

Canoe Wales and British Canoeing Response to Welsh Government Consultation Document WG31811: “Taking Forward Wales’ Sustainable Management of Natural Resources”

Draft 2_0 dated 06 September 2017

Executive summary

[To be added prior to final submission]

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Foreword

[To be added prior to final submission]

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1. Introduction

This draft of our response to the Welsh Government is being released early to give the UK paddling community and others an opportunity to prepare their own responses. We do not anticipate the key messages changing between now and the submission deadline on 30 Sep 2017, but we will continue to add further material (including additional data from our recent online survey) to strengthen our arguments.

1.1. Who We Represent: the UK Paddlesport Landscape

We use the term ‘paddlesport’ to cover canoeing¹; use of stand-up-paddleboards (SUPs); and rafting – and ‘paddlers’ as those who engage in such activities.

Canoe Wales is the National Governing Body (NGB) for paddlesport in Wales. As such, we represent c.1,900 individual members and c.3,000 members of over 60 paddlesport clubs in Wales.

British Canoeing is both the NGB for paddlesport in England and the ‘umbrella’ NGB for the whole UK (comprising Canoe Wales; the Scottish Canoe Association, SCA; the Canoe Association of Northern Ireland, CANI; and its own members in England). British Canoeing has c.20,000 individual members and c.40,000 members of paddlesport clubs in England.

Together, Canoe Wales and British Canoeing therefore represent directly approximately 65,000 members; but we also exist to represent the interests of the wider community of paddlers in Wales and England – who we have engaged as widely as we could in preparing this response.

Paddlesport has a large and healthy community. With 1.5 million participants in the UK each year, it is one of few watersports still showing long term growth. It has the highest ownership rate of any watersport, with 73% of regular participants owning their own canoe; most being active between 6 and 12 times a year, and over 36% coming from families. Paddlesport activity is fully inclusive, with a range of disciplines that use waterways in all forms. The average user takes part for 3 hours at a time, with 57% of all canoeing activity taking place on inland waterways. The Sport England Active Lives Survey [1] shows canoeing participants regularly engage in other outdoor activities, principally hillwalking and cycling, suggesting a clear desire to experience the outdoors as part of a healthy lifestyle.

Of all watersports activity, 9% takes place in Wales and the Southwest, the highest of all regions. There are 82,000 canoeists living in Wales, with a further 13,000 using SUPs². With many regular participants travelling to Wales from other regions, particularly from the North West, East Midlands, Southeast, London and Southwest, the number of participants using Welsh waterways is considerable³.

1.2. Compilation of Our Response

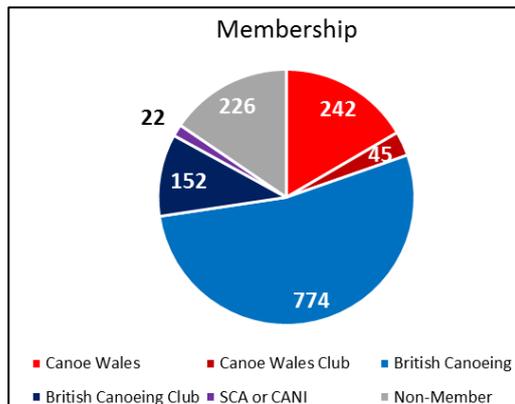
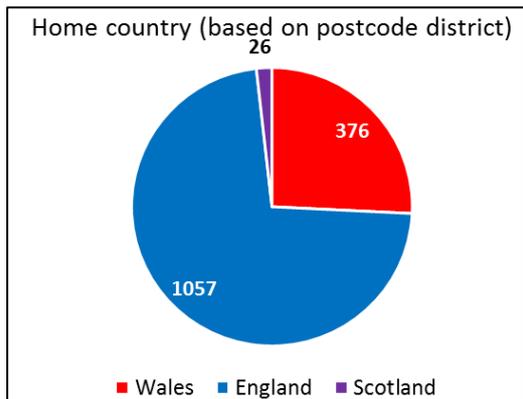
In preparing this submission, we were determined to ensure that our responses properly reflected the views of the paddling community in Wales – comprising not only those paddlers who live in Wales, but also those from across the UK who may come to paddle in Wales. We therefore sought to engage with as many of them as possible in the time available for consultation, using an online survey distributed via e-mail and social media to our members and the UK paddling community from 21 July to 11 August.

¹ We define ‘canoeing’ as any activity involving any craft propelled by a paddle (or occasionally a sail or ‘pole’) in or on which the paddler faces in the direction of travel (including canoes, kayaks and SUPs) – and ‘canoeists’ as those who engage in such activities. A ‘kayak’ is a craft propelled, in a sitting position, by a double-ended paddle; whereas a ‘canoe’ is a craft propelled, most ‘properly’ in a kneeling position, by a single-bladed paddle (or occasionally a sail or ‘pole’) – although the term ‘canoe’ is often used, confusingly, to refer collectively to both kayaks and canoes!

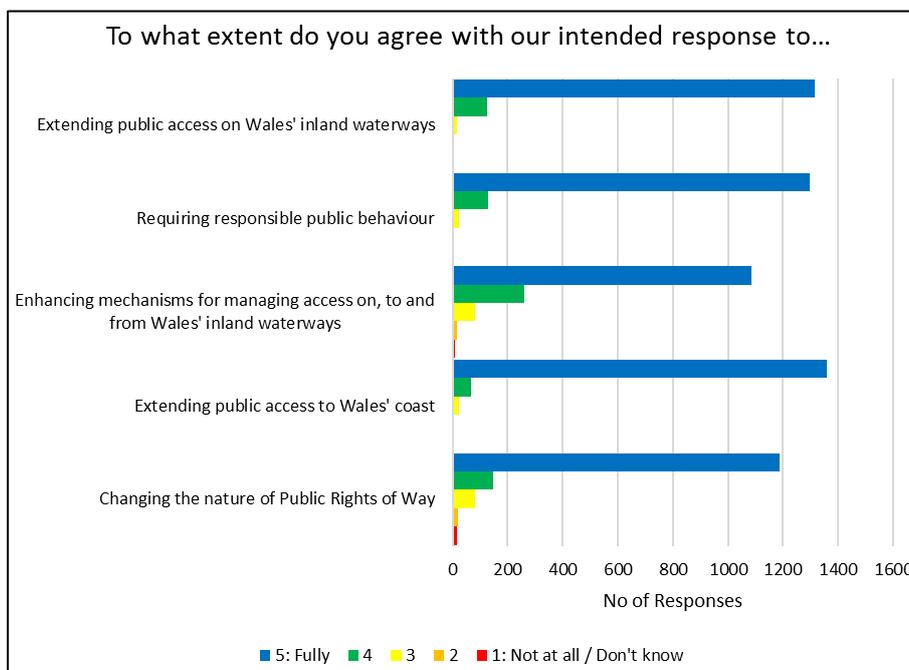
² In the UK as a whole: 1.5M canoeists and 386,000 SUPers.

³ Data from [18] and [1]

Our survey (summarised at Annex A) attracted almost 1500 responses. 26% of these were from paddlers who live in Wales, including 13% of Canoe Wales' core membership. A further 56% were from paddlers not resident in Wales but who have paddled within Wales during the last 3 years, including 4% of British Canoeing's core membership. We are therefore confident that we have engaged a representative sample of both the Welsh and the wider UK paddling community while compiling this submission.



Our survey respondents agreed to a very great extent with the initial recommendations that we put forward in our survey. The responses that we are presenting to you in this submission are based on those initial recommendations, with the addition of suggestions provided in our survey responses. We are therefore extremely confident that this submission is representative of the paddling community within the UK.

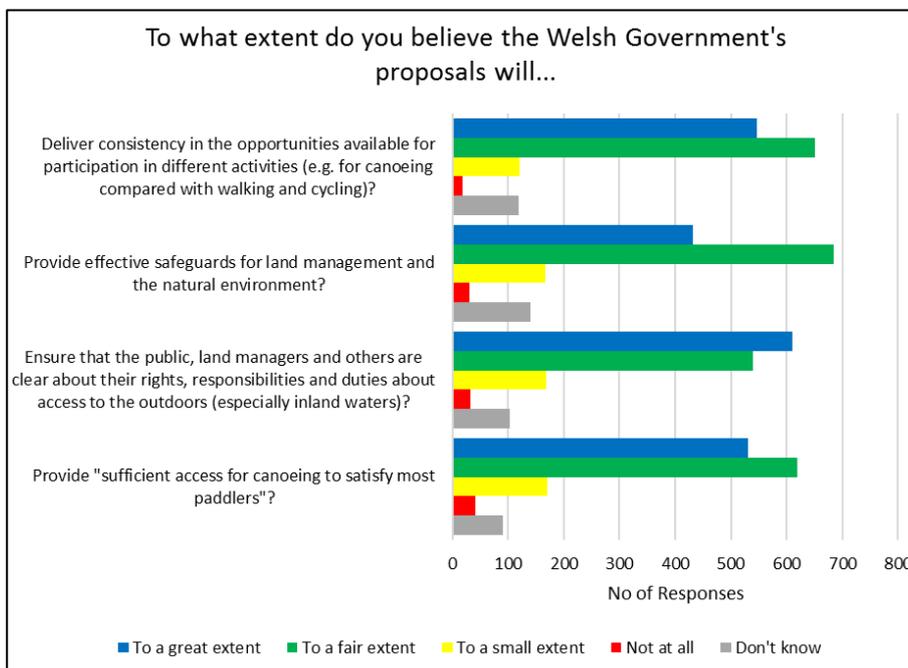


Our respondents also agreed broadly that your proposals (as amended by their suggestions) would, to a fair or great extent, achieve your aims to:

- a) Deliver consistency in the opportunities available for participation in different activities;
- b) Provide effective safeguards for land management and the natural environment; and
- c) Ensure that the public, land managers and others are clear about their rights, responsibilities and duties about access to the outdoors;

and that they would achieve our aim to:

“Achieve sufficient access for canoeing to satisfy most paddlers”.



We are therefore **confident that the paddling community within the UK will support your proposals to improve access for outdoor activities if you enact them in the ways that we are suggesting in this submission.**

Both Canoe Wales and British Canoeing stand prepared to engage fully with the Welsh Government and other partners to secure a stronger future for Wales' natural environment, particularly our rivers, lakes and coasts.

2. Our Response to Your Proposals Relating to Paddlesport Access to the Outdoors

2.1. Consistency in Opportunities and Clarity about Rights etc.

You have asked:

Question 15: Will these proposals deliver consistency in the opportunities available for participation in different activities and provide effective safeguards for land management and the natural environment?

We believe that **if our concerns are addressed**, as we have set out in the following sections, **your proposals are likely to deliver greatly-improved consistency in the opportunities available for participation in different activities and provide effective safeguards for land management and the natural environment.**

Question 17: Will these proposals provide significant clarification to ensure that the public, land managers and others are clear about their rights, responsibilities and duties in relation to access to the outdoors?

We believe that **if our concerns are addressed**, as we have set out in the following sections, **your proposals are likely to provide significant clarification to ensure that the public, land managers and others are clear about their rights, responsibilities and duties in relation to access to the outdoors.**

The following three quotes from our survey respondents provide a concise summary of our views on your proposals; and are indicative of the feedback we received:

“The access allowed on the continent, Ireland and Scotland for paddlers, swimmers and anglers is an excellent example of how tolerance and patience can allow a huge number of people to enjoy the benefits of exercise, encourage youngsters and old alike to experience the outdoors and benefit from the beauty and serenity provided by our wonderful rivers. *The waters belong to no-one* and should be shared equally and tolerantly by all with all.”

