

Date: 29 March 2023
Our ref: AW dWRMP response
Your ref: Anglian Water draft Water Resources Management Plan



Secretary of State (Defra)
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Dear Secretary of State

Anglian Water Draft Water Resources Management Plan (dWRMP)

Water Industry Act 1991 as amended by the Water Act 2003¹
Wildlife and Countryside Act 1981 as amended
Conservation of Habitats and Species Regulations 2017
Natural Environment and Rural Communities Act 2006
Environment Act 2021
Marine and Coastal Access Act 2009

Natural England received a draft Water Resources Management Plan (dWRMP) consultation from Anglian Water on 22 December 2022. We have considered the draft plan against the full range of Natural England's interests in the natural environment. Our response is attached in Annex 1, with an overview of the relevant legislative and policy context in Annex 2. A summary of our response is given below for ease of reference.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development. More information on our role in advice to the water sector can be found in Annex 3 to this letter.

Summary of Natural England's comments

In our review of Anglian Water's dWRMP, Natural England has considered how the company has addressed its environmental obligations as set out in The Water Industry Strategic Environmental Requirements (WISER)² and how the dWRMP supports the ambitions in Government's recently published Environmental Improvement Plan (previously the 25 Year Plan)³.

We recognise and support Anglian Water's commitments to continue to work with Natural England and other stakeholders in partnership to deliver a sustainable water supply and improve the environment but need to see this better evidenced in the plan. We believe however that overall the plan is likely to be at the core of what is needed to meet supply and environmental requirements.

Currently our main concerns relate to the following areas:

¹ Other pieces of legislation are relevant to the requirement to prepare a dWRMP but only a selection are referred to here.

² Water Industry Strategic Environmental Requirements (WISER) was updated in May 2022 and published on gov.uk at [Developing the environmental, resilience and flood risk actions for the price review 2024](#). It sets out the statutory and non-statutory environmental delivery expectations for water companies in the price review and through their statutory plans, including Water Resource Management Plans.

³ A Green Future: Our 25 Year Plan to Improve the Environment, 2018, Department for Environment, Food and Rural Affairs (Defra) [25 Year Environment Plan](#) revised by the [Environmental Improvement Plan 2023](#) (Defra) First Revision of the 25 Year Environment Plan

- Environmental assessment of and the risks and uncertainty associated with decisions relating to growth, demand management and licence capping.
- Deviation from national leakage targets
- The urgent need to continue to develop at pace sustainable supplies and reduce demand to avoid deterioration and restore the environment

We therefore require further information as set out in Annex 1 to determine the significance of these impacts and the scope for mitigation, if any. We look forward to continued working with Anglian Water to address the points raised. However, without this information, Natural England may need to object to the plan. Please include this information within the plan and re-consult Natural England before it is published.

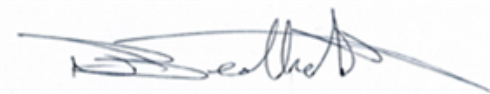
We trust our comments provide you with effective advice on how the dWRMP can help to achieve statutory obligations on the natural environment and the Government's aims on sustainable development and aspirations set out in the Defra 25 Year Environment Plan and the Environment Act 2021.

Should you have any queries on this letter then please contact Nikolas Bertholdt, nikolas.bertholdt@naturalengland.org.uk

A copy of this letter goes to Laura Tuplin. Water Resources Strategy Programme Manager, Anglian Water.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

Yours sincerely



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Annex 1 - Natural England's advice on Anglian Water's draft Water Resources Management Plan (dWRMP) 2022

The legislative and policy context for Natural England's advice is set out in Annex 2 to this letter. Natural England has assessed how the plan has demonstrated compliance with these legislative and policy requirements, including, where Natural England is not a statutory regulator, our views on the level of ambition shown in the plan and the timescales proposed in relation to nature recovery and resilience.

1.1 Overarching Comments

1. Whilst appreciating the complexity of Anglian Water's (AW) supply it is difficult to clearly understand the plan and the rationale for decisions made with information being spread over multiple documents with no single clear narrative for each decision.
2. We recognise at a strategic level the plan is likely to be the core of what is necessary to meet supply demand balance and environmental requirements in time.
 - a. We support the work AW have done in reconciling supply demand balance and environmental obligations but notable delivery risks remain.
 - b. However, there is a lack of clarity and assessment of the impacts of decisions made within the plan
 - c. There is a lack of certainty around key aspects of the plan
3. This prevents us being able to reach a view on the environmental implications of plan at this time. So we would appreciate clarity on the points raised in order to reach a view. Should this not be possible Natural England may need to object to the plan

