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White Paper - summary of responses

Towards the Sustainable Management of Wales' Natural Resources

Consultation on proposals for an Environment Bill

Date of issue: March 2014

Overview

This document provides a summary of the responses received by the Welsh Government to the White Paper on the Environment Bill.

Audience

Local Authorities, Welsh Government Sponsored Bodies, National Park Authorities, Town and Community Councils, businesses, third sector organisations, academic bodies and representative bodies.

Action required

For information only.

Further information

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Additional Copies

This document can be accessed from the Welsh Government website at www.wales.gov.uk/consultations.

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Chapter 1: Introduction

- 1.1 The Welsh Government's consultation on the proposals for an Environment Bill was launched on 23 October 2013, closing on 15 January 2014. The consultation on the White Paper was issued electronically to a wide range of stakeholders and was also made available on the Welsh Government website. Approximately 1,300 stakeholders and individuals received bulletins from the Welsh Government referring to the White Paper between November 2013 and January 2014.
- 1.2 The consultation sought views on a wide range of proposals, in particular focussing on the Bill's objectives:
- to enable Natural Resources Wales to manage our natural resources in a more joined up way;
 - to ensure the decisions we take in relation to our natural resources support our economy and communities, as well as the environment;
 - to simplify processes and to have better quality evidence on our natural resources;
 - to put in place legislation that is right for Wales and is aligned to our priorities; and
 - to ensure the principles of integrated NRM are at the heart of the Bill, ensuring that the value of our ecosystems can be properly considered.
- 1.3 The Environment Bill consultation follows on from two previous consultations on the direction of management of our natural resources, the 2010 '*A Living Wales: a new framework for our environment, countryside and seas*¹' and the 2012 Green Paper consultation '*Sustaining a Living Wales*²' in which the responses showed broad support for a joined up approach to the planning and management of natural resources in Wales. The 2012 Green Paper consulted on the scope and opportunities for simplifying how we manage and regulate the environment to deliver improved outcomes for the people of Wales. It also sought views on how we might develop natural resource management planning at local and national levels to enable better decision-making.
- 1.4 The White Paper consultation further developed the Green Paper by setting out more fully the legislative proposals for natural resource management to support delivery of the vision for improved management of Wales' natural resources through the Environment Bill for Wales.
- 1.5 All the responses to this consultation, the 2010 and 2012 consultations, will be retained and represent a valuable source of views, information and ideas, and will be used to inform our work in further developing the Environment Bill and the Natural Resources Management programme.

¹ <http://wales.gov.uk/consultations/environmentandcountryside/singlebody/?lang=en>

² <http://wales.gov.uk/consultations/environmentandcountryside/sustainingwales/?lang=en>

Overview and Summary of Consultation Responses

1.6 A total of 182 consultation responses were received. The consultation period closed on 15 January 2013 and responses submitted after this date have been included.

1.7 The Welsh Government would like to thank all those that responded to the consultation.

1.8 A summary of the responses is provided below, setting out the key themes and main issues. A detailed analysis of each individual question is provided in chapters 2-6. A list of the organisations which responded to the consultation is provided at Annex 1 and all of the consultation responses are published at Annex 2. Further information on the consultation process is provided at Annex 2.

1.9 No differences were highlighted between the views of individuals in Wales and those outside of Wales. The table below shows the breakdown of responses based on the country in which the response was received.

Table (i) Breakdown of responses by country

Country	No. of responses
Wales	131
England	48
Scotland	1
U.S.	1
Canada	1
Total	182

1.10 A majority of the respondents answered most of the 39 main questions asked in the consultation, and many provided additional supporting information on key issues or made further suggestions to build on the existing content of the paper.

1.11 Respondents were asked to assign themselves to one of eight broad categories. Table (ii) shows a breakdown of respondents by sector. A full list of respondents can be found at Annex 3. Copies of non-confidential responses received in their original format and language will be published on the consultation pages of our website.

Table (ii): Breakdown of responses by sector

Category	Number	% of total
Third Sector	35	19%
Local Authorities / Community & Town Councils	28	16%
Government Agency / Other Public Sector	18	10%
Professional Bodies & Associations	48	26%
Members of the Public	15	8%
Businesses	31	17%
Academic Bodies	6	3%
Other	1	1%
Total	182	100%

1.12 Where the consultation questions invited yes/no responses, some basic quantitative assessment has been made and this is set out at Table (iii) below. However, this does not reflect of the overall number of respondents who answered the question, but rather is based on the respondents who directly answered 'yes' or 'no' to the question. Some respondents chose to not provide a direct answer, but rather provided comments. In addition, many respondents provided 'free form' comments and views rather than explicitly responding to specific consultation questions. Wherever possible, comments and views have been incorporated into the question by question analysis set out in chapters 2-6 if they related to the subject matter of the questions even if there were not explicitly presented as answers to the questions. However, these comments have not been counted as a direct response to the question and are therefore not included in the total respondents figure set out in Table (iii) below.

Table (iii): Summary of ‘yes’ and ‘no’ responses

CHAPTER 2 – NATURAL RESOURCE MANAGEMENT (NRM)		
Question 1 - Do you agree with the overall package of proposals in relation to NRM?		
87 of 100 total respondents (87%) provided a ‘yes’ or ‘no’ response		
Yes	66	76%
No	21	24%
Total	87	100%
Question 2: Do you agree with the approach to define natural resources?		
87 of 99 total respondents (88%) provided a ‘yes’ or ‘no’ response		
Yes	73	84%
No	14	33%
Total	87	100%
Question 3 - Do you agree that climate change resilience and mitigation should be embedded into our proposed approach to integrated NRM?		
91 of 100 total respondents (91%) provided a ‘yes’ or ‘no’ response		
Yes	87	96%
No	4	4%
Total	91	100%
Question 4 - Do you agree that the setting of national outcomes and priority actions for NRM should follow the 5 year cycle in the Future Generations Bill?		
76 of 87 total respondents (87%) provided a ‘yes’ or ‘no’ response		
Yes	69	91%
No	7	9%
Total	76	100%
Question 5 - Do you agree that the area-based approach will help to provide a clear, prioritised and focussed approach to delivery?		
72 of 115 total respondents (79%) provided a ‘yes’ or ‘no’ response		
Yes	55	71%
No	17	29%
Total	72	100%
Question 6 - Do you agree that the approach is flexible enough to enable significant elements of the plans for NRM to be replaced in the future?		
57 of 72 total respondents (79%) provided a ‘yes’ or ‘no’ response		
Yes	40	70%
No	17	30%
Total	57	100%

Question 7 - Do you agree with placing a requirement on public bodies to co-operate in the area-based approach?

78 of 90 total respondents (87%) provided a 'yes' or 'no' response

Yes	70	90%
No	8	10%
Total	78	100%

Question 8 – Do you agree that NRW should be the lead reporting authority for natural resources?

84 of 94 total respondents (89%) provided a 'yes' or 'no' response

Yes	81	96%
No	3	4%
Total	84	100%

**CHAPTER 3 – NATURAL RESOURCES WALES
NEW OPPORTUNITIES TO DELIVER**

Question 10 – Do you agree with the proposals set out in Chapter 3 in relation to new ways of working for NRW?

60 of 76 total respondents (79%) provided a 'yes' or 'no' response

Yes	48	80%
No	12	20%
Total	60	100%

Question 12 - Do you agree that NRW are an appropriate body to act as facilitators, brokers, and accreditors of Payment for Ecosystems Services Schemes?

60 of 77 total respondents (78%) provided a 'yes' or 'no' response

Yes	39	65%
No	21	35%
Total	60	100%

Question 15 – In relation to Welsh Ministers' amendments powers, do you support a) the initial proposal to limit it to NRW's functions, or b) the additional proposal to cover broader environmental legislation?

38 of 55 total respondents (69%) chose option 'A' or option 'B'

A	21	55%
B	17	45%
Total	38	100%

CHAPTER 4 – RESOURCE EFFICIENCY
Regulation of Waste Segregation and Collection and Carrier Bags

Question 18 - Do you agree with the proposals in chapter 4 and approach of combining the 5 measures together?

61 of 75 total respondents (81%) provided a 'yes' or 'no' response

Yes	41	68%
No	20	32%
Total	61	100%

Question 19 – Do you agree that the level of segregation asked of individuals/businesses is acceptable?

52 of 74 total respondents (70%) provided a 'yes' or 'no' response

Yes	30	58%
No	22	42%
Total	52	100%

Question 20 – Are there any particular types or sizes of businesses where it would not be technically, environmentally or economically practicable to keep 7 waste streams separate at source?

49 of 64 total respondents (77%) provided a 'yes' or 'no' response

Yes	38	78%
No	11	22%
Total	49	100%

Question 21 – Do you agree with the proposals that we propose to ban from landfill of energy from waste facilities?

59 of 69 total respondents (86%) provided a 'yes' or 'no' response

Yes	41	70%
No	18	30%
Total	59	100%

Question 22 – Do you agree that developing guidance for acceptable levels of contamination in residual waste for landfill/incinerator operators and the regulator is a workable approach?

50 of 60 total respondents (83%) provided a 'yes' or 'no' response

Yes	38	76%
No	12	24%
Total	50	100%

Question 23 – Do you agree that there should be a prohibition on the disposal of food waste to sewer?

