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## Summary of Consultation

**Natural Resources Body for Wales**  
(additional consultation)





# Summary of consultation responses to ‘Natural Resources Body for Wales (additional consultation)’

## 1. Introduction

The Welsh Government consulted on further detail on the arrangements for establishing *Natural Resources Wales*, comprising the functions of the Countryside Council for Wales (CCW) and the Welsh devolved functions of the Environment Agency (EA) and Forestry Commission (FC). The consultation ran for a period of eight weeks from 13 August 2012 to 5 October 2012. The consultation document was available from the Welsh Government’s website.

The consultation supplemented an earlier consultation, which ran from 9 February 2012 to 2 May 2012.

There were two main parts of the consultation:

- The overarching duties of the new body.
- Additional information on legal and working arrangements of the body.

The first part focused on the duties of the new body, relating to natural beauty, conservation, access, protection of historic landscape and forestry. These represent areas where a number of duties have to be brought together and reconciled, rather than simply transferred. Proposed provisions which cover these matters were included within the consultation document.

The second part of the consultation considered a number of detailed areas on which stakeholders requested further information, or where the analysis has indicated that it would be helpful to share intentions and seek views from stakeholders. Specific aspects include:

- Cross-border issues – general principles.
- Regulation and enforcement including the Environmental Permitting Regime (EPR) and inspection, investigation, enforcement and prosecution, including civil sanctions and investigatory powers.
- Monitoring and sampling of cross-border sites and impacts.
- Environmental planning and reporting.
- Emergency response including the transfer of powers under the Control of Major Accidents and Hazards Regulations (COMAH).
- Trading schemes and producer responsibility.
- Transitional arrangements e.g. measures to transfer ongoing prosecutions, existing decisions and permits to the body.

The consultation document sought responses on 17 specific questions covering the above issues, as well as a final question offering stakeholders an opportunity to provide comments on any issues not specifically covered in the consultation.

## 2. Overview of responses

A total of 107 consultation responses were received. Seven responses were received after the closing date of 5 October, however, these were accepted and the views expressed in them have been reflected in the analysis.

There were 81 responses from organisations and 25 responses from private individuals. The breakdown of responses by sector is provided below. A list of the organisations that responded to the consultation is provided at Annex A.

<b>Category of respondent</b>	<b>Number of responses</b>
Private individuals	25
Access, recreation and tourism sector	19
Business or industry	15
Environmental/ conservation body	9
Local authority and/ or representatives	8
Other public sector body	7
Professional body	7
Forestry sector	5
Local partnership group	4
Fisheries sector	3
Third sector/ other	2
Trade Union	2
Political party	1
<b>TOTAL</b>	<b>107</b>

For each of the 17 questions, stakeholders were asked whether they agreed or not with the proposal – either by indicating ‘yes’, ‘mainly’ or ‘no’. An on-line form was provided for respondents to use. Some stakeholders completed the on-line form whilst other stakeholders submitted responses in their own format but still responded to the questions. Some respondents provided more general views which did not directly address the questions.

An executive summary of the main issues raised in the consultation responses is at Section 3 of this document.

A more detailed analysis of the comments on each of the questions is provided at Section 4. For each question, there is a breakdown of the consultation responses that agreed, mainly agreed or did not agree with the proposals. These figures only include the responses to the questions that directly answered each question. Where stakeholders did not answer a particular question, stated that they did not have any views on it, or it was unclear from the response provided whether they supported the proposal or not, they have not been included within the figures. There is also a summary of the main issues raised under each question, together with a list of further points raised.

### 3. Executive summary

For Part A, most of the respondents who specifically answered questions 1 to 3 either agreed or mainly agreed with the proposed duties. This ranged from 82% for the proposed natural beauty and nature conservation duties (question 1) to 87% for both the proposed public access and recreation duties (question 2) and the proposed forestry duties (question 3). Stakeholders provided a range of comments on the proposed duties, including suggestions for wording to be included in the Functions Order. A summary of some of the main issues raised on the proposed duties is set out below.

Comments on the natural beauty and nature conservation duties included views about the definition of natural beauty; concern that the duty is narrower in its obligations than the existing CCW duty; concern that the pollution control functions are less robust than the duties on other functions and also mixed views on the inclusion of FC's 'balancing duty'. In relation to the proposed public access and recreation duties, common views were that the duties should apply to both land and water-based activities; that the body should promote the historic environment; and concern that the duties should apply to public, not private, land. There were also various comments on the list of facilities to be provided for recreation. In relation to the forestry duties, there was broad support for the confirmation that the existing powers and duties of FC would pass to the new body. Further comments indicated that there was some support for the proposal to include a duty to promote woodland cover in Wales and also that there were mixed views on the inclusion of FC's 'balancing duty'.

There was widespread support for the proposals contained in the second part of the consultation document. In particular, there was overwhelming support for the proposals relating to:

- permitting (question 7);
- the addition of the new body as a listed body under the Regulation of Investigatory Powers Act 2000 (question 10);
- environmental planning and reporting (question 14);
- Civil Contingencies and COMAH (question 15);
- UK wide arrangements (question 16); and
- transitional arrangements (question 17).

On all of these questions, 100% of stakeholders that directly responded to the question either agreed or mainly agreed with the proposals, with no respondents indicating that they did not agree.

For the remainder of the questions contained in the second part of the consultation, the percentage of respondents who either agreed or mainly agreed ranged from 92% to 98%.

## 4. Analysis of responses

### Part 1. Overarching duties

**Question 1. Do you agree with our proposal for the duties of the body in respect of conservation and natural beauty? (Yes, Mainly, Not at all).  
If not, how would you change it?**

#### Overview

A total of 57 consultation responses directly addressed question 1. The analysis shows that 17 respondents stated that they agreed with the proposal and 30 respondents mainly agreed which account for 82% of the responses. A total of 10 respondents (18%) indicated that they did not agree with the conservation and natural beauty duties.

The consultation document included the possible wording of the natural beauty and nature conservation duties. Many stakeholder offered suggestions on the actual wording of the duties. A summary of comments received is set out below.

#### ***Natural beauty/landscape***

A number of stakeholders highlighted that the new body should play a strong role in promoting, protecting and championing protected landscapes and seascapes but that this was not evident from the proposals. There was also concern about the term “natural beauty” and in particular, the need to reflect landscapes. Comments included: that they did not believe the term “natural beauty” is particularly helpful or correct in a modern day context, as it does not capture the full range of landscape responsibilities; there is no clear legal definition of natural beauty and it remains open to interpretation; that it needs to reflect cultural landscapes in line with the European Landscape Convention; that additional text is required to specifically highlight the importance of conservation and enhancement of Wales’ protected landscapes; that valued landscapes are not simply designated AONBs, National Parks, visible and accessed landscapes; that resourcing and scope for landscape conservation and enhancement within the new body is insufficiently represented within the consultation document. A further comment was that there appeared to be very little mention of landscapes in the consultation document and no mention of seascapes.

An additional issue that emerged from the consultation was the concern that there was no direct reference to the new body assuming the existing powers of CCW to designate and undertake actions to protect landscapes deemed to be of national importance. Some stakeholders highlighted that this role should be explicitly stated as a proposed function of the new body to ensure that the European Landscape Convention approach is represented within the new body.

### ***Weakening of the existing duties***

Some stakeholders expressed concerns that the proposed conservation and natural beauty duties weaken the current conservation and hence weaken the “*necessary protection*” for the wildlife and natural environment of Wales. In particular, that the duty on the EA, under section 7(1)(a) Environment Act 1995, is weaker in conservation terms than CCW’s duties under sections 130 and 131 of the Environment Protection Act 1990.

### ***Pollution control functions***

The consultation sought views on the proposed wording of the duty on Welsh Ministers and the new body, when considering any proposals relating to pollution control functions of the body, to have regard to the desirability of conserving and enhancing natural beauty and of conserving flora, fauna and geological and physiological features. There were a lot of comments from stakeholders on this aspect. This included that the term ‘have regard’ to pollution control is not sufficiently robust and should be enhanced; that the wording is too limited; that it appears to be a weakening of the powers; and that the wording is inconsistent with the other duties.

### ***Balancing duty***

A number of respondents commented on FC’s ‘balancing duty’. This is covered in more detail under question 3.

### **Further comments**

A number of stakeholders suggested changes to the proposed wording. Some of the general points are described below and a number of specific comments and suggestions on the proposed duties are set out in Annex B. As a number of very detailed comments were received, not all have been replicated in this document, although they have been considered.

- The very welcome support for forestry should be specific about education and training.
- It would be very positive for Welsh forestry if the new body was mandated to support the profession of forestry.
- Concern that the migration of EAW’s function to promote the ‘amenity of inland and coastal waters’ is not included in the order.
- The new body must have a specific legal duty to halt biodiversity loss and restore ecosystems in line with international commitments.
- The specific exclusion of forestry from this duty substantially weakens the response to this important issue and militates against a co-ordinated and consistent approach.
- Nature has an intrinsic value and this must be reflected in the purpose of the body.



- The new body must have an educational function to inform the people of Wales and visitors to Wales as to the importance of its environment and also be able to support the provision of facilities.
- The conservation of important geological sites and features and the impact of environmental developments on heritage buildings and sites should also be included.
- That proposals should not exempt the new body's forestry duties from the same scrutiny as other developments.
- Would like to see specific mention and consideration of marine and coastal nature conservation designations which are currently the responsibility of CCW.
- A new body setting out with such discrimination in favour of certain sectors is likely to fail to achieve its overall objectives. There needs to be a balanced holistic view taken of the environment probably by application of the Ecosystem Approach.
- The definition of "sustainably" is poor.
- The body must focus on the delivery of ecosystem services to both people and businesses in Wales, rather than on conservation as an end in itself. This implies a role that extends beyond that of purely reactive regulation and which includes facilitating and guiding the activities of others.
- There is not enough emphasis on stakeholder representation or on the need to consider impacts on local communities, language and culture.
- Some of the proposals fail to address the wider and longer term issues that affect the environment, the economy and the people of Wales.
- The impact of the functions and activities of the new body on the economic and social well-being of local communities in rural areas should be at the forefront of the second order.
- Some concerns over the practical working relationship between the body and the EA, regarding emissions of radioactivity to the natural environment.
- Under the Habitats Regulations, the EA currently has obligations to review relevant existing as well as new or varied authorisations, permits, consents, licences and permissions to ensure that no EA-authorised activity or permission results in an adverse effect, either directly or indirectly, on the integrity of Natura 2000 sites.
- Would like clarity on the proposed new institutional framework for the environmental regulation of sites with Environmental Permits under radioactive substances regulation (EP-RSRs) and the relative vires of the NRBW and what remains of an ostensibly UK EA body.
- The term "proposals" is confusing, tortuous and limiting. The references to "proposals" in the duty appear only to apply when the body is formulating proposals, rather than when it is exercising its functions generally.

- Section 6.2 discusses a general duty to fully consider matters such as conservation, biodiversity etc. in accordance with legislation. It is not clear how the exceptions for forestry and pollution control fit with this general duty.
- The draft order offers an opportunity to explicitly reframe forestry creation/woodland management as means to the ends of ecosystem and habitat/species outcomes, and people's enjoyment and wellbeing.
- For paragraphs b and c, the reference to "having regard to the desirability of..." is too weak and very vulnerable to providing an 'opt out' of conservation.
- The duty should also include cultural features, sites and landscape.
- The duty should specify 'coast, inshore waters, rivers and estuaries'.
- There appears to be no reference to the marine responsibilities of the new body. There should be clarification on how the marine responsibilities of CCW and EAW will transfer across to the new body, and about how they will be implemented.
- It is difficult to understand how the new body will be able to consider the desirability of that conservation when it does not have responsibility for matters related to the people and economy of Wales.
- Concern that the balanced approach currently adopted by Forestry Commissioners to seek a 'reasonable' balance between conservation and natural beauty and production has been lost and that the economic and well-being of local communities in rural areas has been relegated to the bottom of the pile in terms of duties.

**Question 2. Do you agree with the proposals in respect of public access and recreation duties? (Yes, Mainly, Not at all).**

**If not, how would you change it?**

## **Overview**

A total of 53 respondents answered question 2. The analysis shows that 20 stakeholders agreed with the proposal and 26 respondents mainly agreed, which totals 87% of the responses. Seven respondents (13%) did not agree with the proposed duties.

### ***Marine environment***

A number of stakeholders highlighted that the wording of the order should be made more explicit to embrace both land and water-based activities. In particular, that the body has responsibilities to make all types of water (inland and coastal) available for recreation and that it is clear that these responsibilities extend to maintaining and where possible improving access points across the foreshore. A further suggestion was that references to access and recreation might be strengthened if the terms 'land and water' were used rather than 'open spaces and countryside'.

