Consultation Response Form

WG Number: WG48598

Welsh Government

Consultation response form

Consultation on Securing a Sustainable Future: Environmental Principles, Governance and Biodiversity targets for a Greener Wales

Date of issue: 30 January 2024

Action required: Responses by 30 April 2024

OGL © Crown copyright 2023

Mae'r ddogfen hon ar gael yn Gymraeg hefyd / This document is also available in Welsh

Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg / We welcome correspondence and telephone calls in Welsh

Overview

This White Paper sets out proposals for a Bill to cover three key areas and invites views from interested parties:

I. Embedding environmental principles into Welsh law;
II. Environmental Governance, including the establishment of an environmental governance body for Wales; and
III. A statutory targets framework to protect and restore biodiversity in Wales

How to respond

Please respond by completing the online form or completing this questionnaire and sending it to: environmental.governance@gov.wales

If you intend to respond in writing, please send completed forms to:

Land, Nature and Forestry
Climate Change Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Data Protection
The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g., a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data. In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing. You should also be aware of our responsibilities under Freedom of Information legislation. If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Confidentiality
Responses to consultations may be made public on the internet or in a report. **If you would prefer your response to remain anonymous, please tick here**:☐

Name		
Are you responding as an individual or as an organisation?	Individual	
	Organisation	✓
Please give the name of the organisation you are responding on behalf of (if applicable)	Cambrian Mountains Society	
Are you or your organisation based in Wales?	Yes	✓
	No	
Email address	**secretary@cambrian-mountains.co.uk**	
Post Code	**LD5 4TN**	

If responding on behalf of an organisation, please indicate which of these bests represent your organisation (please select only one)	Umbrella organisation	
	Public Sector	
	Individual business	
	Third Sector/ Charity	✓
	Trade Union/Representative	
	Research/Academia	
	Individual	
	Other	

Do you or your organisation have a specific involvement in any of the primary sector fields (please select all that apply)?	Agriculture	
	Fishing	
	Forestry	
	Mining & Minerals	
	Water	
	Gas & Electricity	

Do you or your organisation have a specific involvement in any of the emissions sectors (please select all that apply)?	Energy and Heat Generation	
	Transport	
	Residential Buildings	
	Industry and Business	
	Agriculture	
	Forestry and Land Use	
	Waste Management	
	Public Sector	
	None of the above/not applicable	✓

Does your organisation have a specific focus on any of the following (please select all that apply)?	Skills	
	Health	
	Sustainability	✓
	Poverty alleviation	
	Age (e.g., youth, older people)	
	Disability	
	Gender reassignment	
	Marriage and civil partnerships	
	Pregnancy and maternity	
	Race	
	Religion or belief	
	Sexual orientation	
	Welsh language	✓
	None of the above/not applicable	

If you are responding as an individual, do you identify as Welsh speaking?	Yes	
	No	

If you responding as an individual, what age bracket are you in?	Under 18	
	18-34	
	35-49	
	50-64	
	65+	

Questions

Part A – Environmental Principles

- **EP1: To what extent do you agree or disagree with the proposals relating to the preparation of guidance that will explain how the environmental principles are intended to be interpreted?**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
	✓			

If you would like to explain your answer, please use the text box below.

It is appropriate for the guidance to build upon case law interpreting the foundational environmental principles. This is not, however, a sufficient response to Wales' current nature emergency.

More than 50 years has elapsed since these principles were formulated as part of EU law. In that time both the nature emergency and the climate emergency have escalated severely. EU case law, inevitably, looks backwards to the understanding and intention of the legislators in the 1970s and 80s. Accordingly, the EU continues to accept an alarming level of ongoing environmental damage – for instance, permitting particular sectors the right to continue polluting unhindered and continuing to subsidise biomass as renewable energy despite its known climate and nature impacts.

It is essential that Wales' guidance should not merely replicate what hindsight shows to have been complacency reflected in some EU case law. As a very small, nature-depleted country, Wales cannot afford the luxury of permitting yet further damage in the expectation of making up for it by actions supporting biodiversity elsewhere. If the proposed Bill is to protect Wales' critically damaged biodiversity effectively, the guidance needs to formulate a strict approach focussed on actively preventing damage, rather than merely limiting or off-setting it.

