

## REPORT OF THE FARM CONSERVATION OFFICER

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### SUBJECT: REVIEW OF THE DESIGNATED AREAS AND ACTION PROGRAMME TO TACKLE NITRATE POLLUTION IN WALES

#### **Purpose of this report**

1. To agree the NPA's response to Welsh Government's consultation on the above review.

#### **Background**

2. Welsh Government is consulting on proposals to reduce nitrate pollution related to agriculture.
3. Views and evidence are sought on:
  - a. options for future designation of Nitrate Vulnerable Zones (NVZs) – specifically whether to continue to designate discrete NVZs or instead to apply nitrate action measures across the whole of Wales
  - b. proposed changes to the measures implemented within NVZs.
4. The consultation closes on 23<sup>rd</sup> December 2016.

#### **(a.) Options for future designation of Nitrate Vulnerable Zones**

5. The Nitrates Directive (1991) is an integral part of the Water Framework Directive and gives member states the option to designate targeted NVZs or to apply measures across a whole territory.
6. The consultation makes clear that relevant legislation still applies during EU exit negotiations and that the issue of nitrate pollution requires action whatever the outcome of the negotiations, due to an increase in nitrate loading to land and losses nitrate to water.
7. The consultation identifies dairy farming as the principal contributor to agricultural nitrate pollution in Wales. This is attributable to inadequate/non-compliant slurry storage and poor slurry application practice (the consultation notes that the former can lead to the latter).
8. A map in the consultation shows high numbers of pollution incidents in south-west Wales. In Pembrokeshire, there are issues with eutrophication of Milford Haven Inner Water Body (marine water body) and with Deepford Brook (surface water).
9. Both Milford Haven Inner Water Body and Deepford Brook are recommended for designation as NVZs by Natural Resources Wales in its evidence to Welsh Government. Natural Resources Wales recommends that Bosherton Lakes continues as an NVZ (with minor boundary changes). A map of the potential NVZs is reproduced at Annex 1 to this report, while Annex 2 shows where the

potential NVZs overlap with the National Park area. The Milford Haven Inner Water Body NVZ includes some large areas south of the Preseli Hills, the Waterway, and at Lamphey and Manorbier.

10. Water quality is an important issue in terms of biodiversity, recreation and human health. Agriculture is the most significant use of the National Park landscape, and the National Park Management Plan vision refers to high quality local food production and to improving the viability of smaller family holdings in the direct pursuit of National Park purposes.
11. The NPA recognises the importance addressing nitrate pollution associated with agriculture and of applying the principles of sustainable management of natural resources in order to do so. The NPA is supportive of the principle of focussing effort and resources on those areas where the problems originate. Accordingly, it is suggested that the all-Wales designation option is not an appropriate response.
12. This leaves, of the two options presented in the consultation (and available under the Nitrates Directive), the approach of designating discrete NVZs. This appears to be the more equitable option in the sense that farms in catchments without significant nitrate issues would not have to bear an additional regulatory burden.
13. It is not known whether the proposed Milford Haven Inner Waterbody NVZ would displace some slurry storage and/or slurry application into the proposed NVZ hinterland, i.e. into the National Park. If this were to occur then there could be an implication for freshwater and Bathing Water quality. It might also lead to more planning applications for slurry stores in those parts of the National Park area included in the possible NVZ, and possibly also in the hinterland - however, this would presumably also follow from an all-Wales designation (and as the latter would cover the whole of the National Park, it could have greater impact). Accordingly, the potential for slurry export under the discrete NVZ option is not considered to be a reason to prefer the all-Wales option.
14. Planning policy regarding agricultural development is included in the Pembrokeshire Coast National Park Local Development Plan. There is also supplementary planning guidance. It is considered that current planning policy provides an adequate framework for agricultural development within the National Park context.
15. The NPA recognises the current social and economic significance of the dairy industry to the local economy and the desirability of it being a high quality, value-adding and resilient sector. This may indicate that, subject to competition rules, assistance during the transition phase is appropriate whichever designation option is pursued.
16. There are market-based approaches to nitrate management which could complement any new regulatory requirements. The *Building Resilience in Catchments* project proposal (Pembrokeshire Coastal Forum and PLANED), which builds on the Ecobank feasibility study (supported by the Welsh Government's Nature Fund) for a nitrate trading scheme in the Haven catchment has potential in this regard.

