

Planning Bill Team,  
Planning Division,  
Welsh Government,  
Cathays Park,  
Cardiff,  
CF103NQ

(Via email)  
[planconsultations-d@wales.gsi.gov.uk](mailto:planconsultations-d@wales.gsi.gov.uk)

26 February 2014

Dear Sir/Madam

**Positive Planning - A consultation on proposals to reform the planning system in Wales. Response from Natural Resources Wales**

This letter contains Natural Resources Wales' response to the proposals to change the planning system in Wales as set out in the Positive Planning consultation. Our response to the specific consultation questions are set out in Annex 1 attached.

We welcome the opportunity to comment on these proposals which, together with the proposed Environment and Future Generations Bills, represents a once in a generation opportunity to significantly improve the statutory framework for the management and planning of environmental and natural resources in Wales. This response should therefore be considered alongside our response to the consultation on the Environment White Paper where we highlighted the importance of the Environment Bill, the Future Generations Bill and the Marine Plan being complementary and mutually supportive in order to ensure a joined up approach to addressing the environmental, social and economic challenges we now face.

These challenges include the effects of climate change, the depletion and deterioration of natural resources including the continuing decline in biodiversity, and the inequality in the access that the people of Wales have to the benefits that the environment provides.

Addressing these challenges needs to be delivered within the context of the wider processes affecting the delivery of public services across Wales.

The Planning system is an important mechanism to deliver shared outcomes within a spatial context. We welcome the aspiration for planning to be repositioned as a

tool to manage change in the public interest and support sustainable development by guiding it to appropriate locations.

Natural Resources Wales has developed Strategic Objectives for Planning Advice, which were endorsed by our Board on 18 December. These reflect the overall approach set out in 'Positive Planning'. They emphasise the need to move towards an enabling, solutions based approach, working strategically and through early engagement with developers and decision makers to enable the right development in the right location whilst respecting environmental limits i.e. adopting the ecosystem approach. A copy of our Strategic Objectives is attached at Annex 2 for your information.

Natural Resources Wales has a key role to play in supporting the proposals in 'Positive Planning' through providing evidence and guidance, and in our continuing role as a statutory consultee providing advice on the environmental impact of development, and solutions, to inform developers and decision makers to ensure the right development is directed to the right place.

Our response highlights the importance of:

- Integration of legislation, policies and plans;
- Parallel tracking of planning and connected environmental consents and permits;
- Integration of outcomes to optimise the benefits from development;
- Strategic engagement with the National Development Framework and other strategic plans to provide evidence and advice to direct nationally important development and infrastructure to the most suitable locations;
- Early engagement in the development management process – at the site selection phase;
- Clarity over the proposed future role of statutory consultees and others in the planning process.

Finally, whilst we are supportive of the overall approach and direction of travel towards an enabling, strategic, front-loaded integrated planning and consenting process, we need to better understand the resource implications for Natural Resources Wales as a result of these proposals. Affordability needs to be considered alongside their desirability, especially during the transition period between the current and future way of working.

We look forward to working with Welsh Government to establish the full extent of these new responsibilities, our respective roles, particularly in relation to the connected consents process, and how best to resource them so as to maximise our effectiveness in delivering the Welsh Government policy objectives in relation to the Planning, Environment and Future Generations Bills, and the emerging Marine Plan.

We also want to work with you in developing cross border approaches, where the legislation and policy in Wales interfaces with that in England, particularly for those aspects that aren't devolved.

We will continue to work with the Welsh Government and other stakeholders to develop further the details of this important piece of legislation and associated secondary legislation, policy and technical guidance.

Yours sincerely,

A handwritten signature in black ink that reads "Emyr Roberts". The signature is written in a cursive, slightly slanted style.

**EMYR ROBERTS**

Prif Weithredwr, Cyfoeth Naturiol Cymru  
Chief Executive, Natural Resources Wales

[emyr.roberts@cyfoethnaturiolcymru.gov.uk](mailto:emyr.roberts@cyfoethnaturiolcymru.gov.uk)

Natural Resources Wales,  
Ty Cambria, Newport Road, Cardiff CF24 0TP

Cyfoeth Naturiol Cymru  
Ty Cambria, Heol Casnewydd, Caerdydd CF24 0TP

## ANNEX 1

### Consultation Response Form

## Positive Planning - A consultation on proposals to reform the planning system in Wales

We would like your views on our proposals to change the planning system in Wales. This requires changes to primary legislation, secondary legislation, and policy and guidance.

***Please submit your comments by 26/02/2014.***

If you have any queries on this consultation, please email: [planconsultations-d@wales.gsi.gov.uk](mailto:planconsultations-d@wales.gsi.gov.uk) or telephone Switchboard on 0300 0603300 or 08450103300.

#### 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 tell us this in writing when you send your response or tick the box at the end of this form. 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.