- **EP2: The Welsh Government proposes to place a duty on Welsh Ministers to have due regard to the environmental principles and accompanying guidance during the development of their policies and legislation. To what extent to you agree or disagree with this approach.**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
✓				

If you would like to explain your answer, please use the text box below.

The duty to have due regard to environmental principles in developing policies and legislation is critical. To discharge the duty, Ministers will need to keep rigorously in mind the need to achieve the goals of the principles on a properly informed basis as to what the potential impacts of their choices may be. This is, however, a difficult thing to achieve at the level of policy since particular environmental consequences are unlikely to be in contemplation at that level of generality. The duty should there also require Government agencies to have due regard to the principles when taking actions or making decisions implementing those policies.

The guidance must also require Ministers and agencies to take a broad and long view in considering the risks of environmental damage. Remedying environmental damage is always very costly and frequently impossible to carry out completely as our understanding of the inter-connectedness of ecosystems is still relatively underdeveloped. We can no longer afford to take risks which were imagined to be acceptable 50 years ago. The principle of biodiversity offsetting, for instance, is a mechanism purporting to remedy known environmental damage through carrying out restoration works on a different location. But there is no meaningful way to assess whether for example measures aimed at improvement in peatland health in one area actually maintains the same abundance and diversity of species as those lost when healthy peatland elsewhere, which may form part of a different ecological network, is turned over to another human intervention. Consequently, a truly precautionary approach should acknowledge not merely the risk of damage to the habitats in issue but also the potential, and certainly unknown, risks of damage to the connected habitats across a wider area.

- **EP3: Do you have any views on whether a separate duty should be placed on Welsh public bodies (other than the Welsh Ministers) to apply the principles and accompanying guidance? If you consider the duty should apply to Welsh public bodies, please set out in the text box below which Welsh public bodies and why, as well as any views you have on how the duty should apply to those bodies.**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
✓				

If you would like to explain your answer, please use the text box below.

Many legal matters which Welsh public authorities apply derive either from UK law or from policies which are already in place and may not be revised for years or even decades. The introduction of a new duty on Welsh Ministers alone will have no effect on the application of these laws and policies by other Welsh public authorities for the foreseeable future.

Further, although in following government policies laid down taking those principles into account Welsh public authorities will automatically be applying the environmental principles, in practice, at each step away from considering the policies themselves, their significance and purpose is likely to be seen as less over-riding – merely some among many other factors which influence any given decision. In particular, the public authorities are likely to be more aware of the

concrete details of potential environmental risks and consequences that their actions will have than the Ministers can be when formulating broad policy.

The principles will therefore have far greater impact on the actual weight given to environmental matters if each public authority with operational or decision making responsibility for Wales' land use is required to consider them for itself.

Accordingly, we consider that the following public bodies should also be subject to a duty to apply the principles and guidance for themselves:

- Cardiff Harbour Authority
- A county council, county borough council or community council in Wales
- Dwr Cymru Welsh Water
- Hafren Dyfrdwy
- Planning and Environment Decisions Wales
- A joint planning board constituted under section 2(1B) of the Town and Country Planning Act 1990
- A National Park authority established by an order under section 63 of the Environment Act 1995 for an area in Wales
- The Natural Resources Body for Wales
- Transport for Wales
- A strategic planning panel established for an area in Wales by regulations under section 60D of the Planning and Compulsory Purchase Act 2004
- The Water Services Regulation Authority (Ofwat)
- Water and Sewerage Undertakers

- **EP4: Do you have any additional comments relating to the Welsh Government's intention to embed the environmental principles and overarching objective into Welsh law that are not captured in your answers to the above questions?**

Budget constraints are a reality and so 'value for money' and similar metrics will inevitably carry great weight in all decision and policy matters. But this initiative is an opportunity for the value of nature – as natural capital, and 'natural cashflow' - also to be embedded in policy thinking. What is not measured is not regarded. Wales' nature account is already very low: natural capital has been squandered through past development outsourcing environmental costs in the way for instance that some farming practices and water company actions still do today. Unlike a monetary budget, there is no option of becoming "overdrawn" and recovering in future years. Nor is there any guarantee that even if remediation works are possible, resources will be available in future to carry them out.

