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# Revised 2018-2033
## Local Development Plan

# Statement of Common Ground
## Supporting Sustainable Development within Carmarthenshire by Safeguarding Phosphorus Sensitive Riverine Special Areas of Conservation

April 2024

Cyngor Sir Gâr
Carmarthenshire
County Council

## Statement of Common Ground

# Supporting Sustainable Development within Carmarthenshire by Safeguarding Phosphorus Sensitive Riverine Special Areas of Conservation

**Prepared by Carmarthenshire County Council**

**April 2024**

# Cynnwys / Contents

# Abbreviations

| | |
|---|---|
| **(r)LDP** | (revised) Local Development Plan |
| **BBNPA** | Bannau Brycheiniog National Park Authority |
| **CCC** | Carmarthenshire County Council |
| **CJC** | Corporate Joint Committee |
| **CeCC** | Ceredigion County Council |
| **PeCC** | Pembrokeshire County Council |
| **DCWW** | Dŵr Cymru Welsh Water |
| **HRA** | Habitat Regulations Assessment |
| **IAP** | Interim Action Plan |
| **LA** | Local Authority |
| **NMB** | Nutrient Management Board |
| **NN** | Nutrient Neutrality |
| **NRW** | Natural Resources Wales |
| **PCC** | Powys County Council |
| **PCNPA** | Pembrokeshire Coast National Park Authority |
| **SAC(s)** | Special Area(s) of Conservation |
| **SPA(s)** | Special Protection Area(s) |
| **TAN(s)** | Technical Advice Note(s) |
| **WFD** | Water Framework Directive |
| **WG** | Welsh Government |
| **WRMP** | Water Resources Management Plan |
| **WwTW** | Wastewater Treatment Works |
| **NbS** | Nature Based Solutions |
| **PRaM** | Phosphorus Reduction and Mitigation Programme |

# 1. Introduction

1.1.1. The purpose of this document is to set out a collaborative approach to support the development and implementation of Carmarthenshire's Revised Local Development Plan 2018-2033 (rLDP)[1], and to meet the requirements of the Conservation of Habitats and Species Regulations (2017)[2] (the Habitats Regulations). The cross-county nature of riverine Special Areas of Conservation (SAC)[3] catchments calls for a Statement of Common Ground (SoCG) between Local Authorities, NRW, DCWW and BBNPA to address the need for nutrient neutrality and/or betterment for the delivery of Carmarthenshire County Councils (CCC) rLDP in order to secure compliance with the Habitats Regulations. The SoCG informs the inspectors of the agreed position of Local Planning Authorities[4], Natural Resources Wales (NRW), and Dŵr Cymru Welsh Water (DCWW) relating to the requirement that any development within the Afon Tywi, Afon Teifi and Afonydd Cleddau SAC must not contribute further nutrient input[5]. It is important to note that CCC rLDP does not impact the Afon Wye, Afon Usk and Afonydd Cleddau SAC.

1.1.2. A WwTW capacity/headroom approach is being adopted within the Tywi SAC catchment. This is contingent on the fact that the SAC water body is not failing compliance targets for phosphorus and that the servicing treatment works has capacity for new connections. This will only apply to WwTWs that have received a revised permit as part of NRWs Review of Permit process. Planning applications that relate to development which will connect to the sewered network will not need to prove nutrient neutrality, but applications will only be granted by the LPA if DCWW advise that they can process the addition of wastewater/sewerage within

[1] Second Deposit Revised Local Development Plan (gov.wales)
[2] The Conservation of Habitats and Species Regulations 2017 (legislation.gov.uk)

[3] Natural Resources Wales / Sites protected by European and international law

[4] Natural Resources Wales / Advice to planning authorities for planning applications affecting phosphorus sensitive river Special Areas of Conservation

[5] Natural Resources Wales / Principles of nutrient neutrality in relation to development or water discharge permit proposals

the limits of environment permits as issued by NRW at DCWW Wastewater Treatment Works (WwTWs) and are in compliance with the Habitats Regulations.

## 1.2. Partners

1.2.1. Partners concerned:

- Carmarthenshire County Council (CCC)
- Cyngor Sir Penfro (Pembrokeshire County Council) (PeCC)
- Pembrokeshire Coast National Park Authority (PCNPA)
- Cyngor Sir Ceredigion (Ceredigion County Council) (CeCC)
- Powys County Council (PCC)
- Bannau Brycheiniog National Park Authority (BBNPA)
- Natural Resources Wales (NRW)
- Dŵr Cymru Welsh Water (DCWW)

1.2.2 CCC, CeCC, PCNPA, PCC, PeCC and BBNPA are collectively referred to as Local Planning Authorities (LPAs).

## 1.3. Strategic Geography

1.3.1. The County of Carmarthenshire is bounded to the north by Ceredigion, to the east by Powys and Bannau Brycheiniog, Neath Port Talbot and Swansea to the South and by Pembrokeshire to the West. The County is drained by several rivers discharging into the Bristol Channel and Cardigan Bay. Carmarthenshire intersects five phosphorus (P) sensitive catchments within its county boundary which have been determined to have varying statuses of compliance[6].

