

POTENTIAL FOR BRINGING LOUGH NEAGH INTO PUBLIC OWNERSHIP – A SCOPING STUDY



Prepared by:-

*Lough Neagh Cross Departmental Working Group
February 2014*

ACKNOWLEDGEMENTS

The Lough Neagh Working Group is grateful to all of the organisations and individuals who provided responses to the informal consultation, the United Kingdom and Ireland Lakes Network and all those who attended the Lough Neagh Symposium held on 4 and 5 October 2012, the Lough Neagh Partnership, representatives of the Shaftesbury Estate of Lough Neagh Ltd and the members of the Agriculture and Rural Development Assembly Committee.

CONTENTS

PAGE NO

1.	Executive Summary	1 – 3
2.	Introduction	4
3.	Background	5 – 6
4.	History of the Lough	7
5.	Key Facts	8 – 16
6.	Feedback from Key Stakeholders	17 – 20
7.	Key Issues	21 – 28
8.	The Way Forward	29 – 30
9.	Conclusions	31
10.	Recommendations	32
Annex 1	Terms of Reference	33
Annex 2	Membership of the Lough Neagh Working Group	34
Annex 3	Key Stakeholders to whom questionnaire issued	35 – 37
Annex 4	Analysis of Questionnaire Responses	38– 41
Annex 5	Synopsis of key issues discussed at the Lough Neagh Symposium	42 – 43
Annex 6	Statement from the Shaftesbury Estate of Lough Neagh Ltd	44 – 45
Annex 7	Lough Neagh Partnership Recommendations Including Proposed Integrated Management Structure for Lough Neagh (Option 4)	46

The potential for bringing Lough Neagh into Public Ownership – A Scoping Study

1. EXECUTIVE SUMMARY

1.1 Assembly Debate

On 17 April 2012, the Assembly debated and passed the following motion, tabled by Mr Francie Molloy, MLA ‘That this Assembly calls on the Minister of Culture, Arts and Leisure and the Minister of Agriculture and Rural Development to convene a working group to explore and pursue actively the potential for a cross-departmental approach to bring Lough Neagh back into public ownership.’

1.2 The Lough Neagh Working Group

Following the Assembly debate, the Minister for Agriculture and Rural Development (DARD) submitted proposals to the Executive on the formation of a cross-departmental working group. The proposals were endorsed and the Working Group was tasked with carrying out a high level scoping exercise to investigate the potential for bringing Lough Neagh into public ownership and to produce findings and recommendations, where appropriate, through Minister O’Neill, to her Executive colleagues.

1.3 Key Findings

There is no identifiable risk to the maintenance of the current arrangements and costs for the continued abstraction of 50% of drinking water for Northern Ireland from Lough Neagh by NI Water, regardless of whether the bed and soil of the Lough remain in the current private ownership, or are conveyed to another 3rd party private owner.

1.3.1 Key stakeholders of the Lough have expressed both support for, and opposition to, the proposal that Lough Neagh be brought into public ownership through Government purchase. All have, however, identified that a key issue of concern for them is the need for improved management of the Lough.

1.3.2 No-one ‘owns’ Lough Neagh in a holistic way. Rather, it is the bed and soil (including the accreted foreshore) which is owned and, whilst the majority of this remains in the ownership of the Shaftesbury Estate of Lough Neagh Ltd,

available information indicates there are also potentially upwards of a further 60 third party owners. One of these other owners is Northern Ireland Water, which already owns the necessary lands and rights to deliver its functions.

- 1.3.3 Government ownership of the Lough could have a potential collateral impact on commercial and recreational organisations which currently have lease agreements with the Shaftesbury Estate of Lough Neagh Ltd. Government ownership would require departments to adhere to achieving “best value / market value” if it were to take responsibility for the ownership of the Lough and this could potentially lead to a rise in costs for these organisations, where they would be required to pay a full commercial rent.
- 1.3.4 Government departments have a general legal authority to acquire and hold land for the purpose of their functions; additionally, they frequently have specific legislative authority to acquire land, either by agreement or by compulsory acquisition, in relation to a specific function. None of the key departments with responsibilities and interests in respect of Lough Neagh has identified any requirement for the Lough to be brought into Government ownership in order to enable or improve the discharge of their functions.
- 1.3.5 It has not been possible to produce a current valuation of the Lough at this time. To do so would require a greater level of engagement with the current owners and detailed research to identify the full legal interests and title information in respect of the property. Representatives of the Shaftesbury Estate have confirmed that the Earl of Shaftesbury believes there was a previous valuation of £6m during his father’s tenure and, without prejudice to a new valuation being undertaken at some stage, he believes this possibly reflects a fair, and not exorbitant, sum in respect of the Lough Neagh Shaftesbury Estate. However, LPS advise that without full engagement with the Estate and detailed disclosure of relevant information, particularly in relation to the extent of mineral rights income and future potential, it is not possible to reach a definitive conclusion on value.
- 1.3.6 The Shaftesbury Estate has confirmed that, whilst it does not consider the Lough to currently be for sale, the Earl is keen to ‘do the right thing’ for the people of the

area. To that end, if it were ever shown that his ownership was a barrier to development potential of the Lough, he would consider a sale.

1.3.7 In addition to the purchase price, the ongoing costs of management and administration of the asset would fall to the public purse if the Lough were to be brought into Government ownership.

1.3.8 The work commissioned by the Department for Culture, Arts and Leisure provides helpful information on potential management structures, and the recommendations are attached as an Annex for further consideration, with a view to early implementation.

1.4 **Conclusions**

1.4.1 There is no identifiable risk to the abstraction of 50% of Northern Ireland's drinking water due to the bed and soil of Lough Neagh remaining in private ownership.

1.4.2 A new more inclusive management structure for Lough Neagh would provide for a more focused, strategic and co-ordinated approach in availing of the opportunities and potential that the Lough has to offer.

1.4.3 The Working Group has been unable to identify any tangible benefits to the effective management of the Lough, should it be brought into public ownership. The implementation of a potential new, overarching management structure is considered to be the best approach to delivering the diverse range of objectives sought by stakeholders.

1.5 Lough Neagh Working Group Recommendations

- 1.5.1 The Working Group recommends that the Executive agree that there are no compelling grounds, to pursue the transfer of ownership of the bed and soil of Lough Neagh to public ownership.
- 1.5.2 The Working Group recommends that the Executive task the Working Group to undertake further consideration of a revised, more representative management structure, incorporating both operational and strategic activity using some of the considerations presented in the DCAL Report referred to at 1.3.8..
- 1.5.3 The Working Group recommends that the Department of Agriculture and Rural Development is positioned as the lead department in taking forward any Executive recommendations.

1.6 Way Forward

- 1.6.1 The Minister for Agriculture and Rural Development will present this report and associated recommendations to the Northern Ireland Executive for its consideration. Relevant departments will then be commissioned to take forward the recommendations agreed by the Executive.

2. INTRODUCTION

- 2.1 This report presents the findings of the cross-departmental Lough Neagh Working Group (the Working Group), established to examine the potential for bringing Lough Neagh into public ownership. It draws on research conducted within the various government departments which currently have involvement with Lough Neagh, professional advice from the Department of Finance & Personnel in respect of valuation and legal issues, as well as input received from key stakeholders, both through responses to questionnaires, meetings and discussions held at a Lough Neagh Symposium event. It also references issues raised at Assembly debates on Lough Neagh held during 2012, 2010 and 2008 and during a presentation to the ARD Committee on 4 December 2012.
2. 2 The report considers the contribution to the ongoing management of the Lough by Government departments. It considers the potential for bringing the Lough into public ownership, as well as identifying and assessing the legal implications of proceeding with acquiring the Lough, either by agreement or compulsory purchase. The report also considers what benefits to the management of the Lough might accrue from public ownership through Government purchase taking into account recommendations within the DCAL commissioned report prepared by the Venturei Network on behalf of the Lough Neagh Partnership.

