve payments to the managers of land or other natural resources in exchange for the provision of specified ecosystem services over-and-above what would otherwise be provided in the absence of payment. Payments can be made by the beneficiaries of the services in question, for example, individuals, communities, businesses or governments acting on behalf of various parties.

The final report of the Ecosystem Markets Task Force in March 2013¹³ outlines potential business opportunities four broad areas: the water cycle, food cycle, carbon and nature markets and natural capital: resource scarcity and resilience.

- 3.10 In order to contribute to the economic wellbeing of Wales and to protect the natural resources on which economic growth relies, it is important that the value of the services provided by our natural capital is recognised.

¹² UK National Ecosystem Assessment, (2011), The UK National Ecosystem Assessment: Synthesis of the Key Findings. UNEP - WCMC, Cambridge.

¹³ Realising nature's value: The Final Report of the Ecosystem Markets Task Force, (2013)

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- 3.11 There are many examples of experimental projects that are looking at methods of valuation of Ecosystem Services and exploring the potential to establish markets, or “buyers” for these services. For example, the Pumlumon Living Landscapes project¹⁴ led by Montgomeryshire Wildlife Trust, which is looking at the value of peat land restoration, water and carbon capture to communities and businesses downstream. Another example is the Cambrian Mountains Initiative¹⁵ which is looking at developing premium markets for Cambrian Lamb, as well as exploring the potential for landowners to generate an income for water management and tourism opportunities.
- 3.12 The Welsh Government considers that NRW should have a greater role to play in facilitating or 'brokering' PES schemes, establishing accreditation and providing assurance for schemes, or simply providing information and advice to others.
- 3.13 There are four principal roles that are typically involved in the design and delivery of a PES scheme:
- **‘buyers’**: beneficiaries of ecosystem services who are willing to pay for them to be safeguarded, enhanced or restored;
 - **‘sellers’**: land and resource managers whose actions can potentially secure supply of the beneficial service;
 - **‘intermediaries’**: who can serve as agents linking buyers and sellers and can help with scheme design and implementation; and
 - **‘knowledge providers’**: these include resource management experts, valuation specialists, land use planners, regulators and business and legal advisors who can provide knowledge essential to scheme development.
- 3.14 NRW has an important role in the development of markets for ecosystem services and should potentially be able to act in support of any of the above roles. NRW could, for example, purchase services on behalf of the public interest, or enable "trade" in services between landowners and private businesses.
- 3.15 Many of NRW’s existing functions already allow it to act in this emerging field. For example:
- Articles 9 and 10B of the Natural Resources Body for Wales (Establishment) Order 2012) gives powers to enter into management agreements with land managers and to give financial assistance under such an agreement (arguably permitting them to act in the role of ‘buyers’);

¹⁴ Pumlumon Living Landscapes Project, <http://www.montwt.co.uk/pumlumon.html>

¹⁵ Cambrian Mountains Initiative, <http://cambrianmountains.co.uk/>

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- Article 10A of the Establishment Order is a power to provide advice and assistance, including training facilities, to any person on any matter in which NRW has knowledge, skill or experience (as ‘intermediaries’ and ‘knowledge providers’); and
 - Article 12A(1)(a) of the Establishment Order allows NRW to charge for work carried out and for goods services and facilities that it provides (arguably permitting them to act in the role of ‘sellers’)
- 3.16 However, these powers were not originally designed with PES in mind. The Welsh Government is keen to explore whether there is merit in creating new powers for NRW to develop market mechanisms to support the sustainable management of natural resources. For example, clarification of NRW’s existing powers in relation to land management, advice, accreditation and purchase or sale of services, would enable NRW to facilitate and stimulate more proactive opportunities and would provide clarity about their powers in this area.
- 3.17 It may be possible to use the new experimental powers proposed under NRM7 to further opportunities for PES, where there may be limitations to the existing powers. Alternatively, there may be potential to introduce a new separate power to repurpose the existing powers for PES to develop market mechanisms to support the sustainable management of natural resources. It is anticipated that a further consultation would be issued should a separate power be proposed.
- 3.18 The Welsh Government has commissioned a study to consider opportunities for PES in Wales, how these would need to be regulated and by whom. It is intended that the recommendations from this study and responses to this consultation, will help us to finalise our proposals in relation to NRW’s role in facilitating market mechanisms to stimulate payments for ecosystem services.

NRM9: New powers for NRW to enter into management agreements with land owners and businesses for the sustainable management of natural resources

- 3.19 Connected to proposals above on experimental powers and ecosystem services (see NRM7 and NRM8), there are a range of land management objectives that NRW is currently able to fulfil through using management agreements.
- 3.20 A management agreement is a financial mechanism for securing a particular course of action between two parties and is commonly used to deliver nature conservation management actions. As many of these agreements are with agricultural landholdings, payments under management agreements must be consistent with the EU State Aid rules on payments for the Agricultural Sector.
- 3.21 A key primary source of the management agreement power falls under section 39 of the Wildlife and Countryside Act 1981. The purpose of a management agreement entered into under this section is limited to conserving natural beauty, amenity or promoting enjoyment by the public. Section 39(3) provides for a management agreement to run with the land, which means that successors in title to the land will be bound by it.
- 3.22 NRW may also use Articles 9 and 10B of the Establishment Order 2012 to enter into management agreements. Article 9 provides that NRW may do anything that appears to be conducive or incidental to the discharge of its functions and this includes entering into agreements (Article 9(2)(a)). Article 10B enables NRW to provide financial assistance, as long as that assistance is conducive to "any objective which the Body seeks to attain in the exercise of its functions". Article 10B also enables NRW to give grants or loans and to attach conditions to any grant or loan.
- 3.23 However, there are limitations to the Establishment Order powers. For example, there is no provision for a management agreement to run with the land, so successors in title to the land will not be bound by an agreement made under Articles 9 and 10B unless it is capable of being and is registered as, a charge or a restriction with the Land Registry. This means that certainty of management actions agreed could not be established over a longer period of time, if the land ownership should change.
- 3.24 There are also identified gaps, such as the measure to manage the flow of water through a person's land for the purposes of managing flood risk, which would not fall under the scope of the Countryside Act power and for which the use of NRW's powers under Articles 9 and 10B may be limited (that is, would not run with the land). These types of measures are crucial to managing long-term flood risk. The Welsh Government considers that the use of management agreements as a proactive tool to enable integrated natural resource management should be consistent with the

sustainable management of natural resources and should reflect the full range of NRW's functions.

- 3.25 The proposal is to give NRW a new power to enter into management agreements with any landowner or business so as to achieve the actions required for the sustainable management of natural resources. The proposal will also specify that any actions would need to be registered as a local land charge under the Local Land Charges Act 1975.
- 3.26 The power would be limited to the objectives which the Body seeks to attain in the exercise of its functions. It is intended to resolve existing gaps, for example in the ability to secure long-term and robust arrangements for managing flood risk, so as not to rely on traditional hard defences.

NRM10: Exploring new powers for the implementation of General Binding Rules

- 3.27 Urban and rural land management practice has wide scale impacts on our environment. To prosecute a pollution offence using current powers can be a very lengthy and resource intensive process. Alternative regulatory tools are required that go hand in hand with the existing framework, but which also include simpler ways to inform people about what needs to be done to avoid pollution.
- 3.28 General Binding Rules are a lower level regulatory function which do not always require formal licences or consents and can help achieve a more consistent and proportionate approach to regulation. In many cases, UK Government and devolved administrations already have powers to make these rules, for example in the Water Framework Directive. The Environment Bill, and the definition of integrated natural resource management, offer a useful and coherent framework for the application, repackaging and potential extension of these powers.
- 3.29 The Welsh Government are considering using the Environment Bill to secure powers for the Welsh Ministers to, via secondary legislation, make provision for General Binding Rules in relation to the sustainable management of natural resources. The scope of these powers will be limited by the enabling power and the parameters of General Binding Rules will still require the establishment of a statutory instrument and therefore will still be subject to a legislative process.
- 3.30 Engagement with NRW and other stakeholders suggests that General Binding Rules could help reduce bureaucracy, enable development and protect the environment. In most cases, responsible persons and organisations will need to take little, if any, action to comply with the rules, as they would be based on common good practice. Those found to be in breach of the rules would likely be issued with a proportionate civil sanction or fixed or variable penalty notices.
- 3.31 It is intended that the Environment Bill would address the areas for which General Binding Rules could be established by providing Ministers with the

necessary powers. It would not contain the specific details of all the rules and sanctions, which would be a matter for secondary legislation.

- 3.32 It is recognised that this proposal may be significant and has the potential to affect a large number of organisations and people. It is therefore intended to seek initial views via this consultation, and if there is broad agreement to explore this further, then the Welsh Government intend to consult more widely on both the scope of the powers that would establish General Binding Rules in Wales and the draft regulations themselves, in due course.

Future legislative change

NRM11: Powers to clarify the alignment of NRW's duties and other primary legislation with the new high-level purpose

- 3.33 It is intended to use the Environment Bill to establish definitions of integrated natural resources management and the sustainable management of natural resources in Wales (see NRM1). This is the first step towards a more integrated statutory framework for the sustainable management of natural resources.
- 3.34 The primary legislation that underpins the creation of NRW contains many other purposes and duties particularly in relation to nature conservation, forestry management and pollution prevention and control. There is a need to ensure that the primary legislation for which NRW has responsibility to deliver sufficiently takes account of its high level purpose.
- 3.35 This proposal is to enable the Welsh Ministers to make specific changes to existing primary legislation, where it can be demonstrated that the current law is contrary to the definition, purpose and objectives of integrated natural resource management, and where all other means of addressing those issues have been exhausted. Any such amendments would have to ensure continued compliance with EU obligations.
- 3.36 Where there is clear evidence that amendments are needed to address specific identified areas of conflict or barriers, then we will seek to reflect, where appropriate, relevant changes on the face of the Environment Bill.
- 3.37 There is a vast amount of domestic and European legislation relating to environmental law, for example in relation to the area of flood risk management. This was recognised in the Pitt Review¹⁶ (2008) and one of its key recommendations was that there should be a single unifying Act to consolidate all flooding legislation. In addition to the Environment Bill, further legislation will be necessary to continue the work of amending and integrating key areas of the legislative framework in order to further the policy objective of integrated natural resource management in Wales.

¹⁶ The Pitt report: Learning lessons from the 2007 floods (2008)
http://webarchive.nationalarchives.gov.uk/20100807034701/http://archive.cabinetoffice.gov.uk/pittreview/thepittreview/final_report.html

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- 3.38 Our long-term aspiration is ultimately to consolidate legislation in relation to the environment. However, it is recognised that this is a resource intensive exercise and so it is both in the interests of efficiency and effectiveness to take a common sense approach towards any measures and include provision in the Environment Bill that will enable a “tidying up” of the legislation in advance of potential consolidation.
- 3.39 As well as preparing for potential consolidation, the ability for Welsh Ministers to make amendments that eliminate differences between the definition, purpose and objectives of integrated natural resource management and the legislation that underpins NRW functions, will enable a more adaptive, iterative and evidence based approach to environmental regulation.
- 3.40 Our intended proposal at this stage is to limit the amendments to NRW’s functions. It is anticipated that, under this option, the Environment Bill would (subject to the National Assembly for Wales’ legislative competence) confer on the Welsh Ministers the power to amend, by secondary legislation, the primary legislation listed in Schedule 2 to the Natural Resources Body for Wales (Functions) Order 2013.
- 3.41 The proposal will include a requirement that an Order cannot be made unless a draft, accompanied by an explanation of the effect of any changes made and how they will make any potential future consolidation easier, has been subject to public consultation and laid before the National Assembly for Wales. This will ensure that any implications associated with the changes being proposed in an Order are considered and addressed.
- 3.42 There is a similar but separate and specific proposal outlined in chapter 5 (see SM4) to give Welsh Ministers the power to pre-consolidate primary legislation relating to water. The proposal is to amend Section 47 to confer an equivalent power on the Welsh Ministers as the Secretary of State, to amend a Water Act, by order, if they are satisfied that:
- i. It will make it easier to consolidate one or more Water Acts;
 - ii. The substantive effect of the change (if any) is proportionate to the advantage to be gained by consolidating the legislation. The power to amend a provision may only be exercised if the amendment relates to a matter in Schedule 7 to the Government of Wales Act (GOWA) 2006, that is it falls within the legislative competence of the National Assembly; and
 - iii. It does not remove any protection.
- 3.43 Both of these proposals could significantly help to facilitate a longer-term aspiration to consolidate aspects of environmental legislation so that it meets the needs of Wales.
- 3.44 An additional proposal under consideration therefore, is to potentially combine the two proposals outlined above and extend the scope for amending environmental legislation, so that it was broader than just the

Water Acts, or NRW's functions. This would be subject to the safeguards as set out in paragraph 3.41-3.42 (ii and iii) and crucially would need to further the sustainable management of our natural resources (as set out in the definition proposal in NRM1).

