



**Cyfoeth
Naturiol**
Cymru
**Natural
Resources**
Wales

Ein cyf/Our ref:
Eich cyf/Your ref:

Welsh Government Building
Rhodfa Padarn
Llanbadarn Fawr
ABERYSTWYTH
Ceredigion SY23 3UR

Emily Finney
Head of Natural Resource Management Policy
Department for Natural Resources
Welsh Government

Ebost/Email:
strategic.assessment@cyfoethnaturiolcymru.gov.uk
Ffôn/Phone: 0300 065 4656

13th February 2017

Dear Emily,

Consultation to inform the development of the Natural Resource Policy Sustainability Appraisal and Strategic Environmental Assessment

Thank you for your e-mail of 8th December 2016 consulting Natural Resources Wales on the Consultation to inform the development of the Natural Resources Policy (NRP).

This letter is from the Strategic Assessment Team in Natural Resources Wales, and is restricted to comments in relation to the Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA) of the NRP. There is a separate response from our Natural Resources & Ecosystems Programme on the wider aspects of the consultation. This is because Natural Resources Wales has had some involvement in the production of the SA/SEA, and European caselaw therefore requires that the response to the SA/SEA aspect of the consultation comes from the functionally separate Strategic Assessment Team.

Our comments on the SEA are made in the context of our responsibilities under the Environmental Assessment of Plans and Programmes (Wales) Regulations 2004, and in our statutory role as advisers to Welsh Government on the natural heritage and resources of Wales.

Our comments are as follows:

1. We welcome and support the development of the NRP, and the opportunity to input into this consultation.

Changes in approach to the SA and SEA

2. Approach to the Sustainability Appraisal

We recognise that the context for the NRP has changed post Brexit, and it is therefore not unreasonable to change the NRP and SA to reflect this new context. However, it is our view that the information provided at this stage could have been clearer and more explicit about how and specifically why the NRP and the approach to the SA have changed.

For example, it is not clear to us whether Welsh Government still consider they are undertaking a formal SA, or simply undertaking an assessment based on the SA approach. The covering letter states: *'a SA report will no longer be published for consultation. Instead, the appraisal of the NNRP will be undertaken iteratively alongside the development of the policy. At adoption of the NNRP a report presenting the findings of this iterative appraisal, detailing how the SA has*

Welsh Government Building • Rhodfa Padarn • ABERYSTWYTH • Ceredigion • SY23 3UR

Croesewir gohebiaeth yn y Gymraeg a'r Saesneg
Correspondence welcomed in Welsh and English

influenced the final policy will be presented. This would suggest that a formal SA is being completed, but clarity on this would be helpful.

Given that the NRP is likely to change significantly from the proposals presented at the scoping consultation stage in May 2016, it is also not entirely clear how the scoping phase of the SA and the latter stages of the SA will link together.

3. Omission of the draft SA Report consultation

We are disappointed that Welsh Government has decided not to publish a draft SA Report (or draft NRP) for consultation, but, instead, *'At adoption of the NNRP a report presenting the findings of this iterative appraisal, detailing how the SA has influenced the final policy will be published'*. By taking this approach, a key stage for consultees to input in to the process has been removed.

The explanation for this change in approach is provided in the letter sent to statutory consultees on the 8th December 2016. However, it is not clear to us how the reasons provided explain this change in approach. In particular it is not clear how not publishing a draft SA Report for consultation can be described as *'Reflecting the Welsh Government's engagement approach to the preparation of the NNRP'*, or why *'the necessity for a flexible process that supports the development of the NNRP...'*, or *'Instead, the appraisal of the NNRP will be undertaken iteratively alongside the development of the policy'* leads to the conclusion that a draft SA Report should not be published for consultation. Indeed, it is our view that SAs and SEAs should always be undertaken iteratively alongside the development of any plan and its constituent policies, thereby allowing the appraisal to influence those policies to avoid and minimise impacts and maximise gains, a key purpose of the appraisal process in the first place (and a key aim of the Directive and accompanying Regulations in relation to SEA).

