



Department
for Environment
Food & Rural Affairs

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Discussion paper

Triennial Review of the Environment Agency and Natural England

December 2012

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Foreword

The Rt Hon Owen Paterson, Secretary of State for the Environment, Food and Rural Affairs

Improving our environment for future generations is one of the great challenges we face as a society. This is why the Government is committed to high levels of environmental protection and to the effectiveness of the bodies entrusted with these obligations.

As I seek to radically reprioritise Defra so that the Department and its work is focused on growing our economy, improving the environment and safeguarding animal and plant health, the role of the Environment Agency (EA) and Natural England (NE) is more important than ever.

In the current fiscal climate, we must ensure that our public bodies offer the best value for money for the taxpayer, support economically and environmentally sustainable growth and deliver the right outcomes for businesses, customers and the public. We must enable our public bodies to operate in the most effective and cost efficient way. This cannot, however, be at the expense of the natural environment.

We should instead strive for a healthy economy and a healthy environment. The two are not mutually exclusive. In fact, a healthy environment is essential to our future prosperity. We need to avoid growth that erodes our natural capital and encourage growth which conserves or enhances our natural assets, thereby ensuring that our ability to grow in the future is not undermined.

The EA and NE, in their role as environmental regulators and advisers, are central to this vision. The work of these two bodies can help improve our environment as well as helping to put in place the foundations for sustainable growth. The role of the EA in safeguarding homes and businesses from flood risk is well known but the part that it can play in spearheading genuine economic growth is perhaps less so. The same is the case with the work of NE in supporting some of our most precious landscapes and habitats; work which not only has benefits for biodiversity but for rural tourism and a host of other businesses.

This Review gives us a good opportunity to step back and take a fresh look at what the EA and NE currently do and how they do it. The challenge for our public bodies must be to meet their environmental obligations while looking at innovative ways to reduce the burden that this may sometimes place on business. We must also be mindful of the many ways in which the work of these bodies impacts on the daily lives of people, be it customers receiving environmental advice, communities dependent on flood protection or the general public enjoying the many benefits with which the natural environment provides us.

In preparing for the Review, we have been working closely with the EA and NE and their stakeholders to understand how we can use this process to achieve better outcomes for the environment, the economy and society as a whole. We shall continue this process of open engagement as the Review progresses. I remain open-minded in my approach to the Review and the decision to carry out a single review does not pre-empt any findings. I look forward to receiving views from the wide range of stakeholders who have an interest in the work of these two bodies. This document sets out initial ideas.

While we are determined to use this Review to explore innovative options for improvements in service delivery and efficiency, we are equally determined that the EA and NE will be able to continue the valuable work they are tasked with undertaking. The Review will be conducted in a timely and focused way, maintaining business as usual and taking into account the essential environmental work of these two organisations.

This Review launches what I hope will be an exciting and informative debate: imaginative thinking will see our environment, wildlife and economy thrive. I expect to publish initial conclusions in the spring of 2013.

Introduction

1. In July 2012, Defra announced that it planned to carry out a triennial review of the Environment Agency (EA) and Natural England (NE) ('the Review') by the end of 2012.
2. Defra will use this Review to ensure that it has strong and resilient delivery arrangements which can fully meet the Government's ambitions on the environment and flood and coastal risk management. The EA and NE have significant and valued roles in delivering those ambitions.
3. The scale of the challenges faced by, and threats to, the global environment and the economic climate have changed significantly since both bodies were established. The delivery challenges faced by the EA and NE have, therefore, also changed dramatically. The Review will examine the continuing need for the bodies, their existing functions and form, governance and accountability to Government and the public, in light of these changes.
4. A successful Review will guide the Government as to what reforms may be needed to make sure that Defra can achieve better quality outcomes for the environment, for society and for the economy into the longer term.
5. The Review will need to ensure, therefore, that the ways in which the Government delivers environmental outcomes are efficient and affordable, at the right scale, ensuring best value for money for the tax-payer. The relevant delivery arrangements – to be resilient – will need to identify ongoing cost savings and improvements to services, and to stimulate and sustain economic growth.
6. Businesses working with the bodies will be looking for ongoing service improvement, increased efficiencies and swift decision making, particularly around development.
7. The Review will also investigate whether alternative delivery models could lead to better quality outcomes. For example, the Review will consider whether certain functions performed by the bodies which are still needed might better be delivered by the private or voluntary sectors, local government or, within central government, through different delivery routes.
8. The Review will also need to confirm that the local and national governance arrangements applying to the EA and NE are sufficiently robust and transparent so that there is due accountability to Government and the public.
9. The EA and NE have had the opportunity to engage fully in the preparatory process without compromising the smooth delivery of business as usual or undermining resilience. This is in addition to open and inclusive engagement across the wide

range of stakeholders, ensuring they have had clear opportunities to offer their views so far.

10. This discussion document reflects the views and evidence provided to Defra so far from the EA, NE, stakeholders and other Government Departments. This document invites further views, suggestions and evidence as part of the formal Review.
11. It will be a joint Review to help ensure that the process is as efficient as possible and allow options for reform and innovative delivery mechanisms to be identified, and appraised in the most effective way. Defra is committed to conducting this Review in a timely way, and submissions are requested **by 04 February 2013**.

You are invited to contribute to the Review by offering your views and supporting evidence on the following questions:

- 1. Do the functions and/or form of the Environment Agency and Natural England continue to be appropriate, in terms of delivering the Government's ambition on the environment and flood and coastal risk management?**
- 2. What changes could be made to provide better quality outcomes for the environment, economy and society?**
- 3. Of the range of options for reform proposed to the current delivery arrangements, which do you think are the most appropriate – if any – to achieve better quality outcomes for the environment, economy and society on a sustainable basis and why?**
- 4. Do you have any further suggestions for alternative delivery options which would achieve better quality outcomes for the environment, economy and society on a sustainable basis, and if so, how would they operate?**

Responses should be supported by strong, relevant evidence.

12. A report of the Review, setting out recommendations and an overview of any related implementation plan, is expected to be published in spring 2013. A successful Review will also guide the bodies clearly as to what next steps are needed to achieve any reform in a timely way.
13. Background working papers on the detail of the preparatory work undertaken to date on this Review are available on the Defra website. Please visit:
www.defra.gov.uk/review-ea-ne/
14. In the preparatory discussions, many stakeholders have encouraged Defra to ensure that the Review investigates the full range of the terrestrial and the marine environment functions delivered by the EA and NE. In considering these functions, it