1.3.2. The Corporate Joint Committee (CJC) for South-West Wales[7] covers the local authority areas of Carmarthenshire, Neath Port Talbot, Pembrokeshire, and Swansea. The Committee aims to improve the regional planning, co-ordination and delivery of transport, land use planning, economic development, and energy. Ceredigion and Powys are members of the Mid Wales Corporate Joint Committee. It should be noted that the CJC's have responsibility for the preparation of the Strategic Development Plan (SDP) for the region. This Plan will set out the strategic planning policies for the respective regions across Wales with subsequent LDPs required to conform to its policies and provisions. It should be noted for the purposes of this SoCG the preparation of SDP's are in their formative stages and this document will respond to changes in their progression as part of any future iterations.

1.3.3. The effected LPAs (PeCC, PCC, CeCC, CCC) contain SAC river catchments that are under pressure from high levels of existing nutrient input, notably phosphorus. The additional nutrient loading from the increase in wastewater and/or the change in land use created by a new plan or project can create an 'impact pathway' that will exacerbate the problems related to nutrient loading that are currently seen in the SAC rivers. Each SAC catchment is different and nutrient loading from new development will be assessed and granted/rejected accordingly. The existence of potential for an impact pathway from new development will result in 'Likely

[6] Natural Resources Wales / Compliance Assessment of Welsh River SACs Against Phosphorus Targets

[7] South West Wales CJC Corporate Plan (cjcsouthwest.wales)

Significant Effects' on the ecology of the European sites due to increased nutrient inputs. Phosphorus is produced where new development leads to an increase in overnight stays within catchment or accommodates additional population within catchment. Phosphorus is referred to as total phosphorus (TP). The compound phosphate forms a fraction of the TP load.

1.3.4. Within the CCC boundary the Afonydd Cleddau / Cleddau Rivers SAC, Afon Tywi / River Tywi SAC, the Afon Teifi / River Teifi SAC, Afon Wysg/ River Usk SAC, and the Afon Gwy / River Wye SAC are European sites that are in unfavourable condition or are close to unfavourable condition due to excessive P concentration. Parts of the catchments of these European sites are within the CCC, PCC, CeCC, BBNPA and PeCC administrative boundaries. The Afonydd Cleddau, Afon Wye and River Usk are not impacted by the housing allocations in the Carmarthenshire rLDP. The Teifi draining through CCC is impacted by CeCC LDP.

## 1.4. Background

1.4.1. The area concerned is detailed in *figure 1*. It specifically relates to those riverine SAC catchments which intersects the Local Planning Authority Area of CCC and the neighbouring Local Planning Authorities (LPA) of CeCC, PCNPA, PeCC, PCC, and BBNPA.