## Positive Planning - A consultation on proposals to reform the planning system in Wales

Date of consultation period: 04/12/2013 – 26/02/2014

<b>Name</b>	Dr Emyr Roberts	
<b>Organisation</b>	Natural Resources Wales	
<b>Address</b>		
<b>E-mail address</b>		
<b>Type</b> <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input checked="" type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

### Supporting Culture Change

<b>Q1</b>	Do you agree that the proposed remit for a Planning Advisory and Improvement Service will help local planning authorities and stakeholders to improve performance?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p><b>Natural Resources Wales welcomes the establishment of the Planning Advisory and Improvement Service. It provides a mechanism to help support cultural change and performance improvement and management. It needs to focus both on output and outcome delivery. Its scope and work programme needs to integrate environmental, social and economic aspects of the planning service in Wales. NRW would welcome an opportunity to participate in the PAIS steering group and advisory/stakeholder group and would be able to advise on technical issues and related training needs related to our role and remit including, for example, flood risk, landscape, biodiversity and natural resource management and planning. Natural Resources Wales would be particularly keen to work with the PAIS on flood risk assessments. We believe the PAIS would be a particularly effective way of disseminating good practice and training on complex but important considerations such as flood risk assessments and applying the ecosystem approach. The PAIS's co-ordination and dissemination role would create a more efficient approach to informing and supporting LPAs than the current approach of NRW briefing each LPA individually.</b></p>			

Q2	Do you agree that existing Welsh Government support arrangements for the built environment sector in Wales should be reviewed?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments: <b>No Comment</b>			

Q3	Do you agree that competency frameworks should be prepared for planning practitioners and elected representatives to describe the skills, knowledge and behaviours necessary to deliver planning reform?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: <b>NRW supports in principle the preparation of competency frameworks for both planning practitioners and elected representatives. The competency framework should incorporate environmental, economic and social skills and knowledge. For planning practitioners the RTPi competency framework provides a good basis for the proposed competency framework. Consideration needs to be given to whether or not this should also apply to non planning practitioners who engage with, and provide advice on, the planning and development management process. NRW would welcome the opportunity to work with the WG on developing the frameworks, utilising our technical expertise and knowledge on a wide range of environmental issues linked to the requirements of the proposed Environment, Heritage and Future Generations Bills.</b>			

### Active Stewardship

Q4	Do you agree that the National Development Framework will provide a robust framework for setting national priorities and aid delivery?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: <b>NRW welcomes the proposal to introduce a NDF to replace the Wales Spatial Plan. The NDF provides an opportunity to direct nationally strategic development and infrastructure to the most appropriate locations. NRW notes and welcomes the development plan status of the NDF and that it will be informed by an SEA and HRA. This will help ensure clarity, certainty and consistency throughout the planning hierarchy in Wales and avoid unnecessary conflict and delay arising from inappropriate development in inappropriate locations. Specifically some environmental issues such as flood risk manifest themselves at regional or national spatial scales, such as large river catchments and coastal process cells. These should be firstly addressed at the national spatial planning level in order to most effectively influence strategic and local development decisions. Investment in such development and infrastructure will need to be founded on robust environmental evidence to ensure that proposals are directed to locations that can deliver intended outcomes for the long term, whilst being resilient to current and future challenges such as climate change impact.</b>			

The NDF will need to

- clearly define the role of the land use planning system in delivering the national outcomes of government and any long term goals arising out of the forthcoming Future Generations Bill.
- set out a long term vision focussed on the delivery of sustainable development goals and outcomes to ensure a resilient economy and environment
- clearly articulate the relationship between the different tiers of plans and processes
- clearly articulate the relationship between the NDF, Wales Infrastructure Investment Plan and the Wales Transport Strategy and the spatial expression of major development and infrastructure arising out of non devolved Plans and programmes eg National Policy Statements
- clearly articulate the relationship between the NDF and the Natural Resources Policy proposal for the Environment Bill and between the NDF and the Marine Plan. Section 60A of the Planning(Wales) Bill should make provisions for the Minister to have regard to, or consider, natural resources policy and the Marine Plan in the preparation of the NDF.
- clarify that the NDF will set out a spatial expression of Natural Resources Policy including green infrastructure and strategic recreation and access provision, flood defence and other flood risk management measures, such as upland catchment management measures together with pressured environments and National and Internationally important designations.
- clarify if Developments of National Significance will be criteria led or reflected spatially in the NDF, informed by the WIIP, Wales Transport Strategy and Natural Resources Policy.
- highlight the key natural resource requirements that target setting and land allocation further down the planning hierarchy will need to take into account eg water resource availability when setting housing allocation targets for SDP`s and Local Development Plans
- align the review period with that proposed for the Natural Resources Policy and State of Natural Resources Reporting.

The proposals for the scrutiny, and review of, the NDF will need careful consideration particularly if the intention is to include the spatial elements of existing TANS, such as TAN 8 and 15, within the NDF.

