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Llywodraeth Cymru
Welsh Government

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Chair
Environment and Sustainability Committee

 October 2014

Dear Alun Ffred,

Actions points arising from the scrutiny session of 17 September 2014

Further to the email from the Committee Clerk on 30 September, I am delighted to provide a response to the action points raised during my appearance before the Committee last month.

During the scrutiny session I agreed to provide further information on issues regarding biodiversity, shale gas/fracking, the Ynni'r Fro programme, Natural Resources Wales Crown exemption and the Water Strategy. The specific actions raised by the Committee, together with my responses, are available in Annex 1.

I trust that I have addressed the Committee's queries in full and I look forward to working closely with you in the future.

Yours sincerely



Carl Sargeant AC / AM
Y Gweinidog Cyfoeth Naturiol
Minister for Natural Resources

**Actions points arising from the Environment and Sustainability Committee Scrutiny
Session of 17 September 2014**

1. *Write to the Committee to provide a comprehensive note on the biodiversity policy agenda.*

The Wales Biodiversity Strategy Board (WGSB), comprising representatives from Welsh Government, Natural Resources Wales (NRW), Farming Unions, environmental Non Governmental Organisations (NGOs), which include RSPB and the Wildlife Trusts, the Welsh Local Government Association, and marine and forestry sectors, has been working together over the last year to produce the consultation on the Nature Recovery Plan which was launched in September. I intend to publish the final version of the plan in 2015.

The Nature Recovery Plan is set within the overall context of Natural Resource Management. This approach follows the long term policy direction which received wide support through the earlier Green and White Paper consultations.

The ambition of the Nature Recovery Plan is 'to reverse the decline in biodiversity and ensure lasting benefits to society by building the resilience of our ecosystems, by focusing on effective natural resource management'.

Natural Resource Management as set out in the Environment Bill White Paper is a more joined-up approach to the planning and management of natural resources, to improve the resilience of our natural resources and the services they provide.

Taking a sustainable approach to the management of our natural resources recognises the dependence of our society and our economy on our natural resources and vice versa. This is as key to enhancing biodiversity as it is to supporting green growth.

The Environment (Wales) Bill will provide the legislative framework to manage our natural resources in a joined up way and provide NRW with new powers to enable them to lead this work.

NRW is already developing the practical and operational arrangements to help meet its purpose of ensuring that our environment and natural resources are sustainably maintained, enhanced and used. The Environment Bill will introduce a requirement for NRW to publish a State of Natural Resources Report and Area Statements, which will guide the way in which we manage our natural resources to deliver long-term economic, social and environmental benefit for Wales.

I anticipate that the targets and actions for biodiversity within the Nature Recovery Plan will focus on strengthening our knowledge base, prioritising needs and increasing engagement. This will support the development of the National Natural Resource Policy and Area Statements.

The Environment Bill will set out a requirement for Welsh Ministers to produce a National Natural Resource Policy. This will set out the key priorities and the way in which the individual policies, such as Water and Biodiversity, work together to improve our environment, tackle key challenges and deliver social and economic benefit.

2. Consider publishing the report of the audit undertaken into biodiversity actions carried out by Government departments.

Following the inquiry into biodiversity in Wales by the then Sustainability Committee in 2011, a biodiversity audit was carried out within Welsh Government. Each department described its contribution in support of the Government's aspiration to halt biodiversity loss, and where this could be strengthened. I am content to publish the contents of this report.

The audit showed that biodiversity action was being taken throughout Welsh Government and that consideration of biodiversity had penetrated effectively where Government Departments were undertaking activities that had a direct impact on biodiversity. However, there is more work to do, for example, with regard to the management of our own estate and the continued integration of biodiversity into policy development, as set out in the proposed actions of the Nature Recovery Plan.

The Nature Recovery Plan will continue to put an emphasis on integrating biodiversity throughout our policies and strategies, and the Natural Resource Management programme has already started this process. An evaluation of the biodiversity action needed will be undertaken under the Nature Recovery Plan.

3. Consider providing the Committee with the key performance indicators/baseline data that will be used to measure the outcomes of the Nature Recovery Plan.

The key performance indicators and baseline data will be developed as part of the final version of the Nature Recovery Plan. I am currently considering the applications received under the Nature Fund and will write to the Committee with more details shortly.

- 4. Write to the Committee with further information on the points raised by Committee members regarding shale gas/fracking.**
- 5. Consider making an updated statement on the Government's position on shale gas/fracking.**
- 6. Provide the Committee with the flowchart used by Government relating to the planning processes surrounding fracking.**

The actions recorded under points 4 to 6 are covered within the following update on unconventional gas.

Energy Wales: A Low Carbon Transition describes the commitment of Welsh Government to act now for Wales' long term energy future and to position Wales at the forefront of key innovation, research and development in the areas of greatest potential.