- 3.45 Views are also sought on the implementation of this approach. One of the challenges would be to clearly identify the relevant Acts that fell within scope of the additional proposal.

Overview of potential impact of proposals

- 3.46 In trialling new approaches to integrated natural resource management, it is not anticipated that there will be a cost to the public and long-term savings are expected, for example if the alternative permitting approaches are more efficient and successful. Minimum funds may be required to support the development of new schemes (including monitoring and evaluating the benefits), although it is anticipated that this should come from reprioritising existing funds.
- 3.47 In trialling approaches to payments for ecosystem services, we would expect NRW to seek to develop a sustainable business model for any approach. It may be reasonable in certain instances to use powers under Article 12A(1)(a) of the Establishment Order (which allows NRW to charge for work carried out and for goods services and facilities that it provides), so that any reasonable activity undertaken as intermediaries could be recovered through administration fees.
- 3.48 The proposed new powers for using management agreements will provide NRW with a wider scope for using this tool. NRW already has a well established capability to deal with the establishment of management agreements and therefore in capability terms, this is considered to be a cost neutral proposal. There may be a need to reprioritise existing funding. However, in the example given on flood risk management this would mean that existing flood-risk management funding may be directed through a different outlet.
- 3.49 There are potential initial costs in terms of developing an understanding and appropriate structures within NRW business to implement General Binding Rules. These will need to be assessed against other priorities and within existing budgets. It is anticipated that within 5 years the more efficient enforcement of environmental rules is likely to help reduce costs or at least achieve a cost neutral status. There are also potential benefits in relation to helping avoid lengthy and costly court cases, legal challenges and judicial reviews.
- 3.50 It is not currently known when and how Welsh Ministers might use the enabling powers set out in NRM11. There are currently no specific costs or impacts falling to any public bodies as a result of this proposal. Any costs associated with a subsequent Order would be identified and considered as part of a separate regulatory impact assessment undertaken as part of the secondary legislation.

Consultation questions

10. Do you agree with the proposals set out in chapter 3 in relation to new ways of working for NRW?
11. What limitations or safeguards on the use of powers might be necessary to enable NRW to trial innovative approaches to integrated natural resource management?
12. Do you agree that NRW are an appropriate body to act as facilitators, brokers and accreditors of Payments for Ecosystem Services Schemes? Do you consider that there is a need for any new powers to help to further opportunities for PES?
13. What should be the extent of NRW's power to enter into management agreements?
14. Recognising that there are some existing powers in this respect, where are the opportunities for General Binding Rules to be established beyond their existing scope?
15. In relation to Welsh Ministers' amendment powers, do you support: a) the initial proposal to limit it to NRW's functions, subject to conditions as stated); or b) the additional proposal to cover broader environmental legislation, subject to conditions as stated, and why?
16. Please state any specific evidence of areas of potential conflict or barriers between the objectives of integrated natural resource management and the application of existing legislation.
17. Do you have any comments on the impact of these proposals, for example, on your business or organisation?

Chapter 4: Resource Efficiency

Summary

This chapter sets out proposals for new legislative provision on resource efficiency and specifically opportunities to make proactive changes for the regulation of waste segregation and collection and to enable changes to the carrier bag charging regime. The proposals will seek to maximise the opportunities realised by the move towards a greener economy and drive resource efficiency.

The proposal for new legislation on waste segregation and collection will help to drive investment towards the most sustainable waste management solutions for Wales in the long term. The proposal on carrier bags aims to ensure that there is greater flexibility to adapt to any emerging consumer trends or unintended consequences of the single use carrier bags charging regime.

Ref	Proposals
RE1	Separate collection - ensuring a strong collection service
RE2	Separation of waste by the waste producer
RE3	Energy from waste bans for key materials
RE4	Landfill bans for key materials
RE5	Disposal of waste food to sewer
RE6	Enable the Welsh Ministers, by regulations, to provide for minimum charges to be set for other types of carrier bags in addition to the minimum charge currently set on single use carrier bags
RE7	Enable the Welsh Ministers, by regulations, to require sellers to apply the net proceeds of the charge to any good causes, rather than to environmental good causes only

Regulation of Waste segregation and collection

- 4.1 We have set ambitious targets for the recycling (material recovery) of waste in Towards Zero Waste, the overarching waste strategy document for Wales:
- 70 per cent target for recycling by 2025 for waste from households and commercial and industrial businesses; and
 - 90 per cent by 2019/20 for waste from construction and demolition activities.
- 4.2 Meeting these targets will have positive results for the economy, jobs and the environment and will:
- Save costs to businesses through avoided landfill tax;
 - Increase business competitiveness by reducing material costs;
 - Increase employment by creating jobs in collection and reprocessing;
 - Give greater security of supply of resources to our manufacturing sector;
 - Help achieve a circular economy for Wales through the use by Welsh manufacturing businesses of recyclate collected in Wales;
 - Reduce greenhouse gas emissions; and
 - Reduce the ecological footprint of Wales.
- 4.3 Progress has been made with recycling, particularly from households. However, despite this progress, recyclable materials continue to be landfilled. The last commercial waste survey in Wales (in 2007) showed a 38 per cent recycling rate from commercial businesses and the public sector¹⁷. There is no evidence to suggest that these levels have since increased. The last construction and demolition waste survey (in 2005) showed an 80 per cent recycling rate¹⁸. Significant amounts of recyclable materials are still mixed with non-recyclable waste, which reduce their value and prevents their use as a high quality source of input material to industry. In order to maintain a high resource value, it is vital that recyclable materials are kept separate from other wastes at source. It supports market demand in Wales for high quality and high value recyclate and is the most sustainable way to achieve high recycling rates and a circular economy.
- 4.4 The proposals for new legislation in the Environment Bill will work with other policy instruments such as the landfill tax, to help achieve the Wales

¹⁷ Survey of Industrial and Commercial Waste Arisings in Wales – Environment Agency, (2009)

¹⁸ Building the Future – A survey on the arising and management of construction and demolition waste in Wales 2005-06 – Environment Agency

recycling targets and drive investment towards the most sustainable waste management solutions for Wales in the long term. The proposals act at different points in the supply chain – at the producer of the waste, the waste collection company and at the different points of final disposal or recovery (landfill and energy from waste facility).

- 4.5 The proposals will deliver a step change in the management of waste in Wales by aiming to:
- Maximise the quantity of materials available for recycling;
 - Improve the quality of materials available for recycling;
 - Make sure that materials which could have been recycled are not wasted;
 - Protect the environment by ensuring that only residual waste streams are finally disposed of in landfill or incinerated; and
 - Provide greater certainty for investment in recycling, waste collection and treatment infrastructure
- 4.6 A variety of options have been evaluated (legislative and non-legislative) as part of the development of the evidence base¹⁹ for these proposals and concluded that those most likely to deliver the policy outcome are legislative. Modelling²⁰ shows that the best results will be achieved by combining the proposals - the preferred option of the Welsh Government.
- 4.7 The Welsh Government has engaged in pre-consultation discussions with business and other stakeholders in local government about the proposals. It is clearly understood that there should not be additional burdens on businesses at a time when conditions in the UK economy are putting business under severe trading pressure. In terms of practical impact, businesses generally will not be required to do much more than what many businesses are already doing in separating their wastes for collection. This is akin to what is now carried out by many householders in helping Wales to successfully achieve the highest municipal recycling rates in the UK.
- 4.8 As regards costs to business, research by WRAP in the hospitality sector has indicated that additional costs are likely to be low, depending on the extent to which waste management companies pass the economic benefits back up the supply chain in pricing their services. Other research has highlighted the economic opportunities associated with the proposal, which support market demand in Wales for high quality and high value recycle and is also the most sustainable way to achieve high recycling rates.

¹⁹ Eunomia Research & Consulting, (2011) Options for the Segregation and Collection of Welsh I & C Waste, Report to the Welsh Government, (November 2011), Eunomia Research & Consulting (2013) Additional Policy Options Analysis for Welsh Government: Costs and Benefits of Extending WFD requirements, Waste Treatment Restrictions, Requirement to Sort and a Ban on Food the Disposal of Food Waste to Sewer, (May 2013)

²⁰ Eunomia Research and Consulting, (May 2013) Additional Policy Options Analysis for Welsh Government: Costs and Benefits of Extending WFD requirements, Waste Treatment Restrictions, Requirement to Sort and a Ban on the Disposal of Food Waste to Sewer

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- 4.9 The Welsh Government will commission further work to estimate the costs of the proposals on individual businesses. This is being taken forward in parallel with the White Paper and will inform the Regulatory Impact Assessment process.
- 4.10 Views are therefore sought in this consultation on all five proposals, as set out below:

RE1: Separate collection - ensuring a strong collection service

- 4.11 One proposal to increase the separation of recyclable waste materials by producers is to place the duty on the waste collector. Existing legislation²¹ requires that from 1st January 2015 anyone collecting wastes will need to collect paper, glass, metal and plastic by separate collection. This requirement is applied to all wastes – household, commercial and industrial and construction and demolition wastes. It is subject to two tests, that of necessity in order to comply with the relevant requirements of the Waste Framework Directive and whether it is technically, economically and environmentally practicable to do separate collection. If either test is not met then separate collection does not have to take place.
- 4.12 In order to promote high quality recycling, we propose giving the Welsh Ministers the power to extend the requirement for separate collection to include specified materials. Card, wood and food wastes are currently under consideration. This will ensure that a full separate collection service is available to those that produce waste for the collection of their separately presented waste streams and will improve collection services for other waste producers.
- 4.13 It is proposed that this duty would be regulated by NRW.
- 4.14 Guidance for local authorities under the Regulations²² on what is technically, economically and environmentally practicable to collect separately is currently being developed jointly by Defra and the Welsh Government.
- 4.15 In order to allow businesses to prepare for the changes, we propose that the duty would not come into place before the 1st January 2017.

RE2: Separation of waste by the waste producer

- 4.16 An option to increase the separation of recyclable waste is to place a duty on all waste producers other than householders to present their recyclable waste separately for collection – for example, all shops, offices, factories, restaurants, construction/building sites, schools and hospitals would need to present their recyclable wastes separately. Modelling carried out to support the development of these options indicates that this proposal is likely to produce the highest levels of recycling and economic benefits.

²¹ The Waste (England and Wales) Regulations 2011 (as amended)

²² The Waste (England and Wales) Regulations 2011 (as amended)

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- 4.17 It is proposed that the Welsh Ministers should be given the power to place this duty on waste producers.
- 4.18 The materials that we are currently considering are paper, card, glass, plastic, metal, food and wood. As minimum separation criteria, waste could be separated by the business waste producer into separate streams of metal and plastic, glass, co-mingled paper/card, food waste, wood and a residual stream. Many businesses already separate out glass and paper/card from the residual stream. Clean, uncontaminated recyclable materials command higher prices in the recycling markets and businesses that separate their wastes may find that they can reduce their costs of waste collection and disposal. Partly co-mingled wastes will need to be separated at the kerbside or at a Materials Recovery Facility (MRF) provided that this separation complies with the requirements of the Waste (England and Wales) Regulations 2011.
- 4.19 It is proposed that this duty would be regulated by NRW.
- 4.20 Modelling²³ carried out for these proposals has predicted that this part of the proposals gives the highest levels of benefit, both in terms of high level benefits to the economy (£52 million over a ten year period) and to the environment (2.4 million tonnes CO₂ equivalent over a ten year period). The modelling carried out so far does not predict the costs to individual businesses. However, further work has been commissioned to estimate the likely cost of segregation waste materials to businesses, with an emphasis on small and medium size enterprises (SMEs). This work is scheduled to report in early 2014.