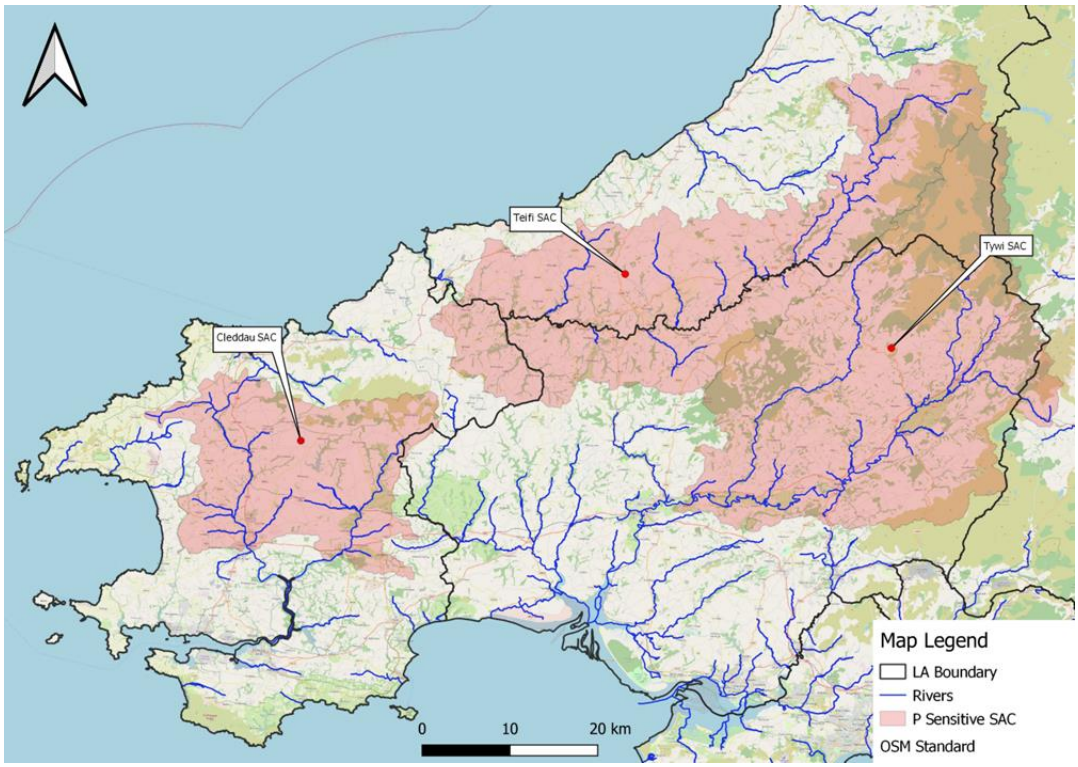



*Figure 1: SOCG Area*

The recent (2018) ruling in the European Court of Justice referred to as 'The Dutch Case' or 'The Dutch Nitrogen Cases'[8] resulted in a change to how the Habitat Regulations (as amended, 2017) are applied to plans or projects in the catchments of European Designated sites (hereafter, European sites) that are under pressure from pre-existing levels of nutrients. The Dutch Case was concerned with the potential detrimental effects of nutrient loading from agricultural practices in the Netherlands on European Designated sites. However, the legal interpretation of The Dutch Case now requires local planning authorities to consider the impacts from new plans and projects that may generate additional nutrient inputs to European sites and be sufficiently certain that measures to reduce phosphorus loading can be relied upon at the time of granting permission[4].

1.4.2. Following the Dutch Case, JNCC advice and NRWs compliance report, NRW issued interim planning advice in relation to new planning applications that have the potential to increase phosphorus (P) levels in rivers that are designated as SACs[4]. Five SACs have been identified within West Wales and are under pressure from elevated nutrient concentrations[6]. NRW's Compliance Assessment of Welsh River SACs (2021) found that out of 107 water bodies that were assessed, 39% passed the new targets and 61% failed[6].

1.4.3. ***Water Framework Directive*** (WFD): The Afon Teifi, Tywi, Cleddau, Wye and Usk are regulated under the WFD[9]. All five are required to meet '*Good'* ecological status under the UK's Water Environment (Water Framework Directive) *(England and Wales) Regulations 2003, 2017* [10] referred to in this agreement as the WFD. Not all waterbodies are meeting the required WFD ecological status today and the existing status could deteriorate with the input of additional nutrients.

1.4.4. ***Habitats Directive***: Parts of the Afon Teifi, Tywi, Cleddau, Wye and Usk are Riverine sites of Special Area of Conservation (SAC) and European Marine Sites. Any consent modification which might be identified as necessary to provide capacity

[8] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62017CA0293
[9] https://waterwatchwales.naturalresourceswales.gov.uk/en/
[10] The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (legislation.gov.uk)

for increased development will need to be subject to assessment under the Habitat Regulations.

1.4.5. ***DCWW's AMP7 2020-2025:*** The planned phosphorus reduction investment strategy programme states that all WwTW will be compliant with NRW review of permits by 2032 with at least 90% of DCWW's share of the phosphorus reduction required to be completed by the 31/3/30. This includes improvements to WWTWs discharging failing SAC waterbodies. The Review of Permits relates to those WwTW discharging over $20m^3$ / day of Dry Weather Flow (DWF) to a SAC or discharging to a non-designated waterbody draining to a SAC (i.e., where there is no TP limit currently in place), and will meet a backstop environment permit limit of 5 mg/l. DWF is the average daily flow reaching WwTW during a period without rain, DWF is calculated using a defined methodology and based on a statistical assessment of the flows arriving at WwTWs. Sites with DWF between 20 and $50m^3$/d (which do not have Mcert flow meters installed) will use a calculation based on population served and estimated typical infiltration. Under DCWW's current AMP7 programme and AMP8 obligations, investment has already been allocated to improving phosphorus removal at two WwTWs; these WwTW locations are Lampeter and Llanybydder, which will receive flows from site allocations in both CeCC and CCC.

1.4.6. ***DCWW AMP8 2025-2030:*** This sets out DCWW's intention to deliver £1.4bn worth of investment in wastewater systems in order to minimise the impact on the environment. Collaboration with key stakeholders including NRW and LPAs will be key to delivering environmental protection.

