

Towards the Sustainable Management of Wales' Natural Resources

Environment Bill White Paper – Consultation Responses

We want your views on our proposals for an Environment Bill.

Your views are important. We believe the new legislation will make a difference to people's lives. This White Paper is open for public consultation and we welcome your comments. The consultation will close on 15 January 2014.

To help record and analyse the responses, please structure your comments around the following questions. You do not need to comment on all questions.

The Welsh Government will run a series of engagement events across Wales on the White Paper during the consultation period.

Please submit your comments by 15 January 2014.

If you have any queries on this consultation, please email:

NaturalResourceManagement@Wales.gsi.gov.uk

Data Protection

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

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

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 If someone has asked for their name and address not to be published, that is an important fact we would take into account.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be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published.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

23 October 2013 – 15 January 2014		
Name	Stefan Cartwright – Acting Secretary	
Organisation	One Planet Council	
Address		
E-mail address		
Type (please select one from the following)	Businesses	<input type="checkbox"/>
	Local Authorities/Community & Town Councils	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies and Associations	<input type="checkbox"/>
	Third sector (community groups, volunteers, self help groups, co-operatives, enterprises, religious, not for profit organisations)	<input type="checkbox"/>
	Academic bodies	<input type="checkbox"/>
	Member of the public	<input type="checkbox"/>
	Other (other groups not listed above)	<input type="checkbox"/>

Chapter 2 - Natural Resource Management

Question 1	
Do you agree with the overall package of proposals in relation to natural resource management in chapter 2?	
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

Please provide comment:

General comments:

The Welsh Government's Sustainable Development Scheme, 'One Wales: One Planet' has an objective that within the lifetime of a generation, Wales should use only its fair share of the earth's resources, with its ecological footprint reduced to the global average availability of resources of 1.88 global hectares per person (the global availability of resources in 2007). This is a very challenging but necessary target.

One Planet Development Practice Guidance is provided in line with this policy to support the introduction of One Planet Developments (OPDs). This policy is very new. There are only a handful of OPDs that have received planning permission. They represent a potential dramatic change in attitude to land use which allows a degree of habitation on agricultural land provided that a certain amount of livelihood can be generated from it sustainably. The metric used to evaluate this is the ecological footprint based on the ecological footprint calculator which is downloadable from the Welsh government website.

The One Planet Council (OPC) has been set up to promote and support the OPD policy and OPD applicants in Wales.

We are perturbed that 'One Wales: One Planet' is only referred to in passing, in a footnote on page 94 of the consultation document. There it does say that your approach "builds on the Welsh's Government's commitment to sustainable development as our central organising principle to define the best development path for Wales". We feel this should be noted right up front at the Environment Bill, since both the bill and the OPD guidance (and TAN 6 on which it is based) are bound to do this.

In fact the consultation document notes: Natural Resource Management and Land-Use Planning is intrinsic to the Environment Bill

What the consultation document lacks is a set of criteria that will underpin implementation of the bill, and evaluation and verification that its principles are being effectively carried out. Perhaps this will come later in accompanying guidance, but it would be helpful to discuss it at this stage.

Since the environmental footprint analysis (EFA) criteria for OPD's is derived from TAN 6 and itself from 'One Wales: One Planet' we believe that the EFA metric should also form a general criteria for all new developments. I.e. it is only possible to guarantee that changes in land use or, indeed, present land use, can help Wales achieve its One Wales One Planet policy aspiration if all land use and development is measured in the same consistent way. This will be a gradual process, and we are responding to other Welsh Government consultations with the same representation.

In our view, NRW has an important role to encourage sustainable land use, eg through OPD.. We note for example that OPD planning applications could be are not particularly scrutinised by NRW, when asked to do so, for their overall environmental impact. We are concerned that current scrutiny arrangements are not co-ordinated, Ffor example an application for an opencast coal mine is not scrutinised on the same basis as a One Planet Development even if it is operating on a greenfield former agricultural site such as the one given approval two years ago between Llandybie and Ammanford, which NRW's former body the FA was asked to consult upon

Question 2

Do you agree with the approach to define natural resources, sustainable management of natural resources and integrated natural resource management in Wales?

