

Consultation response to the Triennial Review of Natural England and the Environment Agency

1. Executive summary

- 1.1 Wildlife and Countryside Link (Link) brings together 40 voluntary organisations concerned with the conservation and protection of wildlife and the countryside. Our members practise and advocate environmentally sensitive land management, and encourage respect for, and enjoyment of, natural landscapes and features, the historic and marine environment and biodiversity. Together, our members have the support of over 8 million people in the UK and manage over 750,000 hectares of land.
- 1.2 This response is supported by the following 23 organisations:
- Amphibian and Reptile Conservation
 - Bat Conservation Trust
 - British Ecological Society
 - Buglife – The Invertebrate Conservation Trust
 - Bumblebee Conservation Trust
 - Butterfly Conservation
 - Campaign to Protect Rural England
 - Campaign for National Parks
 - Hawk and Owl Trust
 - Humane Society International/UK
 - International Fund for Animal Welfare
 - Mammal Society
 - Marine Conservation Society
 - MARINELife
 - People's Trust for Endangered Species
 - Plantlife
 - Pond Conservation
 - The Rivers Trust
 - Royal Society for the Protection of Birds
 - Royal Society for the Prevention of Cruelty to Animals
 - Wildfowl & Wetlands Trust
 - The Wildlife Trusts
 - Zoological Society of London
- 1.3 In responding to Defra's Triennial Review of Natural England (NE) and the Environment Agency (EA), we present an expert view and share a vision for protecting and enhancing England's natural environment. We want the natural environment to play a greater role in improving people's quality of life whilst also underpinning a sustainable economic future for the UK through the stewardship of our natural capital.
- 1.4 We recognise that NE and the EA play a critical role in conserving, enhancing and allowing for the enjoyment of our natural environment and that significant achievements have been made by both Agencies in recent years. They also have a vital role to play if the Government is to realise its ambition of being the first to pass on the natural environment in a better state to future generations.
- 1.5 The Triennial Review is an opportunity to improve natural environment governance to help achieve the ambitions and commitments laid out in: the Government's Natural

Environment White Paper *The Natural Choice: Securing the value of nature*; the Marine and Coastal Access Act; and *Biodiversity 2020*, and to address the challenges and ambitions identified by: the UK National Ecosystem Assessment; *Making Space for Nature*; the updated Nagoya targets which the Coalition Government helped negotiate in 2012; and the report of the Independent Panel on Forestry.

- 1.6 Balancing the costs and benefits of change will be important. We believe a change to the status quo is essential, but suggest that significant institutional change now could well be counterproductive for delivering Government's ambitions and commitments for the natural environment. For example, since the major restructuring of English Nature to NE, we have witnessed cuts to funding, a reduced local presence, and an erosion of NE's independence and focus on conserving and enhancing the natural environment. These external factors have caused a decline in the ability of NE to deliver its functions and work efficiently with its partners.
- 1.7 It is essential that the necessary levels of scientific expertise within the Agencies are maintained, to ensure that strong science underpins Government policy. This requires investment and appropriate levels of funding. The Agencies play a crucial role in safeguarding the natural capital and ecosystem services upon which the long-term sustainability of the economy depends. A failure to invest in the capacity of the Agencies is a false economy.
- 1.8 The effective delivery of agency functions and productive partnership working will depend on sufficient local presence of agency staff, with associated expertise, local knowledge and appropriate resources.
- 1.9 This response considers in detail each of the four questions set out on page 4 of Defra's discussion document on the Triennial Review of NE and the EA. Key recommendations are summarised below.

2. Key recommendations

- 2.1 **The agencies need to be independent and free from politics.** NE's draft framework must be amended to reflect this. The actions of the Agencies, and of Defra in dealing with them, must be entirely transparent and within the public domain. Critical to protecting the environment are Agencies that are: well-resourced; science-led; independent; and free to inform evidence-based policy. The issues also require a long-term perspective that transcends short-term politics.
- 2.2 **NE needs to be able to focus more strongly on its core priority of conserving and enhancing the natural environment.** Whilst it should also be expected to have regard to economic and social objectives, it should not be expected to have these as primary objectives. NE's draft Framework must be amended to reflect this.
- 2.3 **A merger between the EA and NE would not be in the best interests of the natural environment or the economy.** Such massive restructuring would be a disproportionately costly exercise and would distract from the Agencies' ability to perform their functions, at least in the short and medium term.
- 2.4 **We recommend that, following a split between Forest Services (FS) and the public forest estate, FS should merge with NE.** This would allow a single organisation to have a strategic overview of all terrestrial habitats and inshore waters, thereby increasing efficiencies and enabling holistic decisions to be made.

- 2.5 **The Agencies need to improve their joint working.** Alongside some rebalancing of resources from the national to the local level, co-locating the Agencies, where possible, could increase effectiveness, improve inter-Agency communication and facilitate joined up delivery of multiple agendas, without the disruption that a merger would bring. An effective system should include an effective national structure that provides expertise and core direction to support effective delivery at a local level.
- 2.6 **A strong science-based knowledge and understanding of the natural environment must underpin Government policy and decision-making.**

3. Introduction

- 3.1 The Triennial Review is an opportunity to improve natural environment governance to help achieve the ambitions and commitments laid out in the Government's Natural Environment White Paper *The Natural Choice: Securing the value of nature*; the Water White Paper; the Marine and Coastal Access Act; NE's Access & Engagement Strategy and *Biodiversity 2020*, and to address the challenges and ambitions identified by: the UK National Ecosystem Assessment; *Making Space for Nature*; and, most recently, the report of the Independent Panel on Forestry.
- 3.2 The UK National Ecosystem Assessment provides a comprehensive account of how the natural environment and its biodiversity provide us with services that are critical to our wellbeing and economic prosperity¹. It also clearly shows that ecosystems influence both physical and mental health and quality of life in general, primarily through access to the wider countryside. Despite this, biodiversity and natural infrastructure are fragmented², and pressures from, inter-alia, inappropriate development, pollution, climate change and invasive species, continue to rise³. Consequently, over 40% of priority species, 30% of priority habitats⁴ and 30% of ecosystem services are still declining⁵, while eight priority species were lost entirely from the UK between 2002 and 2008⁶. In short, biodiversity continues to decline, while the drivers of decline continue to increase.
- 3.3 The recent outbreak of *Chalara fraxinea* was a stark reminder of the threats facing the natural environment, while providing yet another illustration, in addition to the response over the proposed sale of England's public forest estate, of how deeply the public value nature and the expectations they have for its governance. The public will expect the laudable commitments in the Natural Environment White Paper, the Marine and Coastal Access Act, the Water White Paper, *Biodiversity 2020* and European Directives, such as the Habitats Directive, to be met.
- 3.4 The Agencies play a critical role in conserving and enhancing our natural environment, and they have a vital role to play if the Government is to realise its ambition of being the first to pass on the natural environment in a better state to future generations.
- 3.5 At the heart of the Agencies' approach to delivering sustainable development, must be a clear recognition of the need to live within environmental limits. Land, water

¹ Watson and Albon, 2011, The UK National Ecosystem Assessment: Synthesis of Key Findings.

² Lawton J.H *et al*, 2010, Making Space for Nature: a review of England's wildlife sites and ecological network. Report to Defra.

³ HM Government, 2011, *Biodiversity 2020: A strategy for England's wildlife and ecosystem services*.

⁴ References to "priority" species and habitats refers to those species and habitats identified as being of principal importance in England, Section 41 of the Natural Environment and Rural Communities Act 2006.

⁵ HM Government, 2008, UK Biodiversity Action Plan highlights report, 2008 reporting round.

⁶ HM Government, 2011, *Biodiversity 2020: A strategy for England's wildlife and ecosystem services*.

(freshwater and marine), carbon and biodiversity must be managed within boundaries that will allow the natural world to renew itself. If pressures such as biodiversity loss or climate change cause these limits to be breached, it will pose a significant risk to future human well-being⁷. The imperative of meeting these challenges necessitates well-resourced and science-led Government agencies that can conserve and enhance the natural environment and people's enjoyment of it.

Evaluating the Agencies

- 3.6 In response to this context, we have developed the following tests against which we have evaluated the Agencies, as well as the proposals put forward as part of the Triennial Review. We would urge that these same tests be used to help guide the Triennial Review process itself.
- a. *Is there an independent champion⁸ of the natural environment, with a clear focus on its restoration and protection?*
 - b. *Are the Agencies free to inform evidence-based policy and deliver its implementation, based on sound science?*
 - c. *Is there an independent champion of social and economic well-being provided through encouraging open-air recreation and access to the countryside and open spaces?*
 - d. *Do the Agencies have the necessary resources, capacity and technical expertise to protect and enhance the natural environment?*
 - e. *Can the Agencies provide effective, coordinated place-based delivery of their objectives, alongside non-governmental organisations?*
 - f. *Can the Agencies effectively carry out their regulatory functions?*

Detailed response to consultation questions

4. **Question 1: Do the functions and/or form of the EA and NE continue to be appropriate, in terms of delivering the Government's ambition on the environment and flood and coastal risk management?**

- 4.1 Broadly the functions and form of both NE and the EA are appropriate. Both agencies must continue with a clear focus on conserving, enhancing the natural environment and promoting access to the countryside, open spaces and encouraging open-air recreation, thereby contributing to sustainable development and social and economic well-being.
- 4.2 We recognise that the Agencies deliver a vast range of important functions. Below we address those functions that we believe to be particularly important if the Agencies are to enable the Government to meet its objectives for the natural environment:

Functions of particular importance to NE:

Protecting sites and landscapes

4.3 **Protected sites play a critical role in preventing inappropriate development and conserving habitats, landscapes and species. The expertise of NE is crucial in**

⁷ HM Government, 2011, POST Report 370, Living within Environmental Limits.

⁸ By 'champion' we mean a body that will be a strong and independent voice for the natural environment, but not one that will publicly lobby government or gather public support to change government policy.

safeguarding protected sites, on land and at sea, and ensuring they are managed properly.