NRW would welcome an opportunity to meet with WG officials to discuss how we can help provide a common evidence base to inform both the Natural Resources Policy and the National Development Framework.

Q5	Do you agree that Planning Policy Wales and Minerals Planning Policy Wales should be integrated to form a single document?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

NRW supports the integration of Planning Policy Wales and the Mineral Planning Policy Wales document to form a single document. This will help ensure an integrated approach to natural resource management.

NRW notes the intention to review the TAN series and would welcome an opportunity to meet with WG to discuss the potential implications of including the spatial elements of the existing TANS, TAN 8 and 15 for example, within the National Development Framework.

To assist with the integration of the Marine Plan and the land use planning system a TAN, based on the Scottish Government draft circular `Planning Scotland`s Seas-the relationship between the statutory land use planning system

and marine planning and licensing`, would help provide clarity in relation to the interface between the Marine and Land Use Planning systems.

Q6	Do you agree that a core set of development management policies should be prepared for consistent application by all local planning authorities?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p><b>Support in principle. It provides a mechanism to ensure national consistency in relation to the specific policy and legislative requirements of key natural resource interests relating, for example, to Natura 2000 sites, flood risk and national landscape designations thereby providing national certainty and clarity for developers and decision makers. NRW would welcome an opportunity to work with Government to prepare core development management policies relevant to our role and remit that can be applied consistently across Wales including the role of the land use planning system in delivering the ecosystem approach and natural resource management as proposed in the emerging Environment Bill.</b></p> <p><b>NRW notes the emphasis on greater Town and Community Council engagement in the process together with the proposed Place Plans. Guidance would help establish and clarify their role together with the status of place plans in the decision making process.</b></p> <p><b>NRW would welcome the opportunity to be involved with the reassessment of the number and scope of TAN`s, in particular any proposed changes to TAN5, TAN8, TAN14 and TAN15. However we would strongly advise that a specific TAN about development and flood risk should be retained. Strategic and local planning decisions about new development and regeneration have a crucial role to play in minimising the social and economic impacts that flooding has on the communities of Wales. The magnitude of those impacts (running into many tens of millions of pounds just in the period from June 2012 to February 2014) justify a specific TAN in future about managing all sources of flooding and coastal erosion in light of more extreme weather events predicted as a result of inevitable climate change.</b></p>			

Q7	Do you agree that the proposed development hierarchy will help to ensure that planning applications are dealt with in a proportionate way dependent on their likely benefits and impacts?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p><b>Yes, the proposed hierarchy will provide a framework to enable stakeholders and decision makers to focus resources strategically and at early stages of project development to ensure the right development in the right place respecting environmental capacity .</b></p> <p><b>For completeness the document and flowchart needs to include Development Consent Orders for NSIP`s which are currently consented by the UK Government.</b></p> <p><b>With regard to paragraph 4.37 (first bullet point), please be aware that there may be some instances in which applicants may submit a certain level of information, which results in ourselves requesting further clarification or information. In such circumstances we may not be aware that further</b></p>			



information is needed until a first tranche of information is submitted. The finalisation of a development proposal may be iterative. For example, an applicant may submit a species survey, which necessitates either no further submissions, or information of varying detail on mitigation measures. With regard to paragraph 4.37 (second bullet point), we welcome the opportunity for us to prioritise our resources towards applications which have the greatest potential benefits and impacts. We note the references in paragraph 4.35 to the multitude of objectives that you expect the planning system to deliver, including promoting sustainable development. We agree with these. However, please note that supporting economic prosperity, addressing the challenges posed by climate change and delivering good quality homes and a good quality environment are all components of sustainable development in the first instance, as is set out in Chapter 4 of Planning Policy Wales. “Promoting sustainable development” should not be viewed as a separate objective.

Q8	Do you agree with the proposed categories and thresholds for Developments of National Significance set out in Annex B?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:  
The proposed categories, Development of National Significance, Major and Local are logical and supported in principle. However there will be a need to clarify the extent to which the categories and thresholds will address impact from a development that may have significant adverse impact on interests of acknowledged international or national importance.  
There will also be a need to clarify, in addition to the proposed categories and thresholds, how specific locational development set out in the NDF, informed by the WIIP, Natural Resources Policy and Area Based Natural Resource Management Plans or the Wales Transport Strategy, will be reflected.  
The consultation draft Scottish Third National Planning Framework provides a useful model to consider in this respect.  
Annex B-need to clarify what is meant by gas, natural gas or CO2.  
PARA 4.41-clarify what is meant by developments of national significance outlined in Natural Resources Policy.  
We suggest that the threshold of the last application type in Annex B(Generating Stations) should be amended to read `Anything 25 megawatts to less than 50 megawatts`. The current wording implies Local Planning Authorities would determine proposed generating stations between 49 and 50 megawatts.

