

Agenda – Climate Change, Environment, and Infrastructure Committee

Meeting Venue:	For further information contact:
Video Conference via Zoom	Marc Wyn Jones
Meeting date: 3 February 2022	Committee Clerk
Meeting time: 09.30	0300 200 6565
	SeneddClimate@senedd.wales

Private pre-meeting (09.15–09.30)

In accordance with Standing Order 34.19, the Chair has determined that the public are excluded from the Committee's meeting in order to protect public health. This meeting will be broadcast live on senedd.tv.

Public meeting (09.30–12.15)

1 Introductions, apologies, substitutions, and declarations of interest

(09.30)

2 Water quality and sewage discharges – evidence session 1

(09.30–10.45)

(Pages 1 – 22)

David Black, Interim Chief Executive – Ofwat

Gwenllian Roberts, Director of Wales – Ofwat

Mark Squire, Sustainable Water Manager – Natural Resources Wales

Sian Williams, Head of Operations for North Wales – Natural Resources Wales

Attached Documents:

Research brief

Paper – Ofwat



Break (10.45–11.00)

3 Water quality and sewage discharges – evidence session 2

(11.00–12.15)

(Pages 23 – 35)

James Jesic, Managing Director – Hafren Dyfrdwy

Eleri Rees, Strategy and Regulation Director – Welsh Water

Steve Wilson, Managing Director Wastewater Services – Welsh Water

Attached Documents:

Paper – Hafren Dyfrdwy

Paper – Welsh Water

4 Papers to note

(12.15)

4.1 The Official Controls (Extension of Transitional Periods) (Amendment) (No. 2) Regulations 2021

(Pages 36 – 37)

Attached Documents:

Letter from the Chair, Legislation, Justice and Constitution Committee to the Minister for Rural Affairs and North Wales, and Trefnydd in relation to The Official Controls (Extension of Transitional Periods) (Amendment) (No. 2) Regulations 2021

4.2 The Pesticides (Revocation) (EU Exit) Regulations 2022

(Pages 38 – 39)

Attached Documents:

Letter from the Minister for Climate Change to the Chair, Legislation, Justice and Constitution Committee in relation to The Pesticides (Revocation) (EU Exit) Regulations 2022

4.3 Welsh Government Draft Budget 2022–23

(Pages 40 – 45)

Attached Documents:

Paper from Wales Environment Link in relation to the Welsh Government Draft Budget 2022–23

4.4 Marine environment management

(Pages 46 – 47)

Attached Documents:

Additional evidence from Marine Energy Wales following their evidence session with the Committee on 9 December 2021 in relation to marine environment management

4.5 Nature and climate emergencies

(Pages 48 – 52)

Attached Documents:

Letter from Wales Environment Link to the First Minister in relation to the nature and climate emergencies

4.6 Welsh Government Roads Review

(Page 53)

Attached Documents:

Letter from Mabon ap Gwynfor MS to the Chair in relation to the Welsh Government Roads Review

4.7 Future Wales: the national plan 2040

(Page 54)

Attached Documents:

Correspondence from Non Davies, Joseph Jones, Dr Jonathan F Dean, Kate Watson and Clive Goodridge regarding the Committee's consideration of concerns raised in relation to the Welsh Government's Future Wales: the national plan 2040.

5 Motion under Standing Order 17.42 (vi) and (ix) to resolve to exclude the public from the remainder of today's meeting

(12.15)

Lunch break (12.15–12.45)

Private meeting (12.45–14.00)

6 Water quality and sewage discharges – consideration of evidence heard under items 2 and 3

7 Consideration of the Committee's draft report on the Welsh Government Draft Budget 2022–23

(Pages 55 – 87)

Attached Documents:

Draft report on the Welsh Government Draft Budget 2022–23

8 Consideration of the Committee's draft report on marine environment management

9 Consideration of the letter from the Llywydd in relation to the review of the Memorandum of Understanding (MOU) between the UK Government, the Welsh Government, Senedd Cymru and Ofcom

(Pages 88 – 94)

Attached Documents:

Letter from the Llywydd to the Chair in relation to the review of the Memorandum of Understanding (MOU) between the UK Government, the Welsh Government, Senedd Cymru and Ofcom.

Document is Restricted

Senedd Climate Change, Environment and Infrastructure Committee: water quality and sewage discharges

We welcome the opportunity to provide evidence to the Senedd Climate Change, Environment and Infrastructure Committee.

We have a strong focus on ensuring companies are delivering environmentally sustainable water and wastewater services which are in the long-term interests of customers, as set out in [our strategy](#).

In this response: we briefly set out who we are, how our regulatory framework facilitates environmental improvement, and how we support better water quality and a reduction of harm from storm overflow discharges in Wales.

Who we are and our ambitions for the sector in Wales

Ofwat is a non-ministerial government department. We regulate water and wastewater companies in Wales and England. In Wales our regulation principally applies to Dŵr Cymru Welsh Water and Hafren Dyfrdwy. Our work ensures that monopoly water companies deliver high quality, affordable, resilient, and environmentally sustainable services to their customers. Through setting clear and stretching objectives, we incentivise companies to provide the very best service for customers, protect and enhance the environment, and make the investments needed for the future. We have the power to take enforcement action, including imposing financial penalties, where companies fail to meet their obligations. We use all our regulatory tools to align the interests of customers, management, and owners, and to encourage companies to build strong relationships with their customers and other stakeholders. To summarise, our regulation, as set out in our strategy '[Time to act together](#)' aims to:

- transform companies' performance;
- drive companies to meet long-term challenges through increased collaboration and partnerships; and
- encourage water companies to provide greater public value, delivering more for customers, the society and the environment.

Welsh Government expects Ofwat to develop and implement a regulatory framework that is applicable to Wales, relevant in a Welsh context and that accounts for the specific circumstances of Wales. Our ability and commitment to operating effectively in this context is reflected by the steps we've taken over recent years to strengthen our presence in Wales, including our recent establishment of a Director Wales role to lead the regulatory process in Wales.

In line with our functions and duties we act in accordance with strategic priorities statements issued by both Welsh and UK Governments. We also take account, where appropriate, of current and future differences in both policy and law between the Welsh and UK governments including where new obligations on water companies in Wales emerge. For example, we regulate for a different approach to competition in Wales than in England.

Our approach in Wales aligns with the Wellbeing of Future Generations Act. Collaboration has been a key component of how we've worked with partners in the context of storm overflows and drives the way we work alongside our partner agencies Natural Resources Wales (NRW), the Consumer Council for Water (CCW) and the Drinking Water Inspectorate (DWI) to secure the best outcomes for customers and the environment. We lead a collaborative approach to price reviews that is distinct to Wales and that brings together water companies, partner regulators and the Welsh Government. We place planning for the long term, focusing on outcomes and responding to the climate and nature emergencies at the heart of everything that we do.

How we work towards achieving our goals, including on the environment

Currently, less than half of the rivers in Wales meet good ecological status. While recognising that the water sector is not the only contributor to water quality, we do believe that the sector, including Dŵr Cymru Welsh Water and Hafren Dyfrdwy, can do more to help achieve the goal of clean rivers in Wales.

While a cross-sector approach is needed, our regulatory framework is designed to provide a robust foundation for the water sector to deliver required improvements. Our framework is designed to ensure that companies are investing customers' money efficiently and effectively; promoting transparency; enabling and incentivising companies to provide the services that customers pay for and deserve; and holding companies to account for their delivery.

Investment

Ofwat's regulation of the water sector since 1989 has delivered transformative investment in customer service and environmental performance, with over £12 billion of capital expenditure investment¹ in Wales alone under strong regulatory oversight.

One of our key roles is to set the price and service packages that water companies must deliver over a five-year period, known as a price review. This includes financial and reputational penalties and incentives to drive performance. Our most recent price review, PR19, allows over £3 billion in Wales over the 2020–25 period to deliver day-to-day needs, as well as new and improved services. For example, we allowed Dŵr Cymru Welsh Water around £33 million to reduce wastewater discharges to the Loughor Estuary and £97 million to improve water quality through upgrades to its infrastructure.

In addition to this, PR19 includes almost £600 million for Dŵr Cymru Welsh Water and Hafren Dyfrdwy to invest in improvements to service, resilience and the environment, including £219 million of investment to deliver the work identified as necessary through the National Environment Programme (NEP) for Wales. The NEP is a key programme focused on delivering benefits to the natural environment, especially water quality, through investment, asset improvements, investigations, monitoring and catchment interventions. Through the NEP, NRW set out the measures that water companies must take to tackle some of the biggest challenges facing the water environment, such as pollution in Wales' rivers. Ofwat does not challenge the need for investment, which is set out as part of the NEP – our role is to scrutinise the cost efficiency of schemes. As part of the NEP, during the 2020–25 period, Welsh companies will invest £23.2 million to improve resilience in water and wastewater.

Innovation was one of the key themes for PR19. We see innovation as essential to empowering Welsh companies to deliver for customers, the environment and wider society. We were pleased to see Dŵr Cymru Welsh Water's RainScape strategy in central Llanelli, where 20% of the urban drainage area has been diverted to natural watercourses using green infrastructure.

Outside of our price review, we have funded environmental improvements through our Innovation Fund. We have made £200 million available through a series of competitions, for the 2020–25 period began, to spark innovation and encourage companies to address the big challenges facing the sector including improving the ecological status of our water.

¹ £12 billion capital expenditure investment is from 1989–90 to 2019–20 and is based on 2019–20 prices and calculated using RPI.

