

Fisheries and Water Environment Bill

Protection of the Water Environment Policy Consultation



Department of
**Agriculture, Environment
and Rural Affairs**

An Roinn

**Talmhaíochta, Comhshaoil
agus Gnóthaí Tuaithe**

Department of

**Fairmin, Environment
an' Kintra Matthers**

www.daera-ni.gov.uk

INVESTORS IN PEOPLE®
We invest in people Standard

CONTENTS	PAGE
<u>PART 1 - Introduction</u>	2
<u>1.1 Purpose of this Consultation</u>	3
<u>1.2 Why develop new legislation?</u>	4
<u>1.3 Extent</u>	5
<u>1.4 Co-design of Policy</u>	5
<u>1.5 Fisheries and Water Environment Bill</u>	5
<u>PART 2 – Policy Proposals</u>	6
<u>2.1 Protection of the Water Environment</u>	7
<u>PART 3 – Potential Impact of the proposals</u>	13
<u>3.1 Regulatory Impact Assessment</u>	14
<u>3.2 Equality and Human Rights Assessment</u>	15
<u>3.3 Rural Needs Impact Assessment</u>	16
<u>3.4 Environmental impacts assessment</u>	16
<u>PART 4 – How to respond to this consultation</u>	18
<u>4.1 How to respond</u>	19
<u>4.2 What happens next</u>	20
<u>PART 5 – Consultation questions</u>	22

Part 1

Introduction



Part 1 Introduction

1.1 Purpose of this Consultation

This consultation paper is the second of two consultations which make up the policies proposed for incorporation within the Fisheries and Water Environment Bill. This consultation focusses exclusively on policy proposals regarding protection of the water environment.

Timing and duration of this consultation

The consultation will commence on **11th September 2025** and close on **6th November 2025**.

How to respond

You are invited to share your views on the information contained within each section of the document. You can respond to this consultation online or alternatively, should you wish to provide a written response via email or post, please do so to the addresses below. Written responses should be sent to:

Email: MarineandFisheriesBillTeam@daera-ni.gov.uk

or by **Post** to:

Fisheries and Water Environment Bill Team
Marine and Fisheries Division
Department of Agriculture, Environment and Rural Affairs
Ground Floor West
Clare House
303 Airport Road West
Belfast
BT3 9ED

When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents, and where applicable, how the views of its members were assembled.

Confidentiality

The Freedom of Information Act 2000 gives the public a right of access to any information held by a public authority – the Department of Agriculture, Environment and Rural Affairs (DAERA) in this case. This includes information provided in response to this consultation.

DAERA will publish a synopsis of responses to the consultation. This will include a list of names of organisations that responded but not personal names, addresses or other contact details.

DAERA cannot automatically consider information supplied to it in response to a consultation, to be confidential. However, it does have a responsibility to decide whether any information provided by you in response to a consultation, including information about your identity, should be made public or treated as confidential. If you do not wish information about your identity to be made public, please include an explanation in your response. Please be aware that confidentiality cannot be guaranteed, except in very particular circumstances. Please note, if your computer automatically includes a confidentiality disclaimer, it won't count as a confidentiality request.

Should you respond in an individual capacity, DAERA will process your personal data in accordance with the Data Protection Act 1998. This means that your personal information will not be disclosed to third parties should you request confidentiality. For further information about confidentiality of responses please contact the Information Commissioners Office (see its website at www.ico.org.uk).

1.2 Why develop new legislation?

DAERA wishes to deter polluters and non-compliant operators, protect and restore our water environment and deliver improvements to water quality. Within the Lough Neagh Report there are key actions to explore and consult on enforcement methods, including the introduction of fixed penalty notices for non-compliance, and penalties and fines for pollution offences in current legislation.

The Department seeks to ensure that enforcement mechanisms are proportionate and effective and are assisting with delivering the Departmental priority of protecting and restoring our water environment and delivering improvements to water quality.

1.3 Extent

These proposals will apply to Northern Ireland. Some of the proposals will not apply to the Foyle and Carlingford catchments where separate legislation will be required for any policies and regulatory functions that are the responsibility of the Loughs Agency. The Loughs Agency is being kept informed throughout the policy development process with a view to developing an amendment to the Foyle Fisheries Act 1952 on a reciprocal basis with North South Agreement.