3. BACKGROUND

- 3.1 On 17 April 2012, the Assembly debated and passed the following motion, tabled by Mr Francie Molloy, MLA 'That this Assembly calls on the Minister of Culture, Arts and Leisure and the Minister of Agriculture and Rural Development to convene a working group to explore and pursue actively the potential for a cross-departmental approach to bring Lough Neagh back into public ownership.' During the debate a range of issues was discussed, within the context of increasing pressures to use the natural and built environment as the basis for economic growth in rural areas. Key issues identified by speakers included the need for a strategic approach and improved management of the Lough, the potential for development of tourism and recreational activities around the Lough

(including the need for a navigation authority), the need to protect the continued abstraction of 50% of Northern Ireland's drinking water from the Lough and environmental concerns in respect of pollution. The motion was passed with a vote of Ayes 63; Noes 15 (a full record of the debate can be accessed from the Assembly Hansard)

- 3.2 Following the Assembly debate, the Minister for Agriculture and Rural Development submitted proposals to the Executive on the formation of a cross-departmental working group. The proposals were endorsed and the Working Group was tasked with carrying out a high level scoping exercise to investigate the potential for bringing Lough Neagh into public ownership through government purchase and to produce findings and recommendations, where appropriate, through Minister O'Neill, to her Executive colleagues. The Terms of Reference for the Working Group are attached at **Annex 1**.
- 3.3 The Working Group comprised representation from 5 NICS departments. These were Department of Agriculture & Rural Development (DARD), Department of Culture, Arts and Leisure (DCAL), Department of the Environment (DOE), Department for Regional Development (DRD) and Department of Enterprise, Trade and Investment (DETI). The Department of Finance and Personnel (DFP) provided professional valuation and legal advice to the Group. A full list of the membership of the Working Group may be found at **Annex 2**.
- 3.4 In addition to the research and work undertaken by the various departments involved in the Working Group, an informal consultation exercise was launched with a wide range of groups and organisations identified by officials from each of the departments as key stakeholders (a list of key stakeholders to whom a questionnaire was issued is shown at **Annex 3**). The purpose of the informal consultation was to obtain their high-level views on the proposal regarding public ownership. Fifty-nine key stakeholders were asked for comment and 33 responses were received.
- 3.5 On 4 and 5 October 2012 a Lough Neagh Symposium was hosted in Parliament Buildings by the UK and Ireland Lakes Network and the Lough Neagh Partnership. The event was sponsored by DARD and DOE. Representatives

from the Working Group, including the chairperson, attended the Symposium. Also present at the Symposium was the Earl of Shaftesbury, who is the current owner of the majority of the bed, soil and accreted foreshore (referred to as bed and soil for the remainder of the report) of the Lough. He was accompanied by other representatives of Shaftesbury Estates Ltd. The event was well supported and provided useful information and clarity on a range of issues of interest to the Working Group.

- 3.6 In December 2012 the draft Working Group report was shared with Ministers of those Departments represented on the Working Group. The Department for Culture, Arts and Leisure commissioned additional research on Lough Neagh governance and management options to complement the findings in the draft Working Group report.

4. HISTORY OF THE LOUGH

- 4.1 Lough Neagh is the biggest freshwater lough in the British Isles, measuring approximately 388 square km or 150 square miles and containing 800 billion gallons of water. In 1661, during the reign of Charles II, the bed and soil of Lough Neagh were granted to the Earl of Donegal and his descendents, currently the Earl of Shaftesbury. The current owner of the majority of the bed and soil of the Lough is the Shaftesbury Estate of Lough Neagh Ltd, which is a registered company. The legal title was conveyed to it, by the then Lord Shaftesbury, in 1964.
- 4.2 Five of the 6 counties of Northern Ireland have shores on the Lough (only Fermanagh does not), and its area is split among them. These areas further subdivide into 6 Local Government Districts - Antrim, Lisburn City, Craigavon, Dungannon and South Tyrone, Cookstown and Magherafelt.
- 4.3 The Lough is home to the largest wild eel fishery in Europe, supports a sand extraction trade which can result in between 1 million and 1.7 million tonnes of sand for the construction trade being extracted annually and NI Water abstracts about half of our raw water from Lough Neagh.

4.4 Lough Neagh wetland supports a vast number of wetland birds and, in recognition of this, was designated as Ramsar site of International Importance in 1973. In addition to this, a designation as an Area of Special Scientific Interest (ASSI) was made in 1992 under national legislation and it was recognized as a Special Protection Area as required under the EU Birds Directive in 1998. Whilst there are a number of biodiversity issues affecting the Lough, the key issue is poor water quality, primarily due to nutrient enrichment.

5. KEY FACTS

5.1 Water Abstraction

5.1.1 The Shaftesbury Estate owns the majority of the bed and soil of Lough Neagh. It does not own the water which, like other natural water bodies, is not owned by a particular private or public agency (so neither the Shaftesbury Estate nor anyone else could charge for a resource they do not own).

5.1.2 Abstraction of water from a water source is regulated by DOE's Northern Ireland Environment Agency (NIEA), through its Abstraction and Impoundment Licensing régime. This is to protect the environment. Abstractors must pay an application fee to DOE as part of the abstraction and impoundment licensing process, along with an annual subsistence fee. This is calculated on a "cost recovery" basis, to take account of NIEA's costs in processing the licence application, along with the costs of monitoring compliance with the licence. In this regard, therefore, NI Water and others are already charged for the use of water taken from Lough Neagh. A change in private ownership of the bed and soil of Lough Neagh would not affect these arrangements.

5.1.3 There have been some suggestions that the owners of the bed and soil of Lough Neagh, could charge for "storing" that water. The Working Group has confirmed, however, that natural water bodies/flowing water cannot be "stored" in this manner and any attempt to mount such a case would not be successful. In terms of NI Water infrastructure to abstract from or discharge to the Lough, the Company already owns the necessary lands and rights.

5.2 Commercial & Recreational Activities on the Lough

5.2.1 Lough Neagh has the largest commercial wild eel fishery in Europe, exporting some 650 tonnes of produce per year to outlets in the UK, Holland and Germany. Eel fishing has been a major industry in Lough Neagh for centuries. Today Lough Neagh eel fisheries export their eels to restaurants all over the world and Lough Neagh Eel has been granted Protected Geographical Status under European Union Law. The eel fishing rights along the river now belong to the Lough Neagh Fishermen's Co-operative Society Limited as far downstream as The Cutts and, in the estuary, they belong to The Honorable Irish Society.

Eels are a very important commercial resource in Lough Neagh and Lower Bann system, generating an estimated annual income of £4million. It is estimated that some 300 families earn and depend on income from the fishery.

The number of young eels returning from the sea to the Lough has declined significantly since 1980. The Lough Neagh Fishermen's Co-operative Society Ltd has supplemented natural recruitment since 1984 by the purchase of young eels and, in recent years, this has been part funded by DCAL and the European Fisheries Fund (EFF). There is an Eel Management Plan applicable to the Lough Neagh eel fishery under European Eel Regulations, which requires proactive management measures to tackle the decline in eel numbers and meet specific conservation objectives. (Commercial eel fishing in Lough Erne has recently halted under the EC regulations).

5.2.2 ***Sand Extraction***

Sand extraction is the largest industry working on Lough Neagh today, providing the raw material necessary for a range of products within the glass, tile and concrete industries. Up to 1.7 million tonnes of sand is extracted from Lough Neagh annually and this supplies a quarter of all local construction industry in Northern Ireland.

At present there are 6 sand companies working the Lough: Emersons, Scotts, Mulhollands, RMC, Lagan and Walls. The sand industry has been important to the Lough Neagh area, providing employment both directly and indirectly.

5.2.3 ***Fishing and Wildfowling***

With the exception of salmon, fishing rights on Lough Neagh today are owned by the Lough Neagh Fishermen's Co-operative, formed in 1965. DCAL's Inland Fisheries Group licences fishing and enforces fisheries legislation relating to fishing activity on the Lough. Wildfowling is a traditional sport carried out around Lough Neagh, and the rights to wildfowling are owned by the Shaftesbury Estate.

5.2.4 ***Tourism***

Lough Neagh is the largest freshwater lake in the British Isles and it offers a broad range of recreational activities from boating and water sports (including canoeing, powerboating, jet skiing and waterskiing) to fishing and wildfowling. In addition there are scenic walks, cycle tracks, nature trails and bird watching. During the April 2012 Assembly debate and during a previous debate on Lough Neagh during 2008, the potential to fully exploit the tourism opportunities offered by the Lough were raised by many MLAs.

5.3 **Ownership of the Lough**

Whilst the majority of the bed and soil of the Lough remains in the ownership of the Shaftesbury Estate, earlier information obtained from Land Registers and augmented by the Shaftesbury Estate (at the request of the Working Group), indicates that there is a large number of third parties who have purchased parts of the bed and soil of the Lough, including the accreted foreshore. Whilst only a few would have any significant size of holding, it is estimated that there are

potentially upwards of 60 third party owners of parts of Lough Neagh bed, soil or accreted foreshore. Whilst more than 50 of these would represent private owners of accreted foreshore purchased from the Shaftesbury Estate by adjoining landowners, this also includes holdings by NI Water (as noted above), the National Trust, Craigavon Borough Council etc. The Shaftesbury Estate also grants lease arrangements to a number of other commercial enterprises and public bodies.

5.4 Government Departments

5.4.1 Following Executive endorsement for the high level scoping exercise, the DARD Minister wrote to Executive colleagues, inviting nominations for Senior Civil Servants to form the membership of the Lough Neagh Working Group. Five Ministers provided nominations to the DARD Minister, based on the level of involvement their departments have with Lough Neagh. Government interest in the Lough is reflected by those departments involved in the Working Group. These departments, whose involvement with the Lough is set out in the following paragraphs, are generally recognised by key stakeholders in Lough Neagh as being those most involved with the management of the Lough.