Our competition also encourages schemes which respond and adapt to climate change, address long term resilience, deliver wider public value and explore opportunities associated with open data and the need for further innovation. For our first two competitions 'Innovation in Water Challenge' and the 'Breakthrough Challenge' Dŵr Cymru Welsh Water and Hafren Dyfrdwy led winning projects with partners, including both the University of South Wales and Cardiff University.

To continue making environmental improvements and tackling the challenges facing the sector in Wales, further investment is needed. We have a strong direction from Welsh Government in our strategic policy statement to incentivise companies to continuously seek efficiency gains to deliver more value for money. Our role is to ensure that companies spend customers' money efficiently and we are very mindful of the affordability of bills in both the short and long-term.

When companies submit their business plans as part of our price review process, we check and challenge those plans to ensure that companies have the money they need to invest in improvements and to do so efficiently so that customers do not pay more than what is necessary.

Partly due to our scrutiny, customers in Wales saw a nine percent fall in bills before inflation. This was driven by our lower cost of capital and our efficiency challenge. Companies in Wales have also engaged their customers on benefits of social tariffs and we expect 137,000 customers in Wales to receive help through social tariff and WaterSure Wales by 2025.

We have also encouraged new approaches to dealing with problem debt. Hafren Dyfrdwy has stated it will offer 'payment matching' which sees the company forego debt for customers who make regular payments.

We remain attuned to the pressure on household finances, especially among low-income households and will continue to encourage water companies to be as efficient as possible.

Outcomes, incentives, penalties and scrutiny

As part of our price review process, we set performance commitments and associated incentives for companies to achieve outcomes, such as a reduction in pollution incidents..

At PR19, we set a range of ambitious and challenging environmental performance commitments which companies must meet and report on, and which carry strong financial or reputational incentives. For example, Welsh companies are committing to a 32% reduction in pollution incidents by 2024-25, as well as a 32% and 25% reduction of internal and external sewer flooding incidents, respectively.

Dŵr Cymru Welsh Water and Hafren Dyfrdwy have bespoke performance commitments that will further contribute to improving rivers and that are specified in a variety of ways, such as improving river water quality and improving catchments.

We monitor companies' progress on the delivering outcomes and their level of expenditure through their annual performance reports. This includes performance related to the health of their assets and infrastructure. Where companies do not meet their performance commitments, they incur financial penalties, which are reflected in reduced charges to customers. More information on Dŵr Cymru Welsh Water and Hafren Dyfrdwy's recent performance is in the appendix (page 9).

Where companies demonstrate failure in relation to their legal obligations within our remit, we investigate and this could lead us to take enforcement action, including imposing financial penalties.

Transparency

To monitor the delivery of companies' proposed outcomes, we require them to publish performance metrics, including on the environment, in their annual performance reports.

Each year, we use this information, along with other data sources, to understand the progress companies are making on their commitments to customers. We [publish our assessment of performance](#) and rank companies in areas such as pollution, water quality and sewer flooding. We also monitor water companies' financial resilience to ensure that they can attract investment to deliver essential services to customers. We publish our findings annually in our monitoring financial resilience (MFR) report.

This monitoring provides transparency for customers and wider stakeholders, as well as driving performance and ensuring that companies are accountable to us and their customers. Overall, Welsh companies have achieved most of their performance commitments but there is scope for improvement to deliver the high level of service and cost efficiency that customers deserve.

This data also informs the outcomes and commitments that may need to be incorporated into the next price review (PR24).

More recently, we have opened a discussion on the benefits of open data, where regulators, customers and stakeholders have freely available data to access and share. Some companies, including Dŵr Cymru Welsh Water, are already harnessing the use of artificial intelligence and open data but the industry needs to go further. We recognise the benefits of open data, particularly in tackling some of the environmental challenges in the sector, and its importance in encouraging companies to monitor and report on areas of performance, including pollution incidents and wastewater discharges.

Our approach to water quality and storm overflows in Wales

Improving water quality constitutes a complex and multi-faceted issue that requires strong intra-sector and cross-sector collaboration. It's a key component of Welsh Government's Programme of Government and, in line with that, we are fully committed to playing our part, working in partnership with NRW, Welsh Government, industry, wider stakeholders and the public to achieve our common goals.

We have been a core member of the Wales Better River Water Quality taskforce since its inception in June 2021. The taskforce was established by NRW, Welsh Government, Ofwat, Dŵr Cymru Welsh Water and Hafren Dyfrdwy to examine and evaluate the current approach to the management and regulation of Storm Overflows in Wales. Membership has recently been extended to include CCW and Afonydd Cymru, the umbrella body for a number of Welsh River trusts.

The taskforce has examined regulatory and planning challenges faced by the sector and looked at where improvements may be required including improvements over and above existing work programmes and regulatory actions. Through co-design, the taskforce has the overall ambition of achieving long-term and sustainable improvements to river quality in Wales.

In tandem and alongside other regulators, we have fully supported the development of drainage and wastewater management plans (DWMPs). This is an important step in addressing the harm from storm overflows as DWMPs will require water companies to carry out long-term and collaborative plans taking account of the capacity and resilience of their wastewater networks. Through this process, we will have a better understanding of the issues and actions companies need to take to address them. We can also ensure that companies are appropriately funded and incentivised to deliver on these plans.

While the taskforce and DWMPs consider a longer-term focus, we have been clear that companies must make the best use of the investment and resources available to them to make improvements in the short-term. Water companies will be delivering more green solutions in the next five years, and we were pleased to see catchment management becoming more of a mainstream activity. However, companies could go further to keep rain and ground water out of sewers.

Companies must also consider their approach to customer behaviour in reducing sewer blockages by plastics and non-biodegradable waste and have a much greater focus on effective operation and management of sewers to reduce blockages and overflows.

We are aware that to make the necessary environmental improvements, considerable change is needed. Companies must deliver the planned improvements to wastewater discharges during this period and reduce the harm from storm overflows. Looking ahead to PR24, we will work closely with NRW, companies and key partners to ensure that companies in Wales deliver the services that customers want and deserve.

Our current investigation

On 18 November 2022 we launched an investigation to establish whether companies are breaching the conditions of their environmental permits at wastewater treatment works. We do not have a role in monitoring or enforcing individual environmental permits, that is a matter for NRW. However, we may have a role if a water company is breaching the rules of its environmental permits so often, and in such a way, that it suggests that the water company might be breaking other legal requirements that a water company has, and that Ofwat is responsible for enforcing. These include requirements water companies have about how, overall, they operate, manage and report on their performance, including of their wastewater treatment works.

Our investigation is focused on company compliance with the flow to full treatment (FFT) conditions of wastewater treatment works permits. FFT is a measure of how much wastewater a treatment works must be able to treat at any time. Where the amount of wastewater going into the works exceeds the FFT level, for example during heavy rainfall, a company's environmental permit will usually allow extra flows to be diverted to storm tanks (where the works has them) until the storm passes. The contents of these storm tanks can then be returned to be treated by the works.

If the storm is prolonged or sustained, then the environmental permit will allow the water company to release the extra incoming rainwater and diluted wastewater into the environment, normally after partial treatment by settlement by storm tanks or through storm overflows into a river or sea.

New information that some water companies have shared with the Environment Agency suggests that water companies may not have been treating the amount of wastewater they should do before diverting it to storm tanks and/or discharging it to the environment. If this is the case companies will have broken the conditions of their environmental permits.

Ofwat assesses and agrees the amounts of money water companies can recover from their customers to ensure they can meet all their legal obligations, and we have an important role in setting out how we expect water companies to deliver for their customers, society and the environment. If companies are not meeting their legal obligations or our policy expectations, we want to understand why and how they are putting that right.

This investigation is a priority for Ofwat and we are working as quickly as we can to progress it. We are currently assessing information submitted by all water companies in Wales and England to understand what actions they have, or have not, taken. We hope to have completed this initial assessment by the end of February 2022 where we'll then be setting out next steps. We're also engaging closely with NRW and the Environment Agency as we conduct our assessment. As with investigations of this type, the timetable may change depending on what we uncover; whether we need to gather further information; and the next steps we decide to take.

Appendix A1: Dŵr Cymru Welsh Water and Hafren Dyfrdwy's performance

How are the companies performing against their performance commitments?

Dŵr Cymru Welsh Water and Hafren Dyfrdwy's 2020–21 performance across key performance commitments was assessed as 'average' in our [service delivery report](#), which compares the 17 largest water companies in England and Wales. Both companies were at or above some of their performance commitment targets – such as leakage, pollution incidents and wastewater treatment works' compliance.

However, they were both also below their performance commitment targets in some other key areas such as internal sewer flooding and water supply interruptions. A number of the performance commitments include financial payments to reflect whether each company out or underperforms their expected level of performance.

For 2020–21 Dŵr Cymru Welsh Water received a £4.524 million underperformance payment, which will return to customers in 2022–23 bills. This includes:

- The largest contributing underperformance payments relate to supply interruptions, water quality compliance and internal sewer flooding.
- The largest contributing overperformance payments were external sewer flooding and pollution incidents.
- The company ranked 4th of 17 on the customer satisfaction measure (CMeX), receiving a £2 million outperformance payment. The company ranked 12th for developer satisfaction measure (DMeX), receiving a £0.354 million underperformance payment.

For 2020–21 Hafren received a £0.750 million underperformance payment. This includes:

- The largest contributing underperformance payments relate to supply interruptions and internal sewer flooding
- The largest contributing overperformance payments were linked to the number of lead pipes replaced and its biodiversity commitment (hectares managed for biodiversity).
- The company ranked 11th of 17 on the customer satisfaction measure (CMeX), receiving a £0.035m underperformance payment. The company ranked 4th for developer satisfaction (DMeX), receiving a £0.035 million outperformance payment.