54 of 61 total respondents (89%) provided a 'yes' or 'no' response

Yes	41	76%
No	13	24%
Total	54	100%

Question 25 – Do you agree with the lead times for the proposals are reasonable?

39 of 49 total respondents (80%) provided a 'yes' or 'no' response

Yes	22	56%
No	17	44%
Total	39	100%

Question 26 – Do you agree that NRW are the best placed organisation to regulate the duty to source segregated wastes?

43 of 52 total respondents (83%) provided a 'yes' or 'no' response

Yes	39	91%
No	4	9%
Total	43	100%

Question 29 – Do you agree with the proposal to extend the enabling powers of the Welsh Ministers so that they may provide for minimum charges to be set for other types of carrier bags?

47 of 58 total respondents (81%) provided a 'yes' or 'no' response

Yes	39	83%
No	8	17%
Total	47	100%

Question 30 – Do you agree with the proposal to extend the enabling powers of the Welsh Ministers so that they may require retailers to pass on their net proceeds to nay good causes?

50 of 56 total respondents (89%) provided a 'yes' or 'no' response

Yes	33	78%
No	17	22%
Total	50	100%

CHAPTER 5 – SMARTER MANAGEMENT

Question 32 – Do you agree with the proposals in relation to Marine Licensing?

25 of 32 total respondents (78%) provided a 'yes' or 'no' response

Yes	22	88%
No	3	12%
Total	25	100%

Question 35 – Do you agree with the proposal in relation to Shellfishery Orders?

16 of 19 total respondents (84%) provided a 'yes' or 'no' response

Yes	14	88%
No	2	12%
Total	16	100%

Question 36 – Are there any changes to the Several and Regulating Order regime that you think should be considered?

5 of 8 total respondents (63%) provided a 'yes' or 'no' response

Yes	3	60%
No	2	40%
Total	5	100%

Question 38 – Do you agree with the proposal in relation to changes to Section 29 of the Land Drainage Act (1991)?

24 of 25 total respondents (96%) provided a 'yes' or 'no' response

Yes	24	100%
No	0	0
Total	24	100%

Question 39 – Do you agree with the proposal in relation to changes to Section 47 of the Flood and Water Management Act (2010)?

24 of 26 total respondents (92%) provided a 'yes' or 'no' response

Yes	22	92%
No	2	8%
Total	24	100%

Summary of main themes

1.13 Several key themes emerged from the written responses to each question. These are reflected in the summary for each question, as set out in chapters 2-6.

Natural Resource Management proposals

1.14 Overall, there was broad positive support for the package of proposals in relation to the Natural Resource Management proposals. Some respondents felt that more detail of how the area-based approach will be implemented was needed, and the importance of recognising the value of existing environmental legislation was highlighted. Respondents welcomed the proposals to have clear legal definitions, although some felt there was a need to emphasise more strongly elements like biodiversity, enhancement and protection, environmental limits and the precautionary principle. Other suggestions included a greater emphasis on landscapes and seascapes, the historic environment and geology.

1.15 Respondents support the setting of a National Natural Resource Policy and high-level direction. The need for an evidence based approach and the importance of gathering and sharing data was highlighted, but there were also concerns around resourcing and potential burden on public bodies and the third sector.

1.16 There was a substantial degree of support for the measures to promote resilience to the effects of climate change by embedding them into integrated natural resource management at both national and local levels. Several respondents noted the potential opportunity to include statutory targets for climate change into the Bill.

1.17 Many respondents supported using river catchments as the basis of the area-based approach, although there was almost as much caution. The need to align the approach closely to Local Development Plans and Single Integrated Plans was broadly recognised.

Natural Resources Wales - new ways of working

1.18 The majority of respondents supported the overall package of proposals to enable NRW to work in different ways. Some respondents felt more detail was needed on how the proposals will be implemented in practice, particularly in relation to payments for ecosystem services and general binding rules. Many respondents recognised that experimental powers may be beneficial in implementing innovative ways of working, and many felt paying for ecosystem services may provide opportunities to reward positive land management. However, there were concerns around the need to protect irreplaceable species or habitats, rather than biodiversity conservation being a tradeable asset. There was some concern expressed over role of NRW as a 'broker' of PES schemes.

1.19 There was some support in relation to the proposed Welsh Minister's enabling power. However, some respondents who supported limiting the amendment power to NRW's functions suggested that it would be prudent to explore what could be achieved through NRW's existing powers before seeking to expand powers further. Those supporting an amendment power to cover broader environmental legislation suggested that this would give the flexibility to be able to respond in a co-ordinated fashion to challenges in the future. A common concern was that the process of amending primary legislation through the use of secondary legislation could risk a lack of sufficiently robust scrutiny by either the Welsh Assembly or opportunity for public consultation.

Impact of natural resource management proposals

1.20 A number of respondents highlighted the need to address resource and financial implications in the short to medium term as a result of increased collaboration and implementation of the area-based approach. However, there was recognition of longer-term resource efficiency savings. The need for a thorough and robust Regulatory Impact Assessment to consider the impacts of the proposals on organisations across Wales was highlighted. Generally there was broad support to further the role of NRW to stimulate the use of market mechanisms. Respondents highlighted the impact of the proposals and links to the wider legislative programme, in particular the Future Generations Bill and the need for close integration with land use plans, Local Development Plans and Single Integrated Plans.

Resource efficiency

1.21 There was a wide variety of responses on the waste proposals with a majority in favour of the overall package of proposals. A key theme was that a certain amount of co-mingling of recyclable wastes should be allowed, which may be dependent on issues such as the amount of suitable space for waste storage available or the amount of waste being produced. There were also concerns on the practicality of implementation, cost and enforcement, and it was suggested that the proposals could place additional cost or space requirements on some businesses, although this was not quantified. Most respondents agreed with the materials proposed to ban from landfill or energy from waste facilities. The most common concern raised was with regard to enforceability of any ban. Overall, it was felt that further cost benefit analysis should be carried out in order to assess the impacts of the proposals on affected organisations.

1.22 In regards to the proposal to prohibit the disposal of food waste to sewer, the majority of respondents felt that a ban should apply to businesses, the public sector and households. Many respondents noted concerns around the regulation and enforcement of a ban, particularly for households. Many respondents commented that support, education and behaviour change activities would be required to accompany the proposals.

1.23 There was broad support for both proposals in relation to changes to the carrier bag charging scheme. There was some concern from retail associations and local authorities on the additional cost burden that may emerge if a minimum charge on bags for life was implemented. Some organisations noted that the net proceeds from the carrier bag charge should be directed to environmental charities only, however, the proposal to continue to direct net proceeds to all charities was welcomed by businesses and professional bodies and agencies.

Smarter Management

1.24 There was broad overall agreement for the proposals in relation to marine licensing, shellfisheries management, land drainage and flood and water management.

1.25 Specific comments on this chapter included a number of respondents highlighted the importance of ensuring that any fees charged for marine licensing were reflected in the standard and consistency of delivery of the marine licensing system. Respondents suggested that to make the approach work, sufficient resources and expertise must be made available by the regulator to ensure value for money. There were also concerns raised over the potential impact on small businesses and small scale activity.

1.26 In addition, most respondents welcomed the shellfisheries proposal for greater provision of enforcement to combat non-compliant damaging activities. Some respondents raised concerns regarding the impact of the proposals on the shellfishery industry and felt that the changes may lead to a decrease in investment in shellfisheries, due to increased fears around security of tenure. However, it was also noted that the proposal to introduce enforceable management plans alongside the fishery orders themselves, would enable greater robustness and transparency to the Several and Regulating Order application process.

Next steps

1.27 The consultation responses and the discussions at the consultation workshops (for further detail see annex 3) will inform the development of the Environment Bill, which is intended to be introduced to the National Assembly for Wales in spring 2015.

Analysis of responses by individual question

2.1 The following chapters present an analysis of the responses to each individual question and align to the chapters as set out in the White Paper. As outlined in chapter 1, where the consultation questions invite yes/no responses, basic quantitative assessment is summarised below; however, it should be noted that this is not reflective of the overall number of respondents, but rather is based on the respondents who directly answered 'yes' or 'no' to the questions (as outlined in Table ii). Many respondents chose to not provide a direct answer, but rather provided comments. Wherever possible, comments and views have been incorporated into the question by question analysis if they related to the subject matter of the questions even if there were not explicitly presented as answers to the questions. Most of the questions invite respondents to expand on their views; therefore much of the following analysis is qualitative.

Chapter 2: Natural Resource Management

Question 1: Do you agree with the overall package of proposals in relation to natural resource management in Chapter 2?