- 4.4 Protected sites safeguard some of our rarest and most valued wildlife and landscapes, forming the bedrock of conservation in this country. Properly managed, they are critical to helping many species and habitats of conservation concern to be restored to favourable conservation status. Protected sites also play a critical role in preventing inappropriate development, without unduly blocking economic progress or growth^{9,10}. Government must therefore maintain and improve protection (including adequate compensation for biodiversity losses) for national, international and locally designated sites for conservation and landscape. The public backlash against the draft National Planning Policy Framework (NPPF) was just one indication of how much the public value the protection of these much cherished habitats and landscapes.
- 4.5 NE's role as a statutory adviser in the planning system is crucial, particularly in the absence of ecological and landscape expertise in most local planning authorities (LPAs). While LPAs with in-house ecologists are more likely to correctly apply wildlife protection planning principles in the Wildlife and Countryside Act and Birds and Habitats Directives, in 2004 only 35% of LPAs had any in-house ecological expertise. Since 2011 there have been even further cuts in this important resource¹¹. NE also has an increasingly important role in providing advice to both the Marine Management Organisation (MMO) and the Inshore Fisheries and Conservation Authorities (IFCAs) who are responsible for regulating activities at sea.

Strategic planning

- 4.6 NE's technical expertise and strategic oversight is fundamentally important in: enabling strategic planning to direct development away from sensitive locations; protect environmental limits; and improve ecological connectivity.**
- 4.7 The expertise of NE is vital as a consultee for local plans (as well as for other strategic plans). Habitats Regulations Assessments (HRAs) and Strategic Environmental Assessments (SEA) are two particular areas that require a high degree of technical analysis that LPAs, the MMO and IFCAs are unlikely to have. Providing a degree of strategic oversight is important for a natural environment which operates over wide spatial scales that will often transcend local authority boundaries. With time, foresight, and good information, we believe it should be possible to direct development away from the most sensitive areas and ensure that use of environmental resources (such as water) does not exceed environmental limits.
- 4.8 As the Government has acknowledged, development that fails to respect the environment ultimately erodes the ecosystem services upon which the economy¹² and society rely. To safeguard environmental limits effectively, the planning system should deliver as much development as possible through development plans that are subject to SEAs. To be effective, the SEA must contain a high level of technical detail, taking into account cumulative impacts within and outside of the local planning authority

⁹ Defra, 2012, *Report of the Habitats and Wild Birds Directives Implementation Review*. H.M. Government.

¹⁰ Morris, R. K., 2011, The application of the Habitats Directive in the UK: Compliance or gold plating? *Land Use Policy* **28**, 361–369.

¹¹ Association of Local Government Ecologists, 2012, *Written evidence submitted by the Association of Local Government Ecologists (ALGE)*. Natural Environment White Paper.

¹² UK National Ecosystems Assessment (2011) UNEP-WCMC, Cambridge.

(LPA) boundary. As a statutory consultee for both the SEA and the Local Plan, NE has a critical role to play by applying its ecological expertise to the analysis of the data.

- 4.9 Many designated Special Protection Areas (SPAs), part of the Natura 2000 network, fall within multiple local authorities; 28 SPAs in England each affect no fewer than five local authorities, and six SPAs each span at least ten. Special Areas of Conservation will show similar geographic traits. Many are in areas of development pressure where local authorities need to work together to ensure that development can take place whilst continuing to protect these important wildlife sites. In the absence of regional planning, NE will have an increasing role to play in enabling LPA's ecological strategies to meet the requirements of the Duty to Cooperate¹³.
- 4.10 A large part of the Natura 2000 network straddles both land and sea, significantly increasing the number of regulators. It is therefore essential that one organisation is able to consider the effects of development, such as wind farms, which will be created in the sea but will connect with the land via pipelines which can have a detrimental effect on our coastline in sensitive areas such as salt marsh.
- 4.11 With a responsibility to conserve and enhance biodiversity and landscapes, by working with developers and Non Governmental Organisations (NGOs), the Agencies can and should play a pivotal role in finding solutions to environmental problems and enabling much-needed sustainable development to occur through strategic planning. One such example is the Thames Basin Heaths Delivery Plan that formed part of the arrangements for delivering housing growth around the Thames Basin Heaths SPA, involving no fewer than eleven local authorities. Prior to the preparation of the delivery plan, the development of even small-scale housing was problematic because satisfactory mitigation measures could not be put in place.
- 4.12 Increasing ecological connectivity fundamentally depends on the creation of new habitat and the restoration of degraded habitat in order to buffer and expand existing sites, and create stepping stones, etc. Following on from the recommendations in the Lawton Review¹⁴ and the commitments in the Natural Environment White Paper¹⁵, we were delighted to see the NPPF introduce positive policies requiring environmental enhancement and restoration¹⁶. However, translating this into reality will require considerable technical input from NE in its role as a statutory consultee for Local Plans, by working with Local Nature Partnerships (LNPs) to help LPAs formulate the necessary evidence base to establish new protected sites that improve ecological connectivity. It is important that in its role as a statutory adviser on local plans, NE objects where LPAs have not taken sufficient steps to improve ecological connectivity.
- 4.13 A recent report found that many LPAs had a poor culture of planning positively for environmental enhancement. If the Government is to achieve the ambitions set out in the Lawton Review, NE's role as a statutory adviser for local plans, and as a champion for the natural environment, will take on increasing significance.

¹³ The Localism Act 2011 introduced a Duty to Cooperate, designed to ensure that all bodies involved in planning work together on issues that are of bigger than local significance.

¹⁴ Lawton J.H *et al*, 2010, Making Space for Nature: a review of England's wildlife sites and ecological network. Report to Defra.

¹⁵ Defra, 2011, The Natural Choice: Securing the Value of Nature.

¹⁶ Paragraphs 114, 117, 157 and 165 of the National Planning Policy Framework.

Casework

- 4.14 It is fundamentally important that NE can continue to act as an independent adviser to decision-making bodies, providing expertise on the natural environment - both on land and at sea.**
- 4.15 An effective plan-led system is predicated on the fact that planning authorities can, where necessary, refuse development that sits outside that which is planned for, where it would not constitute sustainable development. This enables the planning system to deliver the development that the country needs, in a sustainable way, whilst also enabling it to protect the country from potentially harmful development. Within this NE must provide decision-making bodies, including central government, local authorities, the Infrastructure Planning Commission and the Marine Management Organisation with a clear view of the environmental value of areas where development is proposed and expert analysis of the potential impact to ensure sustainable development.
- 4.16 Natural England derives influence from its technical expertise, but also from the knowledge that its view will be respected by other competent authorities, and by local and national Government, should it consider a plan or project to be so harmful that it should not proceed, or, that the project may be halted as a consequence.
- 4.17 Dibden Bay Container Terminal is a good example of where NE's predecessor's opposition to a development not only protected an important site, but also contributed to the development of a more sustainable approach being embraced by the ports sector.
- 4.18 We also fully support NE proactively engaging with developers to seek solutions that contribute to sustainable development, where possible. Specific examples include Immingham Outer Harbour and the London Array.

Advising on agri-environment schemes

- 4.19 Agri-environment schemes are the foremost mechanism for delivering the Government's conservation objectives¹⁷, and these cannot fulfil their potential without NE's specialist advice, local knowledge and strong evidence base.**
- 4.20 The land management advice function at NE is a significant source of environmental advice in the country. The next biggest providers of environmental advice are the RSPB, The Wildlife Trusts, Woodland Trust and the Farming and Wildlife Advisory Group. The importance of NE's advisers, and the need to understand how to deliver an effective and comprehensive advisory service across the country, working in partnership with NGOs, cannot be overestimated.
- 4.21 Of particular importance, NE advisers carry out most of the condition assessments on Sites of Special Scientific Interest (SSSIs), which remains a statutory function of Government. Higher Level Stewardship (HLS) is also the main tool available to get SSSIs into favourable condition. Without this coordinated approach, it would become increasingly difficult to meet the *Biodiversity 2020* outcomes for SSSIs (to maintain 95% in at least recovering condition and getting 50% into favourable condition by 2020). Furthermore, NE provides a single point of contact for stakeholders and, in some cases acts as a conduit to a farming community that NGOs may otherwise

¹⁷ A point highlighted in the NEWP, *Biodiversity 2020* and the Lawton Review.

struggle to reach. The strategic overview provided by NE will also become increasingly important in terms of delivering landscape scale conservation.

- 4.22 Together with Defra, NE has created a sound evidence base, leading to consistent improvements in the operation and effectiveness of agri-environment schemes since their inception 25 years ago. This level of research, much of which necessarily runs over long time-periods, must be maintained.

Enhancing the status of species

4.23 NE's specialist advice is crucial to improving the conservation status of species.

- 4.24 It is important to put species' needs at the heart of habitat and landscape initiatives. Linking species to a strong sense of place is a powerful way to catalyse interest in conservation, whilst the status of species populations represents the best indicator of conservation progress that we have. NE should also take a strong lead in the meaningful application of the Precautionary Approach in relation to European Protected Species because it is the only organisation empowered by statute to do so.
- 4.25 The conservation of some species of principal importance may be delivered by broad scale habitat conservation measures but the majority will need tailored and targeted action¹⁸. NE has a key role in providing specialist advice on the needs of s41 species and the action required for their conservation. Recent analysis¹⁹ suggests that 49% of s41 species require management of statutory and important non-statutory sites and 235 species with very restricted distribution (less than 5 sites) need highly targeted intervention. Properly integrating the needs of species into habitat conservation will in many cases depend on the expertise of NE specialists, where they still exist.
- 4.26 Delivery of national programmes will only be effective if NE develops positive relationships with other stakeholders, especially nature conservation bodies that are able to contribute additional resources, expertise and volunteer engagement. This has been recognised in the England Biodiversity Strategy. While strong partnerships have been developed, we believe more can be done in this regard to ensure delivery of value for money and highly effective nature conservation in a way that cannot be done through Government resources alone.

Access to the countryside, open spaces and public engagement with nature

- 4.27 NE must continue to have a clear focus on conserving, enhancing the natural environment and promoting access to the countryside, open spaces and encouraging open-air recreation²⁰.
- 4.28 We value NE's contribution towards enhancing people's engagement with nature. In particular, the Measuring Engagement with the Natural Environment project has helped to enhance the evidence base to understand how people interact with, and value their contact with nature. NE has sponsored important programmes which have helped a range of organisations to increase engagement of socially excluded communities with nature, such as Access to Nature.