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Packsaddle
Wrexham Road
Wrexham
LL14 4EH

hdymru.co.uk

Dear Committee,

Re: Water quality and sewage discharges: Invitation to give evidence to the Climate Change, Environment and Infrastructure Committee

We are grateful for the opportunity to provide evidence to the committee's inquiry into river water quality on 3rd February 2022.

Hafren Dyfrdwy serves around 108,000 customers in Mid and North-East Wales, including over 20,000 waste wastewater customers across Powys and Montgomeryshire. We are responsible for a total of 50 sewage treatment works and 50 storm overflows, all of which are monitored electronically and are fully in line with requirements. Further, we have committed to eliminating all harm our operations may cause rivers by 2030, as well as contributing positively to the environment by being Net Zero by the same date. Hafren Dyfrdwy is part of the Severn Trent Group, we offer our customers the lowest bills in Wales and England at less than £1/day.

The main points we wish to make to the committee are:

1. During the period 2020-25 Hafren Dyfrdwy's total investment on waste and environmental improvements will be nearly £17m, significant for a business of our size, equating to £200 investment per connected property. This includes £7.6m spent on improving 46km of river, including investment in flow to full treatment ('FFT') and event duration monitors (EDM) and £3.3m on waste network and treatment works enhancements, including investigations and storm overflow improvements, and compliance and pumping station maintenance
2. The latest data from Natural Resources Wales (NRW) shows that 40 percent of water bodies in Wales are at Good or better status. (The WFD only awards Good status if all 60 or so chemical, biological and physical sub-measures are at Good; in Wales 93 percent of these sub-measures achieve Good or better status.)

3. The key question is: what is stopping all rivers in Wales achieve Good status? The data from NRW (Dec 2020) shows the main causes are:

- agricultural pollution accounts for 21 percent of the reasons for failure,
- the water sector accounts for 15 percent,
- mining operations account for 14 percent,
- urban land and transport networks account for 12 percent.

(Note: in the **HD waste area, just seven percent of Reasons for Not Achieving Good Status (RNAGS) are attributable to water company operations**, and we have action already underway to reduce this to 3.5 percent)

4. There has been much focus on combined sewer overflow (CSO) spills, all sewer and sewage treatment works infrastructure has a finite capacity. Storm overflows act as 'pressure release valves' to prevent flooding of homes and businesses during wet weather through permitted discharges. The frequency of discharges from storm overflows are a function of a number of macro factors;

- Climate Change – extreme rainfall events are 30% more likely in the next decade (intensity and duration), February 2020 was the wettest on record
- Urban Creep - Big increase of impermeable areas in urban areas, in 2015 one in four front gardens had been paved over.
- New and Mis/illegal connections – Surface water from home extensions, new builds, land and highways drainage

5. The diagnosis clearly shows that water companies have action to take, but unless the issue of agricultural pollution is also addressed, health of rivers in Wales are unlikely to improve materially. The main measures we would like to see actioned are:

1. Ensuring compliance with existing environmental standards, especially for landowners receiving public subsidies.
2. Promoting low input and regenerative farming: the problem is not farming; it is intense, unsustainable farming.
3. Restoring soil health by rebuilding soil organic matter and increasing soil biology.
4. Rolling out appropriately designed and placed nature-based 'river protection strips'.
5. Encouraging the placing of livestock fencing (in conjunction with river protection strips) between farmed land and streams and rivers.

6. Furthermore, improved management of surface water drainage from highways and developments will reduce pollution run off from these areas but also reduce the burden on the combined sewer system and lead to reduced propensity for spills. Removing the automatic right to connect surface water drainage to the sewer network and legislative changes to further incentivise the use of green/blue infrastructure solutions for surface water management are potential opportunities.
7. The committee will be aware of the work that has been undertaken between Natural Resources Wales, Welsh Government, OFWAT, Consumer Council for Water, Afonydd Cymru, DCWW and Hafren Dyfrdwy.

The subsequent storm overflow roadmap forms part of a wider ambition to achieve longer term sustainable improvements to river water quality. The taskforce will be making a number of recommendations focused on; reducing visual impact, environmental regulation, network capacity, improved monitoring and stakeholder and customer engagement. We are developing a programme which augments our current plans and delivers against these recommendations, there are some other considerations.

- The principal measure by which water companies should be judged by is harm their operations cause rivers, as measured by Reasons for Not Achieving Good Status (RNAGS). To achieve the right result, it is necessary to be guided by the right measures, and that is ultimately a measure of any harm caused.
- The Welsh Government could set a national target to eliminate all harm to rivers caused by water companies by 2030 (measured by Reasons for Not Achieving Good Status, or RNAGS).
- The Welsh Government could determine strategic guidance to set potential targets for the progressive reduction in use of storm overflows, prioritising the reduction of use in environmentally sensitive areas.
- Subsequent investment needs by water companies – supported by regulators – should explore Nature Based Solutions (NBS) as their first choice to address environmental challenges. The burden of proof should effectively be reversed to requiring an explanation of why a NBS is not appropriate.
- Water companies enhance their customer engagement programmes to help customers to help themselves. Sewer blockages very often cause spills to the environment – and it is estimated that 70 percent of sewer blockages are caused by inappropriate flushing away of wet wipes, fat and other materials. Customer education programmes about what they can and cannot flush away, help customers to help themselves.

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- Working in partnership. Tackling water management issues with local community groups, local authorities, local business and individuals ensuring land and water management actions are integrated.

We look forward to discussing these and other issues with the committee on 3 February.

Kind regards

A handwritten signature in black ink, appearing to read 'J. Jesic', written in a cursive style.

James Jesic
Managing Director

Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith /
Climate Change, Environment and Infrastructure Committee
Ansawdd dŵr a gollyngiadau carthion / Water quality and sewage discharges
WQSD 01
Ymateb gan Dŵr Cymru / Evidence from Welsh Water



Dear Chair,

17th January 2022

Thank you for the opportunity to give evidence to the Senedd's [Climate Change, Environment, and Infrastructure Committee](#) ("the Committee") as part of its work on water quality and sewage discharges.

As a company, we appreciate that Wales is renowned for the environmental quality of its landscape, rivers and seas, which attract visitors and support our key industries. It is important for our continued economic success and wellbeing that we maintain this enviable reputation on behalf of the people of Wales. As the largest water company in Wales, we are dependent on a healthy environment – both in our rivers and beyond – in order to sustain the services we provide to our customers. As such, we need to protect our natural resources and limit any adverse impact that we may have. Whilst we have a strong and improving environmental record, it is always disappointing when our work has a detrimental impact on the environment and we will always investigate such incidents to ensure that we can learn any lessons that will inform our future way of working.

We hold ourselves to the highest standards and our environmental strategy and performance is a key focus of the independent Glas Cymru Board. Its oversight and scrutiny work of Welsh Water is reinforced by a sub-committee of the Board, the Quality and Environment Committee, but also our independent Glas Cymru Members who (as we do not have shareholders) hold the Board to account for the stewardship of our assets and for providing an essential public service

We have many challenges – as outlined below – that require partnership working with regulators, Governments, customers and other stakeholders if they are to be addressed fully. Similarly, whilst we have a major role to play in improving river water quality as is inferred by the Committee's inquiry, it is important to note that we can only contribute to part of the improvement, with more significant improvements required from other sectors (most notably from agriculture, land management and water from mines, that have a greater impact on river pollution and the failure to meet 'Good' river water quality standards).

As we prepare our Business Plan for the next five-year regulatory investment period (2025-2030, known as AMP8), we are striving to take a 'Team Wales' approach together with Natural Resources Wales, Welsh Government, Ofwat and other key stakeholders, to develop an investment programme that improves our

We're not-for-profit. Every single penny we make goes back into looking after your water and environment. You can contact us in Welsh or English.

Dŵr Cymru Cyf. (No./Rhif 2366777)
A limited Company registered in Wales:
Cwmni cyfyngedig wedi'i gofrestru yng Nghymru:

Rydym yn gwmni nid-er-elw. Mae pob ceiniog a wnawn yn mynd i ofalu am eich dŵr a'ch amgylchedd. Cysylltwch a ni yn Gymraeg neu'n Saesneg.

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Llwyd, Fortran Road, St Mellons, Cardiff, CF3 0LT

environment, maintains our high service levels and is affordable not only for our present customers, but also doesn't store up problems (both in terms of service or cost) for our future customers. River water quality is one factor that we have to consider as part of developing this Business Plan. With the wider impact of climate change on our network (i.e. extreme weather events) and our commitment, as one of the biggest energy users in Wales, to becoming a net zero carbon company by 2040, we will not be able to fix all of the issues we face within the next five year period. Working together with our regulators and Government, however, we are confident that we can play our part in making good progress to help improve river water quality but in a way that is proportionate, effective and at a cost that is acceptable to our customers.

In advance of our oral evidence, we provide the following written submission and happy to address any further points Members may wish to raise at the evidence-gathering session on 3 February 2022.

Dŵr Cymru Welsh Water - background

Dŵr Cymru Welsh Water is the statutory water and sewerage undertaker that supplies over three million people in Wales and some adjoining parts of England. As you may be aware, we are the only not-for-profit water company in England and Wales and because we have no shareholders, any financial surpluses are used for the benefit of Welsh Water's customers. Our assets and capital investment are financed by bonds and retained financial surpluses, and this operating model has allowed us to invest an additional £440 million over the past 20 years (money that would have gone to shareholders in most other water companies) in accelerating investment, keeping bills affordable and supporting proportionately more customers to pay their bills than any other water company.