1.2 Assessment of decisions within the plan

1. Decisions, as opposed to physical options, in the plan haven't had an environmental assessment
 - a. Environmental report Table 4.1 states environmental assessments are for the plan as a whole, as do all the relevant guidance (see Annex 2)
 - b. Key decisions with potential environmental impacts are around delaying returns to the environment until after 2030 , delays to licence caps and caps to max historic and demand management and delivery risks
 - c. There is no clear description within the plan of what, if any, water will be returned to the environment or whether there will be any increased abstraction, even within current licenced volumes and hence we cannot reach a view on the plan without greater clarity on this issue

1.3 Growth and Demand Management

1. It is unclear how growth, demand management and licence caps align in time and space and there's no assessment of the environmental implications of this and hence we cannot reach a view on the plan without greater clarity on this issue
 - a. The WRMP guidelines state sustainability reductions must be in the baseline, so changes to the timing of sustainability reductions in Scenario 4 are a change from the agreed baseline, Scenario 6. This amounts to a substantive change, so we believe Scenario 4 should have an environmental assessment.
 - i. This assessment should pay regard to whether the sources are ground or surface water
 - b. We don't understand the rationale behind the views expressed in The Environmental Report (Section 5.3.2) and WFD 1.2 that demand management and WINEP options can't be assessed. There is a clear geographical delivery plan for smart meters and growth which form part of the Supply Demand Balance (SDB) for each WRZ. There

may be less defined geography for some of these measures, but to have confidence we would need clarity on how the operation of AW's network avoids impacts. If this is the case it is therefore unclear how the specific delays to caps are needed or have been selected.

- c. The SDB in a WRZ depends in part on demand management. However if this does not happen as planned in a WRZ there will be a negative SDB and risk of over abstraction in that WRZ and so there is a critical need to assess this risk and implications.
 - d. We would be encouraged if a clear link were made to the information provided by NE for WINEP of the protected sites most at risk from hydrological change and the decisions around which licence caps to delay or limit to max historic
2. There appears to be no "what if" scenario testing for lower demand management or delays or changes to SRO delivery times or volumes. With most WRZs having a zero SDB there appears little room for any deviation from the planned numbers
 - a. Sensitivity testing and how this plays into the timelines for delivering options would increase confidence in the plan to achieve its objectives
 - b. A clearer plan B and a description and timeline of the actions that will be taken to identify and address unplanned delays or reductions is needed to have confidence in the plan
 - c. We note that changes to levels of service or nitrate treatment for surface water are not in the plan to optimise use of existing licenced volumes and do not appear to have been assessed as an option prior to delaying licence caps or as a "plan B" should demand management not deliver as planned.

1.4 Use of capped licences and headroom

1. The approach to water use in capped to historic licences and headroom isn't clear and how these licences will be operated is needed to determine any environmental effects.
 - a. We would expect this to be in line with Figure 1 of the Water Resources Planning Guideline Supplementary Guidance, and no increase in average use and a commitment to this would be valuable.
 - b. Clarity on how this will be managed and monitored is needed
 - c. This is critical as any plans to increase abstraction where there is a risk to the integrity of a European Site, even within licence, must be assessed under Habitats regulations.
 - d. It would be beneficial to clarify which, if any, licence caps will result in actual returns of water to the environment and the source and location of this and so potentially contribute to environmental improvement

1.5 Desalination

1. There are no long term scenarios that don't ultimately require desalination and it appears the fastest deployable new supply mechanism
 - a. We recognise and welcome that AW have an adaptive planning program that includes investigations, research and design if re-use or desalination schemes need to be brought forward. A clearer commitment to this development in the plan would be helpful to increase confidence around the unavoidable uncertainty. The current plan appears quite linear in this respect.
 - b. Without concurrent development of adaptive pathways alternative options within them won't be in sufficiently advanced to be able to respond in time for changes in circumstances necessitating the adaptive pathway.

