



Campaign for the Protection of Rural Wales

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Response to Welsh Government Consultation: Taking Forward Wales's Sustainable Management of Natural Resources

CPRW is Wales' foremost countryside protection charity, founded in 1928. It aims to increase public awareness of the importance of landscapes and seascapes. It promotes their responsible care and use. It defends the qualities that make rural Wales special. It seeks to influence decision makers to guide responsible change and oppose them when they don't. It promotes landscapes as inspiring places for learning, personal development and well-being and it celebrates Wales' heritage of landscapes, culture and rural life.

This response has been prepared by the Brecon & Radnor Branch and CPRW national.

CPRW welcomes the opportunity to respond to the consultation on 'Taking Forward Wales's Sustainable Management of Natural Resources' which has profound implications for our charitable purposes.

In addition to the specific responses below CPRW strongly supports the response to Chapter 3 by the Alliance for Welsh Designated Landscapes.

1. OVERVIEW

We welcome reference in the Minister's Foreword to the severe declines in biodiversity and resilience of Welsh ecosystems, and recognition in the Introduction of the fundamental importance of natural resources and ecosystems. The constant refrain throughout the consultation is "alignment with sustainable management of natural resources" but the nature of this "alignment" is far from clear. In any discussion of policy direction to achieve the sustainable management of natural resources the current poor baseline, as evidenced in the State of Nature and State of Natural Resources reports of 2016, must be fundamental. It follows that the importance not only of avoiding further damage to ecosystems but of effective and urgent restorative action must logically underpin and drive the direction of policy and any legislative changes.

We question whether it is always possible to simultaneously ‘*reduce bureaucracy, enable development and protect the environment*¹’. If the Welsh Government is serious about achieving sustainable management of natural resources i.e. resilient ecosystems, it needs to recognise that where these goals conflict, protection of the environment must be the priority.

We are therefore uneasy that instead of the maintenance and enhancement of ecosystems, let alone ecosystem restoration, lying at the heart of policy direction this in fact has no place in Theme 1 and is subsidiary to both economic growth and social equality in Theme 2. Meanwhile Page 12 identifies the following as among the risks of failing to legislate: ‘inhibiting investment’, ‘disproportionately high regulatory cost’, ‘adding costs to businesses in seeking expert or legal advice’. These are just a few examples. This suggests that far from driving towards sustainable management of natural resources, as set out in Environment Act (Wales) as a binding duty on public bodies, policy changes envisaged by the Welsh Government itself are looking to perpetuate the status quo where development trumps all, and environmental concerns are subsidiary to financial. We do not see how this contributes to achievement of sustainable management of natural resources as defined in Environment Act (Wales), relevant sections of which are reproduced below:

Environment Act (Wales) 2016

3 Sustainable management of natural resources

(1) In this Part, “sustainable management of natural resources” means –

- (a) using natural resources in a way and at a rate that promotes achievement of the objective in subsection (2)*
- (b) taking other action that promotes achievement of that objective, and*
- (c) not taking action that hinders achievement of that objective.*

(2) The objective is to maintain and enhance the resilience of ecosystems and the benefits they provide and, in so doing –

- (a) meet the needs of present generations of people without compromising the ability of future generations to meet their needs, and*
- (b) contribute to the achievement of the well-being goals in section 4 of the Well-being of Future Generations (Wales) Act 2015 (anaw 2).*

4 Principles of sustainable management of natural resources

In this Part, the “principles of sustainable management of natural resources” are –

- (a) manage adaptively, by planning, monitoring, reviewing and, where appropriate, changing action;*
- (b) consider the appropriate spatial scale for action;*
- (c) promote and engage in collaboration and co-operation;*
- (d) make appropriate arrangements for public participation in decision-making;*
- (e) take account of all relevant evidence and gather evidence in respect of uncertainties;*
- (f) take account of the benefits and intrinsic value of natural resources and ecosystems;*
- (g) take account of the short, medium and long term consequences of actions;*
- (h) take action to prevent significant damage to ecosystems;*
 - (i) take account of the resilience of ecosystems, in particular the following aspects –*
 - (i) diversity between and within ecosystems;*
 - (ii) the connections between and within ecosystems;*
 - (iii) the scale of ecosystems;*
 - (iv) the condition of ecosystems (including their structure and functioning);*

¹ Page 74

(v) the adaptability of ecosystems.

Section 3(2) is very clear: the resilience of ecosystems is the driver of other benefits. It is not a subsidiary objective ranking behind social and financial considerations.

In principle, CPRW fully supports the Welsh Government's ambitions for the sustainable management of our natural resources but, having established this, we question how carefully the Welsh Government chooses to interpret "sustainable" and "SMNR" when it comes down to particular contexts.

We consider that many of the proposals in the consultation document are not exact or detailed enough to be taken forward in the form of new legislation. There is a need for further, detailed consultation on any proposals that move forward as a result of this consultation, with pre-legislative scrutiny prior to any bills being tabled. This would allow proposals to be developed with full stakeholder consultation, resulting in better legislation and increasing the chance that the 'sustainable management' approach is successfully embedded and adopted across Welsh policy and legislation.

We believe there is much work to be done, collectively, to build bridges between the well-tested language of established legislation and the opportunities which a new approach based on the sustainable management of natural resources may be able to offer as it develops and matures. The need to protect our valuable assets such as natural species, landscapes, and soil and water quality is fundamental to the ability of future generations to benefit from ecosystem services.

To realise its potential, we believe the 'sustainable management' approach needs to be seen to protect features and characteristics which society values highly, without those features necessarily having a defined monetary value.