“The Welsh Government should have the confidence to not just follow Scotland, but to learn directly from them that many of the issues and arguments brought by the anti-access lobby were discovered to be unfounded...[e.g.] population density is not a reason to restrict access. Once [you] have set a course to improve access, then any hot points or issues of contention can be dealt with on an individual basis. Make the WG understand that despite the anti-access lobbyists view that it will destroy the countryside economy, it will in fact do completely the opposite!”

“What must not happen is a naive compromised fudge, with arbitrary restrictions, in an attempt to please every interested party, that is unenforceable, and will be ignored.”

At present in Wales, the opportunities available for participation in different outdoor activities are extremely inconsistent. For example, walkers have wide access to Public Rights of Way and Access Land, while canoeists have very little uncontested access to inland waterways in Wales.

Much of this inconsistency is due to lack of clarity resulting from the contested legal rights of canoeists (particularly on inland rivers); concerns around public liability (particularly on reservoirs); and concerns about the environmental impact of canoeing.

Much has already been written about this inconsistency and lack of clarity, which we have summarised at Annex B, along with anecdotal evidence from our survey about some of the problems that canoeists currently face in Wales.

In the following sections, we explain our concerns about each of your proposals relating to these questions; and suggest what more we believe is necessary for them to deliver your aims in full.

A. Extending Public Access on Inland Waterways

We welcome – and support strongly – your proposals to extend public access on inland waterways (with 99% of our survey respondents ‘strongly’ supporting our response):

Proposal 14: *To extend Part 1 of CRow Act access land provisions to rivers and other inland waters.*

Proposal 11: *To amend or revoke the following list of restrictions on access:*
(b) uses a vessel or sailboard on any non-tidal water;

...

(i) bathes in any non-tidal water; and
(s) engages in any organised games, or in camping...

We believe that these proposals represent a huge step forward in public access to inland waterways in Wales and will achieve something close to the PRN that we believe already exists for rivers in Wales – but which we have so far been unable to confirm in law – and would achieve a *similar* level of access on the inland waterways of Wales to that enjoyed in Scotland. While we might have preferred a more comprehensive extension, providing a ‘presumption of access’ from land to inland waterways and the inclusion of a ‘riparian corridor’⁴ along the banks of rivers, streams and canals, we appreciate that this could be a step too far in the current climate, so we acknowledge that these proposals represent an expedient and effective compromise.

However, there are **several issues arising from these proposals which must be addressed** to gain the full support of the UK paddling community:

- a) It is unclear what mechanism(s) you intend to use to extend the provisions of a modified CRow Act to inland waters. Whether you intend to extend Section 16 of CRow to all Welsh rivers and lakes, or simply to extend the usual Access Land provision to such water bodies aligned with the removal of limitations of use in Proposal 11, it is essential that the mechanism has the effect of granting a right for the public to use the water for recreational purposes in unpowered craft.
- b) Proposal 14 must relate to **all** rivers and lakes in Wales, rather than leading to a piecemeal waterbody-by-waterbody approach (subject to the following comments).
- c) The consultation document explicitly mentions rivers and lakes, but does not mention canals or reservoirs. Since we believe that all canals are covered by existing obligations to provide public access, this may not be material (although we would welcome their inclusion if that is your intent). We would, however, expect reservoirs to be included in your provisions, since they represent a significant proportion of the inland waterways in Wales and are of considerable interest to ‘open water’ paddlers. The reduced liability that the CRow Act provides for landowners should help to reduce many of the concerns that water companies have about people canoeing on reservoirs. We recognise the need to ensure safety close to outflows, spillways and the like, so would support appropriate provisions for ‘safety exclusion areas’ and restrictions to protect public health, where these were proved necessary. We welcome your clarification on these points.
- d) Your proposals also do not define what is meant by a ‘river’ – we would wish any river or stream that is physically navigable to be included; and we would expect other users, such as gorge-walkers, to wish any river or stream, of whatever size, to be included – using for this purpose Robert Callis’ 1622 definition of a river as “a running stream, pent in on either side with walls and banks” [2, p. 29]. We can foresee considerable difficulty in taking a case-by-case approach to identifying which rivers should be included, so recommend therefore that all rivers and streams (including mill lades / leats), marked as such on current Ordnance Survey maps, should be presumed to be included unless a convincing argument could be made to the contrary. We welcome your clarification on this point.
- e) Equally, your proposals do not define what is meant by a ‘lake’ – we would not necessarily expect every private ‘pond’ or ‘fishing lake’ to be included, but would expect any large body of open water to

⁴ We define a ‘riparian corridor’ as “a strip of the adjacent land on both sides of any river or such expanse of water (wide enough to allow passage on foot, picnicking at convenient places and, where practicable, launching and landing; and including the banks, walls or embankments along the water; and any towpath or other way or track beside the water) and, where a highway crosses or comes close to the river or other water, so much of any land connecting the highway with the strip of land as would afford access from the highway to some convenient launching place for small boats”.

be included, whether owned 'publicly' (including reservoirs owned by utility companies) or 'privately' (e.g. Llangors Lake). We would therefore recommend that all bodies of water exceeding a specified area, say 0.4ha / 1 acre should be presumed to be included unless a convincing argument could be made to the contrary (on grounds of safety, environmental protection or 'privacy'). We welcome your clarification on this point.

f) We understand your reason for excluding riverbanks – and would note that the general PRN on all rivers which we believe exists does not include access across land or to the banks. However, this does pose a significant restriction on the public's ability to use inland waterways – particularly rivers – in the manner that your proposals are intended to achieve. We therefore believe strongly that consideration must also be given to providing as many mechanisms for improving access across land to waterways as possible (see below, point h). Not to do so could be a missed opportunity. We acknowledge that there is already a common-law right to enter land in the event of emergency (which would allow rescuing and recovering paddlers and equipment, conducting first aid, 'escaping' to the nearest road, etc.), but it is often necessary for paddlers navigating along a waterway to use its banks for other purposes 'incidental to navigation' (as enshrined, for example, in the PRN on the Lower Wye⁵). Paddlers navigating along a river may, quite often, need to land on the banks to portage (walk around) obstructions (fallen trees, fences, cattle-gates, dangerous rapids, etc.) or man-made structures (weirs etc.); to inspect river features to ascertain a safe route; to provide bank-based safety cover for groups negotiating rapids; or to enable boats to be safely 'lined' or 'tracked' (using ropes operated from the bank to negotiate difficult sections). All these activities may be necessary for successful and safe navigation of a river, so we request that you consider how to include provision for using the banks of inland waterways for such 'purposes incidental to navigation'.

g) While we understand your exclusion of "activity...for any commercial purpose" in the context of, say, large-scale commercial canoe hire or rafting activities (where the primary purpose of the activity is to make profit), this could also exclude professionals working as coaches or guides engaged in training or ensuring the safety of clients undertaking "open-air recreation" (including clubs and voluntary groups) and, as such, would impose an unwelcome and unnecessary restriction on a significant proportion of paddlesport activity and employment within Wales. Existing DEFRA guidance [3] permits "educational" use of Access Land (see extract from guidance text at Annex B); and in Scotland,

"access rights extend to activities carried out commercially or for profit, provided that these activities could also be carried on other than commercially or for profit (i.e. by the general public for recreational purposes or for educational activities or for crossing land). For example, a mountain guide who is taking a client hill-walking is carrying on a commercial activity, but this falls within access rights because the activity involved could be done by anyone else exercising access rights. The same would apply to a canoe instructor from a commercial outdoor pursuits centre with a party of canoeists" [4, p. 6].

However, we also recognise the greater adverse impact that regular, large-scale commercial or educational operations might have (when compared to more strictly-defined 'recreational' use) and the need therefore to manage such operations through the kind of arrangements suggested by your later proposals. You should also note that, in excluding commercial activities, your proposals will not resolve some of the current issues and conflicts surrounding existing paddlesport activity in Wales – including canoe hire operations on the Wye above Hay and rafting operations on the Dee – where commercial operators would still face the same legal uncertainty that currently exists around rights to use our rivers. We would therefore welcome clarification of your intentions relating to commercial and educational activity; and your proposals for distinguishing and managing paddlesport for 'commercial purposes'.

h) As one of our survey respondents pointed out, "public right of access down a river is pointless unless paddlers can actually get to the river". We therefore request that you:

- confirm that, where the "land adjacent to the water" is itself Access Land, you intend an automatic right to access freely the water from that land (subject to practical accessibility and the

⁵ The Wye Navigation Order 2002 says that "Members of the public shall have the right to navigate and use the principal rivers", where "the use of the principal rivers shall be construed as meaning such use as is, according to the principles of common law, reasonably incidental to their navigation" and "the principal rivers"...includes their beds and banks" [14, pp. 4, 5 & 8]

requirements for responsible behaviour and local ‘management arrangements’ as covered by your later proposals);

- consider extending a ‘presumption of access to water’ (including extinguishment of existing byelaws prohibiting access, but subject to practical accessibility and the requirements for responsible behaviour and local ‘management arrangements’ as covered by your later proposals) from all publicly-owned⁶ common land, parks, forests, etc. “adjacent to the water” – unless a convincing argument can be made to the contrary (e.g. on grounds of safety or environmental protection); and
 - either include the ‘riparian corridor’ in your extension of CRoW Act access land provisions or impose a duty on Local Authorities and National Park Authorities to exercise their powers to facilitate access from the ‘riparian corridor’ to “convenient launching places for small boats”⁷ – particularly from highways that cross rivers and from footpaths linking highways to rivers (subject to practical accessibility and the requirements for responsible behaviour and local ‘management arrangements’ as covered by your later proposals).
- i) We welcome the addition of camping on access land insofar as it could provide for wild camping for canoeists on the banks of reservoirs and upland rivers (or on any rivers if you include the ‘riparian corridor’ as Access Land) – but we would caution against unfettered camping on access land, which could encourage roadside camping, littering, etc. We would therefore welcome your clarification on how you propose to avoid the potential adverse impacts of ‘inappropriate’ wild camping.
- j) We wish you to confirm that these reforms would not extinguish any existing Public Rights of Navigation on inland waterways in Wales (whether these have been officially ‘confirmed’ or not).
- k) The CRoW act requires “means of access” to Access Land not to be obstructed. Since a river or other linear waterway may itself be regarded as a “means of access” to the adjacent section of river, riparian owners should be required not to obstruct passage along the waterway by stock fences or other barriers – or at least to make temporary or permanent provision for portage around any such obstacles (as described at point f). We therefore request that you consider how to include this provision (see also our comments in Section C below).

If these concerns are addressed, we believe these proposals will deliver greatly-improved consistency in the opportunities available for participation in different activities; and provide significant clarification about rights, responsibilities and duties in relation to access to the outdoors.

B. Requiring Responsible Behaviour

We welcome – and support strongly – your proposals for requiring responsible behaviour from all parties affected by access to the outdoors (with 98% of our survey respondents ‘strongly’ supporting our response):

***Proposal 16:** To establish a statutory caveat on all users to behave responsibly whilst exercising their right to participate in recreation on access land, inland water and on public rights of way*

***Proposal 26:** To develop a statutory code for access to the outdoors for recreation similar to that already in place in Scotland under the Land Reform (Scotland) Act 2003*

We believe that these proposals will help to ensure responsible behaviour, sustainable practices and protection of the natural environment – and to address many of the concerns that will be raised by opponents of extended recreational access. We would be delighted to contribute to the development of a statutory code based on the Scottish model (in consultation with the paddling community in Wales and England); and encourage you to consider incorporating elements that we have already suggested for inclusion in a National Code of Conduct for water users (see Annex C).