We operate a highly capital-intensive business with an asset base that would cost £30 billion to replace, and which enables us to provide essential service to protect public health. Such an extensive asset base means that we currently invest around £1 million a day in our network and we are investing £1.8 billion over the 5 years to 2025 in our water and wastewater services while also doing all we can to keep bills as affordable as possible for customers.

Our wastewater network

Welsh Water's operating area is the third-largest of the wastewater companies in England and Wales. As we operate in a largely rural area, we have a disproportionately large number of small wastewater assets, many of which are remote. We operate more than 830 wastewater treatment works, over 36,000 kilometres of sewers and around 2,500 Combined Storm Overflows. Most of these assets were built in the last century, with our coastal sewage treatment works being the newest wastewater assets built in the 1990s and early 2000s and the transfer of private sewers and pumping stations in 2011 to Welsh Water completing that picture.

A key challenge for us – as with other water companies – is ensuring that we limit the impact of our work on rivers, seas and the wider environment. We have an extensive environmental footprint and we take this responsibility seriously and are investing £807 million on improving our wastewater assets during our current investment plan (2020-25). This overarching investment plan is supported by a specific National Environment Programme, developed in conjunction with our environmental regulators (Natural Resources Wales) so that we meet the sector specific and wider policy and legislative objectives set by the Welsh Government. Our investment plans, performance targets and the amount of revenue we can raise from customers are regulated and approved by Ofwat.

This investment is influenced by the particular characteristics of our operating area, which differentiates us from other water and sewerage companies, and this should also be borne in mind when considering how we maintain our asset base, and in particular how we provide our wastewater services:

- our operating area is characterised by a relatively long coastline (approx. 15% of Great Britain's coastline), which has implications for our wastewater treatment costs;
- wastewater treatment for the half of our customers who live along the coastline was built post-privatisation and so was financed through customer bills (this is not the case for predominantly-inland companies which did not need to make such an investment after the water sector was privatised, since investment in treatment works discharging to watercourses inland had already taken place);
- we operate across several distinct, rural, mountainous and sparsely populated areas, which means more assets (e.g. treatment works and lengths of pipe) per customer;
- there are a significant number of designated bathing beaches along the long Welsh coastline, which means strict permit levels for wastewater treatment;
- with lots of smaller wastewater treatment works, programmes to deliver environmental upgrades, such as the capability to remove phosphorous, are more expensive and bring technical challenges to small rural works.

These characteristics taken together create a unique set of challenges in providing high quality, wastewater services to our customers. However, these challenges become even more pronounced not only given the ever-increasing customer and regulatory focus on environmental issues but also when considering the wider climatic and socio-economic challenges we face today as a company. These include:

- **climate change**; with more intense storms and rainfall events due to climate change, this is increasing the amount of runoff from impermeable areas that drain to our network. This can often overwhelm many of our traditional assets which were not designed to cope with such extreme weather patterns;
- **climate change – lower summer rainfall**; this is reducing river flows in dry periods and reducing their ability to absorb the treated effluent for our sewage treatment works and still meet their environmental quality objectives;
- **population growth**; the general population has grown significantly which means more wastewater entering our sewers now than ever before; many of our rural works in north and west Wales see very large population fluctuations with holiday makers and second homes.
- **increased consumption** – due to the increased standards of modern living and the availability of more traditional and luxury household appliances, customers now consume more water than ever before which again adds to wastewater already in our sewers;
- **urban creep** - as towns and cities have developed, there is now less green space to absorb surface water. This surface water is often directed into our sewers and runs rapidly off such hard surfaces during rainfall. This is often compounded by local authorities who often make changes to highway and street scene drainage without consulting the water company and this can also add to the level of flows in our sewer networks.

Our performance

Over recent months, river water quality has been the subject of much interest, amid growing awareness that a high quality water environment is essential to support a healthy ecosystem. Our role in this - and in

particular, our Combined Storm Overflows - have been the focus of attention and it is important that whilst improvements and long-term investment is necessary, we also wish to set this against the context of our performance and the need to work with other sectors and customers to improve river water quality.

Wastewater treatment works (WwTW): the performance of our WwTW is critical to ensure that the wastewater we return to rivers, streams and sea is of the highest quality. Our environmental regulators (Natural Resources Wales and the Environment Agency) issue a 'discharge permit' for each site, which sets the standard for how the wastewater needs to be treated before it can be returned to the environment and nearly 99% of wastewater is now treated to the standards set by these permits. A key part of this is removing phosphorus from wastewater and we have invested £56 million to reduce the amount of phosphorus released from 14 wastewater treatment works between 2015 and 2020 and investing a further £70 million in the five years to 2025 in 19 of our treatment works. However, such investment also increases our operating costs, both financially and in terms of carbon – our phosphorus removal programme alone for 2015-20 has increased our operating costs by over £1 million a year, the majority of which can be attributed to increased power, chemical consumption and biosolids handling, all of which increase our carbon footprint.

Pollution incidents: problems with sewers and pumping stations (such as blockages or collapsed sewers) can often cause pollution incidents which can harm the local environment including rivers. These incidents are categorised by our environmental regulators, with each incident ranging from category 1 (serious) to category 3 (less serious). Having been one of the worst performing companies a decade ago, we are now one of the leading companies in terms of the number of pollution incidents. In 2020, 80% of pollutions were caused by blockages, and 74% of pollution incidents are now caused by third parties disposing of inappropriate items in toilets and sewers which subsequently cause blockages.

Combined Storm Overflows (CSOs): these CSOs are overflows built into the sewer or pumping station to release wastewater to stop sewers and treatment works from becoming overwhelmed during periods of heavy rain and backing up into customers' properties. Due to the fact that the majority of the sewer network in Wales was built before the 1970s, it is 'combined', taking rainwater as well as wastewater. The system in Wales has to operate in wetter than UK average climatic conditions, and we have some of the highest numbers of these CSOs per 1,000km of sewer in the industry.

The discharges from these CSOs are regulated via permits issued by our environmental regulators. but we are conscious that we need to better understand how they perform. This is why we have led the industry in terms of investing over £10.5 million in installing Event Duration Monitoring (EDMs) monitors on over 99% of our CSOs. These EDMs tell us when a CSO has discharged and for how long and this is helping improve our understanding of how our assets perform and will inform our work and future investment. We publish all this data on our website and also provide a Real Time CSO Alert Service all year round at 30 bathing sites in Wales which provide real-time information to registered users on when a CSO starts operating and when it stops. We provide this service voluntarily to beach managers, such as the Local Authority, and to Surfers Against Sewage for their Safer Seas Service website and app - and alerts are also sent to Natural Resources Wales.

In their latest data, Natural Resources Wales estimate that CSOs are a confirmed or probable reason for not achieving good status in 4.6% of water bodies. However, while CSOs are mainly operating as designed and permitted, they can discharge more often due to:

- hydraulic overloading from increased flows since the sewer was originally designed. This can be caused: as a result of the connection of additional impermeable surfaces to the sewerage network (housing/business growth and when permeable areas are paved over); from increases in overall rainfall and rainfall intensity due to climate change; from increased population connected to the sewer network; from network issues (e.g. siltation and infiltration) – all this is made worse given the ‘combined’ nature of our sewers which often need to carry surface water and wastewater;
- misconnection of land drainage such as from farmland but also infiltration into the sewer network, whereby water finds its way into the sewer network through cracks or displaced joints in the pipework;
- blockages (over 20,000) caused by ‘unflushable’ items that customers dispose to sewers (e.g. wet wipes or cooking oils). We run a behavioural change campaign every year to educate customers to be careful what they flush or throw away in a bid to reduce the £7 million annual cost of clearing 2,000 blockages a month in our sewers;
- sewer collapses and deterioration of the sewer system

Removing all CSOs and eliminating spills could require duplication of nearly all our existing sewer network and have an estimated cost of between £9 and £14 billion (for comparison, our total investment for all our services is £1.8 billion between 2020 and 2025) and increase customer bills significantly – adding hundreds of pounds to every customer’s bill. Trying to reduce CSO ‘spills’ by using traditional method such as building big concrete storage tanks to hold back the water is carbon intensive, can introduce more odour issues and is difficult to adapt to a changing climate.

Our impact on river water quality

Our investment over the past 20 years and collaboration with stakeholders has played a key role in ensuring that 39.22% of Wales' water bodies are deemed to be in ‘Good or High Ecological Status’ (compared to 16% in England) as assessed under the Water Framework Directive by Natural Resources Wales in 2021.

As a company owned on behalf of customers, it is imperative that any investment we make is evidence-based and in preparing our current Business Plan (2020-25), we developed our largest-ever research programme to ensure that we could understand the impact of our work and where we need to target any investment.

This is also supplemented by wider research on the quality of our inland waters and the latest research by Natural Resources Wales (NRW) [2020] shows that we are not the primary cause for waterbodies failing to achieve ‘good ecological status’. A number of other sectors can be identified to help improve river water quality including: mine waters, livestock management, land management, industrial estates, small sewage discharges (private), drainage misconnections, surface water drainage from developed area and storage – slurry, fuel, oils, chemicals.

We cannot therefore improve river water quality on our own. The need to adopt a collaborative multi-sectoral approach to improve river water quality is evidenced by the Source Apportionment Graphical Information System (SAGIS) water quality modelling we have undertaken in relation to the river Wye and other Welsh freshwater Special Areas of Conservation (SAC). This system, developed and used by regulators and the wider industry, has allowed us to build a virtual representation of the river Wye. It takes data inputs from different sources and sectors and identifies the proportion of phosphorus from

each. The model allows us to test proposed improvements in our sewage treatment works discharges to establish their impact on water quality in the river. SAGIS modelling on the Wye has shown that our assets account for around one third of phosphates in the river, with agriculture and land management being the primary source (this was recently highlighted in the House of Common's Environmental Audit Committee report on Water Quality in Rivers – January 2022). We are working on completing similar modelling work during 2022 for the other 8 SAC rivers in Wales whether they are failing their standard or not.