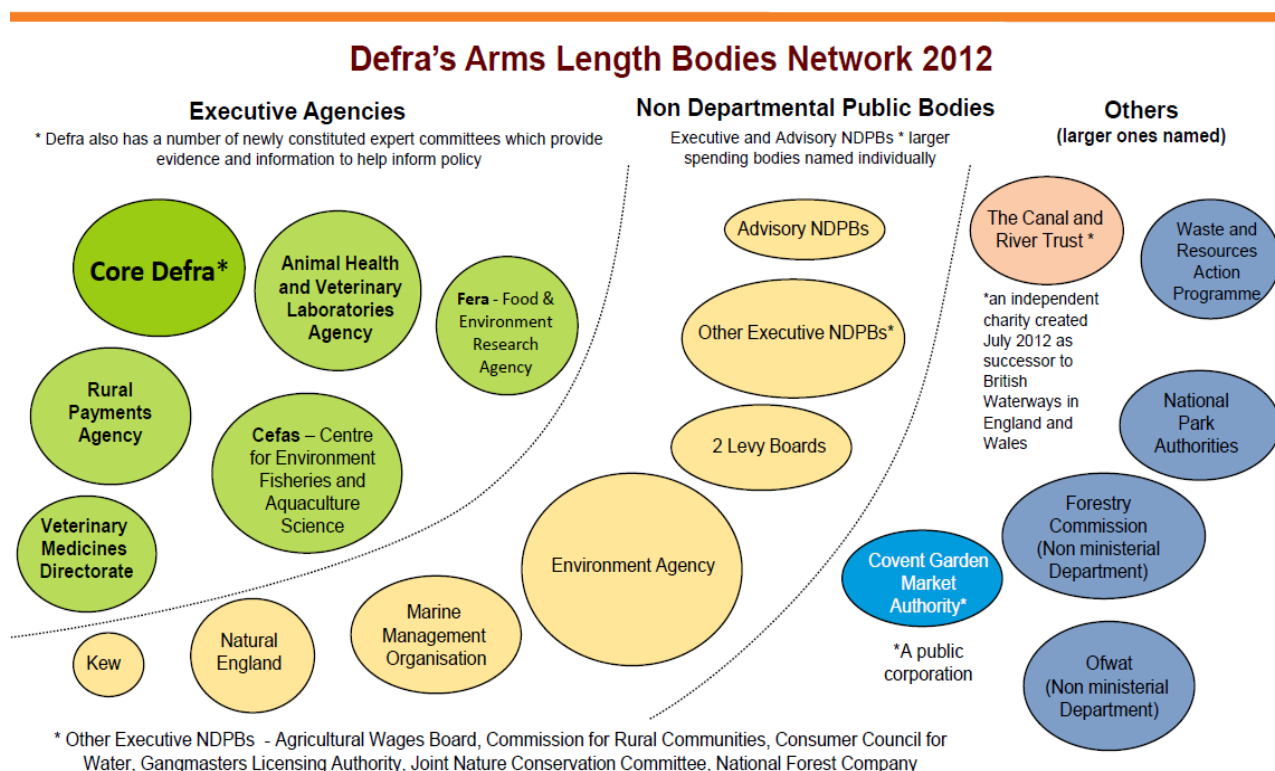
will be necessary to take account of other bodies with functions relating to the terrestrial and marine environment, in particular the Joint Nature Conservation Committee (JNCC) which is the public body that advises the UK Government and devolved administrations on UK-wide and international nature conservation. The triennial review of the JNCC is planned for this financial year (2012/13) and the preparatory discussions have now begun in advance of a launch of that review early in 2013.

15. The Independent Panel on Forestry (IPF) recommendations¹ include proposals for the future delivery of Forestry Commission (FC) functions in England. The future of the Public Forest Estate is outside its scope, but Defra will work to ensure that the Review and the Government's response to the IPF recommendations are aligned.
16. For further guidance on triennial reviews of Non Departmental Public Bodies (NDPBs), please visit the Cabinet Office website: www.cabinetoffice.gov.uk/resource-library/public-bodies-reform-proposals-change

¹ www.defra.gov.uk/forestrypanel/reports/

Striving for better quality outcomes for the environment, the economy and society

17. The EA and NE have significant and valued roles in delivering the Government's ambitions on the environment and flood and coastal risk management, and are two of the largest bodies within Defra's network of Arms Length Bodies (ALBs)². The bodies work closely with the Forestry Commission, the Marine Management Organisation (MMO), JNCC and others in Defra's network of ALBs to protect and improve the environment. Further background information on both the EA and NE is available in the Annex to this document.



18. Defra has engaged openly and inclusively with the EA and NE, stakeholders and other Government departments since announcing the intention to carry out a Review in July 2012. This included a workshop with over 40 stakeholders on 23 July to explore the success criteria and how best to engage (summary available here: www.defra.gov.uk/review-ea-ne/2012/120723-workshop). A series of meetings with key stakeholders over the summer, and workshops in October 2012, provided further opportunity for stakeholders to engage on the ways in which the EA and NE are already working well, and the opportunities for improvement, and to discuss the impact of the wider Government context within which the Review is happening.

² www.defra.gov.uk/corporate/about/with/

19. This engagement has significantly contributed to developing the range of scenarios for possible reform outlined in this paper and shaping the objectives and scope for this Review

"The Review itself must be realistic in the current economic climate, be implementable and continue to engender, and enhance, confidence across the many stakeholder communities who work closely with the Environment Agency, Natural England and Defra – there was strong agreement across the stakeholders that the Review should not lead to change for change's sake" (Stakeholder workshop, 23 July 2012)

20. Defra has been clear that the further significant pressures on public spending expected over the next decade mean that this Review must examine robustly the continuing need for the bodies, their existing functions, form, governance and accountability to Government and the public.
21. Many stakeholders have encouraged Defra to share the outcomes it wants to achieve at the start of the Review, before getting into any detailed investigation of the existing functions and form and governance arrangements applying to the EA and NE.

"...the challenge is not to get bogged down in process/response – need to keep the more creative innovative approach that has developed through recent changes". (Flood and Coastal Risk Management Stakeholder Workshop, 29 October 2012)

"...need to avoid silo thinking, as this is confusing for customers, and recognise the wider needs of the landscape (such as cultural heritage). Culture change is required to remove resistance to thinking in new ways". (Land Management Stakeholder Workshop, 25 October 2012)

"We need to move away from 'development vs. conservation' and work together to consider this earlier in the process of development". (Regulated Business Stakeholder Workshop, 25 October 2012)

22. A successful Review will guide the Government as to what reforms may be needed to make sure that Defra's delivery arrangements are able to deliver better quality outcomes for the environment, for society and for the economy into the longer term.
23. A successful Review will deliver, therefore, across the following **three fronts**:

Seeking better quality outcomes...

...for the Environment

By achieving a more integrated approach to the delivery of all environmental priorities, to support the services which a healthy, functioning environment can provide and meet the ambitions set out in the Natural Environment White Paper

...for the Economy

Where delivery arrangements are affordable in the context of constrained public expenditure; the economic impact of decisions on the businesses is fully considered; and, a healthy environment supports better opportunities for economic growth

...for Society

By improving access to the services provided to customers and the public, working effectively with stakeholders and communities at the local level, and recognising the connections between high quality environmental services and public well-being.

24. In due course, any business case put forward in the report of the Review will take account of the environment, the economy and society as outlined above. The detailed methodology for how this will be best done, taking account of best practice, is being developed.
25. The EA and NE are Executive NDPBs working within a strategic framework set by Ministers who, in turn, are ultimately accountable to Parliament and the public. The EA and NE both have a remit focused clearly on the environment and flood risk management, with NE's statutory purpose being very specifically related to the natural environment.
26. Where it is agreed that a particular body should remain as an NDPB, the control and governance arrangements are reviewed to enable greater accountability and ensure enhanced governance, if required.
27. Following the review of ALBs in 2010, Ministers made clear that ALBs would no longer seek to formulate policy.
28. More background on the context for this aspect of the Review is provided in the Annex to this document.

Preparation for the Review

29. This section sets out the wider context for this Review and the early analysis already undertaken as part of the preparation for the Review.