- 2.2 66 respondents (76% of those who directly answered the question) were in agreement with the overall package of proposals. Overall the majority of respondents broadly agreed with the package of proposals and felt that this would provide a framework for a joined-up approach to natural resource management. Some felt that more detail was needed on the detail of how the approach will be implemented. Some respondents also felt that there is a lack of recognition in the value of existing environmental legislation and existing drivers for conservation and protection.
- 2.3 Respondents welcomed the proposal to have clear legal definitions, in particular a definition of natural resources. It was emphasised that this should be broad enough to include species, habitats, landscapes, geology and marine ecosystems. Some felt that the definitions were focused on natural resource use and missed elements such as nature conservation, environmental limits, protected landscapes and historic environments.
- 2.4 Many welcomed setting a National Nature Resource policy and high-level direction but felt that the approach should be flexible. Some noted that that current timings suggest that the implementation of the area-based approach will precede the creation of the National Natural Resources policy in 2017/18.
- 2.5 There was broad agreement that the area-based approach would aid integrated planning. Some respondents expressed the need for further clarification on how areas would be defined, formed and controlled, and the relationship between this approach and other types of plans such as Local Development Plans, Single Integrated Plans, National Park Management Plans and Marine Management Plans.
- 2.6 Respondents welcomed the need for an evidence based approach and the importance of gathering and sharing data, but raised concerns around resourcing and placing potential burdens on public bodies and the third sector.
- 2.7 Some respondents raised concerns around applying the principles of the sustainable development approach to natural resource management, and questioned how the three elements may be balanced and prioritised, and what the potential impacts may be for the environment.

Question 2: Do you agree with the approach to define natural resources, sustainable management of natural resources and integrated natural resource management in Wales?

- 2.8 73 respondents (84% of those who directly answered the question) agreed with the proposal. Overall, there was broad support to establish a legal definition for the natural resources of Wales, and agreement that this should encompass the whole of the physical and living environments and all the resources and ecosystem services they provide. A number of respondents noted that the definition should be about more than exploitation of resources for economic gain.
- 2.9 A consistent theme was the need to emphasise more strongly the need for enhancement, protection and responsible stewardship. Alongside this, some respondents noted the need for biodiversity to underpin the definition, in recognition of the intrinsic value of biodiverse ecosystems. A few respondents suggested that the approach could draw more strongly on the South Australian Natural Resource Management Act (2004) which recognises the intrinsic value of natural resources.
- 2.10 Several respondents referred to the concept of living within environmental limits and the need for definitions to flow from the Future Generations Bill. For example, one respondent referred to a vision of 'creating healthy, resilient ecosystems for current and future generations enabling them to live within environment limits'. There were several comments on the need to refer to the precautionary principle.
- 2.11 A few respondents highlighted that the reference in the definition of sustainable management to '...provide for their social, economic and environmental well-being' could be misinterpreted as relating to human well-being only. It was suggested that 'need' may be a more appropriate term.
- 2.12 Respondents recognised landscapes as a key component of our natural resources and noted that the definition should reflect their cultural value. It was suggested that seascapes should be explicitly included. Respondents also highlighted that the definitions need to recognise the historic environment as part of the non-living environment, from which ecosystems are formed, and as both a supporting and cultural service. Finally, several respondents noted the contribution of the geosphere (often noted as 'geodiversity') to ecosystem service delivery.
- 2.13 Some respondents suggested that matters such as energy should be encompassed in the definition and several respondents requested clarification as to the inclusion of mineral resources, and others queried the inclusion of food production. An additional point was that the definition of sustainable management should refer specifically to the Welsh language.

Question 3: Do you agree that climate resilience and climate change mitigation should be embedded into our proposed approach to integrated natural resource management at both national and local levels?

- 2.14 87 respondents (96% of those who directly answered the question) agreed with the proposal. Overall, there was broad agreement that measures to promote resilience to the effects of climate change should be embedded into our proposed approach to integrated natural resource management at both national and local levels. Some respondents noted that more information is required on how this can be implemented in practice.
- 2.15 Climate change was recognised as a fundamental and critical issue, the effects of which are felt both locally and nationally and action should therefore be embedded at all levels. It was noted that each individual area may need to respond differently to the challenges and impact of climate change as a result of the diverse landscape, habitats and communities. Some respondents suggested that a key task is to increase the resilience of urban and rural landscapes, for example in order to deal with extreme weather events.
- 2.16 Several respondents noted the opportunity to include statutory targets for climate change and Scotland was cited as a good example of an administration successfully combining a number of levers, including legislation, to tackle climate change mitigation. A couple of respondents suggested that the Bill offers an opportunity to report to the National Assembly for Wales on adaptation measures. Others noted that the proposed National Natural Resource policy should set out the links to the Sectoral Adaptation Plans (SAPs) and the Welsh Government's emission reduction targets.
- 2.17 Some respondents noted that measures to address climate change must also be integrated into other areas, such as renewable energy, or the management of peatland for carbon sequestration. The need to consider the effects of climate change measures, such as wind turbines, on wider ecosystems was raised
- 2.18 Finally, it was noted that longer reporting cycles and the need to focus on long-term outcomes would be important in terms of, for example, monitoring the impacts of adaptation measures.

Question 4 – Do you agree that the setting of national outcomes and priority actions for natural resource management should follow the five-year cycle for national outcome setting in the Future Generations Bill?

- 2.19 69 respondents (91% of those who directly answered the question) agreed with the proposal. Overall, there was broad support for the principle of aligning these two processes. Reasons given included the opportunity provided to coincide with Welsh Assembly elections and the priorities of a new Government, and the opportunity that this should present for better integration across the public sector. Respondents noted that by aligning these processes there would be an opportunity to synchronise planning processes and that this would be likely to realise benefits. The stability that this approach proposes was also commonly cited as a benefit, since partner organisations and delivery bodies could then expect clarity on objectives for a five year period.
- 2.20 Other respondents noted concerns that the approach would not allow sufficient flexibility for resources to be aligned with emerging issues or pressures. Concerns were raised that there was insufficient priority given to the urgency required to put plans in place, given current pressures on the environment. Others highlighted the need for flexibility within the priority setting process, to allow amendments to be made over the period if needed.
- 2.21 A number of respondents highlighted that natural process will not align with a five year cycle and therefore priority setting for natural resources ought to be undertaken on a longer term basis. Whilst not necessarily a criticism of the principle of natural resources priority setting in the context of the Future Generations national goals, those who held this view felt that high level priorities should by definition be long term, and perhaps underpinned by a 5 year focus on more specific targets.
- 2.22 Other comments included that planning authorities would need to be fully integrated into the process. Some respondents questioned whether the achievement of outcomes related to natural resources should be subject to a legal duty, and others questioned how the National Natural Resource Policy will align with existing plans, commitments and targets, such as Local Development Plans and Biodiversity targets.

Question 5: Do you agree that the area-based approach will help provide a clear, prioritised and focussed approach to delivery?

- 2.23 55 respondents (71% of those who directly answered the question) agreed with the proposal. Overall, respondents broadly agreed that adopting an ‘area-based approach’ is sensible, as it is inappropriate to apply a ‘one size fits all’ model across Wales and this allows differences between areas to be taken into account. The main issue raised was the need for more information on how this would work in practice, for example the respective status of local development plans and area statements – what would happen should there be conflicting proposals?
- 2.24 The adequacy of local representation in the membership of area-based partnerships was considered key to enable local accountability, and the link to Local Service Board priority outcomes was welcomed. The need to involve Local Health Boards was also noted by some respondents.
- 2.25 There was some concern that there would be no initial requirement for full coverage across Wales, as it was felt important that the area based approaches spatially ‘join up’. Whilst it was recognised an approach that covers the whole of Wales is needed, it was also suggested that the National Natural Resource Policy could cover some of this, with the area-based approach providing detail in more complex areas. It was also noted that introduction of the approach needs to be very carefully managed to avoid any uncertainty and delay in advice or decision making
- 2.26 A number of respondents set out the need to resolve issues on the selection of areas, and how to engage communities in that discussion. There was strong support for river catchments as the basis of the area-based approach, with advantages of avoiding duplication with Water Framework Directives processes – but there was almost as much caution. As well as biodiversity and ecosystems, the need to think carefully about how things like forestry, upland areas, and landscape management relate (or not) to river catchment based approaches, as well as links to communities, were highlighted.
- 2.27 Landscape character areas were offered as another possible approach, and the potential role of National Parks and AONBs in helping facilitate the approach was shared by many from the sector.
- 2.28 When defining the “area”, it was considered important to bear in mind the data which may be available or required. Respondents also noted that there are benefits of different public and private bodies being able to draw on the same evidence in the longer term.
- 2.29 To assist with ownership and buy-in, several respondents suggested that local authorities should develop their own “Natural Resource” or “Green Infrastructure” plans in response to or in conjunction with the area-based approach.

- 2.30 Respondents noted that clarification would be needed around how to work with those bodies that do not adopt an area-based approach, and also for area statements which overlap geographically. The opportunity to consider how marine planning and natural resource management can best work together was also referenced.
- 2.31 Other comments included that the approach must not result in unnecessary restrictions on sustainable farming businesses, and that the area-based approach may offer an opportunity to influence deployment of agri-environment payments.

Question 6: Do you agree that the approach is flexible enough to enable significant elements of the plans for natural resource management to be replaced in the future?