2. We recognise the concerns around desalination with regard to energy consumption, and hence carbon, and the environmental implications from brine discharge. We also recognise that the levels of reduction in demand that would be needed to eliminate the need for this as a supply option are significantly greater than existing policy of 110l/h/d and so agree desalination is likely to have to be part of the supply mix without far greater overall water efficiency and demand management across all users.
 - a. We believe that with good advanced planning, investigation and design the carbon cost and risks around discharge impacts of desalination should be possible to reduce and mitigate adequately.
 - b. We would be interested to see what level of demand management would be necessary to eliminate the need for desalination and risks outlined above.
 - c. This may become relevant for project stage HRA for desalination if adverse effects can't be sufficiently ruled out

1.6 Leakage

1. Whilst recognising current leakage performance the proposed approach ensures the national targets will not be met unless delivery of over 50% has been secured by other water companies
 - a. A clearer explanation demonstrating how the suggested approach offers the best outcome is needed to support this approach. Demonstration that additional demand management and other measures such as reduced run time can more effectively deliver equivalent savings
 - b. A comparison with the cost of other measures to save or sustainably source equivalent volumes would be beneficial to understand this decision
 - c. Assuming extensive pipe replacement is prohibitively expensive, reducing the current average run times appear to offer an alternative means of reducing leakage.
 - d. The roll out of full smart meters should therefore be accelerated and targeted at areas with greatest leakage losses and more to be done to reduce run times, 4 months until repair with smart meter, although an improvement from 7 months still seems very long and at odds with the stated notification times of 3 days. We recognise this is skewed by "long running" leaks, however if these skew leakage so much, increasing understanding and addressing long running leaks should be a priority to bring the average closer to the 28 day majority figure.

1.7 Allowance for outcomes of the Judicial Review in The Broads

1. No allowance or contingency appears to be in the plan for any changes that may arise from the current work under the Judicial Review Order for the Broads. We understand AW is currently exploring options for this and would recommend this risk is incorporated into the plan.

2.0 Habitats Regulations Assessment (HRA)

Water Companies have a statutory duty to prepare Water Resource Management Plans (WRMPs), and are the Competent Authority for Habitats Regulations Assessment (HRA) of the draft WRMP. Natural England has reviewed the HRA submitted with this dWRMP, and wishes to provide the following advice:

1. We recognise and support the approach in the HRA for options for delivery in subsequent WRMPs of being clear where a conclusion that no Adverse Effect On Integrity (AEOI) can be reached due to current lack of scheme detail and investigation as this is in accordance with our advice. We however wish to make it clear that:

- a. This conclusion is not final and does not at this stage preclude the option being developed further. Final decision on Habitats Regulations conclusions will depend on timely, satisfactory scheme investigation and assessment
 - b. The work needed to inform the options is vital and must continue at pace.
 - c. A clear plan and timeline on the steps to be taken to gain the necessary information and design and mitigation detail should be included in the plan. Without this the credibility of delivery of future options on time is weakened.
2. At this stage options for delivery in this WRMP a conclusion of AEOI can't be achieved without further planning and investigation for NBR6 and EH5 with respect to Breckland Farmland SAC. This must be resolved within the final plan.

3.0 Strategic Environmental Assessment (SEA)

WRMPs are prepared for water management and set the framework for future development consents of projects listed in Annex II of the EIA Directive, including groundwater abstractions and impoundments. As such, WRMPs meet the requirements set out in the SEA Regulations requiring SEA to be completed. Natural England's advice on the documents submitted as part of the SEA for this dWRMP are as follows:

1. River support schemes in the dWRMP don't appear to have considered the effects of the abstraction for the river support. The points around increases within licence in capping scenario also apply here
 - a. The fundamental contradictory nature of river support – abstracting more water to mitigate for the effects of abstraction, is why river support should not be considered a long term sustainable option or an alternative to sustainable abstraction
2. SEA mentions impacts with SSSI zones of influence but doesn't name these in all cases
3. Mitigation in SEA (refining pipeline routes and/or trenchless techniques) will need to be fully delivered with any project and location specific actions in addition to standard best practice currently in SEA and HRA and agreed with regulators at project stage to avoid impacts on SSSIs.

We draw Anglian Water Services' attention to its duties under the SEA regulations for Protected Landscapes, the strengthened duties under the NERC Act, species recovery and protected species and Marine Conservation Zones (MCZs). See Annex 2 for more information.

4.0 Water Framework Directive

Comments on WFD are a matter for the Environment Agency however Natural England notes:

1. Natural England's view is that failure of or increasing an existing failure of monitoring specifications (formerly called FCTS) for groundwater dependant SSSIs related to abstraction induced drying even if this is in combination with climatic drying would constitute a deterioration.
2. We would expect this to be considered in the WINEP investigation

5.0 Environmental Destination

The dWRMP has also been reviewed in relation to the Environmental Destination set out within it, and whether that scenario is sufficient to meet legislative and policy requirements. In particular, where the Plan relies only upon the Environment Agency's minimum requirement of "Business as Usual plus" (BAU+), Water Companies must ensure that their WRMP includes a pathway to meet all their environmental assessment and nature recovery obligations in line with duties and timetables in Annex 2.