Wider context

30. This Review takes place at a time when the economic climate means that the Government must focus on stimulating sustainable economic growth. The Secretary of State has made clear that his policy priorities are sustainable economic growth, environmental protection and animal and plant health. Growing the economy and improving the environment are not mutually exclusive – a healthy environment is essential to future prosperity. The Government has set out its priorities for the environment in the Natural Environment White Paper³, Water White Paper⁴ and other policy statements. Like all Government departments, Defra must consider how it can deliver its policy priorities in leaner, smarter ways in line with the public sector reform agenda, and to enable and drive sustainable growth.
31. Defra has already made a significant contribution to these goals. Between 2010/11 and 2014/15, Defra will cut its central overheads by 30% and is already reducing the number of ALBs across its delivery landscape from 92 to 36 (since 2010).
32. Defra continues to improve the way in which it, and its network of ALBs, delivers the Government's environment and flood and coastal risk management priorities in light of other cross-Government priority policy agenda. For example,
- **The Penfold Review⁵:** The EA and NE published Improvement Plans in 2012 setting out their respective progress on a number of initiatives to simplify and streamline their involvement in the planning and development consents system. These initiatives are designed to reduce costs and administrative burdens and increase certainty for developers around planning and development decisions – also a key theme for this Review;
 - **The Better Regulation agenda:** The EA and NE are already working with Defra on reducing the burden of regulation through the Red Tape Challenge (eg under the Environment Theme and the Water and Marine Theme) and through involvement in the Focus on Enforcement regulatory reviews, led by the Better Regulation Executive. They are both also working on embedding changes on the back of the Government's response to the MacDonald Review on farming regulations which was published in February 2012.

³ www.defra.gov.uk/environment/natural/whitepaper/

⁴ www.defra.gov.uk/environment/quality/water/legislation/whitepaper/

⁵ www.bis.gov.uk/penfold

33. Examples from the EA and NE include:

The EA has consolidated the boats used to monitor the marine environment from 46 to 23, with no loss to capability. They are now under one management contract and available for use between the EA, NE and the Countryside Council for Wales. Nine of these vessels are crewed by a professional mariner company, allowing EA staff to target skills to focus on survey work. This has saved the EA £160,000 annually since 2010, and will also support co-ordinated tidal zone monitoring by CEFAS and Defra in managing Marine Conservation Zones in the future.



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Natural England and the Department for Health agreed to transfer the Walking for Health programme to an alliance of the Ramblers and Macmillan Cancer Support. The scheme has grown significantly under Natural England since 2006, with the number of active participants in health walks increasing three-fold; its transfer to this new civil society delivery partnership will see the scheme grow and develop even further.

34. The Review will also have regard to other ongoing Reviews, such as Lord Heseltine's Review '*No Stone Unturned*', which makes a series of recommendations in all aspects of Government's response to the Review, and the Government will respond fully to the Heseltine Review in the spring.
35. There are a number of other reviews and initiatives involving Defra's existing delivery arrangements that are relevant to this Review, and which it will build on. For example:
- In preparation for the implementation of the reformed **Common Agricultural Policy (CAP)** for the period 2013-20, Defra is considering future delivery options for the Rural Payments Agency (RPA). This will extend beyond the period of the Review, taking account of the ongoing negotiations in Brussels. As NE is responsible for the delivery of CAP Pillar 2 agri-environment schemes, working with the RPA - which is the EU Paying Agency for those schemes - the Review will consider the inter-dependencies with that work, though it will not be possible to reach conclusions in the timescale of this Review of the impact of CAP reform.
 - In relation to the **flood and coastal risk management functions** of the EA, the Pitt Review in 2008, the Office for Government Commerce "Assessment Review" in 2010 and the National Audit value for money review in 2011.

- The **Independent Panel on Forestry recommendations**⁶ include proposals for the future delivery of Forestry Commission (FC) functions in England, particularly the advisory, regulatory and grant making functions currently carried out by Forest Services. There are clear synergies between some of these functions and those of NE which might need to be considered in the Review, although the future of the Public Forest Estate is outside this Review's scope.
36. Defra is also already **working across its delivery network**, including with ALBs, to explore opportunities for cost savings and improving the pace and efficiency of delivery whilst not limiting technical expertise and resilience response. In particular, it is targeting potential efficiencies in monitoring and procurement activities, rationalisation of assets, consolidating ICT and understanding user requirements.

Summary of Review's preparatory analysis

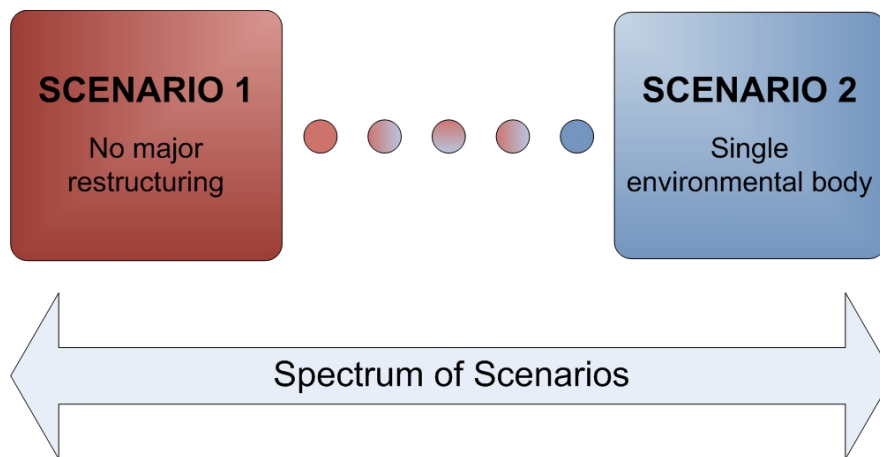
37. In preparation for the Review, the EA and NE have provided relevant data to Defra on each of their respective functions. Initial analysis of this information across the full range of the functions of the EA and NE, and the evidence gathered from preparatory engagement with stakeholders, has provided the basis to develop the range of scenarios for reform to the bodies proposed in this discussion document.
38. Considerable pre-launch analysis across the range of the EA's and NE's functions has involved an initial assessment as to where there are opportunities for ongoing improved services and cost savings and also where there may be scope for alternative delivery models which could lead to better quality outcomes.
39. The first stage of the Review will consider the initial assessment of the functions of the EA and NE in greater depth. It will review whether the functions are still needed and – if they are - will critically appraise all alternative delivery models, such as those options set out in Cabinet Office guidance⁷, both inside and outside Government. This analysis will look to identify opportunities for further innovation in delivery and for accessing resources or investment from outside Government. For example, the Review will consider whether certain functions performed by the bodies which are still needed might better be delivered by the private or voluntary sectors, local government or, within central government, through different delivery routes.
40. It is planned to share emerging thinking on these opportunities with stakeholders in the New Year through published working papers, on which stakeholders will have an opportunity to comment.
41. The detailed methodology for the further analysis to be undertaken during the Review, both of the functions and form, is still being developed. Further detail on the background and early emerging analysis can be found in the Annex to this document.