Our detailed comments are arranged below under the consultation document headings. Our comments on the Introduction should make it clear why we have chosen not to answer in Questionnaire format.

Ministerial Foreword

The Ministerial foreword to this introduction of new regulatory services, potentially to be translated into additional new legislation, recognises that ecosystems and biodiversity are in decline and contains a commitment "*to ensuring we maintain and enhance the resilience of our NR and ecosystems*".

Introduction

The Introduction describes three major legislative Acts (WBFGA, WPI.A, ENV(W)A) and the formation of NRW and explains that historic "reactive regulation" does not work with economic and social policy and needs replacing with a "unified system" which will be cheaper, more efficient, better for business and better for ecosystems. It is difficult to envisage what a "unified system" might look like since effective regulation is bound to be a reaction to existing or potential problems and needs. In the remainder of the document we are presented with a hotchpotch of potential legislation - a mixture of de-regulation and increased regulation - which overall has more to do with streamlining, cost-cutting and economic opportunities than sustaining natural resources.

The case for the enterprise is set out in Chapter 1. The document presents a shopping basket of unrelated

proposals under various chapter headings. The proposals are hugely different in scale and consequence which makes the entire document extremely difficult to understand and digest.

The scattering of numbered “Proposals” and numbered “Questions”, with “Questions” that do not match up with the “Proposals”, is bound to confuse the reader and put off stakeholders with useful things to say. For instance Forestry contains five Proposals and seven Questions while Access to Outdoors contains eighteen proposals and three Questions. A rational structure would have succinct proposals with matched questions asking for reasoned support or objections. The consultation sets up the responses in such a way that analysis of the results will be incapable of determining whether the discrete proposals are supported or not.

Chapter	Proposals	Questions
1 Introduction	none	1,2,3
2 Forestry	1,2,3,4,5	4,5,6,7,8,9,10
3 Designated Landscapes	6,7,8,9	11,12,13,14
4 Access to Outdoors	10,11,12,13,14,15,16,17,18,19, 20,21,22,23,24,25,26,27	15,16,17 -
5 Marine and Fisheries	-	-
Marine	28 (marine)	18,19 (marine)
Fisheries	29,30,31 (fisheries)	20,21,22 (fisheries)
6 Water:	-	-
Abstraction	32	23
Drainage	33,34,35,36,37,38,39,40,41,42, 43,44	24,25 -
7 Waste and Local Environment Quality	-	-
Waste: powers of entry	45	26
Waste: sanctions under s46	46	27
Env.: Litter from vehicles	47	28
8 Smarter Regulation	none	29
9 Agriculture	48	30
10 Wildlife	49,50,51,52,53,54,55	31,32,33,34,35,36
11 Assessment of Policy Proposals	56 -	37,38,39,40 -

WG Consultation on Sustainable Management of Resources

Table of Chapters with Proposals and Consultation Questions showing that the Answers to Questions will not effectively support or refute discrete Proposals.

This methodological carelessness would not get through GCSE statistics and calls into question whether the WG is genuinely consulting or whether it just needs to tick the consultation box for a lingering stack of “SMNR business” before moving it from the in-tray to the out-tray.

While the structure of the document will, on its own, largely invalidate the consultation process, the disparity in the subject matter of the consultation, within and between the Chapters, is even more concerning. We have been promised a major contribution to a “unified system” (as encapsulated in recent legislation and the revised remit of NRW) and told that this will be better for the resilience of our ecosystems but this is not what we have been given. No justification at all is given for the choice of subject matter in the consultation. We are dismayed to see that the highly contentious issues of the future of Designated Landscapes (National

Parks and AONBs) and Access to Outdoors are (purposely?) buried within this consultation whereas we think they deserve separate consultations.

Some of these proposals are for significant and fundamental change in a large area of public concern and some for isolated oddments. Thus the whole of “Wildlife” (the common English term closest to “*biodiversity*”) is represented by the small and limited topic of regulation of snares while the entire regulation of “Designated Landscapes” and “Access to Outdoors” are to be fundamentally changed in a wholesale manner.

“Agriculture” which is of prime relevance to the sustainable management of natural resources and economic prosperity is represented by replacement of an arbitration procedure by tribunal decision.

We suspect that most Welsh people and local authorities will not be aware of the mixture of proposals and sweeping changes hidden within this document. The disparate subject matter and poor presentation will result in a very imperfect consultation process.

Chapter 1: Towards the Sustainable Management of Natural Resources

CPRW considers that Chapter 1 is not sufficiently thought out. It is clearly intended as a general promotion of the concepts of Circular Economy, Nature-based Solutions and Ecosystem Services Accounting which will lend authority to the remaining sections but, in fact, it bears little relationship to anything that follows.

Chapter 1 introduces the concept of circular economy developed by the Ellen MacArthur Foundation and Wrap for the WG. The report describing the possibilities for Wales identifies savings of £1.3bn a year in material cost savings via longer-lasting industrial goods and £760m a year for shorter lasting consumables (including food) which are only relevant to the waste chapter of this document. The circular economy “examples” confirm that the report mainly concentrates on industrial production and only addresses the resilience of ecosystems and biodiversity in as much as fewer primary resources are used through more efficient procedures and re-use.

However the report does include a diagram of Materials Flows in a Circular Economy and the list of Welsh successes includes the Wales Centre of Excellence for Anaerobic Digestion.