Q9	Do you agree with the proposed categories and thresholds for Major Developments set out in Annex B?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:  
The proposed categories, Development of National Significance, Major and Local are logical and supported in principle. However there will be a need to clarify the extent to which the categories and thresholds will address impact from a development that may have significant adverse impact on interests of acknowledged international or national importance. The impact of major and local development proposals may also have significant international and national implications for sites /areas of acknowledged importance. There will also be a need to clarify, in addition to the proposed categories and thresholds, how

specific locational development set out in the NDF and SDP, informed by the WIIP, Natural Resources Policy and Area Based Natural Resource Management Plans will be reflected.

The consultation draft Scottish Third National Planning Framework provides an useful model to consider in this respect.

The categories should also consider wind turbine development.

For clarity and completeness the thresholds for NSIP`s should be added either as a separate column or table in future documentation.

NRW would welcome an opportunity to meet to discuss the practical implications of the statement `statutory consultees must prioritise major development` particularly with respect to our comments above in relation to development with significant adverse impact on interests of acknowledged importance and statutory response times.

NRW would welcome an opportunity to participate in the proposed review of the Use Classes Order.

Q10	Do you agree Developments of National Significance applications should be subject to mandatory pre-application notification, and consultation?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>The principle of mandatory pre application notification and consultation is supported. This provides a degree of consistency between the DNS and NSIP process.</p> <p>However more detail is required on the proposed process, which we assume is similar to the DCO process for NSIP`s, and on the level of detail required for a preliminary verification of the planning application. NRW would prefer to be involved as early as possible to help inform both the location as well as the detailed design and layout of the development.</p> <p>With regard to the permitted development issues outlined in section 4.51-4.53, we do have concerns over this with regard to flood risk. Converting a commercial building into residential use greatly increases the vulnerability of its occupants if the building had not been designed to be safe according to TAN15 in the event of a flood. This is particularly the case if the residential use is for a vulnerable group in society, e.g. granny flats. We urge WG to ensure that TAN15 requirements are applied to changes of the use of an existing building. In addition, the cumulative replacement of gardens with hard, impermeable surfaces is already proven to significantly increase flood risk from surface water and sewer flooding. Evidence for this is available from Dwr Cymru's Rainscape project. The planning system should allow an LPA to designate areas exempt from permitted development for a specified range of reasons, one of them being flood risk particularly as a result of the predicted impacts of climate change. This would ensure that the planning system remains an effective tool in preventing flood risk from increasing in known problem areas whilst still allowing permitted development to proceed elsewhere.</p> <p>NRW welcomes and supports the move towards the coordination, or parallel tracking, of ancillary consents and associated development and environmental permits and would welcome an opportunity to discuss further with WG. We would also support the use of a Memorandum of Understanding between the applicant, Welsh Government, PINS and ourselves on DNS applications.</p>			

Q11	Do you agree that a fee should be charged for pre-application advice for prospective Developments of National Significance applications?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Pre application advice can involve significant work for NRW therefore this proposal is welcomed in principle. NRW welcomes and supports the proposed integrated DNS and related consents process and would welcome an opportunity to discuss further with WG.			

Q12	Do you agree that the Planning Inspectorate Wales is the most appropriate body to undertake the processing of a Development of National Significance application?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Yes It would be useful to clarify the process for preparing Local Impact Reports to ensure that statutory consultees will be engaged at an early stage to ensure that we can advise on appropriate conditions and legal requirements together with the interrelationship between related permitting and consenting processes and Environmental Impact Assessment.			

Q13	Do you agree that only one round of amendments to an application for Developments of National Significance should be permitted after it has been formally registered?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Our experience of the current arrangements for NSIP`s leads us to caution against one round of amendments to an application for DNS. Flexibility is required during the process to enable negotiation to identify solutions to ensure the optimisation of environmental, economic and social outcomes. Furthermore, we often have informal discussions with developers on major applications, on issues such as flood risk, between the formal submission of information. We believe that the proposals in the Bill should still allow for these types of discussions; developers should still be allowed to have informal discussions with ourselves between the two proposed points at which they can submit information to PINS or the Welsh Ministers. This would help avoid unintended consequences. For example, a developer would be able to check with us that the redesign of a site layout based on the advice of others does not have negative implications for issues we advise on, such as flood risk or protected species.			

Q14	Do you agree with the proposals for handling connected consents?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: The principle of one examination process for connected consents is supported. An integrated process can avoid conflict between separate development and consent proposals eg between wind turbines and grid connections. Paragraph 4.66: We note the provisions in the Bill (Section 18, para 62J) for an applicant to make a direct application to the Welsh Ministers for connected applications. We welcome the intent behind this provision, as we believe it			

would streamline the planning and permitting regimes and enable a common environmental evidence base to inform both the planning and connected consents process .

We are currently in discussion with Government with regard to the scope of connected consents, the process for coordinating and timetabling the determination of consents and respective roles in the decision making process. The model developed for coordinating the consenting process relating to the Hinkley C Power station provides an useful model to follow.

