



NATIONAL PARKS WALES
Britain's breathing spaces

Carrie Moss
Living Wales Programme Team
Department for Environment and Sustainable development
Welsh Government
Cathays Park
Cardiff CF10 3NQ
Email: SEB@wales.gsi.gov.uk

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National Parks Wales' Response to the Natural Resources Body for Wales Consultation

National Parks Wales is grateful for the opportunity to respond to the most recent consultation informing the setting up of the new Natural Resources Body for Wales (NRBW). The three National Park Authorities (NPAs) in Wales work in partnership as National Parks Wales to collectively respond to policy issues which may potentially influence the management of Wales' National Parks. The creation of the Natural Resources Body for Wales will influence the management of National Parks, which, together with Areas of Outstanding Natural Beauty, cover around 25% of Wales' land area; one way this will happen will be in response to developing working arrangements with the new single organisation.

Before we comment upon the questions posed within the consultation we have several recommendations related to the establishment of the NRBW:

We wish to stress the special role that National Parks and Areas of Outstanding Natural Beauty can and should play in implementing *A Living Wales* and recommend that NPAs be included as principal strategic partners for its implementation.

We recommend full retention of the vitally important duty to protect Wales' landscapes and seascapes, ensuring that Wales meets in full its obligations as set out with the European Landscape Convention. In terms of Wales' protected areas this would include the current CCW duty to identify and recommend future National Parks, National Park extensions, Areas of Outstanding Natural Beauty and AONB extensions.

We recommend a duty to support and champion the S62(2) duty (Environment Act 1995).

We also suggest that the regulatory roles of the new body should be complemented by the responsibility and resources to provide effective advice and guidance.



We seek confirmation of the continued availability of the Rights of Way Improvement Plan (ROWIP) and National Trail grants from the NRBW to NPAs following the introduction of regional transport plans sometime in the foreseeable future. Our understanding is that ROWIP will be subsumed into these plans. This may affect NPAs adversely because NPAs are not transport authorities, but they are responsible for rights of way maintenance.

We seek assurances as to the independence of the NRBW and its freedom to provide independent advice.

We recommend a duty to ensure the rapid and affordable availability of environmental data (including telemetry, aerial photography and remote sensing) to the public, to public bodies and to local records centres.

We have commented upon select areas of the consultation where we feel that additional work is required to ensure that the new Natural Resources Body for Wales is capable of meeting the needs of Wales' landscapes, whether protected or not.

Question 1: Do you agree with our proposal for the duties of the body in respect of conservation and natural beauty?

We mainly agree, but we have the following thoughts.

We welcome the duty for the Minister to consult the NRBW prior to issuing guidance (for example in an annual remit letter).

The Forestry Commission's (FC) "balancing duty" may be inimical to the Welsh Government's duty to achieve sustainable development. This is because a balance will always lead to a trade off between potentially conflicting interests, whereas sustainable development requires integration of interests. Rather than having this duty cease to apply, as is suggested in the consultation, we suggest that Section 7 (1) (b) of the Environment Act 1995 is applied with a clear instructions for integrating forestry, conservation - and also - access and recreation objectives (most of the FC estate is also Access land designated under the Countryside and Rights of Way Act 2000.) We suggest that the draft order offers an opportunity to explicitly reframe forestry creation/woodland management as means to the ends of ecosystem and habitat/species outcomes, and people's enjoyment and wellbeing. We also recommend that in cases of irreconcilable conflict, a duty to deploy the Sandford Principle is imposed. This principle asserts the primacy of conservation over other purposes and underpins National Park purposes for example.

In Box 2, the clause at (a).(ii.) seems redundant and confusing, given that the conservation duty detailed at (a.) is integral to sustainable development.



The wording within Box 2 (b) needs to be more positive towards landscape and seascape: "... regard to the desirability of conserving and enhancing natural beauty" is weak, especially when exercised within protected landscapes.

For Box 2 parts b and c, we note that "*having regard to the desirability of...*" is too weak and very vulnerable to providing an 'opt out' of conservation. It is possible to have regard to something by considering it and then deciding against it for other reasons. Therefore we recommend substituting "*having regard to the desirability of...*" with "*aim to achieve the protection/conservation/enhancement of x, y, z... .*"

We recommend using the definition of "natural beauty" provided by CCW. It is reproduced in full in Annex 6 of the Brecon Beacons National Park Management Plan here:

<http://www.breconbeacons.org/the-authority/planning/strategy-and-policy/npmp/link-folder/npmp-2010-annex>.

Box 2(c)(1) should also include cultural features, sites and landscape.

Box 3: 2 (1)(a.) and Box 3: 3(2) (a)(i) could also specify 'coast, inshore waters, rivers and estuaries'.

There appears to be no reference to the marine responsibilities of the new body. Accordingly we suggest that there should be clarification on how the marine responsibilities of CCW and EAW will transfer across to the new body, and about how they will be implemented, and how management across marine planning boundaries will be organised.

Unless these roles and functions are clearly articulated in the final order, there is a risk that the new body will not be adequately equipped to achieve the vision of the Living Wales agenda.

Question 2: Do you agree with the proposals in respect of public access and recreation duties?

We mainly agree, but we have the following thoughts:

We feel that Box 3, 2(1)(a) could be open to interpretation and would ask for additional clarity to avoid future confusion.