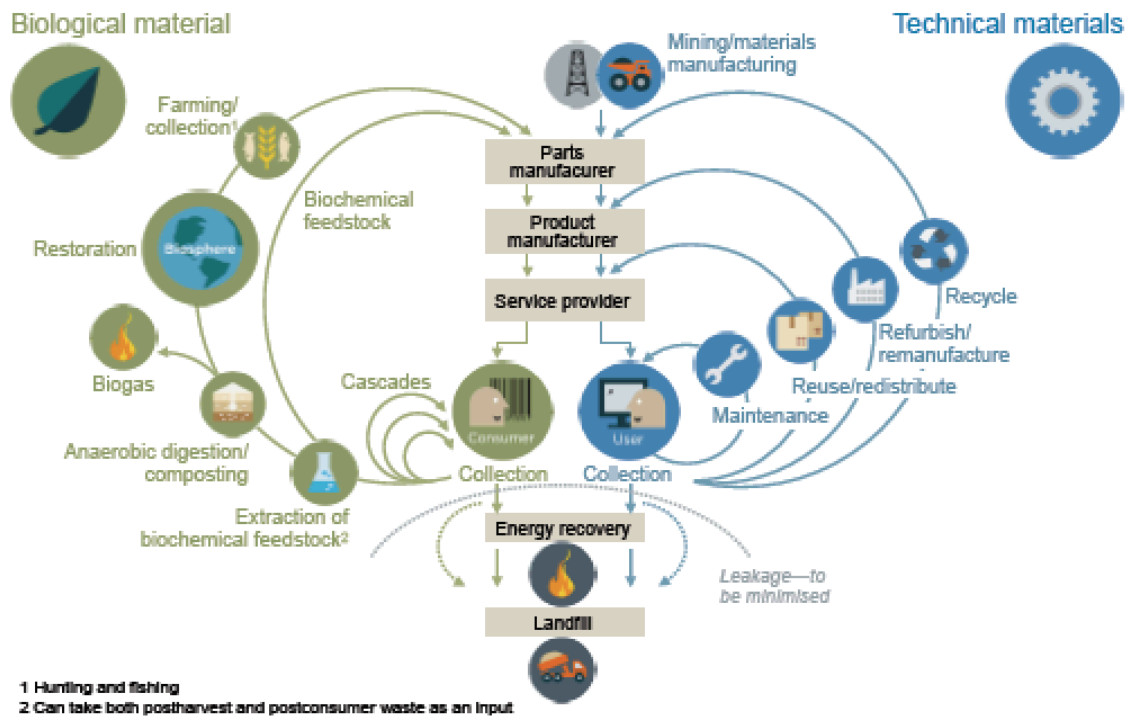


FIGURE 1: MATERIALS FLOWS IN A CIRCULAR ECONOMY

We refer to pollution issues from anaerobic digestion and the impacts of intensive farming on in our response to Chapter 8. It is precisely the benefits and disbenefits of enterprises such as these which need to be addressed by policy and regulation in an SMNR model and which make us wary of the simplistic and utopian presentation of Chapter 1.

The section Nature Based Solutions and potential barriers is naïve because Nature Based Solutions (to flooding, emissions etc.) depend largely on land-management and ownership, development control with planning obligations for green mitigation, incentives to create green spaces, plant trees, provide for biodiversity etc. Question 2 is asking for deregulation ideas whereas improved regulation and incentives are required.

Likewise, the section on new markets and innovative solutions gives the impression of a government flailing around for ideas. Such topics need to be better developed by experts with experience in this field before being presented to the public.

Questions 1, 2 and 3

These questions invite suggestions for the removal of ‘regulatory barriers’ and ‘legislative barriers’ to the promotion of the circular economy, nature based solutions and market mechanisms. In our view none of these ideas are sufficiently developed in the text for these questions to be answerable.

Chapter 2: Forestry

We wish to take this opportunity to highlight our concerns about some of the recommendations proposed by the Assembly’s Climate Change, Environment and Rural Affairs Committee in its recent report on woodland

policy².

This calls on the Welsh Government to address, as a matter of urgency, the regulatory, financial, bureaucratic and cultural barriers to woodland creation, with commercial forests and trees in urban areas being a particular priority.

The Committee further suggests that regulatory barriers could be relaxed for areas deemed to be most suitable for woodland creation. The Welsh Government, it says, must lead by example and increase afforestation on public land, and Natural Resources Wales must be more proactive in seizing opportunities for woodland creation on such land.

Whilst there will of course be opportunities to create new woodland in designated landscapes, we strongly recommend that such a deregulatory approach should not be pursued in National Parks or Areas of Outstanding Natural Beauty. Large-scale, commercial afforestation is likely to cause significant harm to the statutory purposes of these landscapes due to the mono-cultural nature of planting and impacts arising from the management and extractive processes.

We would urge extreme caution too in any proposed relaxation of regulation outside the designated landscapes. Commercial coniferous forestry does not sit easily in many landscapes and can be environmentally costly, contributing to declines in biodiversity through acidification, pollution, sedimentation of local rivers etc.

Proposal 1 & question 4

The proposed amendment is not spelled out and the need for such amendment is not established. See: “The sustainable management of forests is largely synonymous with the sustainable management of natural resources, so there is already strong alignment between NRW’s general duties under the Forestry Act and its general purpose³.” In order for this question to be answerable, the proposed changes need to be specified.

Proposal 2 & questions 5 & 6

Proposal 2 mentions local people and communities. While we support the principle of communities taking a positive interest in sustainable management of forests, it is unclear to us what this extension of powers would entail in practice. What financial arrangements would be involved? What public access would be ensured? What safeguards would there be against any local person(s) acquiring rights and then failing to manage for long-term sustainability? In order for this question to be answerable, the proposed changes need to be specified. We consider there should be limitations, not least to manage tree-diseases.

Proposal 3 & questions 7 & 8

Question 7 is answered by the Environment (Wales) Act which places this duty on NRW and NRW should be able to revoke or amend felling licences as long as there is sufficient justification under this Act.