### ***Historic environment***

Some stakeholders highlighted that they would like to see the body having a specific role in allowing enjoyment and connection of the Welsh public to the natural and historic environment. A specific suggestion was that "sites of interest" should include cultural and historic features, places, structures and artefacts, although it was recognised that this may not be able to be achieved through the second order because of legal constraints.

### ***List of facilities***

Many stakeholders made comments on the list of facilities that was included in the proposed wording. Specific comments included that the footpaths should be given a high profile; that other recreational routes, such as bridleways should be included; that footpaths should be referred to as 'public rights of way'; that education/study centres, literature, learning materials, events, environmental art, virtual/multi media resources should be included; and that the list should be expanded to include fishing, sail and paddle sports, mountain biking trails and riding facilities walking, cycling, horse riding and providing opportunities for people with mobility impairments.

One stakeholder commented that the list was drawn from the Forestry Commission's powers from 1968 and needed to be updated accordingly. A small number of other stakeholders questioned the need to include a list of recreational facilities at all.

## ***Privately owned land***

A number of stakeholders, largely from sectors covering forestry and landowners, highlighted that whilst there was no objection to extending access and recreation duties to publicly owned land, there should be a clear distinction to ensure that these duties to provide are for land in public ownership. A further comment was that the proposals are focused on public enjoyment and public access rights and that more recognition needs to be given to the need to balance those interests against the rights and interests of landowners and managers.

## **Further comments**

- References to 'open air recreation' and the 'study of the natural environment' should be taken out.
- Profit should not be made out of FC owned forestry.
- The word "protect" should be added.
- Clear provision should be made to ensure that public access is maintained when FC land is sold.
- As there is a high demand for access to woodland for shooting in Wales, the wording could be amended to specifically include sporting shooting.
- Would like to see a specific reference to increasing access by groups currently under-represented among visitors to the countryside.
- The wording should have a specific reference to woodland.
- The duty refers to promotion and facilitation but not the assessment of needs or provision. Suggest this purpose is added to ensure appropriate focus and prioritisation and a properly strategic approach,
- With respect to motorcycling the current level of usage could be retained and even increased by 10%.
- There is no explicit mention of a duty to ensure the needs of commercial forestry in terms of timber production are taken into account as well as public access requirements. The forestry sector would feel more confident in the body if this point were made more specifically in the second order.
- Given that 80% of the electorate live in towns and cities, the emphasis should be on both rural and urban Wales.
- There appears to be no recognition of the role of protected landscapes in the provision of public access and recreation duties.
- The duty should be widened to include the benefits of providing access for health and well-being and sustainable transport.
- The reference to "the enjoyment of the countryside and open spaces" could be open to interpretation, so greater clarity is needed.
- There is no reference to enabling other partners and sectors to facilitate and develop access opportunities.

- Where the body will have powers to provide facilities, these may require planning permission.
- Would welcome the addition of a reference to the health and well-being benefits of access and recreation.
- There is currently no linkage between the two sets of duties i.e. linking references to public access and recreation to ensuring that the conservation and enhancement of the natural landscape (including its natural beauty and nature conservation matters) are fully considered.
- Needs to include education/interpretation/awareness duties.
- The wording of the order should refer to opportunities as well as facilities.
- There should be clearer reference to the management responsibilities relating to rights of way currently managed by local authorities.
- Would specifically like to see mention of a periodic review of the condition of the existing rights of way within the forest area.
- Would like an acknowledgement that access to Wales' natural and historic environment, whether more or less shaped by man, is equally important.
- The duty to promote and facilitate public access to, and enjoyment of, the countryside and open spaces is strongly supported provided the open spaces and natural environment is also taken to include the landscape, which has been largely shaped by the intervention of people.
- Would welcome the inclusion of a duty to ensure that the body can take steps to mitigate any problems that occur on private land in discharging its duties under the second order.

**Question 3. Do you agree with these proposals for the high level forestry duties? (Yes, Mainly, Not at all).**

**If not, how would you change them?**

## **Overview**

A total of 48 respondents answered this question. 19 respondents agreed with the proposal, 22 respondents mainly agreed, which together comprise 81% of respondents. A total of 7 respondents (19%) did not agree.

## **Further comments**

### ***General forestry duties***

Many stakeholders welcomed the confirmation that the existing powers and duties of FCW would pass to the new body, in particular those duties relating to the growing of trees for timber and the supply of forest produce to the forest sector. There was support for the proposal to ensure that the body has the existing duty on Forestry Commissioners to promote the interests of forestry, the development of afforestation and the production and supply of timber. A specific comment was that it is positive that the Welsh Government recognises the importance of transferring the duty to promote forestry interests to the new body as these are all vital powers and duties for the forestry sector.

There was some support for the proposal to include a duty to promote woodland cover in Wales. However, other stakeholders did not agree that it should be included. Concerns included that this could be interpreted to allow for the expansion of commercial interests and planting of mainly non-native coniferous plantations in inappropriate locations; that it would place an unacceptable environmental burden for unsustainable woodland expansion while ignoring the need to improve the biodiversity quality of existing native woodlands; and that this should not be subject to the whim of Ministers. Some stakeholders also queried why a duty for woodland cover has been chosen but not one for other habitats (e.g. open ground habitats such as peat land or heath land expansion) or for achieving favourable conservation status for protected sites.

Some respondents suggested other duties including extending the duty to the management (including harvesting) of the nation's forests, the enabling of forestry activities by others and the regulation of plant health. Further suggestions were to include a duty to conserve historic woodland including orchards, the improved provision of public access, the conservation of historic sites and geological features and the continued provision of educational and interpretive facilities.

A small number of respondents disagreed with the proposal to transfer the duties to the new body.

## ***Balancing duty***

There were mixed responses on this issue. A number of respondents agreed that the balancing duty should be transferred to the new body and many stakeholders highlighted the importance of this. Some stakeholders highlighted that the balancing duty for forestry is sufficient given the new body's overall environmental role and could be extended to other functions. One stakeholder suggested that as this has been a very effective means through which FCW has managed its resources, a similar balancing duty ought to apply to the new body as a whole.

Another comment was that similar balancing duties should be included for sustainable fisheries management, and for sustainable agriculture (land management). A further comment was that the balancing duty for forestry should be modified to make it consistent with the Sustainable Development (SD) duty applicable to the Welsh Government and all its agencies. Some stakeholders suggested that for reasons of consistency, the balancing duty should be included within the body's nature conservation duties.

Other stakeholders disagreed with the inclusion of the balancing duty. Some respondents highlighted that they failed to see how the scope or emphasis of a "duty of care towards the environment" can be different for one part of a governmental organisation than it is for other parts, especially when the whole organisation is charged with ensuring that Wales's natural resources are used in an integrated, consistent and sustainable manner. These stakeholders suggested that the balancing duty should be enhanced and replaced with the same duty which applies to the forestry interest and the rest of the organisation. A further concern was around how this proposed differential approach towards forestry would enable any future National Resource Management Plan to coherently guide the comprehensive and integrated use of all our natural resources in a consistent manner.

One stakeholder stated that they were unable to support either option put forward in the consultation document as being the ideal scenario for the new body, i.e. the transfer of the forestry balancing duty or the duty to have regard to the desirability of nature conservation from the Environment Act 1995. They would therefore recommend amendments as part of subsequent legislative programme including through the Environment Bill.

## **Further comments**

- It is imperative that the focus remains on the production of timber in Wales to strengthen the industry and ensure that it is competitive and sustainable into the future.
- Existing research stations for forestry, and particularly diseases of trees, are in England, but not in Wales. Access to research facilities and top-level research expertise is essential for maintenance of healthy forestry and must be addressed in the proposals.
- The woodland estate should be managed by the body to meet a variety of needs that serves all three elements without one taking precedent over the other.

- Woodlands for Wales must remain the strategy for the body's forestry duties and functions.
- FCW has acquired additional functions to those contained in the Forestry Acts e.g. functions related to social forestry, urban trees, education and training. These functions must be continued by the new body.
- Concern about the removal of the forest policy role of FCW to the Welsh Government. To be effective, the new body must be closely involved in forestry policy formulation.
- There is a continued need for a stakeholders' advisory body on forestry matters.
- The order gives no details for monitoring the accountability of the body.
- No mention is made of the role of Coed Cymru.
- Question why the competent role for the protection of forest trees and timber from attack by pests under the Plant Health Act 1967 is to be transferred to Welsh Ministers, when the experience and expertise of forestry staff should remain within the new body.
- The new body needs to maintain forestry knowledge among its staff. Expertise in forestry and plant health will reside in the new body and should be applied most efficiently.
- One of the issues with current forestry practices is the use of cypermethrin coupled with the replanting of conifers, both of which have adverse effects on the environment. These have to be addressed.
- Would draw attention to water acidification problems which appear to have been caused by planting of coniferous trees.
- Concern that most of the focus to date seems to be concentrated on conservation and public enjoyment of FC woodlands. Forestry and timber enterprises in Wales have great potential for growth and the new body should be at the forefront of promoting this commercial industry.
- The context for forestry operation and development should be set within any framework that is to be adopted. The current position is for the production and supply of timber and other forestry products; within an ecosystem approach there should not be such a constraint of land by such an emphasis on forestry and timber products.
- Concern that FCW's focus has been driven by Government priorities for amenity woodland rather than economic production. It is extremely important that the new body retains its remit to promote forestry and to help develop a market infrastructure for the production and economic viability of commercial forestry.
- It is unclear if FCW's power to give unrestricted assistance or advice on the general planting/management to woodland and forest owners will also be transferred. It is important that this is also transferred so that woodland owners will continue to have consistent access to expert forestry advice and guidance.



- Support the principle that the forestry duty should acknowledge an important role in economic timber production but in a financially, socially and environmentally sustainable way. The total economic value of forestry in Wales arises from both the production of timber (market benefits) and the public goods (non-market benefits), including recreation and tourism, biodiversity and ecosystem services.
- Have concerns about the existing duties of FC which restrict its ability to extensively deliver high quality public benefits and facilitate and regulate others to do so.
- If there were to be a new devolved Forestry Act for Wales, it should have clearer biodiversity and sustainable forestry duties on the Welsh Government across all its powers and functions.
- A new Forestry Bill for Wales should build upon the wording and approach of the Forestry Act 1967 but with better focused duties, powers and functions to more extensively secure sustainable forestry policy, regulation and practice for all woodland in Wales.
- The new body should take firm control of the adverse effects of forestry activities, particularly in relation to water quality.

## Part 2 – Additional information on legal arrangements

<b>Question 4: Do you agree with the general proposals for cross-border arrangements?</b>
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### Overview

A total of 53 respondents answered question 4. The analysis shows that 26 agreed with the proposal and 24 respondents mainly agreed, which together accounted for 94% of respondents. Only 3 respondents (6%) said they did not agree.

Comments included: that good cross-border relationships are essential for much of the work that that the body will undertake; welcome for the recognition of the need to address cross-border issues; welcome for the recognition of the administrative and operational complexity of cross-border working; support for the proposal for an integrated approach for cross-border arrangements; the proposals take a common sense approach; and that a pragmatic approach appears to have been taken on service provision and operational arrangements. Some stakeholders highlighted that there could potentially be significant benefits to a more integrated approach to consultation and working, in particular that that it would be beneficial for Wales to maintain the close working relationship with England, especially in matters of mutual interest such as flood defences. A number of stakeholders highlighted the importance of establishing good Memoranda of Understanding to ensure joint working is effective.

Many respondents welcomed the intention to place the new body and the EA under a duty to co-operate with one another and co-ordinate activities on cross-border matters.

Some stakeholders highlighted that more detail is needed on the practical working arrangements. For example, further detail on how the new body will co-operate with cross-border organisations and how it intends to share key resources (i.e. skills, expertise, personnel and data) with those organisations. More detail was requested on cross-border co-operation and institutional responsibility, for example, where Wales-based industry currently receives guidance provided by EA offices located in England.

A number of stakeholders highlighted that the consultation document lacked information about other cross-border functions. More detail was therefore felt to be needed on cross-border issues on landscape (e.g. Wye Valley AONB); managed forest that does not accord with the national boundary; the administration of cross-border conservation projects e.g. Black Mountains SSSI which straddles the Wales-England border; the borders in the marine environment between Welsh and UK waters; and cross-border river enforcement activity. There was also concern about internationally designated nature conservation sites which 'cross the border' (including the Severn Estuary SAC/SPA/Ramsar, Dee Estuary SAC/SPA/Ramsar, river Wye SAC and River Dee and Bala Lake SAC etc). Therefore, assurance was sought that assurance that such cross-border sites will benefit from appropriate agreements and operational structures which will enable the protection and maintenance of these sites.

