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By email only

Dear John

I am pleased to respond to your request for an assessment of the Northern Ireland Environment Strategy's suitability for adoption as an Environmental Improvement Plan (EIP).

At a time of worrying trends of environmental decline across the globe¹, there is an urgent need for action to halt and reverse trends. The people we met during our visit to Belfast in June this year were clear about the particular issues in Northern Ireland, and the need for determined action to protect, restore and enhance the Northern Ireland environment.

We consider the current Environmental Strategy adequate and appropriate as the basis for Northern Ireland's first EIP. The Strategy covers a breadth of environmental issues across its six strategic environmental outcomes. It is a welcome step towards sustained and long-term action to improve the environment.

However, we recognise that Northern Ireland faces some difficult challenges, and with that in mind, we outline below ways in which we think the Strategy could be improved and so become the basis of a yet better EIP for Northern Ireland. In the addendum to this letter, we set out our future approach to scrutiny of the EIP and provide further detail on where the EIP can be strengthened.

¹ Convention on Biological Diversity, Global Biodiversity Outlook 5, (2020), <https://www.cbd.int/gbo5> [accessed August 2022]

Northern Ireland's first EIP is a rare opportunity to be clear about the Executive's resolve: its determination to protect, enhance and restore the environment in the face of competing pressures.

We have all seen the effects of world events on energy, food security and household budgets, and we see the pressures on public expenditure for other important issues such as health and education. There is an understandable risk that the environment will struggle to compete with what appear to be more immediate needs. This is always the case, of course, and yet this must change, and Northern Ireland's first EIP provides a unique opportunity for change. We do urge the Executive to set ambitious environmental goals and to be determined in seeing them through.

In our view, Northern Ireland's first EIP will be stronger, and you will be more likely to succeed in protecting, enhancing and restoring the environment where needed if the EIP is clear about priorities. We believe firmly that with so much to be done to protect, restore and enhance the environment it is so important to prioritise - to make plain what matters most and what action is to be taken, and when.

By way of example, during our visit we heard from environmental charities, food processors, planners, scientists, and officials. We saw a common ambition to do better. When we heard about the significance of food production and export to the economy or the limited impact that an ammonia strategy might have on designated conservation sites, it seemed ambitious to expect rapid and significant improvement. Preventing further deterioration is possible now, however, so could be given urgent and clear priority, before aiming much higher at the earliest realistic opportunity.

In our view, there is scope to link priorities, such as those that improve air quality with those for public health, or for water quality with economic and social development. We understand the complexities of public administration and the challenges of finding joined up solutions and then developing integrated plans. Perhaps, in a future visit, we can discuss progress here, and see early evidence of an integrated approach, in practice.

As the Strategy is currently drafted, there is an imbalance between how environmental issues of different scale, magnitude or level of significance are presented. By way of example, the complex issues relevant to protecting the natural environment (on land or at sea) or water resources are each reduced to single proposals in the Strategy. The same level of importance is given to much narrower proposals such as the carrier bag levy or reducing single use plastic. We advise rebalancing, in preparing the EIP. Rebalancing could help exemplify the importance of the most strategically significant matters.

As things stand, there is no statutory requirement for measurable targets in Northern Ireland under the Environment Act 2021. In our view, that makes it all the more

important that the EIP contains sufficient detail and specificity. Without it, assessment of the effectiveness of the EIP in delivering significant environmental improvement will be more difficult and is likely to be less reliable, when proper evaluation of the effectiveness of any actions is so necessary.

As demonstrated by the recent High Court judgment on the UK's Net Zero Strategy, a lack of detail within a strategy can undermine transparency and accountability. In our view there is a compelling case for greater detail and specificity. Improved clarity on priorities, targets, accountability and evaluating progress will all strengthen the EIP and its prospects of success.

In conclusion, we hope that our advice is of value and that it enables you to further develop Northern Ireland's first EIP and improve its prospects of success in protecting, restoring and enhancing the environment in Northern Ireland.

We recognise that although DAERA leads for the Northern Ireland Executive the EIP will bind all Northern Ireland public bodies into delivering environmental improvement. For that reason, we strongly urge that the EIP has sufficient prominence and parity alongside other major programmes, especially the Green Growth Strategy.

As we continue developing the OEP's scrutiny of environmental progress in Northern Ireland, we look forward to working closely with DAERA and others in Northern Ireland, to support your ambitions for the environment.