Accordingly, the Bill needs to build in the necessity, for the future, of retaining a positive balance sheet for biodiversity and nature resilience throughout Wales. This is particularly critical when development proposed within Wales endangers biodiversity - natural capital - within Wales but is funded by, and returns profits to, investors elsewhere. The promise of jobs for today should not be allowed to outweigh the risks of ecosystem collapse tomorrow. Development foregone may in

some cases deliver a substantial return on investment in terms of the survivability and restorability of Wales' natural processes in the future.

Part B Establishing an Environmental Governance Body for Wales

- **GB1 - To what extent do you agree or disagree with the proposed purpose and objectives for the new Welsh environmental governance body?**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
	✓			

If you would like to explain your answer, please use the text box below.

The Governance Body should not only recognise the distinct legislative framework applying in Wales but also the specific circumstances of Wales as regards its land, environment and population.

- **GB2: To what extent do you agree or disagree with the governance body's proposed strategy and reporting requirements?**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
		✓		

If you would like to explain your answer, please use the text box below.

At the very slim level of detail provided in the White Paper it is impossible to assess how appropriate or effective the strategy or reporting requirements may be.

- **GB3: We propose that the remit of the governance body should apply to the Welsh Ministers and the relevant Welsh public authorities exercising environmental functions Wales listed in Annex 2. To what extent do you agree or disagree with this?**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
	✓			

If you would like to explain your answer, please use the text box below.

- **GB4: Are there any other public authorities, or private bodies exercising functions of a public nature, that you think should be**

added to (or removed from) the list in Annex 2? Please use the text box below to explain your answer.

The Planning and Environment Decisions Wales body responsible for planning decisions on developments of national significance should clearly also be subject to the governance body's monitoring and oversight along with the listed planning authorities. Although it is a branch of Welsh Government, its actions are taken at a level below the Ministerial duties proposed in the Bill and in the context of specific environmental jeopardies which Ministers cannot know of at the policy level. Like other authorities listed in our response to EP3 above, it will more effectively implement the principles if it is subject to a duty to consider them and to the oversight of the Governance Body.

The inclusion of the Comptroller of Plant Variety Rights, whose decisions reflect UK intellectual property law, is inappropriate: the Comptroller has no scope to make Wales-specific decisions. If the Comptroller is nonetheless to be included so too should be the Comptroller of Patents whose decisions on chemicals, agrichemicals, pharmaceuticals and so forth are likely to be no less pertinent to the environment of Wales.

- **GB5: To what extent do you agree or disagree with the proposed scope and role for the governance body in relation to monitoring and reporting, including the scrutiny of statutory targets?**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
	✓			

If you would like to explain your answer, please use the text box below.

We are concerned that there is a substantial risk of potential duplication of effort, and/or of already-scarce resources being split, between the new body and others such as NRW currently responsible for monitoring the state of nature. The Government should consider moving the monitoring and reporting requirements currently carried out by NRW to the new body to avoid duplication, ensure maximum independence and coherence in carrying out those functions.

- **GB6: To what extent do you agree or disagree with the proposed scope and role of the governance body's advisory functions?**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
		✓		

If you would like to explain your answer, please use the text box below.

There is a serious risk of overstretching resources through attempting to spread the body's activities too widely. In particular, broad-brush advice for the public is

difficult to deliver well outwith a specific context in which a concern is raised/ advice sought.

This function, which is urgently necessary if the public are to understand the reallocation of scarce resources away from provision of direct services and towards longer term sustainability goals, should be established and funded separately through an existing Welsh educational institution.

- **GB7: To what extent do you agree or disagree with the suggested approach for managing complaints and representations**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
			✓	

If you would like to explain your answer, please use the text box below.