1. The Environmental Destination as defined in the Regional Plan modelling that has been

relied upon by Anglian Water does not yet go far enough, fast enough nor it is yet prioritised in the correct locations to meet the nature recovery obligations set out in Annex 2. We recognise and support further work planned by WRE and AW to refine and prioritise the Environmental Destination to meet the nature recovery obligations set out in Annex 2.

2. We would like to remind AW that although Environmental Destination has a final delivery date of 2050 there are other obligations that must be met before then (see Annex 2 for more information).
 - a. Environment Act targets halt species decline by 2030 and increase species by >10% by 2042)
 - b. The “30 by 30” commitment
 - c. 25 Year Environment Plan target for 75% of SSSI to be in Favourable Condition by 2042 with mechanisms in place to achieve favourable condition by 2028
3. We welcome WINEP investigation and the clear intention to work with NE, regulators and stakeholders to better understand the impacts and hence deliver specific environmental needs within AW region. Inform actions necessary delivery of, Env Act indicators, especially B5 and B6, Protected Sites, Nature Recovery Network and Local Nature Recovery Strategies
4. The WINEP investigations are very welcome step to achieving these and we would like to stress that they need to include achieving all statutory and policy drivers and objectives as above as well as the core Environmental Destination as described in Regional Water Resources Planning Guidance
 - d. These timelines highlight the importance of the investigations and that action needs to follow at pace, particularly in light of the high proportion of water dependent habitats supporting priority species in the region (there are over 1000 priority species in the Broads for example (Broads Biodiversity Audit)
5. We note the AW/WRE intention is to meet the *outcomes* of the Enhanced scenario rather than the defined water returns in the scenario.
 - e. This approach is a risk that must be carefully managed to ensure all statutory and policy outcomes are met within their respective timelines in the right place and scales.
 - f. Environmental Destination must deliver at appropriate ecological scales and catchments which may be different to WRZs
 - g. The pace of this investigation and delivery on its outcomes is important to achieve the requirements above so we’d encourage action within AMP period and not delay delivery until subsequent AMP
6. In light of the most likely future climate change supply patterns, ie high volume infrequent rainfall events rather than continual availability we would encourage a greater consideration of non-traditional supply options such as flood storage and treatment and Nature Based Solutions.
 - h. These types of solution provide good opportunities for integrated delivery of environmental policy and targets and wider objectives for communities and growth.

6.0 Demand management

1. The plan relies on demand management to meet growth in the short and medium term until new options and transfers are in place
 - a. AW should be seeking significant demand management measures if possible, to remove impacts and allow nature to recover as soon as possible and not waiting until new supplies come on-line. The demand management interventions should be timetabled from as early as possible in the plan to meet the objectives, policies and timetables for nature recovery set out in Annex 2.

- b. Whilst recognising AW's demand management to date ultimately significant aspects of this are out of AW's control; Government led interventions and consumer behaviour including "decay rates" and so reliance on them adds uncertainty and risk to the environment.
- c. A clearer "plan B" that can be implemented is needed should demand management fail to deliver as expected.
- d. We do note however that short term measures must not compromise the delivery of strategic requirements for the long term.

Annex 2 – Policy and Legislative Context to Natural England’s Advice on draft Water Resources Management Plans 2022

The duty to prepare and maintain a Water Resources Management Plan (WRMP) is set out in sections 37A to 37D of the Water Industry Act 1991. The **Water Industry Strategic Environmental Requirements⁴ (WISER)** provides a strategic steer to water companies on the environment, resilience, and flood risk for business planning purposes. It provides detailed guidance around the 3 main objectives which water companies are expected to achieve:

- a thriving natural environment
- expected performance and compliance
- resilience for the environment and customers

In relation specifically to Water Resources Planning, WISER states that water demand reduction is essential, and that water companies must ensure efficient use of water. Specifically, WISER sets out the requirement that water companies should:

- strengthen the resilience of the water supply and wastewater and drainage services provided to customers, as well as the resilience of natural assets (such as soils, freshwaters, coasts, estuaries, seas and species) to risks posed by extreme droughts and floods, climate change and population growth

To comply with statutory requirements and government policy, water companies should produce their Water Resources Management Plan in accordance with the **Water Resources Planning Guideline (WRPG)⁵**. This requires water companies to show how they will achieve a secure supply of water for customers and ensure a protected and enhanced environment. Specifically, the plans must demonstrate how the water companies will achieve the following:

