

Carl Sargeant AC / AM
Y Gweinidog Cyfoeth Naturiol
Minister for Natural Resources



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref LF CS 0594 15

Alun Ffred Jones AM
Chair of the Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

17th June 2015

Dear Alun,

In my letter of 14 May 2015, I indicated that as well as delivering against a number of Programme for Government commitments and wider Government priorities, the introduction of the Environment (Wales) Bill addressed a number of recommendations made by the Environment and Sustainability Committee, and the former Sustainability Committee, in previous inquiries.

Ahead of my appearance before your Committee on 24 June, I am writing to provide details on how relevant Committee recommendations have informed the development of the provisions in the Bill and how the Bill addresses those recommendations.

In 2010, the Welsh Government consulted on *A Living Wales: a new framework for our environment, countryside and seas*. The *Programme for Government* reflected the outcomes of that consultation with the commitments in relation to natural resource management, climate change and the green growth agenda. In practical terms, the Environment (Wales) Bill translates these strategic commitments into a modern legislative framework for Wales – underpinned by the need to reverse the decline of biodiversity and secure the resilience of ecosystems and the services they provide as a whole by recognising their interdependence with our economy and our communities.

Of the recommendations made by your Committee and the previous Sustainability Committee since January 2011, there are 21 which we assess are specifically addressed by the provisions of the Bill. First and foremost, the Bill directly addresses two key recommendations made by the Sustainability Committee's 2011 Inquiry into Biodiversity: the first in relation to adopting a ecosystems approach to the management of biodiversity, and the second on legislating to place a duty on relevant organisations to support and promote biodiversity.

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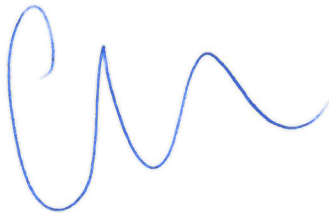
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I also wanted to highlight that the Bill addresses a number of recommendations made by your Committee in its consideration of both the Well-being of Future Generations (Wales) and Planning (Wales) Bills at Stage 1. Details on all the relevant Committee recommendations addressed by the Bill are provided at Annex 1.

I also wanted to take this opportunity to provide your committee with information on the timings of when, subject to the will of the Assembly, I would anticipate the provisions of the Bill coming into force, and when the powers to make subordinate legislation would be exercised by the Welsh Ministers. A 'forward look' of relevant dates is set out at Annex 2.

I hope that you find this helpful and I thank you the contribution the Committee has made to the development of the Bill to date. I look forward to attending your Committee to discuss the Bill in greater detail on 24 June.

Yours sincerely



Carl Sargeant AC / AM
Y Gweinidog Cyfoeth Naturiol
Minister for Natural Resources

Annex 1

Committee recommendations and the Environment (Wales) Bill

1. This annex sets out how the Environment (Wales) Bill delivers against recommendations of the Environment and Sustainability Committee, or where a recommendation has had a direct influence over the underlying policy of the Bill.
2. This annex refers to the report of the Sustainability Committee of the Third Assembly on the Inquiry into Biodiversity, January 2011 (recommendations 6 and 18).
3. It also refers to the following reports or inquiries of the Environment and Sustainability Committee:
 - a. The Business Case for a Single Environment Body, May 2012 (recommendation 4);
 - b. Energy Policy and Planning in Wales, June 2012 (recommendations 4, 5, 27, and 41);
 - c. Coastal protection in Wales, October 2012 (recommendations 2 and 6);
 - d. Invasive Non Native Species, January 2014 (recommendations 1 and 2);
 - e. Sustainable Land Management, May 2014 (recommendation 1);
 - f. Stage 1 Report on the Well-being of Future Generations (Wales) Bill, November 2014 (recommendations 2, 4, 6, 9, 12, 13, and 17);
 - g. Stage 1 Report on the Planning (Wales) Bill, January 2015 (recommendations 10 and 11).
4. The specific recommendations are set out below.