Environmental law is a complex subject which few members of the public are likely to understand thoroughly. Further, members of the public are unlikely to be engaged in more than one relevant instance with a public authority and so unlikely to be able to discern a pattern of non-compliance. Removing the handling of complaints about specific decisions is effectively removing the public's ability to complain to the governance body. As a result it would be up to third sector organisations or parties which can afford to pay for legal advice to police public authorities. We consider that the governance body should have the ability to consider complaints about specific decisions in order to monitor whether, over time, these amount to a pattern of non-compliance. If the complainant can seek redress through another mechanism, the governance body could direct them to do so rather than handling all complaints in full itself. Alternatively, public authorities should have a duty to notify the governance body of all complaints made to them.

- **GB8: To what extent do you agree or disagree with the proposals to enable the body to investigate?**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
✓				

If you would like to explain your answer, please use the text box below.

It is essential that the governance body should have the capacity resources to investigate since without this it is unlikely ever to be in a position to take enforcement action.

- **GB9: To what extent do you agree or disagree with the Welsh Government's proposed process for formally handling non-**

compliance through compliance notices and court or tribunal procedures?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
		✓		

If you would like to explain your answer, please use the text box below.

- **GB10: To what extent do you agree or disagree with the Welsh Government's proposal to include improvement reports / plans as an enforcement stage to provide space for resolution where systemic issues are evident, and a compliance notice is not considered the optimal mechanism to address the issue.**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
		✓		

If you would like to explain your answer, please use the text box below.

- **GB11: To what extent do you agree or disagree with the proposal for the governance body to, by exception, be able to apply for judicial review and / or intervene in civil proceedings**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
✓				

If you would like to explain your answer, please use the text box below.

Ultimately, the sole means of compulsion for a public authority is judicial review and a court direction. Even if the governance body uses this power rarely, the threat of its being able to do so makes it a greater force to be reckoned with than any authority without the power. It will, of course, need to be resourced sufficiently to be in a position to undertake such complex and expensive cases.

- **GB12: The Welsh Government consider financial penalties would be an ineffective and, in some cases, counterproductive method by which to remedy the non-compliance of Welsh public authorities with**

environmental law. To what extent do you agree or disagree with this position?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
✓				

If you would like to explain your answer, please use the text box below.

The object has to be to motivate public authorities *not* to fail to comply with environmental law rather than being able in essence to buy their way out of having to comply by subsequently paying fines. Injunction or mandatory orders have to be available.

- **GB13: Our preferred model for the governance body is a 'Commission', but consider alternative models, such as an arms-length body, could provide similar benefits. To what extent do you agree or disagree with this approach?**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
		✓		

If you would like to explain your answer, please use the text box below.

- **GB14: To what extent do you agree or disagree with the Welsh Government's approach in respect of appointing members and allocating resources to the governance body?**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
	✓			

If you would like to explain your answer, please use the text box below.

We consider that the governance body should in addition include at least one member who is expert in a discipline relevant to biodiversity and nature recovery and with experience of working on environmental matters in Wales, as a complement to the proposed legal and governance expertise.

- **GB15: Are there any other views you would like to provide in relation to our proposals to set up a governance body?**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

Part C: Targets for the Protection and Restoration of Biodiversity

- **BT1: To what extent do you agree or disagree with the inclusion within the Bill of the Wales Nature Recovery Framework proposed in the paper?**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
✓				

If you would like to explain your answer, please use the text box below.

- **BT2: To what extent do you agree or disagree with the inclusion within the Bill of the statutory nature positive headline target: '*to reverse the decline in biodiversity with an improvement in the status of species and ecosystems by 2030 and their clear recovery by 2050'.***

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
	✓			

If you would like to explain your answer, please use the text box below.

The proposed headline target does at least require some improvement by 2030. Yet, the headline suffers from precisely the limitations for which the Aichi targets were rightly criticised in the White Paper.

Given that 2030 is only 6 years from the date of this consultation, let alone the passage of any legislation, there is a clear risk that the timeframe available for action will lead to targets for specific aspects being set in the secondary legislation which amount to very little, in order for it to be possible to claim success at that time. For instance, it might be tempting to allow local improvements achieved through specific well-funded projects such as Natur am Byth to be treated as a measure of improvement for biodiversity across the whole land area and coastline

of Wales, regardless of significant ongoing impairment and decline throughout the overwhelmingly larger area *not* included in any such projects. If this were the outcome, the Bill would have failed.