17. In addition to the vital upgrading of slurry management systems and a reduction in direct pollution incidents, provision of adequate support for targeted land-based measures (such as hedgerows, buffer strips and tree-planting) offers the opportunity to deliver multiple benefits, for example greater ecosystem resilience and a cost-effective way for farm businesses to futureproof their nutrient management. These would also help farms to exit and/or stay out of an NVZ designation.

**(b.) Proposed changes to the measures implemented within NVZs**

18. These can be summarised as follows:

- i. Ensuring land is covered by crops/stubbles/residues or other vegetation at all times to reduce leachate. A maximum of 24 days allowed for preparation of seedbed and sowing between harvest and 1<sup>st</sup> March.
- ii. Storage of solid manures in field heaps (as a temporary measure): the proposal is to retain the current advice, subject to rewording for clarity.
- iii. Closed periods – an additional closed period (autumn) is proposed on tilled sandy soils, with some exemptions.
- iv. Livestock manure values – proposal to update the nitrogen efficiency values. Significantly more nitrogen is available in spring and summer applications and this is not currently reflected.
- v. Application of fertiliser on slopes: regulations already require slope to be taken into account when assessing leachate risk – no changes proposed.
- vi. Frozen ground: clarification of wording proposed.
- vii. Farms partially within an NVZ: proposed change to a whole farm limit for farms partially in an NVZ. This is intended to avoid moving the nitrate issue elsewhere on the farm.

19. The proposals may have planning implications (for example, iv. and vii. may alter the slurry storage requirement calculations for a farm). As noted above, it is considered that current planning policy provides an adequate framework for agricultural development within the National Park context.

20. The NPA supports the principle of reducing the risk of nitrate loss, and accordingly the proposed changes are supported in principle, i.e. subject to any operational and timing nuances which Welsh Government might apply to the measures as a result of evidence gathered as part of the consultation process.

**A proposed consultation response by the Authority**

21. A proposed consultation response, based on the questions asked in the consultation (these are attached at Annex 3 to this report), is given below. Officers have not provided detailed comments on questions 2 to 24 as they are technical and economic questions better addressed by farm businesses.

22. “Pembrokeshire Coast National Park Authority (the NPA) welcomes the opportunity to respond to the consultation on the *Review of the Designated Areas and Action Programme to tackle Nitrate Pollution in Wales*. Water quality is an important issue in terms of biodiversity, recreation and human health.

23. Agriculture is the most significant use of the National Park landscape, and the National Park Management Plan vision refers to high quality local food production

and to improving the viability of smaller family holdings in the direct pursuit of National Park purposes.

*Consultation question 1: Do you prefer Option 1 (continuing with discrete NVZ designations), or Option 2 (applying the Action Programme to a 'Whole Wales' NVZ designation)?*

24. The NPA recognises the importance addressing nitrate pollution associated with agriculture and of applying the principles of sustainable management of natural resources in order to do so. The NPA is supportive of the principle of focussing effort and resources on those areas where the problems originate.
25. The NPA does not support the option of applying nitrate action measures across the whole of Wales. Designating discrete NVZs appears to be the more equitable option in the sense that farms in catchments without significant nitrate issues would not have to bear an additional regulatory burden.
26. It is not known whether the proposed Milford Haven Inner Waterbody NVZ would displace some slurry storage and/or slurry application into the proposed NVZ hinterland, i.e. into the National Park. If this were to occur then there could be an implication for freshwater and Bathing Water quality.
27. The NPA recognises the current social and economic significance of the dairy industry to the local economy and the desirability of it being a high quality, value-adding and resilient sector. This may indicate that, subject to competition rules, assistance for farmers during the transition phase is appropriate whichever designation option is pursued.

*Consultation questions 3 – 24 (regarding changes to the measures)*

28. The NPA supports the principle of reducing the risk of nitrate loss, and accordingly the proposed changes to the measures implemented in NVZs are supported in principle, i.e. subject to any operational and timing nuances which Welsh Government might apply to the measures as a result of evidence gathered as part of the consultation process.