¹⁸ Section 41(3) of the NERC Act requires the Secretary of State to take steps to further the conservation of these species and promote others to take practicable action too.

¹⁹ Interim analysis of delivery mechanisms for S41 species, for Terrestrial Biodiversity Group Dec 2012. Unpublished report by Natural England.

²⁰ The Natural England Access & Engagement Strategy, introduced in March 2012, reiterates the importance of its roles in public access and engaging people with the natural environment.

- 4.29 Through the Countryside and Rights of Way Act and the Marine and Coastal Access Act, NE (and its predecessor bodies) has been charged with delivering enhanced access to open country and the coast, on behalf of Government. We value NE's contribution towards enhancing people's engagement with nature and its project delivery, such as the Coastal Access Project delivering the duty from the Marine and Coastal Access Act 2009 to secure a long distance walking trail around the coast of England.
- 4.30 Link members have been closely involved in this group and have been supportive of NE's access work. We see enhanced access to the countryside, and clarity of access provision, as being important in increasing peoples enjoyment of nature – because why should people care for it if they cannot experience it at first hand? We have also been supportive of placing access on a statutory footing, as it enhances the available 'tool-kit' to address problems associated with de facto access.
- 4.31 Given the, at times, controversial nature of the programmes it has been charged with, we believe that NE has done a sound job in implementing the legislation on the ground, to the extent that most fears and predictions as to the adverse impacts of access have proved groundless.

Functions of particular importance to the EA:

Biodiversity expertise

- 4.32 The in-house expertise of the EA's biodiversity function ensures the Agency meets its duties in respect of SSSIs, biodiversity and other wildlife related legislation when discharging its regulatory duties, and when constructing, maintaining and operating flood risk management and land drainage assets.**
- 4.33 This expertise enables the EA to seek out opportunities to use its investment programme and general influence to deliver habitat and species gains on the ground²¹, including over 4000ha of Biodiversity Action Plan habitat under the last Comprehensive Spending Review. Good examples range from small, but important, wetland creation schemes on the side of flood defence projects, delivered in partnership with farmers and NGOs, through to greening of multi-million pound engineering schemes like the Jubilee River flood bypass channel and managed realignment at Alkborough, on the Humber.
- 4.34 The EA's biodiversity expertise is also crucial in enabling it to combat Invasive Non Native Species. This expertise will become increasingly important in enabling the Government to meet any requirements that arise from the forthcoming EU Directive on alien invasive species.

Resource protection and management functions

- 4.35 The EA must continue to regulate the use of natural resources, such as water, and disposal of wastes that have the potential to impact on natural resources, wildlife and human health.**
- 4.36 With climate change and population growth threatening ever-greater water stress, the importance of the EA's resource protection functions is increasing. Controls on

²¹ In line with their duty to further biodiversity under S41 of the NERC Act 2006 and helping to meet the EA's broad commitments to the Water Framework Directive.

abstraction are also critical to securing favourable condition of SSSIs and meeting obligations under the EU Water Framework Directive and Birds and Habitats Directives. Similarly, controls on point source sewage and industrial wastewater discharge have proven vital in improving general water quality, dealing with some aspects of pollution impacting SSSIs, and (partially) meeting requirements under the Urban Waste Water Treatment Directive, Water Framework Directive and Birds and Habitats Directive.

Functions of particular importance to both NE and the EA:

Enforcing environmental regulation

4.37 Both agencies must use their specialist expertise and regulatory powers to enforce environmental regulation in order to protect the natural environment and safeguard ecosystem services and natural capital.

4.38 As well as being fundamental to supporting a well-functioning market economy, regulations also play a central role in protecting the environment and the natural capital upon which our long-term prosperity and well-being ultimately depend. They are an essential policy tool for achieving protection of the natural environment and as a means of the UK meeting its legal obligations under EU Directives such as the Water Framework Directive, the Nitrates Directive, and the Birds and Habitats Directives.

4.39 Few, if any, major environmental improvements in the UK have been achieved in the absence of regulation. A recent report by the EA concluded that regulation has resulted in major reductions in air and water pollution, with corresponding benefits to human health and the environment²². From acid rain to ozone-depletion, numerous regulatory interventions have been hailed a critical success. In addition, evidence shows that the costs of regulation are frequently overestimated, while the benefits of regulation are often overlooked. Indeed, biodiversity-related regulations in England have a benefit-cost ratio of almost 9:1, and that the net direct costs are only a small fraction of total sector turnover (agriculture, forestry, and fisheries)²³.

4.40 Defra has recently done an excellent job of identifying ways of improving the effectiveness and efficiency of its stock of regulations without compromising environmental outcomes. It is crucial, however, to keep in place regulations that are still necessary. Improving regulatory outcomes then depends on the proper implementation and enforcement of those regulations. It is here that the agencies play a vital role in relation to environmental monitoring, the promotion of good practice, and the enforcement of environmental regulations, safeguards and standards.

Monitoring the state of the natural environment

4.41 Both Agencies have a crucial role to play in monitoring the state of the natural environment so that the evidence-based policies needed to ensure its protection and enhancement are properly informed, and their outcomes are robustly assessed.

4.42 Without appropriate data on the state of the environment, it is very difficult to know what actions are needed to safeguard it, or to identify any drivers of change. If the correct data are used effectively, it can inform the successful formulation of policy and

²² Environment Agency, 2012, Sustainable Business Report 2011.

²³ Defra, 2011, The Costs and Benefits of Defra's Regulatory Stock: Emerging Findings From Defra's Regulation Assessment.

its subsequent monitoring and re-evaluation leading to a cycle of continual improvement. Furthermore, these data could also be used to underpin sophisticated and policy-relevant sustainable development indicators.

- 4.43 NE's role in monitoring sites, species and habitats in England is fundamentally important in this process. Of particular importance is NE's monitoring progress on the terrestrial outcomes of *Biodiversity 2020* through chairing the Terrestrial Biodiversity Group; its work in relation to Agri-environment schemes; the condition of the protected area network and Common Standards monitoring of SSSIs through Integrated Site Assessments and baseline monitoring projects looking at Marine Protected Areas.
- 4.44 On the species side, we welcome NE's support on a range of varied and excellent monitoring initiatives. For example, the National Bat Monitoring Programme, carried out in conjunction with the Bat Conservation Trust, is a key component of Action for Bats in England. Furthermore, while widespread species can be covered by general monitoring surveys, such as the Breeding Birds Survey, species of conservation concern such as bitterns and Dartford warblers have a restricted range and are confined to relatively few sites. NE's expertise is particularly important for monitoring restricted range species. Likewise, Action for Birds in England (AfBiE) - a partnership between NE and the RSPB - provides tremendous financial, scientific and synergistic value to each organisation. Furthermore, given its strategic overview, NE is best placed to hold centralised information on the distribution, status and needs (in partnership with NGOs) of species, and also to lead reviews to define our priorities.
- 4.45 It is similarly important that the EA continues to undertake or commission post-monitoring for abstraction or discharge consents. Given the importance of freshwater to biodiversity and the economy, it is crucial the EA continues this work. However, the EA acknowledges considerable uncertainty over the state of rivers overall, and uncertainty about potential driving forces. This suggests a need to continue to expand and improve monitoring, in particular, for lakes and coastal waters.
- 4.46 While there are examples of EA and NE carrying out effective monitoring schemes, we would like to see a better coordinated monitoring/surveillance programme across the agencies for England, with a clear understanding of responsibilities and expectations of other bodies (e.g. Local Planning Authorities) developed in partnership with NGOs.
- 4.47 There is also a need to strengthen NE's role with regard to the monitoring of the duty to have regard to National Park purposes (the s62 or s11(A) duty). NE is currently required to report any significant breaches of the duty which are reported to them by NPAs. We would like NE to be more proactive in monitoring compliance and for a mechanism to exist for NGOs or concerned members of the public to report breaches to NE, with an associated requirement for reporting to Government.

Working with the conservation community

- 4.48 **Defra's Agencies and NGOs must work together to ensure that England's wildlife sites comprise a coherent and resilient ecological network. As landowners and advisers, both of the Agencies are central to realising this ambition.**
- 4.49 We welcome the creation of Nature Improvement Areas (NIAs) and Local Nature Partnerships (LNPs) and believe they should have a crucial role to play in improving the quality of the natural environment outside of protected areas, improving ecological connectivity and delivering landscape-scale conservation. The need for landscape-scale conservation lies at the heart of many conservation initiatives across England,

including The Wildlife Trusts' Living Landscapes initiative and the RSPB's Futurescapes programme. However, many of these initiatives could benefit from greater centralised support to ensure the achievement of national objectives through these local programmes. This should be a role for NE and EA.

- 4.50 LNPs are offering innovative approaches to conservation. Fulfilling LNP's considerable potential will require a high degree of partnership working. This presents exciting opportunities, and the potential to be greater than the sum of its parts, thereby yielding a good return on any investment. Both NE and the EA have frequently played an excellent role in facilitating, mediating and bringing their expertise to bear when necessary, during the early stages of LNPs and NIAs. Of particular help, has been the provision of information and advice regarding HLS and strategic planning. It is crucially important that they build on this input if LNPs and NIAs are to begin delivering the significant conservation benefits on the ground that they are capable of.
- 4.51 It is also important to ensure that their work delivers landscape-scale conservation. One excellent example of the EA working with NE, NGOs and LNPs is the EA's Medmerry Managed Realignment Project in West Sussex. This project is seeking to create 183ha of intertidal habitats to compensate for the loss of Natura 2000 sites in the nearby Solent, mitigating impacts on the Bracklesham Bay SSSI which will be inundated as part of the scheme. This scheme has dealt admirably with protected species on the site, including reptiles, badgers, water voles and great crested newts. The RSPB has been the main ecological, access and communications partner and the scheme has been an exemplar of partnership working with NGOs and the wider community.