- increased drought resilience – **1 in 500 years by 2039**
- reductions in demand – **110 litres pp/day by 2050**
- leakage reduction – **50% by 2050**
- reduction in use of drought permits/orders
- assessment and delivery of options to increase supplies (including those in Regulatory Alliance for Promotion of Infrastructure Development (RAPID))
- long term environmental improvement

WRMPs are expected to reflect the relevant Regional Plan, which sets out, at a strategic level, how resilient water supplies will be managed in the region for 25 years or more, whilst protecting and enhancing the environment. Water companies must maintain a supply demand surplus during the plan period, and, where deficits are identified, options presented to avoid this. WRMPs should present the best value plan for progressing the options set out in the Regional Plan, and in doing so must comply with all the relevant statutory requirements and government policy. The most relevant legal duties with respect to biodiversity and landscape, and some of the relevant policies from the Government’s Environmental Improvement Plan (first review of the 25 Year Environment Plan (25YEP), published on 31st January 2023, and expectations from the Environment Act 2021 are set out below:

⁴ Water Industry Strategic Environmental Requirements (WISER) was updated in May 2022 and published on gov.uk at [Developing the environmental, resilience and flood risk actions for the price review 2024](#). It sets out the statutory and non-statutory environmental delivery expectations for water companies in the price review and through their statutory plans, including Water Resource Management Plans

⁵ EA Ofwat and NRW [Water Resources Planning guidelines](#) April 2022 hosted on the .GOV website

2.1 Habitats Regulations Assessment and Duties to Habitats Sites

Regulation 9 of the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012) as amended (referred to as the Habitats Regulations) requires every competent authority, in the exercise of any of its functions, to have regard to the requirements of the Habitats Directive. This requirement includes restoring favourable conservation status. Regulation 10 places a duty on a competent authority, in exercising any function, to use all reasonable endeavours to avoid any pollution or deterioration of habitats of wild birds.

In addition, regulation 63 places obligations on competent authorities in respect of plans or projects likely to have a significant effect on a protected site. [Government guidance](#) now refers to sites covered by the provisions of the Habitats Regulations as ‘Habitats sites’ in line with the wording in the National Planning Policy Framework and we have followed that nomenclature throughout this letter. Note that for Marine Protected Areas that are also Habitats sites and Ramsar sites the legal tests are the same as terrestrial/freshwater Habitats sites. In England, as a matter of policy, sites listed or proposed under the “*Ramsar Convention on Wetlands of International Importance*” receive the same level of protection as Habitats sites.

Water Companies have a statutory duty to prepare Water Resources Management Plans (WRMPs) and so they are the Competent Authority for Habitats Regulations Assessment (HRA) of the draft WRMP. The HRA should be clearly distinguishable document or section of the Plan. The HRA should include:

- A list and/or map of all relevant Habitats sites.
- An appropriate assessment of the plan, on the basis of objective information, a likely significant effect can be excluded by the screening of relevant Habitats sites.
- The appropriate assessment must identify all relevant adverse effects on integrity and uncertainties.
- All mitigation aimed at addressing likely significant effects or/and removing adverse effects must be covered within the appropriate assessment.
- Any options with residual adverse effects identified or where adverse effects are uncertain must have assessments under Regulation 64 (to determine that there are no alternatives with less or no adverse effects and demonstrate Imperative Reasons of Overriding Public Interest).
- All options with adverse effects must have secured compensatory habitat such that the coherence of the Habitats sites series is maintained.
- The HRA of the plan should include an assessment of the ‘in combination’ and cumulative impacts of the plan with other plans and projects. The HRA should have regards to relevant caselaw and should take account of whether the site is meeting its conservation objectives for relevant features and attributes to the draft WRMP options.
- The approach of “down the line” assessments for preferred options where a likely significant effect has been identified may be acceptable in a draft WRMP context only when all the following criteria have been satisfied:
 - i. Where, due to scientific uncertainty of a novel or complex process and need for more research, information cannot reasonably be gathered at this draft WRMP24 plan stage;
 - ii. Options are proposed for delivery later in the plan (post 2035 for dWRMP24) ensuring that there is time to allow for assessment and delivery of alternatives if necessary;
 - iii. Alternatives are included in the plan where the avoidance of an adverse effect on integrity of European sites is certain, and these are available, feasible and deliverable;
 - iv. A commitment is made to pursue alternatives if an adverse effect on integrity of a European site cannot be avoided for the preferred options set.

2.2 Strategic Environmental Assessment (SEA)

The European Commission Directive 2001/42/EC “*on the assessment of the effects of certain plans and programmes on the environment*” is known as the ‘SEA Directive’. It requires “*an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment*” (EC, 2001; Article 1). The provision is explicitly applied to plans made for “water management.” The Directive is enacted into UK legislation by The Environmental Assessment of Plans and Programmes Regulations 2004 SI (Statutory Instrument) No.1633.

