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Mr Andrew Muir MLA
Minister for Agriculture, Environment and Rural Affairs
Clare House
303 Airport Road West
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6 June 2025

By email only

Dear Minister Muir

Advice: Public Consultation on the Nutrients Action Programme 2026-2029

I am pleased to submit the OEP's advice, given under paragraph 3 of schedule 3 to the Environment Act 2021, in relation to the above consultation and the proposed changes to the current Nutrients Action Programme (NAP) Regulations.¹

Getting the NAP Regulations right is essential, as they are a key part of the wider measures needed to address the chronic problem of nutrient pollution in Northern Ireland. That problem is illustrated so conspicuously by the deteriorating condition of Lough Neagh, but is also more widespread. We welcome the intention, as stated on DAERA's website, to address some of the actions in the Lough Neagh Action Plan through the NAP Regulations.²

DAERA must comply with its obligations under environmental law, notably the Habitats Regulations³ and the Water Framework Directive (WFD) Regulations.⁴ Our view is that compliance with these regulations, specifically in relation to nutrient pollution of aquatic protected sites, can only be achieved if sufficient measures are included in the NAP Regulations. If not, given the seriousness of this issue and where we suspect a failure to comply with environmental law, the OEP will consider enforcement action.

It is important to address nutrient pollution not only from the agri-food industry but also from wastewater. Together, they are a leading cause of the decline in biodiversity in Northern Ireland, as identified in our recent 'Drivers and Pressures'

¹ DAERA, 'Public Consultation on the Nutrients Action Programme 2026-2029' (2025) <www.daera-ni.gov.uk/sites/default/files/2025-05/NAP%20Consultation%20Document_1.pdf> accessed 2 June 2025.

² DAERA, 'Public Consultation Launched on the Nutrients Action Programme to Improve Water Quality' (2025) <www.daera-ni.gov.uk/news/public-consultation-launched-nutrients-action-programme-improve-water-quality> accessed 3 June 2025.

³ The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995, Northern Ireland Statutory Rules 1995.

⁴ The Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017, Northern Ireland Statutory Rules 2017 No. 8.

report.⁵ Both are major problems and both require action. We recognise that this consultation on the NAP Regulations relates only to agriculture and so we emphasise here the wider, urgent need for government to take action in parallel on wastewater pollution.

The consequences of failing to address nutrient pollution in the round are grave. They extend not just to the state of Northern Ireland's loughs and rivers, but also to drinking water supplies and to prospects for future agricultural, residential and commercial developments. These challenges will only become more acute in the face of climate change.

We have reported recently on implementation of WFD Regulations in Northern Ireland.⁶ These regulations require DAERA to set objectives for all water bodies and to identify measures to achieve them. DAERA's draft third cycle River Basin Management Plan under the WFD Regulations identified nutrient pressures as 'the biggest reason why water bodies have not achieved good status'.⁷ In implementing the WFD Regulations, therefore, DAERA and other authorities will need to reduce nutrient pollution, particularly from the agri-food industry and the wastewater system.

The OEP has had a longstanding interest in the NAP. We initially corresponded with DAERA in autumn 2023, concerning the then delayed NAP review. At that time, DAERA acknowledged the urgency of this matter and agreed that 'the situation at Lough Neagh reaffirms the need to address these issues at pace'.⁸ Further to that correspondence, the NAP review was carried out in winter 2023. Given the slow progress to date, we expect that every effort will now be made to ensure the NAP Regulations are updated and effectively implemented in a timely way.

The issue of reducing nutrient pollution is urgent and must be dealt with accordingly.

Evidence in DAERA's NAP Implementation Report 2020-2023⁹ and its Review of the 2019 NAP Regulations¹⁰ demonstrates that the current NAP Regulations do not sufficiently reduce nutrient pollution from agriculture to the levels needed to meet required environmental outcomes. These outcomes include the achievement of Good Ecological Status or Potential for water bodies under the WFD Regulations.