Welsh Government is committed to move to a low carbon energy system but recognises this will take time. We also recognise the importance of indigenous energy supplies which help ensure energy security and affordability.

Energy Wales recognises the important role of gas as we move to a low carbon energy system as it has a lower climate change impact than other fossil fuels. Gas from shale is essentially methane - the same as gas from conventional sources including the North Sea. The primary difference is the method of extraction.

Interest in shale gas in the UK has primarily been centred in areas of England where significant subsurface geological data exists from conventional oil and gas exploration. Little historic oil and gas exploration has been undertaken in Wales and we are therefore in the very early stages of understanding the potential shale gas resource that might exist.

It is sensible therefore to seek to determine whether the shale plays of Wales hold commercially recoverable quantities of gas; if it can be proven to be extracted safely and with minimum environmental impact; and can contribute to the future energy mix and benefit the people of Wales. In doing so, we must also ensure the appropriate safeguards are in place to protect the environment and people of Wales.

Operators holding licences issued by the Department of Energy and Climate Change (DECC) are able to explore for and produce petroleum in defined licence areas. It is important to note that a licence is conditional and on its own does not allow an operator to undertake any activity until all the necessary permits and consents are in place. I attach a flowchart of the processes required for clarification.

The permissions and consents include access agreement with the landowner and planning permission from the appropriate Local Planning Authority. Minerals Planning Policy Wales (MPPW) provides guidance to local authorities in Wales on the issues for consideration when determining planning applications for minerals development including shale gas. MPPW provides guidance to ensure that mineral development does not adversely impact on the environment and nearby communities and includes issues relating to visual intrusion and noise, traffic and protecting sensitive areas. On 8 July a clarification letter was issued to Chief Planning Officers in Wales clarifying the national planning policies that apply to shale gas and oil development in Wales.

Prior to any activity an operator would also require all the necessary permits and authorisations from NRW. NRW is also a statutory consultee in the planning process. As part of the permitting process NRW would consider issues including water abstraction and discharge, groundwater, mining waste, radioactive substances and industrial emissions.

The Health and Safety Executive (HSE) would also have to be notified and be satisfied about the well design and the operator must arrange for an independent examination of the well design by a competent well examiner.

If a well encroached on coal seams, permission must be sought from the Coal Authority. The British Geological Survey must also be notified by an operator of intent to drill. DECC will only give consent to drill when all the above requirements are in place.

At the current stage of exploration in Wales, we consider the existing controls within the planning, environmental regulation and licencing regimes, when taken together, can ensure appropriate control of any shale gas development in Wales. As a responsible Government we will, however, continue to review all the available evidence as it emerges.

We are considering our position on seeking devolution of licensing for oil and gas. It is not being sought as part of our current pursuit for full devolution of energy consenting powers excluding nuclear. It is our firm position that any shale gas development in Wales must be considered by the appropriate local planning authority in Wales and the respective regulatory bodies of Wales in line with the guidance in place in Wales at that time.

7. Write to the Committee with an update on the Ynni'r Fro programme, where figures are available.

Ynni'r Fro is the Welsh Government's scheme supporting community groups to develop renewable energy schemes. In total to date Ynni'r Fro has received 209 expressions of interest in receiving support. 99 of these inquiries led to projects that received assistance, and currently there are 56 schemes receiving in depth support, as they have been proven to be projects that are very likely to deliver robust and cost effective community renewable energy installations.

To date Ynni'r Fro support has resulted in the generation of 24 kW of electricity. By the end of the programme at least 5 projects will be constructed and generating a total of 5 MW of installed capacity. The full pipeline of 56 projects is conservatively estimated to produce a total of 11.5 MW of installed capacity.

From its start in 2010 up to the end of June 2014, the Ynni'r Fro programme has cost £2,426,121, which is a combination of European Regional Development Funds of £1,756,758 and Welsh Government investment of £669,363. Our economic analysis shows that Ynni'r Fro will deliver net benefits of at least £11.8 million, with benefits of £1.36 for every £1 spent. The estimated income from Feed in Tariffs from the pipeline of schemes is at least £50 million, with another £11.5 million from the sale of the electricity, over the installed lifetime of the projects.