Some stakeholders also highlighted that there was limited information on the relationship with JNCC and Natural England. A particular concern was that whilst the consultation referred to the management of cross-border protected it stated that the Welsh Government “anticipate that this work will continue”. Some respondents asked for confirmation that the management of these cross-border sites and the necessary relationships with the relevant statutory nature conservation bodies will continue once the new body is vested.

Some stakeholders highlighted that further information was needed to explain the full range of cost implications. For example, more detail on who will fund cross-border operations and how these will be managed. A further question was whether an assessment has been made of the extra administrative burden on the EA and the new body that will result from co-ordination of cross-border matters that are currently dealt with in-house.

## **Other comments**

### ***Sharing research, data and expertise***

- The body should have a specific mandate to support research and education.
- It is important that the new body can continue to carry out and share research.
- Should avoid any unnecessary loss in skills, expertise, personnel and/or data that might result from the creation of a new body.
- Suggest the new body observes closely the precedent set by the Scottish Environmental Protection Agency, whose own cross-border arrangements with UK-level organisations such as the EA, utilises a broad range of shared expertise, skills, personnel and data.
- There needs to be a thorough explanation of exactly which professional and technical services will be subject to long-term agreements and which are to be transferred.
- One of the crucial aspects of the work of FC is on research and actions to eradicate forest diseases and pests. It is vital that this is not lost in the new body and that links are maintained with the wider FC to maintain the work that is currently undertaken in Welsh forests.
- All three bodies undertake original research and monitor and evaluate their programmes to create evidence to guide future work and policy. That evidence is promulgated through conferences, their web sites and bodies such as the Countryside Recreation Network.
- The research, monitoring, knowledge transfer and practice development duties, powers and functions of FC need to be retained for Wales, but refocused for better delivery of sustainable forestry for public benefits, including the protection and enhancement of priority wildlife species, priority habitats and designated wildlife sites.

- UK Forest Research brings huge benefits for the Welsh Government. The new body should take part and be an active part of the Forest Research Programme.
- Sharing data across bodies is in principle desirable but it must be recognised that problems may arise if there is lack of clarity of how info will be used by each of the three countries.
- Concern about the possible loss of information, R&D, corporate knowledge etc, built up over the years between existing agencies.
- The new body needs to continue or expand this work outside its own borders (including Scotland, NI and the rest of Europe and internationally) to enable policy and practice to be continually based upon evidence and best practice to ensure optimum value for money over the long term in all that Wales does. Wales has the potential to be world leading given the quality of universities and research.
- The duty should include the need to ensure consistency of data sets and information tools held by these bodies between England and Wales.
- Data sharing between EA/ FC in England and the new body will be key, as well as data sharing with other organisations where appropriate e.g. local records centres, Wales Biodiversity Partnership.
- There is a need to ensure that agreements are pinned down as soon as possible to ensure that Wales is not disadvantaged by the loss of future funding and or data sharing.

### ***Powers of direction***

- Seek clarification regarding powers of direction (both Welsh Ministers and Westminster) in respect of cross-border activities, and how the consultation between Welsh and UK Ministers and the respective bodies will take place.
- Would like clarification on powers of direction in respect of cross-border activities and how the consultation between Welsh and UK Ministers and the respective bodies will take place.
- The proposals for powers of direction are beyond the jurisdiction of the Welsh Government to determine and are therefore without substance. The statement that “the Secretary of State or the Welsh ministers will be able to direct each body in respect of cross border issues” carries no weight in England or Scotland.
- More detail is needed on how this function of dual authority between the Secretary of State and Welsh Ministers would operate in the event of a subsequent disagreement between central and devolved authorities.

### ***Joint working with other bodies***

- The proposed duty on the new body and the EA to co-operate with each other and to co-ordinate activity on cross-border matters should cover

co-operation and co-ordination on cross-border issues with other relevant bodies in England such as Natural England and the Marine Management Organisation.

- The duty should include a specific requirement on the new body to co-operate and co-ordinate activity on cross-border matters with these other relevant bodies in respect of giving advice in their roles as statutory consultees on development projects and/or as consenting bodies in their own right.
- It is important that the new body is given appropriate duties to co-operate and consult with English and UK bodies on all aspects of its remit for cross-border sites and issues. The proposed duty on the new body to take account of cross border impacts when making operational/regulatory decisions should include a reciprocal duty on relevant authorities and bodies in England.
- Have reservations about the process involved to establish formal working arrangements with parallel organisations of other governments, particularly in a trans-boundary and multi-agency setting. Experience suggests that departments should first develop a management framework for cross-border issues.
- The powers to enable FC and EA to share data with the new body to assist in the exercise of their functions. These arrangements will have to extend to Natural England, particularly as some cross- border rivers are protected under European Habitats legislation. The new body and Natural England should therefore be under a statutory duty to consult and cooperate with each other before exercising any functions that are likely to have a significant effect in cross border areas.
- The body will also need to work across the Irish Sea on marine issues with Defra and the Irish Government.
- As the existing arrangements between CCW and NE or JNCC are not specified in legislation and are covered in local agreements and informal arrangements this will appear somewhat inconsistent in terms of the new relationships between the new body and its UK or English counterparts.

### ***Cross-border working on water issues***

- The EA is currently the Navigation Authority for the River Wye. It would be useful to clarify if such a responsibility is envisaged as a possibility for the new body, or is to be left to EA in England, or would the Welsh Government seek to transfer such responsibilities to the newly formed Canals and Rivers Trust.
- The body should ensure there is cross-border consistency and co-operation on River Basin Management plans, Water Framework Directive obligations and water resource management planning by placing another specific duty on the new single body and the EA.
- Support the approach to cross-border management of catchments following the principle of plan-by-catchment implement-by-geography.

### ***Cross-border working on forestry issues***

- Need to know which of the existing services provided by FC will be a long-term arrangement, or for the transitional period.
- Currently have a national agreement with FC giving standard charges and rules throughout Great Britain and would like this to continue.
- There is a need to protect any other existing UK wide arrangements within the wider FC. It is possible that merging FCW will result in the eventual dissolution of FC as a whole; in this event it will be essential that there is a UK-wide body that has an overview of forestry at a national level.
- With respect FC's activities the sustainable forestry standard setting function of FC needs to be retained for Wales, and be employed by the single body to develop sustainable forestry practice and the associated regulatory instrument (the UK Forestry Standard).
- The forestry industry is GB-wide and does not stop at the Welsh border. Where decisions are taken which result in England and Wales providing two very different economic zones, these could impact on which side of the border businesses decide to invest.

### **Other comments**

- More information is needed on the arrangements concerning significant cross-border infrastructure projects involving Welsh natural resources, such as large-scale water transfer from Wales to England.
- Unsure how the Welsh Government proposes to place a duty on the EA to consult with the Welsh body. The Welsh Government does not have the powers which would enable it to make changes to legislation that would affect England – it is likely to require a change to primary legislation in Westminster.
- It is essential that a consistent regulatory approach is taken in Wales as to the rest of the UK.
- The functions of the new body and the EA in relation to the legislation on the Welsh language should be considered. It will be all too easy to neglect the Welsh language when dealing with cross-border issues unless the functions of the bodies in relation to the Welsh language are clearly and unambiguously set out from the beginning.
- The new body should ensure that the new body in Wales and EA take account of cross-border impacts in making both operational and regulatory decisions, and co-operate and co-ordinate activity on cross-border matters through the introduction of specific duties
- No information has been provided on the expected net gain or loss for Wales in terms of expenditure, for example, on capital works in Wales to benefit England and vice versa?

- Local authorities have worked successfully with specialists from EA on occasions in the past and it is important that access to these specialist skills is not lost. There should be arrangements to tap into specialists, as and when necessary, as part of the cross-border arrangements. The duty to co-operate is a useful ‘backstop’ in this respect.
- There needs to be consistency in any advice given to, or any requirements placed, on developers, e.g. in respect of the information that developers are expected to provide as part of applications for schemes.
- It is imperative that there is clarity on the legal arrangements under which the new body will liaise with UK bodies, such as the EA.
- There needs to be clarity on Responsibility for Regulation of Nuclear Sites as it is unclear where the overall lead for regulation of nuclear sites will lie.
- Explicit consideration of programme management arrangements are needed to ensure that the body’s resources (including those procured from the EA) are effectively managed.
- The proposals could address the question of invasive species, which know no political borders.
- The Welsh Government’s goal should be to enable the new body to work effectively with its English counterparts, while ensuring that Wales-based cross border companies are not disadvantaged.
- The establishment of the new body will inevitably complicate the regulatory environment in which cross-border companies operate. It could potentially increase costs. An Impact Assessment could have helped to inform the debate if had been prepared to examine in detail the cost implications of the cross border proposals.
- Would welcome more detail on the permitting regime is likely to work under the new body.
- Whilst support the proposals for the bodies to “agree circumstances where they will consult each other on activities which could have cross-border effect”, the “agreed circumstances” should not be prescriptive and regular dialogue should be enabled and encouraged.
- There is a need to create momentum around marine planning in Wales and there is an opportunity for the Welsh Government to work closely with its neighbours in the UK and Republic of Ireland to create the first cross-border multi-sector marine plan which helps deliver the objectives of government. The body can play an instrumental part in this cross-border activity.
- It is unclear who will decide on which shared services will continue. It should be the body.

**Question 5. Do you agree with the proposals for the statutory consultee role? [Yes, Mainly, No]**

**If not what would you change?**

## **Overview**

A total of 52 respondents directly answered this question. Of those, 32 respondents stated that they agreed with the proposal and 17 respondents mainly agreed, which taken together, was 94% of all responses. Three respondents (6%) stated that they did not agree.

Most stakeholders recognised the need for transparency when the new body 'consults itself'. There was therefore widespread support for the proposal to publish decision documents where the new body is advising and regulating others. Many also welcomed and supported the recognition of the need for proportionality in performing this function. There was support for the proposed requirement for the body to publish a scheme, agreed by the Welsh Ministers, identifying circumstances where formal publication of decision documents will be required. Some stakeholders commented that further detail on this was needed, so that they can identify circumstances where formal publication of decision documents is required.

Some respondents, however, highlighted that greater clarity was needed on how the body would 'consult itself' and how this represents good governance and democratic accountability. In particular, some stakeholders emphasised the need for open and transparent decision-making procedures to allow stakeholders and members of the public to scrutinise the process and hold the new body to account. A minority of respondents disagreed with the question overall, because they thought it was unclear how the body can consult itself. Some respondents also expressed concern that publication of decision documents after a decision has been made may be too late and that transparency is needed in the decision-making process. It was also felt that the reasons behind a decision needs to be communicated so that individuals can understand why decisions have been reached, what they could change to get a different outcome, or whether there are grounds for challenging decisions.

In general, stakeholders welcomed the intended transparency of decisions for internal controversial issues. However, some thought that more detail was required on this issue, for example, around the definition of 'contentious' and how conflicting priorities within the new body would be resolved.

There was broad agreement on the proposals that decisions on plans or projects affecting a European or Ramsar site should be published.



## Other comments

### ***Where the body “consults itself”***

- The proposals to publish decision documents as part of the body’s consultee role should not exceed the existing requirements for making information available.
- If any internal consultation is required between particular functions within the body, then those consultation processes should be designed with transparency of decision-making in mind.
- An approach similar to the Local Planning Authority planning application process could be adopted, whereby access via the website to decisions could be made available.
- Where the body itself is in effect dealing with its own applications, permits, inspections and sanctions, there must be transparency of decisions by making information available to the public.
- It appears sensible that if there are going to be circumstances where the body is not obliged to consult with itself that there will be a greater need for transparency. Information which previously would have been set out and publicly available in responses to consultations will no longer be available if there is no consultation process between organisations. More information is needed on this.

### ***Stakeholder engagement***

- Stakeholder engagement is essential and more detail is needed.
- A consultative body should be set up to facilitate meaningful communications and dialogue between stakeholders and the new body.
- It is important that the body has a plan for engagement with NGO organisations in planning and responding to consultation.
- Stakeholder management and engagement is key, and it would be helpful for developers to have a single point of contact in the body
- The new body should have a duty to consult with the Welsh Government Fisheries Department when it proposes any actions, or responds to any consultations, concerning marine matters, and with any affected Welsh Government Department when there may be a common interest.
- The relationship with local authorities needs to be clearly set out.
- There could be greater shared working of expertise to identify problem areas and seek solutions both internally within body and externally with local authorities and other public bodies.
- The regulatory arrangements, especially where self permitting is envisaged, should ensure that relevant stakeholders are consulted before a decision is reached. For proposals that could materially affect or restrict public access or impact on a public right of way, the Local Access Forum in whose area the proposal lies should be a statutory consultee.

- Stakeholders need to retain contact with named local officers to ensure that access to local staff and expertise is not reduced, limited or lost in the new body. If this was to happen it could have negative impacts on local service delivery.