We therefore welcome aspects of the proposals in the NAP consultation. For example, it signals a clear commitment to reverse high levels of nutrient pollution

⁵ Office for Environmental Protection, 'Drivers and Pressures Affecting Terrestrial and Freshwater Biodiversity in Northern Ireland' (Office for Environmental Protection 2024) E03082970 <<https://www.theoep.org.uk/report/drivers-and-pressures-northern-ireland>> accessed 30 May 2025.

⁶ Office for Environmental Protection, 'A Review of Implementation of the Water Framework Directive Regulations and River Basin Management Planning in Northern Ireland' (2024) <www.theoep.org.uk/report/implementation-water-framework-directive-northern-ireland> accessed 18 September 2024.

⁷ Northern Ireland Environment Agency, 'Draft 3rd Cycle River Basin Management Plan: For the North Western, Neagh Bann and North Eastern River Basin Districts (2021 – 2027)' (2021) 90–91 <www.daera-ni.gov.uk/sites/default/files/consultations/daera/Draft%203rd%20cycle%20River%20Basin%20Management%20Plan%20for%20Northern%20Ireland%202021-2027_0.PDF> accessed 6 June 2024.

⁸ Office for Environmental Protection, 'Review of Nutrient Action Programme in NI a "Matter of Urgency" as Deadline Missed' (2023) <www.theoep.org.uk/report/review-nutrient-action-programme-ni-matter-urgency-deadline-missed> accessed 3 June 2025.

⁹ Department of Agriculture, Environment and Rural Affairs, 'Nutrients Action Programme Implementation Report for 2020 – 2023' (2024) <www.daera-ni.gov.uk/publications/nutrients-action-programme-implementation-report-2020-2023> accessed 24 February 2025.

¹⁰ DAERA, 'Review of the 2019 Nutrient Action Programme Regulations' (2025) <www.daera-ni.gov.uk/sites/default/files/2025-05/Review%20of%20the%202019%20Nutrient%20Action%20Programme%20Regulations.PDF> accessed 2 June 2025.

from agriculture and adverse trends in inputs to the water environment. It also identifies the particular need to address the phosphorus surplus, which DAERA's evidence highlights as a major driver of current water quality problems.

Measures for ensuring compliance with the regulations are an important feature of the consultation document. We support the proposed increase in annual inspection rates, while also noting the need for advice and guidance. Both elements should be designed and applied to enable effective implementation. Sufficient support for farmers to make the changes required will be a critical part of the success of the NAP proposals.

The attached annex details our views and advice on a number of more specific points in the consultation. We are in the process of developing further evidence on a) the sufficiency of the proposed NAP measures to address nutrient inputs from agriculture to aquatic ecosystems, and b) the Habitats Regulations Assessment of the proposed NAP. As our view of the evidence develops, and as the consultation progresses, we may offer further advice.

In addition to this advice, we are also preparing an environmental law report to lay before the Assembly. In this report, we will set out our analysis of the implementation of the current NAP Regulations. We aim to present this report to the Northern Ireland Assembly and DAERA in early 2026.

In the meantime, I trust that you will find this advice helpful and wish you success in meeting the significant challenges ahead, by concluding your consultation and amending the NAP for its next period of implementation. We would be pleased to discuss any of the points in our advice and to offer our wider assistance, should you find that helpful, in addressing the problem of nutrient pollution.

Yours sincerely

A handwritten signature in black ink, appearing to be 'GStacey', written in a cursive style.

Dame Glenys Stacey
Chair, Office for Environmental Protection

Annex

Office for Environmental Protection advice on specific aspects of the Nutrient Action Programme consultation

1. Phosphorus and Nitrogen Balance targets

In the NI Environmental Improvement Plan (EIP),¹¹ DAERA made a commitment to, 'by 2025 introduce Phosphorus and Nitrogen Balance targets for the NI agricultural sector, with a phased reduction to 2033 targets'. In the NAP consultation, DAERA has now proposed statutory targets for phosphorus balances on farms above 150kg/ha/year organic nitrogen, these being the most intensive farms.

While the proposed introduction of such statutory targets is welcome, we question the sufficiency of the proposed phosphorus targets (10kg/ha/year by 2027 and 8kg/ha/year by 2029) for reducing phosphorus losses to levels compatible with good ecological status in adjacent water bodies.