Report of the Sustainability Committee of the Third Assembly on the Inquiry into Biodiversity, January 2011

Number	Recommendation Description	How the Environment (Wales) Bill delivers
6	The Welsh Government should adopt a strategic ecosystems approach to the management of biodiversity in the wider countryside through the Natural Environment Framework. This ecosystems approach should be central to the Government's efforts to achieve the 2020 targets, and its effectiveness should be reviewed in 2015.	<p>The ecosystem approach is a central component of Part 1 of the Bill introduced in the principles of sustainable management and delivered via the state of natural resources report (SoNaRR), the national natural resources policy (NNRP) and also via area statements.</p> <p>The introduction of the sustainable management of natural resources (at section 3) and the supporting principles</p>

(section 4) will contribute to the delivery of the Aichi Biodiversity 2020 targets by addressing the key pressures and drivers that affect biodiversity.

18 The Welsh Government should legislate, in the first legislative programme of the Fourth Assembly, to place a duty to support and promote biodiversity on relevant organisations, building on the duty to have regard to biodiversity established by Natural Environment and Rural Communities Act. Depending on the outcome of the referendum it should do this either using Part 4 of the Government of Wales Act 2006, or by gaining legislative competence through a Legislative Competence Order.

The introduction of a new enhanced biodiversity duty on all public authorities with functions in relation to Wales. The new duty requires that in the proper exercise of their functions, they must seek to maintain and enhance biodiversity.

The Business Case for a Single Environment Body May, 2012

Number	Recommendation Description	How the Environment (Wales) Bill delivers
4	That the Welsh Government ensures that the pathway to creating a new and coherent organisational culture from the merger of three organisations with different cultures is clearly set out and the practical outcomes for stakeholders of this significant institutional change are clearly articulated.	Part 1, section 5 clearly defines a new general purpose for Natural Resources Wales (NRW) in seeking to achieve the objectives of sustainable management as set out in section 3 of the Bill and in doing so apply the principles of sustainable management which are set out in section 4.

Energy Policy and Planning in Wales, June 2012

Number	Recommendation Description	How the Environment (Wales) Bill delivers
4	The Welsh Government should develop a Natural Resource Plan for Wales by the end of 2013. This would sit alongside the Wales Infrastructure Investment Plan, be integrated with the Marine Spatial Plan and be used as a basis for the future planning of energy projects in Wales. The framework should be evidence-based and tested for “soundness” through an independent examination before it is adopted.	The NNRP must take into consideration the evidence from the SoNaRR. The NNRP will sit alongside the National Development Framework. The Marine Spatial Plan would be referred to in the NNRP.
5	That the role and function of the Wales Spatial Plan should be reviewed. This needs to be taken forward alongside work on the natural resource planning.	The review of the national natural resources policy is timed to coincide with the timings of key documents required under the Well-being of Future Generations (Wales) Act 2015. The role and function of the Wales Spatial Plan was revised and became the

		National Development Framework under the Planning (Wales) Bill, which was developed in concert.
19	To complement <i>Energy Wales: A Low Carbon Transition</i> and the associated energy programme the Welsh Government should produce a detailed Action Plan by the end of 2012 with details of specific actions that are required by the Welsh Government and others to meet the targets for each form of renewable energy.	Part 2 of the Bill requires the Welsh Ministers to set five yearly carbon budgets. For each carbon budget the Welsh Ministers must prepare a report, which sets out their proposals and policies on how the budgets they have set will be met. The report must include proposals and policies by reference to the areas of responsibilities of each of the Welsh Ministers.
41	The Welsh Government should clarify how the proposed Natural Resource Plan is to be integrated with any changes made to the development plan system and how this new plan relates to the Wales Spatial Plan.	At the national scale, the National Development Framework contained within the Planning (Wales) Bill will need to have regard to the commitments set out in the NNRP. At the local level, the Well-being Plan - which will reflect evidence contained within Area Statements – will be a material consideration for planning consent.