1.4.7. ***Afonydd Teifi*****:** The combination of all three LPAs gives a total of 30 (47% from CCC, 47% from CeCC and 6% from PeCC) site allocations in the Afon Teifi SAC riverine catchment. The cumulative nutrient budget to mitigate based on the backstop 5 mg/l P limit is 487.51 kg TP/year. This would allow a total of 842 residential units to come forward from the respective LDPs (189 units for Carmarthenshire, 592 units for Ceredigion and 61 units for Pembrokeshire). Housing allocations in the Ceredigion LDP make up the largest portion (64%) of the total nutrient budget in the Teifi SAC, followed by Carmarthenshire (27%) and Pembrokeshire (9%).

## 1.5. Current Work on Nutrient Mitigation

1.5.1. The First Minister hosted the first Phosphorus Summit in July 2022 at the Royal Welsh Show. In March 2023, the Second River Pollution Summit, again attended by representatives from the Local Authority, further highlighted the need for a River Pollution Action Plan and to develop solutions with haste. In November 2023, the Third River Pollution Summit was held.

1.5.2. Carmarthenshire County Council were the first Council in Wales to develop a Nutrient Budget Calculator. This has now been expanded to form the West Wales Nutrient Budget Calculator. It has been designed to help facilitate developers with calculating their phosphorus budget. Accommodating the calculator is the Guidance document and the Technical Review.

1.5.3. Mitigation guidelines have been created by CCC and are available on the LAs Website. NRW have subsequently published their mitigation menu. Any mitigation measures intended to avoid or mitigate potential phosphorus impacts must demonstrate that they are based on the 'best available evidence', will be effective 'beyond reasonable doubt', are based on estimates that are 'precautionary', and can be secured 'in perpetuity' (80-125 years). Whilst the baseline is expected to improve via a wider reduction in phosphates via wastewater treatment works and land use improvements, the aim is to ensure developers also have a streamlined way to mitigate nutrient pollution, allowing planned building to continue and creating new habitats across the country.

1.5.4. Upgrades to wastewater treatment works are detailed in DCWW Phosphorus Programme.[11]

1.5.5. CCC assisted the NMBs in establishing the West Wales River Stakeholder Group.

[11] SAC Rivers: Source Apportionment Reports | Dŵr Cymru Welsh Water (dwrcymru.com)

1.5.6. CCC has produced an Interim Action Plan which outlines the potential routes available to the LA to mitigate any negative impacts on the conservation of species and habitats objectives of the relevant SACs, resulting from its rLDP. Therefore, demonstrating how compliance with Habitats Regulations can be achieved.

1.5.7. CCC have helped established a Nutrient Management Board (NMB) for the River Tywi, Teifi and Cleddau SAC catchments. These boards are responsible for producing Nutrient Management Plans to improve the condition of the river and explore the use of nature-based solutions identified by the Authority. CCC works proactively and collaboratively across the sub region and Wales.

1.5.8. CCC approached DTA Ecology to produce a report on the application of nutrient neutrality within a headroom catchment - the River Tywi SAC catchment. The advice and interpretation provided by DTA Ecology has provided an explanation on how the Council can navigate planning permissions and nutrient management within a headroom catchment.

1.5.9. CCC commissioned the 'Teifi Study' which is a high-level nutrient mitigation feasibility study. The PRaM project built on this to include ground investigations, accurate costings, landowner engagement and all supporting material to bring two constructed wetlands to planning application stage. This has produced potential wetland locations across the Afon Teifi catchment, including opportunities within CeCC, CCC and PeCC areas, aimed at achieving river restoration. Farm advisory reports have led to infrastructure improvements, septic tank guidance, SuDS, information boards and riparian fencing. The PRaM project also includes investigation of other phosphate mitigation and ecological enhancements. These include wet woodlands and riparian buffer zones.

1.5.10. CCC are producing a Nutrient Management Strategy. The Strategy recognises the broader benefits such as amenity value, biodiversity enhancement and conservation goals with a particular focus on NbS and wider environmental improvement within the Tywi and Teifi SAC catchments. The resource will outline potential investment opportunities from third parties seeking to invest in NbS. A key aspect will link other functioning strategies CCC is undertaking to allow for a cohesive, multifunctional approach to planning and development within the county. The document will

examine best practices, technologies and innovative approaches to nutrient management and highlight effective and efficient initiatives. It will consider high level cost elements for nutrient mitigation strategies, the potential for developer contributions and stacking of benefits and blended funding. The implementation and delivery of this will be documented through the allocation of roles and responsibilities, a set timeline, monitoring and evaluating progress and managing risk and change.