RE3: Energy from waste bans for key materials

- 4.21 It is proposed to give the Welsh Ministers the power to ban specified waste materials from energy from waste (EfW) facilities. The purpose of the ban would be to:
- Ensure that valuable recyclable materials/resources are not burnt; and
 - Support the upstream duties to segregate and separately collect materials – residual waste containing specified materials will not be accepted at EfW facilities.
- 4.22 The materials that are under consideration to be banned from energy from waste facilities are: uncontaminated paper and card, untreated wood, glass, metal, plastic and food waste. The duty to prevent banned materials being incinerated would fall on the operators of energy from waste facilities

²³ Eunomia Research and Consulting, (Sept 2013) Additional Policy Options Analysis for Welsh Government: Costs and Benefits of Extending WFD requirements, Waste Treatment Restrictions, Requirement to Sort and a Ban on the Disposal of Food Waste to Sewer – Aggregated Outputs for Welsh Government

and those sending wastes to such facilities. The duty would not apply to anaerobic digestion facilities. This ban would apply to materials from all sources: households, commercial and industrial premises and construction and demolition businesses.

- 4.23 Guidance would need to be provided on the acceptable levels of contamination in residual waste to enable EfW operators and waste collectors to assess the acceptability of waste at EfW sites and to assist the regulator.
- 4.24 It is proposed that this duty would be regulated by Natural Resources Wales, and that the ban would not take effect before January 2017.

RE4: Landfill bans for key materials

- 4.25 It is proposed to ban specified waste materials from landfill. The purpose of the ban would be to:
- Ensure that valuable recyclable materials/resources are not lost to landfill;
 - Protect the environment from the climate change impacts of land-filling biodegradable materials; and
 - Support the upstream duties to segregate and separately collect materials – only residual waste with acceptable levels of contamination would be accepted at landfill sites.
- 4.26 It is proposed that the duty to prevent banned materials entering landfill would apply to landfill operators and those sending wastes to landfill. The materials that we are considering banning from landfill are: paper, card, glass, plastic, metal, food and wood waste and the ban would apply to all waste streams (household, industrial and commercial and construction and demolition wastes).
- 4.27 The Welsh Ministers already have the power to ban recyclable or recoverable material from landfill under the Waste (Wales) Measure 2010. It is proposed that this power is consolidated within the Environment Bill for simplicity.
- 4.28 Guidance would need to be provided on the acceptable levels of contamination in residual waste to enable landfill operators and waste collectors assess the acceptability of waste at landfill sites and to assist the regulator.
- 4.29 It is proposed that this duty would be regulated by Natural Resources Wales, and that that the ban would not take effect before January 2017.

RE5: Disposal of waste food to sewer

- 4.30 It is already an offence under the Water Industry Act to damage or interfere with the flow of sewers but there is a case for strengthening this with respect to waste food.
- 4.31 The purpose of tackling this issue is to:
- reinforce above options to increase the recycling and recovery of waste materials;
 - to create economic development opportunities and jobs by sending more food waste to beneficial treatment and use rather than disposal;
 - retain the resource value of food waste for treatment via anaerobic digestion which is a vital source of renewable energy and high quality fertiliser;
 - reduce the risk of blockages, sewer flooding, environmental pollution, odours and rodent infestations;
 - reduce the cost and inconvenience of repairing damage to sewers;
 - reduce additional water use in disposing of food waste to sewer; and
 - reduce the risk of the polluter pays principle being flouted.
- 4.32 Water companies advise that the disposal of food waste whether via macerators or directly into the sewer network increases the risk of blockages, sewer flooding, environmental pollution, odours and rodent infestations. Water UK advise that the loss of flow capacity and associated risk of flooding caused by the build-up of fat, oil, grease and other debris is already a major concern and something that the sewer network was never designed to deal with. There is a need to clarify the powers in the Water Industry Act 1991 with regard to putting any matter into a public sewer which would damage the sewer or interfere with the free flow of its contents specifically in respect of food waste.
- 4.33 In addition, without such a prohibition there is a risk that by banning food waste to landfill and energy from waste that food will be disposed of to sewer with the loss of valuable material and to the detriment of the sewer network. It is proposed that any provision if enacted would apply to food waste from business premises.
- 4.34 It is estimated that around 50,000 tonnes of food waste is discharged from domestic premises to sewer each year in Wales²⁴. Householders should be encouraged to use the food waste collection services provided by local

²⁴ WRAP (2009) "Down the Drain" UK figure adjusted for Wales

authorities to their homes. This would also help householders avoid the unnecessary cost of installation and maintenance of kitchen food waste disposal systems. The proposal will not apply to food waste from households.

- 4.35 There are already regulatory arrangements in place for commercial and industrial food wastes and for commercial, industrial and public sector premises. To support the implementation of the Welsh Government's commitments under *Towards Zero Waste* it is recognised that there is a need to further strengthen these arrangements in respect of any prohibition of disposal of food wastes to sewer. Options are for this duty to be regulated by NRW, local authorities or the sewerage undertaker.
- 4.36 Modelling carried out for these proposals²⁵ has predicted that preventing the disposal of food waste to sewer from domestic and commercial (including public sector) premises will result in benefits of £1.5 million and £7.5 million respectively over a ten year period to the Welsh economy. These results are principally driven by the additional financial costs associated with the use of food waste disposal units in comparison with the management of food waste through a conventional waste collection and management route.
- 4.37 For the reasons outlined above, the Welsh Government is consulting on proposals for inclusion in the Environment Bill to prohibit the disposal of food waste to sewer and for an appropriate enforcement regime for any provision, but it is proposed that any prohibition would not take effect before January 2017, and if enacted would apply to food waste from business premises.

Overview of potential impact of proposal

- 4.38 Increasing recycling and recovery in Wales will increase employment and save businesses money through:
- **Increasing Employment** - it is estimated that in Wales there are around 7,850 people employed in the waste management industry²⁶. Research²⁷ shows that implementing a 70 per cent recycling rate for all wastes by 2025 may potentially create new jobs in Wales in the order of 3,600 new jobs across municipal, commercial and industrial (including construction and demolition) sectors; and

²⁵ Eunomia Research & Consulting, (2011) Options for the Segregation and Collection of Welsh I & C Waste, Report to the Welsh Government, (November 2011), Eunomia Research & Consulting (2013) Additional Policy Options Analysis for Welsh Government: Costs and Benefits of Extending WFD requirements, Waste Treatment Restrictions, Requirement to Sort and a Ban on Food the Disposal of Food Waste to Sewer, (May 2013)

²⁶ Sector Skills Assessment, (2010) – Wales, Energy & Utility Skills.

²⁷ More Jobs Less Waste' Friends of the Earth Report, September (2010)

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- **Cost Savings to businesses** - in a study²⁸ of landfilled mixed commercial and industrial waste commissioned by the former Environment Agency Wales, it was estimated that Welsh businesses threw away waste worth £30 million pounds in 2005 - around half a million tonnes of potentially recyclable material went to landfill. If this mixed waste had been separated at source, up to 77 per cent could have been reused, recycled or composted.
- 4.39 Modelling work commissioned by WRAP²⁹ predicts that increased recycling associated with investments in collection and treatment infrastructure will lead to a reduction in overall costs for businesses in Wales compared with continuing with current systems. Under the scenario where the 70 per cent recycling targets in *Towards Zero Waste* are met, over £50 million per annum of savings are made within the standard commercial and industrial waste services by 2025 compared to the costs in 2010, increasing to over £60 million per annum by 2050.
- 4.40 WRAP has estimated that the net savings for Wales of a move to a circular economy (where Welsh manufacturing businesses use recyclate collected in Wales) at between £0.9 billion and £1.7 billion per year, based on estimates from the Ellen MacArthur Foundation, adapted for Wales³⁰. The broader Welsh economy is likely to benefit from reduced input price volatility, lower supply chain risks, potential employment benefits and reduced externalities.
- 4.41 Modelling³¹ for the above proposals has estimated a whole system benefit of £66 million to Wales, an additional 2.8 million tonnes of recycled materials and a CO₂ equivalent abatement of 2.7 million tonnes over a ten year period.

²⁸ Determination of the Biodegradability of Mixed Industrial and Commercial Waste Landfilled in Wales. Environment Agency Wales (2007)

²⁹ Economic Assessment of the Welsh Government's Collections, Infrastructure and Markets Sector Plan. WRAP (2011).

³⁰ Based on EU estimates from Ellen MacArthur Foundation, (2011): *Towards the circular economy – economic and business rationale for an accelerated transition*, adapted for Wales by WRAP

³¹ Eunomia Research and Consulting, (Sept 2013) *Additional Policy Options Analysis for Welsh Government: Costs and Benefits of Extending WFD requirements, Waste Treatment Restrictions, Requirement to Sort and a Ban on the Disposal of Food Waste to Sewer – Aggregated Outputs for Welsh Government*

Consultation questions

18. Do you agree with the proposals in chapter 4 and approach of combining the 5 measures together, in relation to regulation of waste segregation? Are there any other materials or waste streams which should be included in the requirements to sort and separately collect? If yes, what are they, and why should they be chosen?
19. Do you agree that the level of segregation asked of individuals/businesses is acceptable? If no, please state why and an alternative.
20. Are there any particular types or sizes of businesses where it would not be technically, environmentally or economically practicable to keep the 7 waste streams separate at source? If yes, please identify them and explain why.
21. Do you agree with the materials that we propose to ban from landfill or energy from waste facilities? Are there any other materials which should be banned from landfill or energy from waste facilities? If yes, what are they, and why?
22. Do you agree that developing guidance for acceptable levels of contamination in residual waste for landfill/ incinerator operators and the regulator is a workable approach? If no, what other approach could we adopt?
23. Do you agree that there should be a prohibition on the disposal of food waste to sewer? If yes, should this apply to: i) households, ii) businesses and public sector or iii) both?
24. Do you have any comments about how such a prohibition should be enforced with i) businesses and public sector and ii) households?
25. Do you agree that lead in times for the proposals are reasonable? If no, what alternative lead in time would you suggest?
26. Do you agree that NRW are the best placed organisation to regulate the duty to source segregated wastes? If no, please give the reason and propose an alternative regulatory body.
27. In your opinion, who is the most appropriate body to regulate the bans on disposal of food waste to sewer for businesses and the public sector: i) NRW ii) Local Authorities iii) sewerage undertaker or iv) other. If 'Other' please propose an alternative regulatory body and state reasons.
28. Do you have any comments on the impact of these proposals (for example, impacts on your organisation)?

Carrier Bags

- 4.42 The single use carrier bags charging regime has been very successful in significantly reducing demand for these types of bags in Wales with more shoppers reusing their bags whenever they go shopping. The proposals set out in this White Paper aim to refine and build on this initial success.
- 4.43 An extension is sought to the Welsh Ministers' enabling powers under the Climate Change Act 2008 so that they can have greater flexibility to adapt to any emerging consumer trends or unintended consequences of the single use carrier bags charging regime. This enhanced flexibility will enable any future legislative interventions to be developed in a more integrated way, as evidence of need emerges. The proposed provisions are to:
- (i) enable the Welsh Ministers, by regulations, to provide for minimum charges to be set for other types of carrier bags in addition to the minimum charge currently set on single use carrier bags. (This would mean that minimum charges could be set for reusable plastic bags if evidence shows that such charges are necessary); and
 - (ii) enable the Welsh Ministers, by regulations, to require sellers to apply the net proceeds of the charge to any good causes rather than to environmental good causes only. (The proposed change would give the Welsh Ministers flexibility so that if they were to exercise such a power, they would not cut across those sellers who currently give the net proceeds of the charge to non-environmental good causes).

RE6: To enable the Welsh Ministers, by regulations, to provide for minimum charges to be set for other types of carrier bags, in addition to the minimum charge currently set on single use carrier bags

Decrease in the demand for single use carrier bags

- 4.44 The Single Use Carrier Bags Charge (Wales) Regulations 2010 were made under Sections 77 and 90 of, and Schedule 6 to, the Climate Change Act 2008.
- 4.45 Prior to the implementation of the single use carrier bag charge it was estimated that around 445 million single use carrier bags were being consumed annually in Wales. On 1st October 2011 the Single Use Carrier Bags Charge (Wales) Regulations 2010 introduced a 5 pence minimum charge for the supply of new single use carrier bags in Wales. The aims of the charge were to reduce demand and to encourage shoppers to reuse their bags in order to reduce the cost on the environment through their production and their improper disposal.
- 4.46 Data provided to the Welsh Government by a sample of retailers six months after the introduction of the charge, showed significant reductions in demand for single use carrier bags across a range of retail sectors, with

reductions of over 90 per cent reported by some businesses. Furthermore Waste Resources Action Programme (WRAP) data indicated that the uptake of single use bags in the supermarket sector has reduced by 81 per cent in Wales between 2010 and 2012.

