Natural Resources Wales
Board Meeting
21st May 2013

Paper Title	Administration of Internal Drainage Districts
Paper Reference:	Paper NRW B (O) 11.13 – May 2013
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Purpose of Paper:	**Discussion/Decision**
Recommendation:	1. That Natural Resources Wales encourages a fundamental reform of the Internal Drainage Districts' legal framework to achieve a more efficient and effective sustainability focused agenda. 2. That the future administration of Internal Drainage Districts in Wales be undertaken by the organisation(s) best suited to deliver within that reformed framework.
Decision Required:	For the Board to support the Recommendations.

Impact: To note – all headings might not be applicable to the topic	**Impact on the Environment**: Effective land drainage minimises flood risk and can maintain wetland biodiversity and landscape values **Impact on the Economy**: Efficient delivery of our work ensures we demonstrate value for money to the communities whom we charge for the service **Impact on Community**: Flood risk is minimised enabling property and rural businesses to be protected **Impact on Knowledge**: n/a

Issue

1. Natural Resources Wales delivers land drainage services in statutory Internal Drainage Districts (IDDs) that we administer. This service and its governance, administration and delivery have been inherited from those of Environment Agency Wales (EAW).

2. This paper outlines the rationale for the current arrangements, the future drivers for change and the associated risks and opportunities.

Summary

3. Natural Resources Wales provides a land drainage service but only within the eleven IDDs which we administer. That administration is delivered through the functions of an Internal Drainage Board (IDB).

4. The existing legal arrangements hamper us from delivering an effective and efficient service that balances the needs of the environment, society and the local economy. Significant reform is required.

5. The Welsh Government is currently considering the future management of all IDDs and a decision is expected this summer. One option is for Natural Resources Wales to take over the management of the other four IDDs in Wales. If that option is chosen but the legal framework left unreformed then Natural Resources Wales will inherit significant risks and liabilities. However a fully reformed framework potentially offers Natural Resources Wales opportunities towards meeting its corporate goals.

Background

6. IDDs are established for low-lying areas of Wales and England where flood risk management and land drainage measures are necessary on a continually managed basis to sustain agricultural and developed land uses.

7. There are 15 IDDs wholly or mostly in Wales. These statutory designated areas are administered by IDBs (see Annex 1 for background). Natural Resources Wales exercises the functions of an IDB in eleven of the IDDs, all in North West Wales.

8. There are three stand alone IDBs wholly or mostly in Wales:
   i. Lower Wye IDB administers one District split between Wales and England
   ii. Powysland IDB administers one District mostly in Wales
   iii. Caldicot & Wentlooge Levels IDB is wholly in Wales & administers two Districts.

9. Parts of many IDDs in Wales, being wetlands, are designated as SSSIs. A number are in locations of high landscape/recreation value and popular tourist areas.

10. The Floods and Water Management Act 2010 meant the Environment Agency's executive role for administering its IDDs passed from its regional flood committees (including in Wales) to the EA Board. The EA Board recognised that this arrangement was unsatisfactory as IDBs should be elected and represent those who pay for and benefit from its work. Therefore it decided to put alternative

arrangements in place (transfer to an independent IDB/co-operative or be dissolved). In England that is planned to be complete by October 2014.

11. EAW did not progress this in Wales because of the Welsh Government's consultation (May - August 2012) on the future of Internal Drainage Boards in Wales. The consultation was in the context of seeking a more holistic approach to managing Wales' natural resources, public service delivery to modern standards and significant governance issues regarding Caldicot and Wentlooge Levels IDB.

12. The Welsh Government sought views on three options for the future delivery of IDB functions:
    1) Delivery through IDBs in line with current arrangements
    2) Delivery through IDBs, with reformed governance arrangements
    3) Delivery through Natural Resources Wales, with all IDBs' functions transferring to it

    The Welsh Government publicly stated that Option 3 was their preferred one.

13. EAW's consultation response (Annex 2) was that: a) the current IDB situation in Wales requires significant reform, and; b) that all IDB functions, including its own, should be transferred to Local Authorities. EAW's Flood Risk Management Wales committee independently reached the same view. EAW's key issues were that:
    - without substantial legislative reform a number of the IDDs were unviable in the long term, Natural Resources Wales could potentially inherit significant financial liabilities and
      as a national organisation local accountability was lacking
    - different options might be appropriate for different IDDs' circumstances
    - working with IDBs would not be a barrier to delivering the Living Wales policy
    - it would (as part of Natural Resources Wales) take on the IDB role across Wales, if that was the Welsh Government's decision, and deliver it effectively and efficiently.

