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11 March 2015

Dear Sir/Madam

### **Wales National Transport Plan 2015: Habitats Regulations Assessment (December 2014)**

The purpose of the Natural Resources Body for Wales (Natural Resources Wales) is to ensure that the environment and natural resources of Wales are sustainably maintained, sustainably enhanced and sustainably used. In this context sustainability means with a view to benefiting, and in a manner designed to benefit, the people, environment and economy of Wales now and in the future. Our comments are made in the context of our responsibilities under the Conservation of Habitats and Species Regulations 2010 (as amended) and as advisers to Welsh Government on the natural heritage and resources of Wales and its coastal waters.

Our specific comments on this Report are contained in Annex 1 to this letter and should be read in the context of our response to earlier stages of this assessment process (24th October 2014).

Finally, clarification would be welcomed as to how our comments on this HRA process will be taken into account, as required by the HRA process. We raise this in the context of our role as a statutory consultee for HRA. We are mindful that opportunities for this HRA process to inform decision-making and/or enable consideration of alternatives may be compromised if interventions contained within the Wales National Transport Plan Consultation Draft are already moving forward at the 'project' stage'.

We note the statement that with the application of mitigation measures, potential adverse effects will be avoided for interventions considered within the secondary screening for this assessment process and for the subsequent 'appropriate assessments'. For those interventions being considered at the strategic level and where proposed interventions have been approved in principle at the strategic stage but have not yet been subject to detailed design development and/or subject to relevant assessment at the project level, mitigation measures have not yet been developed or 'approved' and it is therefore difficult to give definitive agreement to this statement. The HRA process requires avoidance and mitigation measures to demonstrate no likely significant effect and until such time as further detail is known, it may not be possible to draw a conclusion of 'no likely significant effects' on European sites either alone or in combination with other plans and projects.

Should you have any queries, or would like to arrange a meeting to discuss our response further, please contact Keith Davies, Planning, Landscape, Energy and Climate Change Manager at [keith.davies@cyfoethnaturiolcymru.gov.uk](mailto:keith.davies@cyfoethnaturiolcymru.gov.uk)

Yours faithfully

Rhian Jardine  
Pennaeth Cymunedau Cynladwy / Head of Sustainable Communities

## **Annex 1: Wales National Transport Plan 2015: Habitats Regulations Assessment (December 2014)**

### **Executive Summary**

Reference should be made to the Conservation of Habitats and Species Regulations 2010 (as amended).

Whilst the National Transport Plan may not be a 'land-use' plan as described in the Conservation of Habitats and Species Regulations 2010 (as amended), it should be noted that the Habitats Directive itself does not refer to 'land use' plans. Article 6 of the 'Habitats' Directive (92/43/EEC) requires 'Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives'. We would therefore suggest that the HRA process in this instance is not discretionary and is required by Article 6(3) of the Directive.

### **The HRA process (page ii)**

It would be useful at this stage to list the 15 interventions being considered within this HRA process. We welcome and support the additional consideration of air quality on qualifying habitats and species.

We note the three interventions identified as having potential significant effects on European Sites notably, A487 Caernarfon to Bontnewydd, Brynglas Tunnels, A483 Llandeilo by-pass but would reiterate our suggestion that the remaining 12 interventions, judged unlikely to have significant effects on European Sites, are named.

We note that no reference has been made to the potential significance of effects in respect of the M4 around Newport intervention and we refer you to previous comments provided by NRW. While the strategic stage HRA of the M4 around Newport proposals is now completed (July 2014), it should be noted that this strategic HRA identified that the proposed development of a six lane highway to the south of Newport had the potential for significant effects to European Sites including the River Usk SAC and the Severn Estuary Ramsar Site. The Executive Summary for the National Transport Plan HRA should therefore make reference to the potential effects on the features of the Severn Estuary European Sites and River Usk in the context of the proposed M4 around Newport.

### **1.2: National Transport Plan**

We note that key priorities of the proposed plan specifically focus on supporting economic growth in City Regions, Enterprise Zones and Local Growth Zones. We would recommend that, in addition to these specific areas, the importance of transportation modes and

infrastructure is particularly important within the rural economy and in particular, the agricultural, energy and forestry sectors and need to be reflected in the priorities for the proposed Transport Plan.