5. **Question 2: What changes could be made to provide better quality outcomes for the environment, economy and society?**

Natural England:

- 5.1 NE must continue to focus on its purpose as set out in the Natural Environment and Rural Communities (NERC) Act (2006) and, in doing so, contribute to social and economic well-being through the management of the natural environment. The following issues must be addressed to enable NE to deliver its functions effectively:

NE's draft Framework must be amended to reflect its focus on conserving and enhancing the natural environment

- 5.2 The threats facing biodiversity necessitate a well-resourced and science-led Government Agency to act as an independent champion for the natural environment. The Agency must therefore fulfil its Statutory Purpose: *'To ensure that the natural environment is conserved, enhanced and managed for the benefit of present and future generations, thereby contributing to sustainable development. Indeed, it is by focussing its necessary expertise on these objectives, that such an Agency can make its most meaningful contribution to sustainable development'*.
- 5.3 We strongly believe that, while any champion for the natural environment should also be expected to have regard to economic and social objectives, it should not be expected to hold economic development as an objective. This is crucial because there will be many instances when the necessary action (often legally required) for the natural environment will not yield maximum economic benefits in the short term. It should be possible for decisions to protect the natural environment to be developed independently of economic drivers.

- 5.4 The NERC Act (2006) should enable NE to fulfil the role of an independent champion of the natural environment, with a clear focus on its conservation and enhancement. However, its ability to do so has been fundamentally compromised by the draft NE Framework and the NE Autumn Statement Improvement Plan. Our view is supported by legal advice from DLA Piper²⁴. Both NE documents, when taken as a whole, have the effect of increasing the weight of economic considerations and decreasing the independence of NE, when compared to its statutory remit in the NERC Act (2006.) In doing so, these documents undoubtedly weaken natural environment protection in England.
- 5.5 For example, the draft Framework states, *‘The reference to ‘sustainable development’ in the organisation’s statutory general purpose, indicates that NE should seek solutions which, while achieving environmental benefits, also provide long-term economic and social benefits, and avoid untoward economic and social impacts’²⁵... NE should therefore have regard to the National Planning Policy Framework, which sets out the Government’s view of what sustainable development in England means in practice for the planning system, describing three dimensions: economic – contributing to building a strong, responsive and competitive economy; social – supporting strong, vibrant and healthy communities; and environmental – contributing to protecting and enhancing our natural, built and historic environment’.*
- 5.6 While we support the NPPF’s integrated approach to sustainable development, the NPPF is primarily a policy document for plan-makers and decision-takers²⁶. NE has a specific role in the planning system as a statutory adviser to planning authorities, which must be carried out in accordance with its general purpose under s2(1) of the NERC Act (2006). NE may wish to apply the language of the NPPF in paragraphs 109-118 to its advice, but it should not be required to apply the entire NPPF to such advice. This is the role of the decision-maker, usually the local planning authority or the Secretary of State.
- 5.7 Diluting NE’s focus on the natural environment has serious practical implications for how it operates. Taking statutory planning advice regarding SPAs and SACs as an example, factoring in economic matters would dilute what should be impartial scientific advice on ecological matters to the final decision maker. Furthermore, Article 174(2) EC of EU Law²⁷, stipulates that NE must adopt the precautionary approach to ensure adequate environmental protection, and thus in practice the reverse burden of proof applies, ie. a developer must demonstrate that there will be no impact, rather than the ecological consultee being required to demonstrate that there will be an impact. It is then the duty of the final decision-maker to weigh up expert advice on different matters from relevant experts, bearing in mind the statutory and policy framework. Ecologists should not be expected to factor in economic considerations before giving ecological advice. If they do, their advice will not be of the appropriate quality and there is a real danger of ill-informed decisions and a failure to safeguard legally protected sites.
- 5.8 We therefore strongly recommend that the NE Framework is amended to reflect its statutory remit and its proper role within the planning system.

²⁴ DLA Piper, 2012, Legal advice on the role of Natural England as set out in Defra’s “Draft Natural England Framework Document” and Natural England’s “Autumn Statement Improvement Plan”

²⁵ Paragraph 2.5 of the draft Natural England Framework

²⁶ Paragraph 14 of the NPPF

²⁷ Treaty establishing the European Community - Part Three: Community policies - Title XIX: Environment - Article 174 - Article 130r - EC Treaty

NE's Autumn Statement Improvement Plan must be amended to reflect its focus on conserving and enhancing the natural environment

- 5.9 We are also concerned that the Improvement Plan²⁸ states that, '*Whilst our statutory purpose and remit have not changed, the importance of the role we play in supporting sustainable development and minimising unnecessary costs to business has been re-emphasised; the value of a customer-orientated and solutions-focussed approach is key*'. This is perfectly acceptable if the changes discussed concern the way in which advice and decisions are delivered, rather than the nature of the advice and decisions themselves (for example, making improvements in customer service response times or improving the availability of advice pre-application). However, the rest of the Improvement Plan appears to suggest that this refocusing would actually involve greater weight being given to the development aspirations of applicants, in giving such advice, which could have a negative impact on biodiversity, contrary to s2(1) of the NERC Act (2006). Such a change would be wholly inappropriate.
- 5.10 Furthermore, the Improvement Plan also states that NE will deliver '*a comprehensive change program to align every aspect of our organisation and the way that we work with the needs of our customers as well as the natural environment*'. '*Customers*' in this context seems to mean those requesting advice or applying for licences. s2 of the NERC Act clearly indicates that NE should seek to exercise its functions for the benefit of '*present and future generations*', rather than the much narrower category of licence applicants or applicants for planning permission.
- 5.11 We therefore recommend that the Improvement Plan be superseded by new advice clarifying that any improvements to NE's customer service, relate to the ways in which advice and decisions are delivered, rather than the nature of the advice and decisions themselves. We also recommend that the Improvement Plan explicitly embraces a much wider definition of '*Customer*' including landowners, other statutory bodies and regulators, the public and environmental NGOs.

Defra's guidance to NE must be revised to reflect adequately NE's role as an independent champion for the natural environment and an advocate of access to the countryside.

- 5.12 NE's current Management Statement requires NE to act as an '*independent champion of the natural environment, inspiring public support and holding the Government and others to account for their actions*²⁹'. Such an interpretation clearly accords with NE's remit in the NERC Act³⁰. In stark contrast, the draft Framework states that NE will '*support the Government's aims and priorities as effectively as possible*'.
- 5.13 Government rightly has a much wider remit than NE. Although in theory Government speaks with one voice, in practice there are numerous policy tensions within Government and its agencies; fruitful discussion and resolution of these tensions can only take place if each Agency speaks to its own expertise. If the intention is for NE to support Government aims that sit outside NE's remit, this would be a clear breach of NE's statutory duties. On the other hand, if the intention is for NE to support Government aims that accord with its statutory remit, the wording in the draft Framework is confusing and unnecessary. Either way, we strongly recommend that the wording in the draft Framework be replaced with wording comparable to that in the Management Statement. If the public are to feel confident that the natural environment

²⁸ Paragraph 5 of the Natural England Autumn Statement Improvement Plan.

²⁹ Section 22 of the NE Management Statement and Financial Memorandum.

³⁰ Natural Environment and Rural Communities (NERC) Act (2006).

is being conserved and enhanced for future generations, they need to know that there is an independent Agency that is free from political interference, or requirements to boost short-term economic growth.

- 5.14 In 2009, David Cameron set out three tests that all quangos had to pass. One of these was, ‘does it fulfil a need for facts to be transparently determined, independent of political interference?’ Despite this, the draft NE Framework states that NE will ‘*support the Government’s aims and priorities as effectively as possible*’ and there is no mention in the entire document of NE’s independence. It is difficult to see how an Agency can determine facts, independent of political interference, when they are being required to support the Government’s aims and objectives. The draft Framework fundamentally undermines their ability to exhibit one of the key characteristics that the Prime Minister has said is essential for a quango.
- 5.15 Furthermore, the advice given by NE should be in accordance with its statutory remit. We are therefore deeply concerned that the draft Framework states that ‘*Natural England should therefore have regard to the National Planning Policy Framework, which sets out the Government’s view of what sustainable development in England means in practice for the planning system, describing three dimensions: economic – contributing to building a strong, responsive and competitive economy; social – supporting strong, vibrant and healthy communities; and environmental – contributing to protecting and enhancing our natural, built and historic environment*’.
- 5.16 Link members work closely with NE on the ground, and this interference in their ability to inform evidence-based policy and deliver its implementation, based on sound science, is creating confusion and therefore undermining NE’s effectiveness.

NE needs to improve its work on species and site protection

- 5.17 Although there are some examples of good practice³¹³², inappropriately located development is still resulting in a net-loss for biodiversity and continual damage to landscapes.
- 5.18 For NE to fulfil its role effectively, it must remain independent, with a clear focus on conserving and enhancing the natural environment. In this way, it can provide LPAs with a clear understanding of the ecological impacts of any proposed development. This is especially important where advice relates to statutorily protected sites and species. We are concerned that attempts to erode their independence and focus on the natural environment, coupled with resource pressures, restructuring and loss of expertise, are beginning to have a negative effect on the quality of advice it is giving.
- 5.19 NE needs to improve monitoring and advice for Local Sites. Local Sites play an important role in improving the wider network that supports SSSIs, and in bringing nature closer to people. In most cases SSSIs represent only a sample of the most important sites, and are insufficient to deliver adequate protection on their own.

Improving the delivery of agri-environment advice

- 5.20 Given the importance of agri-environment schemes, and the reliance which the Government places on these schemes to show how farming initiatives are delivering on conservation objectives, it is alarming that NE has reduced its number of advisers

³¹ Anderson, P., 2004, Conservation takes off at airport. *Conservation Land Management* 2, 8–11.

³² Town and Country Planning Association & The Wildlife Trusts, 2012, *Planning for a healthy environment – good practice guidance for green infrastructure*.

in recent years. Subsequent short-term appointments to fill these gaps suggest that these reductions were not sustainable and may result in undermining the Agency's effectiveness. The importance of experience and local knowledge – of both people and places - should not be under-estimated.