*Consultation question 25: In the future, how should natural resource planning and management be considered as an alternative solution to tackling nitrate pollution?*

29. In terms of natural resource management, there may be market-based approaches to nitrate management which complement regulatory requirements. The *Building Resilience in Catchments* project proposal (Pembrokeshire Coastal Forum and PLANED), which builds on the Ecobank feasibility study (supported by the Welsh Government's Nature Fund) for a nitrate trading scheme in the Haven catchment has potential in this regard.
30. In addition to the vital upgrading of slurry management systems and a reduction in direct pollution incidents, provision of adequate support for targeted land-based measures such as hedgerows, buffer strips and tree-planting offers the opportunity to deliver multiple benefits, for example greater ecosystem resilience and a cost-effective way for farm businesses to futureproof their nutrient management.

*Consultation question 26: We do not believe that this policy affects opportunities for people to use Welsh or treats the language less favourably than English, or that it could be reformulated or revised to have positive effects. If you disagree, we would welcome your comments on this issue.*

31. The options and proposals in the consultation could have Welsh Language impacts, and/or Human Rights/Equality impacts. The NPA's consultation response is therefore made subject to an assumption that screening for such impacts is conducted and any indicated action taken."

### **Financial, Risk and Compliance Considerations**

32. The NPA's response takes account of its responsibilities under the Well-being of Future Generations (Wales) Act 2015 and Environment (Wales) Act 2016.

### **Human Rights/Equality Issues**

33. It could be argued that an implementation process that causes people to exit the agricultural sector could have Human Rights/Equality impacts. This is reflected in the response above.

### **Biodiversity Implications/Sustainability Appraisal**

34. The designation options and proposed measure amendments have positive implications for biodiversity conservation.

### **Welsh Language Statement**

35. It could be argued that that an implementation process that causes people to exit the agricultural sector could have a detrimental impact on the use of Welsh in North Pembrokeshire. This is reflected in the response above.

### **RECOMMENDATION:**

**Members are asked to AGREE the proposed consultation response as the Authority's response on this consultation.**

*(For further information, please contact Geraint Jones by emailing [geraintj@pembrokeshirecoast.org.uk](mailto:geraintj@pembrokeshirecoast.org.uk))*

