

Ofwat  
Centre City Tower  
7 Hill Street  
Birmingham  
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8<sup>th</sup> September 2022

By email

Dear Sir/Madam

### **Defra consultation on PR24 methodology: Natural England's response**

Natural England welcomes the opportunity to comment on this consultation. As the Government's adviser on the natural environment, our purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development. We have set out our detailed comments in response to the consultation framework in Annex 1 to this letter. More information on our role in giving advice on the water environment can be found in Annex 2 to this letter.

### **Summary of response**

We are pleased to see the change in approach to allow for longer term planning (25-year horizon), co-funding and partnership working which should hopefully lead to more ambitious and innovative work being led by the water companies. This should allow for a greater use of catchment and nature-based solutions and the multiple benefits those approaches bring to people and the environment.

Allowing investigations and actions to take place within one PR period is very welcome and will hopefully result in environmental improvements being realised more quickly than in previous PR rounds.

The new approach in PR24 gives Natural England more opportunity to facilitate our people and nature and health agenda with the water companies.

### **Natural England's priorities**

The focus on water companies delivering expectations in the Water Industry Strategic Environment Requirements (WISER) is welcomed. There is a need to clarify language within the methodology where mention is made of statutory and non-statutory obligations. There is no specific reference to statutory plus (S+ - legal requirements where economic

evidence is used) which we feel needs stating clearly as this S+ covers water companies' statutory duties around SSSIs, NERC Act habitats and species, Environment Act targets, and some marine sites. Targets covered by these duties are usually more stringent than WFD targets.

We support the performance commitments (PC) around river water quality and the new biodiversity PC but do have some questions around the definitions of these (see section below).

We are concerned that 'river water quality' does not encompass the wider water environment and hydrological systems including headwaters, standing waters, wetlands, transitional and coastal waters and marine or acknowledge water resource impacts outside water quality. Maintaining the hydrological function of water dependent habitats is a critical factor in maintaining the overall habitat quality and the species that depend on it.

We would like to emphasise that resilience of water supply needs to cover water for nature/environment and not just water supply for people's use.

The water quality targets focus on phosphorus but note that some protected sites have nitrogen as the main factor causing unfavourable condition of the site. This also applies to sediment and chemicals. It may be that these issues are covered elsewhere but clarity on this would be welcomed and a clear statement of the priority of these sites to water companies.

With the emphasis on storm overflows and requirement to reach TAL there is concern that a few areas may absorb a large portion of the WINEP budget where we would like to see the budget being allocated to address a wide representation of pressures on the environment.

One area we want to highlight is that we do not feel it is appropriate for water companies to be rewarded for meeting their statutory obligations. Also, we have concerns that water companies may be rewarded for allowing/causing pollution events even if they are not considered to be a 'serious pollution incident'.

We are pleased to see that the methodology will support activities around people and nature such as access to green and blue spaces for recreation and amenity. We can support you with this to ensure that customers understand the importance of this and how water companies can play a big role in their enjoyment of the water environment and water company land holdings.

## **Biodiversity performance commitment**

We welcome the inclusion of a specific biodiversity PC designed to incentivise companies to maintain and enhance biodiversity in the exercise of their functions. This PC covers a wide and diverse set of potential benefits so may be difficult to implement and there may also be overlap with other PCs such as river water quality. Natural England were involved in the

early stages of development and as this moves into the detailed implementation phase more specific engagement with us will be needed. We can support Ofwat in refining the detail of this PC and helping ensure that the use of the Biodiversity Metric 3.1 can be adjusted to ensure it covers the PR remit and fully addresses freshwater habitats and species. The PC needs to show where it can support the Environment Act targets for habitat improvement/creation and the species abundance target and go further than the 10% net gain requirement.

There is further work needed in defining the parameters of this PC around assessment, frequency and baseline data as these may differ depending on what is being measured and for what purpose.

There is also opportunity here for the water companies who are large landowners particularly as this includes substantial areas of upland habitat. The methodology concentrates on water management but there is a big role to play here for wider habitat management which will result in improvements for the environment. For example, restoring peatland will bring water companies benefits for natural flood management, water quality improvements, carbon storage and access and recreation opportunities.

### **Storm overflows and spill allowance and zero pollution**

There needs to be a clear definition here of what constitutes a 'serious pollution incident'. This would need to recognise the sensitivity of different habitats and species to pollution events, and the cumulative effects of multiple spillages as 10 or 20 spills affecting one of these sites could be extremely damaging to the protected habitats and species. There could also be consequences on recreational activities and people's use of the site. The methodology uses the phrase 'high priority sites' in relation to the environmental harms from storm overflows but this does not cover Special Protection Areas or Ramsar Sites, which also have the highest level of legal protection.