DOE

5.4.2 DOE has a focus on the environmental issues connected with the Lough in respect of protection and improvement of the natural habitat. It manages a number of nature reserves around the Lough and also licenses the abstraction of water from, and the discharge of wastewater to, the Lough and waters draining to and from it. It is also the Competent Authority for coordinating the implementation of the EU Water Framework Directive (WFD). The NIEA leads on this and DARD, DCAL and DRD and their agencies are co-deliverers in taking this forward. As part of the Directive, a Neagh Bann River Basin Management Plan for the period 2009-2015 has been published and its implementation is being taken forward through the development and implementation of Local Management Area Plans. The department also has a role in respect of planning approval for any developments around the Lough. DOE has confirmed that ownership of Lough Neagh does not impact the discharge of its functions as outlined above.

DCAL

- 5.4.3 DCAL has a statutory responsibility to maintain the navigation channel and markers at the mouth of the Six Mile Water River. Under The North/South Co-operation (Implementation Bodies) (NI) Order 1999, Waterways Ireland, a North/South Body, jointly sponsored by DCAL and the Department of Arts, Heritage and the Gaeltacht (DAHG), is the Navigation Authority for the Lower Bann. Waterways Ireland has, however, no statutory remit over navigation on Lough Neagh. DCAL also maintains 48 navigation markers on the Lough as a public service on a non-statutory basis and has initiated a review of the current marking system, with a view to upgrading to a safer system of navigation in the absence of a Navigation Authority.
- 5.4.4 An economic appraisal was carried out during 2009 to establish the potential for creating a Navigation Authority for Lough Neagh. It was estimated that it would cost in the order of £6.7m to create one and that running costs thereafter would be approximately £644,000 per annum. Part of the proposal to create a Navigation Authority involved examining the potential for extending the remit of Waterways Ireland, however the North/South Ministerial Council mutually agreed not to follow this course. The proposal for a Navigation Authority for Lough Neagh was ruled out on economic grounds.
- 5.4.5 In addition, as part of its discretionary function to develop water recreation, the DCAL Minister recently agreed to provide funding to the Lough Neagh Partnership for a two year pilot programme. DCAL's Inland Fisheries Group enforces the provisions of the Fisheries Act (NI) 1966 as amended and associated subordinate legislation relating to fishing activity on the Lough. DCAL also issues around 100 eel long line licences per annum to fishermen and also licenses 3 eel weirs operated by the Co-operative Society. Ownership of Lough Neagh, either publicly or privately does not impact on the discharge of DCAL's functions regarding Lough Neagh. In 2013 DCAL commissioned research on Lough Neagh Governance and Management Options

DRD

- 5.4.6 DRD has no specific interest or functions in relation to the Lough. As noted, NI Water does abstract half of the raw water it uses to provide our water supply from

the Lough. It also owns a relatively small area of the Lough bed and rights in order to facilitate water and sewerage infrastructure. There is no qualitative difference between the Lough and other abstraction sources. NIW and DRD have an interest in maintaining the water in the Lough in as clean a state as possible, as this would make it easier and less costly to treat to potable standards. DRD acknowledges, however, that this is a very long term issue which would not be affected by ownership. Indeed, DRD's view is that what drains into the Lough from surrounding land is likely to have as much, or a greater impact on water quality in the Lough as activities in the Lough itself. NIW also discharges treated water into the Lough in accordance with DOE discharge consents. DRD has confirmed that ownership of Lough Neagh does not impact on its interests as outlined above.

DARD

5.4.7 DARD's involvement with Lough Neagh has been in respect of water quality research, operation of sluice gates and quays and rural development funding. During the Rural Development Programme for Building Sustainable Prosperity, which ran from 2001 to 2006, DARD provided £3.8m of funding to the Lough Neagh Strategic Partnership (a funding body formed by the Lough Neagh Advisory Committee). The Lough Neagh Strategic Partnership raised a further £6.4m from various private and public sources and a total of 160 projects were supported. The projects were in a wide range of areas from tourist and recreational infrastructure, job and business creation, the conservation and protection of some of the Lough's unique habitats and the marketing and promotion of the Lough. Whilst there are no specific ring-fenced funds for Lough Neagh within the current Rural Development Programme, 4 Local Action Groups are taking forward a co-operation project within the Rural Development funding available that will see a number of broader Lough Neagh projects considering marketing and awareness. Over and above this, as all of Lough Neagh is 'rural', any group wishing to avail of Rural Development Programme funds can do so through open calls in the following Local Action Groups, SWARD (South West Action for Rural Development), GROW (Generating Rural Opportunities Within South Antrim), LRP (Lagan Rural Partnership) and SOAR (Southern Organisation for Action in Rural areas).

5.4.8 DARD has ongoing involvement in the Lough through the work of its Non Departmental Public Body the Agri-Food and Biosciences Institute (AFBI), and through the Rivers Agency. AFBI conducts research on water quality and the effectiveness of programmes implemented to meet the requirements of the EU Nitrates and Water Framework Directives. In addition, AFBI is involved, on behalf of DCAL, in Eel and Salmon research aimed at restoring stocks. Rivers Agency has involvement in respect of the operation of the sluice gates, located at Toome to regulate the levels of the Lough (Lough Neagh Drainage Acts (Northern Ireland) 1955 and 1970). The Agency also dredges a number of quays around the Lough as part of a historical agreement. DARD has confirmed that ownership of Lough Neagh does not impact on its interests as outlined above.

DETI

5.4.9 DETI's interests in Lough Neagh cover tourism, prospecting licences and sand extraction for local industry. On the tourism side, Lough Neagh has been identified as a key tourism area/destination under the Tourism 'Priorities for Action' Plan which is currently being finalised by the department. Lough Neagh's main tourism strength lies in the range of water-based sports and activities it has to offer and this is a focal point of tourism within the area. To assist the Lough Neagh Destination development, NITB is supporting the Lough Neagh Partnership and other stakeholders to develop a Lough Neagh Tourism Area Plan to ensure that the tourism and leisure potential of the Lough is realised.

5.4.10 DETI, with the advice of Geological Survey Northern Ireland (GSNI), is responsible for issuing Mineral Prospecting Licences under the Mineral Development Act (Northern Ireland) 1969, which deals with non-precious metals and certain other minerals. The department, through GSNI, is also responsible for issuing Petroleum Licences under Petroleum (Production) Act (Northern Ireland) 1964. Currently there are no licences issued over Lough Neagh. A small number of Invest NI client companies are involved in sand extraction at Lough Neagh. There are no substantive issues around this extraction work and Invest NI does not provide any type of support towards this activity. DETI has confirmed that ownership of Lough Neagh does not impact on its interests as outlined above

Summary of Government Approach

5.4.11 In summary, as can be seen from the above paragraphs, there is a range of Government interests in the Lough. The Working Group has not identified any benefits to be derived from bringing the Lough into public ownership through government purchase at this time in respect of discharging their individual statutory responsibilities.

5.5 NI Assembly

Hansard records of 3 Assembly debates and direct involvement of the Working Group in an ARD Assembly Committee meeting, have all provided valuable information in respect of key issues of concern for MLAs.

5.5.1 17 April 2012

‘That this Assembly calls on the Minister of Culture, Arts and Leisure and the Minister of Agriculture and Rural Development to convene a working group to explore and pursue actively the potential for a cross-departmental approach to bring Lough Neagh back into public ownership.’

5.5.2 Key issues discussed at this debate included the need for joined-up/strategic/cross-departmental approaches to the management of Lough Neagh, the potential tourism and recreational opportunities and overall development potential of the Lough, the need for a Navigation Authority, the need to secure the supply of drinking water abstracted from the Lough, and pollution and environmental issues.

5.5.3 4 December 2012

Agriculture & Rural Development Committee – the Committee received an oral briefing from the Lough Neagh Working Group on their findings to date. Issues raised by members included the need for improved, joined-up government and better management of the Lough, clarification that there is no threat posed by private ownership of the bed and soil to the continued abstraction of water from the Lough by NI Water, environmental concerns, including water quality, valuation issues and clarification there would be no change to the role and functions of the Lough Neagh Fishermen’s Co-operative Society Limited if ownership of the bed and soil were to change.

5.5.4 An oral briefing on Lough Neagh was also given to the Committee on 4 December by the Assembly's Research and Information Services. The presentation reflected the findings of the Working Group.

5.5.5 9 February 2010

'That this Assembly recognises the social and environmental importance of the Lough Neagh and Lower Bann regions and the economic contribution they make through employment, leisure and tourism; acknowledges the significance of the Lough Neagh and Lower Bann Advisory Committees in maintaining the value of these areas and the risks involved if funding of the advisory committees is withdrawn; and calls on the Minister of the Environment to reinstate Northern Ireland Environment Agency funding as a matter of urgency, and to encourage the other funding partners to continue their financial support.'

5.5.6 Whilst the focus of this debate was very much on the continued funding for the Lough Neagh and Lower Bann Advisory Committees, inward investment and tourism, as well as the need for environmental protection and compliance with EU directives were raised.