1.4 Co-design of policy

DAERA has engaged with stakeholders and partners whose support is essential in delivering the policy outcomes that are outlined within this document. Through our combined actions, we can introduce interventions to help achieve our overall objectives.

It has been of utmost benefit to design the policies in conjunction with partners and stakeholders. Co-design has ensured that the problems are understood, and the proposed policy options are informed by multiple perspectives. We are grateful to the sector representatives who have engaged with Bill team in the development of the policy proposals.

The proposals relate to policies for primary legislation and further policy development will be necessary to inform any subsequent secondary legislation. DAERA intends to make the best use of the co-design approach at each stage of policy development.

1.5 Fisheries and Water Environment Bill

Following this consultation, this policy will be incorporated into the development of the Fisheries and Water Environment Bill along with the fisheries and aquaculture policies previously consulted upon (closed 11th September).

Part 2

Policy

Proposals



2.1 Protection of the Water Environment

Policy Aims and Purpose

Our regulatory and policy frameworks should protect water quality, ecosystems and our wider environment.

Overview of Northern Ireland water quality

Our seas, rivers and lakes are precious natural assets that are integral to our livelihoods, culture and the economy. Good water quality and habitats are not only essential for fish stocks but for health, hygiene and overall well-being. For businesses, good water quality is critical for operational efficiency, product safety and regulatory compliance. Poor water quality can lead to costly disruptions, reputational damage and legal liabilities.

While statistics show there have been some improvements in status, there were also deteriorations and the catastrophic impact of pollution on our natural environment was highlighted by the algal blooms we witnessed at Lough Neagh in 2023 and in recent months.

Both the Northern Ireland Audit Office (NIAO) and Office of Environmental Protection (OEP) have recently published reports making recommendations that relate to the water quality. The NIAO report into waste crime in Northern Ireland¹ estimates there are approximately 7.7 million tonnes of waste produced in Northern Ireland each year coming from a range of different sources including household, commercial and industrial waste construction, demolition and excavation waste; hazardous waste; agricultural waste; and wastewater. Waste that is not managed legitimately can pollute the land, the waters and the air that we breathe, potentially harming both human health and the environment. For example, rainwater can mix with the waste to form a toxic leachate (run off from a waste site), which can enter water courses, causing damage to habitats and contaminating sources of drinking water.

¹ [Waste Crime in Northern Ireland | Northern Ireland Audit Office](#)

‘Protecting Lough Neagh and the Environment’ is a Programme for Government priority², which includes delivering the actions in the Lough Neagh Report³ to improve water quality. These actions are set out against four key pillars:

1. **Education**
2. **Investment, incentivisation, innovation**
3. **Regulation**
4. **Enforcement**

Effective enforcement is a key component in securing compliance with legislation, delivering government objectives and ultimately enhancing public health and environmental quality. Enforcement action must be consistent and proportionate and ensure that there are no ambiguities which could be exploited, resulting in unfair application of legislation.

Current legislative provision relating to the water environment

Northern Ireland’s water environment is managed and protected using a catchment-based approach that is provided for by **The Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017**. These regulations require an integrated approach to the protection, improvement and sustainable use of the water environment through the production and implementation of a River Basin Management Plan (RBMP) in six yearly cycles. This includes estimating the potential costs of the programme of measures.

In Northern Ireland, one River Basin Management Plan is produced covering the three river basin districts (RBDs). The third cycle plan obtained Executive approval and was published on 13 June 2025, covering the period 2021 to 2027. The fourth cycle plan is required to be published by December 2027. It is proposed to publish the draft plan for a six-months consultation in December 2026. The public will be asked to consider the identified issues, proposed measures and draft delivery plan to support the

² [Our Plan: Doing What Matters Most](#)

³ [The Lough Neagh Report](#)

achievement of the environmental objectives set for 2033. The River Basin Management Plan links with key policy areas such as green growth, agriculture, land use, biodiversity, tourism, recreation and flood protection, as well as to policy areas in other Departments.

The Water (Northern Ireland) Order 1999 provides comprehensive regulatory framework to protect water quality. This includes offences for pollution of water, a system for consenting discharges and associated enforcement powers.

The **Waste and Contaminated Land (Northern Ireland) Order 1997** is designed to regulate waste management and address issues related to contaminated land across Northern Ireland. The Order relates to waste on land, but the given definition of *the environment* also includes the water environment⁴ and the definition of *contaminated land* includes any land which appears to be ‘*in such a condition, by reason of substances in, on or under the land, that... pollution of waterways or underground strata is being, or is likely to be, caused*⁵.’