Yes **X**

No

Please provide comment:

The One Planet Council (OPC) supports the approach to define natural resources and the sustainable management of those resources. The OPD policy is designed to conserve, improve and sustainable manage our natural resources and is an example of a policy in practice with the ecosystem approach at its centre. But we believe food production and other land-based activities and industries should be included in the definition.

Question 3

Do you agree that climate resilience and climate change mitigation should be embedded into our proposed approach to integrated natural resource management at both national and local levels?

Yes **X**

No

Please provide comment:

Given the adoption of the Welsh Government's Sustainable Development Scheme, 'One Wales: One Planet there is therefore a need to reduce not just the carbon footprints but the whole ecological footprints of individuals and families, for all land use practices. This principle already applies to OPDs which are supposed to demonstrate objectively not just climate resilience and climate change mitigation through land management but improved biodiversity and resource efficiency. The policy would benefit from an integrated understanding and approach at all levels of government, and if Wales is serious about aspiring to One Wales One Planet it should apply to all types of land management and use otherwise some uses are being treated unfairly and disproportionately with respect to others.

In other words, the policy as stated in the consultation does not go far enough because climate change is not the only threat to the environment and to society.

Also, we do not think it is possible to incorporate climate change and climate change mitigation in integrated resource management if the intention is to monetarise ecosystem services. There is a lack of clarity here as to whether the intention is to recognise the implicit value of ecosystems through Natural Capital Accounting as per The Economics of Ecosystems and Biodiversity (TEEB) Report or whether the approach is to enhance marketisation. We reject the implication that climate change could be 'managed' by creating markets in its manifestations.

Question 4

Do you agree that the setting of national outcomes and priority actions for natural resource management should follow the five-year cycle for national outcome setting as proposed in the Future Generations Bill?

Yes **X**

No

Please provide comment:

This is already the case for OPD management plan evaluation. OPDs are providing much-needed research results into sustainable land management techniques. [The One Planet Council would welcome the opportunity to feed in to this process and is in a position to deliver clear examples and statistics of the delivery of the aforementioned priorities.](#)

Question 5

Do you agree that the area-based approach will help provide a clear, prioritised and focussed approach to delivery?

Yes

No

Please provide comment: It is the opinion of the OPC that the success of this approach will lie in how well the delivery is integrated in to strategic objectives of the broad range of stakeholders in each area. There is an opportunity for greater focus through Local Service Boards (LSBs) at county level.

The intention appears to be to focus on river catchments, which is a reasonable, if limited, organising principle, and in line with the Water Framework Directive, but most local government bodies, third-sector organisations and community groups are not organised on this basis. It should be clarified how bodies will work together to achieve this.

Question 6

Do you agree that the approach is flexible enough to enable significant elements of the plans for natural resource management to be replaced in the future?

Yes

No

Please provide comment:

As we say above, we believe that success will depend on integrated delivery which requires collaboration rather than competition. We object in principle to the idea of the marketisation of the environment. In England, the Environment Audit Commission has already critiqued the key document produced on this topic: Realising Nature's Value: The Final Report of the Ecosystem Markets Task Force, (2013) [<http://www.publications.parliament.uk/pa/cm201314/cmselect/cmenvaud/750/75008.htm>]. It said "The biodiversity offsetting metric described in the Green Paper is overly simplistic." It also said: "the metric for calculating environmental losses and gains must reflect the full complexity of habitats, including particular species, local habitat significance, ecosystem services provided and 'ecosystem network' connectivity. For some sites, for example sites of special scientific interest, the weightings in the metric must fully reflect their value as national, as well as local, assets."

We believe this does not go far enough. Whilst we support George Monbiot's criticism of the marketisation of nature as "making nature as fungible as everything else" we also recognise its value in making development in important habitats prohibitively expensive (i.e. making sure that biodiversity damage is not an economic externality), and thus preventing biodiversity loss in the first place.

However, payments for ecosystem services (PES) if they do happen, could beneficially affect OPDs, as sellers and as knowledge providers. OPDs could be funded by buyers to deliver expert environment-enhancing actions. But there is no way this can justify the destruction of precious ecosystems elsewhere.

The OPC should be considered as a knowledge provider. OPDs are generating much expertise and research data which could be useful.

Once marketisation is in place in a site, however, commercial contracts will make any change problematic.