In order to deliver any meaningful change within the time limit we consider that the Bill's headline target should require the Government '***to reverse the decline in biodiversity throughout Wales with an improvement in the status of species and ecosystems by 2030 and their clear recovery by 2050'.*** It should refer to

- concrete targets for halting the decline in biodiversity throughout Wales – not limited to areas identified for specific actions - altogether by 2030;
- the section 7 target species, habitats and ecosystems having specific levels of improvements by that date;
- the level to which species and ecosystems recovery is intended; and
- measures by which this, and their recovery by 2050, will be assessed.

- **BT3: To what extent do you agree or disagree with the proposal to include a duty that the Welsh Ministers must set statutory biodiversity targets in secondary legislation?**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
			✓	

If you would like to explain your answer, please use the text box below.

See previous answer. Leaving the statutory biodiversity targets to secondary legislation permits the Welsh Ministers of the day to opt for very limited reversal of decline or purely nominal improvement without effective scrutiny. Concrete measures for each target need to be set out in a form which is not susceptible to amendment in response to the changing priorities of future administrations.

BT4: Potential suite of supporting targets, to underpin the headline target, are likely to be:

- **Species – distribution abundance and extinction risk;**
- **Habitat – protection, management and restoration; and**
- **Ecosystem health and resilience – recognising the key role and contribution of ecosystems**

To what extent do you agree or disagree with the key areas proposed for the biodiversity targets to be introduced in secondary legislation in the Wales Nature Recovery Framework?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
	✓			

If you would like to explain your answer, please use the text box below.

Species genetic diversity is also a critically important factor. For instance, Wales can boast more than one small, localised population of red squirrels. But a nature recovery plan which allowed one of these to become extinct whilst boosting numbers of another to achieve a greater total population would lead to a loss of genetic diversity of the population. The residue, though more numerous, would be less resilient to future threats from disease, climate change and habitat alteration.

Similarly, non-native conifer plantations seem to be included within the National Forest and so presumably count as woodland habitat for this purpose. There is however an acute shortage of genetic diversity among the few species of conifers used for commercial forestry, and current practice is to plant in single species blocks. Together these present a substantial risk to the long term survival of those forests in the face of encroaching pests and diseases.

Habitats need not only protection, management and restoration of the residual areas now present, but also expansion and improved connectivity to restore their longer term viability.

- **BT5: To what extent do you agree or disagree that Natural Resources Wales reports on the biodiversity targets as part of the State of Natural Resources Report?**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
✓				

If you would like to explain your answer, please use the text box below.

If however this monitoring function is transferred to the biodiversity governance body as suggested above then reporting on the biodiversity targets should also be transferred.

- **BT6. To what extent do you agree or disagree that Welsh Ministers publish a statement, before the Senedd, to report whether the statutory biodiversity targets have been met by the date specified in regulation?**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
✓				

If you would like to explain your answer, please use the text box below.

- **BT7. To what extent do you agree or disagree with the proposal that Welsh Ministers be required to produce a statutory long term Wales Nature Recovery Strategy, outlining the approach to delivery of the statutory targets as well as the Welsh Government's response to the Global Biodiversity Framework?**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
	✓			

If you would like to explain your answer, please use the text box below.

The proposed power for future Ministers to amend, revoke or replace existing biodiversity targets to address the nature emergency should be qualified to limit their ability to either

- revise targets downwards either in advance of delivery dates or upon it becoming apparent that the targets have already been missed, or
- subordinate them to economic development priorities which entail additional depletion of Wales' nature.

- **BT8. To what extent do you agree or disagree that the Wales Nature Recovery Action Plan sets out a detailed programme of work required to deliver the statutory biodiversity targets?**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
✓				

If you would like to explain your answer, please use the text box below.

The White Paper's critique of the Aichi targets is justified. Unless detailed actions within specified time limits are laid down there is no real likelihood of the objectives being reached. Once again, however, the power to revise the Action Plan every four years should be qualified to restrain future administrations from softening the targets and actions in order to claim that the Plan has been fully implemented when in fact key objectives have not been met.