There are a range of additional benefits that are demonstrated through qualitative evaluation. These include:

- Building skills and experience in the development, installation, maintenance and management of renewable energy technology, expanding the SME base in Wales and increasing the skills base for local tradespeople. There is evidence particularly that the economic and skills benefits from hydropower schemes are experienced locally to the installation;
- Building a replicable business model that can be emulated by other communities, ensuring viability of projects well beyond the end of Ynni'r Fro's involvement and encouraging adoption of other micro-generation and the use of renewables;
- Building confidence in communities in taking an entrepreneurial approach to addressing local priorities, and developing the commercial and business skills. We have particularly seen this demonstrated through the increase in community share offer schemes, which are raising significant funding and connecting community projects with a much wider and more varied audience;
- An increase in overall energy supply and the development of new sources of clean energy;
- Reduction in reliance on imported energy, and increased independence from commercial energy suppliers;
- New or existing community led activities being funded by income from renewable energy projects, including the development of local "evergreen" loan funds capable of supporting community schemes beyond the life of the project;

- Providing ongoing advice and support to communities help mitigate the effects of fuel poverty and climate change, through the requirement of this as a condition of a grant to social enterprises. There is already strong evidence that this “peer mentoring” is gaining momentum as a result of the support already sponsored through Ynni'r Fro.
- Increasing community awareness and actions as a result of understanding how our behaviour can help reduce emissions and climate change effects through a clear link of the project demonstrated between renewable energy and energy efficiency.

8. Write to the Committee to provide clarification on Crown exemption relating to Natural Resources Wales.

The Natural Resources Body for Wales (Establishment) Order 2012 states that NRW is not a Crown Body and therefore does not have Crown immunity. The Welsh Government Woodland Estate is classed as Crown land - as legal title to the land remains with a Crown Body, namely the Welsh Government.

Section 33 of the Forestry Act 1967 provides that the statutory requirement to obtain a felling licence does not apply to Crown land. The exemption to the general requirement for a felling licence therefore attaches to the land upon which the timber is growing rather than the party putting forward the proposal. For instance, if the land is classed as Crown land, the timber is exempt. If NRW were to fell trees on land owned by them (i.e. land that is not part of the Welsh Government Woodland Estate) the exemption would not apply and they would be required to obtain a felling licence.

NRW has assured me that they manage the Welsh Government Woodland Estate to the same principles and standards as any other woodland owner. They also operate to a full suite of well established policy, procedures and protocols including appropriate levels of management, supervision, monitoring and review.

9. Write to the Committee detailing the date the Water Strategy will be published, and to provide a note on the progress of the five recommendations in the Wales Coastal Flooding Review which were accepted in principle.

The Water Strategy for Wales will be published at the end of January 2015.

The Wales Coastal Flooding Review report on coastal flooding accepted 42 recommendations outright and 5 in principle:

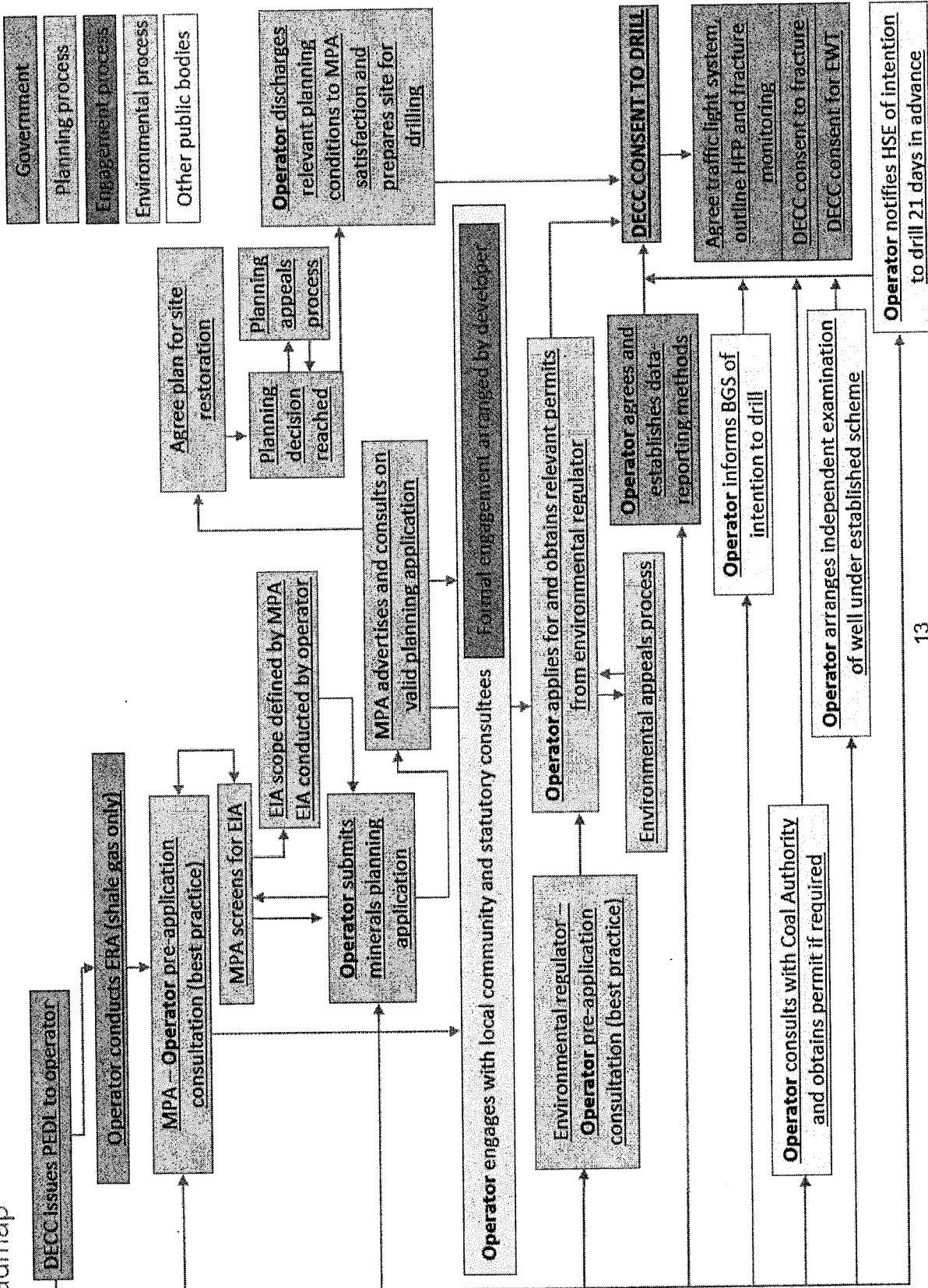
1. Recommendation #41 on endorsing the second phase Shoreline Management Plans: the plans are currently being reviewed by policy and legal officials. The plans are complex documents and cannot be endorsed without the appropriate scrutiny. The first of four plans was accepted by the Minister for Natural Resources in October 2014. NRW and the relevant coastal groups are being notified.
2. Recommendation #42 on climate change guidance, particularly on reviewing planning policy: two letters have been issued this year clarifying the position set out in TAN15 and Planning Policy Wales. Further evidence would be required by planning policy as to why change is needed before a review of TAN15 can be justified.