- 5.21 The main barrier to better implementation is a lack of resource amongst Local Management Teams (LMTs). Frequently, NE advisers will only have time to set up HLS agreements, and will rarely have the time to undertake care and maintenance visits. Post-application advice – e.g. on option management – is often a decisive factor in the success or failure of an agreement in meeting its Indicators of Success. Additional resources would help to rectify this problem. This represents good value for money, ensuring a high rate of success.
- 5.22 Continued operational independence will also be crucial. As with any large pot of money, there are a significant number of stakeholders lobbying for this money to be directed toward their objectives. It is critical that NE is free from, and seen to be free from any interference when implementing agri-environment schemes. We are, therefore, concerned by NE's draft Framework and Improvement Plan, which are reducing NE's independence and shifting its focus.
- 5.23 The role of NE when it comes to developing future schemes also needs to be clarified. It holds the majority of expertise in this area, and a Government commitment to a body that is independent will allow this expertise to be utilised.
- 5.24 The uncertainty over future Common Agricultural Policy (CAP) is a major concern. It is fundamentally important that, in line with recommendation 63 of *Biodiversity 2020*, that Pillar 2 should receive a greater share of a smaller CAP budget. This is crucial if NE is to continue and build upon the frequently excellent work it does in using agri-environment schemes to deliver place-based conservation objectives.

The Environment Agency:

- 5.25 The following issues must be addressed to enable the EA to deliver its functions effectively:

The EA needs to do more to champion nature conservation when discharging its functions

- 5.26 While it is important for NE to be a champion for the natural environment, it is also important that the EA shows strong leadership and commitment to delivering conservation objectives. However, despite strong environmental duties and powers, EA often appears hesitant about setting a clear environmental ambition and appears reluctant to use its regulatory/statutory powers to secure beneficial outcomes. For example, we are unaware of any instances when the EA has instructed Internal Drainage Boards, where these are failing to meet their obligations to SSSIs or Water Framework Directive even though powers exist to provide '*general or specific directions to IDBs*³³'. Similarly, the EA has never used its compulsory purchase powers for coastal realignment projects, risking compromised design and inflated costs that are passed on to the taxpayer.
- 5.27 Instead the EA tends to slip into a 'stakeholder' management role leaving others to fight the corner for the environment – an approach that led to very poor levels of

³³ s7(1) Land Drainage Act (1991)

ambition in the first round of Water Framework Directive River Basin Management Plans.

- 5.28 One of the key failures of those plans was a failure to secure action to tackle diffuse pollution from agriculture and urban areas. This is partly because diffuse pollution problems have more recently come to light as gross point source pollution recedes. Furthermore, diffuse pollution is more complex to understand by its very nature. However, as the National Audit Office pointed out, the EA seems reluctant to use its powers to serve works notices, with just seven issued in 2009/10.
- 5.29 The reluctance to take action can also be seen in the way the Water Framework Directive was implemented. Analysis presented in *Water for Life* suggest that agriculture now accounts for around 1500 environmental quality failures, about the same number are accounted for by the water industry. Despite this, Defra's Impact Assessment shows that over 80% of the costs of implementing the Directive have been piled on to water companies and their customers –while the farming industry will bear less than 1%.
- 5.30 The Agency has recently taken steps to improve its understanding of diffuse pollution problems, launching a large scale investigations programme and a series of catchment walkovers. These have revealed issues on a systemic scale with over 4000 issues being reported in the North West Region alone (one every 0.6km surveyed). While some of those will be industrial or urban the findings do suggest huge disparity between the effectiveness of cross-compliance enforcement undertaken by the Rural Payments Agency which reported fewer than 200 failures for resource protection regulations across the whole of England in 2011. This suggests the EA and the RPA must significantly up their game in terms of diffuse pollution control, something that can only happen with support from Defra.

The EA should improve its internal integration but the legislative framework remains a barrier to greater flexibility and effectiveness

- 5.31 Integrating flood risk management within the EA should lead to greater environmental sensitivity and a more integrated approach to catchment management. However, the Water Framework Directive has yet to be fully integrated into Flood and Coastal Erosion Risk Management (FCERM) economic and operational guidance.
- 5.32 More generally, the EA continues to suffer from a lack of internal integration. Operational decisions made by the Agency should be linked to distinct legislative regimes and funding streams, many of which are ring-fenced by statute. This situation makes it very difficult for the EA to take an integrated approach which may offer excellent outcomes in the round but fall between functional leads. We believe Government should take this opportunity to remove legislative silos and give the Agency more freedom to take decisions about the most cost-effective course of action to deliver environmental, social and economic objectives intended by European/domestic legislation and Government policy.

Natural England and the Environment Agency:

- 5.33 The following issues must be addressed so that both Agencies are able to effectively deliver their functions.

The actions of the agencies, and of Defra when dealing with the agencies, must be more transparent and within the public domain

- 5.34 Transparent and robust decision-making is integral to maintaining public confidence that NE is exercising its regulatory functions in an open manner, consistent with its responsibility to serve the public interest³⁴.
- 5.35 Recent decisions regarding consents granted to manage Walshaw Moor in the South Pennines give serious cause for concern that NE is drifting away from its duty to serve the public interest. The manner of, and reasons for, the decisions at Walshaw Moor, as well as how they were then justified to the public, remain opaque. Public statements deliberately obfuscated about NE's abandonment of a major prosecution covering 43 separate grounds of alleged serious environmental damage and the chance to secure restoration of that damage. Combined with the abandonment of the SSSI Consent public inquiry process, this lack of transparency serves to undermine public confidence that there is an independent agency that is focussed on protecting biodiversity. It provides a worrying signal of both the direction of travel and the dynamics of NE's relationship with its 'customers' and Government.
- 5.36 Public confidence that Defra's agencies are able to make decisions based on sound science, in line with their statutory remit and away from political interference, depends on transparent decision making. For there to be democratic accountability, Ministers must ultimately be responsible for the actions of their agencies, and we accept that the ultimate decision-making responsibility rests with the Minister, not with the Agency. However, for the public to have confidence in the actions of the Agencies and the Ministers responsible for them, there must be a far more transparent process of decision making, with a clear audit trail.
- 5.37 Defra and its agencies could follow the example set by the Department for Communities and Local Government (DCLG) and the planning system. The highly contested arena of land-use planning has multiple tiers of decision-making that go from local planning authorities, via the Planning Inspectorate, right up to the Secretary of State. At all levels, the decisions are made publicly available along with a rationale for that decision, and there are clear guidelines for when the Secretary of State can intervene in decision-making. Furthermore, nearly all local authorities publish internal consultations. A similar system for decision-making and advice given by Defra and its agencies could help to build greater public confidence in decision-making processes.

The Agencies need to adopt a more precautionary approach when dealing with environmental limits

- 5.38 Identifying environmental limits is a hugely complex task and the scientific expertise of the Agencies is critical. In the first instance, this requires a thorough understanding of the current state of the natural environment. However, our understanding of the wider health of our countryside is limited, even where we rely on it for vital ecosystem services. It is critically important that the Agencies work to build a more complete picture of the current state of the natural environment, from which to assess any future changes.
- 5.39 Being able to predict how an ecosystem will respond to disturbance and environmental change remains, however, a major challenge for ecological science. Not enough is known about the different levels of resilience and resistance of ecosystems in given different states, and how change can be successfully managed to maintain levels of benefits important to human well-being.

³⁴ s2(1) of the NERC Act 2006

- 5.40 We do, however, know that species richness and more diverse patterns of species interactions can enhance ecosystem stability and maintain levels of ecosystem services³⁵. Furthermore, it is highly unlikely that the historic ability to absorb repeated shocks by ecosystems in the UK will be maintained or that present levels of ecosystem services will continue, particularly with increasing pressure on biodiversity from climate change³⁶. Most commentators therefore agree that these uncertainties highlight the need for a precautionary approach to managing natural resources and related ecosystem services, if we are to avoid breaching thresholds³⁷.
- 5.41 However, the Agencies have not always adopted an appropriately precautionary approach to their work. For example, the environmental health of our rivers, lakes, coasts and ground waters should be monitored in a precautionary manner. However, the actual monitoring regime in England is almost certainly over-optimistic about the quality of our water bodies.
- 5.42 For example, although the Water Framework Directive applies a ‘one-out all-out’ rule – where water bodies are classified according to the *worst* of the over 25 chemical and four biological measurements that can be made – the EA almost never makes the full set of measurements. For the latest River Basin Management Plans, only 209 of the 7,105 water bodies (3%) were monitored for all four biological indicators 2,835 (40%) were not monitored for them at all³⁸.
- 5.43 This blind spot is amplified by the lax chemical standards adopted in the UK. For example, phosphates are one of the most damaging pollutants in our rivers and lakes, but the phosphate standard is set at a level where biological indicators will have failed in 95% of cases. As such, a significant number of water bodies will pass the phosphate standard but fail for biology if monitored – this is true at almost one-third of the EA’s surveillance sites, where both are monitored.
- 5.44 The combined effect of patchy biological monitoring and lax chemical standards is an over-optimistic view of our water bodies – a far cry from the precautionary route we should be following. This problem is not restricted to the EA. Indeed, the ways in which the draft NE Framework and Improvement Plan elevate economic objectives would make it increasingly difficult for NE to follow the necessary precautionary principle that Government has acknowledged is vital³⁹. Both NE and the EA must be able to take a scientifically objective, long-term perspective that is unfettered by short-term economic or political considerations, if we are to ensure that the cumulative impacts of development do not breach environmental limits.

Expertise and technical capacity within the Agencies must be retained and improved

- 5.45 While Defra’s recent review of the Birds and Habitats Directive found that the Directives themselves are not a barrier to economic progress and growth, they did note that *‘costs and delays for developers can arise in the implementation process.’* before suggesting that the following issues could be improved in order to help the implementation of the Directives in England:

³⁵ Isbell, F, Polley, F, Wilsey, B, 2009, *Ecology Letters* **12**: 443-451.

³⁶ HM Government, 2009, POST Report 341, Biodiversity and Climate Change.

³⁷ HM Government, 2011, POST Report 370, Living within Environmental Limits.

³⁸ In England, of the water bodies classified in the 2009 River Basin Management Plans, only 209 were monitored for four biological quality elements, 411 for three, 1,662 for two and 1,988 for one, while 2,835 were classified with no biological data at all.

³⁹ HM Government, 2011, POST Report 370, Living within Environmental Limits.