To ensure nutrient mitigation aligns with the bringing forward of housing allocations within the rLDP in a timely and financially viable manner, the documents listed in table 1 have been produced. Following NRWs review of permits nutrient budget calculations have been updated to reflect the 5mg/l backstop limit. This has further embedded confidence in CCCs approach to nutrient mitigation of the rLDP including the technical and financial feasibility of such projects.

| Stakeholder | Work and Documents to support delivery of rLDP |
|---|---|
| Carmarthenshire County Council | • Nutrient Budget Calculator.<br>• Nutrient Budget Calculator Guidance.<br>• Nutrient Budget Calculator Technical Review.<br>• Mitigation Guidelines Technical Review.<br>• Developer Resource.<br>• Interim Action Plan.<br>• Habitats Regulations Assessment Addendum.<br>• Nutrient Management Strategy.<br>• Statement of Common Ground.<br>• Topic Paper: Phosphorus.<br>• River Twyi SAC: Application of Nutrient Neutrality in a Headroom Catchment.<br>• Arup Credit Trading Feasibility Study.<br>• Teifi Nutrient Management Budget and Wetland Feasibility Study. |

| | |
|---|---|
| Ceredigion County Council | • Phosphorus Reduction and Mitigation (PRaM) Project.<br>• SPF water quality monitoring award £250,000. |
| Dwr Cymru Welsh Water | • Source Apportionment Reports for the Tywi, Teifi and Cleddau river catchments.<br>• AMP7 & AMP8 programme.<br>• River Teifi Working Group.<br>• Combined Sewer Overflow Programme.<br>• Phosphorus Programme List.<br>• Collaboration documents.<br>• Our Manifesto for Rivers. |
| Natural Resources Wales | • Wetland Policy.<br>• Mitigation Menu.<br>• Review of Environment Permits.<br>• Compliance Assessment of SACs against Phosphorus Targets.<br>• Advice to LPAs for planning applications affecting phosphorus sensitive river SAC.<br>• SAC Rivers Project.<br>• Agricultural Regulatory Team.<br>• Dairy Monitoring Project. |
| Nutrient Management Boards | • Terms of Reference.<br>• Regional Technical Advisory Group.<br>• West Wales River Stakeholder Group.<br>• Nutrient Management Board Support Officer.<br>• Nutrient Management Board Programme Manager. |
| Welsh Government | • River Pollution Action Plan.<br>• Organogram.<br>• The T&F Nutrient Trading Group. |

| | |
|---|---|
| | • All Wales Calculator.<br>• Funding Agreement for Nutrient Management Boards (3 years).<br>• Statement of Direction. |

*Table 1: Work undertaken to date.*

# 2. SoCG Objectives

2.1.1. To clarify the roles and responsibilities of the respective partners and future developers in contributing towards the provision of sufficient sewerage infrastructure and treatment capacity required to support new development.

2.1.2. To support the delivery of CCC's rLDP and growth aspirations in those areas served by DCWW WwTWs, and assist in determining planning applications in an efficient manner, by setting out a cohesive and transparent approach.

2.1.3. To engender public and developer confidence that the collaborative approach will ensure adequate sewerage infrastructure capacity to safeguard water quality, where the parameter concerned is phosphate, and potentially contribute to countering localised flooding issues.

# 3. Partner Responsibilities

Collectively, partners have the responsibility to adhere and implement the following duties which are pertinent to the conservation and improvement of the SAC waterbodies:

- South-West Wales Area Statement and themes of '*reversing the decline of and enhancing biodiversity'* and '*ensuring sustainable land management'*;
- Section 6 of the Environment (Wales) Act 2016 duty to maintain and enhance biodiversity;
- Regulation 14/15 of Environment (Wales) Act 2016 and coordination between public bodies for the purposes of preparing and implementing Area Plans;
- Duty under Regulation 16A of Habitats Regulations to manage the site network with a view to achieving the management objectives;
- A proactive approach to facilitating the delivery of biodiversity and resilience outcomes being taken by all partners (para 6.4.8 Planning Policy Wales);
- Planning authorities being able to demonstrate that they have taken all reasonable steps to maintain and enhance biodiversity (para 6.4.8 Planning Policy Wales);
- Policy 9 of Future Wales 2040 and identifying opportunities to maximise potential areas to improve the resilience of ecological networks and ecosystems.
- Wellbeing of Future Generations (Wales) Act 2015.

LAs are further responsible for setting out the strategic context for future development and land use objectives within LDPs. The LAs are also responsible for the determination of planning applications against the policies and provisions of their adopted LDP unless material considerations indicate otherwise.