⁶ www.defra.gov.uk/forestrypanel/reports/

⁷ www.civilservice.gov.uk/wp-content/uploads/2011/09/triennial-reviews-guidance-2011_tcm6-38900.pdf

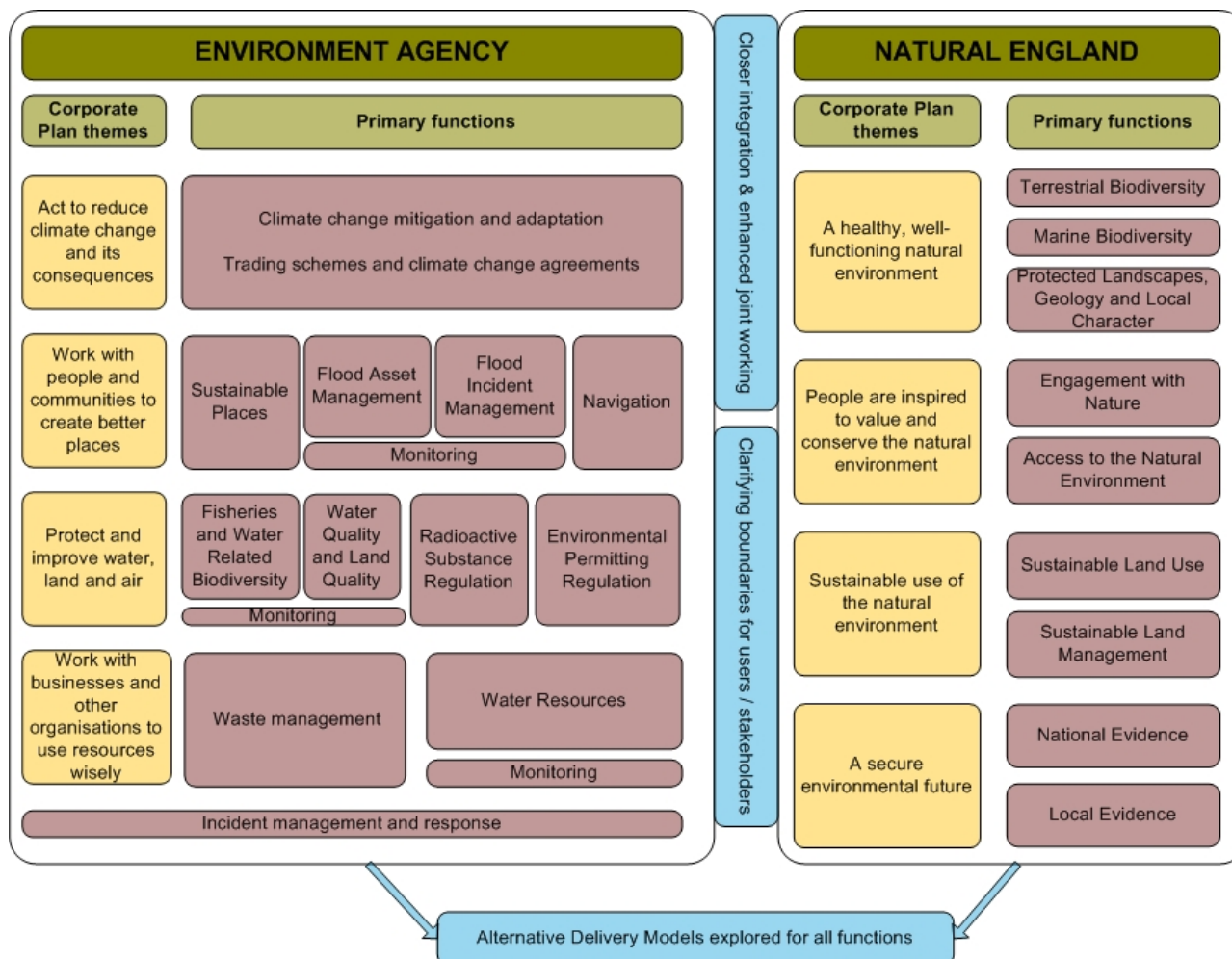
Early engagement on possible reforms to delivery arrangements

42. In preparation for the Review, Defra has engaged openly with the EA and NE and a wide range of stakeholders of the bodies. This discussion document reflects the views and evidence provided to Defra so far from the EA, NE, stakeholders and other Government Departments with which we have also worked closely.
43. Over the next decade, Defra and its delivery bodies must be sharply focused on growing the economy, improving the environment and controlling animal and plant disease. In early stakeholder engagement, Defra has been clear that the further significant pressures on public spending also expected over the next decade necessitate that this Review must examine robustly the continuing need for the bodies, their existing functions and form, governance and accountability to Government and the public.
44. Defra has discussed a wide range of possible reforms to the current form of delivery arrangements with the EA and NE, stakeholders and other Government Departments in this context.
45. In particular, this early engagement, and the preliminary analysis of the data collected from the EA and NE, has led to the identification of a spectrum of possible reforms to the current overall form of delivery arrangements set out in this document. This spectrum ranges from reforms involving significant ongoing change for the EA and NE - but without major change to the current structural form of either body - through to single delivery of the EA and NE functions. This discussion document considers the scenarios at either end of the spectrum in detail.
46. Many other potential options for reform to the relevant delivery arrangements have been identified and considered with the bodies and stakeholders. However, these early investigations have suggested that those options along the spectrum are unlikely to offer the better quality outcomes sought through the Review. More detail on the other potential options for reform already considered is covered briefly below.



47. The Review will need to consider and estimate the benefits and the direct and indirect costs that will follow the timely implementation of any reform. This cost benefit analysis will be projected over a ten year period. Implementation and transition costs can be expected to be significantly higher where significant restructuring is being suggested; and the estimated benefits would need to be correspondingly greater.
48. This document invites further views and suggestions – with supporting evidence - along the spectrum of possible reforms to the relevant delivery arrangements, and on the potential for reform of individual functions, or groups of functions within the EA and NE.

SCENARIO 1: Significant ongoing reform but no major restructuring to current institutional structures



49. This scenario for possible reform to the current form of delivery arrangements is characterised by:

- Two separate public bodies – the EA and NE - engaging with stakeholders and customers;
- The core functions of the EA and NE remaining largely unchanged.

50. However, both bodies will need to continue the process of substantial reform already started and will need to demonstrate that they can deliver ongoing improved services and cost savings over time to ensure that the relevant delivery arrangements are strong and resilient. There are also significant opportunities for reform of non-core functions and for enhanced joint working.

51. Building on initiatives already in place following the ALB Review⁸ of both bodies in 2010, both the EA and NE will need to:
- Continue to reduce back office costs and work in leaner, smarter ways through use of shared services and IT and more efficient estates management⁹;
 - Continue to develop, extend and implement new effective joint working initiatives with each other and with other ALBs, such as the 'Single Voice' approach to statutory consultation duties on land use planning¹⁰;
 - Continue to develop, extend and implement more joint working around the provision of technical expertise, particularly at a local level, and the use of scientific evidence to support their work; and
 - Continue to seek out innovative ways of working, including the potential for more local partnerships to enable co-delivery of certain functions or shifting to a commissioning model.
52. In terms of further opportunities for future customer benefits, improved services and cost savings, the Review will consider:
- Looking again at the interface between the EA and NE on land management advice, to create a more joined-up delivery and streamlined service for customers. The Review will consider the opportunities offered by greater cooperation across existing organisational boundaries, with a shared understanding of and focus on outcomes (building on the success with the catchment approach and Catchment Sensitive Farming initiatives), to transferring some land management related functions between the bodies.
 - The current, and future possible, transactional delivery elements of the Rural Development Programme for England. The Review will consider whether this could result in the shorter term in some administrative and processing elements of agri-environment delivery transferring from NE to RPA whilst currently retaining agri-environment delivery at the core of NE's offering.
 - Existing and potential for further charging mechanisms or other forms of income generation. This could include commercialisation of existing or new services. The functions delivered by the EA and NE are currently funded by grant in aid funding, other forms of funding or charges or a mixture of these. Where charging schemes are in place, they are in line with HMT guidelines on charging a fee for access to

⁸ www.cabinetoffice.gov.uk/sites/default/files/resources/2010-10-14-Public-bodies-list-FINAL.pdf / www.direct.gov.uk/prod_consum_dg/groups/dg_digitalassets/@dg/@en/documents/digitalasset/dg_186443.pdf

⁹ NE now access all shared services, back office, IT and estates services from Defra and Defra's service providers in order to improve the economies of scale for Defra and reduce the unit costs of services to the whole of the network.