### ***Statutory consultee role***

- In its role as a statutory consultee the new body will be required to, and be enabled to, provide specific/local knowledge and advice; clarity of requirements and advice; proportionality of requirements and advice; consistency and coherence of advice and cross-border working and alignment.
- It is important that the wording of the order ensures that, when the new body is a statutory consultee, it responds only as itself, and does not contribute to the responses of other organisations. This duty needs to be explicit and apply to the organisation as well as to its staff and to its governing body.
- Clarification is needed on engagement and working relationships with the environmental third sector. For example, questions remain regarding how the body will deliver independent, transparent advice, and act as the champion of SD and the ecosystem approach.
- More information is needed on how the body will respond to external consultations, as statutory consultees, will be made more efficient. Will there be a single point of contact to co-ordinate response over the relevant sections of the body or will individual interests be contacted directly? The transitional arrangements, whether interim or permanent, need to be clearly communicated to local planning authorities at the earliest opportunity to ensure that the statutory consultee role on planning applications can continue unaffected by organisational change.
- It would be useful to clarify if the intention is that, for sites in Wales, the new body will be the statutory consultee to the UK Government in matters affecting EU obligations rather than the EA.

### ***Consent process***

- A key issue must be to deliver the body's input to consent processes to the prescribed timescales. Where additional time is genuinely needed, this should be agreed with the developer and other interested parties at the outset and adhered to thereafter. In the case of major applications, this applies as much to each of the main stages of the determination process as to the final decision.
- Appropriate, reasonable timescales for the consideration and analysis of projects, consultation responses and the determination of consent and permit applications by the body must be clearly prescribed and adhered to.
- In considering the arrangements for regulatory powers, it is suggested that these powers are only used where no other consent is given. That is, if a

planning permission is required that the planning system could consider these matters and control the development through conditions. If no planning permission is needed then the body would be responsible for regulation and consenting.

**Question 6. Do you agree with the proposals to provide internal separation of decision-making, improve transparency and ensure Welsh Ministers have the opportunity to call in significant issues? [Yes, Mainly, No]**

**If not what would you change?**

## **Overview**

A total of 52 respondents answered question 6. The analysis shows that 35 agreed with the proposal and 13 respondents mainly agreed, which was 92% of the respondents that answered this question. Four respondents (8%) indicated that they did not agree with the proposals.

Most respondents emphasised the need for transparency in the way the new body makes decisions and therefore most stakeholders who responded to this question supported the proposals.

Most of the stakeholders welcomed the acknowledgement that there was a need for internal separation of the operational and regulatory/ advice arms to be in functionally separate structures. Stakeholders recognised that this was essential to ensure the public have trust in the new body. Only a small number of respondents did not agree that there was need for internal separation of decision making.

Some respondents indicated that whilst they agreed in principle with the concept of internal separation to ensure independent decision-making and adequate transparency for the new body, they had some concerns about how the body will achieve this in practice. In particular, some stakeholders requested further detail and clarity about how Welsh Ministers will achieve functional separation of the body in order to comply with the Seaport case and ensure transparency.

Many respondents agreed with the proposals to publish a list of legal permits issued in respect of its own operations and to the other statutory public register requirements. However, some stakeholders considered that it would be beneficial to extend this to include a list of the relevant permits the body intends to issue. One stakeholder suggested that there should also be an obligation for the body to regularly publish information on its performance in complying with its own permits, in order to demonstrate its own good practice. Some stakeholders requested reassurance that an advance notification period will be included in all these processes to ensure transparency. A specific concern was that the publication of legal permits issued should not jeopardise commercial sensitivities.

In general there was agreement that there should be a power for Welsh Ministers to call in and determine any significant cases.

## Other comments

### *Internal separation*

- In relation to the public forest estate an internal separation between regulation and operations is essential. There needs to be more transparency and better communication of forest level decision making than is currently the case, including showing that forest level decisions are consistent with the Welsh Government's own policy commitments.
- Whether internal separation is achieved through the separation of permitting from operational delivery functions or by greater transparency of process may depend on the scale of the decision.
- Experience of the EA central permitting arrangements is that lack of geographical knowledge and operational experience complicates the process and hampers good decisions, making them unduly onerous in some cases while ignoring important local considerations in others. Permitting should be operated locally to agreed national standards and transparency.
- Decisions that require internally separate mechanisms should not lead to unnecessarily prolonged and unjustifiable periods of delay. There must be a consistent and common framework for environmental regulation, and a commitment that a reasonable timeframe in decision-making is considered a core requirement of the body's consultation criteria. If unnecessary deferrals in decision-making result from the lack of common and consistent guidelines, there is the risk that unjustifiable delays to commercial projects could lead to significant economic costs.
- Would like assurances that previous institutional disagreements – with the potential for delay in decision-making – are not supplanted into the new body.
- It is extremely difficult to envisage how the body, internally regulating its own activities, internally consulting on its statutory duties, and internally determining the outcome of planning applications in which it is itself the financial beneficiary. These functions will only succeed in retaining the trust of the public if they are determined by an independent body.
- The way this separation will work in practice needs to be set out clearly with no scope for one part of the body to apply pressure on another by 'pulling rank'.
- There needs to be some formal distinction of the advisory, operational and regulatory roles of the organisation, especially with regards to the activities it undertakes itself.
- To comply with the Seaport Investments judgment, temporary separation is not sufficient and that functional separation would need to be permanent, separately managed and separately financed departments, with permanently separate staff, administration and HR.

- Functional separation within the new body would not be adequate to allow prosecutions in relation to European Protected Species licenses or SSSI issues (for which CCW currently has responsibility) to be brought, where the body is carrying out projects which might be in breach of these offences. More information is required.
- Internal 'Chinese walls' might work but will need very careful construction and a culture which encourages staff to be frank.
- There is no mention of any standardised scrutiny process where representatives of 'the body' or external stakeholders might subject decision making to challenge. Improving transparency by publishing lists on websites is considerably short of the transparency expected and required of other public bodies.
- This needs to be carefully considered by the Welsh Government as there is a danger of a regressive step if implementation is not carried out with rigour and understanding of all implications.
- Would like to see further detail on how a high level of functional separation between advice given and the granting of permission/permitting, especially on the Welsh Government's own applications or on contentious applications.

### ***Proposal for the Welsh Ministers to call in significant issues***

- If Welsh Ministers have the opportunity to call in significant issues, then there should be an agreed protocol and a set timescale for response.
- There should be additional independent scrutiny, not just from Ministers call in powers, to look at any permission's that the body may grant itself. This may be provided by an independent scrutiny panel.
- The power of Welsh Ministers to call in applications will provide essential 'checks and balances' on the work of the body.

### ***Publication of decision documents***

- It will be helpful to have clarity on circumstances when decision documents will be published. However it is important to allow the list of circumstances to be moderated by experience.
- The timing of disclosure of decisions is important as is the opportunity to question them before they are assented. At present felling licences are placed on the public register before they are granted.
- The proposals for publication of decision documents could go further. The entire decision-making process of the new body should also be subject to independent, lay, scrutiny. Individuals or groups adversely affected by decisions of should be given the right to appeal to such bodies.

## Other comments

- It will be essential that stakeholders are aware of where proposals for plans or programmes to be undertaken by the body are published. Should a stakeholder wish to contribute views to any EIA, HRA or SEA there should be a mechanism by which they can do so.
- The new body needs to remain independent from the Welsh Government.
- FCW's Wind Energy Programme should be kept outside the body and be managed by the Welsh Government as this would eliminate, or at least move to an 'arm's length position', the potential for conflicts of interest between the roles of landowner and environmental regulator.
- It should be explicit within the Standing Orders of the new body that staff and Council members are bound by the "Nolan Rules".
- There is a concern about conflicts of interest, actual, potential or perceived, and with the wider remit of the new body the potential for such conflicts of interest is increased. Where staff are members of conservation charities these staff should not contribute to the consultation responses of the other organisations.
- The body should review the grant award processes currently extant, and in future should ensure a fully transparent grant application process and that all funding decisions are based on high-quality, evidence-driven proposals. The criteria for decisions on grant awards, and the reasons for awarding funding, should be published.
- There are important omissions around the risks arising from the position of the new body as a major landowner. The Welsh Government needs to clarify the position regarding enforcement action – including prosecution – if the single body causes pollution, a situation that could easily arise as it will be a major land owner.
- The body should take a lead to address the problem of diffuse pollution within Wales, by applying the polluter pays principle transparently, even-handedly and by delivering more actions to achieve 'Good Status' for water bodies under the Water Framework Directive.
- There is no mention of a requirement on the body to communicate externally or provide liaison with other regulatory bodies.
- The responsibility for its own regulation represents a fundamental structural flaw, which represents a significant risk both to its own and the Welsh Government's credibility.

**Question 7. Do you agree with the proposals for permitting? [Yes, Mainly, No]**

**If not what would you change?**

## **Overview**

A total of 45 respondents specifically answered this question. 29 respondents agreed with the proposal and 16 respondents mainly agreed. No respondents indicated that they did not agree.

Many stakeholders supported the proposals to preserve existing permitting conditions, that the body will become the rule making authority for standard conditions applying to permits in Wales and also the recognition that there should be a high degree of alignment between England and Wales. Comments included: that this is considered to encourage a more cohesive and joined-up approach to environmental working and regulation; that the proposals represent a practical way of preserving the status quo while the new body is being established; that it appears to be very little change to the proposed approach, so supportive of the status quo; and that a common sense approach is favoured. A further comment was that a high degree of alignment between England and Wales is necessary to ensure level playing field is maintained for industry and ensure that unnecessary complications do not arise from differences in conditions/enforcement in the regions.

A small number of stakeholders expressed some concern about the body being empowered to set separate sets of standard rules for Welsh permits. One concern was that closer attention must be paid to the implications of setting separate standard rules for Welsh permits and therefore recommended a Memorandum of Understanding is drawn up with appropriate UK agencies to ensure unfettered cross-border working. A further stakeholder suggested that the proposed arrangements had the potential to cause confusion and therefore more guidance would be useful.

An additional comment was that it would be more cost effective for the new body to participate in the standard rules setting process so that one rule could apply in England and Wales.

Some stakeholders commented that they agreed with the proposal that licences for waste carriers and brokers should continue to be valid across borders between England and Wales. One comment was that failure to implement this approach would lead to an additional burden on industry in administration and governance over duty of care requirements.

## **Further comments**

- The current level of fisheries funding is inadequate to provide meaningful protection of our fisheries.



- There is a presumption that the collection and analysis of the evidence based will be adequately resourced in order to ensure the right decisions are made. Careful consideration is likely to be necessary at cross-border sites particularly on water and air management issues.
- Unnecessary delays to the planning system caused by additional complex internal procedures should be avoided wherever possible.
- Need to specify that this proposal relates to waste.
- Would like to see mention and clarification of this extended to those permits required for waste transfer and storage.
- Support the provision for information of intentions before permits are granted.
- The proposals depend on robust and clear cross-border co-operation and reporting/data sharing mechanisms.
- Cannot agree with the specific proposal for the new body to publish a list of the permits it has granted itself. The permit would not be added to the list until after it has already been granted.
- More information is needed on the arrangements for the new body to inform Ministers of any permissions it proposes to grant itself at the earliest opportunity. Whether such a notification must be made will depend upon the criteria for publishing a decision document in the scheme.
- In issuing EPR permits, currently CCW has different determination criteria as to what is “significant” with regards to Natura 2000 sites, than that used by the EA. Consequently, it is not clear what standard will be adopted by the new body. However, under the terms of the PBA, the stronger CCW criteria will have to be applied.
- The body should amend the situation whereby the EA delays any consideration of environmental permits affecting a planning proposal until after planning permission has been granted. Recommend that a duty is imposed on the body for it to ensure that its EPR timetables with those imposed by the relevant local planning authority.
- In the longer term, not convinced that the Environmental Permitting system is a model of good regulation. Would welcome simplifying regulatory processes in Wales to achieve a better balance between protecting the Welsh environment and not being overly onerous for Welsh business in respect of low risk activities.
- Self-permitting is one area of potential conflict and it is essential that the body gives due consideration to ensure all decision making and issuing of licences/ consents is done in a transparent and correct manner.
- The development of strategic policy and legislation should sit with the Welsh Government to ensure that clear boundaries exist with potentially sensitive areas of work.
- Agree that one body should provide registration service for carriers and brokers, however if this changes there could be ambiguity over public

register information/ access of information by officers who perform checks on registrations which would need to be clarified.