### **3.1.1: Identifying Sites**

Whilst we do not disagree with the premise that, 'as the NTP does not provide any detailed interventions on shipping, it would not be possible to identify effects on European Sites across the Irish Sea', the omission of ports and associated marine transport from this Transport Plan is disappointing and we would refer you to our previous comments on the SEA scoping for this Transport Plan *'it would be helpful to clarify how the proposed Wales National Transport Plan and this assessment considers 'long haul' transport given Wales' geographical position between Ireland and destinations in England and the Continent'*.

Whilst Ports are currently not devolved to Wales we advise that in light of the publication of Powers for a purpose: Towards a lasting devolution settlement for Wales (February 2015) there is opportunity to consider the development of Welsh ports as part of wider strategies for economic growth and ensure port development is fully integrated into plans to improve Wales's transport infrastructure.

**3.1.4:** We note the reference to the lack of guidance on Mobile Species. The former Countryside Council for Wales had produced a series of guidance notes on dealing with 'mobile species' in SEA including advice on otter, great crested newt, bats, otter and eel (amongst others). These guidance notes can still be provided on request.

**3.2.3:** In our response to the earlier stages of this HRA process, we suggested the inclusion of additional 'potential effects'. We note and support the inclusion of these additional items within this HRA report and process.

### **3.2.7: Consideration of 'whole plan' effects**

We support the consideration of whole plan effects. See comments on 5.6.

**4.1.2:** Whilst we do not disagree with the additional three factors considered in second stage screening or to those interventions identified as requiring second stage screening (4.1.3), we would prefer the second bullet point 'Interventions which already have a published and agreed Statement to Inform an Appropriate Assessment or equivalent, or a completed HRA process', to be qualified. At least one of the interventions has only been considered in terms of HRA at the plan or strategic level, albeit with a firm commitment from Welsh Government that HRA will need to be undertaken in detail at the project level. The strategic level HRA only considered high level issues relating to European Sites and the principle of the proposed intervention. The HRA process for this intervention at project

level has yet to be carried out and it could therefore be argued that the HRA process for this intervention is not yet complete.

**4.1.2.4:** We note those interventions where it is considered there is ‘insufficient detail’ to undertake HRA and would suggest that the decision to exclude these interventions from this strategic HRA process be strengthened with a commitment to all relevant assessment processes, including HRA, being carried out for these interventions as soon as sufficient detail is known to make such assessment practical.

**4.2.2:** No reference has been made in this section to the need to consider European Eel in terms of ‘mobile species’.

**4.2.3:** We welcome the inclusion of Cardiff Beechwoods SAC within second stage screening.

**Table 5:**

**Habitat Loss and/or Fragmentation:**

As requested in our earlier response to this HRA process, clarification is required as to what is understood by ‘move water based habitats by natural forces’. Given that the potential for significant effects on European Sites is dependent on the type and sensitivity of the receiving habitats and species, it may not be appropriate to alter or amend water flows or re-distribute silts and other substrates since these flows and substrates may form valuable/essential features and functions of the European Sites designation and integrity.

**Air Quality Changes:**

Reference has only been given to dust. Additional reference needs to be made to emissions from motorised vehicles.

**5.3: Screening Findings**

We note the statement that with the application of avoidance and mitigation measures, the majority of interventions had no likelihood of significant effects on the environment, both alone and in combination. A number of proposed interventions have already been approved in principle at the strategic stage but have not yet been subject to detailed design development and/or subject to relevant assessment at the project level. In these cases, mitigation measures have not yet been developed or ‘approved’ and it is therefore difficult to give definitive agreement to this statement. The HRA process requires avoidance and mitigation measures to demonstrate no likely significant effect and until such time as further detail is known, it may not be possible to draw a conclusion of ‘no likely significant effects’ on European sites either alone or in combination with other plans and projects.