Q15	Do you agree that examination should follow a similar procedure to the proposed call-ins and appeals?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			
<b>Agree-the examination of DNS should follow the NSIP model</b>			

Q16	Do you agree with the proposed division of responsibilities between the Welsh Ministers and the local planning authority at the post-determination stage?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			
<b>Agree</b>			

Q17	Do you agree that the statement of case and draft statement of common ground should be produced when submitting an appeal?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			
<b>In principle, yes. However there will be a need to reconsider the timeframes for the submission of appeal statements especially for technical and complex applications where expert input is required and there are links and dependencies to the internal decision making timescales of interested parties.</b>			

Q18	Do you agree that the Planning Inspectorate should decide how to handle the examination of an appeal?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			
<b>Yes, subject to the provision of clear criteria and process to determine what is handled at inquiry or written representations.</b>			

Q19	Do you agree no changes should be made to the content of an application post appeal submission?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			
<b>The aspiration should be early engagement to negotiate and resolve issues thereby removing the necessity for an appeal. If this is not possible our</b>			

experience of the appeal process suggests that negotiation continues between the developer and a statutory consultee to resolve issues during the post appeal submission, often resulting in agreement on positive solutions/outcomes before Inquiry. Therefore if continuing negotiations can potentially resolve issues then they should be allowed to continue.

Q20	Do you agree with the proposal for the Welsh Ministers to be able to initiate awards of costs?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			
Yes			

Q21	Should fees be introduced to cover the costs of the Welsh Ministers resulting from an appeal?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			
No comment			

Q22	Do you agree that a Commercial Appeals Service (CAS) should be introduced?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments:			
No comment			

### Improving Collaboration

Q23	Do you agree that local planning authorities should be merged to create larger units?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			
<p><b>NRW supports the principle of strategic and cross boundary working and notes that the recommendations of the Commission on Public Service Governance and Delivery moves this debate forward with regard to setting out options for local government mergers.</b></p> <p><b>Linked to the Williams recommendations there is a need to consider how to work collaboratively and in partnership on a regional basis to organise a pool of shared expertise/technical experts across a range of local authority advisory functions such as biodiversity, landscape, access and built heritage to build internal capacity thereby reducing pressure on NRW and other statutory consultees being expected to provide this advice.</b></p> <p><b>The structures and governance arrangements established to coordinate and deliver a regional context for educational services within local government in Wales may be a possible model to consider.</b></p>			

Q24	Do you think that a national park authority should continue to have responsibility for planning in their area?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>The evidence base, <b>Delivery of Planning Services in Statutory Designated Landscapes in Wales (Land Use Consultants, October 2012)</b> and analysis of the <b>Planning Performance Indicator Dashboard</b> indicates that the NPA Planning Service is comparable to other local planning authorities. The Commission on Public Service Governance and Delivery highlighted the need for service delivery to reflect the direct legislative and functional requirements of an administrative area for National Parks and did not identify a convincing case for transferring their functions to local authorities whilst emphasising the importance of collaboration and partnership with local authorities.</p> <p>WG propose to undertake a Governance Review of National Parks in Wales, commencing in the autumn. The issue of whether or not National Park Authorities should continue to have responsibility for planning its area should be taken forward and considered within the overall context of the proposed Governance Review.</p>			

Q25	Do you agree that strategic development plans should only be prepared in the identified areas?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>The Williams Recommendations moves this debate further with regard to recommendations setting out options for local government merger to create larger more strategic Local Authorities. It will be important to clarify the potential implications of these recommendations on the need for Strategic Development Plans given that Local Development Plans for larger authorities will be more strategic in nature.</p> <p>The interrelationship between SDP`s and the proposed city regions in Wales will need to be clarified.</p> <p>Should the proposed SDP proposals be taken forward in the Bill the NDF will need to provide an adequate strategic framework for Local Development Plans in areas such as Rural Wales identified as not requiring SDP`s.</p> <p>There will be a need to consider coordinating processes and timetables between the NDF, SDP, Natural Resources Policy, the LDP, Area Based Natural Resource Plans, SIPS, National Park and AONB Management Plans and Regional Transport Plans.</p> <p>Paragraph 5.26 of Positive Planning states `SDP`s will be informed by national natural resources policy and the area based approach for natural resources management`. However, the Planning (Wales) Bill does not currently include a legislative requirement for this. To ensure that the Planning (Wales) Bill and the emerging Environment Bill are integrated and mutually supportive, we recommend that Regulation 60G(6) of the Planning (Wales) Bill should be amended to ensure that SDP`s` have regard to, or consider, national natural resources policy and the area based approach for natural resources management.</p> <p>NRW would welcome an opportunity to meet with Government to discuss how best to provide a common evidence base in relation to natural resource management to inform the above plans and processes.</p>			