As NGBs, we expect paddlers to take their responsibilities seriously, so would intend to play an enhanced role in educating and informing the paddling community about these; and Canoe Wales would be willing to consider repercussions for our own members if they abused them (as one of our survey respondents

⁶ By ‘publicly-owned’ we mean any land owned and/or managed by a public body including but not limited to Local Authorities, National Park Authorities, NRW, Utility Companies and Trusts established for the benefit of the public.

⁷ Countryside Act 1968, Section 16 [12, pp. 18-19].

noted, “a good amount of the paddling community could do with some education on being quiet and respectful around people's private property and private land...to [show the wider] community that the natural waterways of the UK are not just a recreational playground but something to be shared and enjoyed by all. I think then, it will be easier for other river users to accept paddlers.”).

However, we are concerned by your statement that “rights could be annulled”. Many of our survey respondents⁸ felt very strongly about this, commenting for example that “the right to drive on roads is not removed from the public because of the poor and illegal behaviour of the few, and the same approach should apply to paddling” and “if irresponsible behaviour occurs on a footpath, access for all isn't removed and I cannot see why it should be different on waterways” – and the recent removal of wild-camping access around Loch Lomond was quoted as an inappropriate response to the irresponsible behaviour of a few. One respondent summed up the views of most, that:

“a ‘right’ that can be removed is not a right, so nothing has been achieved if there are any grounds for removal. Compliance with statutory codes should be a matter that can be enforced against individuals with penalties (criminal sanctions) if necessary, not enforced against the rest of the community by removing rights from other parties who may not be involved in the irresponsible behaviour”.

Many respondents also questioned how ‘responsibility’ would be defined; and who would have the task of judging, disseminating and enforcing decisions – both of which leave scope for subjectivity, uncertainty and the risk that “vexatious complaints will quickly escalate in order to prevent access to stretches of water”. We cannot therefore support your suggestion that “rights could be annulled” (except perhaps in extreme cases after due legal process) and we urge you to give very careful consideration to whether more appropriate sanctions could be imposed where irresponsible behaviour occurred.

If this concern is addressed, we believe that these proposals could provide effective safeguards for land management and the natural environment; and provide significant clarification about rights, responsibilities and duties in relation to access to the outdoors.

C. Managing Access on, to and from Inland Waterways

We support tentatively your proposals to manage access on, to and from inland waterways (with 93% of our survey respondents ‘strongly’ supporting our response):

Proposal 15: *To establish Natural Resources Wales (NRW) as the authority responsible for:*

- *identifying appropriate access and egress points;*
- *implementing measures to promote responsible use, including the use of river level indicators; and*
- *mediating between the different user interests to facilitate user access agreements.*

Proposal 17: *To enable temporary diversions and exclusions to be applied across all accessible land and water where circumstances require them and after the safety and convenience of the public have been considered*

We note that your “aim is to develop an approach which is less burdensome to administer, provides for the wide range of activities that people can take part in, with sensible safeguards for land management activities and the cultural and natural environments” and “it is not [your] aim to take away or reduce access rights for existing users. It is about increasing access for all non-motorised activities whilst allowing for sensible flexibility for land management and safety.”

We therefore welcome your recognition of the need to increase the number of access and portage points to help facilitate access to inland waterways for paddlesport – and have suggested in Section A above how we would expect public land and rights of way to be made available for this purpose. We would welcome the introduction of a statutory authority with the remit to ‘identify appropriate access and egress points’, who we would expect to:

- a) compel public bodies to provide access from their own land;
- b) encourage public bodies to make access orders where appropriate (as we have suggested in Section A above) to provide access for small boats along riverbanks and from highways to riverbanks; and

⁸ 20% of those who offered comments on these proposals.

- c) facilitate agreements between waterways users, landowners and others to achieve access across private land.

We would also welcome a consistent approach to the design of; and signage at; access, egress and portage points throughout Wales, which would make it easier and safer for users of all abilities to navigate our waterways; and which the statutory authority would be well-placed to facilitate.

In our experience, the greatest current barrier to gaining more access points is disagreement over the legality of access along the river/waterway. If the proposals in this consultation are enacted in full, this barrier would be removed, enabling more landowners to feel confident in establishing new access points. British Canoeing and Canoe Wales have been developing ideas to use post-Brexit agricultural subsidies and incentives to help farmers fund access improvements, which we have submitted to you separately [5] and from which we have provided key excerpts at Annex D. Access to the countryside for recreation should bring benefits to the wider economy in the area, including those landowners who host access facilities; and we believe the process you are working towards would make a considerable step in helping achieve this by providing access that works for all. The River Dart (in Devon) is a good example of this, where a privately-owned Country Park has opened access for canoeing during the winter, providing economic and social benefits both to the Park itself and to other local businesses.

We also recognise that appropriate 'management measures', such as river level indicators (which paddlers already use extensively in making decisions when and where to go) and 'share the space' initiatives (such as those promoted by the Canal & Rivers Trust on their towpaths) can be valuable to promote responsible use and protect both the environment and the interests of other users and local communities – provided they are based on sound, undisputed evidence (e.g. of environmental and other impacts). We would also encourage the greater use of signage at key access points; and readily-available information online and printed; to explain both access arrangements and 'codes of conduct'. We also recognise the occasional need for payment for access (across land, not along the waterway) where this can be shown to be necessary to defray the costs of access provision – provided that such costs are both reasonable and transparent.

Our survey respondents have confirmed that canoeists are generally willing to share water with other users and do not wish to see others' enjoyment of the environment impacted by us. Nevertheless, we recognise that responsible recreational access may, at times, need to be 'managed', whether through 'shared use arrangements' or other mechanisms, on those few waterways where there is a well-evidenced, independently-agreed inability of the waterway to support full-time joint use. We envisage rivers needing such an arrangement to be the exception, not the rule; and that they should be initiated only when there is clear evidence that 'unmanaged' access and 'responsible behaviour' has 'failed' (and not simply because canoeing arrangements for certain rivers already exist at landowners' behest and without the full support of paddlers). We would also expect all such arrangements, as a minimum, to meet the criteria at Annex D, which are set out in our Position Statement on the Shared Use of Rivers [6]. However, our recent experience in attempting to negotiate 'shared use arrangements' has convinced us that this is not possible without both an independent and authoritative mediator and without all users being represented fairly and having clear rights and responsibilities – as would be achieved through proposals 14, 16 and 26. Proposal 15 does, therefore, have the potential for establishing a new mechanism for fair, independent mediation in instances where greater partnership between users is needed. We believe that a statutory body would be best placed to perform this facilitation / mediation role and that there is greater potential in having a single, national body responsible for this process rather than spreading it across multiple, poorly-resourced Local Authorities or non-public bodies.

However, there are **several issues arising from these proposals which must be addressed** to gain the full support of the UK paddling community:

- a) We are greatly concerned that NRW will have conflicts of interest between this role and its existing regulatory role in conservation and water management and its income and spend through the angling rod licence. We would therefore expect to see comprehensive safeguards put in place to manage such conflicts of interest within NRW, with a clearly defined and independent review / escalation process to enable all users to feel confident in its approach.
- b) We are also greatly concerned that NRW does not currently; and may not in the future; have the resources to fulfil this role. We therefore seek assurance on how you will ensure that NRW is properly resourced to perform this role (including an effective means of reporting and dealing with conflicts).

- c) We would welcome your confirmation that you would regard ‘Access Arrangements’ as the exception, rather than the rule; to be adopted only after ‘unmanaged’ access has been proven ineffective (with a ‘presumption of access’ remaining in place until more specific arrangements have been agreed, to avoid mediation processes becoming drawn-out ‘talking shops’); and that they must meet all the criteria defined in our Position Statement on the Shared Use of Rivers; and should be reviewed on a regular (e.g. annual) basis.
- d) We would also welcome your confirmation that, in setting about identifying future access and egress points, nothing is done by NRW to remove existing access points used regularly by canoeists today, until alternatives have been made available.
- e) We would also welcome the statutory authority having powers to compel the removal of obstacles to navigation (discussed earlier) and hazards to river users (such as boardwalks that have recently been installed on the River Usk for which NRW has no authority to require their removal, despite them posing a risk to the lives of unwary paddlers); with a clear, closed-loop procedure for reporting and dealing with such hazards.
- f) We would expect any permanent or temporary restrictions imposed by e.g. river level indicators to be based on sound evidence of environmental or other verifiable impact and shared in a collaborative, open way to build confidence with users. We would therefore welcome your assurance on this point.
- g) We are concerned that river-level gauges should only be used to promote responsible use, not to restrict access inappropriately. For example, on fast-flooding or fast-ebbing rivers, gauges may not necessarily provide an accurate prediction of river levels; and there has been a tendency in the past to set ‘acceptable’ levels at inappropriately high ‘precautionary’ levels.

If these concerns are addressed, we believe that these proposals could help to deliver improved consistency in the opportunities available for participation in different activities; provide effective safeguards for land management and the natural environment; and provide significant clarification about rights, responsibilities and duties in relation to access to the outdoors.

D. Extending Public Access to the Coast

We welcome – and support strongly – your proposals to extend public access to the coast (with 98% of our survey respondents ‘strongly’ supporting our response):

Proposal 13: To extend CRow Act access land to the coast and cliffs

We believe that designating sea cliffs and the foreshore on all tidal waterways in Wales as Access Land would improve public access “for the purposes of open-air recreation”. This would create more legitimate access and egress points, landing places and (in conjunction with proposal 11) wild-camping sites for paddlers around Wales (as well as providing legitimate access to sea cliffs for climbers). We would also support appropriate, evidence-based restrictions where required for environmental protection (e.g. to protect nesting birds and resting seals; or to prevent erosion) and safety (e.g. firing ranges, power stations, oil terminals and harbours).

We believe that this proposal will deliver improved consistency in the opportunities available for participation in different activities; provide effective safeguards for land management and the natural environment; and provide clarification to ensure that the public, land managers and others are clear about their rights, responsibilities and duties in relation to access to the outdoors.

E. Changing the Nature of Public Rights of Way

We note with interest your proposals to change the nature of Public Rights of Way (PRoW) (with 92% of our survey respondents ‘strongly’ supporting our response):

Proposal 10: To enable cycling and horse riding on footpaths...

Proposal 21: To introduce provisions to allow flexibility in relation to stock control measures on public rights of way

Allowing cycling and horse-riding on footpaths is not something we feel qualified to comment on: we can see pros and cons of this proposal, so will defer to those more directly affected. However, this proposal does indicate your willingness to consider modifying legislation around the use of footpaths, so we suggest that you also take this opportunity to correct a potential ‘anomaly’ that could reduce the impact of your

proposals to extend access rights to waterways and the coast. It is not currently clear whether there is an automatic right to take small, non-motorised boats on a public footpath (they have not been designated specifically by the courts as a ‘natural accompaniment’ to walking), so this could cause problems in reaching new access and egress points if landowners were to object to walkers carrying or wheeling boats. We also understand that carrying boats may currently be excluded explicitly by byelaws in some public forested Access Land in Wales.