Increase in demand for bags for life

- 4.47 WRAP data has shown an increase (around 120-130 per cent) in the sale of all bags for life by supermarkets in Wales between 2010 and 2012. In terms of weight, the increase in bags for life purchased corresponds to approximately 30 per cent of the reduction in weight of thin-gauge (single use) bags³².
- 4.48 Independent research commissioned by the Welsh Government with Zero Waste Scotland³³ has shown that, although a significant proportion of Welsh shoppers have been observed to be reusing bags, some retailers have been seen to be promoting reusable plastic bags that retail from between 5 pence and 10 pence.
- 4.49 An increase in demand for bags for life was expected in Wales following the introduction of the charge as consumers got used to reusing their bags and purchased enough bags for life for their shopping needs. However, there is a potential risk that many consumers start treating a low cost reusable plastic bag as a ‘throw-away bag’ and discard it prematurely. This “substitution effect” is likely to have significant adverse environmental impacts if these types of bags are disposed of inappropriately; as such bags are typically made of heavier gauge materials and take longer to degrade.
- 4.50 Bags for life are currently outside the scope of the Single Use Carrier Bags Charge (Wales) Regulations 2010. Furthermore, there is nothing in the enabling powers of Schedule 6 to the Climate Change Act 2008 to enable the Welsh Ministers to amend the Regulations if the sale of bags for life continues to increase. The 2008 Act only allows regulations to be made in relation to single use carrier bags.
- 4.51 The proposal is therefore to broaden the enabling powers within the Climate Change Act 2008 so that minimum charges can be set for other types of bags, should future evidence suggest this is necessary, in addition to the minimum charge that is set on single use bags. Currently the sale of all types of bags for life, including the low cost reusable plastic carrier bags, is still within the increase that the Welsh Government had forecast within the initial Regulatory Impact Assessment³⁴. Further monitoring will

³² WRAP Data: <http://www.wrap.org.uk/content/carrier-bags-reducing-their-environmental-impact>

³³ Behaviour study on the use and re-use of carrier bags (2012): http://wales.gov.uk/topics/environmentcountryside/epq/waste_recycling/substance/carrierbags/behaviour-study-on-use-of-carrier-bags-2012/?lang=en

³⁴ Single Use Carrier Bags Charge Regulatory Impact Assessment (2010): <http://wales.gov.uk/consultations/environmentandcountryside/carrierbagsregs/?status=closed&lang=en>

be needed to establish whether minimum charges need to be set for bags other than single use carrier bags.

- 4.52 Should future monitoring identify that the sale and disposal of bags for life, particularly reusable plastic bags, is continuing to rise, the Welsh Ministers might decide to tackle the increase in demand by using their proposed extended enabling powers to place a minimum charge on the low cost reusable plastic bags.

RE7: Extending the scope of the application of net proceeds

- 4.53 The current Single Use Carrier Bags Charge (Wales) Regulations 2010 do not impose a requirement on retailers to use the net proceeds raised from the sale of single use carrier bags in a particular way. Instead, the Welsh Government has developed a voluntary code with retailers that encourages them to pass on the net proceeds to good causes in Wales.
- 4.54 If the voluntary code is ineffective and not enough of the net proceeds are being passed on to good causes in Wales, there is currently provision for Welsh Ministers to make regulations that require sellers to use the net proceeds in a particular way. Paragraph 4A of Schedule 6 to the Climate Change Act 2008, inserted by the Waste (Wales) Measure 2010, confers powers on Welsh Ministers to make regulations that impose a duty on the sellers of single use carrier bags to apply their net proceeds to good causes. However, these provisions are currently limited to environmental good causes.
- 4.55 From the information provided by the 246 retailers that have signed up to the code on the Welsh Government website and from the retailers' records we have seen, many of the good causes that are currently benefitting from the net proceeds are, for example, cancer charities and children's hospices amongst others. These types of good causes currently fall outside scope of Welsh Ministers' enabling powers, should regulations be imposed under the current provisions.
- 4.56 The Welsh Government's stated policy aim in relation to the charge is that it would prefer that environmental good causes benefit from the charge. However, the Welsh Government does not wish to cut across the existing relationships that retailers have with other good causes that contribute to the economic, social and environmental wellbeing of Wales.
- 4.57 It is therefore proposed to extend the Welsh Ministers' enabling powers under the Climate Change Act 2008 so that they can, by regulations, require retailers to apply the net proceeds of the charge to any type of good cause. This power would only be exercised if further research and evidence proves that it is necessary.
- 4.58 If the proposed extended power were to be exercised, it would only affect those sellers not currently passing the net proceeds of the charge on to good causes. This is unlike the position if the current power were to be exercised; this would effectively require sellers currently donating the net

proceeds to non-environmental charities (for example, cancer charities) to stop the payments and to donate to environmental good causes instead.

- 4.59 At this stage, consideration is also being given to other, non-legislative, options in order to encourage more retailers to sign up to the voluntary code. All of the options considered will be consulted on, as appropriate.

Overview of potential impact of proposal

- 4.60 Obtaining the proposed powers will not result in direct financial implications for the Welsh Government.
- 4.61 The benefit of extending the Welsh Ministers' enabling powers within the Climate Change Act 2008 is that it will provide more flexibility to the regulatory regime and take into account future emerging risks to the environment. These proposals aim to create more resilience to future regulatory approaches.
- 4.62 These proposals relate to the enabling powers of the Welsh Ministers. A full detailed impact assessment will be carried out in advance of any regulations being made in exercise of the proposed enabling powers.

Consultation questions

29. Do you agree with the proposal to extend the enabling powers of the Welsh Ministers so that they may, by regulations, provide for minimum charges to be set for other types of carrier bags in addition to single use carrier bags?
30. Do you agree with the proposal to extend the enabling powers of the Welsh Ministers so that they may, by regulations, require retailers to pass on their net proceeds to any good causes?
31. Do you have any comments on the impact of these proposals (for example, impacts on your organisation)?

Chapter 5: Smarter Management

Summary

In this chapter, the Welsh Government is seeking views on identified potential amendments to existing gaps in legislation which fit within the scope of the Environment Bill – that is, changes that will seek to promote simplification, streamline or clarify the law.

Ref	Proposals
SM1	Marine Licensing Management - Measures to give NRW greater flexibility in the way they charge fees for marine licensing functions delegated to it by the Welsh Ministers under Part 4 of the Marine and Coastal Access Act 2009
SM2	Shellfishery Management - Measures to revise the application process and ongoing operation of Several and Regulating Orders at Part 1 of the Sea Fisheries (Shellfish) Act 1967
SM3	Land Drainage Management - Improvements to management of Agricultural Land Tribunal (ALT) Land Drainage Orders
SM4	Flood and Water Management - Improvements to ongoing operation of flood and water management

Marine Licensing management

SM1: Measures to give NRW greater flexibility in the way they charge fees for marine licensing functions

- 5.1 The Marine and Coastal Access Act 2009 (MCAA) introduced a new licensing regime in 2011 which amalgamated and consolidated a number of existing licensing regimes. Gaps in the fee charging powers of the licensing authority have subsequently become apparent. In relation to Wales, NRW are responsible for marine licensing functions by virtue of the Marine Licensing (Delegation of Functions) (Wales) Order 2013.
- 5.2 The inability of NRW to charge for all the services provided is not sustainable and will ultimately result in a diminished service in Wales if the gaps to fee charging powers are not resolved.
- 5.3 The Welsh Government is therefore seeking views on changes to give greater flexibility in the fee charging powers, based on the principle of full cost recovery (where possible), of the licensing authority in the following areas:

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- Expenses incurred in engagement with pre-application work (excluding administering requests for screening and scoping opinions for which charging powers already exist).
In practice, the marine licensing regime places emphasis on a non-statutory pre-application stage, in order to enable a front-loaded approach to marine licensing. Allowing NRW to charge for the pre-application service would enable more operators the possibility to obtain informal feedback before entering the formal application process;
 - Expenses incurred in varying licence terms;
 - Expenses incurred in the transferring of licences; and
 - The introduction of subsistence charges for marine licensing.

5.4 A 'subsistence charge' would enable NRW to recoup costs incurred in regulating the marine licensing regime, which would include environmental monitoring costs and administration costs. For example, it would cover expenses incurred in assessing and interpreting the results of any monitoring measures required for a project and costs associated with the monitoring of disposal sites for dredged material. Clear parameters of use would be established for these charges.

5.5 The fees to be charged would be determined by, or in accordance with, regulations made by the Welsh Ministers. This would be consistent with the way in which existing marine licensing application fees are set out in regulations made by the Welsh Ministers in the Marine Licensing (Application Fees) (Wales) Regulations 2011.

5.6 A commitment has been made by the Welsh Government to work with NRW on a review of the marine licensing fees in 2013/2014, to enable a revised fees structure to be introduced in 2014/2015. This review will be subject to a full separate consultation exercise and is not part of the proposals for the Environment Bill. However, the review will take account of the proposals in this White Paper to include additional charging powers in the Environment Bill.

Overview of potential impact of proposal

5.7 It is anticipated that the proposed changes to the marine licensing fees regime will impact in the following ways on two key groups:

- **NRW** - Amending the marine licensing charging powers to enable NRW to charge for all the services provided represents value for money for the public sector. There is a potential shortfall between fees received and necessary expenditure for NRW in administering the licensing functions. This highlights the need for a review of marine licensing fees. Revisions to the marine licensing fees structure to enable a full cost recovery approach (where possible) will help to ensure that the service has sufficient resource to deliver effectively and efficiently.

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- **Industry and applicants** - The ability to recover costs is intended to improve the efficiency of service and provide greater certainty for industry of the delivery of a timely and robust licensing process. For example, allowing NRW to charge for varying licence terms would allow more licensees to vary the terms of their licences without having to re-apply through the full application procedure. In addition, the more work that can be done upfront at the pre-application stage to resolve issues is intended to reduce the time spent at application stage. On these grounds, the wider purpose of the changes will promote business growth and competitiveness.
- 5.8 It is anticipated that the changes to the marine licensing charging powers will realise several benefits. By enabling NRW to achieve full cost recovery, where possible, when dealing with all aspects of marine licensing, this will supplement resources to manage the marine licensing regime in Wales effectively. This may potentially have wider impacts to safeguard and enhance the environment.
- 5.9 It is also anticipated that the measures will help to streamline and simplify the application process and reduce the time it takes NRW to process applications. The intended changes to the marine licensing charging powers should, therefore, realise resource savings in making such an application, both in terms of time and expenditure, for both the applicant and NRW.
- 5.10 The approach to establishing a revised fees and charging regime for marine licensing will be managed jointly by Welsh Government and NRW and stakeholders will be fully engaged.

Consultation questions

32. Do you agree with the proposals in relation to Marine Licensing?
33. Do you have any comments on whether the Welsh Government should extend NRW's ability to recover costs associated with marine licensing by charging fees for:
- i. pre-application costs?
 - ii. variation costs?
 - iii. costs of transferring of licences?
 - iv. covering regulatory costs, via subsistence charges?
34. Do you have any comments relating to the impact of the proposals (for example, impacts on your organisation)?

Shellfisheries management

SM2: Measures to revise the application process and ongoing operation of Several and Regulating Orders at Part 1 of the Sea Fisheries (Shellfish) Act 1967

- 5.11 It is recognised that managed shellfisheries can be a valuable method of managing marine resources in a way which supports integrated natural resource management and provides a wide range of benefits to:
- the local economy – providing economic and employment opportunities, often in remote coastal places;
 - the marine environment - as shellfisheries can lead to improvements in water quality and the management measures usually employed in such fisheries will include screening the shellfish for disease, pests and invasive species; and
 - consumers and communities - as shellfish culture produces some of the healthiest and most sustainable seafood available.

Figure (vii) Benefits of Shellfisheries management

One recently granted Several Order proposes to re-introduce Native Oysters - a Biodiversity action plan species - into Welsh waters. The Order enables a commercial enterprise with the potential to create employment opportunities, but its success could also assist and pave the way for further re-introductions, either commercial or purely ecological and help to improve and restore the diversity of our ecosystems around the Welsh coastline.