It is Natural England’s position that environmental assessment is likely to be automatically required for WRMPs in England.

The UK Water Industry Research Guidance on Environmental Assessment Guidance for Water Resources Management Planning 2021 (UKWIR 21/WR/02/15) confirms this requirement, and also lists the following compliance risks in Para 3.4 to help water companies check they have complied with the legal requirements of SEA:

- “*Ensure that SEA Screening process has followed all the key screening stages if you have assessed that your plan does not require SEA*”
- “*Consultation requirements have been met in full (e.g., minimum 5-week consultation period for the Scoping Report, consulting all relevant consultation bodies where the plan affects more than one nation state)*”
- “*Demonstrating that alternatives have been considered and the reason for selecting the preferred plan is clearly set out*”
- “*Demonstrating that the SEA findings have been actively considered in the decision-making processes for plan development*”
- “*Ensuring that cumulative effects of the plan with other plans and programmes are appropriately considered in the SEA*”
- “*Reporting requirements have been met for the Scoping Report and Environmental Report.*”

2.2.1 Wildlife and Countryside Act 1981 as Amended

Section 28G of the Wildlife and Countryside Act 1981, as inserted by section 75 of and Schedule 9 to the Countryside and Rights of Way Act 2000, places a duty on public authorities, including water companies, to take reasonable steps consistent with the proper exercise of their functions to further the conservation and enhancement of SSSIs (Sites of Special Scientific Interest). These duties are mirrored in the general recreational and environmental duties placed on relevant undertakers in the Water Industry Act (1991) as amended.

These duties not only apply to companies to remove their impacts but also to contribute to maintaining or achieving SSSI favourable condition. WISER sets out the expectations for delivery of these obligations. Companies are expected “*to contribute to maintaining or achieving SSSI favourable condition on land they own, the catchment in which they operate and other areas in which they exercise their functions*”.

The rate of improvement going forwards is set out in the Defra 25 Year Environment Plan which aims to restore by 2042 “*75% of our one million hectares of terrestrial and freshwater protected sites to favourable condition, alongside improving the water quality of the coastal environment and securing their wildlife value for the long term*”.

2.2.2 Natural Environment and Rural Communities Act and Net Gain

The [Natural Environmental and Rural Communities Act 2006](#) placed a duty on public bodies, including water companies, to *“have regard, so far as is consistent with the proper exercise of their functions, to conserve biodiversity.”* Conserving biodiversity in this context includes restoring or enhancing a population or habitat. The guidance [Biodiversity duty: public authority duty to have regard to conserving biodiversity](#) sets out information for public authorities to understand what the biodiversity duty is and how to meet it when carrying out all activities.

However, the Environment Act 2021 (see 2.2.3, below) amends and strengthens this duty, requiring public authorities, including water companies, to *“further, so far as is consistent with the proper exercise of their functions, the conservation and enhancement of biodiversity”*, reflecting the aim of restoring or enhancing a species population or habitat. Government guidance around how to implement the amended biodiversity duty is currently in preparation.

2.2.3 Environment Act 2021, and the Environmental Improvement Plan 2023

The Environment Act 2021 makes provision for legally binding targets, plans and policies for improving the natural environment. This includes air quality, biodiversity, water, waste reduction and resource efficiency. It introduces measures including Local Nature Recovery Strategies, Protected Sites Strategies and Species Conservation Strategies, as well as amending the Town and Country Planning Act in respect of Biodiversity Net Gain.

The Act requires 5 yearly review of the Government’s 25 Year Environment Plan, which becomes the first Environment Improvement Plan under the Act. The first review was published on 31st January as the Environmental Improvement Plan 2023. This sets a comprehensive delivery framework for the Environment Act targets published in December and includes new interim targets to ensure progression towards them.