- The availability and comparability of data. This has implications for every stage of the decision-making process, with uncertainty around evidence requirements and interpretation potentially increasing the risk of delay and higher costs. The shortage of baseline data is a particular issue in relation to the marine environment.
 - Skills and capability gaps also occur in all bodies – including statutory bodies.
- 5.46 One area where a lack of capacity is acting as a brake on economic growth, relates to the development of offshore wind energy generation. The Centre for Economics and Business Research estimates that renewable energy powered by offshore wind has the potential to create 173,000 jobs and deliver an increase in net exports of £18.8 billion – which would be sufficient to fill nearly 75% of the UK’s current balance of trade deficit⁴⁰. However, a lack of baseline data for the marine environment is one of the key factors slowing down the delivery of offshore wind development. Investing in NE and JNCC so that they can establish this vitally important data, would see a rapid return on investment. It would also ensure that offshore wind development does not harm the marine environment, while aiding the formulation of scientifically robust marine conservation zones, which are vital if we are to reverse desperate declines in marine biodiversity.
- 5.47 There are further gaps in technical expertise and issues relating to poor human resourcing, especially at NE. For example, there are currently no geomorphological specialists at NE and few dedicated staff work directly on the public concern at the loss of bees and pollinating insects. This is incredibly alarming, given NE’s role as a statutory adviser for development relating to ports and dredging, shoreline management and species conservation.
- 5.48 Continual organisational restructuring and subsequent inappropriate human resource management have had a negative effect on technical capacity and expertise. Even where staff with expertise has been retained, they are often not in roles where their expertise is needed, whereas people are frequently in roles where they do not have the necessary expertise. The loss of morale, outlined above, due to a loss of independence and a shift in remit, may also be contributing to a high turnover of staff at NE. We have also mentioned, earlier in this response, the shortage of expertise and capacity within NE to address and offer advice on landscape issues (although there are nevertheless good programmes being taken forward in this area, such as the publication of new National Character Area profiles).
- 5.49 Furthermore, there would appear to be a high proportion of staff now advising on SSSIs and HLS who do not have the necessary ecological background or expertise to carry out what need to be technical roles. This paucity of ecological expertise is becoming increasingly problematic. For example, we are frequently finding that some staff are dependent on SSSI citation and standardised forms as guidance. This means they do not understand the species they are trying to conserve, and can only think in terms of favourable/unfavourable condition, not what that means or how to achieve it. Only people with an understanding of wildlife can work effectively with the legislation and get the best for conservation and the taxpayer.
- 5.50 Lack of expertise is most acute in the lesser-studied taxa that comprise most of our biodiversity. For example, there are only three entomologists, and very few mycologists and lower plant specialists, making it increasingly difficult to obtain satisfactory advice for many groups of species. Many of these species are critical for ecosystem function and yet we know little about what is causing their declines. For example, fungi recycle 80% of the nutrients obtained by our trees. It is vital that NE

⁴⁰ CEBR, http://www.cebr.com/wp-content/uploads/Value-of-offshore-wind_Cebr-report-for-MRP.pdf

invests in the necessary research and expertise to evaluate and advise on how to reverse declines in vital, but poorly understood taxa.

- 5.51 NE also needs to liaise with the new initiatives coming forward through the Natural Environment Research Council with respect to taxonomy and systematics. Following a review conducted by the Council in 2011, the UK Taxonomy Coordination Committee was established to coordinate research into taxonomy and systematics. NE must liaise with this committee regarding the conclusions of research programmes, to avoid duplication. NE must also be prepared and able to access networks of scientific expertise, such as those found in learned societies like the British Ecological Society.

The Agencies need to improve the enforcement of environmental regulations

- 5.52 More needs to be done to ensure compliance with existing regulations. For example, investigative work on wild bird crime carried out by the RSPB, in support of the statutory authorities, has consistently shown that illegal persecution of birds of prey persists⁴¹, negatively affecting the conservation status of some species⁴². Furthermore, despite a long-standing ban on the use of lead shot for shooting over wetlands, owing to its detrimental effects on wildlife, non-compliance remains high and widespread. One-third of all water birds are affected by lead poisoning, and one in ten is killed by lead poisoning.⁴³ Although legislative protection has had a positive impact on the numbers and distribution of many bird species, it is clear that some are prevented from occupying their natural range due to widespread illegality and ineffective prevention and enforcement strategies.
- 5.53 Taking raptor persecution as an example, NE could play a more active and effective role in tackling this problem, working in a more integrated way with police forces and experts from the voluntary sector. Raptor persecution is one of the UK Government's wildlife crime priorities, and initiatives to reduce the illegal use of pesticides in the countryside date back many years. Despite this, persecution remains a serious conservation issue for a number of birds of prey. A failure to address illegal poisoning poses attendant risks to human health, companion animals and beneficial insects.
- 5.54 NE staff should play a pivotal role in the investigation of wildlife poisoning offences, yet this typically forms only a relatively small part of their work. Prosecutions for pesticide abuse offences are invariably taken by the police and Crown Prosecution Service. The manner in which wildlife poisoning investigations are carried out by NE and/or the police remains piecemeal and inconsistent, meaning important enforcement opportunities are lost because of the lack of a clearly defined working relationship between these agencies.
- 5.55 The police manage and disseminate intelligence information on wildlife and other crime according to the National Intelligence Model (NIM). We do not believe that NE is currently set up to integrate fully with this system. As a result, intelligence relating to wildlife poisoning is not managed and disseminated in line with police standards. There are clear benefits to having staff trained and dedicated to deal with specialist issues like wildlife poisoning – there are too few of these currently. Correcting this shortfall, coupled with meeting common intelligence management standards, could lead to more successful prosecutions of wildlife poisoning offences, helping drive the message that indiscriminate poisoning is an unacceptable element of 21st Century land

⁴¹ RSPB, 2012, Birdcrime 2011: Offences against wild bird legislation in 2011.

⁴² Smart, J. *et al.*, 2010, Illegal killing slows population recovery of a re-introduced raptor of high conservation concern – The red kite *Milvus milvus*. *Biological Conservation*, 143(5), 1278-1286.

⁴³ Newth, J.L. *et al.*, 2012, Poisoning from lead gunshot: still a threat to wild waterbirds in Britain. *European Journal of Wildlife Research*, 1-10.

management practice. This could, and in conjunction with similar initiatives in southern Scotland, pave the way for golden eagles to recolonise England.

- 5.56 Another challenge facing the Agencies is a move towards ‘co-regulation’. We recognise the importance of minimising any unnecessary administrative costs associated with regulatory compliance. However, a desire for co-regulation should not undermine the important role played by the Agencies in monitoring and enforcing compliance with environmental standards and safeguards. A lack of enforcement is already imposing environmental costs right across the board. The role of the Agencies in the future in respect of these aspects is unlikely to be diminished. Such ‘earned recognition’ approaches are still at a very early stage and will need to be continually monitored and assessed by the Agencies, to ensure that they do not lead to a drop in environmental standards.

The Agencies need to improve monitoring of the natural environment

- 5.57 Overall while we recognise the breadth and quality of the species monitoring work, we would argue there must be much greater investment in the basic information on distribution, numbers and threats of a wider range of priority taxa in the UK and monitoring of Article 17 of the Habitats Directive. However, new investment should not be at the expense of current research and monitoring initiatives.
- 5.58 Arguably the biggest gap in NE’s monitoring relates to habitats. NE has no workable spatially explicit system for mapping and recording the loss of priority habitats, or for recording the creation of new habitat. It has tentative figures for the latter, but no spatially referenced system. This is an alarming omission. We do, however, welcome recent work to convert habitat inventories into a single data layer. This is welcome because it will remove overlaps and double counting, but there are still significant gaps in these inventories - several of which are significantly out of date. These gaps and deficiencies in monitoring and surveillance need to be addressed if we are going to be able to monitor progress and report properly on the *Biodiversity 2020* outcomes.
- 5.59 Although the EA claims to have one of the best monitoring networks of water quality in Europe, it also acknowledges huge uncertainty in its results, which limits their ability to drive improvement through the Water Framework Directive. EA needs to continue to expand and improve the representation of the monitoring networks for water quality.

Both agencies need to do more to ensure improvements in ecological connectivity

- 5.60 We welcome the commitment in the NEWP to create 200,000ha of priority habitat by 2020⁴⁴. However, whilst a breakdown of what this could look like for different habitats has been produced by NE, working with a range of stakeholders, this has not been widely disseminated. There is currently a shortfall in delivery against this outcome and the Agencies should work with Defra to identify which policy mechanisms and incentives need to be improved to address this. We also believe that the EA should have more ambitious targets for habitat restoration. Given the impressive scope of their work, significant gains would be achieved were they to do so.
- 5.61 Following the loss of Regional Spatial Strategies, a large amount of partnership work to map regional and local ecological networks, including Habitat Opportunity Areas and Strategic Nature Areas, has also been lost. These maps provided an important spatial tool to help target the creation of new habitats to meet multiple objectives for

⁴⁴ Paragraph 2.9 of the Natural Environment White Paper

biodiversity, climate change adaptation and people engagement. It is essential that Local Nature Partnerships develop these maps when identifying local ecological networks in their area.

The Agencies should have a formal and well-defined role to play in policy formulation

- 5.62 Science has a crucial role to play in the formulation of environmental policy, as well as in its implementation. We are therefore concerned that the Improvement Plan states that NE will no longer be involved in policy making activities⁴⁵. This is a serious issue, as the input of expertise at the stage that policy is formed is crucial. This also appears to go against s4(4) of the NERC Act (2006), which states that ‘*Natural England may give advice to any person on any matter relating to its general purpose... if Natural England thinks appropriate to do so, on its own initiative*’. It also appears to contradict the Framework Document, which states on p13 that ‘*Natural England has an important contributory role to play in the development of Defra policies*’. We firmly believe that NE should have a role to play in informing evidence-based policy, and that the Government should see this as an opportunity to make better policy, supported by robust evidence, rather than as a threat.
- 5.63 More generally it would be costly, both in terms of duplication of effort and poor decision making, if Government was to ignore the reservoir of expertise and experience on specialist areas within the Agencies. Indeed, it is clear that in practice this expertise is often brought back into Defra either formally or informally to support the decision making of civil servants and ministers.
- 5.64 We therefore suggest that, while the separation of decision making in policy making sits clearly within Government, the vital contribution that EA and NE can and do make in developing and evidencing policy options is formally acknowledged. However, while we believe that both the Agencies should have a clear and well-defined role in helping Defra to develop policy, we are not advocating a return to public lobbying on matters of policy.