We broadly support the introduction of provisions to allow flexibility in relation to stock control measures on public rights of way (and would welcome and support the provision of ‘canoe-friendly’ gates and stiles wherever appropriate). Although not directly addressed by these proposals, stock control fences and ‘water-gates’ across rivers and other waterways very often pose a significant hazard to canoeists, particularly on smaller rivers in rural areas, which we believe will need to be addressed in the light of your other proposals. The use of heavy wooden ‘cattle gates’, common on some rivers, poses an impenetrable barrier to navigation; while equally-commonly, strands of wire at head-height across rivers pose an almost-invisible threat to life. On the other hand, we have seen examples of ‘canoe-friendly’ stock fencing across rivers where plastic poles are suspended from a high wire, allowing boats to pass while deterring animals – so we believe there is much that could be done to improve the current situation.

We therefore urge you to take the opportunity to:

- a) include explicitly the “manual carrying and wheeling of small, non-motorised boats (e.g. using ‘portage trolleys’ for canoes, kayaks and SUPs) for the purpose of access and egress to waterways for open-air recreation” in the public rights available on footpaths and on all Access Land including public forestry; and
- b) extend the removal of stock fences to those across rivers and other inland waterways, incorporating provisions for working with landowners (perhaps facilitated by NRW) to balance land management issues against the clear safety implications of such barriers (requiring their removal wherever possible – as covered in our earlier comments relating to access along waterways – or, where stock fencing across waterways is proven to be essential, or impractical to remove, to require the use of ‘canoe-friendly’ barrier designs and/or provision of warning signs and portage routes).

If these concerns are addressed, we believe that these proposals could help to deliver improved consistency in the opportunities available for participation in different activities; provide effective safeguards for land management and the natural environment; and provide clarification to ensure that the public, land managers and others are clear about their rights, responsibilities and duties in relation to access to the outdoors.

2.2. Identifying, Designating and Recording Publicly Accessible Areas

You have asked:

Question 16: Will these proposals deliver a more integrated and up to date system for identifying, designating and recording publicly accessible areas?
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We believe that **the proposals already discussed will contribute to delivering a more integrated system for designating publicly accessible areas.** Nevertheless, we believe the main contributions in this area will be from your proposals for statutory mapping and improving the administration of access arrangements.

A. Statutory Mapping

We support your proposal to provide statutory mapping:

***Proposal 19:** To enable the development of one statutory map of accessible areas and green infrastructure. Layers of mapping would initially include CRoW access land (including water), public rights of way and designations, including, National Trails. Legislation would need to allow further layers to be identified and added*

This would provide a ‘one stop shop’ of online information about accessible land and water in Wales, which would benefit both users and land managers and supplement existing guidebooks and social networks developed by the paddling community to provide information on access, routes, hazards and

environmental conditions. We believe that **this proposal will help to deliver a more integrated and up to date system for identifying and recording publicly accessible areas.**

B. Improving Administration of Access Arrangements

We support your proposals to improve the administration of access arrangements:

***Proposal 22:** To amend the requirement for a decadal review of access maps to a process of continual review*

***Proposal 23:** To create a requirement on local authorities and National Park Authorities to develop integrated access plans to take effect anytime up to the date of the next review in 2027*

***Proposal 25:** To repeal unwanted provisions in the CRoW Act. In particular those relating to the 2026 cut-off date for historical routes under sections 53 – 56 of the CRoW Act*

***Proposal 27:** To review the regulations and guidance relating to local access forums with a view to updating and clarifying their role and membership*

We believe these proposals will help to simplify and improve administrative arrangements. However, we note that Local Authorities are already under considerable strain in their efforts to comply with the current regulations for monitoring, maintaining and amending access databases such as the Definitive Maps – which is vital to providing a well-managed and protected network of Rights of Way. While we have no issue with the proposals outlined, we urge you to:

- a) ensure a system that supports councils and other bodies in following their statutory duties to review, amend and consult regarding the mapping and modification of Rights of Way. Councils are already running many years behind their statutory targets for Definitive Map Modification Orders, for example – so any changes must not allow for the removal of statutory targets to process such claims;
- b) work closely with the outdoor access and recreation community, landowners and land managers and Local Authorities to ensure the new system works for all; and
- c) provide for full representation of waterways interests on Local Access Forums.

If these concerns are addressed, we believe that **these proposals will help to deliver a more integrated and up to date system for identifying and recording publicly accessible areas.**

2.3. Costs and Benefits

You have asked:

Question 37: Do consultees have any other comments or useful information on the costs and benefits in relation to any of the proposals in this Consultation?

We suggest that the main **costs** associated with implementing your proposals (with our additional suggestions) to improve access in Wales for recreational paddlesport would be:

- a) additional staff resources for NRW to perform its new statutory role;
- b) additional staff resource for Canoe Wales to liaise with NRW and with partners across Wales regarding agreement of a statutory code; definitions of new access land; mapping; identifying access and egress points; negotiating management arrangements where required, etc.
- c) costs to landowners for installation and maintenance of additional, physical access and egress points, portage points, signage etc. (which we might expect users to be willing to contribute towards, especially on private land);
- d) costs to landowners for removal of obstructions to navigation and/or establishment of portage routes around permanent obstructions;
- e) a potential reduction in the existing amenity value of fishing rights on riparian land – although experience in Scotland would suggest that this could be insignificant and certainly less than angling bodies would wish us to believe, since we believe that anglers would continue to use rivers as much as they do now, even in the presence of increased paddlesport activity.

However, we believe these costs would be heavily outweighed by the potential **benefits** of improving access in Wales for recreational paddlesport, summed up neatly by one of our survey respondents:

“It makes sound sense to make it easy for people to enjoy the outdoors. Car parks, clean toilets and informative or educational signs improve areas and encourage responsible tourism. Outdoor activities broaden horizons, develop personal skills, provide personal challenges and generate shared experiences with others, which in turn lead to positive benefits for the whole community UK wide, not least in terms of physical and mental well-being. I developed my love of the natural world age 14 with Guide and Scout adventure weekends in Wales from Surrey. I still live in Surrey and returned many times for 35 years in a leadership role to all parts of Wales until about 10 years ago. I rarely travel to Wales now for walking, kayaking or cycling as it is not as user-friendly as other areas in the UK. Outdoor lovers are not made to feel welcome, car parking is never easy, toilet facilities are poor. Good examples of best practice are New Zealand and Slovenia where the state provides free access, parking, toilets and signage for all kinds of activity and this generates business opportunities, accommodation and tourism which leads to local diversification and prosperity.”

We have included our comments on the benefits of your proposals, insofar as they relate to paddlesport, by reference to your seven “Well-Being Goals”:⁹

A. A Prosperous Wales

You wish to see “an innovative, productive and low carbon society which recognises the limits of the global environment and therefore uses resources efficiently and proportionately (including acting on climate change); and which develops a skilled and well-educated population in an economy which generates wealth and provides employment opportunities, allowing people to take advantage of the wealth generated through securing decent work.”

Increased recreational canoeing access can bring more money and jobs into communities across Wales, with considerable potential for localised benefit (as is already evident in canoeing ‘hotspot’ towns like Llangollen and Bala). Much paddlesport activity takes place in the winter months when other tourist activities are quieter; and beyond the usual tourist hotspots in our national parks. We understand that a study of the River Spey has shown how canoeing has made a direct financial impact on local communities, whereas other sporting income (from fishing and hunting) stays within the ‘estates’.

In a 2014 study [7], canoeing was the most popular watersport activity and more than 6.1 million canoeing trips were estimated to have been taken by 1.2 million people in 2012. This data suggests that the average participant spends a total of £45.70 per day visit and £76.66 per night for overnight trips and that 77% (4.7 million) of canoeing trips are day activities vs 23% (1.39 million) overnight trips. The average group size for canoeing is 10.4, spending an average of 3.5 nights away when undertaking overnight trips. Canoeing activity had a combined spend of £461M of which £1.53M was for day trips and £308M for overnight trips.

We estimated that 9% of all UK boating tourism in Wales, meaning that canoeing *currently* represents an annual spend of some £40M in Wales; and “the Wales Visitor Survey 2013 showed that...30% were motivated to take part in outdoor activities during their trip.” [8, p. 10]. We would expect these figures to *increase substantially* with improvements in access to inland waterways

⁹ Well-being of Future Generations (Wales) Act 2015, available at <http://gov.wales/topics/people-and-communities/people/future-generations-act/?lang=en>

Paddlesport activity also offers commercial opportunities to landowners, diversifying to provide value-added services such as car parking, cafes, accommodation/camping, toilets and changing facilities; while waterside facilities and picnic areas can support local small traders and employment opportunities (all of which may be particularly valuable in post-Brexit Wales). Examples of this include the River Dart Country Park in Devon, where canoeing provides out-of-season income in the winter; a new access point in Devon resulting in easy free parking for paddlers plus £500/week in increased takings for the cafe during the winter; and the area around Bala where, in the early 2000s farmers asked the National White Water Centre to remain open during the Foot & Mouth crisis so they and the town could benefit from visitors' income.

Paddlesport impact on prosperity – quotes from our survey respondents:

"I have done 90% of my outdoors sports...in Wales and it has the potential to be an amazing natural resource and show the rest of the UK the benefits that can be brought economically by sport. While Scotland has led the way with access, Wales is in the right location to be a hub for the whole of the Wales and England as a sporting destination (I have paddled with people from Scotland who have come to Wales purely to experience some of the classic rivers)."

"When a landowner tried to impose access restrictions on the River Barle, the town of Dulverton suffered a decline in revenues over the winter months. This was significant because the town is also a centre for 'country sports', which apparently contributed less than canoeing to most businesses in the town."

"I coach my club on Welsh rivers. Each time we stay in local camps, B&Bs or bunkhouses and eat in local cafes and pubs, Paddlers are a huge bonus to an area that is reliant on tourism and often lifts the slump over the colder and wetter season."

"We always try to use local facilities such as cafes and public houses on every trip bringing trade to the local businesses in the areas we visit."

"[Our club is] prepared to travel most of the way across England several times a year to paddle in Wales as this gives some of the best paddling in northern Europe."

"I regularly drive from London to Wales to kayak. I pay into the local economy in the form of B&B, bunkhouse, or hostel accommodation, meals & Drinks in pubs, cups of tea in cafes, etc. Better access would mean more visits. Worse access might mean I go elsewhere!"

"We visit Wales 6-9 times a year we always buy food and drink in the area that we are staying as well as the accommodation that we stay in. If more rivers were available we would probably visit even more weekends of the year."

"[My] club travels to Wales most weekends to participate in this active sport. As a consequence, the local economy...benefits from purchasing fuel, food, drink and accommodation."

"If there was good Access to Welsh rivers...I and...a high number of other paddlers would go to Wales more often (currently I travel to Scotland). I probably spend around £100 in a weekend on Accommodation food etc. multiply that for a number of weekend/weeks by an increase in visitors and it looks good for the Welsh economy."

"We canoe for weekends in white water season so spend £100+ each for local accommodation, food etc. No river access means that this money doesn't go into the local economy"

"I can spend up to £500 on a weekend paddling (Coaching accommodation, food, fuel) more certain access to waterways would mean more visits to Wales."

"Kayaking without risk of conflict would mean I would, as a teacher, frequently take school groups on to the waters of Wales. Risk of ill-informed conflict means that I currently never use Welsh rivers...for this purpose."

"I have visited Wales many times to paddle the waters we are currently able to access, and have spent a reasonable amount on food, entertainment and accommodation, which benefits the Welsh economy. Greater access would increase the number of my visits."