It is therefore a relevant piece of legislation in relation to policy on water quality.

Policy Proposal

Improving water quality in Northern Ireland requires action, resources and everyone working together. It requires everyone taking responsibility for their actions that cause water pollution. Whilst DAERA will not hesitate to take action against those who pollute our waterways, the focus should be to stop pollution and damage happening in the first place.

The implementation of the existing Programme of Measures (PoMs) in the current RBMP falls to a number of key stakeholders, but ultimately everyone living in Northern Ireland has to play their part by assessing their behaviours towards a more sustainable use of our precious water resource. Active engagement between delivery partners and stakeholders is key for the successful delivery of measures through partnerships and catchment projects.

⁴ A2 (2) (d) Part I of [The Waste and Contaminated Land \(Northern Ireland\) Order 1997](#)

⁵ “Pollution of waterways or underground strata” means the entry into waterways or underground strata of any poisonous, noxious or polluting matter or any solid waste matter - [The Waste and Contaminated Land \(Northern Ireland\) Order 1997](#)

It is proposed that the overarching framework to support this approach in the fourth cycle RBMP will build on the four key pillars outlined in the Lough Neagh Action Plan:

- **Education** - to empower knowledge and skills essential to underpin effective decision making.
- **Investment** - with incentivisation and innovation that drives the adoption of sustainable practices and promotes the importance of behavioural change/science.
- **Regulation** - to ensure that we have a robust legislative framework in place that ensures the protection of our environment, and
- **Enforcement** - a readiness and a determination to take strong, meaningful action when compliance with the regulation fails in a fair, balanced and proportionate manner.

Prevention through the pillars of education, investment and regulation is critical and further consideration will be given to supporting restoration measures.

Where enforcement is necessary to act as a deterrent, the following proposals will ensure enforcement action can be undertaken in a fair, balanced and proportionate manner.

A. Consistency of approach

Creating consistency of approach to water pollution offences is a policy aim of the Fisheries and Water Environment Bill.

Waste Crime currently carries a £50,000 maximum penalty on summary conviction under the Waste and Contaminated Land (Northern Ireland) Order 1997 for certain controlled waste offences affecting the environment (which includes the water environment). This maximum only applies to controlled waste, and not to other pollutants such as industrial waste or wastewater offences. The maximum penalty available under the Water (Northern Ireland) Order 1999 is £20,000.

The policy proposal seeks to standardise the maximum fine on summary conviction for water pollution offences under the Water (Northern Ireland) Order 1999 and for all

waste offences leading to pollution of the water environment in the Waste and Contaminated Land (Northern Ireland) Order 1997 to £50,000 in the interests of ensuring a consistent enforcement regime for water related offences, whether inland or in marine water bodies.

This would ensure that all offences resulting in pollution of the water environment would carry the same maximum penalty. An increased maximum penalty would act as a stronger deterrent to behaviours leading to existing offences and would underline the severity of the offence to the water environment.

B. Provide additional enforcement tools

It is proposed to provide a power in primary legislation to make regulations at a later stage to introduce Fixed Penalty Notices and Fixed and Variable Monetary Fines as additional enforcement mechanisms in:

- The Water (Northern Ireland) Order 1999 for pollution offences, discharge consent breaches and abstraction and impoundment offences; and
- The Waste and Contaminated Land (Northern Ireland) Order 1997 (for any waste substance which pollutes the water environment).

DAERA will undertake further consultation on each piece of secondary legislation as it is developed.

Similar approaches have proven to be an effective enforcement mechanism for minor to moderate breaches of regulations and would ensure that prompt action could be taken to deter behaviours which impact on water quality. In cases where there are significant breaches of legislation, the Department will pursue the case through the enforcement process that may lead to a prosecution.

Policy Intent - The Department wishes to deter polluters and non-compliant operators, supporting the Departmental priority of protecting and restoring our water environment and delivering improvements to water quality.

Consultation Questions:

What are your views on extending the 4 pillars which underpin the Lough Neagh Action plan to all waterways and using this approach to develop River Basin Management Plans?