By dropping this important opportunity to capture consultee input, consultees are denied the opportunity to comment on the draft appraisal's conclusions on the impacts of the policies, something which is likely to have improved the robustness of the appraisal and the policies themselves prior to adoption. It is our view that the importance of having this opportunity to comment has actually increased given that the NRP that is emerging appears to have changed significantly from that originally envisaged when the SA/SEA scoping consultation was carried out last year. The absence of this important consultation stage also seems to contradict the emphasis on engagement described in the ways of working in the Well-being of Future Generations Act and in the principles set out in the Environment Act.

4. Strategic Environmental Assessment

We understand from the letter sent to statutory consultees on the 8th December 2016 that Welsh Government has decided to discontinue the formal SEA of the NRP. In order to provide greater clarity around this decision it may have been useful to have provided a screening assessment, or at least some form of screening explanation.

Having stated originally that SEA was included as a precaution in the SA, it would be helpful to state more explicitly that an SEA is no longer considered to be required because of the high-level strategic nature of the NRP (if this is the case). SA is discretionary but SEA is a statutory requirement for certain types of plan and programme, so to be clear Welsh Government should

state that they do not consider the NRP in this form to be a type of plan or programme that requires SEA under the legislation.

At this stage, it is not entirely clear what the final NRP will contain, but there are indications of its scope in the current document. The document states that, as required by the Environment (Wales) Act 2016, the final NRP *'will form a key part of the delivery of the sustainable management of natural resources by setting out:*

- *What Welsh Ministers consider to be the key risks, priorities and opportunities for the sustainable management of natural resources (SMNR) in Wales, including what should be done in relation to biodiversity and climate change; and*
- *Welsh Ministers' policies for contributing to SMNR.'*

It further states that the priority themes *'will inform the priorities for action, including for Area statements as they are developed'*, and *'will also inform the implementation of SMNR across Welsh Government'*, i.e. it is the intention of the NRP to have a strong influence over other plans and programmes. If it is intended that the final policy does set such a clear framework for action as described above, then it would appear that SEA may have some relevance here. Providing clarity around the reasons SEA was screened out is therefore important.

The SA going forward

In relation to the SA going forward, we recommend consideration of the following aspects in particular.

5. Ensuring there is clarity of 'key objectives'

Part of the consultation request for consultees is *'...feedback on the priority themes and key objectives within them outlined in this document would also be welcome'...*

Whilst the three priority themes are clearly stated, it is not clear what the 'key objectives' are. It is also unclear whether the term 'key objective' just refers to new objectives/commitments made in this document, or whether it also includes those existing commitments quoted in the document (e.g. on page 14, the commitments quoted from the Nature Based Climate Action Memorandum of Understanding), or whether it is referring back to the SA objectives presented in the scoping consultation last year. This should be made clear in the SA Report.

6. Links to the State of Natural Resources Report (SoNaRR)

Given that it is intended that the evidence provided in SoNaRR should underpin the NRP, we would encourage a clear line of site between SoNaRR and the NRP, in particular, in relation to the key opportunities identified in SoNaRR and how the NRP addresses them.

7. Ensuring maximum benefit from scoping consultation responses

Because there has been significant change in the scope of the NRP since the initial scoping stage consultation, and because there will now not be an opportunity to comment on a draft of the SA Report or NRP document itself, it will not be possible for Natural Resources Wales to check whether issues we had raised at the time of the scoping consultation have been taken into account in the draft SA Report or NRP. However, this should still be an important consideration, and we hope that the final SA report will include examples of how feedback from the earlier consultations has influenced the final version of the NRP.

8. How the iterative appraisal process is applied

The current document provides little information about the SA, including whether it is intended to use the draft appraisal questions set out in the earlier scoping consultation (Table 7.1, page 67). As part of the iterative appraisal process we hope to see the draft appraisal questions applied to the subsequent higher-level NRP content, in so far as it is possible and reasonable to do so. Whilst we understand that the outputs from this specific aspect of the SA will be provided at the same time as the NRP is adopted, because there will now be no consultation on the draft SA Report, we will not have the opportunity to comment on them.

We hope the above is of use. Should you have any queries regarding these comments, please do not hesitate to contact Anne MacDonald or Roger Matthews, via strategic.assessment@cyfoethnaturiolcymru.gov.uk.

Yours sincerely,



Howard Davies
Head of Corporate Planning