Q26	Do you agree that the scope of Strategic Development Plans should be limited to the key issues identified in paragraph 5.29?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>We welcome the identification of strategic environmental opportunities as key issues for SDP`s. In light of the multiple social, economic and environmental opportunities they afford we consider that strategically important green and blue infrastructure should be identified, protected and where appropriate enhanced to complement the delivery of planned gray infrastructure and ensure the long term viability and resilience of settlements, infrastructure and environmental assets. To ensure policy integration the SDP`s will need to be informed by, and have regard to, the Natural Resources Policy and the area based approach for natural resources management. There will be a need to integrate environmental evidence on opportunities and constraints in relation to natural resource management and green infrastructure.</p> <p>NRW can help support the SDP process by providing data, advice and information. Specifically we believe that Flood Risk Management Measures should be included in the scope of SDPs. For example, the A55 corridor is subject to both tidal and fluvial flooding. The introduction of SDPs provides a good opportunity to plan strategically and take a cross-boundary approach for flood risk and coastal erosion management. This may be particularly relevant to proposed cross-boundary linear development, such as transport infrastructure. We would also seek to ensure that the issues that you set out in paragraph 5.29 are planned taking flood risk into account. For example, strategic allocations for housing and employment should be made outside areas at risk from flooding. We agree that waste facilities should be identified in the list set out in paragraph 5.29. We also advise that you consider cross-border issues when setting up SDPs. For example the A55 corridor borders England. We advise that any guidance associated with SDPs highlights the importance of liaising with English counterparts and authorities</p>			

Q27	Do you agree that a partnership between local planning authorities and social, economic and environmental stakeholders should oversee preparation of Strategic Development Plans?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Yes. NRW will be able to provide partnerships with evidence and advice, linked to Natural Resource Plans in relation to natural resource management and its integration with economic and social outcomes.</p> <p>We would welcome clarification on the consultation procedures for the proposed SDPs together with our role and status on the Panel and during the consultation process.</p> <p>It would be helpful to clarify and confirm that SDP`s will be informed by SEA and HRA.</p>			

Q28	Do you agree that a light touch Local Development Plan should be prepared in areas where there is a Strategic Development Plan?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>An evidence based, up to date Local Development Plan, provides a framework to enable the right development in the right place whilst conserving and enhancing the environment and natural resources.</p> <p>We understand that the LDP will still need to set out details for specific land allocation requiring careful consideration therefore we are unclear on the merit of a light touch model where an SDP is in place. NRW would therefore encourage a consistent LDP model throughout Wales together with measures to ensure that all Local Planning Authorities have timely, up to date adopted Plans. The Planning (Wales) Bill will need to make legislative provision for new Local Development Plans to have regard to or consider the national natural resources policy and the area based approach for natural resources management.</p>			

### Improving Local Delivery

Q29	Do you agree with the essential elements of a good planning service identified in Annex A?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>As you will be aware, Local Planning Authorities and/ or the Welsh Ministers are the decision-maker and we are their advisor on environmental issues. We do not believe that we “wield power” over LPAs; the onus is on them to take a decision weighing up all material considerations, of which our advice is one. The first step for LPA's to decide is whether we need to be consulted on some applications at all. We would be grateful if any advice and guidance produced in future makes this point clear.</p> <p>NRW welcomes the move towards setting up a common performance framework and an emphasis on getting LDP`s in place. This will help improve the strategic framework for decision making and provide greater clarity, certainty and consistency to decision makers.</p> <p>We note the reference to statutory consultees providing `substantive responses`. We would welcome early discussion with WG officials to understand the scope and definition of what is meant by a `substantive response` and potential implications for the delivery of our advice to the planning system.</p> <p>The initial indicators set out in Annex A provides a good starting point but would be improved by a greater emphasis on outcomes as well as outputs.</p> <p>Para 6.13 and Annex A- we note that statutory consultees will be subject to a requirement to produce an annual monitoring report. We would welcome the opportunity to discuss what this will entail at an early stage. This will help us ensure that we set up our systems appropriately to collect the required information. We would be able to report on the indicators set out in Annex A, based on our systems as setup at the present time.</p> <p>It would be useful to clarify the relationship between this process and the auditing process for indicators emerging from the Future Generations Bill.</p> <p>We wish to highlight that currently the Development Management Procedure Order sets out that statutory consultees have 14 days in which to respond to planning applications. However NRW has agreements with LPAs throughout Wales to allow us 21 days to respond. Our preference is therefore for the indicator to be based upon whatever standard has been agreed locally with a LPA.</p>			



**We would welcome further consideration of parallel tracking of planning and environmental permitting so that the ecosystem approach is properly embedded.**

Q30	Do you agree that each local planning authority should produce and publish an annual performance report to agreed standards?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: <b>Yes.</b>			

Q31	Do you agree that where a local planning authority is designated as poorly performing there should be an option to submit planning applications for major development only to Welsh Ministers?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments: <b>Natural Resources Wales has no comment to make on the merit of this proposal. However we would welcome an opportunity to discuss and consider potential implications for Natural Resources Wales given our role as principal advisor to Government on environmental matters if applications are submitted directly to Welsh Ministers.</b>			