- No mention is made of permits issued by FCW. Assume the body will take over the role of issuing such permits in a similar way to how the FC does now.
- It would be in the interests of sustainable economic development that the body continues FCW's policy of not charging for permits, in contrast to the current standard practice of the EA.
- It would be useful to make it known that these proposals do not include LA IPPC Part A2 and LA PPC Part B permits regulated by local authorities. There should be reference to these responsibilities and a statement saying that they will remain unchanged by the merger.
- There is scope for the new body to re examine the cope for 'standard permits' to consider whether there could be a risk based approach.
- Need to clarify proposals for EP-ESR (radioactive substances regulation) vires and regulation across the body and EA.

**Question 8. Do you agree with these proposals for charging? [Yes, Mainly, No]**

**If not what would you change?**

## **Overview**

A total of 42 respondents answered this question. Of the responses, 29 stated that they agreed with the proposal and 11 mainly agreed, which accounted for 95% of respondents. Two stakeholders (5%) stated that they did not agree.

A number of stakeholders indicated that whilst they noted the transition arrangements will be included to allow all EA charging schemes as at 1 April 2013 to continue for the life of the current approved charging scheme, they needed more information regarding the proposed permit charging after the lifetime of the current charging system. Some stakeholders highlighted that they would like to see full consultation for any proposed changes to the charging system.

A concern was that charges in Wales should not exceed those in England for the same types of permit in future. Stakeholders highlighted that if there are likely to be different charges in Wales for standard rules permits/permit variations/chargeable exemptions, they should be subject to consultation.

## **Further comments**

- In terms of the proposals for rod licenses and the division of income between the new body and the EA, further information would be required in order to determine whether these arrangements will be fit for purpose, or whether there would be any impacts on resources for monitoring and enforcement.
- It is important that CCW licenses e.g. protected species licenses are not charged for under the new body. Would see this as detrimental to simplifying and streamlining processes.
- It is important that costs are fully covered and standardised across Wales.
- It would seem appropriate to enable a reasonable fee to be charged for permits, on the basis that a performance standard is established, that any charging regime is fixed and transparent at the outset of the process and a means of redress is available to applicants should the new body not meet its obligations of the performance standard.
- It is crucial for the body to have the ability to recover its costs across all its functions in advising major infrastructure developers even in advance of formal applications being made.

- There is potential for increased costs from the body through greater overheads resulting from the additional management associated with the setting up service agreements between the body and EA. It is appropriate and beneficial that body be able to offer a more integrated and holistic approach to regulation and environmental protection.
- The ability to charge developers for advice from former CCW functions is needed.
- The EA has proposed changes to its charging scheme which is likely to be introduced on 1 April 2013. To complicate matters further, the proposals include some provisions that will be backdated to 1 January 2013. The Welsh Government will need to clarify whether the new body will adopt the charging scheme that is currently in place or the amended version that the EA plans to introduce.
- Expect the new body to deliver efficiencies both in its own costs and the costs of regulation to industry.
- The Welsh Government needs to set out its policy as regards hypothecation and cost recovery. Abstraction charges levied by the EA currently have a regional element, including for Wales, reflecting the different costs incurred. By contrast, charges for discharge permits are currently set on an England and Wales basis without regional factors. These should fairly reflect the EA's costs of delivering the relevant function in Wales.
- The proposals in relation to rod licensing may be a missed opportunity. Given the better fisheries in Wales the cost of rod licence in Wales should rise to reflect to the cost of the ecosystem service the fisheries provide. Extra income generated in this way could fund the improvements to fish that the new body will have to deliver.
- The rationale for charging in relation to Groundwater Authorisations permits remains incomprehensible in that the fees generated by authorisations are not used to monitor the authorised sites but are used to fund generic testing of water bodies. The new body needs to be far more transparent in how the permits are developed and how charges are calculated. Whilst the industry recognises the need for administration costs to be recouped, there needs to be a realistic approach to charging.
- Assume there will be no change to the application for forestry felling licences and that these will remain free of charge.
- Is there any intention for the body to charge for felling licenses? Will this be an operational decision of the body?
- Our natural resources should be freely available but supported by taxation.

**Question 9. Do you agree with the proposals for public registers? [Yes, Mainly, No]**

**If not what would you change?**

## **Overview**

A total of 40 respondents answered question 9. The analysis shows that 30 of these respondents agreed with the proposal and 8 respondents mainly agreed, which overall was 95% of the responses. Two respondents (5%) stated that they did not agree.

Of the respondents who commented on this question, stakeholders were broadly very supportive of the proposals to maintain public registers and that they should be transparent.

There were different views expressed on whether there should be joint registers with the EA or whether the new body should create Wales-only registers. Some stakeholders indicated that they supported a consistent approach across all parts of the UK, whilst others commented that joint registers would be preferable. One stakeholder highlighted that if separate registers are decided then consistency of format and detail provided would be welcomed and an on-line link to the other bodies' registers would be useful. A further comment was that not adopting a unified approach to public registers could cause some confusion and minimise transparencies. Additionally, one stakeholder stated that no evidence has been presented to demonstrate the relative merits of Wales-only or the continuation of joint-registers, either in terms of efficacy or value for money to Welsh taxpayers.

Some stakeholders indicated that they would appreciate more detail on the proposals, including clarity on principles as to how the actual arrangements will be determined on a case-by-case basis. One stakeholder also highlighted the need for more information on the cost and administrative burden of the options proposed.

## **Further comments**

- The proposal for public registers is confusing as it is not clear how it relates to the list of permits, the scheme, the formal publication of decision documents and existing obligations with respect to registers. Further clarity is needed to make explain how these documents relate, what they would include and how they would operate.
- To be truly open and transparent any public register needs to be easily accessible and up to date. Many existing registers fail either one of both of those tests.
- More information is needed on the new body's role in publishing or providing information in relation to compliance with EU Directives in Wales and its role in providing information to Defra for the UK return.

- Would like to see further information published in readily accessible registers on how it manages the public forestry estate, for example by making forest design plans available on the internet to give appropriate stakeholders the opportunity to engage and consult.
- The new body must have a duty to communicate willingly and effectively with stakeholders and the public. Public registers are just one mechanism but do not provide an adequate communications strategy.
- Would appreciate a system where it can inspect registers on a local and not an all-Wales basis. Will the registers be available on-line?
- The public registers need to be searched in property transactions. It would be invidious in future to have to search the EA register and any separate register set up to cover Wales alone to establish whether a property is covered by any environmental permit or licence.

**Question 10. Do you agree that the new body should be a listed body under the Regulation of Investigatory Powers Act 2000? [Yes, Mainly, No]**

## **Overview**

A total of 44 respondents directly answered this question. Of these, 38 agreed with the proposal and 6 respondents mainly agreed. As 100% of respondents either agreed or mainly agreed, no respondents stated that they disagreed with the proposal.

As all of the stakeholders who responded to this question either fully or mainly agreed, the vast majority did not make any specific comments on this issue. Comments received included that the power to undertake surveillance activities in respect of environmental crime must be transferred to the new body and that the powers will enable surveillance activity in respect of, for example, environmental crime such as waste crime.

Some stakeholders highlighted the public concerns about the infringement of civil liberties as a consequence of the Regulation of Investigatory Powers Act 2000 and emphasised that considerable care should be taken to ensure that the use of these powers, including covert surveillance. In particular, several stakeholders cautioned that the powers should not be extended beyond the current remit within EA.

## **Further comments**

- Listing the body could lead to an expansion of the powers to a wider set of functions that CCW and FCW currently do not have. However, if not listed the body would not have the investigatory powers that the EA currently has.
- This approach is the best way of ensuring continued consistency across England and Wales.
- There is a need to ensure that there is communication between the EA and the Welsh body regarding cross-border investigations to avoid duplication of work and to ensure that any action is co-ordinated if both bodies are involved.
- In the interest of protecting the civil liberties of Welsh citizens, it is necessary to establish clear lines of accountability and checks and balances in the use of these investigatory powers. It would be appropriate for the new body to seek the approval of an independent authority (such as a Police Inspector or the Secretary of State where appropriate) when utilising these powers.
- Assume that the existing FCW powers relating to illegal felling and enforcement of the UK Forestry Standard will transfer to the new body.
- Need more understanding of the issues.

**Question 11. Do you agree that the new body should have powers to use civil sanctions? [Yes, Mainly, No]**

## **Overview**

A total of 47 respondents answered question 11. The analysis shows that 43 respondents agreed with the proposal and 3 respondents mainly agreed, which make up 98% of the responses on this issue. One respondent (2%) did not agree.

As the vast majority of respondents agreed with the proposal, comments were generally positive. They included: that the powers to use civil sanctions are an important component of the new body; that civil sanctions are an essential weapon in the armoury of the EA and increasing use is being made of them; that the new body should have the same rights as the EA to impose civil sanctions; that criminal prosecution must remain an option available for the new body in response to the most serious environmental offences; and that for less serious cases, civil sanctions may be a more appropriate response.

Only one stakeholder stated that they did not agree with the proposal. The reason stated was that they have had concerns about the use and far-reaching powers of civil sanctions since they became law in 2008 and would only be able to support this if the body could give assurances that the powers used are ones of last resort and proportionate.

Some stakeholders indicated that they would strongly support the extension of these powers to other functions of the new body in future, not just to the existing EA functions. On the other hand, a few respondents indicated that care should be taken to ensure that the powers do not exceed the powers currently given to the EA. Some stakeholders requested further involvement if there were any plans to extend the civil sanctions powers further. In particular, one stakeholder highlighted that there should be no extension of these powers across the body without public scrutiny by Assembly Members and due consultation.

## **Further comments**

- Any use of the powers must have regard to the better regulation principles of transparency, consistency, proportionality and targeting.
- Welcome the fact that the new body will need to exercise the power in accordance with better regulation principles.
- Welcome the proposal to review the proportionality and effectiveness of the use of the powers.
- Suggest that the scope of the review proposed after 12 months should include consideration of whether the powers should continue to be available to the body.



- Would expect significant detail about how and when civil sanctions will be sought and what governance arrangements the body will put in place to monitor and review this.
- Would like the opportunity to comment on the relevant policies and guidance as they are drafted by the body.
- Additional information would be required to determine whether the body will have sufficient resources to pursue enforcement through the courts, or whether it will prioritise financial resources elsewhere within its functions.
- Targets should be agreed with stakeholders, especially on fisheries enforcement. Targets need to be realistic, meaningful and measurable but challenging. Many of the current targets set for the enforcement and fisheries fail to meet these basic criteria.
- The Welsh Government will need to take enforcement action if the new body causes environmental damage. As well as the possibility of criminal prosecution, the new body should be able to offer enforcement undertakings for formal acceptance by the Welsh Government.
- Civil sanctions should provide regulators with a broader, more proportionate toolkit to deal with the full range of non-compliance, although there are concerns that the process could be overly complicated and difficult to understand.

**Question 12. Do you agree with the proposals for appeal arrangements?  
[Yes, Mainly, No]**

**If not what would you change?**

## **Overview**

A total of 43 respondents answered question 12. Of these responses, 29 agreed with the proposal and 11 respondents mainly agreed (comprising 93% of respondents). Three respondents (7%) disagreed.

Most of the stakeholders who responded to this question agreed with the preferred position that the Welsh Ministers would hear appeals in respect of all Welsh matters, including those currently heard by the Secretary of State.

Some stakeholders did however express concern about this proposal. Specific comments included that they would like to see the existing arrangements maintained with regard to appeals to the Secretary of State and that the reasoning behind the preferred position to remove this requirement would be useful. A further stakeholder commented that more information was needed on which legislation the Welsh Government wishes to amend in order to remove the Secretary of State as the recipient of an appeal and, in the absence of such information, the status quo should be maintained.

A suggestion was that the Welsh Ministers should hear appeals in respect of decisions made by the new body, which is perhaps clearer than stating that the Welsh Ministers should hear appeals in respect of “Welsh matters”.

A number of stakeholders highlighted that more detailed information was needed on how the arrangements would operate. In particular, more information was thought to be useful on how appeal arrangements would operate in cross-border situations. A specific concern was in relation to cross-border rivers as arrangements are likely to be needed in respect of appeals against determinations relating to cross-border watercourses where organisations from both the English and Welsh sides of the border may have been involved in the original decision-making process. There may be appeals against a refusal to allow an activity in Wales because it risks causing pollution/water quantity problems downstream in England (or visa versa).

A further concern was that if the Welsh Ministers are to become the route of appeal in respect of all Welsh matters, the intention is also for the Welsh Ministers to be consultees in respect of some matters. A view was that this may create a conflict when Welsh Ministers are determining an appeal on a decision that they have contributed to via the consultation process and as a consequence, safeguards need to be included in the legislation to ensure that there are no conflicts of interest. A suggestion was that this could be achieved via a requirement that the Welsh Minister who considers the appeal should not have been involved with the consultation response, and should not represent a constituency that would be directly affected by the decision.

