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Natural Resources Wales' response to *Delivering Water 2020:* *Consulting on our methodology for the 2019 price review*

Natural Resources Wales welcomes the opportunity to comment on the consultation. As the principal environmental regulator in Wales, our purpose is both to pursue sustainable management of natural resources (SMNR) in relation to Wales, and apply the principles of SMNR; in the exercise of our functions. The Well-being of Future Generations (Wales) Act 2015 also places a duty on NRW to apply the principle of sustainable development in our work.

In Annex 1, we provide our response to the consultation.

Should you wish to discuss our response, please contact Geraint Weber on 07909 831421 or geraint.weber@cyfoethnaturiolcymru.gov.uk.

Yours sincerely,

Ruth Jenkins
Head of Natural Resources Strategy and Planning

Annex 1

Section 1 Overall framework - long term resilience

Resilience is central to the work of all public bodies in Wales, including NRW, as set out in the Well-being of Future Generations Act (Wales) 2015 and the Environment (Wales) Act 2016. The focus in Wales is on ecosystem resilience, as defined in the Environment (Wales) Act (2016). The Wales approach recognises the interdependence between ecosystem resilience and the resilience of communities and the economy and is characterised as:

“A nation which maintains and enhances a biodiverse natural environment with healthy functioning ecosystems that support social, economic and ecological resilience and capacity to adapt to change (for example climate change).”

Wales' new legislative framework aims to build resilient ecosystems so that they can provide additional benefits to peoples' well-being. This approach reflects a broader interpretation of the concept of resilience than that set out in this consultation.

SoNaRR reported that all ecosystems in Wales have problems with one or more attributes of resilience. This means their capacity to provide ecosystem services and benefits may be at risk. SoNaRR concluded that action is needed to build ecosystem resilience and adaptive management of our natural resources.

Water is a very valuable natural resource, and it needs to be priced to reflect this. There should be no explicit or implicit expectation placed upon companies that bills in general should be declining, either in nominal or inflation adjusted terms. Present and future consumers have a very strong interest in ensuring that water is managed sustainably. A just distribution of wealth and income argues for price discrimination by water companies to help vulnerable customers as defined by S2, Water Act, 1991, but it does not justify under-pricing water for those who do not fall into this category. Allocative, dynamic and productive efficiency is required to manage water resources sustainably, not to reduce bills, certainly not beneath the level that adequately reflects both the benefits and intrinsic values generated by the resource being used (S4 Environment Act (Wales) 2016).

We encourage Ofwat to challenge companies who operate in Wales to develop ambitious business plans, which recognise the central importance of water to the health and well-being of ecosystems and people. In Ofwat's final determination we expect an assessment of the impact of any decisions to delay investment on future generations.

Section 2 Engaging customers - Customer Challenge Groups

At the July PR19 Forum (Wales) Ofwat presented a summary of their PR19 framework and the methodology proposals set out in the consultation. The presentation included a statement that it was the role of the CCG to represent the views of regulators. We take the view that as the environmental regulator we will provide our views on draft business plans directly to both Ofwat and companies. NRW will also continue to sit on the Dwr Cymru Welsh Water and Severn Trent Water CCGs, where we fulfil the role of advisor in order that the environment and sustainable management of natural resources are championed.

Section 4 Delivering outcomes for customers - common performance measures

Leakage – We welcome Ofwat’s challenge to the water industry to set stretching performance commitments for reducing leakage and to encourage innovation. We support the use of the new leakage reporting methodology, but as the consultation document recognises, for some companies lack of robust data sets may delay the full application of the methodology. In this transition period, it is vital that companies are rewarded for reducing actual leakage levels, not simply for reporting reduced leakage levels resulting from the application of the new method. Indications are that the parts of the new method that all water companies can apply relatively quickly are likely to result in an increase in reported leakage and then the changes that require investment and take longer to implement are likely to result in reduced reported leakage levels (not taking account of reductions in actual leakage).

We welcome the opportunity to explore this issue at the leakage workshop in September. We think a process for making amendments to leakage performance commitments as more robust datasets become available will be required for those companies who are unable to fully apply the new method in time for final determination. A similar process may also be needed for PCC performance commitments, as changes to reported leakage figures resulting from applying the new leakage method, may affect reported PCC figures to re-balance the water balance.

We support the need for companies to provide information on their leakage levels using the old definition of leakage to help better understand the impact of moving to the new metric. We suggest that per capita consumption (PCC) figures should also be provided under this scenario to help better understand the impact of moving to the new leakage metric on PCC figures.