¹⁰ Further recent examples include, Joint Environmental Prospectuses between the EA, NE and the Forestry Commission for 37 priority local authorities around the country to provide integrated environmental advice to facilitate local decision-making on priorities; and in the development of the UK Marine Monitoring and Assessment Strategy which has provided the platform for improvements in the way that marine monitoring is planned and commissioned by relevant statutory agencies and others

public goods or services¹¹. The income from existing EA charging schemes in 2012/13 is expected to be £417m or approximately 38% of the EA's total budget.¹² NE recently launched a suite of chargeable advice services aimed at the development sector.

53. In addition, alternative delivery models could potentially be considered in the short term for individual functions of the EA which do not appear to be central to its core purposes. For example, the Review will consider whether certain functions performed by the bodies which are still needed might better be delivered by the private or voluntary sectors, local government or, within central government, through different delivery routes. In particular, the Review will consider:
- Alternative approaches to the delivery of enforcement and grant giving functions for contaminated land;
 - Reviewing the need for the EA's involvement in marine activities where these are not core to the EA's wider delivery offering; and
 - Transferring navigation responsibilities to the new Canals and Rivers Trust in the shorter term, subject to affordability and agreement of CRT's Trustees.
54. Improved outcomes, better customer service and greater efficiency require continued cultural change. In particular, this cultural change will need to involve ongoing service improvement, increased efficiencies and swift decision making, particularly around development for businesses. It will also need to include extending and enhancing the way bodies work with local partners and communities in order to benefit from local technical expertise and volunteer groups. In some areas, this will include developing new approaches and tools to support relationships with civil society organisations.
55. The bodies will need to deliver these reforms while minimising any reductions in their respective national and local service delivery.

Other potential options for reform

56. Building on scenario 1 many other potential options for reform to the relevant delivery arrangements have been identified and considered with the bodies and stakeholders in the early engagements. However, these discussions have suggested that those options are unlikely to offer the better quality outcomes sought through the Review.
57. These various alternative options for reform appear to require significant, and costly, restructuring to the two existing bodies without correspondingly greater benefits offered. In some instances, they involve the creation of additional, new public bodies. The initial investigation also suggested these could impact negatively on existing

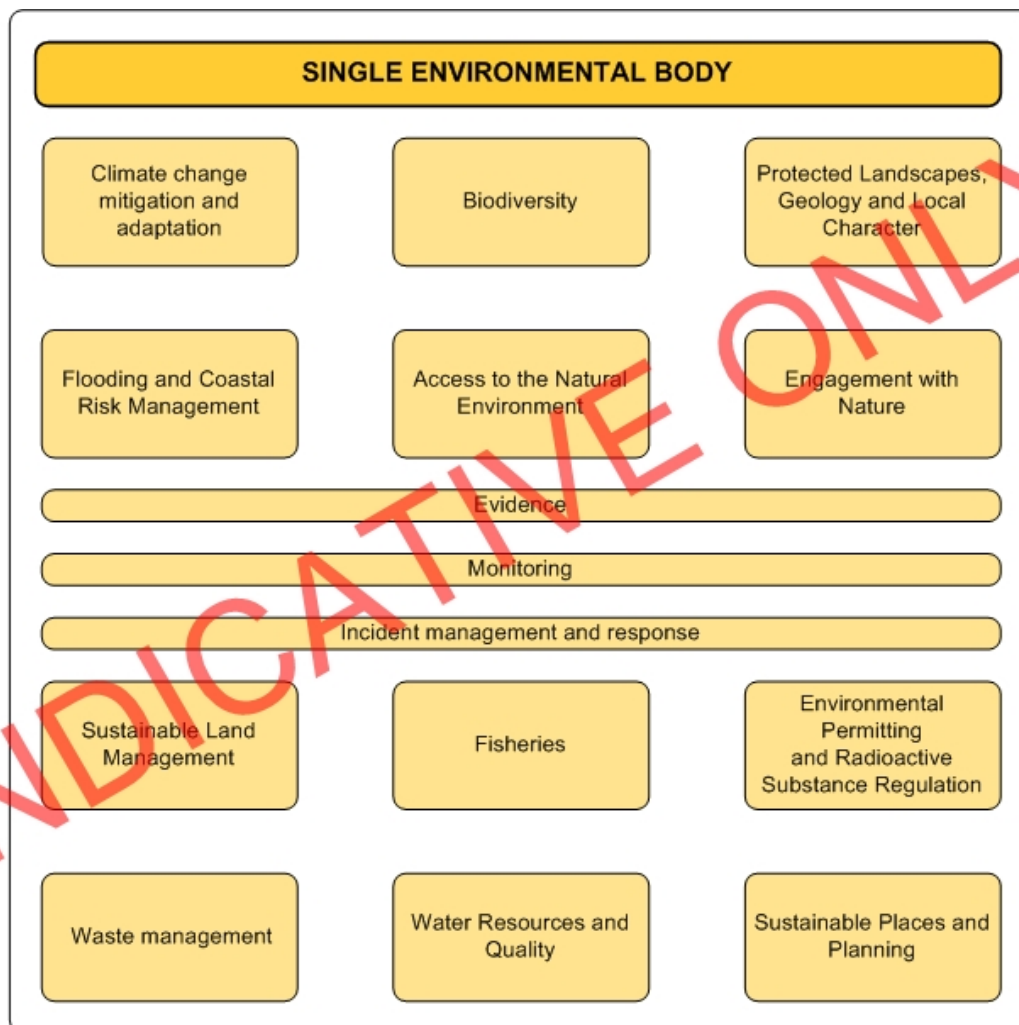
¹¹ www.hm-treasury.gov.uk/d/mpm_ch6.pdf

¹² www.environment-agency.gov.uk/aboutus/131960.aspx

synergies and customer benefits and/or could create additional organisational boundaries. All of this would impact on the ongoing delivery and business as usual by the bodies through any transition and implementation phases.

58. Further detail on the other potential options for reform considered can be found in the Annex to this document.
59. Defra would welcome suggestions around possible alternative options for reform which could achieve better quality outcomes. Such suggestions will have sufficient detail on the proposal, possible benefits and possible costs – and be supported with evidence - to enable a timely investigation and appraisal by the Review Team.

SCENARIO 2: Single environmental body



60. This scenario for possible reform to the current form of delivery arrangements is characterised by:

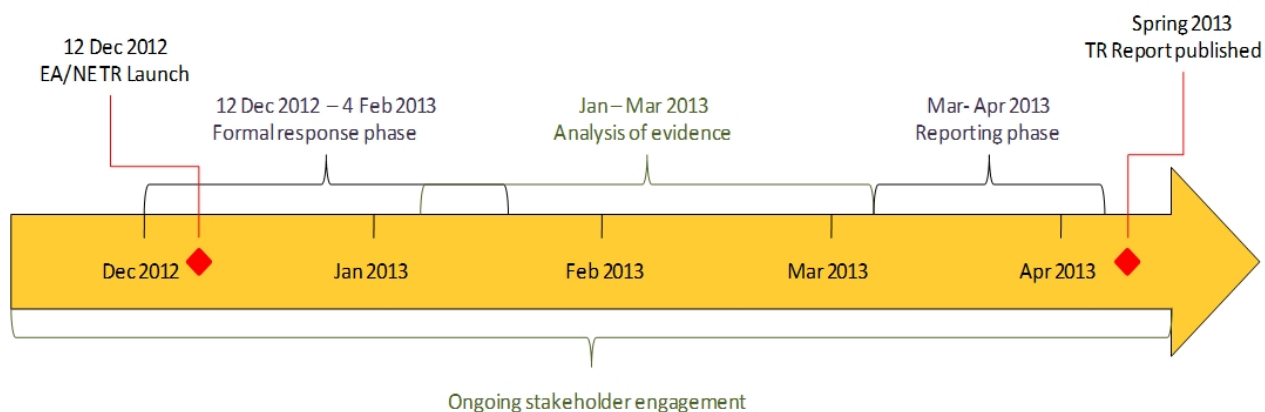
- The core functions currently performed by NE and the EA would be integrated into a single delivery body
- One or both of the existing bodies would be abolished and a new or restructured body would be created, requiring changes to primary legislation.