- 2.32 40 respondents (70% of those who directly answered the question) agreed with the proposal. Overall, there were a variety of views on this proposal and some support. Of those that agreed with the proposal, the benefits of looking to streamline and reduce complexity in the long-term were acknowledged. In the shorter term, it was considered preferable to use the Bill to explore options for integration. It was recognised that the area-based approach needs to be fully established before the potential to replace existing plans can be fully identified.
- 2.33 Many respondents suggested that, whilst some planning processes may be able to be replaced, there is a clear need to retain other tools such as site protection, financial support and incentives, landscape scale approaches and individual species protection and programmes. Respondents were also mindful that proposals to revoke or repeal existing plans will need to be considered in the context of the SEA Directive.
- 2.34 A few respondents felt that the Bill itself should be used to repeal other resource planning requirements, or to enable other statutory plans to fulfil relevant natural resource planning functions, rather than relying on enabling powers to do this in the future. It was felt that simplification may be possible and welcome, but this should not be at the expense of proper stakeholder consultation and a full assessment.
- 2.35 A number of respondents suggested that Local Development Plans could be broadened to cover the “white space”, that is land outside of settlement boundaries not earmarked for development, and in particular how ecosystem services underpin growth and development.
- 2.36 Without detail, some respondents could not see how the area-based approach would meet the statutory requirements for other statutory processes and some suggested that perhaps they could be integrated into the new area-based approach, rather than replaced by it. Other plans and strategies which have a

more local and specific purpose were highlighted and it was suggested that these could continue to have an important role in helping to deliver national and local objectives, including biodiversity management and facilitating community engagement.

- 2.37 It was felt that the approach to simplification was likely to succeed where it avoided being heavy handed and prescriptive, instead encouraging innovation and partnership-led planning. A few respondents also thought that a key component of achieving this will be internal (Natural Resources Wales) NRW scrutiny, governance and oversight of implementation of the approach.

Question 7: Do you agree with placing a requirement on other public bodies to co-operate in the area-based approach?

- 2.38 70 respondents (90% of those who directly answered the question) agreed with the overall package of proposals. Overall, respondents **broadly agreed** that other public bodies should co-operate in delivery of the area-based approach; however, there were several caveats. A number of respondents sought more information on how this may be implemented and thought this should be used to inform consideration of the capacity that might be needed to support it.
- 2.39 Many respondents cited that the biodiversity duty under the Natural Environment and Rural Communities Act which has had mixed, and in some opinions limited, success and noted that lessons should be learned.
- 2.40 Common themes included the need to be mindful to local authority funding cuts and potential administrative and financial burdens. However, whilst many respondents mentioned the potential for collaboration to require more resources in the short-term, none gave resourcing as a reason against this proposal.
- 2.41 Many respondents felt that it was imperative for a strong duty on other bodies to deliver in accordance with the National Natural Resource policy, and questions were raised in terms of monitoring and enforceability. Suggestions included a requirement for all public bodies to annually account for and report on how they have taken the provisions into account.
- 2.42 Some respondents noted in order to achieve an ecosystems based approach equal partnerships between public, private and environmental (Non-Governmental Organisations) NGO sectors will be required. Other relevant points included that a key test will be how this process has influence over other processes and actors such as the Rural Development Plan, and whether NRW needs reciprocal duties to share information.
- 2.43 Other respondents thought that collaboration and joint working were better achieved though voluntary action rather than specific duties. Providing more information on the desired outcomes would be a more constructive approach than a duty. Flexibility at a local level was a key consideration, as was the need

to identify the right people and organisations to work with and the recognition that this may differ from area to area.

Question 8: Do you agree that NRW should be the lead reporting authority for natural resources?

- 2.44 81 respondents (96% of those who directly answered the question) were in agreement with the overall package of proposals. Overall, respondents broadly agreed that NRW should be the lead reporting authority for natural resources. However, respondents also widely recognised the potential role of other bodies and partnerships – including local biodiversity partnerships, and the role of communities (citizen science). The frequency of reporting was also a key issue highlighted, including the challenge of timetabling with other reporting obligations in relation to EC Directives, and providing evidence to support land-use planning and other policy areas.
- 2.45 Some respondents suggested that NRW may be an appropriate body to report jointly with other organisations such as Cadw, for example, on the state of historic landscapes. A handful of respondents felt NRW needed to develop as an integrated body to be able to report in a fully integrated way.
- 2.46 A few respondents disagreed and suggested that either Welsh Government or an independent body should be the lead reporting authority.

Question 9: Do you have any comments on the impact of these proposals (for example impacts on your organisation)?

- 2.47 A number of respondents highlighted the need to address significant resource and financial implications in the short to medium term as a result of increased collaboration and implementation of the area-based approach. However, there was recognition of longer-term resource efficiency savings. Concerns were raised over the potential additional administrative and regulatory burdens placed on NRW and other public sector organisations. A few respondents suggested that the new approach to natural resource management and its focus on the ecosystem approach may potentially undermine future funding arrangements between NRW and its partnership bodies. However, others highlighted the potential positive effective on the area-based approach on land-use planning and lead to better decision making.
- 2.48 Some respondents highlighted the need for a thorough and robust Regulatory Impact Assessment to consider the impacts of the proposals on organisations across Wales.

- 2.49 A number of respondents identified the need to not re-invent new mechanisms, but rather make better use of existing planning mechanisms, such as the Local Biodiversity Partnerships. Many respondents expressed interest in being actively engaged in the process and indicated a need for clear guidelines to be issued for any new requirements. Others raised the need to engage all partners, including the business sector in the development and implementation of the proposals.
- 2.50 A number of respondents noted the gaps in the evidence base, particularly relating to social and economic impacts and drivers and how overcoming this would be essential in taking forward a Sustainable Development approach to natural resource management. It was also noted that this is an opportunity to consider existing data sets and consider how to better collate information on our natural resources.
- 2.51 A few respondents highlighted the need to ensure the proposals are aligned with Better Regulation principles.

Chapter 3: Natural Resources Wales - New opportunities to deliver

Question 10: Do you agree with the proposals set out in Chapter 3 in relation to new ways of working for NRW?

- 3.1 48 respondents (80% of those who directly answered the question) were in agreement with the overall package of proposals. Overall, respondents broadly agreed with the proposals for new ways of working for NRW and noted the potential opportunities for innovation. However, the importance of NRW working with a wide range of partners was also noted.
- 3.2 Many respondents noted that NRW should ensure effective working practices are in place and that the new proposals should not have an adverse impact on quality of service. New ways of working were welcomed if they provide long-term environmental benefit, but existing legislation and policies should not be weakened. Some respondents noted lack of enforcement and implementation of Best Environmental Practice as current issues.
- 3.3 Many respondents recognised that experimental powers may be beneficial in implementing innovative ways of working. However, safeguards should be put in place, for example the Welsh Ministers should formally approve any new schemes, and schemes should be properly evidenced.
- 3.4 Many felt that payment for ecosystem services proposals may provide opportunities to reward positive land management. However, there were concerns around the need to protect irreplaceable species or habitats, rather than biodiversity conservation being a tradeable asset. Some respondents requested clarity on how the changes to management agreements may impact on National Park Authorities. It was noted that there needs to be consideration of how environmental controls are maintained when, for example, ownership of land changes. Some respondents agreed that General Binding Rules may reduce bureaucracy; however, some felt that this may be undermined if additional sanctions are introduced.
- 3.5 There was some support of the proposed enabling power to make future changes. However, many felt concerned about the principle of the power to amend primary legislation being granted in this way, and highlighted that any power should be limited. Some felt that Welsh Ministers could use guidance instead to direct NRW's activities.

Question 11 – What limitations or safeguards on the use of powers might be necessary to enable NRW to trial innovative approaches to integrated natural resource management?

- 3.6 The majority of respondents agreed that some form of safeguard or limitation would be required to ensure that the power to test new approaches was both fit for purpose and transparent. A common point was the need for a clear and appropriate means of consultation ahead of the commencement of a trial. There was support for a process of Ministerial approval, although there were some queries about whether this may politicise the decision making process.
- 3.7 Of those respondents who commented on the principle of broadening the power to undertake experimental approaches, the majority stated that this was a welcome suggestion. The reasons for this included the additional flexibility it would afford to NRW to propose solutions to new or complex problems, and the opportunities this power may uncover. One response suggested that any given approach to be trialled must align with the National Natural Resource Policy and area-based policies.
- 3.8 Many respondents referred to the need to comply with existing legislation, in particular EC directives, and also to the importance of innovation in aiding progress in general. Some referred to the complexity of environmental legislation in terms of the benefit that innovation may bring, in particular by identifying new techniques that enable compliance to be achieved more efficiently.
- 3.9 Some respondents referred to the proposal to develop Payments for Ecosystem Services (PES) as an example of an area where a broadened power to trial new approaches would be important.

Question 12- Do you agree that NRW are an appropriate body to act as facilitators, brokers and accreditors of Payments for Ecosystem Services Schemes (PES)? Do you consider that there is a need for any powers to help to further opportunities for PES?

- 3.10 39 respondents (65% of those who directly answered the question) were in agreement with the overall package of proposals. Generally there was broad support to further the role of NRW to stimulate the use of market mechanisms. Respondents noted that paying for services may create new valuable sources of funding and provide opportunity to reward positive management and innovative approaches to managing land. However, some respondents raised queries around biodiversity conservation becoming a tradeable asset, in particular noting that safeguards should be in place to prevent the loss of irreplaceable species or habitats.