"As a voluntary coach and leader for canoe and kayak, for Welshpool canoe Club, Shrewsbury Canoe Club (located in the Marches) and the national Open Canoe Association, I regularly organise weekend trips in Wales which includes people travelling and camping for the weekend, including camping, visiting local pubs, food outlets, supermarkets/convenience stores, car parking and fuel stations etc. Due to the problematic access arrangements for planning and organising a weeklong trip, I travel further and take people to Scotland where the access is better, along with the increased money spent over a week's holiday in the Scottish communities. I am also considering organising some week plus canoeing trips overseas e.g. France and Canada where the access is better, meaning that participants would take their money out of the UK and spend it on holiday overseas instead of a staycation."

B. A Resilient Wales

You wish to see "a nation which maintains and enhances a biodiverse natural environment with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change (for example climate change)".

"The benefits to the environment of encouraging responsible access to the outdoors are that people, especially those with no day to day contact with nature, learn to appreciate the natural environment and the need to protect it." [8, p. 11].

Canoeists have a part to play in protecting and even enhancing the environment. Improved access has the potential to alleviate pressure on existing 'honeypot' sites ("If kayaks and canoes were not "herded" into smaller areas for access then there would be a general improvement in the quality of these areas due to the users spreading out over the country as a whole"); and paddlers often provide a valuable environmental service (see also Annex B, Section D):

Clearing Rivers – quotes from our survey respondents:

"The rivers of North Wales are amazing. In my youth, I experienced a huge variation in types and location as I learned to paddle. If there wasn't enough water in the river there was always the sea and usually some surf. I desperately miss the opportunities it provided me as I now live too far away to visit as often as I would like. Wales should be proud of all its resources."

"We mean no harm and are in fact willing and able to help improve the rivers we paddle by collecting/removing litter and debris and clearing blockages and on occasions rescuing stranded sheep!"

"During trips, participants often litter pick and place discarded waste which was littering the waterways in public bins near to the egress points at the end of trips."

"I collect quite a lot of litter, junk, and lost fishing tackle when I am paddling, I always considered that to be good practice, and an area that is more welcoming and provides that access required by paddlers will likely receive more visitors."

C. A Healthier Wales

You wish to see "a society in which people's physical and mental well-being is maximised and in which choices and behaviours that benefit future health are understood."

"The physical benefits of sport and physical activity are well documented, and provide the main rationale for current investment in increasing sport participation. Being active can reduce the risk of developing type 2 diabetes by 30-40% and can reduce the risk of a range of medical conditions, including cancer, dementia, strokes, heart disease and depression...Physical activity can reduce stress and anxiety. Mastering new skills can increase confidence and self-esteem...Research has shown that exercise can be as effective as anti-depressants for those with mild clinical depression." [9, pp. 73-4]. "It has been estimated that the cost of physical inactivity to Wales is around £650 million per year" and "increasing opportunities for accessing the outdoors for recreation, whether for walking, cycling, or any other responsible recreational activity is an integral part of the Welsh Government's drive to increase physical activity levels within the population of Wales." [8, p. 9].

Greater access for paddlesport will result in more people being more active, more often.

D. A More Equal Wales

You wish to see "a society that enables people to fulfil their potential no matter what their background or circumstances (including their socio-economic background and circumstances)."

Paddlesport attracts people from all walks of life, so greater access opportunities for recreation on inland waterways will benefit more people, increasing diversity in the outdoors.

E. A Wales of Cohesive Communities

You wish to see "attractive, viable, safe and well-connected communities."

"As well as developing individuals, sport can help build stronger communities by bringing people together, often from different backgrounds, to make them feel better about where they live, improve community links and cohesion and build social capital." [9, p. 75]

Canoeists can play their part in supporting and protecting local communities; and are often willing to restrict their activities to maintain good community relations. Waterside facilities and picnic areas also provide

Regenerating Communities – quotes from our survey respondents:

"I am currently involved with a Big Lottery Fund Green Spaces Project in Newtown Powys, where the Town Council is working with local River Severn Users to improve free access to the river."

"I am chairman of Ipswich canoe club, I have been meeting with a River Access Group who are working with the council and several developers building new infrastructure by the river. Our aim is to improve access to the river for canoeing and users of the towpath (cyclist etc) and create a green corridor into the town centre and income for the dilapidated areas alongside the river."

access and facilities to non-paddlers within local communities. And effective waterways access projects can help to regenerate communities:

F. A Wales of Vibrant Culture and Thriving Welsh Language

You wish to see “a society that promotes and protects culture, heritage and the Welsh language, and which encourages people to participate in the arts, and sports and recreation.”

Improving access for paddlesport will provide “societal benefits where the countryside is not the exclusive preserve of the wealth and landed gentry but that the wider Welsh population regard it as an intrinsic part of their heritage.”; and will increase the use of waterways by young people, getting more of them ‘hooked on sport’. As one of our respondents noted, “the Welsh creeks play a pivotal role in the development of almost all Welsh and English kayaking enthusiasts”.

Benefits of participation – quotes from our survey respondents:

“On the Afon Dwyryd, an improved 'lay-by' has given better access and safer loading and unloading on a very busy trunk road. These very modest improvements have enabled an Outdoor Education Centre to introduce 2,500 young people a year to the joys of journeying in kayaks or canoes... a sustainable activity with all the health benefits which the Welsh Government seeks for young people.”

“Members of our canoe club have won awards, represented their country and travelled the world on the back of their experience in paddling. Paddling has also helped with physical disability and can prevent the decline in older generations. Our members help to promote a healthy active lifestyle.”

G. A Globally Responsible Wales

You wish to see “a nation which, when doing anything to improve the economic, social, environmental and cultural well-being of Wales, takes account of whether doing such a thing may make a positive contribution to global well-being.”

3. Our Response to your Proposals on Designated Landscapes

You have asked:

Question 11: Should the statutory purposes of AONB and National Parks be aligned with the sustainable management of natural resources?

Question 12: Where the special qualities of each designated area are identified, should this be given greater weight in decision making...?

We support your efforts to reinforce the three primary objectives (conservation, access and economic sustainability) of National Parks as carrying equal weight, and in extending this to AONB’s.

***Proposal 6:** We are considering aligning the statutory functions of designation landscapes more clearly with the sustainable management of natural resources*

***Proposal 7:** We are considering establishing a clear formal relationship between special qualities of a designated area and the partnerships, powers and policies that drive its sustainable management*

***Proposal 8:** We are considering enabling governance arrangements to evolve to reflect local circumstances including a wider range of delivery models such as partnerships and shared or delegated responsibilities*

We believe it is vital that access, conservation and the economic prosperity of local communities work positively together for the future of these special areas, and this cannot happen where one objective is given increased priority over the others. However, we are aware that these proposals have raised concerns among several bodies concerned with the management of protected areas so we are able only to offer our cautious support to your proposals, subject to further clarification.

4. Our Response to your Proposals on Drainage Reform

You have asked:

Question 24: Do you agree with the proposals presented by the Welsh Government? Please consider if any of the proposals would create new or unforeseen impact/irregularities?

We are concerned by the following proposal:

***Proposal 34:** Provide sewage undertakers with a right to discharge into watercourses. This right should extend to anything, which is not foul sewage (in order to include land drainage and highway drainage being disconnected from the public sewer network), and should provide a permanent right as part of business as usual, but also a temporary right during works. This right would not override the volumetric consents required from the relevant authority*

We believe this proposal is intended to remove the need for permits to discharge surface water into watercourses (and so ease the load on sewers), but as written it appears to allow *anything which is not foul sewage* to be drained into waterways. This would appear to increase the likelihood of pollutants being discharged into watercourses, although we assume this is not the intent!

We would therefore welcome your clarification on the impact of this proposal; and ask you to note that **we disagree with it if it could lead to increased pollution of waterways.**

Annex A Survey “Canoeing on Wales' Waterways 2017”

Details of survey to be added in due course...

The following extracts have been pasted direct from the survey, pending addition of greater detail:

We explained our proposed responses in the survey as follows:

A. Extending public access on Wales' inland waterways

The Welsh Government is proposing to designate rivers and other inland waterways in Wales as 'Access Land', so the public would have a right to paddle on them (and swim in them). This is almost the same as the Public Right of Navigation which we believe already exists on rivers but which we have been unable yet to confirm in law - although it would cover only recreational, not commercial, use. The proposals do not include access from land onto rivers or waterways, so we would still need landowners' permission to launch and land boats (as we do now).

We intend to support this proposal and to provide as much information as we can about why the present arrangements for canoeing access to inland waters in Wales don't work well. However, we intend to press for all rivers, lakes and reservoirs in Wales to be included; to press for 'educational/instructional' use to be permitted (whether 'commercial' or not); and to press for an automatic right for launching and landing access from public land and highways/footpaths.

B. Requiring responsible public behaviour

The Welsh Government is proposing to establish a requirement on all users to behave responsibly whilst exercising their right to participate in recreation on access land, inland water and on public rights of way; and to develop a statutory code for access to the outdoors for recreation similar to that already in place in Scotland.

We intend to support this proposal strongly; to submit our thoughts on what might be included in relation to paddling; and offer to contribute to the development of the statutory code. However, we intend to flag the need to be cautious about 'removing' access rights where irresponsible behaviour occurs

C. Enhancing mechanisms for managing access on, to and from Wales' inland waterways

The Welsh Government is proposing to put in place mechanisms for 'managing' access and dealing with the potential conflicts that may arise between water-based recreation, other users, landowners and local communities - including making Natural Resources Wales (NRW) an authority responsible for identifying appropriate access and egress points; implementing measures to promote responsible use, including the use of river level indicators; and mediating between different user interests to facilitate user access arrangements.

We intend to support this proposal tentatively. We believe that responsible recreational access may, at times, need to be 'managed', whether through 'shared use arrangements' or other mechanisms, on the few waterways where there is a well-evidenced, independently-agreed inability of the waterway to support full-time joint use. We also believe that NRW could be the right body to facilitate this process. However, we intend to press for safeguards to manage conflicts of interest within NRW, with a clearly defined and independent review process to enable all users to feel confident in its approach; to insist that nothing is done to remove existing access points used regularly by canoeists today; to press for NRW and Canoe Wales being properly resourced by WG to support this activity; to insist that 'Access Arrangements' are the exception, rather than the rule (and must meet all the criteria defined in our Position Statement on the Shared Use of Rivers <https://www.britishcanoeing.org.uk/guidance-resources/waterways-environment/access/access-arrangements/>); and to insist that any permanent or temporary restrictions on access must be based on sound evidence of environmental or other demonstrable impact and shared in a collaborative, open way to build confidence with users.

D. Extending public access to Wales' coast

The Welsh Government is proposing to designate as 'Access Land' the whole Welsh coast, so the public would have a right of access on the foreshore and to cliffs. This would create more legitimate access and egress points and landing places for sea kayakers around Wales (as well as providing legitimate access to sea cliffs for climbers).

We intend to fully support this proposal.

E. Changing the nature of Public Rights of Way

The Welsh Government is proposing to enable cycling and horse riding on footpaths (which, of itself, is of little interest to us. However, it indicates the Welsh Government's willingness to consider modifying legislation around the use of footpaths) and to make it easier for Local Authorities and land managers to remove unnecessary stock control measures, including stiles and gates, on public rights of way.