### **Water demand (leakage and consumption) and sustainable abstraction**

A combined performance commitment metric would align with the proposed Environment Act targets, although using the 3 PCs has the advantage of allowing all aspects to be directly targeted. We would want to see household usage reported separately from leakage, as stated in the methodology 'with either separate or combined, companies would need to report against the 4 components.'

We note that Wessex Water and Severn Trent Water say the focus should be on sustainable abstraction rather than demand reduction, but we see both as being important to address the environmental impacts with the additional point that demand reduction has multiple benefits.

The exclusion of larger business customers from any water demand reduction does not seem to send the right message of the need for all customers to reduce their use of water to prevent issues with supply and, just as importantly, negative impacts on biodiversity and the naturally functioning hydrological regimes necessary to support habitats and species.

We would like to see more focus on how companies will work with customers on behaviour change to reduce usage as this is more important in the long term for addressing the water resource stresses as leakage reductions can be lost due to rising demand.

### **Nutrient neutrality (NN)**

This section was drawn up with Natural England involvement, so we are broadly happy with the content. We believe that Ofwat have correctly set out how delivery and funding of additional wastewater treatment works improvements for nutrient neutrality would work but there are still outstanding issues with Defra around whether upgrades that go to the technically achievable limit (TAL) rather than to environmental/river need (fair share) would deliver mitigation or would be used for restoration. This is a complex and critical decision which needs more discussion between NE and Ofwat and we will be in touch to discuss this further. As part of this discussion, we would welcome the opportunity to talk about the wider role water companies can play in nutrient reduction.

### **Long term planning, net zero and nature-based solutions (NBS)**

This is a positive move and we look forward to working with water companies to deliver more NBS over a 25-year horizon which will provide wider benefits such as carbon reductions, climate change adaptation, restoration and enhancement of habitats and species, and restoring natural ecosystem function and other natural processes. There is some concern that this may delay action needed now until PR29 so there needs to be the opportunity for quick action to be taken to allow improvements to start as soon as possible where appropriate.

The use of NBS can be complex and need to be acceptable to communities, at an appropriate scale and well managed, and these principles need to be enabled throughout all water company NBS work.

There is mention of managing/identifying risk as being fundamental to NBS, so we recommend exploring the option of using existing NBS accreditation as a tool (e.g., IUCN) for standard setting and risk management to enable schemes to go ahead where the risks and performance cannot all be fully identified. For example, this could operate at a city scale in relation to their drainage and wastewater management plans where a water company could gain IUCN accreditation (or another appropriate body) and link this to monitoring to enable evaluation and future improvements should this be inadequate.

Net zero is mentioned but needs to be more clearly defined covering both operations and assets. The use of a mitigation hierarchy would enable this to be done in the most environmentally sustainable way – for example using NBS to reduce energy use rather than offsetting emissions.

### **Monitoring and evaluation**

There are multiple performance commitments to monitor water company progress so there is a need for a robust monitoring and evaluation framework to simply and clearly communicate

the improvements to the environment due to water company actions. This requires a clear and detailed communication plan for customers, the general public and stakeholders.

Yours faithfully

Strategy Director  
Natural England

## ANNEX 1

### NATURAL ENGLAND'S DETAILED COMMENTS ON THE METHODOLOGY

#### Main document

**3.3.3 pg 28** – ‘effective water trading’ – this may have benefits around removing the requirement for some infrastructure projects. However, where trading may require water transfers it comes with significant environmental risk which must be addressed.

**5.2.3 pg 57** – ‘serious pollution incidents’ – as mentioned above there needs to be a clear definition of a serious pollution incident and this needs to cover all impacts on all sensitive sites and this may not allow a ‘one size fits all’ approach. Both ‘serious’ and ‘pollution’ need defining – e.g. does ‘pollution’ cover chemical, biological, physical? Do invasive species fit here?

**5.2.3 pg 58** – ‘combined performance commitment for water usage’ – a combined performance metric aligns with the proposed Environment Act target but we would still like these to be reported separately. Of particular importance is household usage which we would like to see reported separately from leakage as this is more important in the long term for addressing water resources stress as leakage reductions can be lost due to rising demand.