- 5.12 A Several Order allows the person to whom that fishery is granted (known as “the Grantee”) to establish and/or enhance and cultivate existing and introduced ecosystems for their own economic benefit, often creating employment opportunities as part of that process. A Regulating Order enables the Grantee to regulate existing and introduced ecosystems by a system of issuing permits to others which enable those others to fish for the specified shellfish. Regulating Orders are often, therefore, used as a tool for fisheries management.
- 5.13 Currently in Wales, there are relatively few active Several or Regulating Orders. Whilst applications for such fisheries have increased in the last couple of years, the full potential of such Orders is not currently being realised. This has led to a loss in both opportunities for local employment as well as environmental improvements. If we are to further develop sustainable fisheries in Wales, the legislation which governs the application process and on-going operation of Several and Regulating Orders needs to be amended.

5.14 The Welsh Government is therefore seeking views on the following potential measures to make it easier for applicants to seek Several and Regulating Orders and to ensure that the Orders are sufficiently flexible for the fishermen to operate the fishery as efficiently as possible. We recognise that this flexibility must be balanced with ensuring compliance with the various conservation obligations which apply in relation to the marine environment:

- the ability to make reference (in the Several or Regulating Order) to a document setting out the management practices (in detail) for each particular fishery. That document could be amended from time to time, with the consent of the Welsh Ministers (without the need to go through the entire amendment process in relation to the relevant Order);
- the ability for the Welsh Ministers to require compliance with that management practices document;
- the ability for the Welsh Ministers to undertake a regular review of both the Order and the management practices document; and
- the ability for the Welsh Ministers to amend/determine the Order and the management practices document unilaterally (and at short notice, in the case of emergency or immediate damage etc) if that became necessary as a result of the Welsh Ministers environmental obligations (for example, if it transpired that the fishery could be damaging an EMS).

European Marine Site issues

5.15 The majority of viable shellfish beds in Wales either lie within or near areas which have been designated as either a Special Area of Conservation (“SAC”), pursuant to the Habitats Directive (Council Directive 92/43/EEC), or a Special Protection Area (“SPA”), pursuant to the Wild Birds Directive (Council Directive 79/409/EEC). Marine SACs and SPAs are collectively referred to below as European Marine Sites (“EMS”).

5.16 Where the proposed fishery is within (or sufficiently near to potentially have an effect upon) an EMS in Wales, the Welsh Ministers must assess whether the fishery is likely to have a significant effect (either alone or in combination with other projects in the area) on the site. If the proposed fishery is considered to be likely to have a significant effect on the site, the Welsh Ministers can only proceed with making the proposed Order once they have been able to ascertain that the proposed fishery will not adversely affect the integrity of the relevant site for the entire period of the Order (Article 6(3) of the Habitats Directive).

5.17 One of the main current areas of difficulty with applications for Several and Regulating Shellfishery Orders is that the applicants need considerable flexibility in the management of the fishery in order to ensure they can operate the fishery effectively, taking into account the dynamic marine environment and changing conditions. In addition, given the time it takes to establish a viable fishery (for example, if a new ecosystem is being established, it can take at least two or three years before an initial crop can

be harvested) it is not commercially viable to seek a “short” Order - particularly as the costs to the applicant of making the application, under the current 1967 Act provisions, can be significant.

- 5.18 The Welsh Ministers, therefore, need to consider both how best to achieve the necessary level of certainty that there will be no adverse effects on any EMS (on the basis of the proposed fishery management measures) over the entire period of the Order, (which can be a considerable number of years) against the needs of the fishermen to have the flexibility needed to operate the fishery in a non damaging but effective way.
- 5.19 The key area for change to the existing Several and Regulated Shellfishery regime (primarily to address the issues which arise where the proposed fisheries are within or near a EMS) relates to the current use of Management Plans as part of the application process.

Management Plans

- 5.20 If a Several or Regulating Order needs to be amended or revoked, section 1(6) of the 1967 Act currently requires (unless certain circumstances apply) that the full application process set out in the 1967 Act must be followed. That will include publication of the proposed revocation/amendment Order, a period within which objections can be made and then, if relevant objections are made, a public inquiry may also be needed. It follows that an amendment or revocation of a Several or Regulating Order, once made, cannot be undertaken at short notice, which might be needed if, for example, it became apparent that the fishery could become damaging to a marine SAC.
- 5.21 In an attempt to balance the Welsh Ministers’ need to have certainty about the proposed management practices, against the need of the fishermen to have flexibility, the practice of adopting a separate but parallel document, known as the “Management Plan”, has evolved.
- 5.22 The Management Plan details how the fishery will be managed in sufficient detail for the Welsh Ministers to be able to assess how the fishery will operate and whether it could have an effect on any EMS. If that detail was to be included on the face of the Order, any changes to the proposed management practices would require an amendment to that Order.
- 5.23 Whilst the use of a Management Plan affords the flexibility that the fishermen need in order to efficiently manage these fisheries, the current solution creates an additional layer of complexity. The current provisions of the 1967 Act make no reference to a Management Plan document. The Grantees are required to comply with the restrictions set out in the Order, yet the Order cannot make reference to the Management Plan (without any changes to the Management Plan requiring an amendment to the Order). The current legislation, creates a situation where the fishermen do not have the flexibility they require in order to operate the fishery effectively and the Welsh Ministers do not have the ability to require that the fishery is operated in the non damaging way

5.24 Changes are, therefore, needed to the 1967 Act (as the legislation which governs the application process and on-going operation of Several and Regulating Orders). Most of the issues arise in relation to shellfisheries which are within or sufficiently near to EMS in Wales. Approximately 70 per cent of the territorial seas around the Welsh coast have been designated as EMS and most of the viable shellfisheries in Wales are within or adjacent to designated EMS.

Enforcement

5.25 The 1967 Act itself does not set out any express or specific powers of enforcement. Given the Welsh Minister's environmental and conservation obligations, we need to ensure that the Grantee is adhering to the terms of the Order, the agreed management practices and that the operation of the fishery is not raising the potential for any damage to any protected sites, features or species in the vicinity of the fishery. This sort of "spot check" inspection is something that we commonly undertake in connection with other agricultural areas (for example, spot checks on farms are undertaken to ensure compliance with European rules and to ensure the welfare of animals etc).

5.26 A suite of fisheries enforcement powers were provided, for certain purposes, by Part 8 of the Marine and Coastal Access Act 2009 (MaCAA 2009). Detailed consideration of the powers available under Part 8 of MaCAA 2009 is currently being undertaken in order to ensure that they provide the comprehensive powers needed by the Welsh Government in connection with the purposes described above. If, following this exercise, those powers are considered to be lacking, consideration may be given to adding bespoke enforcement provision in the Environment Bill.

Overview of potential impact of proposal

5.27 The shellfish industry is an important contributor to the UK economy and is worth over £250 million annually³⁵. The UK market in shellfish (and related products) is growing at a faster rate than other foods, accounting for almost six per cent of food expenditure in recent times. In 2005, shellfish cultivation alone in Wales was valued at £12 million³⁶. Shellfish farming, particularly of mussels and oysters, accounts for a large part of the shellfish industry in Wales. The Menai Strait area (which is a European Marine Site) is responsible for between 50–75 per cent of the total United Kingdom production of 'farmed' mussels with some 6-11,000 tonnes annually being produced by 4 operating companies. During 2011-2012 they collectively made over £5 million, providing a significant contribution to the Welsh economy and jobs in the local community.

³⁵ Defra, Shellfisheries: Several Orders and Regulating Orders guidance. Accessed 4 September 2013: <https://www.gov.uk/shellfisheries-several-orders-and-regulating-orders>

³⁶ Wales Fisheries Strategy, (2008), Welsh Assembly Government.

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- 5.28 The proposed changes to the regime established by Part 1 of the Sea Fisheries (Shellfish) Act 1967 would enable the Welsh Ministers to comply with their environmental obligations whilst affording the fishermen the flexibility they need to efficiently manage the fishery. This will make such Orders more attractive (as, in appropriate circumstances, they could be granted for longer periods) and thereby increase economic opportunities for shellfishery businesses in Wales. It would also help to create economic and employment opportunities for local communities, SMEs and sole traders.
- 5.29 By monitoring the quantity of future applications, the length of time it takes and the types of issues encountered in processing an application for a Several or Regulating Order through the new system we should be able to gauge the impact of the proposed changes. In addition, we should be able to measure the level of satisfaction within the industry through correspondence with the various operators of Several and Regulating Shellfishery Orders in Wales. The environmental analysis stages will not be significantly changed as a result of these proposals but the new provisions should enable an Order to be made for a duration that is appropriate to the Industry whilst ensuring that the environmental impacts are protected.
- 5.30 Under the current regime, applications which relate to proposed shellfisheries that are not within an EMS regularly take at least 16 months before an Order is granted (if approved). It is difficult to provide accurate estimates on applications for proposed shellfisheries within or adjacent to EMS due to the variable factors that need to be taken into consideration regarding their assessment. However, as an approximate guide, current timings are around at least 2 years and in some cases considerably longer to grant such Orders.
- 5.31 On enacting the proposed changes, conservative estimates indicate that:
- An application for an Order not within or adjacent to an EMS should take a minimum of approximately 9 months to be issued (if approved);
 - An application for an Order adjacent to an EMS should take a minimum of approximately 9-12 months to be issued (if approved and depending on the type of EMS and proposed fishery); and
 - An application for an Order within an EMS will have highly variable timings for issue (if approved). It will very much depend upon the nature of the shellfishery being proposed and the conservation objectives of the EMS in question. It is thought that the majority of applications should take a minimum time of around 14-18 months (if approved).

Note: These timings do not include the pre-application phase, where the applicants are encouraged to discuss the proposed fishery and its management with the Natural Resources Body for Wales. Applicants are also encouraged to engage with Crown Estates Commissioners where relevant.

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- The ability to adjust the management practices (together with the ability of the Welsh Ministers to adjust/determine the Order as necessary if environmental damage is possible) will make it possible for the Welsh Government to grant Orders for longer periods of time than is currently possible. The document detailing the practices will need to be revised every few years, depending upon the site of the fishery (for example, if the fishery is within an EMS, the management plan document is likely to need adjusting more regularly than sites outside of EMS) and the degree of confidence in the management practices being proposed.

5.32 It is acknowledged that some time and expense will still be involved in making changes to the management practices document; however, it is considered that the benefits will outweigh any additional work required.

5.33 In terms of the amount of time taken to process an application for a Several or Regulating Order under the new regime, it is estimated that it should take around two thirds of the total time that is currently spent dealing with such applications, therefore, making significant resource and time savings.

Consultation questions

35. Do you agree with the proposal in relation to Shellfishery Orders?
Please provide comments
36. Are there any other changes to the Several and Regulating Order regime that you think should be considered (i.e. can you think of any other ways that current practices could be improved)?
37. Do you have any comments on the impact of this proposal (for example, impacts on your business)?

Land Drainage Management

SM3: Improvements to management of Agricultural Land Tribunal (ALT) Land Drainage Orders

- 5.34 The Welsh Government consider that there is an existing gap in legislation identified in the powers of the Welsh Ministers under Section 29 of the Land Drainage Act 1991. Section 28 sets out that a land owner or occupier may apply to an Agricultural Land Tribunal (ALT) for an Order to require a neighbouring landowner to improve their drainage so as to remove the offending excess water flow from their land. Where a respondent declines to comply with the requirements of an Order made by the ALT the Welsh Government may be requested by the applicant in a case to take enforcement action under the terms of Section 29(2) of the Land Drainage Act 1991.
- 5.35 Powers of entry exist so that under Section 29(2), Welsh Government agents may enter the land to carry out works which ought to have been carried out under the Order. However, whilst the agent has a power to enter the land to carry out the works, there is no power to enter the land to inspect whether the works have been undertaken. They are therefore limited in the way they may investigate alleged failures to comply with the terms of an ALT Order. If Welsh Ministers request an expert agents' report on alleged non compliance with an ALT Order and access to land is refused, they have no powers to authorise an appointed expert agent to enter land and report on alleged failures to comply with the terms of an ALT Order. This limitation is undermining the governance of an ALT.
- 5.36 Views are sought on the proposed amendment to clarify the law and to create a right of entry to land to enable Welsh Government agents to investigate compliance with an ALT Order in cases where access is refused by a party to that Order. This will enable the Welsh Government to take further pro-active positive action in relation to ALT cases.