61. This approach would be similar, but not necessarily identical, to the reform agenda being implemented in Wales, with the creation of the single body *Natural Resource Wales*.

62. The resulting delivery landscape would consist of a single body having the role to protect natural resources and possibly also the marine environment, regulate and work with businesses, provide environmental advice and input to planning processes.
63. For customers and stakeholders, this scenario should in time provide a more efficient, effective single body, leading to sustainable swifter decision making for, and lower burdens on, businesses and developers. Resilience, technical expertise and incident response capacity should also be maintained, or enhanced, in a single organisation.
64. It is recognised, however, that this scenario could involve significant potential direct and indirect costs in the short to medium term associated with change and these, together with potential benefits, will be investigated further in the Review. In addition, significant change could impact on resilience and incident response capacity in the short to medium term.
65. As with alternative scenarios, improved outcomes, better customer service and greater efficiency require continued cultural change. In particular, this cultural change will need to involve ongoing service improvement, increased efficiencies and swift decision making, particularly around development for businesses. It will also need to include extending and enhancing the way the body works with local partners and communities in order to benefit from local technical expertise and volunteer groups. In some areas, this will include developing new approaches and tools to support relationships with civil society organisations.
66. Many stakeholders have referred to NE's statutory purpose in initial engagements and it is clear that they value the existence of an independent body focussed on the natural environment. Some stakeholders have flagged that, in considering any options for reform, attention should be given to ensure that this focus on the natural environment is retained and this will be investigated further in the Review.

Next steps

67. Please submit comments to the Triennial Review Team by 04 February 2013.



68. The Review's recommendations must be well evidenced and fully tested with, and supported by, key stakeholders and across Government.

69. We hope that a broad range of the stakeholders of both bodies will respond to this discussion document and will offer valuable insights and ideas for ways in which the bodies can deliver

70. A report of the Review, setting out recommendations and opportunities for reform, is expected to be published in spring 2013. A successful Review will guide both Defra and the bodies as to what next steps are needed to achieve any reform in a timely way.

71. For further information please contact: **EA-NEreview@defra.gsi.gov.uk**.

Annex: Background to the EA and NE

Environment Agency

The **Environment Agency** (EA) was established as a Non Departmental Public Body (NDPB) under the Environment Act 1995, with the principal aim: *“in discharging its functions so to protect or enhance the environment, taken as a whole, as to make the contribution that the Secretary of State considers appropriate towards achieving sustainable development”*.¹

The EA works to protect and improve the environment in England and Wales². It reduces the risks to people and properties from flooding; makes sure there is enough water for people and wildlife; protects and improves air, land and water quality and applies the environmental standards within which industry must operate. Acting to reduce climate change and helping people and wildlife adapt to its consequences are at the heart of all that the EA does. The EA is a Category 1 responder³ and works with other emergency services to: prepare for incidents, respond to incidents, and help communities recover after an incident.

The Environment Agency’s priorities, as set out in its Corporate Plan (2011-15)⁴ are to:

- Act to reduce climate change and its consequences
- Work with people and communities to create better places and to reduce the risks from flooding
- Protect and improve water, land and air
- Work with businesses and other organisations to use resources wisely

The EA works closely with a wide range of partners including national and local government, businesses, local authorities, other agencies, civil society groups and communities.

Annual budget: £1,112 million for 2012/13 – this includes £417 million in income from fees, charges and sources of income other than government grant-in-aid⁵

Staff: approximately 11,500 FTE based in England and Wales⁶

Source:

¹Environment Act 1995

² From April 2013, Environment Agency Wales will become part of Natural Resources Wales and are therefore not within the scope of the triennial review

³ www.cabinetoffice.gov.uk/content/civil-contingencies-act

⁴Environment Agency Corporate Plan 2011-15

⁵Environment Agency Corporate Plan 2012-15

⁶Environment Agency Annual Report and Accounts 2011-2012

Natural England

The purpose of **Natural England** (NE) as defined by the Natural Environment and Rural Communities Act 2006, is to: *“ensure that the natural environment is conserved, enhanced and managed for the benefit of present and future generations, thereby contributing to sustainable development”*.¹

NE is a national organisation which covers the whole of England, extending 12 miles out to sea. As an independent organisation, NE provides a range of specialist advice and incentives at local and national level to maintain, protect and enhance the natural environment. NE makes available evidence and information on the natural environment which Government, local authorities, communities and others can use in their work.

Natural England's priorities, as set out in its Corporate Plan (2012-15)² are to achieve the following outcomes:

- A healthy, well-functioning natural environment
- People are inspired to value and conserve the natural environment
- Sustainable use of the natural environment
- A secure environmental future

NE works closely with a wide range of partners including national and local government, businesses, local authorities, other agencies, civil society groups and communities.

Annual budget: £194 million in 2012/13 of which £22m is from other non Grant in Aid sources and the administration of £468 million paid to landowners under the Rural Development Programme for England²

Staff: approximately 2,300 FTE based across England²

Source:

¹ *Natural Environment and Rural Communities Act 2006*

² *Natural England Corporate Plan 2012-15*

The EA and NE are Executive NDPBs. This type of public body has varying degrees of operational autonomy and independence from Ministers and their sponsoring Department - in this case, Defra - but all work within a strategic framework set by Ministers. NDPBs are directly accountable to Ministers who, in turn, are ultimately accountable to Parliament and the public for the performance of their NDPBs and their continued existence. NDPBs,

including Advisory, Tribunal and Independent Monitoring Bodies are just one type of a range of public bodies¹³.

The governance arrangements for public bodies aim to make clear the ways in which the bodies are accountable to Government and to the public.

As set out, the EA and NE both have a remit focused clearly on the environment and flood risk management, with NE's statutory purpose being very specifically related to the natural environment. The strategic framework set by Ministers applying to the EA and NE - the 'Framework Documents' – remain in draft pending further analysis of the current governance arrangements in this Review.

Following the review of Arms Length Bodies (ALBs) in 2010, Ministers made clear that ALBs would no longer seek to formulate policy.

As a result of this change of approach, stakeholders have indicated that they are keen to have greater clarity about the roles of the bodies and how they are accountable to Government and, through the governance arrangements, as to how accountability to the public should be exercised in future.

Responding to the challenge of the ALB Review (2010)¹⁴

The EA and NE continue to make progress against the objectives for substantial reform as a result of the ALB Review (2010).

Environment Agency

- **Reducing back office costs:** by March 2014, the EA's administrative budget will have been reduced by 33% (£48m) compared to 2010/11 figures through ongoing active engagement with the Defra and Government-wide Shared Services programmes and IT service and development work having been outsourced.
- **Performance and Efficiency Programmes:** there has been significant reduction of numbers of staff involved in support services activities and national office administrative spend. There is also no longer a separate Communications directorate within the EA.
- **Reducing estates costs:** accommodation has been reduced through the EA's ongoing plan and the EA is working closely with Defra on its wider programme to rationalise the Government estate.