## Further comments

- The powers under the Regulatory of Investigatory Powers Act 2000 should be balanced by an effective system of appeal in matters such as the designation of land as SSSIs, SAC etc to give some protection to farmers and landowners.
- Determination of most permitting appeals should be taken out of direct Ministerial involvement and delegated to a Welsh Planning Inspectorate capable of providing authoritative and professional judgement. Only in extremis should Ministers need to make the final decision.
- Of particular interest will be the way in which the existing industry partners have been involved in the identification of such systems and the clarity of the independence of the suggested appeals process from both government sponsorship of the initiating agency and from wider political influence.
- Do not consider it vital to alter the devolutionary framework at this time, when past experiences have not produced any need to divest the Secretary of State of these functions entirely.
- The proposed change is potentially important for operators who may be making significant investments, such as power stations, in Wales. As such, the consultation document does not provide sufficient detail or justification for the proposed change, nor consideration of the risks and benefits.
- What about public inquiries for modification orders?
- It would have been useful if the consultation paper had confirmed that the Welsh Government will continue to use the Planning Inspectorate (PINS) in environmental appeals processes.
- Provision may need to be made to ensure that there are sufficient resources available to the Welsh Government to deal with appeals in a timely and consistent manner.
- Forestry appeals are brought to bodies independent of government, so is this to be scrapped? If so it would appear to be a reduction in transparency as the body acts as the advisory body to the Minister on forestry matters so from where would he obtain expert advice on whether there is a basis to the complaint?
- Thought could be given to whether there will be sufficient resource and expertise to provide inspectors who could advise the Welsh Ministers.

**Question 13. Do you agree with the proposals for cross-border monitoring?  
[Yes, Mainly, No]**

**If not what would you change?**

### **Overview**

A total of 44 respondents answered question 13. The analysis shows that 28 respondents agreed with the proposal, with a further 16 respondents indicating that they mainly agreed. Together, these accounted for 98% of respondents. One respondent (2%) stated that they disagreed.

Comments from respondents who agreed included that the proposals are pragmatic and will not duplicate work.

Some stakeholders however commented that more information is needed on how cross-border co-operation will work, which also needs to take account of the concerns facing key stakeholders. Engagement with stakeholders on this issue was therefore felt to be needed. Some respondents also thought that more information was needed about why substantial disagreement was considered a 'rare or non-existent event'.

A number of stakeholders agreed with the proposal for UK and Welsh Ministers to issue Ministerial directions to each body to co-operate in the event of substantial disagreements. However, some thought that more explanation was needed on how this function of dual authority between the UK and Welsh Ministers would operate in the event of a subsequent disagreement between them, although in practice this would be rare.

### **Further comments**

- A final decision maker should be determined in advance.
- Cross-border information sharing and enforcement is needed with regard to fisheries as much of the border with England is marked by the Rivers Dee and Wye.
- A formal process should be established for joint objectives and operations, contingency plans, emergency procedures, conflict resolution, accountability and reporting.
- Monitoring and sampling should be the responsibility of the new body for sites in Wales and the EA/Natural England in England. It would be more efficient for the staff of the two organisations to cross the border and to undertake the monitoring or sampling for themselves.
- The new body should assume duties to report to Welsh Ministers or the Welsh Government. Where a function continues to be undertaken by the EA, it should continue to be responsible for reporting in respect of any site/activity which is in Wales or which crosses the border.

- Welsh Ministers should consult the new body and the EA before issuing a direction to a water undertaker whether the direction relates to an area wholly or mainly in Wales or which is mainly in England but has an impact on water resources in Wales.
- Internal processes that are put in place should be efficient and effective and that where monitoring may relate in action by a third party, for example as part of a planning condition, procedures do not get in the way of achieving environmental outcomes.
- Monitoring and evaluation should include other activities of the body where evidence can be developed for future policy and practice.
- The arrangements for cross-border monitoring should be made within the parameters of efficiency and least cost to ensure that there are no disproportionate costs associated with the process. Sharing data and information is considered to be the most positive way forward.
- There is potential for a loss of key resources from insufficiently rigorous cross-border mechanisms and agreements. The Welsh Government should engage with key stakeholders on these and other related issues.
- The EA is currently the Navigation Authority for the River Wye. Is such a responsibility envisaged as a possibility for the new body, is it to be left to EA in England, or would Welsh Government seek to transfer such responsibilities to the newly formed Canals and Rivers Trust?
- Additional reference needs to be made to the possible requirement for the statutory environmental assessment (HRA, EIA and SEA) of permits/assents and consents of projects/plans/programmes affecting cross-border sites and the status and role of the new body as a statutory consultee/consultant body on such assessment processes.
- A number of internationally designated nature conservation sites also cross the border. Reassurance is needed that such cross-border sites will benefit from appropriate cross-border agreements and operational structures which will enable the protection and maintenance of these important sites and their ecological functions.
- Businesses should not be burdened as a result of two different regulators failing to reach agreement or incurring additional cost which they would seek to pass on.
- Would want to see a robust process in place for final decision-making, where there is substantial disagreement between the bodies.
- There is also the need for greater flexibility in allowing for monitoring species that feely cross borders such as in the Wye Valley AONB. Clarity or flexibility on arrangements and agreements to collaborate on cross-border species monitoring would be welcomed.
- There must be recourse to appeal in cases of doubt.
- In terms of prioritisation and workload scheduling it may be more practical and efficient sometimes to allow cross-border work by the new body into England or the EA into Wales.

**Question 14. Do you agree with the proposals for statutory planning and reporting? [Yes, Mainly, No]**

**If not what would you change?**

## **Overview**

A total of 46 respondents directly answered this question. The analysis shows that 30 agreed with the proposal and 16 respondents mainly agreed (100% of respondents). No respondents indicated that they did not agree.

This proposal focused on statutory environmental plans such as River Basin Management Plans and Water Company Plans. There were different views on the proposal that one body may undertake the work to develop and implementing a cross-border plan, with the agreement of the other body. Many stakeholders supported the principle of joint working and indicated that the proposal was a logical solution. One comment was that it would seem superfluous for both organisations to prepare and co-ordinate their separate plans. A small number of stakeholders highlighted concerns. For example, one stakeholder stated that although the proposed approach is the most pragmatic, they had concerns that this could result in discrepancies and inconsistencies and therefore would prefer to see some form of pre-arranged guidance in place setting how these cross-boundary plans would be achieved.

A number of respondents highlighted the importance of consultation with stakeholders, particularly in cross-border circumstances and some indicated that they would like a requirement for such consultation. One stakeholder highlighted the importance of stakeholder engagement in the development of River Basin Management Plans, particular in cross-border circumstances. Given the range of issues tackled, it is essential that stakeholders can contribute to developing appropriate actions as necessary.

There were several comments about the statement that the body will have a general obligation to exercise certain relevant functions to ensure compliance with the requirements of the Water Framework Directive. A specific comment was that it was assumed that the body would be the competent authority for the Directive's delivery in Wales and that the transposing regulations would be amended so that the new body would be referred to within the regulations. A further comment was that clarification was needed; in particular, it would be useful to know where these currently unexercised functions may relate to activities of local planning authorities.

## **Further comments**

- A clear position is needed on the new body's role in water industry planning.
- Further information should be made available to confirm working arrangements for statutory UK reporting, detailing to which Government department and/or Minister would respond in each instance.

- Cross-border River Basin Management Plans are potentially very important and further consideration needs to be given to how any difference in approach between the new body and the EA would be handled.
- Cross-border rivers basins could be an issue. If the EA and the Welsh body each draw up their own plan for the part in their region it could lead to inconsistent approaches between the English and Welsh sections. It may be better to provide for the EA and the Welsh body to jointly draw up the plans, or for the plans to be drawn up by the body responsible for the majority of the basin.
- River Basin Management Plans for river basin districts have in the past reflected the EA England view which has meant failure to reflect those priorities and actions from Wales which were submitted as part of the Management Plan process. It is extremely important to ensure that the cross-border information sharing and co-ordination procedures be reflected and agreed on both sides.
- The body needs to take a wider perspective set out in its duties. Wider implications of decisions need to be taken into consideration and why a sound evidence base is created before recommendations are made.
- Planning authorities will require a close and effective working relationship with the new body to provide specialist input at the earliest stage of decision making, through LDP formulation and pre-application enquiry stages as well as through the processing of individual planning applications. There should also be a role for the new body at a regional level should the recommendations of the Independent Advisory Report on Planning become enshrined in the legislation.
- Reference needs to be made to the role of the body in relation to the preparation of Local Development Plans and the relationship between the new body's statutory plans and those prepared by Local Planning Authorities.
- There are possible conflicts of interests which could arise between the organisations to be taken into the new body.
- Where responsibilities are being transferred to the new body, it will be vital to ensure that cross-border consultations are continued so that Local Planning Authorities on either side of the border have the full support and evidence base required when considering the environmental impacts of their statutory land use plans.
- There are concerns about the dividing up of responsibility for the development of cross-border plans based on an arbitrary country boundary rather than the functionality of the environmental system involved.
- Support the requirement to provide date for statutory UK reporting. This will enable other sectors such as Local Planning Authorities to fulfil their reporting duties with more efficiency and accuracy.
- Further information is needed to confirm working arrangements for

- There is no commitment to marine planning under the Marine and Coastal Access Act 2009 and how this will be taken forward.
- The Secretary of State should also consult the EA and the new body, before issuing a direction to an undertaken wholly or mainly in England on plans that could or are likely to impact on water resources in Wales, as well as those that clearly will impact.
- Up to now EAW has been reliant on the support it receives from its Head Office. Looking ahead, successful delivery of the Water Framework Directive in Wales will depend on the new body committing adequate resources to this work.
- Would suggest creating a vehicle to share information, resources and knowledge exchange that this is a key way forward to assist in the pooling of human and technical resource across the breadth of the UK marine environment.
- Recommend early consideration of existing and planned sustainable renewable energy installations (and stakeholder and UK Government dialogue) in any associated plan produced by the new Body, in the context of meeting Wales and UK renewable energy objectives.
- Note that Water Resource Management Plans and Drought Plans require both SEA and HRA. The new body will be consulted on both SEA and HRA for these plans in respect of effects on water resources.
- CCW is involved in reporting activity for landscape and conservation purposes. The consultation is not clear whether the duty on the single body to provide data for Wales, where these are required for statutory UK reporting purposes, refers only to WFD work (as suggested by the text). There is a complication, in relation to Habitats Directive monitoring, in that the Habitats Regulations clearly indicate that CCW has only an advisory role and that Welsh Government itself is responsible for ensuring monitoring is undertaken to enable statutory reporting. There is some risk, therefore, of inconsistent approaches in the new body. The body should be given clear responsibility for undertaking relevant monitoring for UK reporting purposes.



**Question 15. Do you agree with the proposals for Civil Contingencies and COMAH? [Yes, Mainly, No]**

**If not what would you change?**

## **Overview**

A total of 39 respondents answered question 15. Of these responses, 33 fully agreed with the proposal, with a further 6 respondents indicating that they mainly agreed with it. No stakeholders stated that they disagreed.

Specific comments included that it is a sensible approach and that as the existing responsibility for COMAH lies with EAW it is logical for this function to be transferred to the body.

Some stakeholders commented that they agreed with proposal to transfer responsibilities currently undertaken by the Secretary of State to Welsh Ministers as this would be in line with other functions that would be transferred to the Welsh Ministers. However, one stakeholder commented that it was not vital to alter the devolution framework at this time. The transfer of powers to Welsh Ministers is likely to require changes to legislation, which may have to be done at Westminster, so is likely to require co-operation.

A number of respondents emphasised the need for appropriate resources in this area. For example, staff that undertake inspections and permitting functions should have the necessary knowledge, expertise and competence to support the functional requirements of the role. Another stakeholder commented that they needed more information on whether there will be a sufficient number of trained staff to deal with these issues. A suggestion was that as it is highly likely that new staff will need to be recruited and trained, then in the meantime the new body should have a Memorandum of Understanding with the EA to use their staff should an emergency occur in the interim. A further comment about resources was that there should be experience and expertise amongst those within the new body to be able to respond to marine and coastal issues and events which by their very nature are broad and wide-ranging.

## **Further comments**

- It is essential that there is no reduction of expertise, resources and speed of response.
- In the interests of public safety, business growth and development, it is important that requirements, regulations and enforcement are undertaken in accord with such provision across the rest of the UK, especially England, so as to afford an equal playing field.