Coastal protection in Wales, October 2012

Number	Recommendation Description	How the Environment (Wales) Bill delivers
2	The Welsh Government to provide assurances that the final approved second generation of Shoreline Management Plans for Wales clearly reflect and link to the policy objectives of the National Strategy, and there are clear links between the Strategy and other natural resource management policies.	<p>To ensure a consistent approach to the sustainable management of natural resources all plans and strategies should be in line with the NNRP, which outlines the priorities and opportunities for the sustainable management of our natural resources.</p> <p>These priorities and opportunities are delivered via area statements produced by NRW, which consider environmental, economic, and social issues and opportunities for an area. NRW also have the power to determine whether the area statement should be a part of another plan such as a shoreline management plan (SMP). The Welsh Ministers will be able to direct public bodies involved in an SMP to ensure that the SMP is consistent with an area statement and therefore in line with the NNRP.</p>

6 The Welsh Government to ensure that its strategic approach to coastal protection includes putting delivery mechanisms in place that support partnership working and a “Team Wales” approach. If the Natural Resources Body takes on the coastal protection function, a key responsibility of the body must be to ensure coordination of expertise and sharing of best practice across Wales.

The new general purpose of NRW in section 5 refers to the principles of sustainable management of natural resources in section 4, which include promoting and engaging in collaboration and co-operation and taking account of all relevant evidence.

Invasive Non Native Species, January 2014

Number	Recommendation Description	How the Environment (Wales) Bill delivers
1	That the Welsh Government designates Natural Resources Wales as the lead organisation for the co-ordination of data collection and action to address Invasive Non Native Species in Wales, maintaining a link with the GB Non-Native Species Secretariat. This should be done as soon as possible, and no later than the end of March 2014.	NRW’s duty to create SoNaRR, and the power to request data from public bodies, means co-ordinating and collecting data on the state of natural resources and ecosystems, and possible pressures. This would include invasive non-native species.
2	That the Welsh Government sets out how it will monitor Natural Resources Wales’ performance in tackling Invasive Non Native Species in Wales. This should be done at the same time as the designation of Natural Resources Wales as the lead organisation.	In reviewing the NNRP, the Welsh Ministers will take into consideration the findings of the latest SoNaRR. If the latest SoNaRR indicates modifications are needed, the NNRP can be amended. Area statements facilitate the implementation of the NNRP and so will reflect such modifications.

Sustainable Land Management, May 2014

Number	Recommendation Description	How the Environment (Wales) Bill delivers
1	<p>We recommend that the Welsh Government refines its definition of “sustainable management” to take account of four key principles. This should be done before the introduction of the Environment (Wales) Bill, and preferably feature in the draft Bill the Minister for Natural and Resources and Food has committed to providing by the end of 2014. The key principles are:</p> <ul style="list-style-type: none"> – That any definition of sustainable land management should be based upon the Welsh Government’s definition of sustainable development and recognise the interdependence of the environmental, social and economic needs of Wales both now and in the future. 	<p>The definition of sustainable management of natural resources and the supporting principles reflect the components recommended for the definition of sustainable land management.</p> <p>The definitions used in the Bill contain the long-term components of the definition of sustainable development through reference to the needs of future generations and the requirement to consider the short, medium, and long-term consequences on ecosystems.</p> <p>The definition of sustainable management</p>

- That any definition should recognise the need for sustainable land management in Wales to protect and enhance ecosystem services and biodiversity and the public benefits they provide to Welsh society.
- That any definition should recognise the importance of ensuring that land-based business in Wales, including agricultural and forestry businesses, are profitable and can continue to support vibrant rural communities.
- That sustainable land management should seek to protect Wales's most important and cherished landscapes.

of natural resources is to ensure that the use and management of land is undertaken in such a way as to ensure that the resilience of ecosystems and the services they provide are maintained and enhanced for both current and future generations. The supporting principles further identify the need to consider the multiple benefits (services) that we receive from our ecosystems and to ensure that these multiple benefits are considered in decision-making.

Stage 1 Report on the Well-being of Future Generations (Wales) Bill, November 2014