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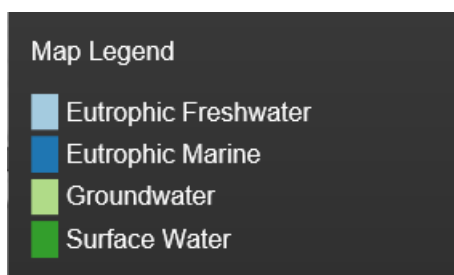
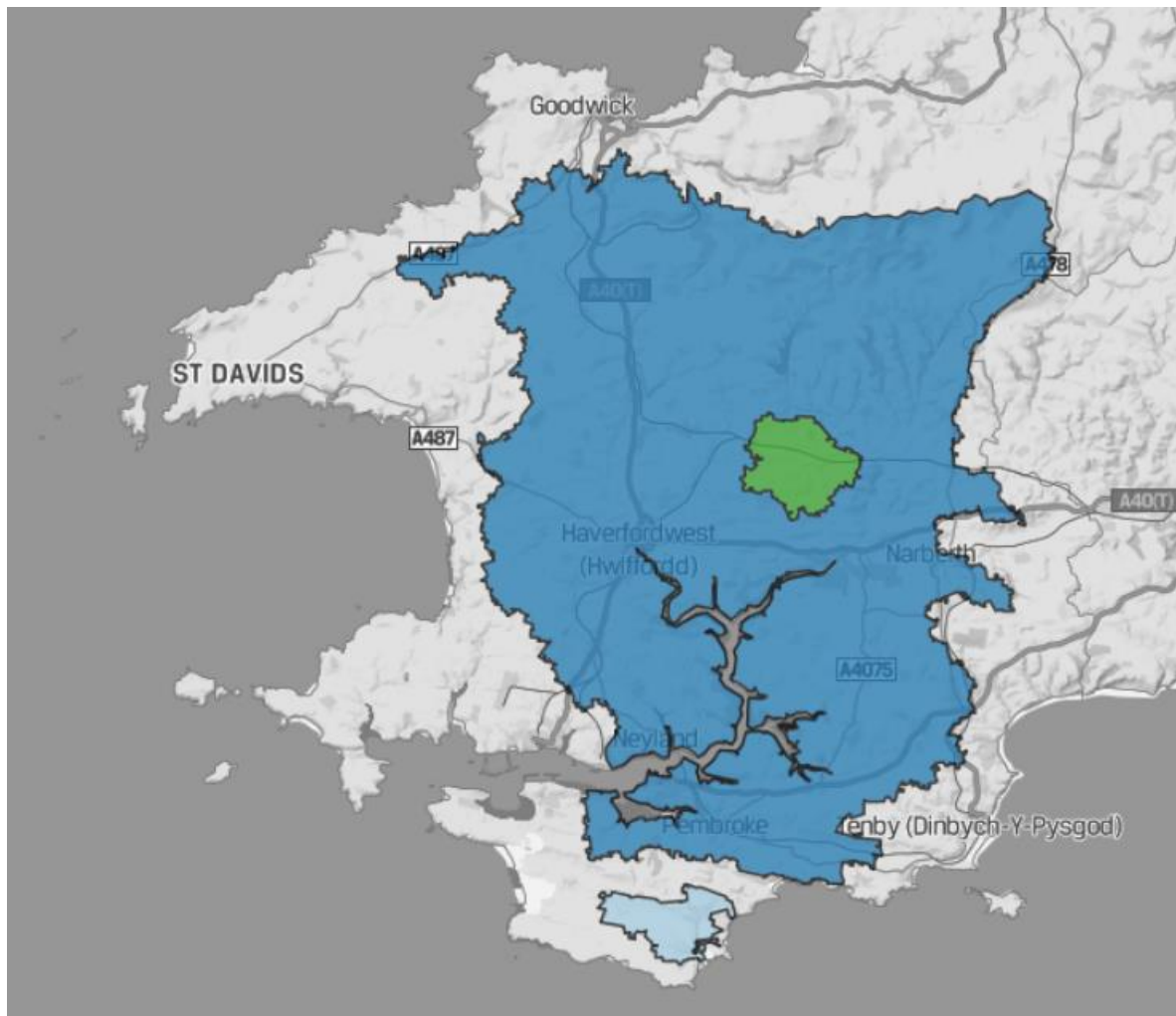
### **Background documents**

Consultation documents and link to map:

<https://consultations.gov.wales/consultations/nitrate-vulnerable-zones-wales>

## Annex 1

### The proposed NVZ areas (taken from the consultation material)



## Annex 2 - Proposed NVZs and the National Park boundary



NVZs and the National Park area (north)