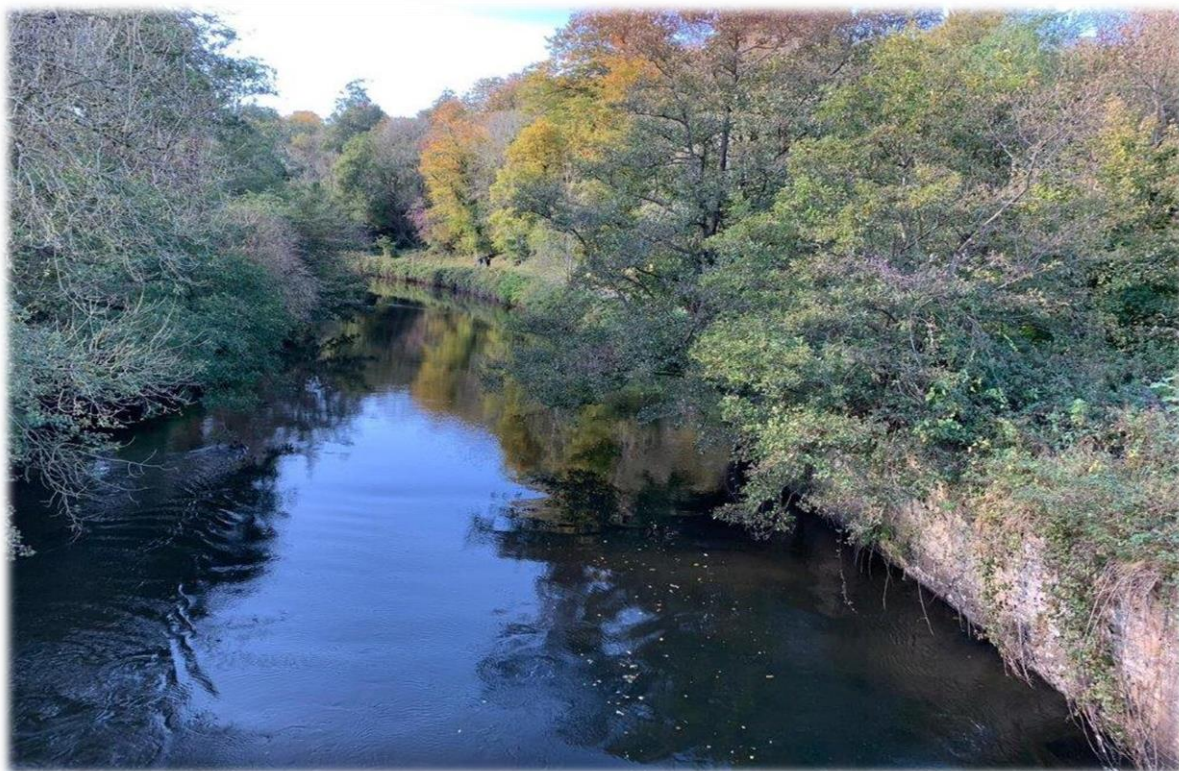
Do you agree that the Department should increase maximum penalties on summary conviction for causing pollution of a waterway or groundwater up to £50,000?

Would you agree with the potential for unlimited fines for those pollution offences that are heard at Crown Court?

Do you agree that DAERA should have a more flexible enforcement system with increased powers to introduce fixed and variable penalties to act as an immediate deterrent for minor to moderate breaches of legislation?

Part 3

Potential impact of the proposals



The impact assessments which have been issued for consultation along with this policy are those which had been previously consulted upon along with the fisheries and aquaculture policies, with the inclusion of this policy in each, to result in a suite of impact assessments spanning the entirety of the policies to inform a Fisheries and Water Environment Bill.

3.1 Regulatory Impact – Draft Regulatory Impact Assessment

A draft Regulatory Impact Assessment (RIA) has been drawn up and considers the potential economic impact of the full range of policy proposals for a new Fisheries and Water Environment Bill. The proposals were evaluated in the light of the available evidence to ensure that the most effective options could be identified. This evaluation is set out in the draft Regulatory Impact Assessment that accompanies this consultation document.

Future monitoring and evaluation will rely on evidence gathered during the implementation period. Once the policies and resulting legislation has cleared all processes to pass into Law, then the final draft RIA can be deemed FINAL and will be published as such and attached to the Explanatory Memorandum for the legislation.

Consultation Questions:

Do you agree that the analysis of the evidence given in the accompanying draft Regulatory Impact Assessment accurately describes the potential impacts of the proposals?