5.5.7 21 October 2008

This was an adjournment debate on the *'Tourist Potential of Lough Neagh'*. Some of the key issues raised during the debate were the need for additional promotion of Lough Neagh by the Tourist Board, the level of funding being invested in Lough Neagh by government departments, the potential for recreational sports in developing tourism and, in particular, wildfowling, and recognition of the work of the Lough Neagh Partnership.

6. FEEDBACK FROM KEY STAKEHOLDERS

6.1 Informal Consultation

Given that the Working Group's task was to conduct a high level scoping exercise and the timescale within which this was to be completed, it was unrealistic to develop a formal consultation document and launch a full public consultation. The approach adopted towards an informal consultation was that officials from each department represented on the Working Group produce a list of key stakeholders who were then invited to complete a questionnaire. In addition to this, any organisation not included on the initial list, but who subsequently made contact and expressed an interest in completing a questionnaire, was invited to do so.

6.2 The questionnaire, which was seeking high level views, asked respondents to identify whether they supported the proposal that Lough Neagh should be brought into public ownership. They were also asked to set out any key concerns their organisation had in relation to the Lough and, what benefits, or disadvantages they perceived in public ownership. The questionnaire was issued to representatives of 59 organisations and 33 responses were received.

6.3 **Figure 1**, below, represents the distribution between those respondents who believe the Lough should not be brought into public ownership, those who believe it should be and those who believe it should be brought into ownership 'with caveats'. The 'caveats' phrase is used here to describe respondents who, for example, stated that the Lough should be brought into public ownership if it is established that there is any threat to the continued abstraction of drinking water by NI Water under the current arrangements. It is important to note that this was not a full public consultation, and **Figure 1** merely illustrates that there is support, both for and against, the proposal for public ownership with some of the key stakeholders.

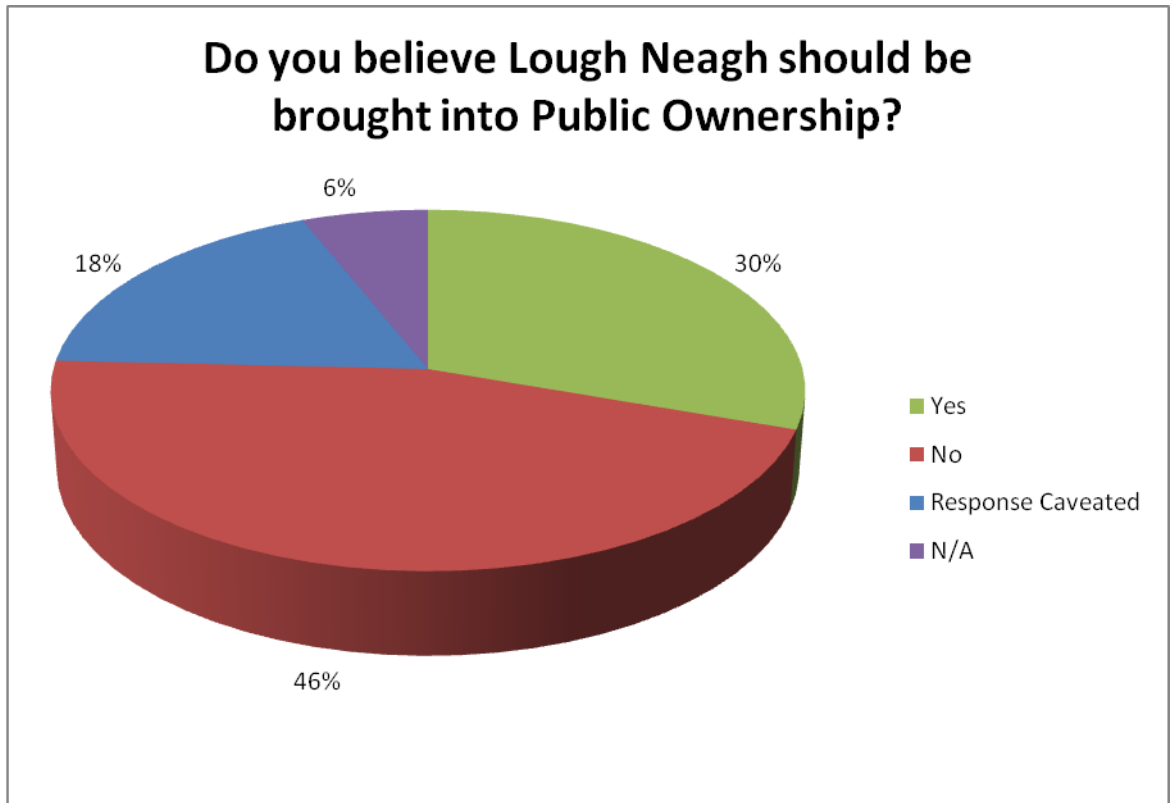


Figure 1

6.4 An analysis of the key concerns highlighted by respondents is shown at **Figure 2** below. The results here align closely with the issues reflected at the Assembly debate during April 2012, and with the key concerns subsequently raised at the Lough Neagh Symposium held at Parliament Buildings on 5 October 2012. In this illustration, issues concerning water abstraction and water quality have been grouped together and the reference to ‘cost’ was used to describe those respondents who raised concerns over the potential cost to the public purse of purchasing the Lough in the current economic climate. It is notable that management of the Lough was referred to as an issue by 25 of the 33 respondents (76%). The issue of management was referred to from several different perspectives, however one key concern was the potential increase in bureaucracy, should the Lough transfer to ownership of a government department.

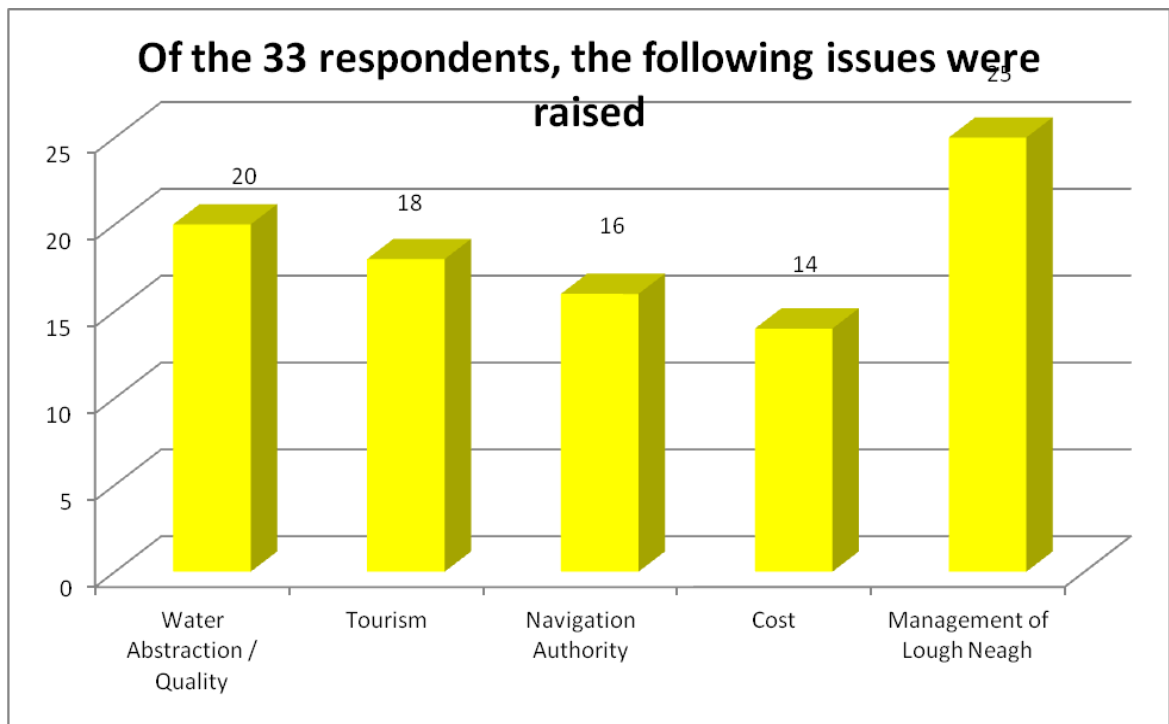


Figure 2

6.5 In respect of benefits that might accrue from public ownership, several respondents highlighted the potential for harnessing the opportunities that could be realised around the Lough for tourism generally, as well as potential areas of niche tourism (such as eco-tourism given the extensive bio-diversity that exists on and around the Lough), which would benefit from co-ordinated marketing, and also the development of renewal energy opportunities. Some respondents made the direct link to the need for a new management structure which could balance the competing needs of different industries around the Lough, provide strategic leadership and act as a single voice to drive change and enable achievement of the, as yet, largely untapped potential tourism benefits.