- 3.11 It was noted that there are still fundamental questions particularly in relation to the design of services and that any schemes must be based on sound science and appropriate application of economic valuation methods. There was keen interest in the findings of research commissioned by Welsh Government, which will be published in spring 2014.
- 3.12 Concerns were raised in regards to the appropriateness of NRW acting as a broker of schemes, in particular whether this may represent a conflict of interest with their regulatory role and the need for independent audit. Some respondents questioned whether NRW should be an accreditor of schemes and whether the organisation has the appropriate level of skills and capability in this area. Some respondents felt that NRW are best placed as knowledge providers or facilitators of schemes, and some suggested that the development of new market based systems should be left to the private and voluntary sectors. The role of third sector partners in providing expertise was highlighted, particularly in relation to brokering schemes.
- 3.13 Some respondents suggested that agricultural and forestry payments should be aligned with ecosystem services and highlighted the importance of close integration with land use planning and Local Development Plans. It was noted that there is already provision for components of ecosystem services through the Green Infrastructure approach via the Community Infrastructure Levy and section 106 planning consent agreements.

Question 13: What should be the extent of NRW's power to enter into management agreements?

- 3.14 Most respondents welcomed incentives for management agreements to 'run with the land' and not the landowner. The main reason cited was to drive a long-term sustainable approach to management of the land, and realisation of long-term environmental benefits, even if ownership of the land should change. Respondents largely agreed with the proposal for agreements to be registered as local land charges. However, a number of respondents suggested that agreements should relate to the ownership of the land only, citing as a reason concern on the potential impact on the commercial value of the land.
- 3.15 Some respondents highlighted that NRW already has the power to enter management agreements under existing legislation and questioned the need for an extension of powers. In particular, respondents were keen to ensure National Park Authority powers in relation to landscapes are not removed.
- 3.16 A number of respondents cited concerns that the agreements may be compulsory, reflecting the Welsh Government's position that management agreements must be based on voluntary agreements.
- 3.17 Some stakeholders expressed a requirement for the length of agreements to be flexible. This is so that if for any reason an amendment or termination was required by mutual agreement after a certain time period, for such situations as changes in local circumstances, there would be sufficient flexibility to allow agreements to be drawn up to either a fixed term period or indefinitely.
- 3.18 A number of respondents highlighted the need for appropriate dispute resolution and appeals procedures. It was suggested that an independent process of arbitration and appeal was needed to ensure fair and equitable implementation.
- 3.19 A number of respondents noted that management agreements may be linked to payments for ecosystem services, as vital management tools for ecosystems and natural resources.
- 3.20 A number of respondents highlighted the need to ensure that any management agreements are properly resourced in the long term.

Question 14: Recognising that there are some existing powers in this respect, where are the opportunities for General Binding Rules to be established beyond their existing scope?

- 3.21 The respondents provided a variety of views. There was broad support for the potential for General Binding Rules to decrease regulatory burden on businesses and individuals by taking a more proportionate approach toward the control of low risk activities. Many respondents requested more information on the intended application of General Binding Rules, and others interpreted these as an unnecessary additional layer of regulation or complexity.
- 3.22 Whilst only a few specific proposals on the use of General Binding Rules were suggested, a number of responses demonstrated general favour for applying principles of transparency, flexibility and efficiency while making regulations for low risk activities. The concept of applying a minimum standard of good practice to an environmental activity through this system of regulation was welcomed. Reasons cited for this included potential for improved environmental protection, for example where resources could be better allocated to addressing more harmful activities, and the removal of duplication.
- 3.23 Public engagement and wide consultation was frequently mentioned as an important requirement for the development of new regulations.
- 3.24 A number of respondents perceived General Binding Rules as a mechanism that might weaken existing statutory protection for species and habitats, while others felt that existing regulation already sufficiently covered their areas of interest. There were few comments in relation to enforcement; however a number of comments highlighted the importance of monitoring of General Binding Rules to ensure that the intended outcomes were achieved. The role of NRW in this process was referred to by some respondents; with most assuming that NRW would play a central role, for example including the coordination of stakeholder engagement and awareness-raising.
- 3.25 Suggested areas for application for General Binding Rules included:
- The operation and maintenance of septic tanks;
 - To address soil erosion caused by certain land use activities;
 - To prevent dust or noise pollution from construction sites;
 - To reduce the quantity of waste food entering the sewer system;
 - To reduce surface water entering the public sewer system and rivers;
 - To set minimum standards for sustainable land management, drawing on cross-compliance requirements; and
 - To outline best practice for heather and grass burning.

Question 15: In relation to Welsh Ministers' amendment powers, do you support: a) the initial proposal to limit it to NRW's functions, subject to conditions as stated); or b) the additional proposal to cover broader environmental legislation, subject to conditions as stated?

- 3.26 21 respondents (55% of those who directly answered the question) were in agreement with option A, and 17 respondents (45%) were in agreement with option B. Overall, there was some support for both proposal A and B. Some respondents who supported limiting the amendment power to NRW's functions suggested that it would be prudent to explore what could be achieved through NRW's existing powers before seeking to expand powers further. Those supporting an amendment power to cover broader environmental legislation suggested that this would give the flexibility to be able to respond in a co-ordinated fashion to future environment challenges, the scope of which are currently unknown.
- 3.27 A common thread among the majority of the respondents, including those who rejected both proposals, was the concern that the process of amending primary legislation through the use of secondary legislation would not allow for sufficient robust scrutiny by either the Welsh Assembly or opportunity for public consultation. It was also felt that, as currently stated in the White Paper, both powers were too broad, raising concerns that the measure could reduce Assembly scrutiny and democratic accountability over what could be significant future changes to the legislative framework for environmental protection and management in Wales. Respondents also noted that any proposed changes to primary legislation should be carefully considered in order to ensure there are no unintended or unforeseen consequential impacts.
- 3.28 Some respondents also expressed the need for more detail of the potential types of changes before they could evaluate their degree of support for either proposal. It was noted that the appropriate framing of an amendment power will rely on being able to include a robust and unambiguous definition of 'integrated natural resource management' in the Bill, and having an objective and transparent means for being able to demonstrate whether current legislation is contrary to that definition.

Question 16: Please state any specific evidence of areas of potential conflict or barriers between the objectives of integrated natural resource management and the application of existing legislation.

- 3.29 A minority of respondents were able to provide specific evidence of areas of potential conflict; although it was highlighted that additional clarification on the operation of integrated natural resource management would be necessary before potential conflicts with existing legislation could be readily identified.

3.30 Of those respondents who were able to cite areas of potential conflict, two broad themes emerged:

- **Alignment** – respondents identified the potential for conflict if the objectives of integrated natural resource management failed to align with the goals of forthcoming bills or existing regimes. Existing planning duties were provided as one example of where this non-alignment could occur.
- **Compliance with existing commitments** – some respondents raised concerns that an integrated approach to natural resource management may prevent the fulfilment of existing commitments. These respondents emphasised the importance of compliance with EU legislation and adherence to existing agreements for biodiversity and site/species management.

3.31 In addition, a few respondents highlighted potential non-legislative barriers that could prevent integrated natural resource management from achieving its objectives. Some expressed concern at the additional pressure that may be placed on NRW resources going forward. Others referred to the potential for tension between NRW and other public bodies given the organisation's expanded role and the joint working required to apply the area-based approach.

Question 17: Do you have comments on the impact of these proposals, for example, on your business or organisation?

3.32 A number of respondents raised queries regarding the resourcing implications of the proposals and the potential for increased regulatory and administrative burden. Concerns were also expressed over the design of services and the need for robust evidence, expertise and resource in order to ensure effective implementation.

3.33 Some respondents noted that the impact of the proposals links to the wider legislative programme, in particular the Future Generations Bill and the need for close integration with land use plans, Local Development Plans and Single Integrated Plans.

Chapter 4: Resource Efficiency

Question 18: Do you agree with the package of proposals in relation to the regulation of waste segregation and the approach of combining the 5 measures together? Are there any other materials or waste streams which should be included in the requirements to sort and separately collect?

- 4.1 41 respondents (68% of those who directly answered the question) said they support the proposed approach. There were mixed responses from businesses and business representative groups. Some welcomed the proposals, feeling that the separate collection of materials would help to drive quality standards for recycle, generate demand for higher prices, and that the capture of high quality recycle was vital for the UK manufacturing sector. Others expressed concerns including the potential costs and need to minimise the regulatory burden on small businesses, and concerns that limitations within the waste collection market mean that savings will not be passed on to waste producers.
- 4.2 Welsh Local Authorities provided a mixed response to the proposals; with for example, one authority commenting that source separation had proved successful in increasing household waste recycling rates and should work for other waste streams given an appropriate source separation service by the waste collector. Other Authorities suggested that there are already sufficient drivers in place (for example the Statutory Recycling targets set under the Waste (Wales) Measure 2010 and the additional proposals could conflict with these. Other concerns included that the proposals would put increased budgetary pressure on the authorities, and that the proposals are too prescriptive in terms of the level of segregation required.
- 4.3 There was a range of views from other respondents, including:
- The emphasis should be placed on the waste collector to provide a separate collection service;
 - The requirements should be phased in, with larger businesses required to comply first;
 - The measures should be supported by public education and behaviour change campaigns;
 - The level of segregation of waste required of producers should be at the discretion of the waste operator;
 - Responsibility should, where possible, be passed higher up the supply chain (i.e. to those who supply the products which subsequently become waste);
 - The proposals could be supported by the development of trade waste bring sites;
 - The definition of terms such as “separate collection” and “recycling” need to be tightly legally defined; and
 - Space, collection and hygiene were issues faced by institutions such as health authorities.

