



David Melding AM  
Chair  
Constitutional and Legislative Affairs Committee  
The National Assembly for Wales  
Tŷ Hywel  
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Dear David

#### **New Draft Second Order to create Natural Resources Wales (NRW)**

I understand that the Constitutional and Legislative Affairs Committee is currently scrutinising the Final Draft Second Order (laid on 15<sup>th</sup> November) to establish Natural Resources Wales (NRW). RSPB Cymru has taken a keen interest in the process to create this new body as it will determine how the environment in Wales will be managed and protected in the future.

I am therefore writing to you to make you aware that RSPB Cymru has significant serious concerns regarding the current draft Second Order. Primarily we are concerned that the Nature Conservation & Natural Beauty duties, are weaker than the current situation. In light of the importance we attribute to getting the legislation right first time, we have sought legal advice on the Order and we believe that the Nature Conservation duty, particularly when combined with the ambiguous statutory purpose, results in weaker duties for NRW than those currently applying to CCW. As a consequence, it is our view, that this draft Second Order is legally non-compliant with the Public Bodies Act 2011 as it removes "necessary protection" for the wildlife and natural environment of Wales. A further area of concern is the lack of detail on how decision-making within the new body will be open and transparent.

The current EC infraction against the UK with respect to the licensing of Pembroke gas-fired Power Station, as recently revealed by the BBC, shines a spotlight on these two key concerns, drawing attention to the risks for Welsh Government in failing to properly take nature conservation into account. Firstly, it emphasises the need for Welsh Government to have access to and use robust and clear advice from its advisors on nature conservation. Consequently, we believe that by putting caveats and other considerations (e.g. economic factors) into NRW's conservation duties and purpose, WG may not get that robust or clear advice and therefore would be at risk of further and potentially more frequent infraction proceedings. NRW must have strong and clear nature conservation duties and statutory purpose. The current CCW nature conservation duties provide the baseline.

Secondly, the differences in advice from the statutory advisory bodies (CCW and EAW) on Pembroke Power Station were publicly available. The result was it was clear where the disagreements lay and which advice was accepted and which was not taken into account when the decisions were made. Therefore, we are concerned that when CCW's and EAW's functions are subsumed into NRW that without a clear process put

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