Overview of potential impact of proposal

- 5.37 The proposed changes to the Land Drainage Act 1991 may reduce the time it takes the Welsh Government to process an ALT Order in some specific instances where access has been refused for Welsh Government agents to investigate compliance with an ALT Order. The intended changes may, therefore, realise small resource savings in making such an application, both in terms of time and money, on both the applicant and the Welsh Government.
- 5.38 The changes are also likely to lead to more successful resolution of ALT Orders. This will ultimately benefit the regulatory framework for water drainage management, specifically in relation to drainage systems and lead to environmental benefits arising from the successful free flow of drainage systems. There are further potential indirect financial benefits which may arise from applicants having unfettered farming or other usage

of their land which otherwise would be subject to water saturation or flooding.

- 5.39 The drainage body to which the action would be delegated will recover any costs from the persons who refuse entry. This would include legal costs arising from serving notice of entry. There will be no costs falling to any public bodies.

Flood and Water Management

SM4: Improvements to on-going operation of flood and water management

- 5.40 An amendment is proposed to Section 47 of the Flood and Water Management Act (FWMA) (2010) to confer an equivalent power on the Welsh Ministers as the Secretary of State, to amend a Water Act, by order, if they are satisfied that:
- It will make it easier to consolidate one or more Water Acts;
 - The substantive effect of the change (if any) is proportionate to the advantage to be gained by consolidating the legislation. The power to amend a provision may only be exercised if the amendment relates to a matter in Schedule 7 to the Government of Wales Act 2006, that is it falls within the legislative competence of the National Assembly; and
 - It does not remove any protection.
- 5.41 The proposal is that the Welsh Ministers will have the power by order to amend the Water Acts to eliminate differences between two or more provisions (whether or not they are in the same Act), simplify procedures and/or to correct errors or resolve obscurity.
- 5.42 The Water Acts are listed as being:
- (a) the FWMA 2010;
 - (b) the Public Health Act 1936 (so far as relevant to water);
 - (c) the Coast Protection Act 1949;
 - (d) the Reservoirs Act 1975;
 - (e) the Highways Act 1980 (so far as relevant to water);
 - (d) the Land Drainage Act 1991;
 - (e) the Water Resources Act 1991; and
 - (f) the Environment Act 1995.
- 5.43 An order made under section 47 may in particular (but is not limited to) standardise provisions relating to appeals, compulsory purchase, rights of entry and compensation.
- 5.44 The Secretary of State cannot currently make an order without the Welsh Minister's consent but, as the National Assembly has now acquired further powers to pass Acts of the Assembly, the Assembly could now pass a Bill to consolidate legislation relating to water. It is therefore appropriate

that the Welsh Ministers should have the powers equivalent to those of the Secretary of State.

- 5.45 Having this power will mean that if there is a consolidation Bill, Welsh Ministers will be able to prepare for it by addressing any issues relating to differences between two or more provisions, complicated procedures and to correct any errors or resolve any inconsistencies promptly.
- 5.46 This proposal is linked to the proposal set out at NRM11 which outlines plans to give Welsh Ministers powers to make amendments that eliminate differences between the current legislation and the purpose of sustainable management of natural resources. The power proposed in NRM11 includes opportunities for removing or merging aspects of the legislation as a pre-consolidation exercise. This proposal in relation to the Water Acts may be aligned to the wider proposal set out under option 1 of NRM11. Alternatively, option 2 of NRM11 set out the possibility of extending the scope for amending environmental legislation more generally. If this option is supported, then the Water Acts may be merged into this wider proposal.

Overview of potential impact of proposal

- 5.47 This proposal is to confer the power on the Welsh Ministers and will not in itself result in costs or specific impact falling to public bodies.
- 5.48 Given that it is not currently known when and how Welsh Ministers might use these powers it is not possible to produce a detailed assessment of impacts at this stage. However, the proposal will include a requirement that an Order cannot be made unless a draft, accompanied by an explanation of the effect of any changes made and how they will make consolidation easier, has been laid before the National Assembly for Wales. This will ensure that any impacts associated with the changes being proposed in a subsequent Order are considered and addressed through a separate regulatory impact assessment.

Consultation questions

38. Do you agree with the proposal in relation to changes to Section 29 of the Land Drainage Act (1991)?
39. Do you agree with the proposal in relation to changes to Section 47 of the Flood and Water Management Act (2010)?
40. Do you have any comments on the impact of either of these proposals?

Chapter 6: Implementation

Implementation of proposed legislation

6.1 Throughout this consultation document we have gathered initial evidence of the impacts that are anticipated for each of the proposals outlined. We are gathering further detailed information on costs and benefits and would welcome, and will take into account, any further evidence submitted during the consultation on this White Paper. This evidence will be developed into a full Regulatory Impact Assessment (RIA) as we move towards introduction of the Environment Bill.

6.2 The Regulatory Impact Assessment will include consideration of post-implementation review, which will be facilitated through ongoing monitoring and evaluation of activities and outcomes.

6.3 It is currently anticipated that, based on the proposals set out in this White Paper, the Environment Bill will have a positive impact on a number of key Welsh Government commitments:

- **Sustainable Development**

6.4 Under the Government of Wales Act (2006) we have a legal duty to consider sustainable development.

6.5 It follows then that the principles of sustainable development should underpin the core proposals set out in this White Paper which are to enable an integrated approach to natural resource management in Wales. This relationship is set out in detail in chapter 2 which explores the legal definition of natural resource management and embeds the principles of sustainable development in this definition. The interpretation and application of this definition of natural resource management, and therefore of sustainable development, fundamentally underpins and is at the centre of the Environment Bill.

6.6 There are also close linkages between the Environment Bill and the Future Generations Bill. The Future Generations Bill aims to ensure that decision making today takes into consideration long term outcomes and recognises the connections between social justice, economic prosperity and the use of natural resources, for current and future generations. The proposals in this White Paper for an area-based approach will help to develop the evidence base to inform this decision making and help inform the way we prioritise the management of natural resources in Wales to meet social, environmental and economic needs now and in the future.

- **Equality and Human Rights**

6.7 An initial Equality Impact Assessment screening exercise has been completed to determine the level of relevance of the proposals in this White Paper have for equalities and human rights, which includes an assessment of the impact on people of different ages, disabilities and races. Further exploration is intended through consultation and engagement events with a broad range of key stakeholders to help develop a strong and meaningful evidence base from which to assess the differential impacts of proposals on people with protected characteristics. Further evidence will be commissioned if required and a full Equality Impact Assessment will be published alongside the introduction of the Environment Bill.

- **Due regard to the United Nations Convention on the Rights of the Child (UNCRC)**

6.8 The proposals set out in this White Paper will support the principles of the Rights of Children and Young Persons (Wales) Measure (2011). An initial screening assessment has been completed in which each of the Articles has been identified as breached, respected or given greater effect by the proposals. It also indicates any additional action which is needed. This assessment should be read alongside the initial Equalities Impact Assessment screening exercise.

Consultation questions

41. We want to ensure that the Environment Bill is reflective of the needs of Welsh Citizens. As such, we would appreciate any views in relation to any of the proposals in this White Paper that may have an impact on a) Human rights b) Welsh language or c) the protected characteristics as prescribed within the Equality Act 2010. These characteristics include gender; age; religion; race; sexual orientation; transgender; marriage or Civil Partnership; Pregnancy and Maternity; and, disability.
42. Do consultees have any other comments or useful information in relation to any of the proposals in this White Paper?

Appendix 1 – Responding to the Consultation

A consultation response form is available separately. For ease of reference, a summary of the consultation questions is provided below.

Chapter 2 – Natural Resource Management

1. Do you agree with the overall package of proposals in relation to natural resource management in chapter 2?
2. Do you agree with the approach to define natural resources, sustainable management of natural resources and integrated natural resource management in Wales?
3. Do you agree that climate resilience and climate change mitigation should be embedded into our proposed approach to integrated natural resource management at both national and local levels?
4. Do you agree that the setting of national outcomes and priority actions for natural resource management should follow the five-year cycle for national outcome setting in the Future Generations Bill?
5. Do you agree that the area-based approach will help provide a clear, prioritised and focussed approach to delivery?
6. Do you agree that the approach is flexible enough to enable significant elements of the plans for natural resource management to be replaced in the future?
7. Do you agree with placing a requirement on other public bodies to co-operate in the area-based approach?
8. Do you agree that NRW should be the lead reporting authority for natural resources?
9. Do you have any comments on the impact of these proposals (for example, impacts on your organisation)?

Chapter 3: Natural Resources Wales – New opportunities to deliver

10. Do you agree with the proposals set out in chapter 3 in relation to new ways of working for NRW?
11. What limitations or safeguards on the use of powers might be necessary to enable NRW to trial innovative approaches to integrated natural resource management?
12. Do you agree that NRW are an appropriate body to act as facilitators, brokers and accreditors of Payments for Ecosystem Services Schemes? Do you consider that there is a need for any new powers to help to further opportunities for PES?
13. What should be the extent of NRW's power to enter into management agreements?

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14. Recognising that there are some existing powers in this respect, where are the opportunities for General Binding Rules to be established beyond their existing scope?
 15. In relation to Welsh Ministers' amendment powers, do you support: a) the initial proposal to limit it to NRW's functions, subject to conditions as stated); or b) the additional proposal to cover broader environmental legislation, subject to conditions as stated?
 16. Please state any specific evidence of areas of potential conflict or barriers between the objectives of integrated natural resource management and the application of existing legislation.
 17. Do you have any comments on the impact of these proposals, for example, on your business or organisation?

Chapter 4: Resource Efficiency

Regulation of Waste Segregation and Collection

18. Do you agree with the proposals in chapter 4 and approach of combining the 5 measures together, in relation to regulation of waste segregation? Are there any other materials or waste streams which should be included in the requirements to sort and separately collect? If yes, what are they, and why should they be chosen?
19. Do you agree that the level of segregation asked of individuals/businesses is acceptable? If no, please state why and an alternative.
20. Are there any particular types or sizes of businesses where it would not be technically, environmentally or economically practicable to keep the 7 waste streams separate at source. If yes, please identify them and explain why.
21. Do you agree with the materials that we propose to ban from landfill or energy from waste facilities? Are there any other materials which should be banned from landfill or energy from waste facilities? If yes, what are they, and why?
22. Do you agree that developing guidance for acceptable levels of contamination in residual waste for landfill/ incinerator operators and the regulator is a workable approach? If no, what other approach could we adopt?
23. Do you agree that there should be a prohibition on the disposal of food waste to sewer. If yes, should this apply to i) households, ii) businesses and public sector or iii) both, and why?
24. Do you have any comments about how such a prohibition should be enforced i) with businesses and public sector and ii) households?
25. Do you agree that the lead in times for the proposals are reasonable? If no, what alternative lead in time would you suggest?

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26. Do you agree that NRW are the best placed organisation to regulate the duty to source segregated wastes? If no, please give the reason and propose an alternative regulatory body.
 27. In your opinion, who is the most appropriate body to regulate the bans on disposal of food waste to sewer for businesses and the public sector: i) NRW ii) local authorities iii) sewerage undertaker or iv) other? on If 'Other' please propose an alternative regulatory body and state reasons.
 28. Do you have any comments on the impact of these proposals (for example, impacts on your organisation)?

Carrier Bags

29. Do you agree with the proposal to extend the enabling powers of the Welsh Ministers so that they may, by regulations, provide for minimum charges to be set for other types of carrier bags in addition to single use carrier bags?
30. Do you agree with the proposal to extend the enabling powers of the Welsh Ministers so that they may, by regulations, require retailers to pass on their net proceeds to any good causes?
31. Do you have any comments on the impact of these proposals (for example, impacts on your organisation)?

Chapter 5: Smarter Management

Marine Licensing Management

32. Do you agree with the proposals in relation to Marine Licensing?
33. Do you have any comments on whether the Welsh Government should extend NRW's ability to recover costs associated with marine licensing by charging fees for:
 - i. pre-application costs?
 - ii. variation costs?
 - iii. costs of transferring of licences?
 - iv. covering regulatory costs, via subsistence charges?
34. Do you have any comments relating to the impact of the proposals (for example, impacts on your organisation)??