We highlight that DAERA has included evidence in the NAP consultation document that a national phosphorus surplus standard of approximately 5.5kg/ha/year is sustainable, but note that no statutory target for the phosphorus balance set at the national scale is proposed. Such national targets should help bring about changes across the whole agri-food sector, and not just at the farm level.

In addition to this focus on phosphorus, DAERA should give similar consideration to setting a nitrogen balance target at both farm and national scales. This is necessary to address the EIP commitment to targets for both nitrogen and phosphorus, and is important for driving reductions in nitrogen loss to coastal water bodies and ammonia emissions to air.

Of course, the targets will need to be backed up by effective implementation plans, with means of monitoring their implementation and taking corrective action if progress is off track.

Recommendation 1: DAERA should review the proposed phosphorus balance targets for farms above 150kg N/ha/yr, to ensure they will be sufficient to achieve the intended environmental outcomes.

Recommendation 2: To support achievement of the intended environmental outcomes, DAERA should include, in the revised NAP:

- a) a phosphorus balance target at national scale, and
- b) a nitrogen balance target at farm and national scale.

2. The selection of measures to achieve intended outcomes

We encourage DAERA to be transparent and clearly base its decisions on evidence, explaining how it has done so. This should be the case both in setting targets (as highlighted above) and in the selection of the proposed measures to achieve them. Conversely, it should also apply to decisions to exclude measures that would appear

¹¹ DAERA, 'Environmental Improvement Plan for Northern Ireland' (2024) <www.daera-ni.gov.uk/publications/environmental-improvement-plan-northern-ireland> accessed 2 June 2025.

relevant, and how, with any such omissions, any resulting gaps in achieving outcomes will be addressed. While this has been done to some degree, we see room for improvement.

For example, we note that there is no consideration of the potential requirement for soil testing before applying manures and slurry, except in the case of the application of high phosphorus manures or slurries, or when manure or slurry is applied in combination with inorganic fertiliser. This is despite DAERA's acknowledgement in the NAP consultation document that over 40% of soils in Northern Ireland have more phosphorus than needed for agronomic purposes. In some catchments, the proportion of soils so affected is significantly higher. The continued application of manures to these soils poses a particular ongoing risk to water quality.

Similarly, we suggest that DAERA should consider and set out its approach to addressing the content and use of animal feeds. DAERA's evidence in the NAP consultation is again clear on this subject, that, at a national scale, phosphorus in imported animal feeds is responsible for much of the phosphorus surplus.

We advise, therefore, that DAERA should further consider how best to address such risks and gaps, of which these are among the most significant. This could be through the NAP, or perhaps via other routes, for example regulations or other measures relating to animal feeds.

Recommendation 3: In finalising the amended NAP Regulations, DAERA should provide a rationale for gaps in the regulations and detail the means by which these gaps will be addressed if the intended environmental outcomes are to be achieved.

3. Implementation of the Water Framework Directive Regulations

Our report in 2024 on implementation of the WFD Regulations found that Northern Ireland is not on track to meet the Environmental Objectives under those regulations or the targets DAERA has set. We are particularly concerned about the adequacy of measures to achieve the Environmental Objectives with a 2027 deadline. We highlighted a need to act with pace, urgency and clarity in relation to these outcomes and others that depend on them.

In this context, it will be important for DAERA to provide clarity on the contributions of the new NAP measures towards meeting the Environmental Objectives set under the WFD Regulations. This should be done alongside the assessment of contributions from other sectors, including wastewater, to ensure the Environmental Objectives are achieved overall.

We understand that the overdue River Basin Management Plan, including the Environmental Objectives and Programmes of Measures, is expected to be published soon. If the NAP measures do not go far enough and fast enough, then it is important for accountability and transparency that stakeholders are aware that additional measures may be required, most likely in the near future.

Recommendation 4: DAERA should set out its assessment of the expected contribution of the NAP measures to achieving Environmental Objectives under

the WFD Regulations, as part of its finalisation and publication of the amended NAP Regulations.