WISER confirms that, as public authorities, water companies must have regard to the relevant Local Nature Recovery Strategy, Protected Sites Strategy or Species Conservation Strategy under the amended biodiversity duty, which also places responsibilities upon them to develop specific policies and objectives for actions to enable them to achieve their strengthened duties under the NERC (Natural Environment and Rural Communities) Act (2006) (see 2.2.2 above). In doing so, Water Companies are expected *“to develop actions ... carried out on land they own, the catchment in which they operate, and other areas in which they exercise their functions, adopting nature-based solutions as much as possible and contributing to Biodiversity Net Gain requirements in line with local or national planning policies.”*

2.2.4 Protected landscapes

Relevant Authorities (including water companies as a Statutory Undertaker) are to have regard to the purposes of National Parks (Section 11A (2) of the 1949 Act) and the similar duties towards Areas of Outstanding Natural Beauty (AONBs) (Section 85 of the Countryside and Rights of Way Act 2000) and the Broads (Section 17A of the Norfolk and Suffolk Broads Act 1988). Duties to further the natural beauty and rural amenity are also included within the general recreational and environmental duties placed on relevant undertakers in the Water Industry Act (1991) (as amended).

Protected landscapes are central to the delivery of aspirations in the Defra 25 Year Environment Plan to enhance the beauty, heritage, and engagement with the natural environment. All these aims will be consolidated and strengthened in the review of the 25 Year Environment Plan, expected in

early 2023, which will become the first Environment Improvement Plan (EIP) under the Environment Act 2021. In addition, national planning policy places the highest level of policy protection on protected landscapes, giving ‘great weight’ to the conservation and enhancement of their landscapes and scenic beauty. It also requires development in the setting of protected landscapes to be sensitively designed and sited to avoid or minimise adverse impacts on them.

2.2.5 Climate change

The Climate Change Act 2008 sets the legal framework for adaptation policy in the UK, preparing for the likely impacts of climate change. The 2nd Climate Change Risk Assessment (2017) identifies risks to water supply and natural capital, including coastal communities, marine and freshwater ecosystems, and biodiversity, as among the highest future risks for the UK relevant to the water industry. The Defra 25 Year Environment Plan aspires to “*take all possible action to mitigate climate change, while adapting to reduce its impact*”.

WISER sets out the expectations upon water companies in relation to adaptation and mitigation, adoption of nature-based solutions and increased resilience, achieving net zero by 2030 and understanding future climate risks. The use of evidenced low carbon, catchment, and nature-based solutions to provide multiple environmental benefits, including climate change mitigation and adaptation, should be put in place where appropriate.

2.2.6 Species Recovery and Protected species

Natural England Standing Advice for Protected Species is available on our website to help local planning authorities and others including water companies better understand the impact of their operations and development on protected or priority species should they be identified as an issue at developments or plans. This also sets out when, following receipt of survey information, the authority (or the undertaker in regards of the exercise of permitted development rights) should undertake further consultation with Natural England.

The Environment Act makes provision for the Secretary of State to set a species abundance target to halt the decline in species abundance by 31 December 2030. This is in addition to the wider biodiversity targets that are required to be met by 2042 in the Environment Act and 25 Year Environment Plan, now the Environmental Improvement Plan. The monitoring indicator framework⁶, which sets out how the goals and objectives in the Environmental Improvement Plan 2023 (previously the 25 Year Environment Plan) will be monitored, has the following species indicators lists which include the following indicative percentage of water dependant species. The percentages are indicative and subject to confirmation, revision, or change.

25 YEP Outcome Indicator Framework	Indicative percentage of indicative list of species that are dependent on clean and / or plentiful freshwater
https://oifdata.defra.gov.uk/4-4-1 D4 Relative abundance and/or distribution of widespread species	Approximately 39%
https://oifdata.defra.gov.uk/4-5-1 D5: Conservation status of our native species	To be Determined
https://oifdata.defra.gov.uk/4-6-1 D6	D6a Approximately 21%

⁶ [Outcome Indicator Framework](#) describes the state of the environment and supports the strengthened framework for monitoring and reporting on the environment on environmental improvement as established by the Environment Act 2021.

Relative abundance and distribution of priority species in England	D6b Approximately 29%
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2.2.7 Marine Conservation Zones

Section 125 of the Marine and Coastal Access Act (MCAA) (2009) applies a general duty to public authorities to exercise their functions in a way that best furthers the conservation objectives of a Marine Conservation Zone (MCZ) or, where that is not possible, least hinders them. There is also an obligation to notify Natural England where a public authority's function might significantly hinder the MCZ's conservation objectives or significantly affect an MCZ. The relevant public authorities must take account of this duty in the assessment of the water company statutory plans including Drought Plans and Water Resource Management Plans.

The Defra 25 Year Environment Plan states “*We will achieve a growing and resilient network of land, water and sea that is richer in plants and wildlife this includes [...]*”

- *Reversing the loss of marine biodiversity and, where practicable, restoring it, [...]*
- *Increasing the proportion of protected and well-managed seas, and better managing existing protected sites.”*

Water company catchment activities and wastewater operations that can impact water quality have the potential to negatively impact on MCZ features. Water companies are expected to contribute to maintaining or achieving the objectives for MCZs and the desired state of the environment within Highly Protected Marine Areas when introduced by government.