Box 3: para 3. The facilities detailed in paragraph 3 which NRBW may provide strongly reflect the Forestry Commission's powers from 1968 and need to be updated accordingly, to integrate with public transport systems and to embrace forms of recreation such as walking, cycling, horse riding and providing opportunities for people with mobility impairments. We suggest that references to the provision of commercial facilities should



be deleted as the private sector can meet any such demand. We would suggest that a summary of facilities more relevant to current and future needs should read as follows:

(3) The facilities which fall within paragraph (2) include, without limitation—

- (a) facilities to increase enjoyment and understanding, including picnic areas, information centres, and public conveniences
- (b) multi-user routes
- (c) sustainable transport solutions linked to local communities. We presume that the duty set out within this Chapter relates to Welsh Government/NRBW assets only, not the wider countryside. Additional clarity concerning this point within the Order would be welcomed.

There is no reference to enabling other partners and sectors to facilitate and develop access opportunities e.g. off Welsh Government or NRBW estate. We note the matter of the management and devolvement of Welsh Government assets, could this be devolved to a more local level and for the new body to have a strategic overview?

We advise that where the NRBW will have powers to provide facilities, these may require planning permission. With this such tests as environmental impact assessment, ecological impact assessment, sustainability appraisals, access statements and so on may be necessary in order to fulfil validation requirements. There may also be a requirement for mitigation, compensation and enhancement measures. Conversely, the NRBW may struggle to obtain planning permission where developments are proposed in the open countryside; this would be contrary to Wales and local planning policy guidance.

Question 3: Do you agree with these proposals for the high level forestry duties?

We mainly agree, but we have the following thoughts:

The context for forestry operation and development should be set within any Framework that is to be adopted. The current position is for the production and supply of timber and other forestry products; within an Ecosystem approach there should not be such a constraint of land by such an emphasis on forestry and timber products.

We have already commented on the FC's balancing duty. We believe that care should be taken in allowing the forestry sector to consider how to execute such a "balancing duty". Clear and transparent criteria should be developed to define how such a "balancing duty" can be executed.

Question 4: Do you agree with the general proposals for cross-border arrangements?

We mainly agree, but we have the following thoughts:



We feel that the proposals could address the question of invasive species, which as with all of the issues included within pages 17 and 18 know no political borders.

We seek clarification on the administration of cross-border conservation projects. An example is the Black Mountains SSSI, which straddles the Wales-England border. The SSSI is mainly in the Brecon Beacons National Park and consists of a number of contiguous commons, one of which is entirely in England but over which livestock have continuous access from the Welsh commons. CCW, Natural England and the Brecon Beacons National Park Authority have struggled for years, without success, to find an integrated, one stop shop agri-environment solution here. This has so far eluded these organisations because of the different funding rules for the England HLS and Tir Gofal (as was). We urge the Welsh Government to make these nationally important projects a priority for the NRBW.

Question 5: Do you agree with the proposals for the statutory consultee role? Yes

Question 6: Do you agree with the proposals to provide internal separation of decision-making, improve transparency and ensure Welsh Ministers have the opportunity to call in significant issues? Yes

Question 7: Do you agree with the proposals for permitting?

We mainly agree, but we have the following thoughts:

We propose that the NRBW amends the situation whereby the EA delays any consideration of Environmental Permits affecting a planning proposal until after planning permission has been granted. This hinders a local planning authority from making a reasoned and weighted judgement on a proposal because the relevant expertise, held by the EA, is not deployed until after planning permission is granted. It also has an adverse effect the LPA being able to meet its Welsh Government requirement for determining all planning applications within eight weeks.

Therefore we recommend that a duty is imposed on the NRBW for it to ensure that its EPR timetables with those imposed by the relevant local planning authority.

Question 8: Do you agree with these proposals for charging? Yes

Question 9: Do you agree with the proposals for public registers? Yes

Question 10: Do you agree that the new body should be a listed body under the Regulatory Investigatory Powers Act 2000? Yes

Question 11: Do you agree that the new body should have powers to use civil sanctions? Yes

Question 12: Do you agree with the proposals for appeal arrangements? Yes



Question 13: Do you agree with the proposals for cross border monitoring?

See our response to Question 4

Question 14: Do you agree with the proposals for statutory planning and reporting?

Yes

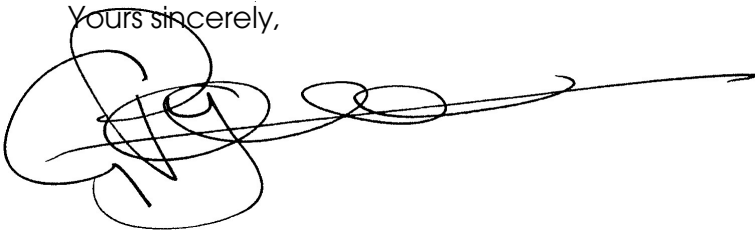
Question 15: Do you agree with the proposals for Civil Contingencies and Control of Major Accident Hazards (COMAH)? Yes

Question 16: Do you agree with the proposals for UK wide arrangements? Yes

Question 17: Do you agree with the proposals for transitional arrangements? Yes

Thank you again for the opportunity to comment. If you require any further information or clarification please do not hesitate to contact me in the first instance.

Yours sincerely,



Greg Pycroft
Policy Officer
National Parks Wales