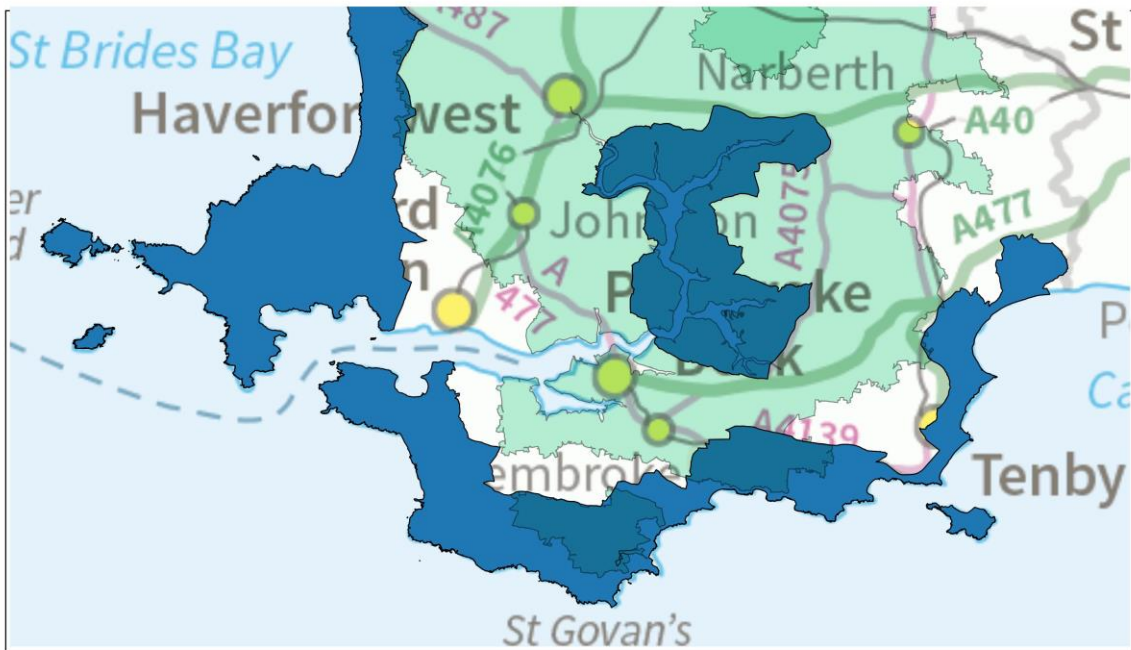
Legend

National Park area



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NVZs and the National Park area (south)

Legend

National Park area



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## Annex 3 – Consultation questions

### 11. Summary of Questions:

|            |  |
|------------|--|
| <b>Q1</b>  | Do you prefer Option 1 (continuing with discrete NVZ designations), or Option 2 (applying the Action Programme to a 'Whole Wales' NVZ designation)?  |
| <b>Q2</b>  | Do you agree with the proposal to charge a refundable fee of £250 per appeal?  |
| <b>Q3</b>  | Do you think cover crops should be included in the Action Programme?   |
| <b>Q4</b>  | If so, have we identified the correct circumstances for their use?   |
| <b>Q5</b>  | Are the suggested dates appropriate? If not, what dates would you suggest?   |
| <b>Q6</b>  | What actions do you consider should be defined to show compliance?   |
| <b>Q7</b>  | Do you think the existing rules on the storage of solid livestock manures sufficient to reduce the risk of pollution?  |
| <b>Q8</b>  | If not, what additional rules do you think should be established?  |
| <b>Q9</b>  | Should there be a closed period for farmyard manure?   |
| <b>Q10</b> | If so, have we identified the correct circumstances in which a closed period should apply?   |
| <b>Q11</b> | Should the closed period apply to all other organic fertilisers?   |
| <b>Q12</b> | Do you agree with increases to the nitrogen efficiency standard values used in Nmax or should they remain the same?  |
| <b>Q13</b> | What concerns or benefits do you think increasing the values may raise?  |
| <b>Q14</b> | If you think the values should be increased, what values should be used?   |
| <b>Q15</b> | Do you think that the manure values of Schedules 1 and 3 should be updated, where there is sufficient evidence to support that change?   |
| <b>Q16</b> | Do you agree that the current rules on slopes sufficiently address the risks of pollution?   |
| <b>Q17</b> | If not, why not and what rules do you think should be implemented to address the risk?   |
| <b>Q18</b> | Do you agree with the proposal to clarify the wording of the regulations?  |
| <b>Q19</b> | Do you agree with the adoption of a whole farm limit?  |
| <b>Q20</b> | If you do, have we identified the correct method of establishing the limit?  |
| <b>Q21</b> | If you do not agree, do you think an alternative approach should be taken?   |
| <b>Q22</b> | Do you agree with the proportional approach described for calculating slurry storage?  |
| <b>Q23</b> | If not, how do you propose the rules should be clarified?  |
| <b>Q24</b> | How do you think the proposed Action Programme changes will impact on the practical management of typical farm enterprises in the new or existing zones?   |
| <b>Q25</b> | In the future, how should natural resource planning and management be considered as an alternative solution to tackling nitrate pollution?   |
| <b>Q26</b> | We do not believe that this policy affects opportunities for people to use Welsh or treats the language less favourably than English, or that it could be reformulated or revised to have positive effects. If you disagree, we would welcome your comments on this issue. |