Question 7

Do you agree with placing a requirement on other public bodies to co-operate in the area-based approach?

Yes

No

Please provide comment:

All public bodies must cooperate for the policy to be meaningful but we are sceptical about the consequences for those who do not co-operate or fail to deliver to targets. More information is needed on how NRW would enforce this.

Community councils and third-sector groups such as ourselves should also be involved in environmental protection work.

Question 8

Do you agree that NRW should be the lead reporting authority for natural resources?

Yes **X**

No

Please provide comment:

But there needs to be better consultation and involvement across all stakeholders in order to achieve the aims of Welsh Government's commitment to its One Wales One Planet focus. NRW needs support and training to undertake this task. We need to be convinced of its capacity to do so. But it might also, once certified, provide such support to other bodies such as planning authorities. There is currently confusion over who are the 'competent persons' in assessing OPDs' planning applications and indeed what defines competency, to evaluate policy, proposals and practice. If there is confusion over this specific, a relatively minor policy, how much more confusion will there be over larger, more generic policies ones?

As said in our introduction, a consistent approach needs to be taken across-the-board. We would continue to argue for the If this is not to be ecological footprint analysis and for this to be applied through the coming Future Generations Bill across Government and the public sector in Wales. We would also be interested in looking at whether, then another solution could be that an ISO standard could be is applied toby NRW activity (such as Life Cycle Assessment, ISO 14040). Whichever is the case, NRW staff would need to gain competency in applying this.

Question 9

Do you have any comments on the impact of these proposals (for example, impacts on your organisation)?

The OPC sees the Bill as a broadly positive opportunity for increased understanding across agencies and organisations of the example of One Planet Developments in tackling climate change, resource efficiency, preserving and increasing bio-diversity, tackling poverty and access to housing and employment. We see delivering on OPDs as a specific opportunity to address some of the sustainability challenges facing Wales and suggest that Government and NRW could be utilising the evidence from OPDs more effectively in building an evidence base of what works. We would welcome a consistent attitude being taken to all development.

We advocate:

1. That the same set of social and environmental criteria should be used to assess all development to create a level playing field
2. That these criteria, amongst others, should be informed by the ecological footprint analysis which enables all projects to be compared for their environmental impact
3. That official attitudes to land use should change to help rural areas use one planet living methods to become more productive and more populated, and urban areas more green.

This call is made because we believe that OPD:

1. ... Results in more productive land use with far fewer environmental impacts
2. ... Creates more employment than conventional agriculture
3. ... Promotes greater physical and mental health and well-being, reducing the burden on the welfare state and health service
4. ... Requires no taxpayer subsidies, unlike much conventional farming
5. ... Improves the local economy, resilience and food security
6. ... Therefore is more sustainable and gives excellent value.

In this context, OPDs could become sellers of expertise and the OPC a knowledge provider.

Chapter 3 - Natural Resources Wales – new opportunities to deliver

Question 10

Do you agree with the proposals set out in chapter 3 in relation to new ways of working for NRW?

Yes

No

Please provide comment:

We're concerned that the proposal to further the role of NRW to stimulate the use of market mechanisms to pay for ecosystem services, is based upon an assumption that the systems of the natural world can be valued monetarily. This notion carries extreme risks because:

- Prices cannot encapsulate nature's use-value for all living organisms including ourselves, either now or in generations to come.
- Nature itself is composed of interacting, changing systems which cannot be commodified into homogenous value units.
- Market pricing does not take into account the irreversible character of finite resource use or of many systemic changes that commerce might encourage (such as the impacts on climates of carbon released from burning 'renewable' biomass).
- Prices are determined by a multiplicity of factors, not solely by the scarcity of a 'commodity'.

These objections are explained in many papers on ecological economics and biophysical economics, e.g. see 'Indicators of Sustainable Development: Some Lessons from Capital Theory' by Peter A Victor, Ecological Economics 4, 3:191-213

We are concerned that the staff of NRW are not qualified to evaluate these risks.

Similarly we would like to see competency defined, as stated above, so that it can properly understand the techniques employed by OPDs.

Question 11

What limitations or safeguards on the use of powers might be necessary to enable NRW to trial innovative approaches to integrated natural resource management?

We could support a range of small-scale pilot projects for research purposes, overseen by the Commissioner for Sustainable Futures.