Yours sincerely,

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

Dame Glenys Stacey
Chair, Office for Environmental Protection

Addendum: Framework for Scrutinising the EIP and Annual Progress Reports

The Environment Act 2021 ('The Act') established the OEP and our substantive functions in Northern Ireland commenced 28 February 2022. Schedule 2 of the Act sets out the provision for DAERA to prepare an Environmental Improvement Plan (the EIP) for significantly improving the natural environment. The EIP must set out the steps that DAERA, and any other Northern Ireland department, intend to take to improve the natural environment. Subsequently, DAERA must prepare and publish annual reports setting out what has been done to implement the EIP, and consider whether the natural environment, or aspects of it, have improved.

The Act requires the OEP to monitor independently and report annually on the Executive's progress in accordance with its current EIP. It must do so by publishing its own report in response to DAERA's annual report within six months of that report being laid in the Assembly.

The OEP fulfils an analogous role in England, where an EIP is already in place. In May 2022 we published our report *Taking stock: protecting, restoring, and improving the environment in England*², setting out what we consider are the essential building blocks for national environmental stewardship.

Once the EIP is in place, we will draw on, and adapt, this analytical framework to assess the plan's continuing ability to deliver significant environmental improvement.

Below we set out the main questions which we will consider in our assessment of the EIP.

Is the vision for the environment sufficiently clear to direct and drive action?

The establishment of Northern Ireland's first EIP is an unprecedented opportunity to set a vision to drive significant and transformative change. A clear and compelling vision signals cross-departmental commitment to the environment, sets the direction for transformative change, all the while creating a clear line of sight to the policy, strategy, targets, and monitoring required to deliver it.

The Strategy sets a "future vision" and desired "outcome" for each of the six Strategic Environmental Outcomes (SEOs). The scope of the visions and outcomes differ and are at times inconsistent across the 28 proposals, making it unclear how they will work together towards delivering DAERA's core vision of "sustainability at the heart of a living, working, active landscape valued by everyone".

There are trade-offs between the environment and other policy areas, such as, agriculture, energy, transport, or planning. Where these exist, it should be made clear, with the environment given proper priority. In particular, we urge that the Strategy, and its vision, are given equal prominence to the green growth strategy.

² Office for Environmental Protection, *Taking stock: protecting, restoring and improving the environment in England*, (2022), www.theoep.org.uk/report/taking-stock-protecting-restoring-and-improving-environment-england [accessed August 2022]

Are the most important environmental issues identified and prioritised?

The Strategy sets out action across a broad range of issues and areas of environmental concern but provides limited indication of what should be prioritised.

Environmental issues of different scales are presented together, without any evaluation of which pose the greatest risks, or where action can have the greatest positive impact to significantly improve the natural environment. There is an imbalance in how some major issues and drivers are addressed. For example, there are no commitments directly leading to a reduction in pollution and an improvement in human health within the air quality proposal, although we note that the Clean Air Strategy is in development. In comparison, litter and illegal dumping of waste are incorporated within five proposals³ and by over 40 commitments. While litter and waste may be visible and of concern to households in Northern Ireland⁴, it is unclear how the risk to the environment and human health from these pressures compares to other proposals.

In adopting the Strategy as the EIP, and as the EIP evolves, DAERA should provide greater detail under each of the proposals and set out its priorities for the environment, with the most important environmental concerns addressed proportionally.

Are environmental commitments and targets coherent and sufficiently ambitious?

Targets can be important for signalling ambition, directing action, and ensuring that laws, strategies and policies are implemented. A coherent set of targets can help set priority areas for action, directing efforts where they are most needed.

We were pleased to see changes in the Strategy following the public consultation but are concerned that ambition remains limited by the lack of specific targets and commitments. There are over 300 commitments or targets across the 6 SEOs, with 65% of these having no deadlines for delivery. Over half are not measurable, and over a quarter of the commitments are neither measurable nor have a deadline.

There are also areas lacking any targets at all. For example, Sustainable Settlements and Environmental Regulation: Permitting have 'actions' but no associated target(s) within the Strategy.