Q32	Do you agree that Welsh Ministers should be able to direct preparation of a joint Local Development Plan?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: <b>Yes, particularly where the preparation of a joint plan can provide a strategic framework to resolve conflict between land allocation and the capacity of the environment to accommodate change in relation to, for example flood risk, water resources or Natura 2000 sites.</b>			

Q33	Do you agree that Local Development Plans should plan for at least 15 years ahead and have a set end date beyond which they cease to be the development plan?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: <b>Yes, it provides a long term perspective to the decision making process in line with the principles of sustainable development. The future timeline should be in line with proposals set out in the Future Generations Bill.</b>			

Q34	Do you agree that local planning authorities should work with town and community councils to produce place plans which can be adopted as supplementary planning guidance?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: <b>Place Plans can help secure public and community engagement and add local evidence and knowledge to the wider policy and decision making process relating to land use planning but also wider area based natural resource management and community plans in the context of Single Integrated</b>			

**Development Plans.** The proposed pilots will help clarify the status, evidence base, process, relationship between other plans and processes, including SEA and HRA, and role of statutory consultees such as NRW .  
 The proposed PAIS will have a key role to play in helping provide Town and Community Councils with the skills and competencies required to produce place plans.

Q35	Do you agree that where a development proposal accords with an allocation in an adopted development plan a new planning application process should be introduced, to ensure that only matters of detail such as design and layout are considered?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

Whilst front loading the development management process via the NDF, SDP and LDP can result in greater certainty about impact of a proposed allocation this may not necessarily adequately cover the range of assessments, or links to other related consents processes, that an outline planning application would be subject to. Further, whilst an outline application would be valid for 3 years an allocation included in an LDP could be in place for up to 15 years during which period environmental evidence and wider policy and legislative provisions may have changed.

Should this approach be taken forward, it will be important that sufficient detail is included within an initial allocation. This would need to include detail on the zoning of development within larger allocations. This would help us to advise on the most appropriate layout of a site. For example, we would seek to ensure that any developments of higher vulnerability (for example, housing) were situated on areas of the proposed allocation not at risk of flooding. If such issues could not be addressed at the allocation stage, then subsequent planning applications submitted may not be able to comply with national planning policy and guidance, such as TAN15.

We would also question how such allocations will be dealt with when new information has come to light between a site being allocated and a subsequent planning application being made. This is especially given that LDPs have a fifteen year lifespan. For example, if new hydraulic modelling shows that an allocated site is at risk of flooding, when previously it wasn't, how will the planning application be dealt with? Water resources could also be an issue in time and with the accumulated impact of development.

NRW note the proposed consultation on charging options for pre application advice-we are actively considering our options for charging for non statutory advice at the moment and will wish to input to the consultation process in due course.

Further it may be timely to consider wider options for funding environmental improvement and enhancement including the issue of environmental bonds as highlighted in recommendations 87-89 of the Report to the Welsh Government by the Independent Advisory Group `Towards a Welsh Planning Act:Ensuring the Planning System Delivers.

We note that para 6.76 of the consultation document (which refers to Section 14 of the Bill) enables Welsh Government to require NRW to “respond to the consultation in a particular manner and within a particular time, and to report to the Welsh Ministers on their compliance with any such requirements”. We would welcome a discussion about the scope and practical implications of this proposal.

Q36	Do you support the proposal to allow a right of appeal against a local planning authority not registering a planning application?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments: <b>We would wish to clarify our role in situations when a Local Planning Authority has not registered an application based on a study or survey on which we would advice eg flood consequence assessments.</b>			

Q37	Should the requirement for mandatory design and access statements be removed?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments: <b>No comment</b>			

Q38	Should the requirement to advertise planning applications for certain developments in a local newspaper be removed?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments: <b>NRW will be exploring Memoranda of Understanding and Service Agreements with Local Planning Authorities, these will cover arrangements for consulting NRW over agreed development proposals. We therefore have no comment to make on the substantive question raised here.</b> <b>However, with regards to the paragraphs on statutory consultees set out on pages 76-78 of the consultation document, we would welcome an opportunity to meet to discuss:</b> <ul style="list-style-type: none"> <li>• <b>the scope and definition of what is meant by “a substantive response” (Section 27 of the draft Bill). We request that this be set out in the Bill in the first instance.</b></li> <li>• <b>any secondary legislation that falls out of Section 15 of the Bill, in particular, legislation about the way in which statutory consultees should respond to requests for pre-application advice.</b></li> </ul>			

Q39	Should there be any local variation within a national scheme of delegation for decision making on applications?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments: <b>NRW support the principle of a national scheme of delegation-this will introduce a greater degree of certainty and consistency into the development management process</b>			

Q40	Do you agree that a minor material change should be restricted to "one whose scale and nature results in a development which is not substantially different from that which has been approved"?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