NRW is a competent authority under the Habitats Regulations responsible for determination of environment permits under the EPR 2016. In exercising this function, NRW may determine permit conditions for existing or new discharges, monitoring and enforcing compliance with permits, managing flood protection and consulting on new development to ensure it does not breach flood protection policies. NRW also assumes the role of appropriate nature consultation body under the Habitats Regulations.

DCWW is responsible for the collection, treatment, and disposal of sewage in the areas serviced by WwTWs. DCWW is responsible for providing sewerage services to its customers, complying with its discharge environment permits as set by NRW, and

accommodating appropriate development. DCWW is committed to working with NRW and CCC in order to facilitate the delivery of the rLDP and playing its part in improving the WFD ecological status and meeting the Habitats Regulations for the Afon Teifi, Tywi, Cleddau, Wye and Usk, in line with all relevant legislation. DCWW has a duty to improve, maintain and extend its water and sewerage systems under the respective sections 37 and 94 of the Water Industry Act 1991 and aims to ensure that sufficient infrastructure exists for domestic developments, managed in rolling 5-year Asset Management Periods (AMPs).

# 4. Partner Agreements

The following statements provide an agreed position between the LPAs, NRW and DCWW that facilitates Nutrient Neutrality in failing SAC catchments and a Headroom Approach in passing catchments throughout the delivery of CCC rLDP. Nutrient Neutrality can be defined as an approach for managing new development and water discharge permit proposals to prevent them from causing any net increase in nutrients for the duration of the authorisation[12]. A headroom approach can be defined as permitting sewered development up until the WwTW operational capacity as dictated by the environment permit is reached. Passing catchments are those areas of a riverine SAC that are compliant with water quality targets, specifically phosphorus, as assessed and dictated by NRW[13]. Catchment partnerships relates to additional stakeholders that represent and function to protect and restore riverine habitats and water quality. For example, the Nutrient Management Boards West Wales River Stakeholder Group.

## Key Principles

4.1.1. All parties will collaborate to explore and develop solutions in alignment with their statutory responsibilities.

4.1.2. Where shifts in policy and the scientific evidence base occur, new solutions should be considered, and agreements may be added with the consent of all parties.

4.1.3. In carrying out an assessment under regulation 63 of the CHSR 2017 in respect of a planning application, CCC may not be required to assess the implications of development on wastewater treatment work discharges where it can be demonstrated that this would 'more appropriately' be assessed by NRW (as the competent authority responsible for the environment permit). This will be a matter of judgment for CCC in the circumstances of that planning application. It is reasonable to anticipate that NRW should be able to advise CCC in this regard rather than expect CCC to undertake their own independent assessment. Some

[12] https://naturalresources.wales/guidance-and-advice/business-sectors/planning-and-development/our-role-in-planning-and-development/principles-of-nutrient-neutrality-in-relation-to-development-or-water-discharge-permit-proposals/?lang=en

[13] https://naturalresources.wales/evidence-and-data/research-and-reports/water-reports/compliance-assessment-of-welsh-river-sacs-against-phosphorus-targets/?lang=en

permits are being reviewed by NRW, the trigger being the duty to avoid adverse impact on SACs in particular unfavourable conditions and a HRA is being carried out in respect of these specific revised permits. CCC may defer on the HRA in the specific circumstances when concluded as a matter of technical judgment that this would be appropriate. NRW will advise CCC on this, in line with NRW's statutory duties. NRW and DCWW agree to adhere to Article 6(2) that the rLDP should not be the vehicle for meeting those commitments although it will seek to align where possible. CCC acknowledge that the rLDP will align where possible via the category 2 measures, but the responsibility is under Article 6(3). NRW agree to advise CCC on this when consulted at that time, in line with NRW's statutory duties.

4.1.4. With reference to regulation 67, CCC commits to seeking further clarification from NRW and WG regarding the extent of their duties as a competent authority where a project is dependent upon (i.e., requires) a permit which is issued by another competent authority. This relates to development outside of the sewered network that would be serviced by alternative means such as a septic tank or PTP. Any proposal seeking to utilise a PTP should be supported by a robust management and maintenance programme, and the LPA (and other stakeholders where appropriate) should be satisfied with arrangements set out.

## Agreement 1

4.1.5. NRW, DCWW, BBNPA, PCNPA, CCC and neighbouring Local Authorities shall work with the NMBs in the development of a strategic approach to reducing nutrient levels within the Tywi, Teifi and Cleddau riverine freshwater SAC catchments. The NMBs are producing catchment Nutrient Management Plans and stakeholders should attend the planned workshops and provide supporting information during the construction of these plans. Neighbouring authorities agree to input to the Nutrient Management Plans where SAC river catchments breach county boundaries. These plans aim to be drafted by summer of 2024.