3. Recommendation #45 on encouraging programmes to increase infrastructure and utility assets: whilst it is accepted that this is an important consideration, it is infrastructure operators who remain best placed to determine the appropriate interventions and adaptation programmes.
4. Recommendation #46 regarding the impacts of climate change on rail and road infrastructure: this action is for the relevant highways authority or Network Rail to consider.
5. Recommendation #47 on the need to periodically assess infrastructure and utility resilience: this is subject to agreement on recommendations #43 to #46. Infrastructure operators already review the resilience of their assets.

The response to the coastal flooding has been praised by Risk Management Authorities and the manner in which Welsh Government, local authorities and NRW came together to quickly fund and repair damaged coastal defences was in contrast to the position in England.

A Delivery Plan is being prepared by NRW to identify relevant leads and progress recommendations.

Roadmap



Glossary (not alphabetical)

DECC - Department for Energy and Climate Change

PEDL – Petroleum Exploration Licence (Grants exclusive rights to an operator to search for onshore gas in a defined geographical area)

MPA – Mineral Planning Authority (In Wales this is the Local Planning Authority)

ERA – Environmental Risk Assessment (required by DECC where operators are proposing to Hydraulically Fracture)

EIA – Environmental Risk Assessment

Environmental Regulator – In Wales this is Natural Resources Wales who issue Environmental Permits

BGS – British Geological Society

Traffic Light System – Condition of DECC Licence to control seismic risk of earthquakes.

HSE – Health and Safety Executive – Responsible for ensuring the integrity of the well.

Before commencing drilling operations for onshore oil and gas development the operator must have

- Obtained a petroleum exploration and development licence (PEDL) from DECC or petroleum licence (PL) from DETI
- Secured a lease from the landowner
- Submitted relevant PON notifications to DECC/DETI (<https://www.gov.uk/oil-and-gas-petroleum-operations-notices>)
- Satisfied DECC/DETI that effective operational and environmental management systems are in place
- Secured planning permission from the MPA/LPA/DOE
- Discharged any relevant conditions placed on the planning permission by the MPA/LPA/DOE
- Obtained a permit from the Coal Authority if the well will encroach on coal seams (excluding NI)
- Informed the BGS/GSNI of the intention to drill
- Completed the necessary consultation processes with all the statutory/relevant consultees
- Obtained all the necessary permits from the relevant environmental agency (EA/NRW/SEPA/NIEA)
- Notified the HSE/HSENI of the intention to drill (minimum 21 days' notice)
- Provided HSE/HSENI with details of the proposed well design that have been examined by an independent and competent well examiner (minimum 21 days' notice)
- Agreed data-reporting methods with DECC/DETI
- Agreed a method for monitoring induced seismicity and fracture growth height with DECC/DETI, where hydraulic fracturing is planned
- Received approval for an outline hydraulic fracturing programme from DECC /DETI, where hydraulic fracturing is planned.