We intend to welcome these proposals and to take the opportunity to request that the “carrying of vessels for the purpose of access and egress to waterways for open-air recreation” should be included explicitly in the public rights available on footpaths and on all Access Land including public forestry. We will also encourage extending the removal of stock fences to rivers and other inland waterways, working with landowners to balance land management issues with the clear safety implications of barriers across rivers.

Annex B How the Present Situation is Inconsistent and Unclear

A. Background

At present in Wales the opportunities available for participation in different outdoor activities are extremely inconsistent. This is illustrated by the fact that walkers have free, largely-unrestricted access to around 20,750 miles of footpaths, bridleways and the like in Wales [10, p. 3] and 360,000 hectares of open country and registered common land together with 100,000 hectares of woodland [8, pp. 5-6], while canoeists in Wales have:

- uncontested public rights of access only to:
 - a few miles of inland river (the Wye from Monmouth to the tidal limit at Bigsweir, the Lugg from Presteigne to the English border and the Severn from Pool Quay to the English border);
 - less than a handful of lakes, some requiring a permit (e.g. Llyn Padarn, Llyn Tegid/Bala Lake);
 - canals, usually on payment of a license fee (e.g. Monmouthshire & Brecon Canal, Llangollen Canal, Montgomery Canal, Neath Canal, Swansea Canal);
 - Over 870 miles¹⁰ of coastal water and estuaries;
- 'routine', uncontested public access, with landowners' permission, only to a few lakes, on payment of a launch fee (e.g. Llyn Gwynant, Llangors Lake);
- limited, uncontested access, e.g. for groups only, usually on purchase of a permit, to a few reservoirs (e.g. Beacons Reservoir, Llyn Clywedog, Pontsticill/Pentwyn Reservoirs, Usk Reservoir);
- contested access – where there is a continual risk of conflict with landowners and other users – to:
 - four rivers with formalised 'access arrangements', none of which are officially recognised by us due to their overly restrictive nature (Dee, Glaslyn, Usk and Wye);
 - all other rivers (the vast majority by number and mileage) in Wales where the law is unclear; and
- no access to most of the many other reservoirs in Wales.

Much of this inconsistency is due to lack of clarity resulting from the contested legal rights of canoeists (particularly on inland rivers); concerns around public liability (particularly on reservoirs); and concerns about the environmental impact of canoeing.

¹⁰ 870 miles is the length of the Wales Coast Path and therefore an approximation / underestimate of the length of the Welsh coast itself

This inconsistency and lack of clarity in Wales (and England) contrasts markedly with the situation in Scotland and Europe:

Canoeing Access in Scotland and Europe

The Land Reform (Scotland) Act 2003 established a statutory framework of public access rights to most land and inland water. These legal rights are based on the principle of responsible access, with obligations both on the access users and on the managers of the land. Guidance on these responsibilities is set out in the Scottish Outdoor Access Code. A 10-year review of the legislation by a government advisory group concluded that 'the new statutory framework should be judged a considerable achievement that has delivered significant public benefits', and it 'has delivered a progressive statutory framework for improved public access over land in Scotland' [16].

The Scottish Canoe Association (SCA) has reported to us that there are now (after an initial bedding-down period following the Act's introduction) very few problems with paddlesport access to inland waterways in Scotland. Recreational paddlers co-exist peacefully with other river users and there have been few, if any, local 'access agreements' needed to manage shared usage (although commercial rafting operators on the Tay do have an access agreement with landowners which restricts their usage to part of each week). Importantly, the feedback we receive from the angling community also shows relationships on/by the river in Scotland have been greatly improved. All users have a clear understanding of their rights and responsibilities and all believe there is a fair balance, so positive working relationships are much easier to form.

The Great Glen Canoe Trail is an example of what can be achieved to promote paddlesport in an environment of uncontested access [17].

Our survey respondents offered a range of observations about Scotland and Europe:

"I recently paddled the whole length of the Tay with a DofE group and was greeted warmly by most of the anglers I met on route – a marked difference to my experience on similar popular angling rivers in Wales."

"The situation in Scotland has now clearly shown that different users and uses can simultaneously use the same waterways without conflict and without harm to each other's activity."

"The Spey is an excellent example of a river used by a multitude of users. Relationships between anglers and paddlers are governed by a code of conduct."

"Personally, I travel to Scotland at least twice a year to enjoy the unrestricted access available there."

"I've not paddled in Wales because of the lack of clarity on access. I paddle in Scotland."

"I am based in Cheshire yet paddle more in Scotland as it is far more convenient with easy access to the rivers."

"I stopped paddling in Wales a few years ago because of conflict when trying to access rivers & paddled happily in Scotland for many years instead. We have moved closer to Wales with work & the situation hasn't noticeably improved in the intervening years. This is a great shame as Wales has many beautiful areas to paddle or swim on, in and /or to and I think there is a huge opportunity here for Wales and the Outdoor Industry to get this right."

"Paddling abroad where access is uncontentious, I have observed all water users enjoying their pursuits alongside each other with no conflict. Norway is a great example of this. It was incredibly refreshing to see and shows there is no need for restricted access to water users, other than on scientifically robust policy for environmental protection"

"The approach to paddling in Slovenia is a good example to follow. Good access/egress points and river maps, which advertise the sport to the public even when there are no paddlers about."

"[In Sweden, the] right of navigation and coastal access is strongly protected; but also the responsibility of users are well set out, taught in schools and expectations are clear."

"In Northern Ireland, well signposted canoe trails are an excellent example of good practice."

B. Legal Rights for Paddlesport in Wales

The general Public Right of Navigation¹¹ (PRN) on tidal waters is well-established in English law.

We believe that that there is a general PRN on all ¹²inland rivers in Wales and England. Research conducted, for example, between 2004 and 2017 by The Rev Dr Douglas Caffyn¹³, has demonstrated that such a right existed in medieval times and that this right has not been extinguished, although only on certain rivers (only the Lugg, Severn and Wye in Wales), Parliament has subsequently introduced specific 'Navigation Acts' which confirm those rights. However, since the eighteenth century, a belief has grown that riparian¹⁴ owners (the owners of a river's banks and bed) have the right to control navigation on inland rivers, despite not owning the flowing water itself. This belief has not been challenged in the courts, so at

¹¹ "Navigation: The passage of ships", from <https://en.oxforddictionaries.com>

¹² 'Navigable' means "physically usable for 'a significant part of the year' by a boat...[albeit] possibly only between obstructions" [13, p. 2]

¹³ Published at <http://www.caffynonrivers.co.uk/>

¹⁴ "Riparian: Relating to or situated on the banks of a river", from <https://en.oxforddictionaries.com>

present it is not clear in law whether canoeists have a right to use our rivers, or whether they are trespassing when they do so. The UK and Welsh Governments have both confirmed that they believe “the law is unclear”, although angling and landowning bodies claim that it is absolutely clear; and that canoeists need permission from them to use our rivers (and are trespassing if they do not have such permission).

This lack of clarity has led to frequent disputes between anglers (and the riparian owners from whom they lease fishing rights) and canoeists; and their different interpretations of the common law have made it impossible to reach convivial agreements on the shared use of inland rivers in Wales (see next section). In consequence, many people are put off canoeing on Welsh rivers because of the lack of agreed access arrangements or the risk of conflict or accusations of trespass:

Canoeing Access in Wales Today - quotes from survey respondents:

“Wales is positioned to be an outstanding destination for outdoor leisure and sport, adding millions to the economy. A vital part of this is to have fair and open access to footpaths trails, rivers and coastline, whilst respecting landowners.”

“Wales should be the UK 'go to' place for paddling, it is far nearer the big population in England than Scotland and Ireland, however it has a reputation as being a nightmare for access. Our club goes on holiday to Devon and France even though Wales is nearer, has cheaper accommodation and better rivers! I want to go to Wales as a paddling tourist but don't exactly feel welcome.”

“I have paddled in 3 continents, and 12 different countries. This has been a mixture of personal boating along with employment coaching and guiding. I canoe and kayak. I have been doing this for 38 years. I currently live in South Wales, and work in a LEA Outdoor Centre. I have set up a new canoe club and volunteer as a coach with them. The only place in the world I have had a problem boating is in England and Wales. I have had my tyres slashed, my car scratched. I have been shot at by game keeper with rock salt. Lead weights have been catapulted at me, stones thrown at me, verbally abused. This year alone I have been verbally abused 10 times. One of these was whilst guiding a special needs group in rafted canoes on the Wye below Monmouth. I am a responsible paddler. The current system is insane. Wales needs to legislate to confirm the legal position to confirm the right of navigation and general river use, e.g. swimming, walking your dog etc. Powys CC and Monmouthshire CC both own land on the Usk and neither of these councils allow swimming or boating. In fact, both councils actively ban paddling. These attitudes are affecting the physical health of Wales as a nation and I know no one from overseas who says let's go on a kayaking holiday to Wales. This is hurting Wales economically.”

“I, and many of my friends, are active paddlers. Whilst I try to paddle as often as possible I rarely go to Wales due to its reputation for access problems, and problems that I or my friends have experienced in the past. Therefore we tend to go to Scotland or Northern England, as especially in Scotland the paddling is always hassle free. Although Wales is beautiful and some of the paddling is wonderful too, I never feel able to fully relax whilst paddling as I always expect someone to hassle me/verbally abuse me/threaten me/vandalise a vehicle etc. All of these have happened to me or my friends in the past.”

“The current access situation regarding rivers and waterways is completely unjust. Having paddled throughout Europe there is no other country that has restrictions on paddling anywhere near as severe as in England & Wales. Better access for canoeists and kayakers would help promote tourism and would reduce the pressures on the few stretches of water where we are 'allowed' to paddle.”

“Land owners in my local area are difficult to work with. They have even threatened canoeists with firearms. I am afraid to paddle on my local river.”

“Making a commitment to travel a fair distance and to have access problems or worries about security in remote locations does affect how often I participate in my chosen activity in Wales as opposed to going somewhere closer to home.”

“We choose where to go each year with access being a big factor - if more rivers were accessible and we knew that South Wales was friendlier then we would go there - currently Dartmoor and North Wales are further but access is easier so we go there instead.”

“I have not paddled in Wales for the last 3 years, nor come for walking or any other trip because it does not welcome outdoor lovers. I used to love my trips to Wales and would return if access was made easier and there are easy places to park for the day with clean toilet facilities.”

“I am scared to paddle my nearest river, because of aggressive land owners and angry fishermen”

“I genuinely avoid paddling rivers as I do not want my leisure activity marred by conflict, let alone legal threats. Those rivers I do paddle are least controversial, but this severely limits the options available.”

“I have given up on Wales, due to the hostile nature of the fishing lobby contesting use of water. I used to paddle between 10 & 20 times a year.”

“Access has recently been lost to the Llugwy below Pont Cyfyng - a significant loss to a pleasant bit of local river. I recall access was possible from the right bank many years ago. Then the left bank from the A5 layby. Now no access! No doubt you will [also] be aware there is no agreed access on the Seiont.”

“Landowner has recently prevented long-standing access on the Elwy at Bontnewydd.”

“I had approached the chairman of the Llandeilo Anglers society to request permission to paddle on the river that they have rights to. The chairman agreed and we used the river on one occasion. I was then contacted by the chairman who said he had received a lot of negative feedback from other fishermen and requested that we do not paddle on the river. Was all very polite but disappointing.”

“Seiont still a nervous proposition, even though I have 'legal' access through parent-in-laws garden!”

Recent cases where angling bodies have threatened injunctions against paddlers (including one on the Dee this year) have led to out-of-court settlements and have not therefore established any clarification nor established legal precedent – despite subsequent claims to the contrary by The Angling Trust.