## Agreement 2

4.1.6. A strategic approach to reducing phosphorus within the River Tywi, Teifi and Cleddau will be delivered through a Nutrient Management Board (NMB) for each riverine SAC catchment. The NMBs are constructing catchment management plans. LAs shall work with NRW and other stakeholders in the development of a strategic approach to reducing phosphorus levels within their SAC catchments. The membership and Terms of Reference (ToR) for the NMBs have been agreed. The WG Statement of Direction sets out shared expectations for the NMBs and the role it envisages the NMBs will play. Each NMB is constituted to reflect local needs, which aids delivery of the aims in the Statement of Direction. It is agreed that in addition to phosphorus arising from residential development in the rLDP, there are other significant contributory factors to riverine phosphorus levels. It is agreed that the NMBs operate within existing regulatory framework to address the issue of excessive phosphorus in rivers, and where those measures facilitate development to ensure that it functions in perpetuity where necessary and in a manner which meets the principles of sustainable management of natural resources under the Environment (Wales) Act 2016. Article 6 (2) of the Habitats Directive imposes a statutory duty upon the UK to take appropriate steps to avoid the deterioration of natural habitats and the habitats of species within SACs. The duties across statutory bodies will be reflected in the aims/objectives of the NMB to secure the best outcomes for the rivers, and the socio-economic effects on their communities whilst making the most effective use of public sector resources.

It is agreed that the NMBs will provide the following prior to the examination in public of the Revised Carmarthenshire Local Development Plan:

a. Agreement of membership and Terms of Reference of the NMBs;
b. Agreement including establishing accountability, roles, and responsibilities;
c. Agreement of timescales for the production of catchment management plans for the Cleddau, Teifi and Tywi Riverine Catchments.
d. Produce a publicly available document outlining the role and responsibilities of the NMBs.

## Agreement 3

4.1.7. It is agreed that all parties will endeavour to share any relevant information which they currently hold concerning sources, concentrations and loadings of

phosphorus, and any possible measures to deliver phosphorus reductions and anticipated phosphorus reductions which may be associated with such measures within the River Tywi, Teifi and Cleddau SAC as it becomes available. DCWW agree to an annual submission of such data.

4.1.8. DCWW and NRW agrees the disclosure monitoring data that concerns the most recent measurements recorded for a specific parameter in a specific water body at the time of request. It is understood that this may be subject to Environmental Information Regulations 2004.

## Agreement 4

4.1.9. In order to set out a collaborative approach, mitigation solutions that provide benefit for neighbouring authorities may be employed by the partner LAs. This adheres to the cross-county boundary nature of phosphorus reduction. The three authorities agree to employ mitigation solutions that provide cross county boundary benefits. Signatories agree to work together to provide short-, medium- and long-term solutions in achieving no adverse effects. In addition, any strategic documents in the way of nutrient mitigation, feasibility studies and outcomes must be shared with partner LPAs in a timely manner. LPAs agree to provide updates to CCC and NRW for any planned development that may impact the nutrient loading of a waterbody which catchment drains within CCC county boundaries. Thus, allowing for updated coverage of nutrient budgets for the HRA, taking account of the revised situation since previous LDP. NRW will be consulted on the updated HRA in accordance with the requirements of the Habitats Regulations.

4.1.10. LPAs must make sure that the location of mitigation measures does not result in a net increase in phosphorus over an SAC catchment.

4.1.11. It is agreed that NRW will consider the value of supporting SuDS in Flood Risk Zones 1 and 2.

4.1.12. Within the limit of their statutory functions, DCWW and NRW agree to support LAs in delivering mitigation that will address the nutrient budget produced by the rLDP. These mitigation solutions are presented in the Ricardo Technical Mitigation Guidelines, Interim Action Plan and the mirroring NRW Mitigation Menu.

## Agreement 5

4.1.13. Nutrient neutrality has been defined by NRW and resources have been produced by CCC on how this should be calculated and demonstrated. The signatories agree that development will be delivered in line with the guidance provided by NRW. It is for the developer to demonstrate to the LPA and NRW, as part of the planning process, that their development satisfies these requirements.

## Agreement 6

4.1.14. That NRW will provide advice to CCC in its role as ANCB to ensure an updated/revised HRA and its conclusions provide a robust and sound basis to support the Inspectors recommendations and Plan adoption. It is understood that NRW cannot guarantee that this advice will be acted upon. CCC require flexibility and an opportunity to explore the use of statutory powers to meet the unique demands of individual planning application cases.