¹³ Departments, Non-Ministerial departments, Executive Agencies, Advisory Bodies, Public Corporations, other Central Government Bodies (http://resources.civilservice.gov.uk/wp-content/uploads/2011/09/Classification-Guidance-2011_tcm6-38852.pdf)

¹⁴ www.defra.gov.uk/corporate/about/with/public-bodies-reform/

- **Changes to customer service:** an Ipsos Mori survey (December 2011) showed that 84% of senior officers in local authorities feel the EA is already working fairly or very well in partnership with them; and the vast majority of local authorities feel that the EA can be trusted, provide accurate and reliable data, take evidence based decisions and are experts on the local environment.

Natural England

- **Reducing back office costs:** by the end of September 2012, NE's costs of back office functions had reduced by 40% (from the baseline of the 2010 Spending Review), on top of an earlier 20% reduction in these costs since NE was established in 2006.
- **Performance and Efficiency Programmes:** following a comprehensive restructure of the organisation, removing regional layers and streamlining operations, NE is on track to reduce overall costs by £42m in order to meet the overall Spending Review funding reduction of 21.5% by 2014; as part of this exercise headcount has been reduced by approximately 20% compared with staff numbers at the start of 2010/11.
- **Reducing estates costs:** since being created in 2006, a reduction of 60% has been delivered in the number of offices – from 63 to 25. NE is working closely with Defra on its wider programme to rationalise the Government estate
- **Changes to customer service:** NE has enhanced its approach to customer service in order to deliver improvements. This includes establishing baseline customer satisfaction levels for customers of its licensing/regulation and land use services. A new process to gather feedback from various customer groups (licence applicants, local authorities, developers and land managers) has been introduced showing a steady 90% satisfaction level.

Changes to the delivery challenges faced by the EA and NE

The fiscal and wider Government context

Further and significant pressures on public spending are expected over the next decade. To improve the delivery of Government policy priorities, it is vital that this Review assesses whether existing delivery arrangements are efficient and affordable and focuses on opportunities for service improvement and ongoing cost reduction.

The Government is committed to achieving economic growth.

The Review also must reflect the public sector reform agenda and follow the principles of the Civil Service Reform Plan¹⁵, including the need to streamline the delivery of public services and maximise efficiency through the use of shared services.

Other Government policy priorities will also guide the Review, for example, on Better Regulation, Digital by Default and the Government's Rural Statement.

Increased challenges for an optimal delivery landscape

The Review will take account of the future challenges which may test the resilience of the environmental delivery landscape. With the impact of climate change and UK population expected to rise significantly in the medium to longer term¹⁶, alongside rising commodity prices and humans consuming renewable resources at a faster rate than it takes to regenerate them¹⁷, greater pressures will be placed on ecosystems and the supply of natural resources such as food, water, energy and materials. This could also have an impact on emergency response functions including flooding, plant and animal health and drought, which are provided by bodies across Defra's delivery network. The delivery arrangements will need to be resilient to respond to these challenges, as well as offer opportunities for ongoing improved services and cost savings.

Stimulating and sustaining economic growth is also a key priority. For Defra and its delivery bodies, this means, for example, unlocking the potential for growth by investing in infrastructure and minimising burdens on business. It also means helping businesses, including rural businesses, seize opportunities to boost growth and achieving clean, healthy, safe, productive and biologically diverse oceans and seas. See, for example, the Government's Rural Economy Growth Review¹⁸, the UK Marine Policy Statement¹⁹, and the interim report of the Ecosystem Markets Task Force²⁰ for further information.

¹⁵ Civil Service Reform Plan: to equip a much smaller Civil Service to meet current and future challenges. It sets out a series of specific and practical actions to address long-standing weaknesses and build on existing strengths which, when implemented, will together lead to real change. For more information see: www.civilservice.gov.uk/reform

¹⁶ ONS (03/2012) www.ons.gov.uk

¹⁷ WWF Living Planet Report (http://wwf.panda.org/about_our_earth/all_publications/living_planet_report/)

¹⁸ <http://archive.defra.gov.uk/rural/documents/economy/rural-economic-growth-review.pdf>, November 2011

At the same time, Defra and its delivery bodies must maintain and, where required, improve the quality of their scientific and other evidence to ensure policy makers and business have timely access to the information required for sound decision making.

Further information on background to the Review and summary of early analysis

Defra will use this Review to ensure that it has strong and resilient delivery arrangements which can fully meet the Government's ambitions on the environment and flood and coastal risk management. Defra will need to deliver these policy priorities in leaner, smarter ways and with growth as a key objective.

Between 2010/11 and 2014/15, Defra will have cut its central overheads by 30% and is already reducing the number of ALBs across its delivery landscape from 92 to 36 (since 2010). Defra continues to work on improving the way in which it delivers the Government's environment and flood and coastal risk management priorities in leaner and smarter ways.

Civil Service Reform (CSR) Plan:

The CSR Plan identifies specific changes needed across the Civil Service to equip a much smaller Civil Service to meet current and future challenges. It sets out specific actions pushing towards putting service users and communities more in charge, and sets out a vision in which the Civil Service will do less centrally and commission more from outside. The principles of the CSR Plan, in particular the Shared Services agenda, apply to all NDPBs.

The Penfold Review²¹:

Following the recommendations made in the Penfold Review, a number of ALBs across Government have begun streamlining and simplifying the planning and development consents systems. In particular, the EA and NE published Improvement Plans in 2012 setting out their respective progress to date and ongoing initiatives, for example:

- The EA and NE are already meeting the requirement to determine development consents within 13 weeks or less;
- The EA and NE, together with the Forestry Commission and local planning authorities, are piloting the introduction of Environmental Account Managers to act as single points of contact for developers for complex applications;
- The EA have recently published guidelines for developments requiring planning and development consents and have updated their approach to responding to planning

¹⁹ <http://archive.defra.gov.uk/environment/marine/documents/interim2/marine-policy-statement.pdf>, March 2011

²⁰ www.defra.gov.uk/ecosystem-markets/work/publications-reports/, November 2012

²¹ www.bis.gov.uk/penfold

consultations so that developers will have the flexibility to parallel track their planning and development consents. This will help to reduce costs and administrative burdens and increase certainty around planning and development decisions; and

- NE has introduced a pre-application advice service for licensing to reduce delays and increase certainty for developers, and is exploring options for leaner approaches to licensing for low risk, routine and temporary impact activities.
- NE is piloting a new process designed to reduce the volume of applications failing to meet licensing requirements on first submission. Natural England provides input at both the planning and licensing stages of developments and it is focusing on ensuring consistency.

Better Regulation Agenda:

The EA and NE are already responding to the Government's Better Regulation agenda. This Review will build on the progress that has been made. Programmes of work already in train which are relevant to the EA and NE include:

- **Red Tape Challenge:** The Red Tape Challenge seeks to minimise burdens on business by reducing and improving the stock of regulation with which businesses must comply. Under the Environment Theme, of the 255 relevant regulations, 132 will be improved and 53 obsolete regulations will be removed. Proposals resulting from the Water and Marine Theme are expected to be announced early next year;
- **Regulatory reviews: The 'Focus on Enforcement' initiative:** led by the Better Regulation Executive, these reviews examine how regulations are enforced at local and national levels in a range of business sectors. Each review considers where enforcement could be improved and where best practice can be shared. The reviews most relevant to the EA and NE have included a review of: (i) the chemicals sector in relation to the COMAH²² regime; and (ii) compliance/enforcement in relation to coastal investments and projects, which, among other things, has taken the views of business on the role and performance of both bodies in consenting and advice provision.
- **The Farming Regulation Task Force (the 'Macdonald Review'):** has recommended over 200 ways of reducing unnecessary red tape and reducing regulatory burdens. The Government published a full response to the Task Force report on 21 February 2012 making over 130 separate commitments to take action, spanning a wide variety of topics including reducing the burden of inspections and paperwork.