- 4.4 The majority of respondents felt that no further materials should be included in the requirements. Several commented that wood waste should be excluded or considered for exclusion from the list on the grounds that it can be problematic to segregate, collect and of low value as a material when collected.
- 4.5 A number of respondents proposed additional materials which included used cooking oil, green waste, textiles, furniture, tetrapaks and Waste Electronic and Electrical Equipment (WEEE).

Question 19: Do you agree that the level of segregation asked of individuals/businesses is acceptable?

- 4.6 30 respondents (58% of those who directly answered the question) said they support the proposed approach. A frequent theme was that a certain amount of co-mingling of recyclable wastes should be allowed, which may be dependent on issues such as the amount of suitable space for waste storage available at the business or establishment or the amount of waste being produced by a business or establishment. Other potential factors noted were the location of the business or establishment (for example whether rural or non-rural) and logistical or hygiene issues that could be encountered at large complex sites such as hospitals.
- 4.7 It was felt that in the cases above many businesses or establishments may struggle to source an economic collection for small amounts of recyclate, and may find it more cost effective to source a co-mingled collection.
- 4.8 A common comment from local authorities was that householders should also have a direct duty to segregate their wastes for collection placed on them, and an alternative comment was that the duty to collect materials by means of separate collection in addition to those required by the Waste (Wales) Regulations 2011 should not apply to Local Authorities.
- 4.9 A specific issue raised by several businesses responsible for public areas or restaurant “front-of-house” areas was that high levels of contamination were likely to occur in bins in those areas and that they were extremely difficult to effectively enforce.
- 4.10 Other comments included that the collection market should determine the level of segregation (though it should be noted that this would be in conflict with the requirements of the Waste (England and Wales) Regulations 2011), the proposals may lead to littering from waste storage areas, wood waste may be difficult to segregate and that enforcement by Natural Resources Wales could prove difficult.

Question 20: Are there any particular types or sizes of businesses where it would not be technically, environmentally or economically practicable (TEEP) to keep the seven waste streams separate at source?

- 4.11 38 respondents (78% of those who directly answered the question) said they felt that there were businesses where it would not be TEEP to keep the seven wastes separate at source. Reasons cited included businesses or establishments producing small quantities of waste, or in hard to reach (for example, rural) premises, would find it unviable to keep the waste streams separate at source. It was felt that collections of waste from these premises could prove economically impractical for waste collectors.
- 4.12 It was also suggested that businesses with limited space or with large and complex sites with sensitivities around hygiene issues, such as hospitals, should not be required to keep the materials separate at source.
- 4.13 As with question 19, above, waste on trains, at public events and produced “front of house” in catering establishments were also raised as potentially difficult to segregate, with businesses flagging up their lack of control over what members of the public put in the bins.
- 4.14 Several respondents commented that local authority planning requirements need to include adequate space for waste recycling at premises. It was also commented that difficulties will arise regarding composite materials and for businesses where confidentiality is an issue.

Question 21: Do you agree with the materials that we propose to ban from landfill or energy from waste facilities? Are there any other materials which should be banned from landfill or energy from waste facilities? If yes, what are they, and why?

- 4.15 41 respondents (70% of those who directly answered the question) said they support the proposed materials. The most common concern raised was with regard to enforceability of any ban. A number of respondents noted that the majority of residual waste loads will contain certain quantities of the materials that it is proposed to ban, and that it would be impossible make residual waste free from contamination. This would lead to monitoring difficulties for the operator, the regulator and the waste collector (whether private or Local Authority). There were concerns that unacceptable contamination of the residual waste could lead to the need to pre-sort residual waste prior to Energy from Waste (EfW) or landfill to ensure low enough contamination levels, which could increase the cost of waste collection services.

- 4.16 Some waste industry respondents questioned the need to introduce landfill and EfW bans as they felt that sufficient economic drivers and policies were already in place. They felt that the proposals would add significant regulatory burden with limited, if any, additional environmental gain. It was also commented that the same duties should apply to anaerobic digestion and biomass facilities.
- 4.17 Some respondents raised concerns that the change in the calorific value of residual waste caused by the removal of recyclates from the waste stream would adversely affect the efficiency and viability of EfW operations. Several respondents commented on the risk of cross border movements of waste from Wales to England, where there is currently no proposal to introduce EfW and landfill bans.
- 4.18 Local authorities noted that there needed to be an explicit assumption that residual waste from Local Authority kerbside collections would be acceptable at residual waste facilities.
- 4.19 It was commented that the level of risk and responsibility that would fall on operators and waste carriers/collection authorities and companies sending waste to EfW facilities was unclear and that the proposal potentially penalised facility operators with limited or no control over the quality of the products they receive.
- 4.20 The majority of respondents felt that no further materials should be included in the requirements. Respondents proposed that several other materials should be exempted from a ban to EfW:
- Low grade paper and card unsuitable for recycling;
 - Material that can be recovered following incineration;
 - Wood waste - it was felt that this would be difficult to remove from the delivery stream, that it can be difficult to establish whether wood has been treated or not, and that much untreated wood would be unsuitable for recycling; and
 - Contaminated plastic.
- 4.21 A few respondents proposed additional materials, including used textiles, sewage sludge, rigid plastics, EEE, hazardous waste and green waste.
- 4.22 It was also suggested that the materials list was too simplistic, as there are many different types and grades of paper, plastic, card and wood, all of which have different markets which will vary over time. This would affect the viability of recycling.
- 4.23 It was suggested that EfW and landfill should be kept as contingencies for the disposal of materials when no market was available, when there were problems at recycling facilities which could otherwise lead to stockpiling, or if they were contaminated and therefore unsuitable for recycling

Question 22: Do you agree that developing guidance for acceptable levels of contamination in residual waste for landfill/incineration operators and the regulator is a workable approach? If no, what other approach could we adopt?

- 4.24 38 respondents (76% of those who directly answered the question) said they supported the proposed approach. The most common concern expressed was that inspection of loads at the facilities would be onerous and impractical, as it would be difficult to either control the levels of contamination in waste arriving at landfill and EfW facilities or adequately inspect the wastes on arrival. It would also be extremely difficult for those sending wastes to the facilities to ensure that the residual waste was free of contaminants. This would make the development of workable guidance difficult.
- 4.25 Some respondents expressed concern at the potential health and safety implications of inspecting loads for staff at landfill and EfW facilities. There was also concern that “pre-auditing” of wastes prior to sending to landfill or EfW facilities could prove problematic and expensive.
- 4.26 Some respondents felt that guidance would only be workable if developed in conjunction with facility operators. It was noted that guidance would need to define acceptable levels of contamination. A suggestion from some respondents was that this could be based on a percentage basis.
- 4.27 An alternative approach was the suggestion that the duty on operators of residual waste facilities should be to ensure that the waste producer has appropriate measures in place to segregate waste where feasible and practical to do so. A similar approach proposed was to ensure that upstream recycling was maximised, with the residual allowed to landfill or EfW. It was suggested that in order to minimise contamination of recyclates and therefore maximising recycling the separation of food waste was essential.

Question 23: Do you agree that there should be a prohibition on the disposal of food waste to sewer? If yes, should this apply to: i) households, ii) businesses and public sector or iii) both.

- 4.28 41 respondents (76% of those who directly answered the question) said they supported the prohibition. The majority of these respondents felt that a ban should apply to businesses, the public sector and households.
- 4.29 Some respondents noted that the ban should apply to all sectors to maximise the volume of waste available for anaerobic digestion and increase the financial viability of the sector as a whole. The regulations should also prohibit the processing of food waste on site where more than minimal amounts of organic material are sent to drain. It was noted that it is important that as much food

waste as possible ends up at the anaerobic digestion plant to maximise energy production.

- 4.30 Respondents noted concerns around the proposal in three main areas. Firstly, difficulties in the regulation and enforcement of a ban, particularly for households. It was noted that there are legislative and practical obstacles, and that it would be both impractical and costly to enforce. Secondly, companies involved in the manufacture and supply of equipment that treats food waste prior to disposal to sewer considered the evidence base supporting the proposal was flawed, particularly in regards to engagement with the food service sector and predicting the cost to the hospitality sector of separate food waste collections against disposal to sewer.
- 4.31 Thirdly, it was considered by some respondents that there needs to be a range of mechanisms available to achieve resource efficiency, including the disposal of food waste to sewer via food waste disposal units and digesters. One respondent also noted the potential impact on Welsh based businesses of this specific proposal in its current form. Some respondents cited research indicating that food waste disposal units are used effectively in other countries and did not contribute to sewer blockages. They considered that food waste disposal units could have a role to play in ensuring effective levels of food waste recycling under certain circumstances such as in remote rural locations where kerbside collection of a range of segregated waste streams is inefficient, and in smaller high street operations which do not have facilities to store food waste safely and hygienically.
- 4.32 Respondents also highlighted that there is a role in institutions such as hospitals, Ministry of Defence premises and prisons which have particular issues with health and security. The respondents highlighted that a requirement for all food waste to be segregated and collected separately in larger institutions for alternative treatment would be onerous and require significant investment of resources.
- 4.33 There were queries over the definition of “food”, for example over whether liquid wastes such as milk would be included. It was pointed out that this would cause problems for food waste handlers who were not geared up to accept liquid waste.