A more strategic and positive approach is needed for areas where EA investment in land drainage and flood/coastal risk management is being reduced or withdrawn

- 5.65 One of the inevitable consequences of focussing flood and coastal risk management funds on areas of highest risk, is that many rural defences will no longer qualify for public investment. The effect of this is now being seen across the country as the EA signals its intention to withdraw or reduce standards of maintenance. While the EA, Defra, NE and stakeholders have worked hard to agree approaches to withdrawal, such decisions are understandably contentious amongst those landowners affected.
- 5.66 The Lyth Valley is one of the highest profile sites where this is playing out. In the face of an unequivocal economic case for withdrawal, the EA adopted a “neutral” position as to the future giving the impression that landowners will be left to deal with the consequences if they cannot find the resources to take on the operational costs of the current system. Unsurprisingly, vociferous local opposition has led to political intervention from the Minister and subsequent delay.
- 5.67 We believe some of the ‘sting’ could have been taken out of the proposals had EA and NE worked with RSPB and The Wildlife Trusts to develop and promote positive ways

⁴⁵ Paragraph 5 of the Improvement Plan

in which landowners could adapt, for example, by adopting agri-environment or changing farming models.

5.68 It is vital we learn lessons from the Lyth because as the EA is put under increasing pressure to deliver more benefit from its Flood and Coastal Erosion Risk Management (FCERM) funding these kinds of decisions will be played out across the country. These lessons should include:

- Defra providing more clarity as to what ‘service’ communities might expect from NE and the EA in areas where FCERM investment is being withdrawn;
- The EA working proactively with NE, landowners and stakeholders to look for opportunities to help landowners adapt in a way that reduces impacts and furthers Water Framework Directive/England Biodiversity Strategy objectives.

6. Question 3: Of the range of options for reform proposed to the current delivery arrangements, which do you think are the most appropriate – if any – to achieve better quality outcomes for the environment, economy and society on a sustainable basis and why?

6.1 We recommend the continued structural status quo of the EA and NE in relation to each other but with operational changes to the way both organisations work, both individually and collaboratively. We strongly oppose a merger between the two organisations.

6.2 Given the nature of the EA’s work in dealing with functions such as flood defence, it would be unreasonable to expect it to prioritise on conserving and enhancing the natural environment. If NE were to take on a wider remit, it would, for example, be forced to factor in economic objectives when giving advice on planning applications, rather than focussing on the environmental implications of the scheme.

6.3 Diluting NE’s focus on the natural environment has serious practical implications for how it operates. Taking statutory planning advice regarding SPAs and SACs as an example, factoring in economic matters would dilute what should be impartial scientific advice on ecological matters to the final decision maker. Such economic considerations should also not be part of such advice, as a matter of European law. It is then the duty of the final decision-maker to weigh up expert advice on different matters from relevant experts, bearing in mind the statutory and policy framework. Ecologists should not be expected to factor in economic considerations before giving ecological advice. If they do, their advice will not be of the appropriate quality and there is a real danger of ill-informed decisions and a failure to safeguard legally protected sites.

6.4 The imperative of conserving and enhancing the natural environment requires at least one body devoted to that cause, and this negates a merger between NE and the EA. While the EA should have regard for conservation, particularly given its increasing focus on a catchment management-based approach in line with the Water Framework Directive, we are concerned that the dominance of certain EA functions, such as flood defence, may have a negative impact delivery of its natural environment functions. For example, the Flood Risk and Coastal Management team currently has almost 4,500 full time staff, while NE’s biodiversity team has less than 500 staff. This asymmetry would be reflected in management structures and organisational priorities and conservation would inevitably suffer.

- 6.5 The current suite of functions should be maintained and kept within the organisation currently responsible for them. Keeping primary responsibility for certain functions, such as flood defence and protecting and restoring biodiversity, in separate bodies is important. This helps to avoid potential conflicts of interest, ensure that necessary focus is not diluted and allows open and transparent dialogue between two organisations with necessarily different remits, if disagreements arise.
- 6.6 A single body would almost certainly result in self-consenting and a lack of transparency in decision-making, as external dialogue between the two organisations becomes internal. This would be particularly problematic when dealing with coastal management and flood defences, and also with processes such as consenting of abstractions where they may affect protected sites.
- 6.7 Furthermore, as stated earlier, NE is still trying to overcome the negative consequences of previous restructuring. A merger between NE and the EA would cause a huge amount of upheaval at a time when we are facing a great number of environmental crises – a fact evidenced by recent severe flooding. The experience of creating Natural Resource Wales would also indicate that merging agencies is a very costly exercise that will inevitably divert scarce resources from much needed conservation, in the short to medium term.
- 6.8 We welcome efforts at greater integration through projects such as Catchment Sensitive Farming, Priority Places and joint guidance on neighbourhood planning. Such activities can help to achieve the conservation benefits of greater integration without the disruption and distraction that a merger would create.
- 6.9 While we would strongly recommend the continued structural status quo of the EA and NE in relation to each other, we have recommended operational changes to the way both organisations work, individually and collaboratively, in question 2 and 4. We have also suggested some further structural and functional changes to NE in question 4, below.
- 7. *Question 4: Do you have any further suggestions for alternative delivery options which would achieve better quality outcomes for the environment, economy and society on a sustainable basis, and if so, how would they operate?***
- 7.1 *Following a split between FS and the public forest estate, FS should merge with NE.***
- 7.2 In light of the Government’s announcement to consider the functions of FS alongside the work of the Triennial Review⁴⁶ we consider a merger of FS and NE to be the most effective way to achieve a strong champion for the whole natural environment. Combining the two would create a single organisation with a strategic overview of all terrestrial and inshore habitats. Such an overview should prove hugely beneficial in delivering landscape-scale conservation and public benefit delivery objectives in line with the principles set in the *Making Space for Nature* report.
- 7.3 Following publication of the Independent Panel on Forestry’s (IPF) report in July 2012, Link responded by supporting all recommendations in the report⁴⁷, including for FS to

⁴⁶ Defra, Government Forestry and Woodlands Policy Statement, January 2013

⁴⁷ http://www.wcl.org.uk/docs/link_response_to_ipf_report_oct%2012.pdf

evolve to become a separate non departmental public body. However, we also recognise that, while the Government recently stated its commitment to *‘strong and resilient forestry delivery arrangements that achieve better quality outcomes for the economy, people and nature’* and has accepted that it *‘needs to retain a core of forestry experts with the capacity to deliver a wide range of functions, duties and powers’*, the Government is *‘equally clear that the structural and organisational arrangements required to deliver such functions need to change to be sufficiently strong and resilient to deliver Government’s forestry priorities and statutory obligations in the short and longer term’*.

- 7.4 We therefore make the recommendation of combining NE and FS in the context of the Government’s recently stated intention of *‘considering the functions currently delivered by the FS Directorate within the Forestry Commission alongside the work to review the functions and form of EA and NE as part of the Triennial Review’*. The Government makes clear that, in reviewing FS’s current functions, it will follow the same principles underlining the review of EA and NE, *‘namely better integration, greater affordability and improved service to achieve better quality outcomes for the environment, economy and society’*.

Key issues relating to a combined FS and NE include the following:

An increased ability to deliver landscape-scale conservation

- 7.5 Woods and forests contain a vast array of biodiversity, provide essential provisioning services and hold a special place in the hearts of the English public. Access to them provides proven social and environmental benefits, with recreational visits valued at £484 million per annum. And in a recent national FC public survey, asking why people value woodlands, wildlife was the most popular response⁴⁸. In addition, the IPF highlighted that this same wildlife is in crisis, with one in six woodland flowers threatened with extinction, a 56% decline in woodland butterflies and 70% decline in some specialist woodland birds. This is being driven by changes in the condition of existing broadleaved woodland. The future management of our most precious woodland habitats is therefore extremely important.
- 7.6 The IPF and the Government have both already expressed their support for a landscape scale approach. For example, One of the key recommendations on the natural environment in the IPF report, and one which the Government affirms its commitment to in its response to that report, was that, *‘Government should ensure that land use creates a coherent and resilient ecological network at a landscape scale, by integrating policy and delivery mechanisms for woods, trees and forests in line with the principles set in the Making Space for Nature report’⁴⁹*.
- 7.7 As a further means of achieving this integration, the IPF report also recommends that, *‘Government funding through the Common Agricultural Policy (CAP) should ensure that incentives for woodland management and creation are integrated with agricultural incentives, to achieve improved ecosystem outcomes on a landscape scale’⁵⁰*. Again, the Government endorses this view in its response to the IPF report.
- 7.8 The Government has also confirmed its support for the policy approach set out in the Open Habitats Policy and Ancient Woodland Policy (Keepers of Time – A statement of

⁴⁸ Forestry Commission (2011) Public Opinion of Forestry 2011, UK and England

⁴⁹ Lawton J.H et al, 2010, Making Space for Nature: a review of England’s wildlife sites and ecological network. Report to Defra

⁵⁰ Independent Panel on Forestry, final report (2012)

policy for England's ancient and native woodland)⁵¹. This is another opportunity to fulfil overarching conservation objectives through a combined NE and FS.

- 7.9 Urgent action is needed to restore large areas of England's heathland, chalk grassland and other irreplaceable habitats that were lost to conifer plantation under previous policies. This aspiration is supported by the IPF. It is important to emphasise that we do not believe that open habitat restoration should come at the expense of woodland. We believe that there should be more, better managed and better connected areas of **both**. However, given that around 80% of heathland and 97% of our wildflower meadows have been converted to plantation forestry and other uses we believe that the small areas of existing open habitat that are surrounded by conifer plantations, should be made larger. A strategic overview, ensuring the right habitat in the right place, is required. Doing so is essential for meeting Government's commitments under the Rio Convention⁵² the EBS and Article 17 of the Habitats Directive regarding habitat restoration.
- 7.10 At present, progress is limited, with habitat-damaging practices taking place, such as FS currently allowing grant aid to restock plantation forestry on former open habitats. These open habitats are valuable in their own right and are a biodiversity priority for NE to restore. An integrated FS and NE would help ensure trees, forests, plantations and woodland can sustainably increase and find their vital place amongst the range of land uses and non wooded wildlife habitats, which will form a sustainable future for our natural environment as a whole, rather than in a silo.