Even on rivers subject to specific Navigation Acts, the legal situation is not always as clear as Parliament may have intended it to be - as illustrated in the box describing the River Wye.

Case Study: Navigation on the River Wye from Glasbury

In 1662, Parliament introduced an “Act for the making navigable the Rivers Wye and Lugg...in the Counties of Hereford, Gloucester and Monmouth”, which enshrined a public right of navigation on the Wye. It seems that Parliament intended this Act to apply to the entire river, since it refers explicitly to “other adjacent counties”, but traditionally it has been interpreted as applying only from Hay-on-Wye downstream. In 1992, legal advice to the National Rivers Authority suggested that “a public right of navigation extends along the length of the River Wye” but this has never been confirmed in a court.

So, the ‘upper’ stretch of the river (in what is now Powys) finds itself in the same position as most other rivers in Wales and England: with “unclear” rights for canoeists.

For the last year, Powys County Council has been mediating between the parties affected by canoeing on the Wye between Glasbury and Hay, in an attempt to agree arrangements for ‘shared use’ of the river that meet everyone’s needs. These arrangements, which introduce a code of conduct and restrict canoeing to 10am-5pm, have been broadly welcomed by most parties. However, it appears that some landowners and anglers have proved unwilling to accept them [11], as illustrated by this quote from one of our survey respondents:

“I have been a regular paddler on the river Wye for over 30 years. Almost every time I paddle the stretch between Glasbury and Hay I encounter a problem. This can be anything from being told ‘what I am doing is illegal, canoes are not allowed on this river’ [to being] accused of trespassing on the water. More recently I have [agreed with] Powys County Council access to the river in the evening [for a canoe club and Scout Group]. Still, I have people telling me [we] should not be using the river. The canoe club have been using this stretch of an evening since 2005 and the Scout Group have been using the river bank and river since 1912!”

We understand that the natural lakes of Wales are owned either publicly (e.g. Llyn Padarn and Llyn Tegid / Bala Lake) or privately (e.g. Llyn Gwynant and Llangors Lake), so paddlesport may take place on them only with the owner’s permission (often on payment of a, sometimes prohibitive, launch fee). Even lakes contained entirely within access land are not accessible for paddlesport because of the CRoW restriction on using “a vessel or sailboard on any non-tidal water”. So far as we are aware, paddlers therefore have no established legal rights (other than permissive rights) to use the natural lakes of Wales, which means that only a few of them are in regular, frequent use for paddlesport.

The reservoirs of Wales are managed by water utility companies (mostly by Dŵr Cymru/Welsh Water and Severn Trent Water), who permit paddlesport only under limited circumstances (Dŵr Cymru/Welsh Water only through a Reservoir Passport Scheme for group access to a few reservoirs within the Brecon Beacons; and via its own activity centre at Llandegfedd – Severn Trent through e.g. an agreement with Clywedog sailing club). The utility companies’ management arrangements (or byelaws in some cases, such as Llyn Brianne) therefore act generally to exclude, rather than to provide, rights for recreational use of reservoirs in Wales.

There are three canals in Wales managed by the Canal & Rivers Trust (CRT – or Glandŵr Cymru in Wales)¹⁵ and others in private ownership¹⁶. So far as we are aware, the navigation acts covering these all remain in force, so paddlers have established legal rights to use them (on payment of a license fee in the case of the CRT canals).

Paddlers have no more rights to cross land than any other members of the public – so risk being accused of trespass if crossing land without permission. They have the usual rights on highways, Public Rights of Way (although it has not yet been confirmed whether a personal, non-powered craft is considered a ‘natural accompaniment’ while walking on footpaths) and other public & access land (although we understand that byelaws may prohibit the transport of boats across some common land and through some forestry). But it is not clear whether these rights also convey a right to launch boats from (and recover boats onto) such land where it is adjacent to waterways.

The law currently holds landowners responsible for the safety and wellbeing of people using their land (even when trespassing). This has led some landowners to restrict access to inland waterways for fear of this public liability (the most obvious examples being Dŵr Cymru/Welsh Water, which prohibits recreational use of its reservoirs because of past drowning incidents; and angling clubs on the Dee who complain about

¹⁵ Llangollen Canal, Monmouthshire & Brecon Canal, Montgomery Canal

¹⁶ e.g. Neath Canal, Swansea Canal

the cost of maintaining navigation by clearing trees etc.). On access land designated under CRow, this liability is reduced in that landowners are indemnified against legitimate recreational use of their land.

C. Canoeing Access Arrangements

Prior to 2004, the Welsh Canoeing Association (WCA, as Canoe Wales was then known) entered into several formal 'access agreements' (on the Conwy, Tawe, Usk and Wye, for example), since this was then believed to be the only means of achieving paddlesport access to rivers in Wales. In 2004, published research suggested that the law was less clear – and less in favour of landowners – than we previously believed. The WCA therefore declined, for the following 12 years, to renew or discuss any of these arrangements, which were based on the contested premise that landowners' permission was required to navigate rivers in Wales. In the meantime, access 'arrangements' were promoted by angling and landowner groups, with the support of government agencies (but without the endorsement of representative recreational paddlesport bodies) on the Dee, Glaslyn, Usk and Wye.

In 2015, it was “the policy of the Welsh Government to promote the use [of voluntary access agreements...and its] view that access arrangements should be drawn up by landowners and riparian owners, consulted upon, and then put in place... The Welsh Government is of the view that such arrangements should not be seen as setting out the limits of use, but rather the opportunities available for responsible shared use of the water...[but] there may be merit in considering legislation to establish a statutory level of access on which to base such arrangements.” [8, pp. 26-7]

Since early 2016, Canoe Wales has re-engaged with the Welsh Dee Partnership and the Wye and Usk Foundation in an attempt to negotiate arrangements that would both 'satisfy the majority of paddlers' and meet the needs of other users, landowners and local communities. However, despite achieving good working relationships with the individuals involved, this experience has convinced us (if we needed convincing) that such arrangements do not work – and cannot work – effectively in the absence of a 'statutory level of access' because of the asymmetric nature of their negotiation or consultation. So long as the law concerning access to inland waterways remains unclear, riparian owners (often influenced strongly by angling interests) hold (almost) all the cards and such arrangements inevitably end up being seen as setting limits on use rather than on providing opportunities. We are aware of only one access arrangement in the UK that meets our criteria for effective 'shared use of rivers' (see Annex D): on the River Greta in Cumbria.

River Greta (Cumbria): a 'Successful' Access Arrangement [19]

The Derwent and Greta river system is a Special Area of Conservation (SAC) and the 'simple' British Canoeing arrangement (which meets our criteria for the shared use of rivers) aims to conserve and protect the environment and its wildlife whilst taking account of seasonal changes and supporting responsible canoe access:

- 1 Jan-31 Oct: access subject to the general conditions defined below
- 1 Nov-31 Dec: canoeing in spate conditions as indicated by white painted lines on various river level markers

Defined Access and Egress Points (subject to Landowners permission)

Canoeists are asked to clean their equipment whenever moving between river catchments, to prevent the spread of Invasive Non-Native Species; to minimise disturbance of spawning gravels by gliding rather than paddling through shallows and by avoiding walking or wading in the ends of pools Nov-Apr; and to be respectful of all plants and wildlife.

During a November 2016 'roadshow', Canoe Wales conducted a survey of members to indicate what kind of arrangements members might find 'acceptable' *unless and until the law is clarified around access to non-tidal rivers*. This suggested that:

1. members are likely to support 'reasonable' management arrangements on 'hotspot' or 'contested' rivers, so long as these provide sufficient access for canoeing to satisfy most paddlers;
2. the lack of any management arrangements on most rivers leads to considerable potential for conflict, so only provides a 'fair' degree of access for most paddlers;
3. management arrangements that offer paddling only when water levels exceed evidence-based 'environmentally acceptable levels', or for 365-days with time restrictions, may have the potential to provide sufficient access for most paddlers;

4. management arrangements that offer paddling only when other users do not want access to the river, such as during winter 'closed fishing season' and in summer spate, do not provide sufficient access for most paddlers; and
5. more complex arrangements combining seasonal, time and environmental limitations; or 'zoning' of rivers for different priority uses; or additional arrangements for affiliated clubs offer only limited potential for providing sufficient access for most paddlers.

Access Arrangements in Wales:

Afon Glaslyn (N Wales)

The National Trust (as the principal riparian owner) has published an 'access arrangement' [20] which 'permits' paddling on most of the Afon Glaslyn only when the river exceeds a level that could damage fish spawning beds – regardless of the time of year (i.e. whether fish are actually spawning or not). It also 'prohibits' paddling in the popular Grade 4/5 Aberglaslyn gorge section between 20 Mar & 17 Oct (fishing season) to avoid the risk of conflict between paddlers and anglers. While we acknowledge that this arrangement does provide for some uncontested paddlesport access, its unnecessarily conservative restrictions do not meet our criteria for acceptable 'shared use of rivers'.

Usk & Wye

The Wye and Usk Foundation (the rivers trust for both catchments) promotes 'access arrangements' [21] on the Usk and Wye which are based on permissions by landowners to provide access to and egress from the rivers, but which nevertheless 'permit' paddling only when the rivers are not accessible for game fishing (during winter closed fishing season or when in high spate at other times of year). In addition, river level restrictions on the Upper Wye (above Rhayader) are ostensibly set for environmental reasons (to protect spawning beds) but are based on the anecdotal judgement of anglers rather than any scientific evidence endorsed by NRW. Again, while we welcome the securing of permissions by landowners and acknowledge that these arrangements do provide for considerable uncontested paddlesport access (and are widely 'used' by paddlers), their somewhat arbitrary restrictions do not meet our criteria for acceptable 'shared use of rivers'. **The Welsh Dee**

The Welsh Dee Partnership (a special-purpose body, established with SPLASH funding, led by angling clubs with representation from commercial paddlesport interests) promotes an 'access arrangement' [22] which 'permits' 365-day paddling (from 10am-3pm) on the white-water section of the Dee through Llangollen – but imposes significant restrictions on paddlesport on the valuable 'touring' sections above and below this ('permitting' paddling only in spate or at most on 2 days per week, 10am-3pm during Apr-Aug). While we acknowledge that this arrangement represents a considerable concession by the angling clubs (who believe they have the right to control navigation on the river) -and does provide for significant uncontested paddlesport access on the most popular white-water section, its substantial restrictions do not meet our criteria for acceptable 'shared use of rivers'.

Canolfan Tryweryn

Canoe Wales operates (on lease from NRW) the National White Water Centre at Canolfan Tryweryn; a tributary of the Dee fed by occasional dam-releases from Llyn Celyn. The river is accessible to paddlers through the centre, only during water releases, on payment of a 'facility fee' and is a very popular destination for white-water paddlers due to its uncontested availability and the quality of its (in many cases man-made) white-water features.

D. Impact of Paddlesport on the Environment

Sustainable and responsible paddling has little or no impact on either the built up urban environment or the wilds of the natural environment.

Both British Canoeing and Canoe Wales have provided paddlers with essential information to protect the environment and will continue to promote canoeing as an environmentally benign activity. We have demonstrated that we are committed to ensure the natural environment is protected through working with environmental organisations and the promotion of sustainable paddling.