How are we responding

Nonetheless, we know our assets can impact on river water quality and NRW's research estimates that 22.5% of unique waterbodies in Wales do not or may not achieve 'Good Status' due to the impact of our operations. There are a number of reasons for this but the primary causes relate to the high levels of phosphorous or ammonia in rivers (which is a by-product of wastewater) or diffuse pollution (CSOs can increase the amount pollutants in the receiving water body). It is this data that we use in partnership with our environmental regulators to determine the make-up of our 5-year National Environment Programme investment. This also includes a significant amount of further monitoring and investigations to help move our understanding from those discharges suspected of causing a detriment, to confirm or remove, with typically 5-10% of the programme being spent on further science and investigation work.

We are committed to playing a major role in helping more of Wales' rivers achieve Good Ecological Status (as set out in the Water Framework Directive) and this is a key driver in our current National Environment Programme with £250 million of investment to be made between 2020 and 2025. This work includes:

- **targeted interventions to reduce phosphate levels:** where there is clear evidence that our assets impact on local rivers, we will drive investment to ensure that we play our part to address this issue. For example, we are investing £70 million over the next five years to increase phosphorus removal at wastewater treatment works across the area we serve.
- **collaborate and share learnings with other key stakeholders:** with so many sectors often influencing river water quality, it can sometimes be difficult to have a clear, single, plan to drive improvements. Not every sector has an incentive to collaborate or improve and actions can sometimes prioritise short-term convenience over long-term impact. A case-study in how to overcome this can be seen in the development of the Wye Nutrient Management Plan which was first produced in 2014 by the Environment Agency and Natural England recognising the required phosphorus targets to be met through the activities of a number of different organisations and sectors working together (environmental regulators, council bodies, third sector organisations and Welsh Water) as no single organisation or sector can solve the phosphate issue in isolation. Such an approach has been fundamental in allowing us to identify and prioritise our investment in this area supported by our membership of Herefordshire Council's River Wye Nutrient Management Board - one of the only bodies currently with cross border responsibilities. A similar collaborative approach is being developed for other Welsh SAC rivers and we will support this work.
- **innovative plans to low carbon nature-based solutions to improve river water quality and offset the impact of development:** we are working with the Wye & Usk Foundation and Hereford Council to support measures to remove additional phosphorus from our treated effluent above that

required by their permits by establishing low carbon wetland treatment sites that will offset the impact of development. These will take the form of a series of interconnected ponds that provide a natural filtering process to further improve the quality of water being returned to the river by removing unwanted pollutants and nutrients (e.g. ammonia, nitrogen and phosphorus) naturally whilst also enhancing local biodiversity. The construction of the first of these sites starts in January 2022 and is designed to offset both the impact of the development and deliver a net improvement in water quality. In addition, we plan to pursue similar nature-based solutions in dealing with high spilling CSOs, and we recently received approval from NRW to start constructing such a facility in Pont Y Felin, near Pontypool.

- **evidence-led investment to reduce the reliance on CSOs:** we have developed a new CSO Strategy which sets out our ambition for further reducing the reliance on overflows from the sewer network. This will involve investing over £100 million between now and 2025 to secure a progressive reduction in any adverse impact caused by CSOs on our rivers and seas. We will prioritise those which are having the most significant impact on water quality. For the longer-term, we are working in partnership to produce a CSO Roadmap for Wales (co-designed by Welsh Government, Natural Resources Wales, Ofwat, Hafren Dyfrdwy and Welsh Water) and it is aimed at ensuring that the role of CSOs in Wales is understood, improved, and fit for the 21st century and the challenges we face. We are also developing our first ever comprehensive Drainage and Wastewater Management Plan that looks at how we can work in partnership with stakeholders to reduce the risk of flooding and our impact on the environment between now and 2050.

While factors affecting water quality are wide ranging and varied within catchments, we are fully aware of increasing public concern about the use of CSOs. However, the work involved in reducing our reliance on CSOs should not be underestimated given that the vast majority of our sewer network is ‘combined’. This means that there is usually only one single pipe that collects rainwater that runs off gutters, drains and roads as well as the wastewater from homes and businesses. This reduces the capacity of our network and impacts its primary objective – which is to carry wastewater.

We fully supported the Welsh Government’s ‘Statutory Standards for Sustainable drainage systems introduced in 2016 (ensuring new developments follows good practice using the sustainable drainage (SuDS) approach) as this has reduced the amount of surface water entering our sewer network from new developments compared with previous arrangements. We also supported the Welsh Government’s commencement of schedule 3 of the Flood and Water Management Act which came into effect in January 2019.

The true scale of the challenge involved in retrofitting our network to reduce the volume of surface water entering our sewers and where possible catch, redirect and slow it down, is evidenced by the investment in our award-winning retrofit SuDS scheme (called ‘RainScape’) in Llanelli and Gowerton. To help reduce flooding and improve the water quality in the Loughor Estuary (which was impacted by CSOs operating more often than designed, which in turn was driven by Llanelli seeing almost as much storm water in its network as Swansea, which serves three times the number of properties), we invested £115 million across both areas between 2012 and 2020, laying around 14 miles of new pipework and kerb drainage, building a new tunnel just under one mile long underground to create rainwater sewers and planting almost 10,000 plants and trees in swales, planters and basins. The project delivered a 95% reduction in the

volume spilt from CSOs, reduced the risk of flooding and keeps another 1.5 million cubic metres surface water per year from entering the network.

We have also worked in partnership with Cardiff Council and NRW on a similar scheme, Greener Grangetown, contributing £1 million to remove more than 40,000m³ of rainwater each year from entering the combined sewer network as part of Cardiff's Grangetown urban regeneration project. These schemes demonstrate that there is neither a 'quick fix' nor 'easy fix' to reducing our reliance on CSOs in the short-term as it will take significant investment and collaboration. However, delivered in partnership with others we can deliver greater benefits for the communities we serve than working in isolation.

Summary

- Welsh Water is well advanced in its investment programme which will help reduce the impact of its assets and operations on river water quality. Every 5 years we work with our environmental regulators to scope a National Environment Programme that has led to several hundred million pounds of customers' money being spent on tightening discharges from treatment works, tackling storm water, CSOs and other intermittent discharges to enhance water quality in the last few 5 year business investment cycles or Asset Management Periods (AMP). We also carry out and report on investigations to establish where our operations are having a negative impact on the environment and to help to shape the investment plan for the next AMP in 2025-30.
- We cannot do this alone. Partnership working (between the Welsh Government, regulators, water companies, agriculture, highways and other sectors) is key to improving river water quality and long-term flood protection. For example, removing surface water from the sewer network is essential for reducing spills from the network and restoring capacity to meet future demands. Achieving this will require considerable partnership working with local authorities and financing.
- The work needed to improve river quality is a long-term project and requires support from regulators and Government, similar to the 20 year investment made to improve our coastal waters. To play our part in ensuring that Wales now has a third of the UK's Blue Flags despite only having 15% of Great Britain's coastline (with 100% of bathing waters in our supply area now complying with mandatory requirements compared to 12% in 1990), we have had to invest over £1 billion over successive 5 year AMPs to ensure that we keep bills affordable to 2010 and we have continued to invest our customers money since then. Meeting river water quality objectives or developing new inland bathing waters in a way that is compatible with our zero carbon objects may need similar levels of investment across multiple sectors in the coming decade and in the longer term if these standards are to be maintained.
- Customers can help improve river water quality by not flushing wet wipes and also being mindful of what is disposed in drainage systems which often connect directly to local waterways (which can mean that phosphates or detergents from washing cars will flow directly into rivers). Building on our 'Let's Stop the Block' campaign, we need to transform the public's understanding of water and the water environment, with a particular focus on education, information and support for changing behaviours. This is why we support and await the next steps for the Welsh Government's proposal to ban single use plastic as this will help limit wipes and other 'un-

flushable' material being flushed. This is key to reducing the amount of litter that enters the sewer network, causing blockages and polluting the water environment.

All this presents an opportunity to adopt a 'Team Wales' approach in our desire to ensure that our next National Environment Programme for 2025-30 continues to work for Wales and enables us to continue to play our part in protecting the environment during this 'decade of action' as described by the First Minister Mark Drakeford.

We take all our responsibilities seriously, especially our duty to protect the environment and river water quality and we are pleased that we secured the top 4* Environmental Performance Assessment rating in July 2021 after successfully meeting or exceeding targets set for our environmental performance as measured by our environmental regulators, by Natural Resources Wales and Environment Agency.

We remain fully committed to doing everything we can to protect and improve the water environment, and our ambitions are driven by our desire to ensure that we can continue to provide the most essential of public services in the face of significant climatic, economic and social challenges and also that as environmental guardians, we leave the environment in a better state for future generations.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S.Wilson', with a horizontal line extending to the right.