Benefits could outweigh costs

- 7.11 We believe the conservation benefits of merging FS and NE would outweigh the costs, given the relatively small number of staff compared to the EA or NE. In contrast, a merger between NE and the EA would be costly and hugely disruptive.

Retaining expertise

- 7.12 FS staff, and field staff in particular, are highly regarded and it will be crucially important to retain FS staff and their expertise, focus and functions into a combined body. The Government has confirmed its commitment to retain a core of forestry expertise, focus and functions into a merged body. The current legislative duties, powers and functions on sustainable forestry and biodiversity would need to be maintained in the legislation governing a new body, including those on protecting England's forests from pests and diseases. NE does not have the necessary expertise and is not sufficiently resourced to simply absorb these roles.

Champion for the natural environment

- 7.13 A combined NE and FS would see the type of robust and independent champion of the natural environment, with the expertise and strategic oversight for the management of our forests and woodlands, that could give the public confidence over the future management of forests in all ownerships. The Government has recently confirmed its commitment to this approach in its response to the IPF report, including functions including '*championing the clear vision, priorities and aspirations of our refreshed forestry policy*'.

Economic and forestry objectives

⁵¹ Forestry Commission (2005)

⁵² Rio Convention on Biodiversity (1992)

- 7.14 The FS' current functions and historic organisational culture include a heavy emphasis on supporting economic forestry objectives, such as timber production, which is important for forest industries. These objectives sit alongside the public benefit objectives included in their duty. The commercial and public benefit objectives are clearly heavily interlinked in many places, for example economic woodland management to drive improvements in woodland condition for biodiversity and public enjoyment.
- 7.15 With regard to the public forest estate, the Government recently announced its intention to establish a new, separate public body to manage the public forests estate in trust for the nation⁵³. We support this split, as a way of providing greater financial freedom, public benefit focus, and distance from Government. The public forest estate is funded by a mixed business model, including income generation from plantation forestry that could not be applied to the National Nature Reserves without damaging their environmental value.
- 7.16 It therefore appears logical to keep the public forest estate separate from a combined NE and FS, and ensure that the body responsible for that estate has very clear legislative duties around conservation and public benefit delivery. We strongly recommend that the following duties, outlined in the IPF report and endorsed in principle by the Government, be built into the remit and legislation guiding the new management body. These should expand on those currently placed on the Forestry Commission and Commissioners. We accept plantation forestry and other commercial operations will remain important parts of the estate's funding model at present, but these should be only undertaken where they support and do not degrade public benefit provision and the estate's natural capital, such as priority⁵⁴ habitats.
- 7.17 The main purposes of a new management body would be to:
- a. sustain and maximise the public value of the estate, in terms of wildlife, access, recreation, education and cultural heritage;
 - b. maximise the natural capital value from the asset of the forest estate over the long term including by:
 - i. being an exemplar of sustainable woodland management;
 - ii. being an exemplar in conservation of wildlife, woodlands and associated habitats;
 - iii. being an exemplar in large-scale open habitat and ancient woodland restoration across the public forest estate;
 - iv. promoting quality access to woodlands for a wide range of activities consistent with the other purposes;
 - v. engaging communities in developing and achieving the estate's goals;
 - vi. expanding the estate where this improves the capacity of the estate to deliver more public benefits, and in consultation with local people;
 - vii. working in partnership with others to grow local woodland economies where the benefits of doing so outweigh the costs."
- 7.18 We value the role of Forest Research and Forestry Commission GB in standard setting, tree disease, biodiversity research and information exchange. We would be concerned about negative impacts on the scope and effectiveness of this work as a result of budget and staff cuts or changes to these bodies. We welcome the

⁵³ Independent Panel on Forestry, final report (2012)

⁵⁴ Section 41 of NERC act

Government's recent confirmation that it recognises *'the importance of adequate and integrated provision to support cross border cooperation in Great Britain, particularly on key areas such as research, statistics, inventory, standards, tree health and international issues'*.

The Agencies need to improve their local presence

- 7.19 We believe that an increased emphasis on local deployment of resources and capacity would aid both of the Agencies in terms of delivering their functions on the ground. Local presence is particularly important in respect of planning and agri-environment advice, strategic ecological network planning and engaging with LNPs.
- 7.20 Nature NGOs have a good history of working in partnership with the Agencies at a local level, and in many instances we would attribute project successes partly to where there have been strong local teams of Agency staff, with a good local knowledge and expertise in the relevant discipline. Working with NGOs can produce results that are greater than the sum of its parts, thereby yielding a good return on any investment. The local presence of Agency staff is crucial in this regard.
- 7.21 A good example of where local presence has been important is a partnership project led by the Hampshire and Isle of Wight Wildlife Trust. The project involved restoring sections of the Itchen Navigation, a historically engineered chalk river running between Winchester and Southampton. The Navigation is in multiple private ownerships and subject to both SSSI and SAC designations. The Heritage Lottery Fund was the lead partner in funding this project with a value of £2.4m over five years. Consenting authorities were approached on at least 81 occasions resulting in the necessity to obtain 59 separate consents. At no stage were works held up whilst consents were sought or processed. Of particular note, was the coordinated approach of EA and NE in dealing with Flood Defence Consents, by which combined process most SSSI and SAC consents were dealt with. This was a great example of joint working between the EA and NE, at least in part due to strong local teams of staff from both Agencies, with the breadth of expertise between them, able to cover the necessary range of disciplines.
- 7.22 However, local presence is variable. For example, in Hertfordshire, there has been considerable success in recent years, particularly in relation to river restoration and water-related issues. The Lea Catchment Nature Improvement Area proposals and subsequent delivery work, and the Catchment Management Planning and the Hertfordshire Living Rivers Project, are all an integrated part of this. This is in no small part a result of the engagement, support and partnership working by a strong team of local specialist EA staff, partly driven through Water Framework Directive priorities. In contrast, NE's staff for Hertfordshire are more remote and with fewer resources, resulting in far less partnership working, influence and terrestrial habitat delivery. Whilst the EA has accepted a place on the senior board of the new LNP for Hertfordshire, NE has not.
- 7.23 Government should actively encourage local presence wherever possible. We appreciate that cuts may need to be made in some areas, but would urge Government to maintain local presence and capacity, wherever possible.

The Agencies need to improve their joint working

- 7.24 Alongside the rebalancing of resources from the national to the local level, co-locating the Agencies, where possible, could increase effectiveness, inter-Agency communication and joining up delivery of multiple agendas, without the disruption that

a merger would bring. Given the considerable overlap of functions and objectives between National Park Authorities (NPAs) and the Agencies, in terms of conservation, access and recreation, there may be potential benefits and efficiencies in co-locating Agency and NPA staff.

- 7.25 More broadly, delivering conservation objectives will require NE and the EA to work closely together and coordinate their actions effectively. Although it is important for the Agencies to remain as discrete organisations, they need to improve their joint working wherever possible, complementing and adding value to each others' functions and building on initiatives that are exemplars of integrated working..
- 7.26 The current Defra 'Synergies' project highlights the need to ensure that the delivery of policy objectives such as *Biodiversity 2020*, Water Framework Directive and Flood Risk Management are aligned, and that opportunities are taken to achieve greater public benefit from stronger integration. We understand that the interim report on this work will be available shortly and that the final report will be produced in June. The continuation of this integrated group within Defra could draw on the expertise in the three agencies to help drive forward better integration, and ensure that the recommendations of the project are implemented.
- 7.27 EA and NE have different but complementary roles in delivering the Government's environmental ambition. In short – NE has much of the ecological expertise and remit to deliver favourable condition for species and habitats, particularly SSSIs/Natura 2000 and *Biodiversity 2020* outcomes, including the protection of Local Sites, and to act as the lead authority in the protection of landscapes, whereas EA has the responsibility for, inter-alia, oversight of the water environment and engineering resources to make things happen, particularly in the way water level management/flood defence structures are designed, maintained and operated.
- 7.28 For example, we welcome progress on the delivery of Protected Area Diffuse Plans, yet many appear to be struggling for traction. For instance, even though the work relating to Poole Harbour is a huge step in the right direction, it is struggling to make the transition from theory and high-level engagement to delivery on the ground.
- 7.29 Another area that requires more effective joint-working relates to the condition of wetland SSSIs. Frequently, the EA appear reluctant to allow water levels to rise, or to actively raise them, until a landowner has agreed to an HLS scheme – yet NE struggle to get landowners to agree to an HLS scheme in the absence of clear indication that the EA will make the necessary changes.
- 7.30 The marine environment is also in urgent need of protection and NE and JNCC, working with the Marine Management Organisation (MMO), must push for all 127 recommended Marine Conservation Zones (MCZs) to be designated as soon as possible, so that this contributes to an ecologically coherent network of marine protected areas in the UK. Even though the current proposals have some serious flaws that must be addressed, for example the effective exclusion of seabirds and other mobile species, the continuing delays are unacceptable and are having a negative impact on both ecosystems and marine industries. MCZs must be designated immediately, backed by strong science-led advice in the regulatory process, so as to ensure that these areas are well-managed and enforced.
- 7.31 We would also support any efforts to share data and rationalise administrative functions, where possible, as a way of saving money and improving efficiency. Currently, the EA and NE do not currently share information on which farms they visit

or the information and advice provided on these visits, in part due to data compatibility issues. Projects such as the Whole Farm Approach could help lighten the regulatory burden and reduce the number of duplicate requests for information, while improving coordination and communication between inspection bodies. The National Audit Office has highlighted the lack of information sharing amongst Defra's delivery bodies and concludes that this risks duplicating effort, impacting on consistency of messages and reducing the number of groups reached⁵⁵.

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⁵⁵ (National Audit Office 2010 Tackling diffuse water pollution in England Report by the Comptroller and Auditor General HC 188SesSlon 2010–2011).