Question 24: Do you have any comments about how such a prohibition should be enforced with i) businesses and public sector and ii) households?

- 4.34 As for question 23 issues around the practicability and cost of regulating a ban were raised by the respondents to this question, particularly with regard to households.
- 4.35 Proposals to prohibit food waste being disposed of to sewer included the prevention of future installation of food waste disposal units in premises, either through the planning system or building regulations. Other suggestions included use of the trade effluent consenting system (for businesses and the public sector) or a requirement for all hospitality sites to have food waste collection services.
- 4.36 Some respondents were supportive of the aim of the proposal, but felt that legislation was the wrong tool to achieve it. Proposals for alternative ways to prevent food waste going to sewer included:
- Awareness campaigns to inform businesses of the problems of disposal to sewer and the benefits of separate food waste collections;
 - Requiring public sector organisations such as NHS trusts to have compulsory food waste collection contracts with Local Authorities;
 - For public sector bodies, exploring options to control or discourage food waste disposal to sewer, for example through the body's environmental accreditation scheme or through its remit letter;
 - Working with the sewerage undertakers to review charges for food waste discharges to dis-incentivise disposal to sewer;
 - Use of general binding rules to require measures to be installed in kitchens – for example grease traps;
 - Applying a sustainable development duty on public bodies to provide a strong legislative basis for more sustainable waste management practices by the public sector; and
 - Requiring businesses to make a self declaration statement that they were not discharging food waste to sewer.

Question 25: Do you agree that the lead in times for the proposals are reasonable?

- 4.37 22 respondents (56% of those who directly answered the question) said they agreed with the lead in times.
- 4.38 Respondents suggesting longer lead in times said they were necessary to fit in with the requirements placed on Local Authorities by the Welsh Government, specifically the Statutory Recycling targets set under the Waste (Wales)

Measure 2010. Longer lead in times would also allow for markets and infrastructure to develop and allow institutions such as the NHS, which currently have some waste separately collected and some disposed of via macerators to sewer, to change their current operational arrangements. It was also recognised that the active life of a food waste disposal unit is approximately 10 years and that the disposal or recycling of an appliance which is still has an active life was unsustainable.

- 4.39 Other respondents commented that 2017 was too soon for EfW and landfill bans, with one commenting that landfill bans should precede bans on incineration by at least three years to allow for market adjustment and the developing of processing capacity. Others commented that source segregation of the wastes and separate collection should be progressed prior to the introduction of bans and that guidance needed to be published prior to the introduction of any ban for all those affected to assess the likely enforcement, economic and practical impact of the proposals.

Question 26: Do you agree that NRW are the best placed organisation to regulate the duty to source segregate wastes? If no, please give the reason and propose an alternative regulatory body.

- 4.40 39 respondents (91% of those who directly answered the question) said they support the proposed approach. A significant proportion of respondents agreed that NRW were the most appropriate body to regulate the duty, though concerns were expressed that NRW would lack the resources or practical experience to regulate the requirement adequately, or that resources would need to be diverted from other duties in order to do so.
- 4.41 Alternative suggestions included that the requirement should be regulated by local authorities, or that NRW should regulate in conjunction with local authorities (and potentially with the third sector too), using a protocol to clarify the responsible body in different instances. Some respondents felt that there should be a voluntary approach to source segregation.
- 4.42 NRW commented that they anticipate working with Welsh Government in developing the detail and guidance for any proposed arrangements and would welcome further discussion in regards to how these regulations should be enforced, noting that they do not currently have a strong regulatory locus to inspect premises. They further commented that they would wish to see any duty on NRW considered in the context of a wider discussion on the respective roles of those collecting waste from premises, be they private or public sector bodies.

Question 27: In your opinion, who is the most appropriate body to regulate the bans on disposal of food waste to sewer for businesses and the public sector: NRW, Local Authorities, Sewerage Undertaker or other.

- 4.43 The response to this question was mixed, with respondents suggesting different combinations of the above bodies as well as proposing bodies on an individual basis.
- 4.44 Suggestions for local authorities included potentially using building regulations to ban the installation of food waste disposal units and the use of local authority inspectors to regulate food waste disposal at food premises. Concerns were expressed by local authorities that they would not have sufficient resources if such a duty were placed on them.
- 4.45 NRW noted that nearly all sewers (both domestic and commercial) in Wales are owned and operated by statutory sewerage undertakers. Therefore, the impact of any unlawful activity in relation to food waste to sewer would in most cases be a matter for in the day to day management of the company's own assets. On that basis, NRW did not believe that they are well placed to regulate this activity.
- 4.46 Other respondents suggested that water companies could be the most appropriate regulators for commercial premises. Some respondents noted that this role could be discharged in partnership with local authorities who could undertake inspection checks on behalf of water companies and provide information on alternate disposal options.

Question 28: Do you have any other comments on the impact of these proposals (for example, on your organisation)?

- 4.47 Some respondents noted that it would be essential to develop alternative markets for recycled materials and reprocessing infrastructure to ensure that materials were not stockpiled and to minimise export of materials and to minimise risk of fly-tipping.
- 4.48 Respondents noted that the proposals could impact adversely on current local authority recycling collections and put increased strain on local authority budgets at a time of financial constraint. NRW commented that they would acquire a significant new enforcement burden and that clarity was how it would be funded was missing in the White Paper. It was suggested that the proposals could place additional cost or space requirements on some businesses, and also that issues with contaminated loads may lead to increased gate fees at EfW and landfill facilities. Overall, it was felt that further cost benefit analysis should be carried out in order to assess the impacts of the proposals on affected organisations.

4.49 Many respondents commented that support, education and behaviour change activities would be required to accompany the proposals

Question 29: Do you agree with the proposal to extend the enabling powers of the Welsh Ministers so that they may, by regulations, provide for minimum charges to be set for other types of carrier bags in addition to single use carrier bags?

- 4.50 39 respondents (83% of those who directly answered the question) said they support the proposed approach. Overall, respondents broadly agreed with the proposals. A number of respondents felt that the single use carrier bags charge was working well and that any move to amend the Single Use Carrier Bags Regulations should be based on clear evidence and evaluation over time. However, it was also recognised that a lack of differentiation between the price of a single use carrier bag and that of a reusable plastic 'bag for life' could potentially result in a plastic 'bag for life' not being reused and treated instead as a 'better' single use carrier bag.
- 4.51 Respondents recognised that there are negative environmental consequences from the improper disposal of reusable plastic bags for life. One local authority gave an example of householders using these types of bags to hold their recycle subsequently reducing the efficiency of a local authority recycling scheme.
- 4.52 Some businesses and retail associations raised concerns over the possibility of additional burdens should a minimum charge be placed on bags for life. They highlighted that costs from amendments to IT infrastructure and further training of staff may be incurred. In addition, concern was also raised over the potential effect on impulse shopping and a possible 're-introduction' of single use bags in some stores.
- 4.53 Similarly, although the majority of local authorities who responded agreed with the proposal, concerns were also raised about the additional burdens that may emerge if a minimum charge on bags for life was implemented. Generally it was felt that more resources would be needed to assist local authorities with additional communication costs as well as costs incurred in amending current guidance and overall enforcement of the charge.

Question 30: Do you agree with the proposal to extend the enabling powers of the Welsh Ministers so that they may, by regulations, require retailers to pass on their net proceeds to any good causes?

- 4.54 33 respondents (66% of those who directly answered the question) were in agreement to extend the application of the net proceeds to any good causes. Overall, there was support for the proposal, although a number of key stakeholders disagreed with the proposal.
- 4.55 A number of businesses and retail associations highlighted the benefits of building relationships with local good causes and 'giving back to the local community' but also stated their preference for a voluntary agreement over regulations. Several respondents also felt that there needed to be a clear definition of 'good cause' and that the system should be accountable.
- 4.56 It is apparent from some of the responses received that a number of respondents mis-understood the proposal. The proposal was to extend the existing power in the Climate Change Act 2008 so that the net proceeds of the single use carrier bag charge could be given to any type of good cause, rather than just an environmental one. The proposal was not to give Welsh Ministers the power to direct retailers to donate their net proceeds as this power, although not invoked, is already available to Welsh Ministers under the Climate Change Act 2008.
- 4.57 The Welsh Government will continue to monitor and review the effectiveness of the voluntary agreement.

Question 31: Do you have any comments on the impact of these proposals (for example, impacts on your organisation)?

- 4.58 Additional comments raised under this question included a request that Welsh local authorities should be allowed to receive the net proceeds from the charge and that the current reporting requirements for small businesses under the Single Use Carrier Bags Charge (Wales) 2010 Regulations be reviewed. It was suggested that there is a need for proportionate enforcement and a potential need for additional resources to support implementation of the proposal. Other comments included that that used single use carrier bags should remain free of charge when distributed and that biodegradable plastic bags should not be exempt from the charge.

Chapter 5: Smarter Management

Question 32 - Do you agree with the proposals in relation to Marine Licensing?