- **BT9. To what extent do you agree or disagree that there should be a duty on public authorities which requires them to contribute to the delivery of the statutory biodiversity targets?**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
		✓		

If you would like to explain your answer, please use the text box below.

It is not apparent from the White Paper, which does not set out what the targets will be, how this differs in practice from the present Section 6 duty to seek to maintain and enhance biodiversity and report triennially on what has been done. If however this separate duty is introduced then it should stipulate that compliance requires action to deliver each of the statutory targets severally, and not merely that some action under one or more of them can be taken as compliance with the duty overall – which might, on its face, be enough to comply with the section 6 duty.

- **BT10. To what extent do you agree or disagree that named public authorities should produce a Local Nature Recovery Action Plan to outline local action and priorities for delivery of the statutory biodiversity targets?**

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
✓				

If you would like to explain your answer, please use the text box below.

Again, this will advance from the existing section 6 duty only if it is stipulated that the Local plans must address each of the statutory targets separately.

- **BT11. Please indicate whether you would prefer the duties proposed in this section to apply to:**

	Please indicate preference
a) List of Welsh public authorities has been included at Annex 2	**?**
b) The shorter list of Welsh public authorities included at Annex 6	**?**

If you would like to explain your answer, please use the text box below.

We do not agree that some of the authorities listed in Annex 2 are appropriate. See for instance answer to GB4 above regarding the Comptroller of Plant Variety Rights who does not administer any real estate, but also the Royal Commission on Ancient and Historical Monuments, the Agriculture Advisory Panel, Food Standards Agency and several others clearly are not in a position to set and implement such plans.

The Annex 6 list, on the other hand, is too short since for instance Cardiff Harbour Authority could quite properly be subject to such a duty.

Are there any other views you would like to provide in relation to the proposals in this White paper?

We are very grateful to have had the opportunity to contribute to this important consultation. The Government's acceptance of the necessity to conserve and restore biodiversity before the ecosystems which sustain so many vital services in Wales are damaged beyond recognition, is very welcome.

A very profound shift is needed, from a model of thinking which treats nature as an inexhaustible resource to be consumed for human benefit, to one which recognises that at the very least a partnership is needed in which humans undertake responsibilities as well as privileges. As such, we believe the White Paper severely underestimates the need for education of the public and both

public and commercial stakeholders if the vision of restored biodiversity is to be delivered. The Bill will need to make provision for engagement of the public, the education authorities and institutions and trade organisations to bring about this change.

The White Paper identifies management of agricultural land as the leading cause of nature depletion, followed by climate change. This is likely to result in the Nature Recovery Plan having a focus on improving agricultural practice as a means of mitigating biodiversity loss. There is however an important 'baseline shifting' issue which such a focus would overlook. Whilst agricultural practice is critically important in respect of land which remains in agricultural use, equally critical is the loss of nature through land taken from agricultural use for other purposes including development (whether urban or industrial) or commercial forestry. The principle of reliance on high nature value land proposed in the paper needs to be extended to include a balancing exercise where any land use change is proposed: loss of nature-depleted agricultural land to build new industrial sites or infrastructure will cause far worse nature impacts than continued agricultural use in almost all cases.

The Paper also omits any consideration of the trade-offs which may be needed between actions intended to address climate change and actions to conserve and restore biodiversity. These are interlinked but separate emergencies, together amounting to a 'wicked' problem. It is, however, obvious that whilst Wales can take actions which will further deplete its own biodiversity, it cannot take actions which will reverse global climate change. Very careful consideration will be needed to ensure that, for instance, construction of roads, logistics parks, pylon chains and turbines to increase renewable energy generation for export to mitigate the climate change impacts of consumers outside Wales does not at the same time irreparably damage biodiversity and the sustainability of ecosystem services – Wales' natural capital balance sheet - within Wales. Whilst the recent decision of the European Court of Human Rights (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* (application no. 53600/20)) has intensified awareness of governments' duties relating to climate change, this should not be taken to mean that climate change actions alone are the overriding duty. Loss of biodiversity rendering the environment less fit to support human wellbeing is also likely to be the subject of such decisions in future cases.