Shellfisheries Management

35. Do you agree with the proposal in relation to Shellfishery Orders? Please provide comments
36. Are there any other changes to the Several and Regulating Order regime that you think should be considered (i.e. can you think of any other ways that current practices could be improved)?

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37. Do you have any comments on the impact of this proposal (for example, impacts on your business)?

Land Drainage/Flood and Water Management

38. Do you agree with the proposal in relation to changes to Section 29 of the Land Drainage Act (1991)?
39. Do you agree with the proposal in relation to changes to Section 47 of the Flood and Water Management Act (2010)?
40. Do you have any comments on the impact of either of these proposals?

Chapter 6: Implementation

41. We want to ensure that the Environment Bill is reflective of the needs of Welsh Citizens. As such, we would appreciate any views in relation to any of the proposals in this White Paper that may have an impact on a) Human rights b) Welsh language or c) the protected characteristics as prescribed within the Equality Act 2010. These characteristics include gender; age; religion; race; sexual orientation; transgender; marriage or Civil Partnership; Pregnancy and Maternity; and, disability.
42. Do you have any other comments or useful information in relation to any of the proposals in this White Paper?

Appendix 2 – References

A Living Wales: a new framework for our environment, countryside and seas *Green Paper* (2010), Welsh Government

Behaviour study on the use and re-use of carrier bags (2012), Welsh Government:
http://wales.gov.uk/topics/environmentcountryside/epq/waste_recycling/substance/carrierbags/behaviour-study-on-use-of-carrier-bags-2012/?lang=en

Cambrian Mountains Initiative:
<http://cambrianmountains.co.uk/>

CBD Secretariat of the Convention on Biological Diversity, The Ecosystem Approach (2004), (CBD Guidelines) Montreal.

Economic Assessment of the Welsh Government's Collections, Infrastructure and Markets Sector Plan (2011), *WRAP*

Eunomia Research & Consulting (2011) Options for the Segregation and Collection of Welsh I & C Waste, Report to the Welsh Government, November 2011

Eunomia Research & Consulting (2013) Additional Policy Options Analysis for Welsh Government: Costs and Benefits of Extending WFD requirements, Waste Treatment Restrictions, Requirement to Sort and a Ban on Food the Disposal of Food Waste to Sewer, May 2013

Defra, Shellfisheries: Several Orders and Regulating Orders guidance. Accessed 4 September 2013:
<https://www.gov.uk/shellfisheries-several-orders-and-regulating-orders>

Determination of the Biodegradability of Mixed Industrial and Commercial Waste Landfilled in Wales, (2007), Environment Agency Wales

Making Space for Nature: A review of England's Wildlife Sites and Ecological Network (2010), *Chaired by Professor Sir John Lawton CBE FRS*
<https://www.gov.uk/government/news/making-space-for-nature-a-review-of-englands-wildlife-sites-published-today>

Millennium Ecosystem Assessment, (2005), *Ecosystems and Human Well-being: Synthesis*. Island Press, Washington, DC Copyright 2005 World Resources Institute
<http://www.maweb.org/en/index.aspx>

More Jobs Less Waste (September 2010), *Friends of the Earth Report*:
http://www.foe.co.uk/news/waste_jobs_25198.html

Natural Resources Wales website – ‘Who we are and what we do’
(accessed 05/08/13):
<http://naturalresourceswales.gov.uk/our-work/about-us/who-we-are-what-we-do/?lang=en>

OECD Green Growth Studies: Towards green growth (2011)
<http://www.oecd.org/greengrowth/towardsgreengrowth.htm>

Pumlumon Living Landscapes Project:
<http://www.montwt.co.uk/pumlumon.html>

Realising Nature’s Value: The final report by the Ecosystems Markets Task Force (2013):
<http://www.defra.gov.uk/ecosystem-markets/work/publications-reports/>

Sector Skills Assessment 2010 – Wales, Energy & Utility Skills:
<http://www.euskills.co.uk/home/news/research/>

Single Use Carrier Bags Charge Regulatory Impact Assessment, Welsh Government
www.wales.gov.uk/topics/environmentcountryside/epq/waste_recycling/substance/carrierbags/regulatory-impact-assessment/?lang=en

Sustainability Committee Inquiry into Biodiversity – Environmental Audit: Halting Biodiversity Loss:
http://www.assemblywales.org/bus-home/bus-third-assembly/bus-committees/bus-committees-scrutiny-committees/bus-committees-third-sc-home/inquiries_sd/sc3-bioinq.htm

Sustaining a Living Wales Green Paper (2012), Welsh Government:
<http://wales.gov.uk/consultations/environmentandcountryside/sustainingwales/?lang=en>

The Pitt Review: Learning the lessons of the 2007 floods (2008):
http://webarchive.nationalarchives.gov.uk/20100807034701/http://archive.cabinetoffice.gov.uk/pittreview/thepittreview/final_report.html

The State of Nature in the UK and its Overseas Territories, (2013), RSPB:
<http://www.rspb.org.uk/ourwork/science/stateofnature/index.aspx>

Towards the Circular Economy (2011), Ellen MacArthur Foundation
<http://www.ellenmacarthurfoundation.org/business/reports>

UK National Ecosystem Assessment (2011), The UK National Ecosystem Assessment: Synthesis of the Key Findings. UNEP-WCMC, Cambridge:
<http://uknea.unep-wcmc.org/Resources/tabid/82/Default.aspx>

UK National Ecosystem Assessment (2011), The UK National Ecosystem Assessment Technical Report. UNEP-WCMC, Cambridge:
http://www.unep-wcmc.org/uk-nea-technical-report_772.html

Wales Fisheries Strategy, (2008), Welsh Assembly Government.

Waste (England and Wales) Regulations (2011):

<http://www.legislation.gov.uk/ukxi/2011/988/contents/made>

Welsh Government - Programme for Government 2011-16:

<http://wales.gov.uk/about/programmeforgov/?lang=en>

WRAP Data: <http://www.wrap.org.uk/content/carrier-bags-reducing-their-environmental-impact>

Appendix 3 - Glossary

Area Based Natural Resource Management Approach: The Environment Bill will place a requirement on NRW to develop and implement an area-based approach for natural resource management. This will be a planning and priority setting process that coordinates resource use so that the long term sustainable benefits are optimised for the people, environment and economy of Wales in the present and in the future.

Ecosystem: An ecosystem is made up of living organisms (plants, animals and microorganisms) in conjunction with their non-living environment (air, water, minerals and soil) and all the diverse and complex interactions that take place between them

Ecosystem Approach: An ecosystem approach focuses on the collective management of all resources - maintaining ecological integrity whilst allowing resource extraction/use - rather than managing multiple resources independently. This approach seeks to ensure the co-existence and development of healthy, fully functioning ecosystems and human communities³⁷.

The term ecosystem approach originally comes from the Convention on Biological Diversity (CBD), where it is described as “a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way”.³⁸

Ecosystem Services: The services we get from nature such as clean drinking water, the regulation of air quality, climate and flood risk; opportunities for recreation, tourism and cultural development; and underlying functions such as soil formation and nutrient cycling. Some are essential to life and more readily valued in economic terms, while others such as attractive landscapes are less tangible but non the less life-enhancing. Maintaining and enhancing ecosystem services – and restoring them where they have been lost or degraded – is increasingly recognised as essential for the economy and human wellbeing.

Green growth: A way of fostering economic growth and development, while ensuring that natural assets continue to provide the resources and environmental services on which our well-being relies. In practice this means making the growth process resource efficient, low carbon, cleaner (minimising pollution and environmental impacts) and more resilient (to climate change and natural hazards) without necessarily slowing it.³⁹

Green Infrastructure (GI): is the network of natural and semi-natural areas, features and green spaces in rural and urban, terrestrial, freshwater, coastal and marine areas. It is a broad concept and includes natural features, such as parks, forest reserves, hedgerows, restored and intact wetlands and marine areas, as well as man-made features, such as ecoducts and cycle paths. The aims of GI

³⁷ <http://www.cbd.int/ecosystem>

³⁸ <http://www.cbd.int/ecosystem>

³⁹ OECD: Towards Green Growth

are to promote ecosystem health and resilience, contribute to biodiversity conservation and enhance ecosystem services (Naumann *et al*).⁴⁰

Integrated Natural Resource Management: In this paper we are proposing the following legal definitions of Integrated natural resource management:

“Integrated natural resource management means a planning and priority setting process that coordinates the maintenance, enhancement and use of natural resources – taking into account all ecosystem services - so that the long term benefits are optimised for the people, environment and economy of Wales in the present and in the future.”

It is the process that will need to be followed to enable the sustainable management of natural resources, to deliver even greater long-term benefits to the economy, society *and* environment. It is the principles that area-based natural resource planning will need to follow.

Land Use Planning: Where the paper is referring to the Town & Country Planning system, the term ‘land-use planning’ is used.

Linear and circular economy: This refers to the way in which natural resources are used across the economy (in particular, the raw materials). In a *linear economy*, raw materials are extracted, consumed and disposed of. In a *circular economy*, products are designed for durability, reuse and disassembly. It is estimated that moving towards a circular economy can bring substantial savings to the people and businesses of Wales, adding to profitability and to the creation of wealth and jobs.

Natural capital: Refers to the elements of nature that produce value (directly and indirectly) to people, such as the stock of forests, rivers, land, minerals and oceans”. It includes the living aspects of nature (such as fish stocks) as well as the non-living aspects (such as minerals and energy resources). Natural capital underpins all other types of capital (man-made, human and social) and is the foundation on which our economy, society and prosperity is built. By combining different forms of capital, we are able to enjoy a huge variety of benefits; ranging from the food we eat and water we consume in our homes to outdoor experiences and improved health to name but a few.⁴¹

⁴⁰ Naumann, S., McKenna D., Kaphengst, T. et al. (2011a). Design, implementation and cost elements of Green Infrastructure projects. Final report. Brussels: European Commission.

⁴¹ Natural Capital Committee- 2013

Natural Resources: For the purposes of the Environment Bill White Paper, we are proposing the following legal definitions of Natural Resources:

In relation to Wales, *Natural resources* extends to the following matters relating to the sustainable management of natural resources:

- a) air, water resources and soil;
- b) geologic and landscapes;
- c) biomass and biological resources;
- d) ecosystems

Explanation of components of definition

(a) represents the general environmental media (as included in the European Commission definition);

(b) represents primarily abiotic elements. Minerals would be captured under geologic which is pertaining to, or based on geology. Both geologic and landscapes have been used as they represent different elements and whilst landscapes are physiographical not all physiographical features are landscapes;

(c) represents essentially all organic life forms, plants, animals and other living organisms. By including biomass, this then includes biological material derived from living, or recently living organisms.

(d) ecosystems have been included to reflect the interconnections and interdependencies of individual natural resources. It also can act as a catch-all definition.

Natural Resources Policy: A national Natural Resources Policy setting out the high-level direction of travel for all policy in Wales - including where integrated natural resource management can help to optimise social, economic and environmental benefits for now and the long term. The policy will include targets, measures and priorities for the management of natural resources that complement any outcomes by Government agreed at the national level and in the implementation of responsibilities set out by EU legislation.

Payment for ecosystem services (PES): PES schemes involve payments to the managers of land or other natural resources in exchange for the provision of specified ecosystem services (or actions anticipated to deliver these services) over-and-above what would otherwise be provided in the absence of payment. Payments are made by the beneficiaries of the services in question, for example, individuals, communities, businesses or governments acting on behalf of various parties. Beneficiaries and land or resource managers enter into PES agreements on a voluntary basis and are in no way obligated to do so.⁴²

Planning: In this paper the whenever the term 'planning' is written alone it is used to mean its common English definition: "designing or making a detailed proposal for doing or achieving something"

Planning for natural resources: In this paper, planning for natural resources refer to the elements of plan-making processes that NRW or other are responsible for that fall outside of the Land-Use Planning system. Often these operational

⁴²Payments for Ecosystem Services: A Best Practice Guide DEFRA May 2013

plans, or the evidence supporting them, are key material considerations in the Land-use planning process.