Are there other potential impacts we may not have anticipated in the accompanying draft Regulatory Impact Assessment?

3.2 Equality and Human Rights Impacts

Section 75 of the Northern Ireland Act 1998 requires Departments to have due regard to the promotion of equality of opportunity:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without; and
- between persons with dependents and persons without.

In addition, without prejudice to the above obligation, public authorities must also, in carrying out their functions, have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

Specifically, the Departments are required to:

- assess whether there are differences in the way a policy impacts upon statutory equality categories described above; and
- identify where there are means to better promote the equality of opportunity and good relations.

The Human Rights Act 1998 implements the European Convention on Human Rights. The 1998 Act makes it unlawful for any public authority to act in a way that is incompatible with these rights. Since the implementation of the Human Rights Act 1998, all legislation must be checked to ensure compliance with the European Convention Rights.

A screening exercise has been undertaken and there is no evidence that the proposed measures will have any impact on equality issues. The Department also considers that the proposals are compatible with the Human Rights Act 1998. Therefore, a full Equality Impact Assessment is not considered to be necessary. The screening assessment is set out in the EQIA screening document that accompanies this consultation document.

Consultation Questions:

Do you agree with the conclusion that the policy proposals do not have a differential impact on any of the Section 75 groups or on human rights?

Are there any potential impacts of the proposals on specific groups which we may not have anticipated?

3.3 Rural Needs Impact Assessment

The Rural Needs Act (Northern Ireland) 2016 ('the Act') introduced a new duty on public authorities in Northern Ireland to have due regard to rural needs when developing, adopting, implementing or revising policies, strategies and plans, and when designing and delivering public services. It also requires public authorities to compile information on the exercise of due regard duty and for this information to be published. A screening exercise is set out in the Rural Needs Screening document that accompanies this consultation document.

Consultation Questions:

Do you agree the Department has fully considered the impact on rural communities in the development of the proposals?

Are there any potential impacts of the proposals on rural communities which we may not have anticipated?

3.4 Environmental Impacts

In accordance with regulation 9 of the Environmental Assessment of Plans and Programmes Regulations (NI) 2004, a screening process to determine whether there is a need for Strategic Environmental Assessment (SEA) for the draft proposals has been completed. The screening assessment has concluded that the draft NI Fisheries and

Water Environment Bill requires an SEA. This is set out in the Strategic Environmental Report that accompanies this consultation document.

Consultation Questions:

Do you agree the analysis of the evidence given in the accompanying Strategic Environmental Assessment accurately describes the potential environmental impacts of the proposals?

Are there other potential impacts we may not have anticipated in the accompanying Strategic Environmental Assessment?



Part 4

How to respond to this Consultation



4.1 How to Respond

DAERA welcomes any comments you wish to make on all of the policy proposals or just on those issues that are of particular interest to you in the consultation.

This consultation will be hosted online at the following website www.daera-ni.gov.uk.

The Citizen Space portal has been specially designed to be as user friendly and welcoming as possible for those who wish to complete the consultation. It also allows DAERA to rapidly collate results. For this reason, we would encourage anyone who is interested in responding to this consultation to utilise Citizen Space as the method of their response. If this is not possible, you can however respond to this consultation via email to:

MarineandFisheriesBillTeam@daera-ni.gov.uk

or you can respond in writing to the following address:

Fisheries and Water Environment Bill Team
Marine and Fisheries Division
Department of Agriculture, Environment and Rural Affairs
Ground Floor West
Clare House
303 Airport Road West
Belfast
BT3 9ED

The consultation response template should be read in conjunction with the proposals and can be accessed electronically at: www.daera-ni.gov.uk

To request a hard copy of the consultation papers, please email the address above. The deadline for responses to this consultation is **6th November 2025**. All responses should be received by then to ensure they can be fully considered.

4.2 What happens next?

4.2.1 Policy development for future legislative provision

Clear legislation is required which offers the Department the tools required to deliver on an ecosystem-based approach towards fisheries management. Legislation gives life to the policy positions which the Minister takes on each key area and taking a policy led approach to legislation will therefore ensure that the Department's vision comes to life.

Policy intent must be clear to ensure it is translated into effective legislation. You will note that each policy clearly had its intent highlighted.