- It is unclear whether the correspondingly greater financial liabilities of dealing with incidents will be adequately taken into account, either within the body's own budget, or the Welsh Government's financial reserve.
- HSE will need to be informed about any legislative changes that will affect the COMAH Regulations.
- There are established arrangements in place that ensure HSE and agency counterparts in Great Britain operate within a defined competent authority framework, which includes for example common processes. This helps industry to regard the competent authority as a single organisation and is likely to be further enhanced as a result of the Better Regulation Executive's Review of Enforcement.
- The new body will be required to contribute to process improvement, operational strategy and be a member of the Competent Authority Strategic Management Group, all of which will have resource implications.
- It is essential that a consistent regulatory approach is taken in Wales as compared to the rest of the UK with regard to COMAH.
- The EA currently has responsibilities in local authorities' off-site emergency plans under REPPiR 2001 (Radiation (Emergency Preparedness and Public Information) Regulations). Clarification is needed on which body will fulfil these responsibilities under the proposed new arrangements.
- There is a need for procedures to be in place to ensure co-operation between the relevant bodies, particularly in relation to cross-border issues.

**Question 16. Do you agree with the proposals for UK wide arrangements?  
[Yes, Mainly, No]**

**If not what would you change?**

## **Overview**

A total of 42 respondents answered question 16. The analysis shows that 35 agreed with the proposal and 7 respondents mainly agreed (i.e. 100% of the 42 respondents). No stakeholders indicated that they did not agree.

As all stakeholders who replied to this question either agreed or mainly agreed with the proposals, views were fairly positive. Specific comments included: that it would be sensible for statutory functions to remain on a UK basis undertaken by the EA; that it makes sense to maximise economies in terms of administering these schemes; that it will avoid unnecessary complexity and cost of regulatory compliance and that it will avoid duplication and ensure the best use of resources.

## **Further comments**

- More information is needed on UK-wide arrangements to share fisheries protection information, details of known poachers, gangs and potential gang activity.
- More detail is required on the practical and cost implications for FCW.
- Assume that other schemes are included in the proposals, such as the Transitional National Plan component of the Industrial Emissions Directive, Eels Regulations and the UK Technical Working Group participation in the Large Combustion Plant BREF Review.
- Arrangements for international waste shipments might need to be altered from the current service provided, in relation to statutory recycling targets legislation in Wales.

**Question 17. Do you agree with the proposals for transitional arrangements? [Yes, Mainly, No]**

**If not what would you change?**

### **Overview**

A total of 46 respondents answered question 17. Of these responses, 36 agreed with the proposals and 10 respondents mainly agreed (100% of respondents). None of the responses stated that they did not agree.

Some of the comments included that stakeholders welcomed the proposal that the second order will define the transitional arrangements which will ensure that decisions of the existing bodies, permits, agreements, contracts and so on will continue as if the single body was the original body. A further comment was that the transitional arrangements would ensure the continuation of valuable existing partnership work of the three bodies. Many stakeholders also commented that the list of areas covered by the transitional arrangements appeared to be comprehensive and therefore should be included in the second order. A small number of stakeholders commented that there were other aspects that would need to be addressed by appropriate transitional arrangements in order to ensure a smooth and seamless transition from the present arrangements to the new body. One stakeholder highlighted that there are a range of other understandings which the three organisations have with communities and 3rd sector organisations and which should also be protected during transition.

Some stakeholders emphasised that the Welsh Government needs to ensure that the transitional arrangements ensure that there is minimal disruption to the day-to-day functions of the services offered currently by the three agencies after the change over. Any ongoing work, including the provision of advice and regulatory decisions dealt with by the present bodies, must continue to come forward without adverse impacts on quality of service and without delay.

### **Further comments**

- Some practical concerns over how the new body intends to respond to planning applications and local development plans issues. There is currently overlap between EA and CCW responsibilities and sometimes nature conservation comments are tagged onto EA responses which in the main are concerned with flooding issues. There needs to be a defined system of consultation in place.
- Clarity is sought regarding the weight that would be attached to comments received from the new body, especially from a planning perspective.
- Further information is needed to provide greater transparency over how operations will be managed and cost controlled during the transition and where accountability lies for decision-making before

the single body is finally established, in particular staff pensions, the extent of 'salary protection' arrangements and general ICT costs.

- It is vitally important that local authorities are able to resolve any issues and resolve any 'teething problems' swiftly. Each local authority could have a designated senior officer in the single body who could be the first point of contact to sort out such issues as they arise.
- Would expect an Independent Advisory Panel to be established as part of the governance arrangements, which should be in place from the inception of the body.
- Would welcome additional detail on the transitional period including a timetable and information on how contacts with specific persons within each organisation relating to how business can be maintained.
- The transitional period only mentions the transfer of environmental functions of the EA, FCW and CCW. Marine licensing and planning functions of the Welsh Government are not considered, which is an oversight given the importance of the marine environment to the Welsh economy – as such the transfer of these functions without any loss of service to marine sectors must be factored in.
- Would question what the process would be where there are conflicting obligations within the body to settle such matters during the transitional period? Who will ensure a fairly applied and consistent approach across the country during the transition?
- Hope that the new body will continue to actively engage and support forums and groups, such as the Wales Rights of Way Managers Working Group and Welsh National Access Forum.
- There is already inconsistency between the three bodies in transitional arrangements e.g. with respect to funding partner organisations beyond 31 March 2013.
- Clarity is needed on the future position of partner organisations which do not have a formal Memorandum of Understanding with the existing bodies.
- Would like clarity over which services will continue to be delivered by the EA and whether these include any services that relate specifically to water and wastewater customers, and of these, which ones are going to be jointly provided for a transitional period or on a permanent basis.

**Question 18: If you have any related issues which we have not specifically addressed, please use this space to report them.**

Respondents highlighted a variety of issues under this question, including the following:

### **Purpose of the body**

- Defining “environment” in a more comprehensive way would ensure that the new body must ensure that in undertaking its work the important cultural services, intangible qualities and sense of identity that landscapes provide, are accounted for and promoted appropriately.
- The proposed wording for the purpose of the new body remains weak and appears to have no ambition for the body to halt biodiversity loss.
- The current definition of environment in the order is too narrow.
- The definition of environment fails to acknowledge the importance of cultural services of the environment.
- The body must have a strong primary purpose (duty) to protect, restore, enhance and proactively manage biodiversity (i.e. the building blocks of ecosystems) and ecosystems, on land and at sea.
- Have concerns regarding the multiple use of and definition of sustainability in the statutory purpose of the new body contained in the first order.

### **Sustainable Development**

- This order is setting a precedent of a totally inadequate definition of sustainability, which is inconsistent with the Government’s intentions for the SD Bill. The order is giving functions and responsibilities to the body with primary responsibility for the environment, which is inconsistent with any accepted international definition of environmental or ecological sustainability and are inconsistent with the Rio declaration, to which we are signatories through UK government.
- The new body should have a duty to balance the three pillars of SD. Economic development and timber production may not feature as strongly as the other pillars in an organisation dominated by regulatory and conservation interests. None of the three should be given primacy nor should the wording of any duty be capable of interpretation to allow one issue to be given greater standing over others.
- Concern that there is no reference to the proposed SD Bill.
- The body has the potential to be a powerful, creative, influential force in attaining SD in Wales. Would like to see stronger links drawn between the body and work on SD.
- The body should be the embodiment of SD, with the Ecosystem Approach being the guiding principle for the new body.

## **Staff and expertise**

- It is vitally important that the new body is still able to have access to historic environment expertise in order for it to pay due regard to the historic environment. The body should also ensure that relevant information and advice is drawn from both statutory and non-statutory bodies within Wales.
- In order to deliver a properly integrated service for the environment of Wales, it is necessary that professionals in the natural environment and the historic environment fields work together
- The new body should remain a significant employer of professional foresters to maintain a high standard of silviculture, both within the publicly owned woodlands and the private sector. Staff should become professionally qualified. The new body should continue FC's policy of ensuring that posts requiring a professional forester should have a requirement that the candidate is or will commit to working to become a Chartered Forester within a set time period.
- The body needs to be adequately equipped with expertise in order to monitor the effect on society of its recommendations and actions.
- Forestry is a small sector and the new body will be a significant employer of professional foresters. As staff terms and conditions of employment adapt over time there is likely to be divergence from publicly employed foresters elsewhere in the UK, leading to reduced mobility into and out of forestry in Wales.
- Further detail is required on how the body will manage its resources. Appropriate expertise can be limited, especially in highly specialised sectors, so would welcome more detail on the governance frameworks under which the body will pool resources with other bodies such as the EA.

## **Governance arrangements**

- Concerns that it will place environment control too far under the Welsh Government's control.
- Concern that the bodies will lose some or all of their vital independence from the Welsh Government, which would be unhealthy in the extreme.
- Concern about the need for an annual "remit letter" approach. If the body is set up with a defined remit and set of performance indicators, there is doubt about the need to restate the remit annually or to attach strings to the annual budget as would happen with a remit letter approach. Propose a strong governance framework and clear set of duties at the start with a review after say 5 years.
- There is a need for clear accountable scrutiny arrangements to be put in place for the body to enable appropriate scrutiny and to ensure such scrutiny assists the new body as it moves forward.

## **Stakeholder engagement**

- Support the principal of effective engagement with a full range of stakeholders and would welcome the retention of arrangements similar to the current multi-stakeholder Advisory Panel which has advised on the development and implantation of Woodlands for Wales over the past eight years.
- Will there be an external reference stakeholder group during the transition to the new body?
- Would like to see specific recognition of the need for the body to work and engage effectively with all external stakeholders and interested parties. There has been a lack of disclosure on how the body will interact with environmental sector; further information would increase confidence among organisations and individuals.
- Need further detail on how the new body will engage with environmental NGO as stakeholders and as delivery bodies for practical conservation activities. Concerned that existing stakeholder relations and advisory committees are being abolished before any discussion on the new arrangements has even commenced. Would therefore like to see a clear commitment to at least minimum standards in the legislation.
- The body will need to establish and maintain a framework of scientific and policy information that users of the information and the interested public can understand.

## **Forestry issues**

- The new body is a significant opportunity to rationalise and simplify the regulatory framework governing the forest industry.
- Forecast timber production, i.e. the moral commitment to continue to supply beyond the current contract period, should be maintained.
- Wales has a modern and innovative wood processing industry that stands comparison with its competitors in Europe. This has come about because of a long-lasting and highly effective partnership between the public and private sector. This relationship should be maintained.
- Recognise the Welsh Government's commitment to co-operate with other UK bodies over the control of tree pests and diseases but there is concern at the perceived lack of commitment to continued research and development within the forest industry.
- Recommend that licensing of plant health is better co-ordinated so that the granting of a felling order would be enough in itself to make the felling legal under the habitats legislation.
- The new body should work with the private sector to develop, pilot and implement a system of earned recognition for the forestry sector which provides a clear framework for a reduced burden of regulation and inspection for woodland managers/owners.



- Cannot see how FCW can play a role in this when their activities are at odds with the 'overarching duty' of nature conservation. FCW would be joint developer of two massive wind farms, if their planning applications are consented. While FCW may declare an interest, and withdraw itself from any discussions where they have an obvious commercial interest, their general attitude towards nature conservation betrayed by their planned wind farm developments should disqualify them from taking any part in the new body.

### **Access issues**

- Right of access does not mean the right to destroy and disturb wildlife and habitat and more needs to be done in this area.
- Access to rivers for non-angling activities must be clarified.
- Concern for the continued use of FC land for motorcycle sport which regularly host world, European and British championship events.
- Existing access rights should be honoured and that people can continue to have confidence in exercising these rights.
- It is vital that equestrians and the disabled are considered and not just walkers and cyclists.
- Seek confirmation of the continued availability of the Rights of Way Improvement Plan and National Trail grants from the body to NPAs following the introduction of regional transport plans sometime in the foreseeable future.

### **Marine functions**

- It is unclear whether marine licensing will be a function of the new body or not. Would like further details of what is intended for marine licensing and how that will be achieved.
- Would have expected this consultation to state whether functions on marine licensing will be transferred to the new body and, if so, to set out in more detail which functions will be transferred/ modified.
- There is little information available on the arrangements for planning and management of the marine environment with regard to the new body.
- Concerned that marine issues appear not to be sufficiently recognised as a key aspect of the new body. Would like to see marine included as a specific responsibility of the new body backed up by arrangements which ensure that there is no loss of customer service or marine licensing expertise during the transitional process.
- More information is needed on the arrangements for planning and management of the marine environment with regard to the body. What will be relationship with the Welsh Government's marine branch?
- It would be beneficial for the Welsh Government to clarify its attitude to marine licensing and dredging.

## **Heritage**

- There is lack of recognition of the existing heritage legislation and the role of CADW.
- The consultation refers to the new body's role encompassing protecting the historic landscape, but more information is needed on how this will sit in respect of CADW's duties.
- Concern that there is no reference to the proposed Heritage Bill.