Examples of ways that we are actively involved in building our green credentials into the future include:

- Working with the Rivers Trusts and Environment Agency to develop an environmental awareness workshop as an element in coaching syllabuses, along with an environmental module for the British Canoeing Guide Scheme module to assist leaders and guides with important information.
- Our volunteers have been engaged in Water Framework Directive, wildlife surveys, habitat improvement and river care projects.
- Taking bio-security measures to prevent the spread of non-native aquatic species such as working with Water Companies to provide biosecurity measures at key paddling sites.
- Acting as watchdogs of the river environment alongside the anglers and reporting pollutions and fish kills.

This work is supported by good practice publications and web site material which are widely available to paddlers and environmental organisations –“You, Your Canoe and the environment”, and “You, Your Canoe and The Marine Environment” which was written in partnership with the RSPB.

Regarding the impacts of paddlesport on angling, fisheries, wildlife and the water environment:

- Environment Agency R&D Technical Report W266 “Effects of Canoeing on Fish Stocks and Angling” importantly concluded that “Canoeing is not harmful to coarse or salmonid fish stocks in rivers”.
- English Nature (now Natural England) has agreed there is unlikely to be any significant impact on, or lasting disturbance to wildlife and the water environment from the passage of canoes.
- Other studies have concluded that responsible canoeing does not have any impact on the natural environment (e.g. *The Effect of Kayaking on Otter Sign Sites on the River Coquet, Northumberland. Hadley, H 2001. University of Northumbria* determined that there was no nuisance from canoeists; and the British Trust for Ornithology has also identified that canoeing has no significant impact upon waterfowl).

Annex B DEFRA Guidance on “Educational Purposes”

Extract from [3]:

“As the [CRoW] Act does not define ‘commercial purpose’...the words bear their natural and ordinary meaning [which] defines “commercial” as “having profit as a primary aim rather than artistic (etc) value.

“Any judgment about whether an activity is restricted by [this clause] will have to take account of the purpose of the person who is undertaking the activity and the purpose of the person or body who is organising the activity. The nature of the body organising the activity should also be considered. If, for example, the activity is organised by a charitable body or a public body then it is less likely that the activity will be organised for a commercial purpose. However, it does not follow that an activity organised by other bodies will necessarily be for a commercial purpose. In each case one will need to consider the primary purpose of those undertaking and those organising the particular activity.

“Visits by local interest groups for purposes such as natural history, bird watching, photography or walking groups or climbing clubs are, in our view, unlikely to be undertaken or organised for a commercial purpose. Activities organised for promoting or teaching an adventurous outdoor activity are also unlikely to be undertaken or organised for a commercial purpose. We take the same view of photography, gathering information, making maps and plans, where these activities are for purely private purposes, for example, for use by a society or club. If, however, they are for use in a commercial publication, for product promotion etc, it is likely they would be activities undertaken for a commercial purpose.”

Annex C Suggestions for Inclusion in a National Code of Conduct

Extract from *Position Statement on the Shared Use of Rivers* [6]

1. Respect the interests of other users on the water by:
 - a. Working with anglers, whether bank-based or wading, by stopping where possible upstream, and waiting for an indication of how and where to pass.
 - b. Be aware of rowers, who may have limited forward visibility.
 - c. While swimmers may be using floats and/or safety boats, some may not, and could be hard to spot. Keep a close eye on the water ahead and be aware they have limited ability to divert around you, so attempt to move out of their way safely.
 - d. On managed navigations (such as canals) where motor boats may be present navigate to the right-hand bank of the river.
2. Respect other users, and others, when accessing water by:
 - a. Getting changed discreetly.
 - b. Parking with respect for other users.
 - c. Using only authorised access points.
3. Help protect the environment by:
 - a. Checking rivers before paddling (whether by inspection or using sites such as <http://rainchasers.com/> or the Environment Agency / Natural Resources Wales river gauge sites) to ensure they have enough water height to ensure sustainability.
 - b. Following the Check, Clean, Dry guidance to help prevent the spread of invasive non-native species.
 - c. Keeping a respectful distance from wildlife and bank-side habitats.
 - d. Reporting any environmental hazards or issues you see.

Annex D British Canoeing & Canoe Wales Criteria for Shared Use of Rivers

Extract from *Position Statement on the Shared Use of Rivers* [6]

For canoeists to feel able to engage, we believe the following guidelines for developing Shared Use should be followed:

- **Inclusive Approach** – All users should be fully included in any partnership to develop Shared Use. Excluding any user or giving them less than equal representation only serves to alienate, resulting in working relationships becoming untenable.
- **Least Restrictive Possible** – This principle is used across many outdoor activities, seeking to ensure that restrictions on use are kept to the minimum possible to ensure: environmental protection; effective land management; and managing conflict between users.
- **Fair to all** – Even where restrictions are in conjunction with the Least Restrictive Possible approach, they must be shown to be fair to all. Restrictions should not only fall on one user group or interest, instead being balanced between them. All users must feel engaged in this process and have the ability to influence the outcomes.
- **Evidence-Based Approach** – Where restrictions (e.g. minimum water levels for environmental protection) are based on sound evidence, with an inclusive approach, users have shown themselves to be happy to work within them. However, where such restrictions are not supported by evidence they are liable to be seen as unwarranted, leading people to disengage. Precautionary restrictions can be important, especially in environmental protection – but again, evidence of the need to consider these along with effective engagement will help all feel confident in the process.
- **Without Prejudice** – Any partnership, and the arrangements that stem from them, should be without prejudice to any view of the law. It is vital that such disagreements are left aside, to encourage all to engage and to work towards mutual solutions.
- **Voluntary** – Any arrangements resulting from Shared Use Partnerships should be seen as part of a voluntary partnership between users. No user or organisation has the ability to ‘police’ any agreements. Instead, through the effective engagement process outlined, voluntary arrangements that are seen as fair would encourage all to respect them.
- **Code of Conduct** – An effective partnership would seek to utilise national guidance for user groups, landowners and land managers, helping embed positive messages regarding ways to respect and share the space with all.
- **Monitoring & Review** – Enabling an ongoing review process, enabling flexibility in the partnership to react to both opportunities and challenges.

Annex E Suggestions for Post-Brexit Rural Policy

Extract from *Unlocking Potential: A Vision for Canoeing, Countryside Access & Post-Brexit Rural Policy* [5]

Since the EU Referendum a year ago the issue of the public policies which support our rural economy have been under much discussion. While the farming community has understandably been concerned about changes to vital revenue streams, there are also increasing calls to restructure subsidies to support countryside access and support the natural environment.

What new ideas have been suggested so far?

Conservation organisations have been particularly quick to examine the potential opportunities for subsidies to be reinvigorated, especially to encourage greater protection for the natural environment in our heavily managed countryside. The National Trust led the way with an initial seven point plan for post-Brexit subsidies. The Trust then partnered with WWF, RSPB and the Wildlife Trusts to produce a new five point plan.

Within the outdoor recreation community there have been calls to re-prioritise public money to help improve and protect public access. The Open Spaces Society and the Ramblers have suggested proposals to use subsidies to increase enforcement of current protections for Rights of Way and also to create new incentives to expand access.

It's great to see the new ideas coming from these organisations - but slightly disappointing that there is, so far, such little crossover between conservation and public access. Past initiatives, such as the coalition that prevented the sale of our forests, demonstrate that government is more likely to listen to a positive, inclusive approach to change.

We support efforts to reinforce subsidies to help improve both access to and conservation of our countryside.

Engaging the farming community

Farmers are concerned about what could be the biggest change to their industry in decades. In some areas subsidies provide a lifeline to farmers, leading to a variety of policy proposals from organisations representing our farmed environment. These range from calls to increase and re-target subsidies to calls for environmental protections to be reduced in response to threatened funding cuts.

We believe the protections for our environment and sustainable access should be strengthened, not cut. However, we must work with farmers to understand their concerns, and ensure the rural policy system of subsidies post-Brexit ensures such protections are a benefit to farmers and not simply a drain on their resources.

We will seek to develop our links with the farming community, to work towards policies which strengthen all stakeholders in our fragile rural economy.

What do we want to see?

We believe post-Brexit rural policy should recognise the need for public money to bring improved public benefits.

Canoeists currently enjoy uncontested access to only 4% of rivers in England & Wales and have limited access to most open water locations outside of the Lake District. We don't believe this is acceptable. In Northern Ireland and Scotland canoeists enjoy access to most rivers and lakes, we believe this would work UK wide. While change is needed at a statutory level (and is being proposed in the Welsh Government's consultation, "Taking Forward Wales' Sustainable Management of Natural Resources") we believe rural policy can also be tweaked to play a role in helping improve this issue, with benefits for all. Rural policy can also help improve access even to those waters where access is recognised, by supporting conservation bodies, farmers and sporting organisations to work together to create new facilities, we can encourage canoeing to play a role in supporting rural economies.

We call for the following actions to promote canoeing:

- Ensure canoeists can, wherever possible, pass along rivers which flow through land in receipt of public subsidies.
- The creation of new subsidies to incentivise farmers and other land owners to improve access to rivers, lakes or other waters. This could include: creating and maintaining portage or access facilities, providing car parking, maintaining the navigability of rivers (though this is rarely an issue for canoeists)
- Using public subsidy and grants to help ensure improved access supports new revenue for land-owners, especially where it can support traditional farming, conservation or communities. Examples could be grants to support the creation of camping, cafes or bunk houses.

We also recommend the following actions to build a new coalition to secure the future for our countryside:

- • Increased partnership working between recreational and sporting bodies which use the natural environment.
- • Improving the links between rural stakeholders, building on the potential for bringing benefits to all groups rather than acting in isolation.
- • Matching our desire for improved access (especially the recognition of access rights) with a pragmatic approach to our responsibilities. Working with farmers, conservationists and other water users is essential to help us all build a strong, vibrant, sustainable approach to countryside management for all to enjoy.

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Abbreviations & Definitions

CANI. *Canoe Association of Northern Ireland*

Canoe. *a craft propelled, most 'properly' in a kneeling position, by a single-bladed paddle*

Canoeing. *an activity involving any craft propelled by a paddle in or on which the paddler faces in the direction of travel (including canoes, kayaks and SUPs, but excluding rafts and dragon boats)*

Canoeist. *Someone who engages in Canoeing*

CRT. *Canal & Rivers Trust (Glandŵr Cymru in Wales)*

Foreshore. *The extent of land between high and low tide*

Kayak. *a craft propelled, in a sitting position, by a double-ended paddle*

Navigable. *Physically usable for 'a significant part of the year' by a boat...[albeit] possibly only between obstructions*

Navigation. *The passage of ships*

NGB. *National Governing Body*

Paddler. *Someone who engages in Paddlesport*

Paddlesport. *an activity involving any craft propelled by a paddle in or on which the paddler faces in the direction of travel (including canoes, kayaks, rafts and stand-up-paddleboards, SUPs, but excluding dragon boats)*

PRN. *Public Right of Navigation*

PRoW. *Public Rights of Way, Public Rights of Way*

Riparian. *Relating to or situated on the banks of a river*

Riparian Corridor. *a strip of the adjacent land on both sides of any river or such expanse of water (wide enough to allow passage on foot, picnicking at convenient places and, where practicable, launching and landing; and including the banks, walls or embankments along the water; and any towpath or other way or track beside the water) and, where a highway crosses or comes close to the river or other water, so much of any land connecting the highway with the strip of land as would afford access from the highway to some convenient launching place for small boats*

SCA. *Scottish Canoe Association*

SUP. *Stand-Up Paddleboard*

WCA. *Welsh Canoeing Association, as Canoe Wales was formerly known*