Regulating Order: A Regulating Order enables a person to manage (i.e. in most cases, restrict) fishing activity within the specified shellfishery by issuing permits. In that way the number of fishermen and the methods, areas and times etc of fishing can be controlled. The purpose of most Regulating Shellfishery Orders has been the control of fishing activity in an area by a Grantee, who does not usually undertake any fishing activity themselves. The fees collected in return for these permits are used to develop and improve the fishery and undertake any necessary enforcement activities. Regulating Orders do not, in most cases, create economically valuable businesses for the Grantee (although they might provide valuable assets to the fishermen who hold permits under such Orders). As a result, the Grantees in relation to Regulating Orders are usually public bodies. Historically, regulated fisheries were frequently operated by Sea Fisheries Committee and the two existing Regulating Orders in Wales are now managed by Natural Resources Wales (NRW).

Resilience: When applied to ecosystems - the ability of an ecosystem to withstand, or recover from disturbance and its capacity to survive and adapt so that its biological diversity, natural processes and provision of ecosystem services are maintained. Resilience may exhibit thresholds, which are levels of disturbance beyond which the system cannot recover, or is transformed to an alternative state (which is often undesirable, though not inevitably). Ecosystems are subject to disturbance in the form of many pressures and drivers, which notably include climate change and its knock-on effects. When managing our resources it is important that we think about the ability of ecosystems to resist, absorb, or recover from disturbance.

Resource Management (Integrated Natural Resource Management): It is about enabling a more effective and sustainable use of natural resources to deliver even greater long-term benefits to the economy, society *and* environment. It's thinking proactively about the opportunities Wales' natural resource provide while deepening our understanding how our choices impact the environment. It is a way of looking at our natural resources such as water quality, water storage, flood control, carbon storage, biodiversity and forest management and deciding how benefits for people in terms of jobs, their livelihood and health can be maximised over the long term. The essence of the approach is not to look at one or two aspects in isolation but to look at the big picture and the whole range of its potential benefits – including opportunities to tackle inequalities.

Restorative approaches: The 2010 *Making Space for Nature* report made the case for a refreshed 'restorative approach' to managing the environment. This means taking action to rebuild nature with the aim to create a more resilient natural environment for the benefit of wildlife and ourselves.

See *Resilience* for more information on why restorative approaches are important.

Several Order: A Several Order transfers ownership of the specified shellfish to a Grantee. These fisheries are usually established, cultivated, managed and fished by the Grantee and can be the foundation of an extremely valuable commercial asset. Several Orders can place restrictions on the fishing practices which the Grantee can use in connection with the specified shellfish. They can also restrict other activities in the area in order to prevent damage to the named species of shellfish. Several Orders provide opportunities for management measures that are of benefit to the conservation of biodiversity as well as the fishery concerned, e.g. by regulating bait digging activity which would be equally detrimental to the specified shellfish as to wildlife and habitats.

Single integrated plans: Local service boards consist of the leaders of local authorities, health boards, police, third sector and others. They prepare, implement and oversee the preparation of a single integrated plan (SIP) for each local authority area. The SIP integrates the community strategy, children and young people's plans, community safety strategies and health social care and well-being plans. It is supported by a strategic needs assessment which provides evidence for setting priorities and determining how services should be designed. The intention is to put LSBs and SIPs on a single statutory footing within the Future Generations Bill.

State of Natural Resources Reporting: NRW will be required to report, at least every 5 years, on the state of natural resources in Wales. As well as reporting generally on trends, it should report on the on-going successes and challenges of implementing an integrated natural resource management process, including the legislative barriers to this that, in the opinion of NRW, still exist.

Sustainable Development: Sustainable development means enhancing the economic, social and environmental wellbeing of people and communities, achieving a better quality of life for our own and future generations in ways which: promote social justice and equality of opportunity; and enhance the natural and cultural environment and respect its limits – using only our fair share of the earth's resources and sustaining our cultural legacy.

Sustainable Management (of natural resources): The White Paper proposes a legal definition of the Sustainable Management of natural resources, so as to qualify the application of the term "Natural Resources" and "Integrated Natural Resource Management".

For the purposes of the Environment Bill White Paper, *Sustainable management* means the collective actions required for managing the maintenance, enhancement and use of natural resources in a way, or at a rate, which enables people and communities to provide for their social, economic and environmental well-being, while maintaining the life-support systems of nature and ensuring that the benefit of the use to the present generation does not diminish the potential to meet the needs and aspirations of future generations.

Appendix 4 - Equality Impact Assessment

Part 1 Screening

Policy title and purpose (brief outline):	Environment Bill <i>The purpose of the Environment Bill is to legislate to ensure we can support Natural Resources Wales' work to manage our natural resources in a more joined up and sustainable way. The sustainable use of Wales' natural resources will provide the foundation for delivering long-lasting economic growth, whilst maximising social and environmental well-being</i>
Department:	Natural Resources and Food
Date:	September 2013

1. Please provide a brief description of the policy/decision.
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The *Programme for Government* includes a number of commitments in relation to natural resource management, including the introduction of an Environment Bill for Wales. This White paper sets out our proposals for this Bill. It is clear that our current environmental legislative framework is not fully enabling sustainable economic growth or recognising the crucial interface with social well-being, including tackling poverty.

The overall aim of the Environment Bill is to enable our natural resources to be managed in a way that creates jobs and growth, supports a healthy and prosperous society, and ensures that our environment is protected and enhanced. It is one of the many actions we are undertaking to enable more joined-up and proactive management of our natural resources, also exemplified by the creation of Natural Resources Wales (NRW). The department of Natural Resources and Food is working to join up the design and delivery of policies and services to achieve sustainable economic growth while maximising social and environmental wellbeing.

Building on the creation of Natural Resources Wales (NRW), the Environment Bill will address the current reactive legislative framework and ensure that it complements NRW's statutory purpose – to ensure that our natural resources are sustainably maintained, sustainably enhanced and sustainably used – for which effective integration is vital. The intention is that this Bill will provide a modern statutory framework for the sustainable management of natural resources by legislating for a more joined-up and proactive process to deliver lasting economic, social and environmental benefit. By doing so, it will reinforce how, when making key decisions today,

there is a need to consider how the long term outcomes of this Government will be achieved, and to recognise the connections between tackling poverty, economic prosperity and the use of natural resources for current and future generations.

Sustainable Development

Our approach to natural resource management is underpinned by the Welsh Government's commitment to the principles of sustainable development. The Programme for Government reinforces the importance of sustainable development's place as the central organising principle in defining the best development path for Wales and commits all policies and programmes to ensure that they reflect these principles. The relationship between our approach to natural resource management and sustainable development has been set out in detail in the White Paper, which explores the legal definition of natural resource management and embeds the principles of sustainable development in this definition. The interpretation and application of this definition of natural resource management, and therefore of sustainable development, fundamentally underpins and is at the centre of the Environment Bill.

Sustainable Development places an emphasis on social, economic and environmental wellbeing for people and communities, embodying our values of fairness and social justice. It looks to the longer term in the decisions we make now and in the future.

As we develop the full assessment and the potential issues we will be able to identify how the success of the Bill will be measured. We will use the evidence gathered to produce a full Regulatory Impact Assessment and an accompanying Equalities Action Plan to be published in line with the introduction of the Bill in 2015.

2. We have a legal duty to engage with people with protected characteristics under the Equality Act 2010 (please refer to Annex A of the EIA guidance) identified as being relevant to the policy. What steps have you taken to engage with stakeholders, both internally and externally?

A broad range of responses, including responses from organisations such as the WCVA, have been received on two consultations setting out the policy direction and fresh approach to the planning and management of our natural resources:

A Living Wales: a new framework for our environment, countryside and seas Green Paper (2010)

The creation of Natural Resources Wales (NRW), as the single natural resource management body for Wales, represented the first critical step on a strategic long-term path set by the Welsh Government to deliver this new

and joined-up approach to natural resource management, the foundations of which were set out in the *Sustaining a Living Wales* Green paper.

Sustaining a Living Wales Green Paper (2012)

The 2012 Green paper sought views on the vision to advance proposals which enable better decision making affecting natural resources in Wales. It asked what scope and opportunities there are for streamlining or simplifying how we manage and regulate the environment to deliver improved outcomes for the people of Wales. It explored how we might develop natural resource management planning at local and national levels to provide a new strategic framework for decision-making affecting Wales' natural resources.

A number of engagement events are planned following the launch of the White paper. In particular, the Natural Resource Management Programme will be hosting a conference in November to which relevant organisations with an Equalities focus have been invited. Other regional events will also be held across Wales. Views will be sought through these events and through consultation responses on the potential impact of the proposals on groups with protected characteristics.

Within the Welsh Government, sessions have been held on equalities issues with relevant policy areas as part of wider discussion on the potential impacts of all proposals. A Delivering Results Workgroup has also been held to identify in particular how proposals for natural resource management will help optimise the benefits to people (such as health and well being, access and enjoyment, education) and to business (e.g. water supplies, timber supplies, tourism opportunities) whilst maintaining the resource for the long-term.

<p>3. Your decisions must be based on robust evidence. What evidence base have you used?</p>

There is currently a limited consistent and robust evidence base on our natural resources. This is something we are seeking to address through the Environment Bill. This evidence base, in the future, would help to ensure we have the right information which we can use to help inform decisions on how we may improve our environment, taking into consideration specific local issues, for example in areas of deprivation.

There are clear connections between tackling poverty, economic prosperity and the use of natural resources for current and future generations, and there is substantial evidence to suggest more integrated management is needed which better recognises the value of our ecosystems and the services they provide⁴³. For example, the UK wide 2010 *Making Space for Nature*⁴⁴ report made a case for a refreshed 'restorative approach' which

⁴³UK National Ecosystem Assessment, (2011), p53

⁴⁴ Making Space for Nature: A review of England's Wildlife Sites and Ecological Network, (2010)

rebuilds nature and creates a more resilient natural environment for the benefit of wildlife and ourselves.

The approach also builds on the Welsh's Government's commitment to sustainable development as our central organising principle to define the best development path for Wales⁴⁵. This approach is based on a significant evidence base, as set out specifically in the Sustainable Development Scheme⁴⁶, and allows wider social and economic benefits provided by natural resources, and their inter-relationships to be considered.

We recognise that there are gaps in the evidence base in relation to the impacts of the proposals on specific protected groups and will seek to address this as far as possible through the development of the full Equalities Impact Assessment. We have called for specific evidence through the White Paper consultation as a first step.

4. Impact - please complete the next section to show how this policy / decision practice could have an impact (positive or negative) on the protected groups under the Equality Act 2010 (refer to the EIA guidance document for more information).

Initial analysis suggests that the proposals set out in the Environment Bill White Paper may enhance wellbeing and support our communities and people in the following ways:

- The proposals in this White Paper are underpinned by the principle of sustainable development, which places an emphasis on social, economic and environmental wellbeing for people and communities, embodying our values of fairness and social justice. It is part of a wider package of legislative reform which seeks to ensure that decisions made by the Welsh Government and its partners optimise opportunities for our communities, economy and the environment in Wales – and that the needs of future generations are considered;
- Integrated natural resource management, and specifically proposals for an area-approach, will help to provide a consistent evidence base on our natural resources to help ensure we have the right information to optimise opportunities to support local development and social or wellbeing outcomes. For example, to deliver better targeted investment in local environmental improvements, taking into account local needs and pressures on the areas such as deprivation. This may lead to better targeted

⁴⁵ Sustainable Development Bill White Paper:

<http://wales.gov.uk/consultations/sustainabledevelopment/sdwhitepaper/?lang=en>

⁴⁶ Sustainable Development Scheme:

<http://wales.gov.uk/topics/sustainabledevelopment/publications/onewalesoneplanet/?lang=en>

investment in local environmental improvements or support quality decision making on the right development opportunities.

- This evidence base will, for example, help NRW to recommend priorities which will help provide better protection for those that are most vulnerable and disproportionately affected by the impacts of climate change or natural hazards, such as flooding or extreme weather events.
- It is clear is that our environment impacts on physical and mental health outcomes. Proposals in this White Paper will help us to consider impacts of the environment on physical and mental health outcomes locally, including clean air, water, use of open space.
- The proposals to further improve waste segregation may create job opportunities. The equality impact assessment carried out for Towards Zero Waste, the overarching waste strategy for Wales, assessed the impact of high level waste policy proposals in Wales on those with protected characteristics as low. A similar process will be carried out to assess the impact of the specific waste proposals within the White Paper as they develop further.
- The Carrier Bag proposals relate to the enabling powers of Welsh Ministers and will not directly result in specific impacts. A full Equalities impact assessment would be carried out in advance of any regulations being made.