6.6 Further analysis of the data gained from the informal consultation is included at **Annex 4**. It is important to note, again, that this was not a full public consultation, however the additional analysis included at **Annex 4** reflects a reasonably equal distribution, or agreement, on the key issues of concern around the Lough shared by both those supporting, against and undecided on the proposal to bring the Lough into public ownership.

6.7 **Lough Neagh Lakes Symposium**

As mentioned above, the concerns identified through the informal consultation with key stakeholders align with those discussed at the Lough Neagh Symposium held on 4 and 5 October 2012. The Symposium was structured for guest speakers to deliver presentations on aspects of management of inland lakes and loughs during the morning session. A key theme throughout the presentations was the need for buy-in and involvement of local communities and organisations if successful management of inland lakes and loughs is to be achieved. During the afternoon session there were speeches from the DOE and DARD Ministers, perspectives on the key issues affecting the Lough from 4 MLAs from across the political spectrum and an open discussion session, where attendees were able to raise issues and ask questions of the MLAs present. A summary of the key issues discussed was produced by the Lough Neagh Partnership and is attached at **Annex 5**.

6.8 **Shaftsbury Estate Ltd**

The Working Group met with representatives of the Shaftesbury Estate and received clarification on the Earl of Shaftesbury's position regarding ownership of the Lough:

"The Estate has no plans to sell the Lough, but that doesn't mean that if the Assembly asked to buy it that the answer would definitely be no. The Estate wishes to do what is right for the people of the area and to take their opinions into account".

6.9 Engagement with representatives of the Shaftesbury Estate also provided the Working Group with access to extensive relevant background information on different aspects, where available and where appropriate, relating to the level of the Estate's involvement in the commercial and recreational activities connected with Lough Neagh. A statement issued by representatives of the Shaftesbury Estate during October 2012 is included at **Annex 6** of the report. (This statement was copied to all MLAs, local councils and newspaper offices in the North.

7. KEY ISSUES

7.1.1 Valuation

Land & Property Services (DFP) was asked by the Working Group to assist in producing 'an initial indication of the potential purchase price which would attach to the bed and soil of the Lough, should that be pursued through negotiation or by means of compulsory purchase'. LPS have indicated, however, that there is insufficient information available to prepare a robust estimate of value at this stage.

7.1.2 By way of explanation, LPS advised that whilst the Shaftesbury Estate is said to own the majority of the bed and soil of the Lough, together with portions of the accreted foreshore, it does not own the entirety of either. Additionally, the levels of the Lough have dropped over time, creating areas of accreted foreshore and it would firstly be necessary to define precisely the total area to be potentially brought into public ownership by government purchase and, secondly, to identify all the legal interests contained within that area as a prerequisite to any valuation exercise. Compilation of the second stage information would require legal research similar to the process conducted in the preliminary stages of a Vesting Order. In addition, there are likely to be shorter term and minor leasehold interests which will not be evident from a Land Registers / Registry of Deeds search. Compiling the latter information would probably require extensive field research. Only then would LPS be in a position to prepare estimates of value in respect of all interests affected by the proposed acquisition. Given the short timescale to report, and the detailed work required as outlined above, it has not been possible to collate the data necessary.

7.1.3 In respect of the Shaftesbury Estate alone, LPS understands (from the information supplied by the Working Group) that representatives of the Estate have confirmed that the Earl of Shaftesbury believes there was a previous valuation of £6m during his father's tenure and, without prejudice to a new valuation being undertaken at some stage, he believes this possibly reflects a fair, and not exorbitant, sum in respect of the Lough Neagh Shaftesbury Estate.

7.1.4 LPS was not party to any such previous valuation and no copy of a valuation report or other information to corroborate it has been supplied. The Estate has not, to date, provided any detailed information on incomes generated by the Lough Neagh Estate and further potential income flows as may exist. Although the Working Group has obtained and examined the publically available shortened accounts of The Shaftesbury Estate of Lough Neagh Ltd from 2006 to the present, these do not provide sufficient detail of income flows to enable a valuation to be prepared. LPS advise that these figures, viewed in isolation, appear to be modest and would not, on the face of it, seem to support an asking price of the magnitude of £6m. It further concludes that, without full engagement with the Estate and detailed disclosure of relevant information, particularly in relation to the extent of mineral rights income and future potential, it is not possible to reach a definitive conclusion on value.

7.1.5 LPS does produce market valuations in respect of the bed and soil and accreted foreshore of Lough Erne, the title of which is held by DARD. However comparisons between Lough Erne and Lough Neagh in terms of current estimate of value would be considered misleading and probably inaccurate, given the quite different nature of relative topography, geology, leisure industry development and the consequent differing potentials and income flows generated.

7.1.6 LPS advise that, should the Executive decide to pursue the acquisition, or progress with establishing a valuation for Lough Neagh, it would be essential for Government to establish and facilitate such a level of engagement between the Shaftesbury Estate and LPS, in addition to the full legal interests and title information sets as described above, in order to assess the overall scope of such an acquisition.

7.2 Potential for Public Ownership by government purchase

- 7.2.1 Representatives for the Shaftesbury Estate of Lough Neagh Ltd have clarified the Earl's position, stating, 'The Earl has no plans to sell the Lough, but that doesn't mean that if the Assembly asked to buy it that the answer would definitely be no. The Estate wishes to do what is right for the people of the area and to take their opinions into account'. Meetings between the Working Group and representatives of the Earl's estate further clarified that the Earl would consider selling the Lough if there were evidence that his continued ownership of it was a barrier to development of its potential.
- 7.2.2 Government departments have a general legal authority to acquire and hold land for the purpose of their functions under the Departments (Northern Ireland) Order 1999 No 282 Article 5(2). In addition, some Departments have specific legislative authority to acquire land either by agreement or by compulsory acquisition but only in relation to a statutorily specified function. In order to identify whether there is appropriate legislative authority under which land may be acquired, the purpose for which the property is to be acquired must be a primary consideration.
- 7.2.3 DOE has powers under the Nature Conservation and Amenity Land (NI) Order 1985 to acquire land either by agreement or by compulsory acquisition for the purposes of nature conservation, establishing a nature reserve, or providing access to such areas. However, DOE has stated (para 5.4.2) that ownership of Lough Neagh does not impact the discharge of its functions and in these circumstances use of the powers in the above Order would not be appropriate.
- 7.2.4 The Working Group has not identified any function at this time that would enable the Government departments represented on the Group to exercise these powers, either specifically, or generally, in respect of Lough Neagh.

7.3 Potential Issues arising if public ownership by government purchase is pursued

7.3.1 If Government ownership were to be pursued, either by agreement or compulsory purchase, all owners of parts of Lough Neagh (see para 5.3) would require to be treated equitably. If the route followed were to acquire the bed and soil of the Lough by way of agreement, this would entail potentially upwards of 60 separate negotiations with different owners, although the greatest materiality would be attached to the Shaftesbury Estate. In the event of individual owners' refusing to relinquish ownership through agreement, legal authority to acquire their interest by compulsory purchase might be considered. Even if legal authority were available under the vesting legislation and procedures, owners might object to the vesting and might require an opportunity to have objections aired at a public enquiry. There would also be an opportunity to challenge the legal authority or procedures followed by the vesting authority in the High Court within one month of the making of the vesting order, or subsequently within three months thereafter, by way of Judicial Review in the High Court. Any such challenges cause considerable delay and incur substantial costs to the vesting authority. If the vesting order is not objected to or challenged, or is not challenged successfully, once the order is made, ownership of the land transfers to the authority or department which has made the vesting order. It would then be the responsibility of the former owners to agree compensation, as assessed by Valuation Services of LPS, supported by evidence of the estimate of worth of the land which has been vested. Where compensation cannot be agreed, the matter may be referred to the Land Tribunal for determination.

7.3.2 Another consideration would be that the ongoing costs of management and administration of the Lough Neagh estate would fall to the public purse if the Lough were to be brought into public ownership by government purchase. Additionally, there would be the potential for third party liability claims should the Lough be in public ownership. At present, for example, these costs and the ongoing estate management costs are borne by the Shaftesbury Estate of Lough Neagh Ltd for the portion that it owns. Such costs would fall to the Government department in whose name the land would be held. The Working Group has also identified a risk for Government in respect of purchase and maintenance costs

throughout Northern Ireland if a precedent is set that sources of water supply such as Lough Neagh need to be brought into public ownership.

7.3.4 A final issue worth noting is the potential collateral impact that public ownership of the Lough might have on those commercial and recreational organisations which currently have lease agreements with the Shaftesbury Estate of Lough Neagh Ltd. Government ownership would require departments to adhere to documented processes and standards in terms of achieving “best value / market value” if it were to take responsibility for the ownership of the Lough. This could have adverse impacts on small shooting / boating clubs and other such recreational organisations should they currently hold concessionary or historic leases / licences from the Shaftesbury Estate and may not be in a position to pay a full commercial rent, quite possibly on a competitive basis, once current agreements would expire. It is not known what the Estate’s policy or approach to such matters is, but it would have the flexibility to exercise a more relaxed régime if it preferred to do so.