²² Control of major accident hazards: www.hse.gov.uk/comah/index.htm

Critical recent reviews/work by Defra

This Review is one of many ongoing reviews and initiatives being taken forward by Defra to ensure that its existing delivery network is efficient and affordable and offers opportunities for ongoing improved services and cost savings, and growth. The Review will also build on the findings from these other relevant recent reviews and reports and ongoing work. For example:

Implementation of the reformed Common Agricultural Policy (for 2013-20)

In preparation for the implementation of the reformed **Common Agricultural Policy (CAP)** for the period 2013-20, Defra is considering future delivery options for the Rural Payments Agency (RPA). This will extend beyond the period of the Review, taking account of the ongoing negotiations in Brussels. As NE is responsible for the delivery of CAP Pillar 2 agri-environment schemes, working with the RPA - which is the EU Paying Agency for those schemes - the Review will consider the inter-dependencies with that work, though it will not be possible to reach conclusions in the timescale of this Review of the impact of CAP reform.

Reviews of flood and coastal erosion risk management (FCERM):

The overall management and governance of flood and coastal erosion risk management functions were reviewed in 2008 by Sir Michael Pitt, and the Flood and Water Management Act 2010 implemented its recommendations. The Office for Government Commerce also looked at this issue in its "Assessment Review" of funding and delivery (July 2010), sponsored by the Cabinet Office and UK Major Projects Review Group, and endorsed the current programme of reform. Most recently, the National Audit Office performed a value for money review in 2011, which concluded that "*Since 2007, the Department has embarked on an ambitious programme of reform*". These reforms include giving upper-tier local authorities (unitary and county councils) the lead responsibility for managing local risks, encouraging greater local engagement and decision-making on investment and stronger partnership working.

The reforms being pursued regarding FCERM management and governance are still bedding down. Initial stakeholder views expressed to the Review Team are that the benefits from such changes have not yet been fully realised, although the benefits from more collaborative working between the EA and NE are already beginning to be apparent. The Review will note that the programme of reform is still in train, and will seek to avoid drawing resource away from rapid response and resilience activity during the Review.

The Independent Panel on Forestry (IPF) Report:

The IPF Report recommendations²³ include proposals for the future delivery of Forestry Commission functions in England, particularly including the advisory, regulatory and grant making functions currently carried out by Forest Services. The future of the Public Forest Estate is outside this Review's scope, but we will work to ensure the Review and the Government's response to the IPF recommendations are aligned.

Initiatives to provide better strategic alignment across the Defra network of delivery bodies:

Defra is already working across its delivery network, including with ALBs, to explore opportunities for cost savings, improving the pace and efficiency of delivery whilst not limiting technical expertise and resilience response. In particular, it is targeting potential efficiencies in monitoring and procurement activities, rationalisation of assets, consolidating ICT and understanding user requirements to provide staff with the tools needed to deliver government priorities cost effectively.

Summary of Review's preparatory analysis

In preparation for the Review, the EA and NE have provided relevant data to Defra on each of their respective functions. Initial analysis of this information across the full range of the functions of the EA and NE, and the evidence gathered from preparatory engagement with stakeholders, has provided the basis to develop the range of scenarios for reform to the bodies proposed in this discussion document.

Considerable pre-launch analysis across the range of the EA's and NE's functions has involved an initial assessment as to where there are opportunities for ongoing improved services and cost savings, and also where there may be scope for alternative delivery models which could lead to better quality outcomes.

The first stage of the Review will consider the initial assessment of the functions of the EA and NE in greater depth. It will review whether the functions are still needed and – if they are – will critically appraise all alternative delivery models, such as those options set out in Cabinet Office guidance²⁴, both inside and outside Government. This analysis will look to identify opportunities for further innovation in delivery and for accessing resources or investment from outside Government. For example, the Review will consider whether certain functions performed by the bodies which are still needed might better be delivered by the private or voluntary sectors, local government or, within central Government, through different delivery routes.

²³ www.defra.gov.uk/forestrypanel/reports/

²⁴ www.civilservice.gov.uk/wp-content/uploads/2011/09/triennial-reviews-guidance-2011_tcm6-38900.pdf

It is planned to share emerging thinking on these opportunities with stakeholders in the New Year through published working papers, on which stakeholders will have an opportunity to comment.

The detailed methodology for the further analysis to be undertaken during the review, both of the functions and form, is still being developed. The Review will also consider existing and potential further charging mechanisms. The functions delivered by the EA and NE are funded by grant in aid funding, other forms of funding or charges or a mixture of these. The income from existing EA charging schemes in 2012/13 is expected to be £417m or approximately 38% of the total budget of the EA.²⁵ NE recently launched a suite of chargeable advice services aimed at the development sector. All charging schemes must remain in line with HMT guidelines on charging a fee for access to public goods or services²⁶.

²⁵ <http://a0768b4a8a31e106d8b0-50dc802554eb38a24458b98ff72d550b.r19.cf3.rackcdn.com/geho0412bwhz-e-e.pdf>

²⁶ www.hm-treasury.gov.uk/d/mpm_ch6.pdf

Other potential scenarios

The discussion document invites views on a range of possible scenarios for reform of existing form of delivery arrangements. The discussion document considers the scenarios at either end of a spectrum in detail. The options for reform considered to date have reflected the views and evidence provided to Defra by the EA and NE, and through early engagement with stakeholders and initial discussions with other Government departments.

Other potential scenarios have been identified and considered with the two bodies and stakeholders. However, these early investigations suggest that those options are unlikely to offer the better quality outcomes sought through the Review. Some examples of the other potential scenarios that have been identified and considered are:

- **Restructure according to primary functions and business areas of the EA/NE:**
In particular, this option could involve refocusing NE as a 'land management' body only, by reallocating other of its functions across Defra's delivery network. Alternatively, this option could involve bringing together all the existing land and water management functions of the EA and NE to create a new restructured 'land and water conservation management' body. This would involve transfer of all water management functions from the EA to a new or restructured body. Implementing these options could address what some stakeholders perceive to be areas of duplication in the current functions and delivery between the two bodies and could result in a better integrated interface with land managers. However, in addition to having significant cost and legislative implications, initial assessments suggests that breaking up the integrated approach to water management which the EA has developed could result in a loss of existing synergies and customer benefits and create new organisational boundaries between water management and flood activities.
- **Restructure in line with the main types of function of the EA and NE. For example:**
 - All environmental regulatory functions to be brought together
 - All environmental advice functions to be brought together
 - All environmental operator functions (eg flood defence) in one body
- **Separate all marine functions from the EA and NE into a new standalone marine body:**

This has been suggested by some stakeholders. It would leave both NE and EA as solely land based bodies, creating a new institutional boundary at the coastline. At present much of NE's marine nature conservation work is similar in nature to its terrestrial work, and EA's marine work is closely tied into its wider fisheries, flooding and water quality functions. Further consideration would be needed as to whether any other body could take

responsibility for marine environment functions, bearing in mind the need to avoid the creation of further new bodies unless there is a compelling case to do so.