Steve Wilson,

Managing Director, Wastewater Services, Welsh Water

Agenda Item 4.1

**Pwyllgor Deddfwriaeth,
Cyfiawnder a'r Cyfansoddiad**

—

Legislation, Justice and Constitution Committee

Senedd Cymru

Bae Caerdydd, Caerdydd, CF99 1SN
SeneddDCC@senedd.cymru
senedd.cymru/SeneddDCC
0300 200 6565

—

Welsh Parliament

Cardiff Bay, Cardiff, CF99 1SN
SeneddLJC@senedd.wales
senedd.wales/SeneddLJC
0300 200 6565

Lesley Griffiths MS
Minister for Rural Affairs and North Wales, and
Trefnydd

21 January 2022

Dear Lesley

The Official Controls (Extension of Transitional Periods) (Amendment) (No. 2) Regulations 2021

During our meeting on 10 January 2022 we considered your letter dated 20 December 2021 regarding your giving of consent to the UK Government making The Official Controls (Extension of Transitional Periods) (Amendment) (No. 2) Regulations 2021.

We noted with concern your assessment that the Regulations "raise questions in relation to the WTO and the Trade and Cooperation Agreement" but that you are "satisfied that these risks do not fall to Welsh Ministers."

As you will be aware, the Senedd and the Welsh Ministers are required to comply with international obligations by the devolution settlement and the Welsh Government's Ministerial Code.

In the Fifth Senedd, the then Counsel General and Minister for European Transition, Jeremy Miles, told the Fifth Senedd's Legislation, Justice and Constitution Committee that:

"It is inconceivable that the [Welsh] Government would recommend to the Senedd a piece of legislation that breaches international law, Chair. There's no question of that."

We therefore would welcome further clarification on the statements made in your letter and whether or not they are a departure from the position set out earlier in the EU Exit process to our predecessor committee by the previous Welsh Government.



We therefore would be grateful if you would clarify the following:

- Does the Welsh Government consider that these Regulations constitute a breach of the UK's international obligations?
- Whether the Welsh Government considers these Regulations are inconsistent with international agreements and, if so, which ones?
- Could you confirm that your concerns have been raised with the UK Government? If so, could you detail the nature of those discussions?
- What consideration has been given within the Welsh Government of the implications of its support for legislation that potentially constitutes a breach of the UK's international obligations and its own Ministerial Code, which explicitly lists compliance with "international law and treaty obligations"?

I am copying this letter to the Minister for the Economy, the Counsel General and Minister for the Constitution, the Minister for Climate Change, the Deputy Minister for Mental Health and Wellbeing, and the Chair of the Climate Change, Environment and Infrastructure Committee.

I would be grateful to receive your response by 1 February 2022.

Yours sincerely,

A handwritten signature in black ink that reads "Huw Irranca-Davies". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Huw Irranca-Davies
Chair

Agenda Item 4.2

Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS Chair,
Legislation, Justice and Constitution Committee
Senedd Cymru
SeneddLJC@senedd.wales

25 January 2022

Dear Huw,

The Pesticides (Revocation) (EU Exit) Regulations 2022

The above titled SI revokes retained direct EU legislation relating to pesticides, and in particular, legislation relating to plant protection products and maximum residue levels which are redundant retained EU law.

The effect of SI is to revoke redundant retained direct EU legislation which forms part of the plant protection product (“PPP”) and maximum residue level (“MRL”) regulatory regimes, so that these regimes can continue to operate effectively following the end of the implementation period. The revocations concern direct EU legislation which came into force towards the end of the implementation period (and so was not addressed by the earlier EU Exit SIs) and which is given effect in Great Britain through transitional provisions in the earlier EU Exit SIs and the national statutory registers. As a result, the retained direct EU legislation to be revoked is no longer required.

The SI is subject to the negative procedure, and was laid before Parliament on 18 January 2022 with a commencement date of 4 April 2022.

Although the Welsh Government’s general principle is that the law relating to devolved matters should be made and amended in Wales, on this occasion given the policy alignment between all three governments, and the clear advantages given the subject matter of the law relating to England, Scotland and Wales being accessible in a single instrument, I consider that legislating separately for Wales would be neither the most appropriate way to give effect to the necessary changes nor a prudent use of Welsh Government resources given other important priorities.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Julie.James@llyw.cymru
Correspondence.Julie.James@gov.Wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

I am therefore writing to you to let you know I have given my consent, to the Secretary of State to make this SI in relation to Wales. I have laid a Written Statement, which can be found at:

<https://senedd.wales/media/hu5pxuh4/ws-ld14873-e.pdf>

I am copying this letter to Climate Change, Environment, and Infrastructure Committee, SeneddClimate@senedd.wales and Economy, Trade, and Rural Affairs Committee, SeneddEconomy@senedd.wales for their information.

Yours sincerely

A handwritten signature in blue ink that reads "Julie James". The signature is written in a cursive style with a large initial 'J'.

Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change

Agenda Item 4.3



Cyswllt Amgylchedd
Cymru | Wales
Environment Link

Consultation response: Draft Budget 2022-202 January 2022

Introduction

We appreciate that it's out of Welsh Government's control as to when the budget can be laid, due to the UK Government's timetables, but we should highlight that this response is only a surface analysis, as we haven't had enough time to dig into the detail. If this looks to continue to the case in the forthcoming years, there are concerns that stakeholders will only be able to perform scrutiny on the 'surface' of the budget as it is a complex piece of work, and what matters most are the intention behind the spending and whether actual outcomes address the climate and nature crisis.

Tackling the climate and nature crisis

Whilst we consider the climate and nature crisis as one – both sides of which should be given equal political priority and importance – tackling them does often require different mechanisms. Some actions can help both reduce carbon and restore nature, but to declare that there is £1.8bn set for “*Wales' response to the climate and nature emergency*”, when in reality, much of that appears to be to help reduce carbon and will not have any knock on effects to benefit nature. This isn't to criticise carbon-reducing areas of spend; this is very welcome and necessary, but it would be disingenuous and misleading to describe this much being put towards nature.

The Welsh Government's press release sets out that £160m of this is revenue, with the rest all amounting to capital investment. Again, whilst this is needed – and we welcome active travel, flooding prevention (nature-based, we hope, is being prioritised although this is impossible to tell through broad BELs), and decarbonising housing – none of this will help restore nature. It is urgent we reduce our emissions but equally urgent we restore nature before it's too late to save. The helpful [budget breakdown diagram](#) from Senedd Research also highlights that spending to 'Deliver nature conservation and forestry policies and local environment improvement' amounts to less than is spent on roads, housing or flooding.

It's also unclear whether this is a way of repurposing spend that would have taken place regardless of the Senedd and Welsh Government's recognition and declaration of climate & nature emergencies; e.g. money has been spent on active travel infrastructure for some time, can this really be described accurately as money that wouldn't have been allocated without these declarations? It appears to be more of a re-labelling of existing spend, which doesn't help us to break down what has changed or been re-prioritised over the years. In addition, spending money that helps us to avoid further carbon emissions is just avoiding emissions that are not now, nor never were, sustainable. This is more about reversing and slowing down our carbon output, rather than radical systemic change across the board. We also need to ensure that spending across all MEGs translates to a sustainable and circular economy, without causing damage to nature inadvertently.

The Wales Infrastructure Investment Strategy does recognise that not all supposed 'green spend' can necessarily benefit nature, affirming: *"It is important to recognise that "green" investment is not one homogenous theme and that, in many cases, investment that is beneficial in one aspect can have negative impacts on others. For example, the planting of large mono-cultural forests is likely to be beneficial in terms of carbon sequestration but, if replacing a previously natural environment, could be damaging to biodiversity. Therefore, investment decisions need to be considered in light of the trade-offs"*.

We would urge for this to be embedded in all public decision making, to be 'mindful of the trade-offs'. For example, with £4m being put to marine energy (followed by £10m planned for the following two years), this could greatly help to reduce our carbon from non-renewable energy, but if deployed in sensitive marine habitats, could harm nature and certainly put marine wildlife at risk or under pressure, therefore attempting to help climate whilst damaging nature. We need to be extremely alive to this, so that we don't exacerbate one problem by trying to fix another.

The best examples we can find in the budget of direct spending on restoring nature are: the Nature Networks programme (which is especially welcome as it's something our members have been asking for, for some time), the Local Places for Nature

programme, investment in restoring peatland (although not enough for the scale of the task, but a good start) and Natur Am Byth, an extremely positive project of species-specific actions. The National Forest and new National Park plans are also exciting opportunities to make the most of the public and publicly managed estate, for the good of nature and people. It remains unclear how these broad BELs end up being divided between different programmes, and we'd welcome a breakdown of key programmes and which BELs they'd fall under. For example, the Access Improvement Grant for local authorities is likely under the 'Landscape and Outdoor Recreation BEL', but without a breakdown, we cannot tell if it's increased, decreased or remained at its previous level.

The complexity of the exact spend would need to be set out for us to make a call on how beneficial this investment will be for nature directly. For example, the Budget Narrative cites *"an additional £12m of revenue and a total capital investment of £57m in the National Forest and Welsh Timber Strategy up to 2024-25"* which will also *"support the creation of 30 new woodlands"*. A forest by itself may not be the most beneficial, but if done right, will do well for nature. However, this is tied up in the narrative with the Welsh Timber Strategy, which may not be so good for nature and may just be a way for Wales to exploit timber as a natural resource. So how things are done is extremely important, not just that there's money there for something in that area.

Multi-year spending

We do very much welcome the multi-year budget, and we hope this will help us to track developments consistently and would implore for the Welsh Government not to change MEGs or BELs dramatically in between budgets, so that it's easier for stakeholders – and indeed, the general public, who should be able to access such information if they wish – to analyse and track.