Wastewater pollution incidents - NRW no longer uses the Environment Agency Common Incident Classification System (CICS) and terminology to report incidents including those relating to pollution.

In January, our response to Ofwat’s outcomes consultation highlighted our plans to issue our new Incident Categorisation Guidance (ICG). See <https://naturalresources.wales/media/682038/ogn-102-incident-categorisation-guidance-note-eng.pdf>

This system went live in April 2017. We have ensured that all pollution incident data is still comparable and we will continue to work with the EA to ensure the Environmental Performance Assessment (EPA) still provides common performance measures across companies. Ofwat should align any proposed common performance commitment for pollution incidents with this work by working with both NRW and EA.

Risk based resilience metric: drought – we welcome the introduction of a risk based metric for drought, but the proposed metric for a specific 1 in 200 year drought is not appropriate in the Welsh context. For water companies, wholly or mainly in Wales, Welsh Government and Natural Resources Wales did not provide a steer to plan to a 1:200 year drought across the 25 year planning period or to provide a Reference Level of Service. Instead the water companies are expected to follow the risk based planning methodology to establish which drought scenario to plan to. We recommend Ofwat applies a ‘flexible’ resilience measure to account for water companies choosing to plan for different drought

scenarios for their water resource management plans, 1:50, 1:100 and beyond, as appropriate and that further discussion is required on whether 25 years of data is appropriate for this metric.

Companies in Wales may provide base year data for a 1:200 year drought scenario for most zones as part of Table 10 reporting, but not 25 years of data. Therefore, the proposed metric will require significant additional analysis and modelling not required to produce WRMPS.

We think that companies across England and Wales will find it complex to calculate the proposed metric across the 25 years. There is a risk that there will be inconsistency in how it is calculated due to the different tools, experience and modelling capabilities of each company.

Bespoke commitment measures

We support the principle of encouraging companies to develop their own bespoke measures, including those measuring progress to reduce environmental impacts. However, we believe the consultation has missed the opportunity to gather views on a 'common' environmental measure, particularly as we believe Blueprint for Water had already begun to make progress in defining a suitable metric. Wales' legislative framework places a duty on companies to seek to maintain and enhance biodiversity and promote ecosystem resilience. Company research has consistently highlighted the environment as important to customers.

In-period ODIs

We have concerns that in-period ODIs drive a focus on certainty, quick wins and headline targets at the expense of long term sustainable solutions. It would be helpful to place further emphasis on promoting long term and sustainable outcomes, collaborative and integrated working, and building ecosystem resilience, in line with Welsh legislation. We would also like to see the outcomes framework develop so that it actively promotes best practice and innovation, for example rewarding companies where they address the root cause of issues through behaviour change, or where they contribute to wider outcomes.

Section 6 Targeted controls, markets and innovation: wholesale controls

We aim to apply environmental legislation consistently across all sectors including the water industry – in line with the principles of good regulation (see <https://naturalresources.wales/media/678390/our-regulatory-principles-version-2-april-2016.pdf>). Opening a market for bioresources (sewage sludge) is likely to require a review and assessment of the existing regulatory framework and its application, to ensure fairness and transparency across all sectors that deal with biowaste.

Section 7 Targeted controls, markets and innovation: direct procurement for customers

We have significant concerns with the proposed approach as set out in the consultation. Previous experience of third party delivery of company operations in Wales has demonstrated the difficulties of managing environmental compliance through contractual arrangements. Though there may be benefits to be gained in terms of innovation and cost-effectiveness, the cost is an increased risk to the environment.

Section 9 Securing cost efficiency - approach to unconfirmed requirements in environmental programmes

In our response to Water 2020 we highlighted the challenge that the PR19 timeline presents in terms of developing a comprehensive programme of environmental requirements. By September 2018:

- many of the investigations scheduled in the current AMP period will not be reported
- revisions to the latest WFD classifications and River Basin Management Plans will not be available

NRW has set out its approach to developing the National Environment Programme in its PR19 expectations and obligations paper. We are endeavouring to develop a programme supported by strong evidence by the timescales for the periodic review and aim to be as clear as we can be about the likely scale of any future environmental requirements. We are using "traffic lights" to indicate certainty at the programme level for each statutory obligation. Where there is less certainty of the scale of a programme and exact requirements (i.e. amber) we think companies should be fully funded with a clear mechanism for adjustment, in order that that the implications for the environment aren't prolonged and that financial barriers to companies responding to such risks are removed.