## Agreement 7

4.1.15. DCWW will brief all parties about their phosphate reduction plans within the Tywi, Teifi and Cleddau SAC catchments.

a. Commitment to share the phosphorus investment programme to CCC. It is understood that this is subject to NRWs review of environment permits and DCWW Business Plan approval by Ofwat. Following this DCWW will provide a timetable of planned investment at WwTWs including further detail on completion dates and details on works. It is noted that DCWW's Capital Investment Programme can change if there is evidence to do so, in agreement with regulators.
b. Agreement from all parties that where DCWW plan to upgrade category A WwTW as part of their AMP7 and AMP8 programs and to meet environment permits, that development is phased after said improvement, nutrient neutrality is not required (i.e., capacity provided ahead of development and secured via Grampian conditions). This is subject to NRW guidance, i.e. if a WwTW can be upgraded so as to increase capacity for P removal, this may enable a conclusion of no AEOIS to be reached. The matter of Nutrient Neutrality is for

the LPA to consider. DCWW commit to assisting CCC in the production of a phasing plan. Commitment from DCWW to work with CCC in developing a phasing plan of development vs. WwTW improvement / permitting so CCC are better aware of barriers and opportunities. DCWW as a statutory consultee in the Planning process will consider the general biological and hydraulic capacity of any WwTW. It is however noted that is it for the LPA to decide what applications are lawful and any assessment should take into account the views of statutory consultees in line with Welsh Government legislation.

c. Agreement in principle that developments connecting to a WwTW where there is no planned investment, that do require nutrient neutrality, that wetlands and other forms of nutrient mitigation would be supported by neighbouring LA, DCWW, where it does not impact DCWW's current or future statutory requirements. Commitment to work collaboratively in sharing information that would support design / planning works. Agreement that the LPA to determine appropriateness of such mitigations which enables a conclusion of no likely significant effects.
d. This would be subject to application-specific evidence. Commitment to work collaboratively in sharing information that would support design / planning works. Agreement that NRW and the LPA to determine appropriateness of such mitigations.
e. Commitment from DCWW on confirmation of what support will look like in Category B and Category C[14] WwTW where NbS is supported. Confirmation on wetlands will be garnered as per the Collaborative Agreement DCWW have shared with LPAs and NMBs. DCWW will transition 'support in principle' to full commitment to divert their final effluent when confidence in the solution poses no risk to WwTW, operation and/or current & future compliance.
f. Short-term measures possibly required: Capacity and development headroom is subject to future planned/confirmed investment works, if development is needed ahead of investment works, short-terms measures/bridging measures

[14] https://corporate.dwrcymru.com/-/media/project/files/page-documents/our-services/wastewater/sac-rivers/collaboration/english/collaboration-on-phosphorus-reduction-schemes-guidance-2.ashx

may need to be considered by LPA and DCWW where the public sewerage system is involved.

g. Where nutrient neutrality is required and insufficient capacity and/or development headroom exists and where any future investment at the WwTW would have to wait for consideration in a future AMP but there would be no certainty investment is viable or feasible, alternative solutions may be needed, in collaboration with DCWW.

h. The apportionment of headroom allowances where county's share a catchment water body and the associated settlements will be considered. LAs will work to settle the apportionment of headroom to each section of the catchment. This functions to address the risk that one partner could use up all the available headroom before the other or that one partner may prioritise different types of development for where there is limited capacity/ headroom. An example would be Lampeter where the main town is in Ceredigion, but outlying settlements are in Carmarthenshire – from a policy perspective development should be directed to the town – but demand will vary as does speed of decision making / developer attitudes. DCWW assess development on a first come, first served basis and as such are unable to reserve capacity based on location/development type. It is therefore for the LPAs to determine if they want to apportion 'headroom' to specific sites.

# 5. Status

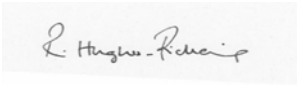
5.1.1. This SoCG sets out the combined approach to addressing water quality issues being taken by the parties and is not to be interpreted as a legal binding document.

**Signatories to this agreed collaborative approach:**

**Dated: 29-04-2024**

**Helen Lucocq On behalf of Bannau Brycheiniog National Park Authority**

**Rhodri Griffiths On behalf of Carmarthenshire County Council**



**On behalf of Ceredigion County Council**

**Ian Wyatt (Director of Business Customer Services) On behalf of Dŵr Cymru Welsh Water**

**DPAS TEAM LEADER SW Wales. On behalf of Natural Resources Wales**

**Emma Gladstone On behalf of Pembrokeshire Coast National Park Authority**

**Richard Brown, Assistant Chief Executive – On behalf of Pembrokeshire County Council**

**Peter Morris On behalf of Powys County Council**

## Gail Pearce-Taylor On behalf the Nutrient Management Boards of West Wales