Proposal 4 & question 9

² <http://senedd.assembly.wales/documents/s500003800/Summary%20Report.pdf>

³ Page 23

We consider that NRW's "unique role" as Wales' principle environmental advisor and regulator is problematic since the functions of SMNR and shorter term economic exploitation are often incompatible. The problems facing NRW are compounded by staffing shortages and fewer staff with detailed local knowledge. We do not know enough about the functions of the RAC but suspect that NGOs such as the Woodland Trust, Plantlife Wales, Wildlife Trusts, University Botany departments and other local experts could usefully contribute. The difficulty would be to ensure that an over-stretched NRW did collaborate in practice.

Proposal 5 & question 10

This is welcome, as is recognition of the importance of ancient trees in the landscape. We would see as a logical extension of this proposal, a similar proposal to enhance the protection of ancient woodlands, which are currently threatened as never before by air pollution and eutrophication, particularly from intensive livestock farming. Not only do ancient woodlands play an important part in the landscape, and provide rich habitats for biodiversity, but they are also among our most complex and fragile ecosystems and are entirely irreplaceable when lost. Affording ancient woodland the same legal protections as Sites of Special Scientific Interest would ensure their better protection when impacted by development proposals.

Chapter 3: Designated Landscapes

Question 11 & Proposal 6 - aligning the statutory purposes of designated landscapes with the sustainable management of natural resources

The Future Landscapes Wales (FLW) and Marsden reports recommend that there is a case for updating the purposes of designated landscapes to include an explicit reference to natural resource management.

However, alignment solely with a set of general principles would result in a bland approach in which the purposes of designation are unclear. This would have a number of damaging consequences, including a diminution in the international status and standing of designated landscapes as they would no longer be recognised as protected areas by the IUCN.

Such 'downgrading' of the status of Wales's National Parks and AONBs, compared for example to their English and Scottish counterparts, presents a significant reputational risk for Welsh Government, both on the domestic and international stage.

We are not, as yet convinced that the re-alignment of Purposes of Designated Landscapes is in fact necessary as they are already bound by the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016 to contribute to the achievement of sustainable development and SMNR.

The principles set out in section 4 of the Environment (Wales) Act are principles for management and not purposes of designation and nor could they be comfortably aligned as such. It is difficult to understand exactly what the Welsh Government envisages by the proposed alignment, as the proposals in Future Landscapes Wales are so vague, but the risks of moving away from a coherent framework to something so undefined are potentially very serious.

The consultation document states that it is *"The view of the Welsh Government is that aligning the purpose of designation with sustainable management of natural resources (as defined in section 3 of the Environment*

(Wales) Act 2016), would remove any competing duties and so there would be no need for the Sandford Principle.”

We do not agree with this statement as despite any such alignment there will be a need for a safety net mechanism for the protection of Designated Landscapes from activities that could erode the benefits they can provide to future generations.

Indeed this statement in the consultancy seems to be at odds with the Cabinet Secretary’s contributions to the debate on designated landscapes on 6 June, namely suggesting a so-called ‘Sandford plus’ approach.

In conclusion, in designated landscapes we believe that alignment with the sustainable management of natural resources could take the form of the interlocking purposes as recommended by the Marsden report, along with Sandford plus and a strengthened duty on public authorities.

This, and the Scottish Model for including sustainable use of natural resources in the Aims of their National Parks, would be an excellent starting point for further evaluation of any alignment which may prove desirable.

Future Landscapes Wales (FLW)

We are very disappointed with the quality of the Future Landscapes Wales report, which is very poorly written and fails to provide clear and unambiguous recommendations. The wide use of obtuse language means that much of the report is open to multiple interpretations, making it difficult, in our view, to move forward with certainty.

As currently drafted the Future Landscapes Wales report runs the risk of diminishing the international standing of Protected Landscapes in Wales, in turn undermining the credibility of the sustainable natural resource management agenda.

The report does not engage with the existing purposes and principles under which designated landscapes operate, with no mention at all, for example, of the Sandford Principle, the role of NPAs as planning authorities and the major development test.

These omissions are one of the reasons why several key conservation organisations involved in the Future Landscapes process are unable to support the report as it stands.

There is a need to return to and make proper use of the Marsden Report’s recommendations on the purposes of designation, which were the product of wide consultation, systematic evaluation and structured, logical reporting.

This position is supported by the UK Assessment Panel of the World Commission on Protected Areas. The panel has concluded that, if acted upon, the recommendations in the Future Landscapes Wales report would make it impossible for the panel to continue to accord international recognition to Wales’s National Parks and AONBs as protected areas.

It recommends that if Wales desires to maintain and strengthen the international recognition currently accorded to these areas, the Welsh Government should base future policy on the recommendations developed in the Marsden report.

Proposal 7 Giving greater weight in decision making to the identified special qualities of the areas, which need to reflect a broad understanding of the importance of these areas.

In principle, we support giving greater weight to the identified special qualities of designated landscapes.

However, in practice we struggle to understand what is meant by Proposal 7

“We are considering establishing a clear formal relationship between special qualities of a designated area and the partnerships, powers and policies that drive its sustainable management”

and what form the Welsh Government envisages the “clear formal relationship” between the special qualities and partnerships, powers and policies would take. Conflating special qualities with natural resources would, in our view, be a severely retrograde step and should be avoided. It risks commodifying the ‘special qualities’ and hence diluting the special management approaches needed to sustain the special qualities of designated landscapes.

Question 12

The question asks how the special qualities should be given greater weight in order to most effectively add value to governance.