5.1 22 respondents (88% of those who directly answered the question) agreed with the proposed changes to the marine licensing fee charging powers. Overall, there was broad support for the proposals. A number of respondents highlighted the importance of ensuring that any fees charged for marine licensing were reflected in the standard and consistency of delivery of the marine licensing system. Respondents suggested that should charging levels be increased, sufficient resources and expertise must be made available by the regulator. The regulator should be able to demonstrate value for money for a charging regime. Ongoing delivery of marine licensing must be carried out efficiently and to a high standard with a focus on continual improvement of service delivery. The possible benefits of additional charging powers for marine licensing were also noted as follow:

- The power to recover the costs of post-consent monitoring will enable longer licences to be granted through the inclusion of conditions to monitor the environmental impacts and removing the need to re-submit licence applications more regularly;
- Having the powers to recover costs for variations will benefit the licence holder by removing the need to resubmit a new application, when there are changes required that are not within the scope of the original application; and
- By charging for pre-application advice, more time will be available to support the customer at the crucial front end of the process.

5.2 Whilst supportive of the proposals in principle, some respondents raised concerns about the potential impact of marine licensing, and the amendments to the charging powers, on small businesses and small scale activities. The Welsh Government will work with NRW to ensure that the fees review takes full account of all marine licensing stakeholder views.

Q33. Do you have any comments on whether the Welsh Government should extend NRW's ability to recover costs associated with marine licensing by charging fees for:

i. pre-application costs?

ii. variation costs?

iii. costs of transferring of licences?

iv. covering regulatory costs, via subsistence charges?

Q34. Do you have any comments relating to the impact of the proposals (for example, impacts on your organisation)?

5.3 It was recognised by many respondents that there is a need for appropriate consistency in marine licensing fees across the UK.

5.4 Respondents commented that clear guidance will be required on what the pre-application stage encompasses. The Welsh Government will work with NRW to ensure that the fees review takes full account of all marine licensing stakeholder views and will ensure that guidance is provided, where required, on the scope of pre-application.

5.5 Whilst there was general support for the proposal to introduce charging to cover regulatory costs via subsistence charges (for example, in relation to costs of the regulator in considering monitoring reports) some respondents highlighted the importance of ensuring that monitoring requirements associated with a marine licence were appropriate and proportionate. Clear parameters on the use of subsistence charges should be established.

Question 35: Do you agree with the proposal in relation to Shellfishery Orders?

5.6 14 respondents (88% of those who directly answered the question) were in agreement with the proposal in relation to Shellfishery Orders. The majority of respondents welcomed the proposal for greater provision of enforcement to combat non-compliant damaging activities. A few respondents highlighted potential further changes to the Several and Regulating Order regime.

5.7 Some respondents raised concerns regarding the impact of the proposals on the shellfishery industry, in particular the proposed power to enable Welsh Ministers to review and agree the revision of Management Plans, the ability to require compliance with those plans, and the ability (if necessary) to unilaterally amend an Order to avert damage to European Marine Sites. Some respondents felt this may lead to a decrease in investment in shellfisheries, due to increased fears

around security of tenure. However, it was also noted by many respondents that the proposal to introduce enforceable management plans alongside the fishery orders themselves, would enable greater robustness and transparency to the Several and Regulating Order application process and facilitate the making of fishery orders in compliance with EU environmental legislation.

- 5.8 Some respondents suggested that Welsh Government enforcement officers have full Marine Enforcement Officer powers under the Marine and Coastal Access Act 2009 to enforce the 1967 Act if a grantee is acting outside the limits of their Order.

Question 36 - Are there any other changes to the Several and Regulating Order regime that you think should be considered (i.e. can you think of any other ways that current practices could be improved)?

- 5.9 It was noted that some complementary changes to the application process could help to streamline the Several and Regulating Order application regime. For example, this could include detailed guidance for applicants on the completion of application forms including management plans. The development of proforma type documents could help to encourage consistency and standardisations in the applications received and also inform the relevant environmental assessment.

Question 37: Do you have any comments on the impact of this proposal (for example, impacts on your business)?

- 5.10 Some respondents noted that the proposals will provide a clearer legal and procedural framework for addressing the potential environmental impacts of proposed fishery orders, and how they can be mitigated and managed. NRW commented that the proposals are likely to have a positive impact in terms of its engagement with Welsh Government and with fishery order applicants. However, other respondents raised concerns that the proposals could lead to a decrease in investment, and a contraction of the industry, as future investment would be unlikely due to the increased fears around security of tenure.

Question 38: Do you agree with the proposal in relation to changes to Section 29 of the Land Drainage Act (1991)?

- 5.11 Responses in relation to the proposal to amend Section 29 of the Land Drainage Act (1991) were overwhelmingly positive; of the 24 respondents who directly answered the question, 100% were in agreement with the proposal.
- 5.12 The majority of respondents recognised the existing gap in legislation and the importance of ensuring that all source of flooding may be managed appropriately. They were in favour of Welsh Government or their agents having powers of entry to determine compliance with an Agricultural Land Tribunal order. In addition, a number of respondents recognised that the proposal would be beneficial to landowners and may have potential positive economic impacts, and help to improve the regulatory framework for water drainage management. One respondent noted that the approach did not seem to be aligned with the ecosystem approach.

Question 39: Do you agree with the proposal in relation to changes to Section 47 of the Flood and Water Management Act (2010)?

- 5.13 22 respondents (92%) who directly answered the question were in agreement with the proposal in relation to the Flood and Water Management Act (2010). Overall, respondents were broadly supportive and viewed the proposal as a simplification of process, making it easier to support future consolidation of legislation, and in this way supporting the sustainable management of natural resources.
- 5.14 Some respondents highlighted that the potential implications of a future consolidation Bill would need to be carefully considered. A robust cost and benefit assessment would need to be undertaken in order to accurately measure the impacts of the proposed changes. Local Authorities noted in particular the need for a transparent assessment in relation to the any additional costs as a result of the amendments.
- 5.15 A few respondents expressed concern in regards to amending primary legislation by Order and that this would mean less close robust scrutiny and democratic accountability, in addition to need for thorough and transparent public consultation. Overall there was support to take forward new primary legislation in relation to consolidation of the Water Acts.

Chapter 6: Implementation

Question 41: We want to ensure that the Environment Bill is reflective of the needs of Welsh Citizens. As such, we would appreciate any views in relation to any of the proposals in this White Paper that may have an impact on a) Human rights b) Welsh language or c) the protected characteristics as prescribed within the Equality Act 2010. These characteristics include gender; age; religion; race; sexual orientation; transgender; marriage or Civil Partnership; Pregnancy and Maternity; and, disability.

- 6.1 Several key themes were highlighted by respondents in relation to the needs of Welsh citizens.
- 6.2 A few respondents noted that some proposals have potential human rights implications where existing rights will be affected by the legislation. Examples provided included incineration permits or shellfish orders.
- 6.3 It was noted that the White Paper makes little reference to local communities or cultural issues. Some respondents noted the importance of close engagement with the third sector and local community representatives in taking forward the area-based approach. Some respondents highlighted the differential impacts of the waste segregation proposals in relation to rural communities.
- 6.4 It was highlighted that consideration should be given to the Welsh language in taking forward the proposals. For example, the Welsh language will need to be considered when making decisions in order to ensure "...that the long term benefits are optimised for the people, environment and economy of Wales in the present and in the future". It was suggested that a statement should be included in the Bill stating that the welfare of the Welsh language should be considered. This may be similar to the requirement on local planning authorities to include a statement on the way in which they have considered the needs and interests of the Welsh language when preparing a scheme, and the ways in which any Welsh language policies interact with other policies under the scheme. Consideration should also be given to the Welsh Language under the requirement on other bodies to co-operate in the area-based approach, in order to ensure that these bodies will act in accordance with NRW's existing Welsh language scheme.

Question 42: Do consultees have any other comments or useful information in relation to any of the proposals in this White Paper?

- 6.5 A variety of comments were received, many of which are reflected more generally where appropriate throughout the report. A summary of the key comments captured is provided below:
- 6.6 It was considered by some respondents that there is a lack of focus generally in the White Paper on biodiversity. The area-based approach should build upon existing good practice in biodiversity conservation, and existing biodiversity targets may be used as performance indicators set out in the National Natural Resource policy. Local Biodiversity Action Partnerships were also cited as key partners in the development of area statements.
- 6.7 Respondents recognised the integral relationship between the Environment Bill and other proposed legislation, in particular the Future Generations Bill and requested further detail on how the legislation will work as an integrated package in practice. It was also noted that Local Services Boards are consistently referenced, but that more significance should be given to the role of Local Planning Authorities.
- 6.8 It was noted in particular that more emphasis is needed on the significance of woodlands to the Welsh Environment, and also the need to align the proposals closely to agriculture and the RDP.
- 6.9 A consistent theme was the need for engagement on the area-based approach, and particularly the role of the third sector, community groups and the value of citizen engagement.
- 6.10 There was some call from a few respondents for further detail on some of the proposals, and the publication of a draft Bill. A few respondents noted that the White Paper was long, unclear at times and difficult to engage with; however, other respondents welcomed the document as clear and well-structured. It was noted that the responses received should be analysed objectively and weighted.