We do not disagree that for proposed interventions for the A487 Caernarfon to Bontnewydd, Brynglas Tunnel improvements and the A487 Llandeilo Bypass, there is a likelihood of significant effects. We note however, that no mention has been made at this point of the proposed M4 around Newport. While the strategic stage HRA of the M4 around Newport proposals is now completed (July 2014), this strategic HRA identified that the proposed development of a six lane highway to the south of Newport had the potential for significant effects to European Sites including the River Usk SAC and the Severn Estuary Ramsar Site.

#### **Afon Gwyrfai a Llyn Cwellyn SAC**

We would suggest that additional consideration be given to potential disturbance to otters.

#### **Afon Tywi SAC**

We would suggest additional consideration be given to disturbance, water quality and to noise/vibration.

#### **River Usk SAC**

Given the nature of some of the species of interest in the Usk and the use of the river by European Eel (as a feature of the Severn Estuary Ramsar site), we would suggest additional consideration be given to noise and disturbance. Additional consideration should be given to those potential significant effects identified in the strategic HRA for the M4 around Newport proposals.

### **5.5: Screening Findings for Ramsar Sites**

#### **Severn Estuary Ramsar**

Given the nature of some of the species of interest in the Usk and the use of the river by European Eel (as a feature of the Severn Estuary Ramsar site), we would suggest additional consideration be given to noise and disturbance. Additional consideration should be given to those potential significant effects identified in the strategic HRA for the M4 around Newport proposals, notably 'in combination' with other plans and projects.

**5.7:** See comments above on 5.3 regarding the type of significant effects which we would expect to see considered at the next stage of the HRA process

We are encouraged to see that N-dep is being considered within this assessment process. This section suggests that it is considered the National Transport Plan will not have significant effects on European Sites, alone or in combination, since it is encouraging a shift in transport mode to public transport, cycling & walking and it is likely that future technology changes will reduce vehicular emissions. As behavioural change and modal shift has not yet been demonstrated we would suggest that it might be more appropriate to

suggest that implementation of the Wales National Transport Plan is likely to have a significant effect but is unlikely to have an adverse effect on European site integrity. This would be a more accurate conclusion to this assessment.

### **5.8: Screening Stage Conclusions**

We do not disagree that for proposed interventions for the A487 Caernarfon to Bontnewydd, Brynglas Tunnel improvements and the A487 Llandeilo Bypass, there is a likelihood of significant effects. We note however, that no mention has been made at this point of the proposed M4 around Newport. While the strategic stage HRA of the M4 around Newport proposals is now completed (July 2014), this strategic HRA identified that the proposed development of a six lane highway to the south of Newport had the potential for significant effects to European Sites including the River Usk SAC and the Severn Estuary Ramsar Site.

**Table 7:** No reference has been made to mitigation measures relating to noise/vibration or disturbance from lighting.

### **Water quality/flow changes**

We would suggest that additional avoidance mitigation measures be proposed which would stipulate that no structure be placed within the wetted area of a watercourse.

### **Loss of Breeding Areas/Hibernacula**

With regard to the 'management of an additional piece of land to provide replacement breeding areas/roosts, the implication is that breeding areas and roosts will be lost or damaged and appears to relate to compensation as opposed to mitigation (which would avoid or reduce or negate damage). The provision of compensation in anticipation of damage/loss to a European Site would not be appropriate.

**6.10:** See comments on 5.7 above.

### **8.1: Can it be ascertained that the NTP will not adversely affect the integrity of European Sites (beyond reasonable scientific doubt)?**

We note the statement that with the application of mitigation measures, potential adverse effects will be avoided. For those interventions being considered at the strategic level and where proposed interventions have been approved in principle at the strategic stage but have not yet been subject to detailed design development and/or subject to relevant assessment at the project level, mitigation measures have not yet been developed or 'approved' and it is therefore difficult to give definitive agreement to this statement at this time. The HRA process requires avoidance and mitigation measures to demonstrate no likely significant effect and until such time as further detail is known, it may not be possible



to draw a conclusion of 'no likely significant effects' on European sites either alone or in combination with other plans and projects.

### **Appendix B: NTP Intervention Initial Screening**

We have a number of detailed points to make on the intervention screening which we would be grateful to discuss with you, especially those where the potential for likely significant effects has been identified for the intervention.