At present, public bodies and other relevant authorities have a duty to have regard to the purposes of National Parks and AONBs in their work. Despite these duties having existed for a significant period of time, they are widely regarded as ineffective.

The Welsh Government has, through the Environment (Wales) Act, taken welcome steps to strengthen the duty on public authorities with respect to biodiversity.

Additionally the Marsden report recommended that there should be a new single duty that removes the weak “have regard to” prefixes in the current duties on relevant public bodies, and replaces them with a single and clear duty.

We therefore recommend that the Welsh Government should strengthen the duty to have regard to the purposes of designated landscapes, as it has done for the duty to have regard to biodiversity.

Proposal 8 Enabling governance arrangements to evolve to reflect local circumstances

We support the IUCN’s “Principles of Good Governance” and therefore those listed on page 32 of the consultation document. They form a good basis for assessing any proposed evolutions to the current governance models in place for our Designated Landscapes.

Future Landscapes Wales governance proposals

The Marsden recommendations on governance were the product of wide consultation, systematic evaluation and structured, logical reporting. We believe they offer a clear way forward on the governance of designated landscapes.

In contrast, the Future Landscapes Wales report offers no specific recommendations on governance, calling instead for the current models of governance within a designated landscape to evolve, informed by core principles, to reflect changing needs and opportunities. We feel its findings are very generic in nature and do not relate specifically enough to the Marsden report recommendations on the preferred models for delivering statutory purposes. There is indeed no traceability of the Marsden Report recommendations despite the Working Group being explicitly tasked with doing so.

During the FLW programme several governance models were tested against the principles of good governance. It is noted that the outcome of this assessment, where the current National Park model scored highest, is not recorded in its Report.

Proposal 9 Refreshing the way new areas can be recognised for their special qualities

We welcome the recognition within the Future Landscapes Wales report of the importance of all landscapes, regardless of whether they are designated or not. Wales's natural resources and landscapes are an undoubted asset for the nation and its people, and also the millions who visit each year.

The Welsh Government's commitment to explore ways in which new areas might be recognised for their special qualities and their sustainable management is also positive.

We think that the consultation document identifies some, but not all, of the issues that would need to be addressed in deciding how to take this proposal forward.

For instance in the French Regional Nature Parks (PNR) model for protected landscapes PNR's charter has no legal standing. It is purely advisory which we do not think is sufficient protection for new or existing designated landscapes in Wales.

Within Powys, but outside the national park, are several areas which were recommended for designation in the 1947 Hobhouse Report:



Wales has a landscape planning tool, LANDMAP, for the designation of Special Landscape Areas. However Powys Council has not, unlike its neighbouring councils, designated Special Landscape Areas for their protection, despite having guardianship of outstanding undesignated landscapes.

Powys branches of CPRW would welcome some form of designation which would recognise the as yet undesignated outstanding landscapes within the county. However, any designation must have some legal force if it is to offer genuine protection. This being the case, we remain to be convinced of the advantage in moving beyond the existing tried and tested landscape designations in the form of AONBs and NPs.

Question 13

Please see proposals 8 & 9 above.

Question 14

Please see discussion under headings ‘Future Landscapes Wales’ and Future Landscapes Wales Governance Proposals’ above.

Chapter 4: Access to Outdoors

This chapter opens with the statement that *‘The current system underpinning access to countryside is too complex and burdensome’*. Legislation governing public rights of way (PRoWs), commons and CROW Act

open access land certainly is complex but this legislation recognises and protects historic rights of access which have evolved over centuries. Creation of rights of access is necessarily complex in that for each right created there is a corresponding cost or responsibility to the landowner.

Now, as even our rural roads carry more and heavier traffic, the superb network of off road routes in Powys is more important than ever to its many users, whether resident or visitor. While there may well be some scope for modification and rationalization, sweeping across-the-board changes are not appropriate and are likely to lead to conflict between different users, conflict between users and landowners, and very probably, in the long term, to a less satisfactory position for both than currently exists. Such sweeping changes are also likely to be unachievable both practically and financially.

Failures in maintenance of rights of way must not be seen as sufficient reason to justify removal of rights of access⁴.

Phrases such as '*current recreational needs*', '*changes in demand*' and '*activity tourism destination*' suggest that Welsh Government may be underestimating the importance of walking in Powys. Walking is the most popular active recreation in England and Wales, and the opportunities for off road walking through outstanding landscapes are hugely important to residents and to tourism in Powys. It is well known that walking contributes hugely to health and mental well-being. Powys has five Walkers are Welcome towns which attract tourists to walk in the county, as do the many annual Walking Festivals held in Powys and in neighbouring Shropshire and Herefordshire. Riding and cycling are also extremely popular with residents, and also extremely important to tourism. However, great care needs to be taken to balance the needs of different PRow users and to recognise that certain uses may not be compatible or may not always be compatible over the same right of way. Impacts on landowners must be considered.

Welsh Government must recognise that increasing rights for some users may result in the effective diminution of rights for others⁵.

Proposal 10

We fully support the principle of extending rights of use over **some** routes to cyclists and horse riders, in particular where this serves to link up other rights of way accessible to these users and where routes are appropriate for such use. Such changes would have to be addressed on a case by case basis where need, suitability, costs and impacts on landowners are all taken into consideration. Advice could be taken from the British Horse Society regarding gaps in the existing network of bridleways. But a sweeping extension of rights over **all** footpaths just isn't sensible or even achievable:

- Gates and styles, and path surfaces, suitable to walkers may not be suitable for riders and cyclists – who is to pay for upgrades?
- Riders and cyclists may churn a narrow footpath to deep mud in winter, ruining the pleasure of walking the path.
- Walkers need some routes which can be enjoyed quietly, particularly those walking with children, dogs or the elderly or infirm.
- There are significant safety issues particularly for those who have less than perfect mobility, sight or hearing.