14. CCW's consultation response (Annex 3) did not offer a preferred option. Rather it commented on the desired assessment criteria for each option, for example:
    - that any future Board should pay due regard to statutory nature conservation duties as well those for drainage to achieve a more balanced approach
    - delivery of SSSI management must be maintained during any transition
    - management of biodiversity in IDDs was best delivered through reformed Boards rather than dissolving them completely – CCW's 2008 position was for EAW's IDDs to transfer to an independent Water Level Management Board.

15. In the Welsh Government's published summary of responses (March 2013) there was no support for retaining current arrangements, 10% favoured the NRW Option and the majority (77%) favoured Option 2 (reformed IDBs). It should be noted that many responders were IDBs or had links to them. Only one of the four environmental bodies responding favoured the Natural Resources Wales option.

16. Change is therefore highly likely in the way IDDs are administered in Wales. Natural Resources Wales needs to establish its position to inform discussions with the Welsh Government ahead of any decision.

Proposals

17. Recommendation 1: that Natural Resources Wales encourages a fundamental reform of the Internal Drainage Districts' legal framework to achieve a more efficient and effective sustainability focused agenda.

18. Recommendation 2: that the future administration of IDDs in Wales be undertaken by the organisation(s) best suited to deliver within that reformed framework.

19. A reformed framework for the way in which IDDs are administered would enable more efficient arrangements for:

    - delivery of environmental legislation and policy– the need to deliver a wider range of functions and duties that encompass biodiversity as well as land drainage should be better reflected in a Board's remit and title;
    - administration – consultative and auditing requirements need to be modernised and yet be proportionate to the operating budget for each District, whilst still meeting required standards of due diligence and transparency;
    - finance – reducing the work required to manage the flow of levy and precept finances back and forth between Local Authorities, IDB and Natural Resources Wales;
    - governance – there is a need for more appropriate local representation arrangements for those who pay for and benefit from the work that is undertaken.

20. This would make service delivery and accountability as effective and efficient as possible within the Government's new sustainable development and Living Wales policy landscape. Approaching the reform from a fresh, objective position would enable the best framework to be selected and not influenced by a predetermined outcome.

21. Natural Resources Wales would support whatever option is chosen whether it is delivering that role itself or supporting that of another organisation, given that that option would offer the most effective delivery for the future administration of IDDs and maximise the benefits to the environment, society and the economy of Wales.

Next Steps

22. The Welsh Government now plans to further consider the implications of Option 2, Option 3 and the additional option of Local Authority-led delivery. It will be similar in scope to that undertaken in advance of the decision to establish Natural Resources Wales and will involve discussions with key stakeholders, including Natural Resources Wales. A final decision is expected this summer.

Risks

23. We must deliver our existing service in a cost effective manner with a statutorily compliant decision making framework. We must also balance long standing customer expectations of land drainage with environmental protection and enhancement. If we are not seen to deliver both of these the organisation's reputation could be compromised.

Financial Implications

24. Natural Resource Wales' typical annual IDD budget is approximately £152k. Of this, £100k is generated via a special levy on Local Authorities and £52k via rates on landowners.

25. 2011/12 income from the three stand alone IDBs was: Caldicot & Wentlooge - £1.2m; Powysland - £83k, and; Lower Wye - £31k. Caldicot & Wentlooge annually receives approximately £1.19m from Newport, Monmouth and Cardiff City Councils and approx £40k from landowners. From this income, we receive an annual precept of 50% of the cost of the flood risk management work we undertake in the Caldicot & Wentlooge IDDs - £250k in 2012/13 and £300k for 2013/14.

Communications

26. Our main communication routes will be via the Public Accounts Committee hearing in May and then dependent upon the Welsh Government's decision on the future of IDBs in Wales.

Legal and Compliance Issues

27. Following the Wales Audit Office's report into governance issues at Caldicot & Wentlooge IDB the Welsh Government contacted EAW, who gave assurance that a robust and statutorily compliant decision making framework was in place for its own IDD functions and that the Nolan Principles of public life were being followed.

Annex 1 - Background to Internal Drainage Boards in Wales
Annex 2 – EAW response to Welsh Government consultation on future of IDBs
Annex 3 – CCW response to Welsh Government consultation on future of IDBs
(FCW did not respond to the consultation)