**6.5 pg 78** ‘footnote 108 high priority overflows’ – we would like to flag that this list of high priority sites does not include Special Protection Areas (SPA) or Ramsar sites which have the same legal footing as Special Areas of Conservation (SAC) which are included in the list.

**6.5 pg 79** ‘transition funding programme’ – could this be brought forward even earlier rather than limited to the final year? For example, there is a need for water companies to start water quality monitoring and reviewing evidence around transitional and coastal waters as soon as possible so that this will be ready for PR29 so it would be helpful for this to happen sooner rather than later if water companies are in a position to do so.

#### Appendix 6

**4.1.2 pg 39** – ‘species abundance target’ – there is a risk with this target that we may see pollutant tolerant species numbers increasing to meet the abundance target but not the protected species – this target will need to be treated with caution.

**4.3.31 pg 42** – ‘exclude consumption of very large water customers’ – How would this be defined? Does this not leave a significant gap in driving down demand to return water to the water environment?

**4.4.2 pg 49** – ‘serious pollution incident apply to all’ – agree that this should apply to all companies.

**4.7.1 pg 55** – ‘performance commitment for river water quality that measures phosphorus reduction’ – If the focus is just on rivers then P would be fine but what about other water dependent habitats (lakes, wetlands, canals, ditches) where nitrogen should be considered. Chemicals should be considered for all habitats.

**4.7.2 pg 57** – ‘main pollutants for sewage systems are phosphorus and nitrogen with most phosphorus from sewage works’ – this is true, however, nitrogen is still an issue for some

habitats such as lakes and coastal waters and although water companies may not have the biggest contribution of N it is often still significant enough that they can make a difference.

**4.8 pg 59** – ‘permitted to discharge if no local adverse ecological impact’ – how will local be defined? Adverse ecological impact needs to include the cumulative impact which is particularly important for SSSI and other protected sites.

**4.8 pg 59** – ‘above an average of 10 events’ – this is a good general rule but there will be some locations where it is discharging into a sensitive site where 10 spills would have an impact.

**6.13 pg 82** – ‘bioresources’ – need to be clear at the start of this section that in the wrong circumstances it is a pollutant. The meaning of ‘safe disposal’ needs to be made clearer – there is mention in appendix 4 of Farming Rules for Water which helps but in this section it should be clearer.

**6.15 pg 84** – ‘drought resilience’ – what is the role of drought plans in this section?

**6.16 pg 85** – ‘sewer flooding in a storm’ - we support use of wider operational resilience monitoring if it properly considers the interactions with and interdependences of asset health and operation with the function of the natural environment in the long term.

#### Appendix 7

**3.1.1 pg 62** ‘independently appropriately qualified person’ – this needs more detail – who decides this, who checks, what accreditation/qualifications/experience do they need?

#### Appendix 9

**5.1.2 pg 89** – ‘early engagement meetings with companies’ – this is a good idea and should pick up any issues earlier and avoid complications later. Please ensure that Natural England have feedback from these where we are not directly involved.

## **ANNEX 2**

### **NATURAL ENGLAND'S ROLE IN ADVICE ON THE WATER ENVIRONMENT**

Natural England was established under the Natural Environment and Rural Communities Act 2006 ("2006 Act"). It is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Natural England has responsibility for ensuring that landowners and public bodies deliver objectives for European protected sites (Habitats sites) Ramsar sites (internationally important wetland sites) and the requirements for achieving and managing favourable or recovering condition for Sites of Special Scientific Interest (SSSI). Of particular note to water companies are the objectives introduced through the Water Framework Directive 2000/60/EC ("WFD") for Habitats sites protected areas, to achieve compliance with the standards and objectives (conservation objectives) of the water-dependent features of those sites by December 2015 (Article 4.2 WFD) unless derogated to a later date.

Natural England is also charged with helping to deliver objectives to biodiversity and landscape in Defra's 25 Year Environment Plan in addition to the statutory duties toward biodiversity under the 2006 Act. The 25 Year Environment Plan has themes relevant to water and biodiversity throughout the key objectives. In support of this, our response therefore provides advice, where appropriate, on how the plan can embrace an ecosystem approach, enhance natural capital and can support the conservation of biodiversity at a landscape scale.

Natural England continues to aim to work with the water sector to ensure that requirements for the protection and enhancement of the natural environment are met and that there is adequate opportunity for the development of more sustainable solutions. Protection and enhancement of the natural environment including biodiversity depend critically on delivering improved, integrated and sustainable land and water management.