⁴ page 35 para 2

⁵ Page 36 para 3

We're aware that Powys Council are struggling, with a very constrained budget, to keep up with essential maintenance work (see Proposal 23 below). Spending would be much better directed at existing maintenance issues and addressing specific gaps in the bridleway network.

Proposal 11

This isn't sufficiently clear. Are these clauses being considered with a view to revoking them entirely, or to making certain amendments? If it's proposed that these restrictions on rights of access to CROW open access land are to be revoked entirely, we consider that this would be likely to have unwelcome impacts on landowners and others. In Powys most open access land is also farmed land, and while permission is often given for activities such as paragliding this surely needs to remain at the owners' discretion. Not least because owners or occupiers of land may in some circumstances be potentially liable for third party accident or damage on their land. Creating too wide a suite of rights across CROW open access land may result in a situation where landowners expect or experience conflict with their own land management needs and apply, as the CROW Act allows, to restrict and/or remove rights altogether.

In particular:

(b) This is surely a complex issue, with many competing interests to be resolved. For example, there are already conflicts between fishermen and canoeists on some rivers. The term vessel covers just about everything that can float on water so the scope of rights created is potentially very large. It is easy to see that introduction of a right to use motor boats and jet skis could not only impinge on others' enjoyment but also lead to environmental degradation.

(c) Horse riders would welcome a wider right of access to CROW land. However, it might be wise to specify *which* other animals other than dogs would be permitted.

(s) We would have serious concerns about the creation of a general right to 'wild camp' on unenclosed land. Wild camping was legalized in Scotland by the Land Reform (Scotland) Act 2003. Scotland has four times the land area of Wales and less than twice the population. It also has areas which can more truly be described as 'wild' than any part of Wales. However, problems with vandalism, littering, fouling, cutting down trees, have led to restrictions in 2011 in the Loch Lomond and the Trossachs National Park, restrictions which have been strengthened this year. The proximity of most of Wales to large city populations make similar problems here a real possibility. At the same time, wild camping takes tourism income away from the many small campsites scattered across rural Wales, both by offering a free alternative, and (this was the experience in Loch Lomond and the Trossachs) by deterring many traditional camp site users.

We would similarly have concerns about general rights across CROW access land to hold organized games, or to hang-glide or para-glide.

Proposal 12

Cycles and horses are not an easy mix. Allowing cycle races on bridleways will make those bridleways impassable by riders for the duration of the race. Since riders have only a limited off road network of bridleways, making any part of that network unusable may have the effect of restricting riders' access to a wider network accessed via the affected route.

Powys already offers quiet country lanes, and several dedicated off road facilities for off road cycle riding.

We consider this proposal disproportionately disadvantages horse riders, who are already the least well provided for of all PRoW users.

Proposal 13

We support this proposal.

Proposals 14 and 15

Environmental pressures, impacts on landowners, and conflicts between anglers and canoeists require that any changes should be subject to thorough consultation with all parties, **including wildlife and rivers trusts**. We question whether Natural Resources Wales is sufficiently funded to absorb the new role envisaged.

Proposal 16

We support this proposal but we are not sure how this is related to the access code proposed in Proposal 26. Is there, as seems sensible, one single code setting out behavioural requirements and rights proposed?

Proposal 17

Currently, while landowners can restrict rights across CROW open access land, pre-existing rights of access along PRoWs cannot be restricted by the same mechanism. Rights of temporary diversion or closure of a PRoW, **for a maximum period of 6 months**, already exist **for specified reasons** under the Road Traffic Act. Otherwise diversions and stopping up of PRoWs must go through a legal process requiring public consultation and full justification. The proposal in para 3 page 40 is inappropriate in that CROW restrictions may be applied for a period of up to 5 years (and then renewed) and there is no requirement for public consultation. Implementation of this proposal would significantly undermine the rights of PRoW users.

Proposal 18

We recognise that livestock attacks are devastating for farmers and have increased in frequency. We fully support the requirement for dogs to be on leads around livestock. However, we consider that a legal requirement that this be a 'short fixed lead', as opposed to extendible lead capable of being used as a short fixed lead, is unnecessarily restricting. This doesn't reflect the reality of much rural dog walking which may take place across an open landscape (huge open hilltops of thousands of hectares) with occasional grazing animals. This restriction would require owners to keep dogs on short leads for the entirety of such a walk. Responsible owners will shorten extendible leads when approaching livestock. A requirement for a short fixed lead is not reflected in advice issued by organisations such as SheepWatch⁶. Livestock attacks are carried out by dogs, whether being walked or having escaped, which are off the lead.

Proposal 19

We fully support the development of one statutory map.

Proposal 20

We are broadly supportive of the measures introduced in the De-Regulation Act 2015. We would have

⁶ <http://www.sheepwatch.co.uk/>

concerns if the Welsh Government was looking to extend simplification of changes to PRowS beyond the measures contained in the Act.

Proposal 23

We support this proposal but with the proviso that unless Local Authorities are adequately funded. ROWIPs will remain a wish list rather than a realistic strategy for management of a key public asset. We have obtained the following figures for Powys County Council ROWIP funding for the years 2008-2015 – these speak for themselves.