Number	Recommendation Description	How the Environment (Wales) Bill delivers
2	That the Welsh Government takes steps to ensure that the impact of this legislation is understood and addressed across all of the policy areas the Bill encompasses.	The impact of the Well-being of Future Generations (Wales) Act 2015 is reflected in the Environment (Wales) Bill in the provisions relating to the sustainable management of natural resources and its principles; the duty on public bodies to provide information further to implementing the NNRP; and the setting of interim emissions targets and carbon budgets.
4	That the Welsh Government amend the principles set out in section 8(2) to ensure that public bodies are clear that citizen engagement and co-production should be a key element of the approach to applying the sustainable development principle and objective setting.	The principles of sustainable management of natural resources includes the promotion of and engagement in collaboration and co-operation. Public bodies will need to take these into account.
6	That the Welsh Government prepare a detailed document prior to Stage 2 of this Bill clearly setting out the relationship between this Bill, the Planning (Wales) Bill and the proposed Environment (Wales) Bill including: <ul style="list-style-type: none"> – an integrated timetable of planning and reporting duties contained in each of the Bills; – a diagram setting out clearly how the proposed plans contained in each of the Bills relate to each other; 	Correspondence to your Committee in relation to both the Well-being of Future Generations (Wales) and Planning (Wales) Bills during the respective scrutiny process addressed these specific points. Provisions in this Bill have been carefully designed to complement and support delivery of requirements imposed by the Well-being of Future Generations (Wales) and Planning (Wales) Bills, including how a cost-effective approach to integrated to

<ul style="list-style-type: none"> – the roles of the bodies required to be involved in the development of the plans under each of the Bills. 	<p>delivery can be best achieved.</p>
<p>9 That the Welsh Government amends the sustainable development principle to reflect the broader issues included in both the <i>One Wales: One Planet</i> and Brundtland definitions of sustainable development, particularly climate change, using only our fair share of the earth’s resources, environmental limits and the international impact of what we do in Wales.</p>	<p>The Bill expands the meanings, within the framework of a resilient and globally-responsible Wales, of what organisations must seek to achieve on climate change and conservation.</p>
<p>12 That Welsh Government guidance to public bodies sets out how they will be expected to fulfil their obligations under the Bill when engaging other organisations to deliver services on their behalf and make this clear in the document published in response to recommendation 5.</p>	<p>Within the framework set by the Well-being of Future Generations (Wales) Act 2015, this Bill sets out the detail of how the organisations which are subject to it are to fulfil their obligation under the Act to contribute to the environmental well-being of current and future generations.</p>
<p>13 That the Welsh Government clarifies and strengthens the wording of the goals and their descriptors to reflect the many comments made by stakeholders and the findings of the National Conversation interim report. In particular, we believe that the goals should specifically address key issues such as environmental limits, restoration of biodiversity, international impacts and social justice, and that the language used in the goals should be clear and unambiguous.</p>	<p>Building on the requirement for organisations to contribute to the well-being goals (which include healthy, functioning ecosystems, and recognising the limits of the global environment) the Bill places a duty on public authorities to seek to maintain and enhance biodiversity.</p> <p>The Bill, via the current definition of sustainable management of natural resources and the supporting principles, applies an ecosystem approach, which addresses the issue of ‘ecosystem thresholds’ by reflecting that the impacts of human activities are integral to ecosystem interactions and vice-versa, and that the processes underlying ecosystem services are inherently complex and dynamic.</p>
<p>17 That the Welsh Government sets out clearly and concisely exactly what public bodies should achieve as a result of embedding the well-being goals into their decision making processes. We believe that the Minister should set clear, specific outcomes below the level of goals against which public bodies and the Commissioner can assess progress at public body level.</p>	<p>The Bill specifically supports the framework established through the Well-being of Future Generations (Wales) Act 2015 by making provision for strategic and local evidence on the sustainable management of Wales’ natural resources to inform public service delivery planning and decision-making.</p>

Stage 1 Report on the Planning (Wales) Bill, January 2015

Number	Recommendation Description	How the Environment (Wales) Bill delivers
10	That the Welsh Government clearly explains how the proposed national Natural Resources Policy and area-based Natural Resource plans will interface with the planning regime before the introduction of the Environment (Wales) Bill.	Correspondence to your Committee in relation to both the Well-being of Future Generations (Wales) and Planning (Wales) Bill during the respective scrutiny process addressed this specific points and included detail on how the NNRP and Area Statements would interface with wider legislative reforms.
11	That the Minister brings forward amendments to the Bill to ensure that marine and terrestrial planning is closely aligned and that plan-makers (including Welsh Ministers) are required to have due regard for the interrelationship between these two environments.	The Welsh Ministers are responsible for both the NNRP and the Wales National Marine Plan, so there will be consistency between the two statutory documents. The area statements from NRW must consider all relevant evidence, including a Wales National Marine Plan. Public bodies must assist in the implementation of an area statement.