Question 12

Do you agree that NRW are an appropriate body to act as facilitators, brokers and accreditors of Payments for Ecosystem Services Schemes?

Yes

No **X**

If 'yes', do you consider that there is a need for any new powers to help to further opportunities for PES?

We oppose the concept of marketised ecosystem services. NRW would be, as an unelected body, inappropriate as facilitator, broker and accreditor of Payments for Ecosystem Services Schemes.

We would prefer the protection of natural systems to be the designated responsibility of government at all levels, working with specialists and concerned individuals in bodies like NRW, the Commissioner for Sustainable Futures and other third-sector organisations.

Question 13

What should be the extent of NRW's power to enter into management agreements?

There is logic to the suggestion that management agreements should apply to land rather than to its owners, but we do not think that NRW should have sole power to instigate management agreements.

Question 14

Recognising that there are some existing powers in this respect, where are the opportunities for General Binding Rules to be established beyond their existing scope?

No comment

Question 15

In relation to Welsh Ministers' amendment powers, do you support: a) the initial proposal to limit it to NRW's functions, subject to conditions as stated); or b) the additional proposal to cover broader environmental legislation, subject to conditions as stated?

A

B

Please provide comment:

Without seeing supporting guidance there is no way to evaluate this.

Question 16

Please state any specific evidence of areas of potential conflict or barriers between the objectives of integrated natural resource management and the application of existing legislation.

No comment

Question 17

Do you have any comments on the impact of these proposals, for example, on your business or organisation?

No comment

Chapter 4 - Resource Efficiency

Waste Segregation and Collection

Question 18

Do you agree with the package of proposals in chapter 4 in relation to the regulation of waste segregation and approach of combining the 5 measures together?

Yes **X**

No

Please provide comment:

The OPC has specific expertise in waste reduction at the individual and community level. Our interest in waste is that it should be reduced, re-used and recycled according to the European hierarchy wherever possible. All waste that cannot be dealt with by the above should be seen as a resource. As much as possible should be diverted from landfill and opportunities taken to increase accessible recycling centres where it is uneconomic or hazardous to pick up such waste in the normal arrangements. Our support for the Insofar as they might reduce the ecological footprint of Wales as a metric is so that there should be a consistent application of a trusted metric to guide behaviour . We welcome the policy direction that Government/NRW should seek ways to reward good behaviour that is environmentally positive and penalise poor behaviour as has been pioneered through the carrier bag charge.

We have made no further comment in this section as we are making our comments from the OPC perspective. However, we can as a Council demonstrate the effectiveness of designing waste out of our lives.

Please go to q42

but not if it leads to more waste being exported. Otherwise Wales is losing the value in the recylate. There should be a ban on exporting waste and greater emphasis on reuse and waste minimization. Mixed waste collecting and MRFs are antithetical to improving the quality and value of recylates, so we support the move for separate collecting and a ban on incineration of most wastes.

Are there any other materials or waste streams which should be included in the requirements to sort and separately collect?

Yes

No **X**

If yes, what are they, and why should they be chosen?

Question 19

Do you agree that the level of segregation asked of individuals / businesses is acceptable?

Yes **X**

No

If no, please state why and an alternative.

Question 20

Are there any particular types or sizes of businesses where it would not be technically, environmentally or economically practicable to keep the 7 waste streams separate at source?

Yes

No

If yes, please identify them and explain why.

No comment

Question 21

Do you agree with the materials that we propose to ban from landfill or energy from waste facilities?

Yes **X**

No

Are there any other materials which should be banned from landfill or energy from waste facilities?

Yes

No **X**

If yes, what are they?

Question 22

Do you agree that developing guidance for acceptable levels of contamination in residual waste for landfill/ incinerator operators and the regulator is a workable approach?

Yes **X**

No

If no, what other approach could we adopt?

Question 23

Do you agree that there should be a prohibition on the disposal of food waste to sewer?

Yes **X**

No

If yes, should this apply to:

a.a)
Sector

Households
c) Both

b) Businesses and Public

Please provide comment:

Both

Question 24

Do you have any comments about how such a prohibition should be enforced with i) businesses and public sector and ii) households?

i) They could be rewarded with discounts on business rates

ii) They could be rewarded with discounts on council tax

Question 25

Do you agree that lead in times for the proposals are reasonable?