7.4 Management of the Lough

7.4.1 A recurring theme at Assembly debates ARD Committee meetings, among key stakeholders and, at the Lough Neagh Symposium is the need for an improvement in the management structure in place in respect of the Lough, and the call for one Government department to act as the ‘Lead Department’ in taking forward any Executive recommendations. This will be taken on by DARD, subject to the Executive’s agreement.

7.4.2 The Working Group has looked at a number of examples of management structures operating in the United Kingdom, Republic of Ireland and mainland Europe. The research, whilst not exhaustive, indicates that Government ownership is not a common feature and not a pre-requisite for effective models of management. Likewise, in many cases, management of inland bodies of water is the responsibility of a managing authority, as opposed to a Government department.

7.4.3 The Lake District in England, (which includes Lake Windermere, the largest natural lake in England) is managed by the Lake District National Park. The Lake District National Park Authority is an independent body funded by Central Government to conserve and enhance the natural beauty, wildlife and cultural heritage; and to promote opportunities for the understanding and enjoyment of the special qualities of National Parks by the public. If there is a conflict between these two purposes, conservation takes priority. The Lake District National Park Authority owns approximately only 3.9% of the national park, with the majority owned by private landowners and organisations such as the National Trust, United Utilities, and Forest Enterprise. The Broads Authority is responsible for managing the Norfolk and Suffolk Broads and whilst similar in organisational status to the Lake District Park Authority, it also has a third purpose of protecting the interests of navigation. Both examples mentioned above reflect a system in Great Britain where the managing authorities have been created through the enactment of legislation.

7.4.4 Within Northern Ireland, the bed and soil of Lough Erne is owned by DARD. The bed and soil of Lough Erne (Upper and Lower) was gifted to the Ministry of Finance by the Crown Commissioner's Office in 1927, however during the intervening years the Ministry of Finance, Department of Agriculture and currently DARD involvement has been limited to managing the estate in respect of leases, conveyances and connected property issues. The key involvement in Lough Erne is through the Rivers Agency who liaise with the Republic of Ireland Electricity Supply Board on control of the level of the Lough through sluice gates operated at the hydro-electric plant located at Ballyshannon (this is governed by legislation and an agreed operating regime is in place). The Lough Erne Management Co-ordinating Committee and the Lough Erne Advisory Committee operate to facilitate stakeholder engagement at a local level on the overall management of Lough Erne.

7.4.5 The majority of both the foreshore and the seabed of Strangford Lough is owned by the Crown Estate Commissioners on behalf of the Crown. The Strangford Lough and Lecale Partnership (SLLP) (replacing the former Strangford Lough Management Advisory Committee (SLMAC) is the partnership organisation for the newly designated Strangford and Lecale Area of Outstanding Natural Beauty (AONB). It comprises an Advisory Committee of stakeholders, along with the

Executive Authorities, facilitated through their office in Portaferry. Care of the Lough relies heavily on local input and the co-operation of the many interest groups involved in recreation, conservation and industry on and around the Lough. The main functions of SLLP (and the future Stakeholder Group) are to:

- Represent local and specialist interests in the development, interpretation and adaptation of legislation.
- Promote strategic, co-ordinated management designed to protect the environmental resource while encouraging appropriate economic and recreational activity.
- Bring together expertise and experience on wide-ranging issues e.g. aquaculture, farming, nature conservation, tourism.

7.4.6 In recognition of the views of stakeholders with regard to management of the Lough, the Working Group acknowledges the need for coordination and communication at a local level for and between local communities and stakeholders, as well as with local and central Government. This role was previously fulfilled by the Lough Neagh Advisory Committee (LNAC). However the LNAC was closed because some councils refused to fund it further as they felt it was not delivering anything for them. The dissolution of the LNAC has left a gap.

7.4.7 As indicated above, DCAL have commissioned a report prepared by the Venturei Network on behalf of the Lough Neagh Partnership on Lough Neagh Governance and Management Options to complement the findings in the draft Working Group report.

7.4.8 The Working Group has not identified any tangible benefits in respect of a management structure that would require the bed and soil of the Lough be brought into public ownership by government. The nature of the issues requiring attention, as highlighted by key stakeholders and discussed at **Section 6**, and

the management of these issues is unlikely under a new management structure, to be impacted by the ownership of the bed and soil of the Lough.

7.4.9 The recommendations in the report in terms of moving the project forward are illustrated at Annex 7 attached and include a model to explore the potential to develop a cross-departmental approach to the Lough, including a visioning statement and framework.

8. THE WAY FORWARD - OPTIONS

8.1 It is clear from the position as stated by the Earl of Shaftesbury, that the majority of the bed and soil of the Lough, which is owned by the Shaftesbury Estate Ltd, is not currently for sale. Given the time available it has not been able to ascertain the full extent of the number and identify of all those who own the remaining portions of the bed and soil of the Lough. The views of the latter group of owners on potential sale are therefore not known at this time.

8.2 There are, therefore, three potential options for consideration in respect of the proposal that Lough Neagh be brought into Government ownership:

- a) Acquire the bed and soil of the Lough for Government ownership through agreement.
- b) Acquire the bed and soil of the Lough for Government ownership through compulsory purchase.

- c) Do not acquire the bed and soil of the Lough for Government ownership at this time. As an alternative, agree that a revised management structure should be examined for the Lough and that Government ownership by Government or another body should remain an option for future consideration.
- 8.3 In order to progress either option a) or option b) it would, in the first instance, be necessary to identify a specific departmental function which necessitated the purchase or vesting.
- 8.4 In addition, as indicated earlier within the body of this report, where ownership is to be pursued, either by agreement or compulsory purchase, all owners of parts of Lough Neagh (see para 5.3) would have to be treated equitably. Therefore a decision to acquire ownership at this time would also need to be supported by further in-depth work to identify all the owners of the bed and soil of the Lough. Furthermore, the levels of the Lough have changed significantly over the years to varying degrees at various points around the Lough and various ordnance survey maps reflect this. There would, therefore, need to be legal certainty on the extent of the Lough in order to facilitate informed negotiation with the relevant parties.
- 8.5 In terms of the information necessary to facilitate the development of an economic appraisal, this would also require the work outlined in **Section 7** to be pursued.
- 8.6 Revised Management Structure in supporting the Development of Lough Neagh's Potential**
- 8.6.1 Allied to Option (c), one of the themes that has been highlighted during Assembly Debates and in the research undertaken by the Working Group, is the need for a more strategic approach to Lough Neagh in order to harness and drive its potential. It is evident from the views of Departments that there is an increasing focus on the Lough and its environs as a single entity and this is reflected in a number of strategies and plans for the area as a whole. Such strategies include the Neagh-Bann International River Basin Management Plan which is being implemented at a local level by a series of published Local Management Area

Plans (LMAs) covering the Lough itself and the rivers draining to and from it. The LMA for Lough Neagh has already been published. There is also a Neagh Bann Flood Risk Plan.

8.6.2 As a means of developing the potential of the Lough, it is crucial to establish a revised management structure. Such a structure would present a considered and unified voice for the Lough and encourage and support development on an holistic basis. A new structure providing a single voice would have a key role in progressing a number of more recent developments, referred to in this scoping document, which could facilitate the Lough's potential in terms of social, economic, and environmental gains. These developments include ongoing work in a number of areas:

- creating, with support from NITB, a draft Lough Neagh Tourism Area Plan to ensure that that the tourism and leisure potential of the Lough is realised;
- examination by DCAL of a way to improve navigation markers; and
- the work by the 4 Local Action Groups on a co-operation project funded through the Rural Development Programme which will see a number of broader Lough Neagh projects considering marketing and awareness.

8.6.3 These current initiatives plus any new ones, including in those areas suggested in paragraph 6.5, can be developed further and will benefit from the creation of a revised management structure. Such a revised structure can play a key role in terms of its overarching representation of the local communities and the varied economic and environmental interests connected with the Lough, in interactions with local and central government.

9. CONCLUSIONS

9.1 In considering the evidence available, the Working Group has looked, firstly, at whether the Lough could be brought into public ownership by government purchase. As indicated in **Section 7**, whilst Government departments have legislative powers to acquire land (either by agreement or compulsorily); clear, unambiguous advice received is that this can only be done in relation to a specific function. The Working Group has not been able to identify such a function.

- 9.2 A primary concern for stakeholders was a perceived risk to the public water supply if Lough Neagh were not to be acquired by Government. The Working Group can confirm that there is no known risk, regardless of whether it remains in private ownership and regardless of who owns the bed and soil of the Lough.
- 9.3 Whilst it is accepted by the Working Group that a new management structure would provide potential for a more focused, strategic and co-ordinated approach to the management of Lough Neagh, the Working Group has been unable to identify any tangible benefits in relation to the management of the Lough which would accrue from Government ownership at this time of the bed and soil of the Lough. This may have the potential to change in the future if a more inclusive management structure decides to re-assess public ownership issues within a new strategic approach, involving Local Government and the rural community.
- 9.4 It has not been possible to produce a current valuation of Lough Neagh, in terms of a high level cost/benefit analysis. The Working Group is, however, of the opinion that, whilst costs of acquiring the estate and ongoing costs would exist, there are no tangible benefits to Government at this time should the Lough be brought into Government Ownership.