Annex 2

Forward look: Anticipated commencement and subordinate legislation dates

1. This Annex sets out the dates by which it is expected that the provisions of the Bill will be commenced, and dates by which it is anticipated that powers conferred on the Welsh Ministers to make subordinate legislation would be exercised. It may be most helpful to read it alongside the Statement of Policy Intent.

Date	Milestone	Notes
March 2016	-- Anticipated date of Royal Assent, subject to the will of the Assembly --	
May 2016	Commencements two months after Royal Assent.	Part 1 (sustainable management of natural resources); Part 2 (climate change); Part 5 (fisheries for shellfish); Section 83 (repeal of publication requirements); Section 84 (appeals against special drainage levies); Section 85 (power of entry); section 86 (byelaws).
May 2016	-- Elections to the National Assembly for Wales --	
Q3 2016	The Welsh Ministers abolish the Regional Flood and Coastal Committee and establish Flood and Coastal Erosion Committee.	Under section 82 of the Bill and sections 26B, 26C, and 26D of the Flood and Coastal Management Act 2010, as inserted by section 82 of the Bill.
September 2016	NRW publish first SoNaRR.	Under section 8 of the Bill.
December 2016	Indicative date by which the Welsh Ministers make regulations on fees for monitoring, variation etc. of marine licenses.	Under section 72A of the Marine and Coastal Access Act 2009, as inserted by section 78 of the Bill.
December 2016	Indicative date by which the Welsh Ministers make regulations on further provisions for the payment of fees for marine licenses.	Under section 107A of the Marine and Coastal Access Act 2009, as inserted by section 79 of the Bill.
December 2016	Indicative date by which the Welsh Ministers make regulations on appeals against variation etc. of marine licenses for non-payment of fees or deposits.	Under section 108(2A) of the Marine and Coastal Access Act 2009, as inserted by section 80 of the Bill.
January 2017	Earliest time that the Welsh Ministers would consider making regulations for the separate collection of waste.	Under section 45AA of the Environmental Protection Act 1990, as inserted by section 66 of the Bill.
January 2017	Earliest time that the Welsh Ministers would consider making regulations prohibiting disposal of food waste to sewer.	Under section 34D of the Environmental Protection Act 1990, as inserted by section 67 of the Bill.

January 2017	Earliest time that the Welsh Ministers would consider making regulations prohibiting or regulating disposal of waste by incineration.	Under section 9A of the Waste (Wales) Measure 2010, inserted by section 68 of the Bill.
March 2017	The Welsh Ministers publish NNRP.	Under section 9 of the Bill.
May 2017	Indicative date for publication by the Welsh Ministers of guidance about implementing area statements.	Under section 13 of the Bill. It is intended that the guidance would be provided as soon as possible after the Bill receives Royal Assent.
May 2017	Regulations to define the meaning of carbon units.	Under section 36 of the Bill. It is intended that these regulations would be made as soon as reasonably practicable after receiving Royal Assent, having received advice from the advisory body.
December 2018	Time by which the Welsh Ministers must publish the carbon budgets for the net Welsh emissions account for the period 2016-2020 and 2020-2025.	Under section 31 of the Bill.
January 2020	Time by which the Welsh Ministers must publish the carbon budget for the net Welsh emissions account for the period 2025-2030.	Under section 31 of the Bill.
December 2020	NRW publish second SoNaRR.	Under section 8 of the Bill.
May 2021	-- Elections to the National Assembly for Wales --	
June 2021	The Welsh Ministers begin first review of NNRP.	Under section 9 of the Bill.
January 2025	Time by which the Welsh Ministers must publish the carbon budget for the net Welsh emissions account for the period 2030-2035.	Under section 31 of the Bill.
January 2030	Time by which the Welsh Ministers must publish the carbon budget for the net Welsh emissions account for the period 2035-2040.	Under section 31 of the Bill.
January 2035	Time by which the Welsh Ministers must publish the carbon budget for the net Welsh emissions account for the period 2040-2045.	Under section 31 of the Bill.

January 2040	Time by which the Welsh Ministers must publish the carbon budget for the net Welsh emissions account for the period 2045-2050.	Under section 31 of the Bill.
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