## **Cost savings**

- A greater proportion of staff may be transferred into a new management tier which duplicates functions at a different level rather than economising on them horizontally.
- Object strongly to the financial imposition on the tax payer at a time of restraint to other more needy areas of the social structure. A further tier of management is not a requirement for the efficient running of any department or government.
- There is too much emphasis on the monetary benefits to be made out of the environment, particularly in respect to forestry.
- Welcome the fact that the business case identifies overall cost savings but are concerned that the cost of the change and the time it will take has been underestimated which will potentially reduce or even eliminate the identified cost benefit.
- Efficiency gains promised may not arise.

## **Other issues**

- The move to a single body will bring new ways of working. A way forward for the single body on incident response is to work closely with the fire service on wildfires, i.e. grass and forestry fires as training as wildfire firefighters to reduce the harm to wildlife and site of special interest scientific interest and conservation areas.
- The environment in Wales is dominated by water. It is sad that we have arrived at this juncture without the active incorporation of Dwr Cymru Welsh Water and the other water companies.
- If there is not agreement between the new body and the EA/Natural England on any matter, a decision-making structure/format should be determined in advance.
- It would be helpful for the Welsh Government to provide an indication of the intended size and nature of the policy departments that will interface with the new body, both during transition and after its establishment. How will the intended efficiencies be monitored? How will the public monies saved be re-distributed?

- The establishment of a new body is an opportunity to maintain and develop the existing best practice within the three organisations that are being merged, as regards bilingual provision. The Welsh Government should pay due regard to the Welsh language during the process of establishing the body and in considering the aim and the duties. The Welsh Government and the new body will need to consider the commitments of the Welsh Language Scheme which is currently being developed. The new body should commit to the Welsh Language Scheme in all of its functions, e.g. regulatory and enforcement.
- More detailed is needed on how the new body will interface with the planning system.
- Concern that there is no reference to the proposed Planning Bill.
- It would appear that current proposals will leave the new body with little or no control over Glastir. Ultimately the agri-environment scheme should come under the remit of the new body to ensure maximum benefit from the proposed new arrangements.
- Existing contractual commitments, e.g. long term timber contracts should be honoured.
- Would like a reassurance that the new body will give sufficient priority to the viability of relevant third sector bodies and that there will be no overall reduction in the scale of funding available to it.
- Would like a commitment that the emphasis on supporting economic development and encouraging more streamlined and simplified regulation will apply also to these considerations of permit derogations. The new body should give more flexible consideration to the application of permit derogations and the costs to industry and Wales' industrial competitiveness when applying permit obligations.
- There should be sufficient regard to make sure that the permit impact of the industrial emissions directive is managed effectively.
- Given the existing presence of the expertise in Aberystwyth (Welsh Government, CCW and FC), the new body should based there.
- It would be welcome to read in a preamble statement that the body has a remit to alert government and the public to deficiencies and losses as well as conservation successes, and that, preferably explicitly, the body shall draw attention, in timely and effective ways, to aspects of the environment that are 'dying' as well as 'living'.
- There is likely to be a major expectation of the body to provide guidance to government and the public on the limits of what is reasonable resource exploitation.
- The body should have the capacity to assess proposals, which may well be enterprising, for circumventing and avoiding reasonable constraints that need (in longer-term interests) to be placed on specific resource uses.

- The body should have the means to enable and encourage exemplary examples in resource management, and to foster training. It should be empowered to advise on, and reward achievement in, resource management practice.
- The legislative powers that the body will inherit to single out, designate and review specific natural resources should be framed in ways that enable it to consider distinctions between intrinsic natural resources, and 'applied' resources where the value is more in their use by humanity.
- The body's advisory functions should include leading on guidance on natural resource management planning, which should be given primacy over development planning, which in turn should be re-named development management.
- Concern about the relationship between regulation and planning duties of the body and the delivery of any service or outcome that is required of it.
- There are problems with the existing management of farm or diffuse pollution, particularly around enforcement. The body should take a responsive and responsible attitude with a higher propriety on successful outcomes and lower focus on the process.
- No mention is made of the grant-giving powers of the new body.
- To ensure smooth transition and maximum benefit, it is important that developers are able to engage fully with the body as early in the transition process as possible.
- The function for SSSI appeals should be transferred to the body and not reallocated to the Welsh Government.
- There is no reference to the transfer of wildlife/species licensing. Would like clarification on what is the arrangement going to be and will all functions be transferred?
- Would like clarification on proposals for powers of direction for Welsh Ministers e.g. how will they direct the body on non-devolved functions. Would have expected these to be considered in the consultation.
- Where there is a duplication of function, this does not necessary relate to a duplication of work, for example, the delivery of work by CCW's local conservation staff and EA's biodiversity teams. These teams, although having a lot of overlap on paper, enable very different delivery.
- The body must recognise that its decision-making cannot take place in isolation from international legislation, agreements or without recognition of its consequences on others in a global context
- Recommend a duty to ensure the rapid and affordable availability of environmental data (including telemetry, aerial photography and remote sensing) to the public, to public bodies and to local records centres.
- More information is needed on the body's relationship with local authorities and National Parks in Wales.

- Consultation is needed between the Welsh Government's Department for Environment and Sustainable Development and the Business and Rural Affairs Departments.
- A definition of the term "natural resource" is needed. It is unclear if the definition includes mineral resources.
- Concerns about the nature of the consultation, for example, that responses are being designed to support what has already been decided and that further consultation is not effective. Cannot see how further responses will aid decision-making.

## **5. Next steps**

In providing this summary document, the Welsh Government has considered all the consultation responses.

As well as this consultation summary, all the consultation responses are available on the Welsh Government's website, with the exception of the details of those respondents who have requested that their comments be treated as confidential.

## **Annex A: List of organisations which responded to the consultation**

Associated British Ports  
Bat Conservation Trust (Wales)  
Blaenau Gwent County Borough Council  
Brecon Beacons Park Society  
British Canoe Union  
BSW Timber  
Caerphilly County Borough Council  
Campaign for National Parks  
Campaign for Rural Wales  
Campaign for the Protection of Welsh Fisheries  
Canal and Rivers Trust  
Carmarthenshire County Council  
CBI Wales  
Ceredigion County Council  
Chartered Institution of Wastes Management (CIWM)  
City and County of Swansea's Nature Conservation Team  
Coed Cadw (The Woodland Trust)  
Confor  
Consumer Council for Water, Wales Committee  
Country Land and Business Association  
Countryside Alliance  
Countryside Council for Wales  
Cragen Llŷn a Môn  
Denbighshire Countryside Service  
Dŵr Cymru Welsh Water  
Energy UK  
Environment Agency  
EUROPARC Atlantic Isles  
Farmers Union of Wales  
Friends of Pembroke National Park  
Glamorgan-Gwent Archaeological Trust Ltd  
Health and Safety Executive  
Horizon Nuclear Power  
Hybu Cig Cymru-Meat Promotion Wales  
Institute for Archaeologists  
Institute of Chartered Foresters  
Institute of Public Rights of Way and Access Management (IPROW)  
Institution of Civil Engineers Wales Cymru  
Llais y Goedwig  
Mineral Products Association  
MOD  
Monmouthshire County Council  
National Grid  
National Parks Wales  
National Representative of the Local Access Forums in Wales  
National Trust for Wales

NATUR  
Neath Port Talbot County Borough Council  
NFU Cymru  
North East Wales Biodiversity Network  
Pembrokeshire Anglers Association  
Pembrokeshire Business Panel Regional Tourism Partnerships of Wales  
Royal Yachting Association  
RSPB Cymru  
RTPI  
RTPI Cymru  
RWE npower Renewables  
ScottishPower Renewables  
Sims Group UK Limited  
The British Association for Shooting and Conservation  
The Crown Estate  
The Gower AONB Partnership  
The Law Society  
UPM Tilhill  
Urban Ecosystem Group of the Wales Biodiversity Partnership  
Valero Energy  
Wales Activity Tourism Organisation  
Wales Environment Link  
Wales Landscape Partnership  
Wales Tourism Alliance  
Welsh Conservatives  
Welsh Local Government Association  
Welsh Motorcycle Federation  
Welsh Ports Group  
Welsh Ornithological Society  
Wildlife Trust  
Woodland Strategy Advisory Panel  
WWF Cymru  
Wye Valley Area of Outstanding Natural Beauty (AONB) Partnership  
Youth Hostel Association Cymru and England

There were also responses from 25 members of the public.



## **Annex B: Specific comments on the proposed wording of the natural beauty and conservation duties**

### **Comments on paragraph (a) of the proposed duties**

- The duty is not sufficiently robust and there must be an explicit commitment to halt and reverse losses contained within the main purpose of the new body.
- Would prefer for the forestry duties to be subject to having ‘regard for the conservation and enhancement of natural beauty and the conservation of flora, fauna and geological or physiographical features’ and therefore do not agree with the wording in Box 2.
- Concern that the pollution control functions will be limited and would like further clarification of this.
- There appears to be no mention of how the planning and management functions relating to the marine environment are being transferred to the new organisation. It would therefore be useful to make reference to the importance of seascapes and coastal and marine conservation.
- The proposals put promoting conservation and natural beauty as an overarching purpose, but do not appear to expressly recognise the need for there to be a sustainable farming industry. Concerned that this could lead to nature conservation/protection of natural beauty always been given higher importance than farming interests and economic development.
- Under (a) it is unclear if there is a distinction in degrees of obligation between ‘have regard to’ and ‘take into account’ (although the latter seems firmer) - all three points should have equal strength.
- The duty is not compatible with the “purpose of the Body”, which is to do things sustainably i.e. “in a manner designed to benefit the people, environment and economy of Wales.”
- There seems no reason why it is only the duty of Ministers to achieve SD.
- Concern that the outcome of the duty is a weaker conservation duty than that currently applying to CCW.
- As the statutory purpose of the new body is already present in the law there is no need to refer to it expressly here.
- FCW has potential to contribute in a positive way towards nature conservation aims rather than just balance the issue with forestry production.
- In Box 2, the clause at (a).(ii.) seems redundant and confusing, given that the conservation duty detailed at (a.) is integral to SD.

### Comments on paragraph (b) of the proposed duties

- The new body should have a single, common, and strong duty to protect, conserve, enhance and positively manage Wales' environment and so ensure its benefits for the people of Wales, now and in the future. Through this, the new body will ensure the delivery of the environmental pillar of SD whilst recognising the need for economic and social progress. If SD is to be the central organising principle as is being proposed through the consultation for the forthcoming SD Bill it would be peculiar to have different tiers of duties in the same body each of which has a slightly different emphasis.
- The balancing duty is now out of date and it does not sit comfortably with the NERC duty.
- The duty that pollution control functions is seen as of overriding importance to public health and environment is welcomed.
- It is unclear how the requirements of the habitat regulations fit with the 'desirability' of conserving etc as part of pollution control functions. The habitat regulations require nature conservation to be included in the decision-making process.

### Comments on paragraph (c) of the proposed duties

- Unclear why there is a distinction in degrees of obligation between 'have regard to' and 'take into account' under article (c). All three points should have equal strength.
- Arguably there should be a specific reference to health in (c) (iii).
- In article (c), we are not sure why there is reference to 'rural and urban' in the second point and only 'rural' in the third. Both should be included. The wording in the second order should include regard to social, *cultural* and economic interests in both *urban* and rural areas
- Urban areas should be included in (c) (iii), not just rural areas.
- Would recommend that the reference to "*in rural areas*" be removed thus widening the duty to all local communities in Wales.
- Not sure why there is reference to 'rural and urban' in the second point and only 'rural' in the third. Both should be included
- It is essential that the new body takes full account of the statutory purposes of National Parks in its own decision-making.
- Concerned that a more holistic approach should be taken to 'the environment' which encompasses both the natural and the historic environment.
- Not including pollution control and forestry functions in this means the duty would be weakened, which feels like a missed opportunity.
- The duty to promote the interests of forestry, the development of afforestation and the production and supply of timber and other forest products and be an advocate for sustainable energy generation are

inherently incompatible with a duty to protect and enhance the natural environment of Wales.

- There is a legal requirement to take into account any effect the proposals would have on historical features including buildings, sites and objects, under the Heritage Bill. It is important that this heritage legislation is cross referenced.
- The wording fails to take account of the potential longer term adverse impacts of inaction, and completely fails to address wider economic issues as they affect the economy at a regional or Welsh scale.
- Further consideration should be given to take account of the sustainable intensification food agenda.
- Suggest possible additional reference to the setting of buildings, sites and objects.
- Need to define 'buildings, sites or objects'.
- References to 'beauty or amenity' should perhaps be strengthened to include protection, preservation and enhancement of biodiversity.
- Does the Welsh Government have a definition of 'economic well-being' in this context and does that definition include the Welsh language? The effect of these proposals on communities' well-being cannot be assessed fully unless due consideration is given to the Welsh language within those communities. If the Welsh language is not included in such a definition, it should be included in the wording of the second order.