Year	Welsh Government Funding Received £	PCC Contribution £	Total Powys Spend £
2008/09	£256,296.00	£201,291.00	£457,587.00
2009/10	£256,296.00	£199,000.00	£455,296.00
2010/11	£256,296.00	£105,170.00	£361,466.00
2011/12	£198,365.00	£48,379.00	£246,744.00
2012/13	£198,365.00	£45,021.00	£243,386.00
2013/14	£115,824.00	£66,969.00	£182,793.00
2014/15	£122,668.00	£37,141.05	£159,809.05
Total	£1,404,110.00	£702,971.05	£2,107,081.05

Proposal 24

We agree that footpaths should not cease to be recorded on the Definitive Map as a result of an extension of rights of access over that path. Please also see Proposal 10 above.

Proposal 25

We fully support the repeal of provisions of the CROW Act relating to the 2026 cutoff date for historical routes. We are not certain whether other provisions are also intended for repeal, if so we believe these should be specified and an opportunity created for public consultation.

Proposal 26

We support the development of an access code, provided that this is developed through consultation with all relevant parties, including PRowS users and user bodies, landowners and environmental organisations. See proposal 16 above.

Proposal 27

We support the proposals within this section.

Questions 15 to 17

In summary, this chapter proposes:

- Cyclists and horse riders to have access to all footpaths
- Amendment or revocation of restrictions on CROW land
- Organized cycling races to take place on bridleways
- Extension of CROW access land to coast and cliffs
- Extension of CROW access to inland waters
- NRW duty to establish new points of access to inland waters
- Code of responsible behavior or for those on public rights of way, inland water or access land
- Easier mechanisms for temporary changes to public rights of way ‘where circumstances require them’
- Dogs on short fixed leads at all times around livestock
- Development of a single statutory map
- Easier mechanisms for permanent changes to rights of way
- Flexibility of stock control mechanisms on rights of way
- Amend requirement for decadal review of access maps
- Requirement on LPAs and NPs to develop integrated access plans
- Repeal Cycle Tracks Act 1984 and create new right of way called a ‘cycle path’
- Repeal unspecified unwanted provisions of the CROW, to include 2026 cutoff date and other unspecified provisions
- Statutory code for access to the outdoors along Scottish model
- Review the regulations and guidance for Local Access Forums

Please find our responses to these proposals above. In short, while we support some of the measures proposed, others we believe to be misguided, possibly unachievable and/or potentially counterproductive and environmentally damaging.

Questions 15, 16 & 17

For this reason, even while we support some of the proposals within this chapter, we would have to answer ‘no’ to each of these questions.

We would reiterate that a major barrier to achievement of improvements to the network Welsh PRoWs is not legislative but financial. We would also remind the WG that the hold up of many years in examining Definitive Map Modification Order Applications (in Powys, at least) has made a mockery of public efforts to legitimise those popular traditional paths and bridleways inadvertently left off definitive maps.

Chapter 6: Water

Proposal 32

We support the principle of reform to the water abstraction licensing regime such that abstraction is contained within sustainable levels i.e. such that environmental damage does not result from over abstraction. At present, for example, the system is insufficiently flexible to recognise and control significant pressures placed on aquifers which feed private water supplies created by the high water demand of intensive livestock units.

The NRW/EA document *'The Case for Change'* is an exercise in hypothetical projections based on assumptions which may, or may not, hold good. Its usefulness should not be exaggerated. However, the possibility of increased demand and less availability urges caution in abstraction rates and a drive towards greater efficiency of water use would both be desirable. The importance of access to clean water to animal and human health points to a need for caution too in the nature of rights extended to large-scale abstractors. We do not want, inadvertently, to create a situation where big business is potentially empowered to control water supply.

From a review of the Welsh Government's *'Making the most of every drop consultation on reforming the water abstraction management system: Summary of consultation responses'* it's very clear that this is a complex subject, and that many stakeholders have different requirements and competing interests. Proposals need to be set out in detail so that their implications can be properly understood by all affected for consultation responses to be valuable. We assume that a future public consultation of detailed proposals for reform of abstraction licensing is intended?

Question 23

It seems to us desirable that any legislative changes relating to water are applied across England and Wales, given the extent to which Welsh water sources are already supplying English demand and the cross border nature of waterbodies and aquifers.

Proposals 33-44 & questions 24 & 25

No comment

Chapter 7: Waste and Local Environment Quality

Proposal 45 & Question 26

We agree with these measures. It's our understanding that this would have application to a wider class of waste/environmental crimes than set out in this consultation document and would also include, for example, activities of the following nature:

- Illegal waste crime operations including: illegal landfill sites; unlicensed skip hire operators; large scale and persistent dumping of waste; unlawful collection, storage and breaking of scrap cars; unauthorised collection, storage and export of waste electrical and electronic equipment.
- Environmental crimes including unlicensed waste operations including transport, storage, treatment and disposal, illegal discharges to the water environment, unauthorised abstractions and illegal emissions to air.

Proposal 46 & Question 27

We do not consider this measure appropriate in view of the fact that there are local authorities which are not providing collection points, or sufficient collection points, for collection of the full range of potentially recyclable materials. The problem of classification of plastics and foil/plastic wrappings is a particularly difficult issue for householders. We are in favour of developing systems whereby retail outlets absorb at

least a proportion of the problems caused by the trend towards increased packaging of food-stuffs, individual portions, sale of liquids in elaborate dispensers, etc. in order to motivate less environmentally damaging practice closer to source.

Proposal 47 & Question 28

We agree that roadside littering is a significant problem and we support this proposal.