**We agree with the proposals to introduce a new procedure by which applicants can renew planning permissions. We welcome the intention to make application requirements proportionate to the development proposed. Application requirements should also be proportionate to the proposed risk posed to or from the proposed development in cases where new information or data about risks is available.**

Q41	Do you agree that the proposals strike a balance between the need to preserve land used as Town and Village Greens and providing greater certainty for developers?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>

Comments:

**It would be useful to clarify what is meant by `the statutory planning process`. Presumably the Local Development Plan process provides a mechanism and framework to consider the respective merit of land being notified as Town or Village Greens or being allocated for development.**

Q42	Do you agree that the proposals will reduce delay in the planning enforcement system?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

**Yes**

Q43	Do you agree with the introduction of temporary stop notices to the planning enforcement system in Wales?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

I do not want my name/or address published with my response (please tick)

## **How to Respond**

**Please submit your comments in any of the following ways:**

<b>Email</b>
Please complete the consultation response form and send it to: <a href="mailto:planconsultations-d@wales.gsi.gov.uk">planconsultations-d@wales.gsi.gov.uk</a>  (Please include 'Positive Planning – WG20088' in the subject line).
<b>Post</b>

Please complete the consultation form and send it to:

**Planning Bill Team**  
**Planning Division**  
**Welsh Assembly Government**  
**Cathays Park**  
**Cardiff**  
**CF10 3NQ**

#### **Additional information**

If you have any queries on this consultation, please

email: [planconsultations-d@wales.gsi.gov.uk](mailto:planconsultations-d@wales.gsi.gov.uk) or

telephone: 0300 0603300 or 08450103300

## ANNEX 2

### Natural Resources Wales' strategic objectives for engagement with the planning system

We propose a new approach, with increased emphasis on working at the strategic level and adopting a solutions-based culture. The recommended strategic objectives approved by our board are as follows:

#### (i) Principles

We will:

- Engage proactively with the planning system - this is an important means of delivering sustainable development, natural resource management and positive outcomes for Wales' natural heritage
- Engage proactively with regeneration and economic development initiatives - to ensure that initiatives take account of environmental constraints and natural resource management and that consequential developments are sustainable
- Focus our efforts on providing evidence and advice on strategic and spatial plans – to steer development to appropriate locations and minimise future conflicts at the individual application level
- Use the same natural resource evidence base throughout NRW – to ensure consistency of advice
- Encourage early engagement with developers - to influence and identify any problems and creative solutions at an early stage.
- Ensure our statutory advice is a reasoned opinion reached after due consideration, weighing our full range of relevant purposes, duties and guidance – to ensure we comply with our legal duties. Specific duties must be complied with, where these are engaged
- Provide objective and expert environmental advice, based on good place-based knowledge - to assist decision makers in discharging their duties. We recognise that in balancing their duties, decision-makers may come to a different conclusion to NRW on the acceptability of any residual risk or impact of a particular development.

#### (ii) Ways of working

We will:

- Ensure our responses are as clear, unambiguous, and consistent as possible
- Ensure that our internal processes in providing statutory planning advice are designed and implemented to prevent conflicts of interest (for example where we are the applicant or landowner as well as the statutory consultee)

- Ensure transparency of decisions by being able to explain the reasoning behind our advice, and by publication of decision documents in contentious cases
- Adopt a positive approach. This means trying to find the right solution for the environment and the developer. It means avoiding objecting if we can. However, if it is not possible to find the right solution for the environment, either because the applicant is unwilling or unable to modify proposals, or because the development is sited in the wrong place, we may need to object. If the impact raises issues of national importance, we would need to object.
- Use a risk-based approach in our reactive work, responding to individual applications. This means directing our resources to developments likely to produce significant effects and affecting important and sensitive sites/areas
- Use standing advice where appropriate as it has value in responding to less complex applications and can reduce workloads; however, this does not replace the need for place-based and bespoke advice, particularly in more complex cases
- Charge for non statutory (eg pre-application) advice - where we can demonstrate that this will deliver improved customer service and better environmental outcomes
- Work in partnership with the LPAs and PINS - to deliver joint outcomes, training initiatives and to manage the consultations which are sent to NRW
- Work with developers and their sector groups to clarify the role of NRW (viz providing advice not making decision); identify common evidence needs and solutions
- Work with other statutory consultees such as Cadw to clarify our respective roles in planning and share evidence

(iii) Outcomes:

- Developers seek and take our advice at an early stage so that the siting and design of new development is influenced, encouraging development which avoids negative impacts, is within environmental limits and sustainable
- Decision-makers are taking natural resources into account as a result of our clear and well-targeted advice, so protecting these resources and achieving sustainable development
- Opportunities for environmental enhancement are identified and delivered through the planning system
- Improved relationships and customer satisfaction due to the quality and clarity of our responses and provision of the right information at the right time.
- NRW's role in the planning system is understood by our customers and stakeholders
- Improved compliance with response deadlines