This should help departments and all public bodies funded by Welsh Government to plan ahead better too. We also noted: *"In addition to the unhypothecated settlement we expect to provide over £1bn in revenue grants 2022-23, including some specific funding, to support local authorities to continue to change services to respond to the nature and climate emergency."* We are keen to know if there are any parameters on how this funding is used, as it's difficult to ensure that national-level policy truly

embeds at the local authority level as it's their decisions that will have the biggest impact on nature locally for communities. We would also welcome a steer from Ministers to ensure councils are evaluating long-standing projects through a 'climate & nature emergency lens', as many have been going through the planning process for a long time and wouldn't have considered the environment as such a priority during those earlier stages. We need to re-assess all council planning decisions within these parameters (much like all roads were re-evaluated, which was very appreciated in the eNGO sector), and not rely on historic decisions made lacking this perspective. The Welsh Government did this itself with its decision on the M4 relief road, which we hugely welcomed, but situations like building on Cardiff's valuable and nature-rich Northern Meadows are still going ahead, despite Cardiff Council declaring their own nature emergency.

Specific funding lines

We've outlined some headline responses to the below funding lines:

- £5.3m revenue for forestry, alongside £9m of capital. It isn't clear how this will be allocated for woodland creation, although we hope a large amount will be benefitting nature and not just the timber industry. Ultimately, land use and its outcomes is complex, but fundamentally we want to see commitments in protecting habitats, and funding ring-fenced for restoring nature.
- Landscape & Outdoor Recreation (under the action of 'Promote and support protected landscapes, wider access to green space'), set at revenue of £12.4m for 2022/23 which is a slight increase from last year's £11.4m. This is set to stay the same for the next three years, along with £5m for capital. We'd be interested to know if this is the budget line under which the new National Park will be developed from in north-east Wales.
- The BEL for 'Marine Policy, Evidence and Funding' is set to stay the same as last year, and for the next 3 years, at £1.9m. Given the need to increase monitoring of the marine environment, and with MCZs expected to be designated at some point this term, it's worrying that the Welsh

Government doesn't anticipate marine evidence needing to increase in resource and this doesn't bode well for seeing improvements in our seas.

- The Rural Affairs MEG is set to increase, from £355m this year, to an indicative £418m for 2023/24, and £440m for 2024/25. Farming needs to be supported throughout the transition away from basic payments (by 2025) to the new Sustainable Farming Scheme. But we do query how and what the Welsh Government plans to do in the interim few years to help farmers prepare for this change. We would endorse piloting parts of the SFS as early as possible and introducing elements of it throughout the next few years so it doesn't come in just one fell swoop. And under which BEL would the future stability payments – committed to in the Labour/Plaid Coop Agreement – come out of?
- In terms of the circular economy, £5m is allocated for 'sustaining and improving recycling rates', with £0.5m to abolish commonly littered single use plastic items and a £160m capital investment in circular economy up to 2024-25, including 80 reuse and repair hubs in town centres. This is all very welcome, but actually in this arena, the key thing we need isn't so much investment as legislation. We are still awaiting the banning of single-use items, and now the Environment Act has passed in Westminster, Wales has the powers to finally move forward on this agenda. We would urge the Welsh Government to prioritise action on this and to move to reuse as the priority, not just recycling. We need a Deposit Return Scheme and single-use problematic items banned where possible, levied when not. We will not move to a circular economy by just focusing on recycling. That is still not using resources as well as we need to be.

Wales Environment Link (WEL) is a network of environmental, countryside and heritage Non-Governmental Organisations in Wales. WEL is a respected intermediary body connecting the government and the environmental NGO sector. Our vision is a thriving Welsh environment for future generations.

This paper represents the consensus view of a group of WEL members working in this specialist area. Members may also produce information individually in order to raise more detailed issues that are important to their particular organisation.



Swyddfa Caerdydd
 Tramshed Tech
 Uned D, Stryd Pendyris Caerdydd CF11 6BH
 F: 07498 228066 | E: enquiry@waleslink.org
 Trydar: @WalesLink

Cardiff Office
 Tramshed Tech
 Unit D, Pendyris Street, Cardiff CF11 6BH
 T: 07498 228066 | E: enquiry@waleslink.org
 Twitter: @WalesLink

www.waleslink.org

Pack Page 45

Agenda Item 4.4

Additional evidence from Marine Energy Wales following their evidence session in relation to Marine Environment Management at the Climate Change, Environment and Infrastructure Committee meeting on 9 December 2021

Additional information around social licensing:

In the course of the session we were discussing the challenges of engaging stakeholders and getting buy in to projects from local communities which is not just a renewable energy issue (case in point – the Seagrass Ocean Rescue project was delayed by 6 months due to local community concerns about planting a meadow). WWF were a partner in the seagrass project and are now pursuing an Integrated Multi Trophic Aquaculture project in Pembrokeshire and intend to use Social Licensing principles to support project development.

The attached is the most comprehensive detail that I've been provided, but the context for this at the Car Y Mor (CYM) <https://carymor.wales/> project in St David's is as follows;

Seaweed farms perform important ecosystem services taking up excess CO₂, N, P from our bays and inlets and increasing biodiversity through the provision of sheltered habitat. They create highly nutritious food and feed products and important bio feedstocks (fermentation, bioplastics) without the need for arable land, fresh water, fertilizers, or pesticides. Seaweed farms provide opportunities for coastal communities, providing a means of revenue diversification for fishing and coastal community families. Farming reduces the pressure on ecologically critical wild seaweed beds. Seaweed farming has the potential to allow significant changes to the way the world produces food and contributes to addressing the Triple Challenge. The products from seaweed can be used to replace a significant portion of our food products with sustainable ingredients and lead to climate mitigation and an increase in marine biodiversity. As an island, the UK has significant opportunities to develop seaweed farming.

However, there is an increasing recognition that social opposition to aquaculture operations and operators is inhibiting the growth of the industry. Seaweed aquaculture is a potential component of sustainable "Blue Growth", and it is thus imperative to understand industry-community interactions for this sector. In addition there is a need to identify steps that can be taken to develop positive relationships between, on the one hand, seaweed cultivation activities and operators, and, on the other hand, local communities, communities of interest, and other stakeholders.

Key project outcomes/ links:

- WWF US focus on social licensing issues and the related issue of investigating ecosystem services of seaweed farming. The case study work with Car Y Mor is based around this and linked to further ecosystem evidence work
- Assessing stakeholder engagement / community awareness and understanding about local buy in and participation in planning.
- Aiming to address questions like
 - To what extent do people in the area know what is going on, can give feedback and if necessary, complain.
 - How are local fishing communities engaged
 - Do they had an opportunity to input to plans and to influence the approaches being used?
 - Does this change the use/feel/look of the area?
 - What is the plan for working with local organisations to ensure there is local sustainability built in – training etc... re. scaling up and sharing their model
 - What opposition/support is there from other local businesses or fishermen? Is there support from the community – and if so how broad is that?
 - What gov agencies have been involved?

WWF are also active on another project Plants Beyond Land (PEBL)

<https://www.plantsbeyondland.com/>

Across CYM and PEBL, the teams are focussing on ecological monitoring to build the evidence case of the ecosystem service benefits and to prove limited negative environmental impact of seaweed farms. This then feeds into the awareness/engagement work detailed above. CYM is then working with Pembrokeshire Coastal Forum on a) identifying the key stakeholders and community that need to be engaged to build support for CYM; b) assessing the engagement to date; c) developing and implementing a stakeholder engagement plan to build support for CYM and it's plans to scale up production.

If you'd like to pick up with the WWF team directly the best contact is

pnelson@wwf.org.uk – Penny Nelson.

Hope this helps. As MEW we are keeping a watching brief for learning that we can carry across to the MRE sector, as undoubtedly this is going to be an increasingly challenging area!

Rt Hon Mark Drakeford MS
Welsh Government
Tŷ Hywel
Cardiff Bay
CF99 1NA

17 January | 2022

CC: Minister for Climate Change, Julie James and Deputy Minister, Lee Waters

Dear First Minister,

Following COP 26, and in the build up to the delayed 15th COP of the Convention on Biological Diversity, we write to outline some areas for swift action by the Welsh Government in response to the nature and climate emergency. Time is running out to truly turn a corner on tackling nature's dramatic decline and to keep climate change to a level that humanity can equally and inclusively survive. Whilst the commitments secured at COP 26 are important, we know that they amount to nothing without meaningful action to follow. We have seen world class leadership already from your office, through the Welsh Government's review of new road schemes.

However, the scale and pace of action needed to address the nature crisis is not in place. With COP 15 taking place this year; it is vital that Wales leads the way with strong ambitions and legally binding targets for nature's recovery, including achieving a 'nature positive' Wales by halting and starting to reverse biodiversity loss by 2030.

Wales Environment Link (WEL) members have long championed the importance of tackling the climate and nature crises together, to maximise outcomes for climate, nature and people. Protecting and restoring nature – by addressing multiple drivers of nature loss – will help us adapt to climate change and it must happen in parallel to an urgent fossil fuel phase out and economy-wide emissions reductions. The [Senedd's declaration of a nature emergency](#) was a landmark moment for Wales, recognising the

parity needed between actions to tackle climate change and those taken to tackle biodiversity loss. At the same time, the [joint report](#) from IPBES and IPCC underlined that, to be successful, we must address these together.

We welcome the Welsh Government's promise to make climate and nature central to all its policies, and the commitments made in the Net Zero Wales Plan. However, WEL believes more needs to be done, and at a pace, to realise the ambitions and targets we have set to keep Wales within 1.5 degrees and reverse nature loss. To bring people with us on this journey, it is vital that the environmental sector is supported to continue education efforts in schools and communities across Wales. Similarly, we welcome the commitment to Zero Waste and the ambitions for the Circular Economy and investment in prevention efforts which moves us 'beyond recycling'.

This letter sets out some key areas we believe the Welsh Government's needs to swiftly implement in order to demonstrate that leadership.