2.3 Water Framework Directive

The Water Framework Directive⁷ sets specific objectives for the protection of the water environment which include for surface water bodies the prevention of deterioration and achievement of good ecological status/potential. For groundwater bodies the objectives are to prevent deterioration and achieve good chemical and quantitative status.

2.3.1 UK Government Environmental targets for the water environment

The Defra 25 Year Environment Plan set an ambition to achieve clean and plentiful water by improving at least three quarters of our waters to be close to their natural state as soon as is practicable, including the following:

- reducing the damaging abstraction of water from rivers and groundwater, ensuring that by 2021 the proportion of water bodies with enough water to support environmental standards increases from 82% to 90% for surface water bodies and from 72% to 77% for groundwater bodies
- reaching or exceeding objectives for rivers, lakes, coastal and ground waters that are specially protected, whether for biodiversity or drinking water, as per the River Basin Management Plans

The Environment Act 2021 requires the Government to develop new, legally binding targets for water environment improvement, building on those set out in the 25 Year Plan, which will enable significant progress towards meeting this ambition. Those targets were published on 19th December 2022, and include targets specifically for water quality and availability, to achieve by 2037, as follows:

⁷ [Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for the Community action in the field of water policy](#) is referred to as the Water Framework Directive or WFD and is enacted into law by The Water Environment (Water Framework Directive) (England and Wales) Regulations 2003

- Abandoned metal mines target: Reduce the length of rivers and estuaries polluted by target substances from abandoned mines by 50% by 2037 against a baseline of around 1,500km.
- Nutrient targets: to address the two principal sources of nutrient pollution by 2037:
 - Reduce nitrogen, phosphorus, and sediment pollution from agriculture to the water environment by at least 40% by 2037 against a 2018 baseline.
 - Reduce phosphorus loadings from treated wastewater by 80% by 2037 against a 2020 baseline.
- Water demand: Reduce the use of public water supply in England per head of population by 20% by 2037 against a 2019/20 baseline.

The Environmental Improvement Plan 2023 builds further on these targets, and sets additional interim targets to ensure progression toward their achievement.

2.3.2 Natural Capital and Resilient Landscapes and Seas

The Environmental Improvement Plan 2023 (previously the Government's 25 Year Environment Plan) encourages the growth in natural capital and measurement of ecosystem services.

WRPG confirms that WRMPs should reflect the ambitious nature of the 25 Year Plan, and therefore the Environmental Improvement Plan, and that Water Companies are expected to:

- set out their destination for environmental sustainability and resilience
- support nature recovery
- use natural capital in decision making
- use a catchment approach
- deliver net gain for the environment

WISER advises that in doing so, water companies should reflect priorities within the relevant Local Nature Recovery Strategy and should contribute to reducing diffuse pollution from their land and improving connectivity between designated sites, through habitat restoration, enhancement, and creation, thereby supporting biodiversity, naturally functioning and resilient ecosystems and increasing species populations.

WISER also advises that water companies should “*consider whether [their] abstractions are truly sustainable, looking across a catchment as a whole and consider investment in integrated catchment schemes to improve drought resilience and water quality.*”

2.3.3 Connecting people with nature – demand management

Natural England's Conservation 21 seeks to drive a fundamental change in mind-set, to make a healthy natural environment a central part of health, wealth, and prosperity. This includes encouraging the public to value the water they use.

The Government's 25 Year Environment Plan aspired to reduce the risks of drought to the public by:

- *Ensuring interruptions to water supplies are minimised during prolonged dry weather and drought.*
- *Boosting the long-term resilience of our homes, businesses, and infrastructure.*

Building on this, the Environmental Improvement Plan sets a delivery framework for achieving these ambitions, with statutory targets for demand management and leakage control, and interim targets to ensure progression towards achieving these.

WISER confirms that water companies must show how they will ensure efficient use of water and are expected to include in their WRMPs long term commitment to reduce demand through use of, for example, increasing water metering, use of water-saving technology and encouraging behavioural change to reduce unnecessary water use, alongside their own actions to achieve leakage reduction.

As well as an explicit policy requirement, significantly improved water efficiency will be essential to leave enough water in the environment to meet the challenging targets for nature recovery and resilience including those set out above. Companies should consider whether water efficiency measures including those that help new and existing household water users go beyond 110 litres per person per day could help support achievement of the targets for nature recovery more quickly than, or alongside, supply-side interventions.