10. RECOMMENDATIONS

- 10.1 The following recommendations are made on the basis of the high level scoping exercise undertaken, and the information contained in this report.
- 10.2 The Working Group recommends that the Executive does not pursue the transfer of ownership of the bed and soil of Lough Neagh to Government ownership.
- 10.3 The Working Group recommends that the Executive task the Working Group to consider and implement a revised, more representative public management structure, incorporating both operational and strategic activity.

10.4 The Working Group recommends that the Department of Agriculture and Rural Development are positioned as the lead department in taking forward any Executive recommendations.

LOUGH NEAGH WORKING GROUP - TERMS OF REFERENCE

PURPOSE

The cross-departmental Working Group, established at the request of the Assembly and NI Executive, will investigate the potential for bringing Lough Neagh into public ownership.

The Working Group will report its findings and make recommendations through the DARD Minister to the NI Executive by November 2012.

FORMAT & MEMBERSHIP

The Working Group will:-

- be convened on a task and finish basis;
- produce a final report by mid November 2012;
- have senior officials from the relevant NI departments as its members; and
- be led by the Deputy Secretary DARD.

Each Department will be invited to conduct their own evidence gathering to represent the views of their key stakeholders. This research will then be collated and the findings will be tabled at formal meetings of the working group.

The secretariat for the Working Group will be provided by DARD Rivers Agency.

ACTIONS

- To identify the current contributions made by NI Departments in respect of the ongoing management of Lough Neagh;
- To identify and assess the potential improvements in management and sustainable management structures of Lough Neagh for each NI Department if it were brought into public ownership;
- To identify potential benefits to the Executive if Lough Neagh is brought into public ownership;
- To produce a current valuation for the Lough Neagh estate;
- Identify and assess legal implications in proceeding with the purchase or compulsory purchase of Lough Neagh;
- To make recommendations where appropriate.

MEMBERSHIP OF THE LOUGH NEAGH WORKING GROUP

Grade 3, Deputy Secretary, DARD (Chair of the Working Group)

Grade 5, Chief Executive, DARD Rivers Agency;

Grade 6, Director of Operations, DARD Rivers Agency;

Grade 5, Director of Water Policy Division, DRD;

Grade 5, Director of Environmental Protection, DOE Northern Ireland Environment Agency;

Grade 5, Director of Sport, Museums Libraries and Recreation Division, DCAL; and

Grade 5, Director with responsibility for Tourism, DETI.

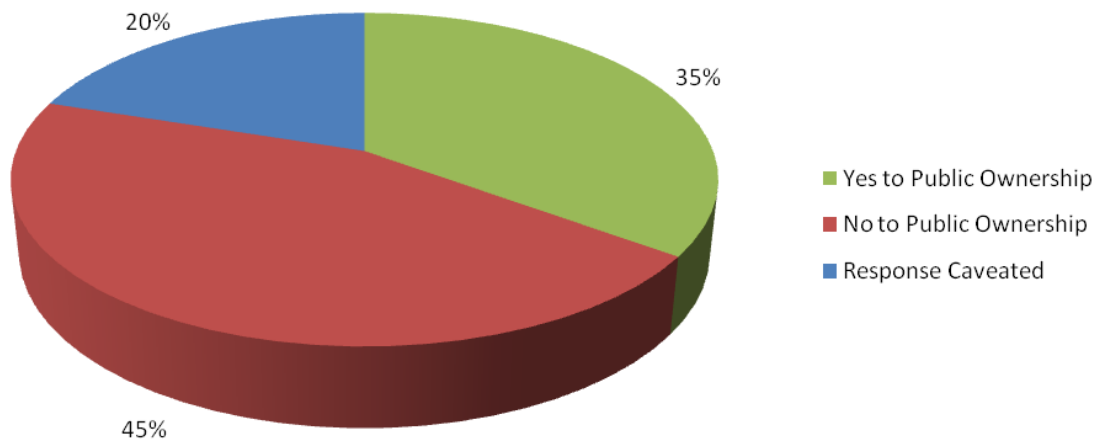
KEY STAKEHOLDERS TO WHOM A QUESTIONNAIRE ISSUED

Invest NI
Geological Survey NI (DETI)
Tourist Board
NI Water
The Utility Regulator
Consumer Council
Cookstown DC
Magherafelt DC
Craigavon DC
Antrim BC
Dungannon and South Tyrone DC
Armagh DC
Lisburn City Council
Ballymena BC
ECOS Centre
Monaghan County Council
Quarry Product Association NI
WWF
Woodland Trust
Ballinderry Fish Hatchery
Six Mile Water Trust
Ulster Angling Association
The Honourable Irish Society
Waterways Ireland
Ulster Coarse Fishing Federation

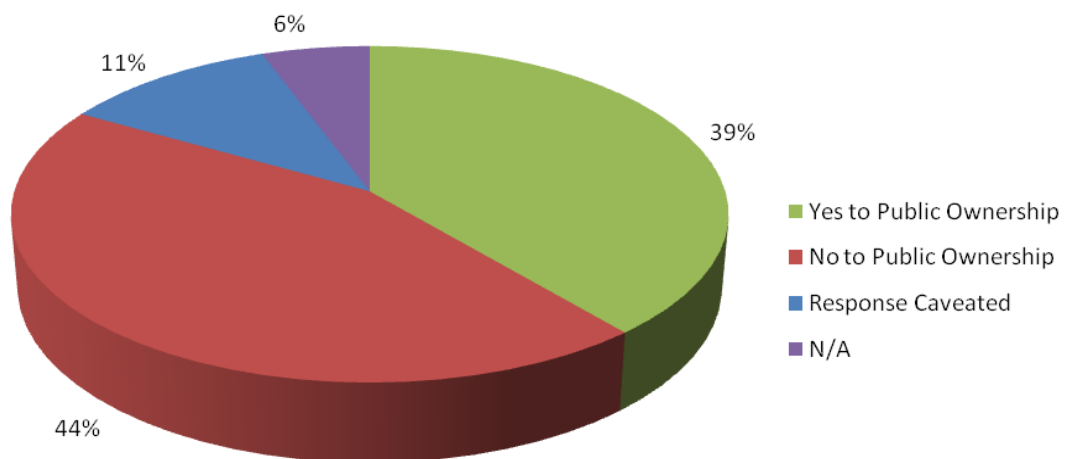
Lough Neagh Sand Traders Association (NI) Ltd
AMK Association
Rural Development Council
Constructed Wetlands for NI
Rural Community Network
Ulster Farmers Union
Portadown Boat Club
Cullybackey and District Game and Sea Angling Society
Rectory Lodge Trout Fishery
Ballysaggart Lough Environmental Group
NI Pike Society
Ballyronan Marina
Friends of the Earth NI
Council for Nature Conservation and Countryside
RSPB NI
Norman Emerson Group
Agri-Food and Biosciences Institute
Lough Neagh Partnership
Lough Neagh Fishermans Co Op
Outdoor Recreation NI
Lagan Canal Trust
Inland Waterways Association Ireland
River Bann and Lough Neagh Association
Kinnego Marina
Lough Neagh Rescue
Rams Island Management
The Blackwater Regional (Tourism in Ireland)

Countryside Alliance of Ireland (CAI)
British Association for Shooting Conservation
Scottish Association of Country Sports
Sports NI
The National Trust

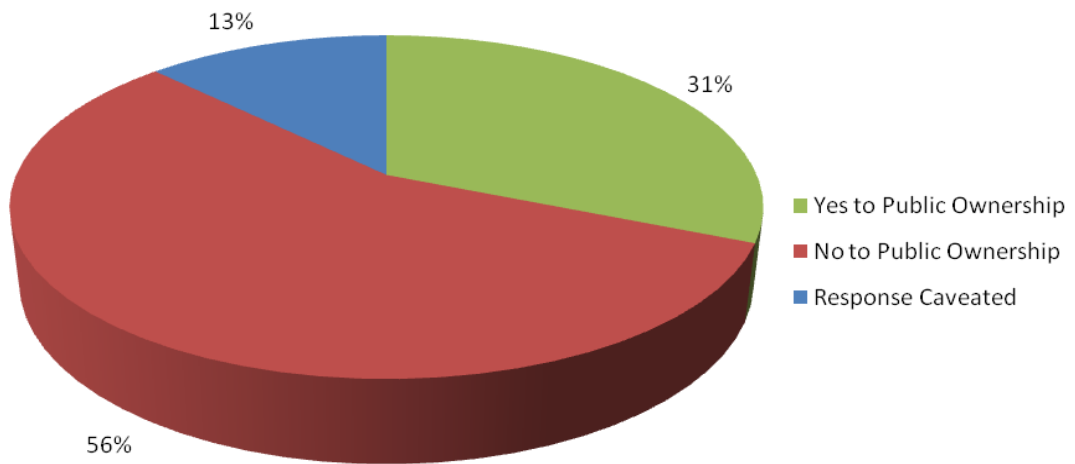
Of the 20 concerns raised with regard to Water Abstraction / Quality