Focusing in particular on the intent of each policy will ensure that policies can then be accurately provided for in legislation for the marine and freshwater environments, allowing for the development of policies to:

- focus on improving water quality and ecosystem health,
- promote sustainable fish stocks, and
- ensure appropriate enforcement deterrents for breaches of legislation.

4.2.2 Legislative process

A proposal for a new primary legislation law is called a Bill. Once a Bill is passed by the Assembly and receives Royal Assent it becomes an Act and becomes law as an Act of the Assembly. Bills or Acts are often referred to as 'primary legislation' and usually contain provisions which delegate powers to the Minister/Departments to make further laws by means of 'subordinate' or 'secondary' legislation, to allow for detailed implementation of the objectives of the parent legislation.

This consultation is part of the development of the policy which would underpin the Bill. Once the outcome of this policy consultation has been considered and the final policy has been agreed by the Executive and the Ministers are satisfied that the Bill is within the legislative competence of the Assembly, the process continues with the formality of the introduction of the Bill to the Assembly.

This is followed by:

- a Second Stage,
- a Committee Stage,
- a Consideration Stage,
- a Further Consideration Stage, and
- a Final Stage.

The purpose of Second Stage is to allow the Assembly as a whole, to discuss the general principles of the Bill and agree that it should proceed further. It is then referred to the relevant Assembly Committee which takes evidence on the Bill, carries out a detailed clause by clause scrutiny and reports to the Assembly. At this scrutiny stage, stakeholders have the opportunity, to give evidence for consideration of the Committee who may then suggest changes to the Bill, in light of this information.

The Bill then goes back to the full Assembly and can be amended at either of the two subsequent Consideration Stages as a result of recommendations arising from scrutiny at Committee Stage or debate in the Assembly. Individual MLAs can table amendments at this Stage, for example if their constituents have raised any specific concerns about certain aspects of the Bill. At the Final Stage the Assembly can only pass or reject the Bill as a whole but cannot make any further amendments. Once a Bill has completed its passage in the Assembly it must receive Royal Assent before becoming law.

Where primary powers delegate powers to make subordinate legislation, there is further opportunity for consultation and comment before these detailed rules come into force.

Thank you for your role in developing important primary legislation by taking part in this consultation process.

Part 5

Consultation Questions



PROTECTION OF THE WATER ENVIRONMENT

- 1. What are your views on extending the 4 pillars which underpin the Lough Neagh Action plan to all waterways and using this approach to develop River Basin Management Plans?**
- 2. Do you agree that the Department should increase maximum penalties on summary conviction for causing pollution of a waterway or groundwater up to £50,000?**
- 3. Would you agree with the potential for unlimited fines for those pollution offences that are heard at Crown Court?**
- 4. Do you agree that DAERA should have a more flexible enforcement system with increased powers to introduce fixed and variable penalties to act as an immediate deterrent for minor to moderate breaches of legislation?**

REGULATORY IMPACT ASSESSMENT – DRAFT

REGULATORY IMPACT ASSESSMENT

- 1. Do you agree that the analysis of the evidence given in the accompanying draft Regulatory Impact Assessment accurately describes the potential impacts of the proposals?**
- 2. Are there other potential impacts we may not have anticipated in the accompanying draft Regulatory Impact Assessment?**

EQUALITY AND HUMAN RIGHTS IMPACT ASSESSMENT

- 1. Do you agree with the conclusion that the policy proposals do not have a differential impact on any of the Section 75 groups or on human rights?**

2. Are there any potential impacts of the proposals on specific groups which we may not have anticipated?

RURAL NEEDS IMPACT ASSESSMENT

1. Do you agree the Department has fully considered the impact on rural communities in the development of the proposals?
2. Are there any potential impacts of the proposals on rural communities which we may not have anticipated?

ENVIRONMENTAL IMPACTS

1. Do you agree the analysis of the evidence given in the accompanying Strategic Environmental Assessment accurately describes the potential environmental impacts of the proposals?
2. Are there other potential impacts we may not have anticipated in the accompanying Strategic Environmental Assessment?

For further information:

Marine & Fisheries Division (MFD)
Fisheries and Water Environment Bill Team
Department of Agriculture, Environment and Rural Affairs (DAERA)
Ground Floor West
Clare House
303 Airport Road West
Belfast
BT3 9ED

Email: MarineandFisheriesBillTeam@daera-ni.gov.uk
www.daera-ni.gov.uk