Without greater specificity it will be difficult to track progress, understand if an intervention has been delivered and successful, and ultimately if and how actions taken are contributing to a significant improvement to the environment. The importance of detailed proposals was highlighted by the recent English High Court

³ Litter and the illegal dumping of waste are a part of the following proposals: 5. Neighbourhood Environment Quality, 20. Reducing Single-Use Plastic (SUP), 21. Carrier Bags, 26. Waste Management, 27. Illegal Waste Disposal & Fly-tipping

⁴ The Department of Agriculture, Environment and Rural Affairs, Northern Ireland Environmental Statistics Report 2022, (2022), <https://www.daera-ni.gov.uk/publications/northern-ireland-environmental-statistics-report-2022> [accessed August 2022]

judgment on the UK's Net Zero Strategy.⁵ In that case, the court emphasised that strategies like this must set out, in detail, how proposed outcomes will be achieved in order to secure transparency and accountability.

If adopted as the EIP, we would expect to see the Strategy expand over time to include comprehensive targets and actions for each SEO. We would also expect DAERA to provide greater clarity on how the EIP aligns with other related targets. For example, net zero targets set out as part of the Climate Change Act (Northern Ireland) 2022⁶ and targets and milestones in the Energy Strategy – The Path to Net Zero Energy⁷. None of these are currently reflected in the Strategy.

Regrettably governments often fail to meet voluntary targets. We therefore urge DAERA to consider if and when additional weight and confidence can be given to targets through legal frameworks.

Is delivery of the EIP supported by the right strategy, policy and resourcing?

The merit of the EIP will depend on the ability to deliver on the commitments it sets out. DAERA will need to provide confidence that it will overcome perceived inertia and inaction. Many of the actions under the SEOs are dependent on the 41 strategies and plans which are not yet in place. These cover important areas such as air quality, ammonia, biodiversity, protected areas, water (both freshwater and marine), and agriculture. Of the 41 strategies and plans, we understand that 8 are due to be developed this year, 7 in 2023, 17 in subsequent years and 9 without deadline. We stress the importance of progressing these at pace.

Implementing, monitoring and evaluating the EIP, will require adequate resources. We encourage DEARA to set out more clearly how it will resource this.

Is the delivery of the EIP supported by appropriate governance?

The delivery of the EIP will require strong governance arrangements to provide the necessary oversight and accountability. The governance of the EIP will need to reflect that delivery is not the sole responsibility of DAERA, but it is a cross-Executive responsibility and relies on Arm's Length Bodies, local delivery partners and others.

We look forward to seeing the EIP embedded across the Executive alongside supporting measures such as a policy statement on environmental principles. That policy statement is an important tool for supporting the EIP and ensuring that environmental considerations are given their appropriate weight in policy development across the Executive.

⁵ Courts and Tribunals Judiciary, Friends of the Earth -v- BEIS (Secretary of State for Business, Energy and Industrial Strategy), (2022) EWHC 1841 (Admin), <https://www.judiciary.uk/judgments/friends-of-the-earth-v-beis/> [accessed August 2022]

⁶ Legislation.gov.uk, Climate Change Act (Northern Ireland) 2022, (2022) www.legislation.gov.uk/nia/2022/31/contents/enacted [accessed August 2022]

⁷ Department for the Economy, Energy Strategy – Path to Net Zero Energy, (2021), www.economy-ni.gov.uk/publications/energy-strategy-path-net-zero-energy [accessed August 2022]

In the future, we would welcome further consideration of the efficacy of governance and institutional arrangements in place to support implementation and enforcement of environmental commitments.

Is the EIP underpinned by a fit-for-purpose monitoring regime to assess and evaluate progress?

A purposeful monitoring regime is needed to understand the state of the environment, the direction of trends against baselines and whether interventions have the desired effects. This monitoring regime must be comprehensive and directly linked to the proposals and SEOs.

The absence of comprehensive monitoring and evaluation will impede satisfactory reporting of progress. A monitoring regime must therefore be developed over the early life of the EIP. In addition, where data exists it must be openly available, comprehensively analysed and interpreted. These requirements should inform the requirement for a Data Statement set under Schedule 2 Paragraph 5 of the Environment Act 2021⁸, which will also require the publishing of data used to monitor delivery of the EIP.

⁸ The Environment Act 2021 Schedule 2 Paragraph 5 states DAERA "must make arrangements for obtaining such data about the natural environment as [it] considers appropriate for the purpose of monitoring whether the natural environment is, or particular aspects of it are, improving in accordance with the current environmental improvement plan". Legislation.gov.uk, Environment Act 2021, (2021), <https://www.legislation.gov.uk/ukpga/2021/30/contents/enacted> [accessed August 2022]