Chapter 8: Smarter Regulation – The Role of Basic Measures

We are in complete agreement that the issue of diffuse pollution needs to be addressed and welcome the intention to tackle this urgent problem. No details of basic measures proposed are included in this paper. Reference to the Defra consultation on basic rules for farmers⁷ (September 2015) suggests the envisaged basic measures may take the form of good practice measures which will, under these proposals, become mandatory e.g. buffers between manure stores & livestock feeders and waterbodies, calibrated manure spreading, feed planning systems etc. CPRW Powys branches would in principle support such an approach, particularly partnered with access to appropriate advice. There should be no additional burden on farmers who are already complying with good practice guidelines. Sanctions would be available to deal with those whose farm management falls short of good practice and causes pollution and ways must be found to enforce these and protect those who report infringements.

At the same time, there are certain types of farming venture which are so consistently associated with diffuse or spot pollution incidents that we believe they should no longer be regarded as ‘low risk activities’. It needs to be considered whether ‘basic measures’ would be adequate to control pollution or whether some other approach such as absorption into the permitting regime, for example, might be more appropriate.

By way of example, we would draw to your attention to the spate of serious water pollution incidents which have occurred in Wales in recent months, and to the decline in water quality in some water bodies in Powys, as a result of discharges from intensive livestock operations and/or anaerobic digesters. We would also draw your attention to the very serious contamination of local water supplies and ongoing problems with odour associated with an anaerobic digester within the Brecon Beacons National Park. These types of incident have long lasting impacts and are difficult to remedy.

We question whether it is always possible to ‘reduce bureaucracy, enable development and protect the environment’⁸. If the Welsh Government is serious about achieving sustainable management of natural resources i.e. resilient ecosystems, it needs to recognise that where these goals conflict, protection of the environment must be the priority.

We do not understand what is intended by substituting a ‘risk based approach enabling flexibility in land management’ for felling licence requirements nor how this relates to basic measures.

Clearly when the details of proposed basic measures are worked out, full public consultation will be

⁷ https://consult.defra.gov.uk/water/rules-for-diffuse-water-pollution-from-agriculture/supporting_documents/Consultation%20document_New%20basic%20rules%20for%20farmers.pdf

⁸ Page 74

necessary.

Question 29

See above. In principle, we support the introduction of basic measures. We believe the categorization of low risk activities needs to be revisited.

Chapter 9: Agriculture

Proposal 48 and Question 30

This chapter deals only with the Agricultural Land Tribunal Wales. We don't doubt the importance of this issue but consider others better qualified than ourselves to respond.

Other comments on this chapter

Agricultural practices are absolutely central to achievement of the sustainable management of natural resources. We are surprised not to find more consideration, apart from brief discussion of basic measures in Chapter 8, of the role government can play in encouraging farming practices that support the sustainable management of natural resources. For example, the European Parliament's document 'Sustainable management of natural resources with a focus on water and agriculture'⁹ puts forward options open to government to ensure the better management of water and soil, and on farm actions which should be considered for Pillar II environmental payments. We do understand that these sorts of ideas are likely to be the subject of ongoing discussions now that we are in the process of leaving the EU, and would welcome assurance that they will be the subject of future consultations. Unless farmers are fully involved in the achievement of sustainable management of natural resources, government ambitions for resilient ecosystems cannot be achieved.

At the same time as government needs to be investigating effective safeguards and effective sanctions to control pollution arising from farming and farm related practices (Chapter 8 above), it needs also to be looking for methods of incentivizing farmers for activities which don't yield a farm income but are necessary to the building of resilient ecosystems.

Chapter 10: Wildlife

Proposals 49-55 & questions 31-36

We are even more baffled by the limited scope of this chapter, which deals only with snares. Again we consider others better qualified than ourselves to respond on this point.

Other comment on this chapter: We return to Environment Act (Wales) Section 3:

3 Sustainable management of natural resources

(1) In this Part, "sustainable management of natural resources" means—

⁹ [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/488826/IPOL-JOIN_ET\(2013\)488826_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/488826/IPOL-JOIN_ET(2013)488826_EN.pdf)

(a) using natural resources in a way and at a rate that promotes achievement of the objective in subsection (2)

.....

(2) The objective is to maintain and enhance the resilience of ecosystems

In other words resilient ecosystems, and so biodiversity, or wildlife, is central to the objectives of sustainable management of natural resources.

We would like to have seen consideration of:

- The ways in which the planning system, including the contribution of Natural Resources Wales via consultee responses, can help to achieve resilient ecosystems;
- financial aid required by Local Planning Authorities to help them properly undertake the new ecosystems duty, for example, to support recruitment of suitably qualified staff;
- Training: in our experience there is also a need for planners to receive training on the implications of the Environment Act (Wales) and the resilience of ecosystems duty imposed on LPAs;
- The potential for collaborative approaches with relevant NGOs;
- The most urgent actions required immediately to begin the process of ecosystem restoration.

We cannot understand how the sustainable management of natural resources can be achieved without these sorts of initiative.

Is Welsh Government aware that some Local Planning Authorities are currently not so much deliberately flouting the provisions of the Environment Act (Wales), including the resilience of ecosystems duty, as apparently still entirely ignorant of their existence?

The land use planning system is a key to achievement of sustainable management of natural resources – government intervention is required to make sure that LPAs get the help they need to play a full role in implementing the Environment Act (Wales).

Question 40:

The achievement of sustainable management of natural resources will rest largely on a planning system, which CPRW perceives as having been unfit for purpose for a long time, in particular in the way in which the natural environment has been sidelined. Now, we understand that delays in implementation of the Planning Act may require revision of recently completed LDPs and yet further layers of planning are envisaged in South Wales. How is a planning system undergoing constant change and reorganisation to successfully play its key part in delivery of sustainable management of natural resources?

CPRW would welcome the opportunity to discuss any of these issues with the Welsh Government.

Jonathan Colchester

Chairman

CPRW Brecon & Radnor Branch

30th October 2017