4. Resilience to climate change and other pressures

In our report on drivers and pressures affecting biodiversity in Northern Ireland, we found that the effects of climate change create uncertainty in predicting the outcome of strategies to improve biodiversity. The interaction between climate change and other pressures has been illustrated, for example, by the situation in Lough Neagh. There, in concert with nutrient levels and invasive species, the rise of water temperatures has been a factor associated with algal blooms.

In this context, we advise that DAERA should ensure the new NAP Regulations are effectively designed and implemented in a way that takes into consideration the changing weather and nutrient dynamics associated with climate change, and the consequences for nutrient pollution from agriculture and the receiving environment. Addressing this now in the amendment of the regulations will help strengthen the resilience of the agricultural sector to climate change and avoid unintended consequences for the environment in the future.

Recommendation 5: In finalising the amended NAP Regulations, DAERA should ensure that the new provisions are sufficient to deliver the intended outcomes, taking into account the future effects of climate change, individually and in combination with other pressures.

5. Phosphorus and nitrogen efficiency roadmaps

We welcome the proposed commitment in the consultation to work with the agri-food industry to develop a 'Roadmap for Phosphorus Efficiency on Farms'. The production of such a 'roadmap' should help provide clarity to stakeholders in the agri-food sector of the role they can play in delivering improvements in water quality, including in Lough Neagh.

We encourage DAERA and the industry to extend this effort to include nitrogen. The current nitrogen surplus in agriculture is responsible for nitrogen losses to water, and ammonia and nitrous oxide emissions to air. There is equal need for cooperation and clarity in relation to nitrogen as well as phosphorus.

A phosphorus and nitrogen efficiency roadmap for farms would enable a coherent and holistic approach to be developed, and more effective implementation, to address overall nutrient loss of phosphorus and nitrogen to both aquatic and terrestrial ecosystems.

Similar consideration should be given to developing a roadmap for nitrogen and phosphorus emissions from the wastewater system.

Recommendation 6: DAERA should work with the agri-food sector to bring forward a single, integrated roadmap covering both phosphorus and nitrogen efficiency on farms.

6. Advice, support and incentives

Effective implementation of the NAP Regulations relies heavily on the efforts and commitment of farmers to comply with the regime. At the same time, many farmers are already struggling to balance various regulatory and commercial demands and the challenge of farming in an ever-changing natural environment.

While it is clear that additional NAP measures are essential to address water quality issues and legal obligations, we consider that it is also important to recognise the challenges that many farmers will face as a result of the consequences of more demanding regulations. In this context, we note the views on the NAP consultation, recently expressed by members of the agri-food sector.¹²

Our view is that, whatever standards and expectations these regulations might set, DAERA should ensure farmers have access to the appropriate incentives and on- and off-farm support needed for effective implementation. These should strike a proportionate balance between support to those farmers who wish to comply but may experience difficulties, on the one hand, and an appropriate degree of compliance assessment and enforcement, on the other.

The particular benefits of on-farm advisory support for improving nutrient management have been clearly demonstrated in the research outlined in DAERA's NAP Review report. We would also encourage DAERA to consider how the focused area approach proposed in the NAP consultation can be aligned with the proposals for spatially-targeted measures in the draft ammonia strategy.¹³ We consider that bringing these two approaches together would facilitate their more effective implementation and uptake by farmers.

Recommendation 7: Alongside amendment of the technical standards of the NAP Regulations, if it has not already done so, DAERA should review incentives, advice and guidance to ensure the sufficiency of these mechanisms in supporting farmers to comply with the regime.

Recommendation 8: DAERA should determine how best to align the focused area approach proposed in the NAP consultation with the proposals for spatially-targeted measures in the draft ammonia strategy.

¹² Ulster Farmers Union, 'Agri-Food Leaders Demand Immediate Pause to NAP Consultation amid Industry Concerns' (2025) <www.ufuni.org/agri-food-leaders-demand-immediate-pause-to-nap-consultation-amid-industry-concerns/> accessed 3 June 2025.

¹³ DAERA, 'Update on the Proposed Ammonia Strategy' (2025) <www.daera-ni.gov.uk/sites/default/files/2025-02/Update%20on%20the%20Proposed%20Ammonia%20Strategy.PDF> accessed 4 June 2025.