Yes

No

If no, what alternative lead in time would you suggest?

Question 26

Do you agree that NRW are the best placed organisation to regulate the duty to source segregated wastes? If no, please give the reason and propose an alternative regulatory body.

Yes

No

Question 27

In your opinion, who is the most appropriate body to regulate the bans on disposal of food waste to sewer for businesses and the public sector:

- | | |
|--|--|
| <input type="checkbox"/> NRW | |
| <input type="checkbox"/> Local Authorities | |
| <input type="checkbox"/> Sewerage undertaker or | |
| <input type="checkbox"/> Other | |

If 'Other' please propose an alternative regulatory body and state reasons:

LAs and Sewerage undertaker

Question 28

Do you have any comments on the impact of these proposals (for example, impacts on your organisation)?

No comment

Carrier Bags

Question 29

Do you agree with the proposal to extend the enabling powers of the Welsh Ministers so that they may, by regulations, provide for minimum charges to be set for other types of carrier bags in addition to single use carrier bags?

Yes **X**

No

Please provide comment

Question 30

Do you agree with the proposal to extend the enabling powers of the Welsh Ministers so that they may, by regulations, require retailers to pass on their net proceeds to any good causes?

Yes **X**

No

Please provide comment

Question 31

Do you have any comments on the impact of these proposals (for example, impacts on your organisation)?

No comment

Chapter 5 - Smarter Management

Marine Licensing Management

Question 32

Do you agree with the proposals in relation to Marine Licensing?

Yes

No

Please provide comment

No comment

Question 33

Do you have any comments on whether the Welsh Government should extend NRW's ability to recover costs associated with marine licensing by charging fees for:

- - pre-application costs?
- - variation costs?
- - costs of transferring of licenses?
- - covering regulatory costs, via subsistence changes?

No comment

Question 34

Do you have any comments relating to the impact of the proposals?

No comment

Shellfisheries Management

Question 35

Do you agree with the proposal in relation to Shellfishery Orders?

Yes

No

Please provide comment

No comment

Question 36

Are there any other changes to the Several and Regulating Order regime that you think should be considered (i.e. can you think of any other ways that current practices could be improved)?

Yes

No

Please provide comment

No comment

Question 37

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

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No comment

Land Drainage Management / Flood and Water Management

Question 38	
Do you agree with the proposal in relation to changes to Section 29 of the Land Drainage Act (1991)?	
Yes <input type="checkbox"/>	No <input type="checkbox"/>
<i>Please provide comment</i>	
<i>No comment</i>	

Question 39	
Do you agree with the proposal in relation to changes to Section 47 of the Flood and Water Management Act (2010)?	
Yes <input type="checkbox"/>	No <input type="checkbox"/>
<i>Please provide comment</i>	
<i>No comment</i>	

Question 40	
Do you have any comments on the impact of either of these proposals?	
<i>No comment</i>	

Implementation / Equalities

Question 41

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

No comment

Question 42

Do consultees have any other comments or useful information in relation to any of the proposals in this White Paper?

The Welsh Government has a statutory duty to have regard to sustainable development. There is a lot of research that needs to be done in order to understand how different aspects of land use contribute towards the overall ecological footprint of the nation and environmental policy and assessment, not to mention scrutiny and enforcement which can be brought to bear to steer Wales into a more sustainable direction. We can see this from the inadequacy of the current sustainable development indicators for Wales. We think that that United Nations sustainable development indicators are too vague to be applied in a situation like this: they lack the robustness and the capacity for monitoring and verification. They are quantitative rather than quantitative.

From the point of view of One Planet Development's planning applications and decisions it is entirely evident to us that there is little expertise within local authorities in evaluating proposals against a clearly articulated Government strategic direction. It is therefore necessary for an independent body to have this expertise in order to be able to advise planning inspectors. This body could be NRW but it needs to have greater capacity and expertise to fulfil this.. At the very least, we hope that NRW will contribute to a pool of research that will be set up by the One Planet Council based on OPDs' ongoing performance, and we look forward to working with them.

We hope that NRW will be given funding commensurate with its new powers, and the ability to monitor and fine wrongdoers where necessary to an appropriate degree.