- 1. Increase the scale and pace of investment to protect and restore peatland in line with the recommendations of the UK Committee on Climate Change (UKCCC).** Wales has 90,000 hectares of peatland, but a large proportion of this is in unfavourable condition. Although we welcome your pledge to restore 800-900 ha per annum, it would take over 100 years to restore all peatland in Wales at this pace. As peat is five times more effective at storing carbon than trees, we would like to see this recognised in an increase in scale and pace of restoration.
- 2. Support a UK ban on the use of peat for horticultural purposes and cease procurement as a matter of urgency, along with an immediate ban on burning upland peat.** Although Wales doesn't extract peat, we do use horticultural peat in volume bags and as a plant medium. According to the Horticultural Trades Association, in 2020 our UK usage amounted to 2.29 million cubic metres of peat for growing media. Welsh Government and public bodies in Wales can act now by stopping procuring peat-based composts.
- 3. Embed and fund climate, nature and public access objectives in farming policy and support schemes.** This is a once in a lifetime opportunity to ensure that National Minimum Standards and future farm payments tackle the climate and nature crisis, as well as increasing public access to nature. It's imperative that

the Sustainable Farming Scheme doesn't simply pay land managers to continue with business as usual but delivers on the Welsh Government's commitment to pay public money for public goods.

- 4. Recognise the importance of equal access to quality green space for public well-being in towns and in the countryside.** As we have recognised with all the more urgency during the pandemic, access to nature is crucial to wellbeing, as well as increasing people's learning about, and personal investment in, the nature we're all trying to save. Good quality access to nature is crucial in galvanising public interest and understanding about the environment, and provides inspiration for members of the public to take personal action. High quality green and blue spaces are equally crucial for our urban environments. Nature on our doorsteps is not only beneficial for biodiversity but also to mental health, wellbeing and inward investment which support the social justice agenda. We have a big opportunity to improve access to the countryside as part of the Welsh Sustainable Farming Scheme and National Minimum Standards for farming.
- 5. Ensure that our protected sites network is large enough and sufficiently well managed to protect climate-critical habitats and species, and carbon stored within them.** The Welsh Government's commitment to the emerging global target to protect 30% of land and sea for nature by 2030 is very welcome. But protection alone is not sufficient; there needs to be a commitment to appropriately manage both land and sea to enable nature to recover. We need urgent investment, and have welcomed new funding allocated to nature networks, but this is just the start of the resourcing needed to meet the scale of the challenge. The Welsh Government should also focus on opportunities to manage the public estate for nature, along with land brought into initiatives such as the Wales National Forest. Nature recovery will not be achieved solely through protected sites and the 30x30 target; action to improve ecosystem resilience is needed across the entirety of Wales's land and seas. We also need to see all wild places with some form of protection, to prevent them disappearing.
- 6. Increase protection of the marine environment and restore key habitats and species, as well as harnessing the sea's carbon-storing potential.** We need to

make marine wildlife a higher priority, and ensure ambitions for renewable energy development are delivered in harmony with nature, i.e. informed by cumulative impact assessments within a spatial development plan. Fishing practices that disturb the seabed – which is under-valued, both sequestering carbon and supporting marine life – must be better managed. Wales should also better recognize the importance of cetaceans, not only for their own sake, but also for their ecosystem regulating functions (as set out in this [IWC Resolution](#)).

- 7. Set ambitious, legally binding, long-term and interim targets for nature recovery, giving parity to efforts to tackle the nature and climate crisis.** As one of the most [nature-depleted countries in the world](#), Wales needs to lead the way on setting targets that will drive action and prevent another ‘Lost Decade’ for nature. Legislation for environmental governance and nature recovery targets must be a priority for the Senedd in 2022 to avoid Wales falling further behind other UK nations in terms of progress and ambition to safeguard and improve our natural environment.

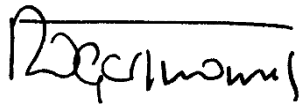
- 8. Get tree planting right – set ambitious targets for restoring habitats including a major expansion in tree canopy cover, in line with recommendations of the UKCCC.** To achieve this, and in delivering the National Forest, Wales needs more diversity in its forestry and timber economy, and to seize the opportunity to support agroforestry. More than half of new tree cover needs to be of native trees to maximise public goods, benefits for nature and long-term carbon storage. This must include further investment in our Celtic Rainforest; Wales’s Atlantic oak woods are globally significant. To ensure woodland creation delivers real benefit it must comply with the basic principle of the right tree, in the right place, for the right reason.

As organisations focused on the practical delivery of nature-based solutions to climate, we are keen to continue to work closely with Welsh Government and other partners. We wish to identify ways in which we can support accelerated and high-quality on-the-ground delivery of nature-based solutions; restoring and protecting green and wild spaces; and working together on initiatives like the National Forest.

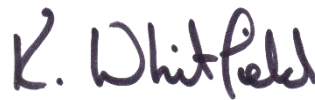
The coming year is critical; COP 15 must set ambitious goals for nature while COP 27 will be vital in securing further commitments to strengthen the delivery of Nationally

Determined Contributions, and to close the gap to 1.5 degrees. As leaders in Wales, your commitment to acting for climate and nature now will be essential to inspire community led action, to the benefit all of society.

Yours sincerely,



Roger Thomas
Chair



Karen Whitfield
Joint Director



Susan Evans
Joint Director

Supported by all members of Wales Environment Link



Swyddfa Caerdydd
Tramshed Tech
Uned D, Stryd Pendyris Caerdydd CF11 6BH
F: 07498 228066 | E: enquiry@waleslink.org
Trydar: @WalesLink

Cardiff Office
Tramshed Tech
Unit D, Pendyris Street, Cardiff CF11 6BH
T: 07498 228066 | E: enquiry@waleslink.org
Twitter: @WalesLink

www.waleslink.org

Agenda Item 4.6

Mabon ap Gwynfor

Aelod o'r Senedd dros
Ddwyfor Meirionnydd

Member of the Senedd for
Dwyfor Meirionnydd

Senedd Cymru

Bae Caerdydd, Caerdydd, CF99 1SN
Mabon.ap.Gwynfor@senedd.cymru
<https://senedd.cymru/pobl/mabon-ap-gwynfor-as/>

Welsh Parliament

Cardiff Bay, Cardiff, CF99 1SN
Mabon.ap.Gwynfor@senedd.wales
senedd.wales/Name
<https://senedd.wales/people/mabon-ap-gwynfor-ms/>

0300 200 6565 

@mabon.ap 

@mabonapgwynfor 

/mabonplaidcymru 

Dear Llyr

I'd like to draw your attention and the attention of the Climate Change, Environment and Infrastructure Committee to the Welsh Government's Roads Review, and specifically the Scope of the review within it's Terms of Reference: <https://gov.wales/roads-review-panel/terms-reference>

It states:

The Welsh Ministers wish this to be as broad an exercise as reasonably possible so that it is able to develop criteria that are applicable to all future schemes. The general scope of the review is to include all proposed road investment, whether funded directly by Welsh Government (WG) on the Strategic Road Network (SRN) or indirectly by grant on the Local Road Network (LRN), subject to the following:...

3. Access roads with the primary purpose of linking a site or premises for heavy industry to the public highway, or within the boundary of a heavy industry development site, will be excluded from the review. Access roads with the primary purpose of serving residential, retail and light office / light industrial developments should be paused at the next decision gateway to allow them to be considered by the review panel.

Access roads to heavy industry, or within the boundary of heavy industry development sites are exempt from the review, while lighter access roads, to serve residential and light industry are included within the review.

This seems contradictory to the ambition of the review. Heavy industry is far more polluting than new residential developments and light industry. This policy on the face of it will allow polluting practices to continue, while working against the development of more environmentally friendly, less polluting industry.

It is, in my view, worth the time of the committee to call the Minister to explain the rationale and the science behind this decision.

I believe that it would also be worthwhile to challenge the Government on how this review fits the development of both the A465 and A4119.

I hope the committee will consider this request favourably.

Yours Sincerely



Agenda Item 4.7

**Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith:
Correspondence (via e-mail) from Non Davies, Joseph Jones, Dr Jonathan F Dean, Kate Watson and Clive Goodridge regarding the Committee's consideration of concerns raised in relation to the Welsh Government's Future Wales: the national plan 2040.**

Members of the Climate Change, Environment and Infrastructure Committee

At a time when confidence in aspects of UK politics is at an all-time low, it is critical that the integrity and transparency of the Senedd, its members and committees is upheld, and that justice is not only done but also seen to be done.

We write to express our extreme disappointment at the consideration given by your committee, and the subsequent response by the relevant Minister, to the complex and detailed concerns we submitted in respect of the development and scrutiny of The Future Wales: National Plan 2040. These concerns are directly related to the policy itself rather than application specific and are of national application and significance:

<https://business.senedd.wales/documents/g12486/Public%20reports%20pack%20Thursday%2009-Dec-2021%2009.15%20Climate%20Change%20Environment%20and%20Infrastructure%20Co.pdf?T=10>

We are disappointed with the content and lack of detail in the letter sent by the Committee to the Minister, which in turn invites a superficial and general response from the Minister which fails to address the specific concerns including the lack of consultation in the development of the policy (FOI requests and consultation support this view); the lack of guidance and implications thereof and the failure to apply the HM Treasury Guidance known as the Green Book.

We request again that you consider these matters and look forward to your detailed response in addressing them.

Thanking you for your co-operation in this matter,

Yours sincerely

Non Davies
Joseph Jones
Dr Jonathan F Dean
Kate Watson
Clive Goodridge

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Agenda Item 9

By virtue of paragraph(s) vi of Standing Order 17.42

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