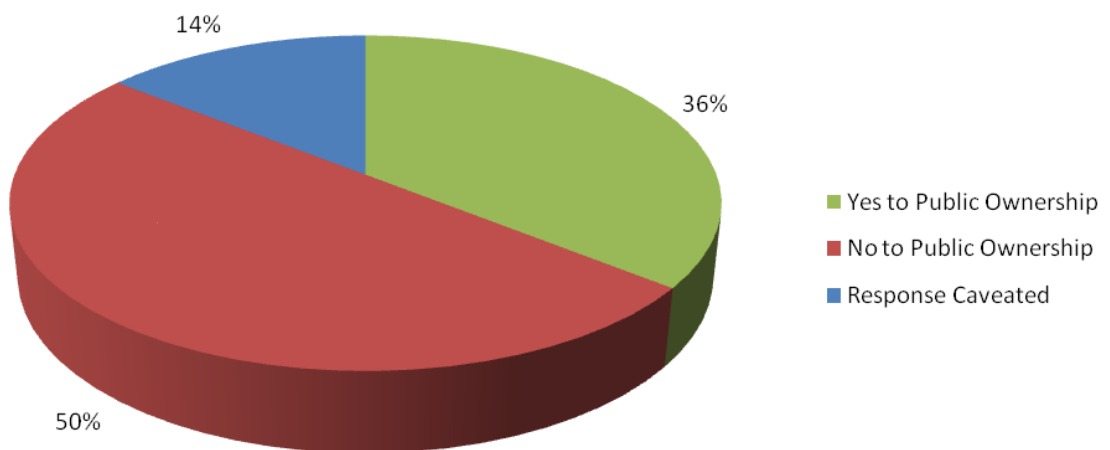
Of the 18 concerns raised in regard to Tourism

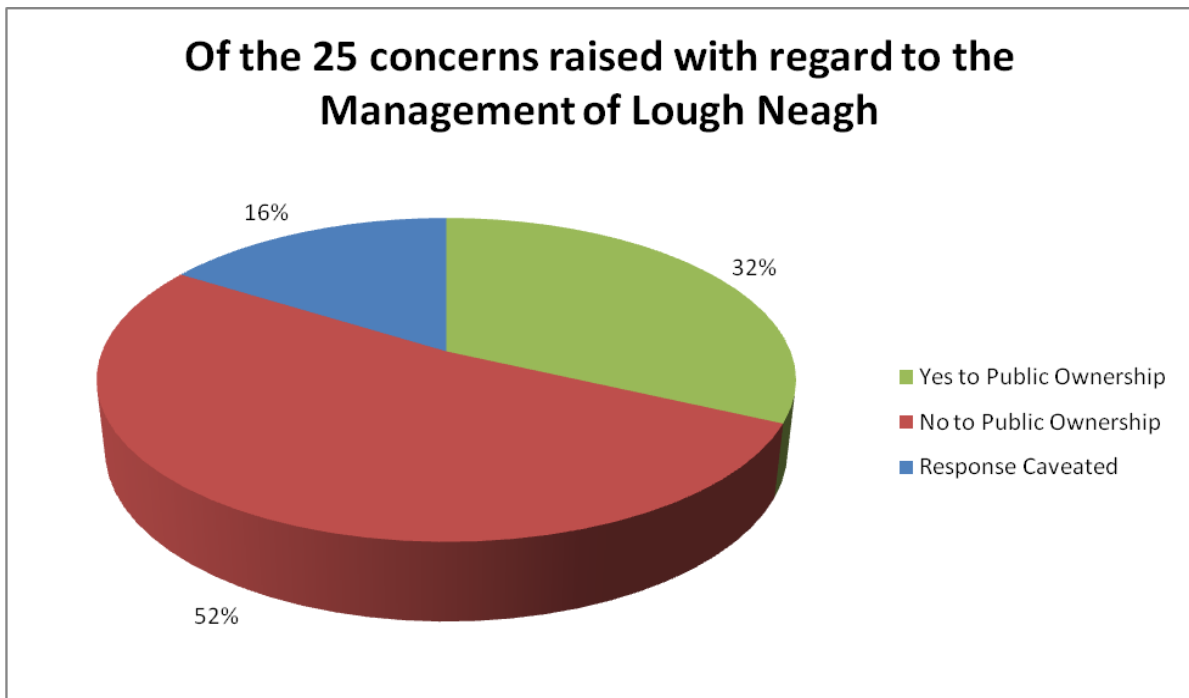


Of the 16 concerns raised with regard to Navigation Authority

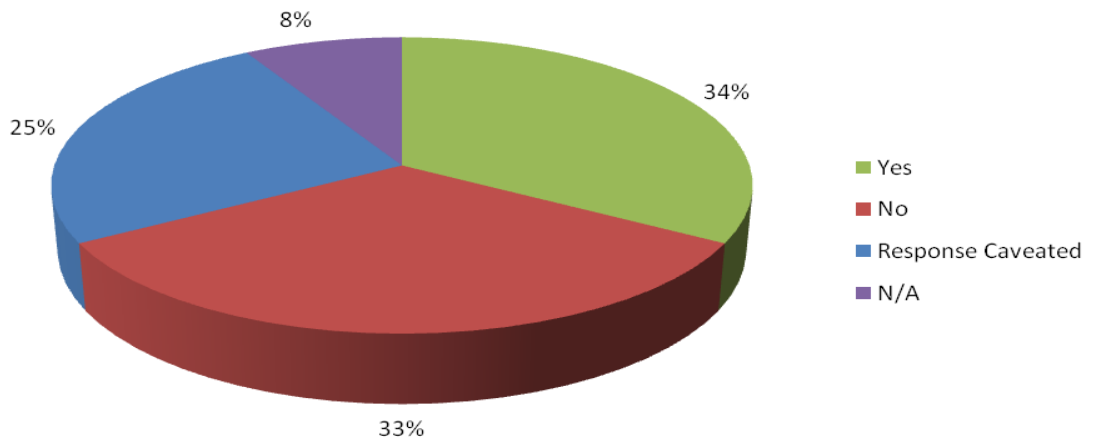


Of the 14 concerns raised with regard to Cost

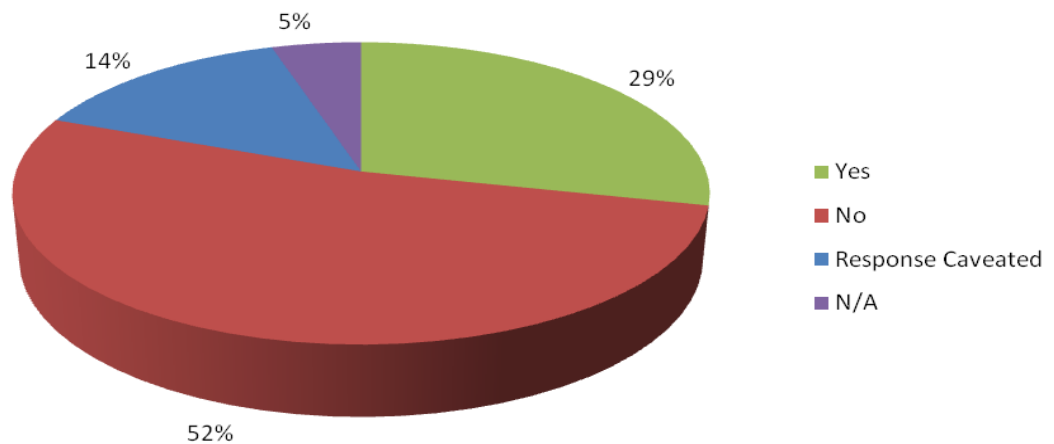




**Do you believe that Lough Neagh should be brought into Public Ownership?
Response from Public Bodies**



**Do you believe that Lough Neagh should be brought into Public Ownership?
Response from key stakeholders excluding Public Bodies**



Lough Neagh Symposium 4th and 5th October 2012 – A summary

Four main issues were identified.

- 1. Public Ownership**
- 2. Management of Lough Neagh**
- 3. Navigation and need for waterways strategy**
- 4. Water Quality**

1. Public Ownership

On the question of taking the Lough into public ownership, reactions were varied.

- One MLA was strongly in favour of public ownership.
- Other speakers wanted to see outcome of the Assembly Working Party findings in relation to the potential benefits of public ownership before making up their mind.
- A number of speakers did not recommend public ownership. One MLA said “I do not believe that now is the time to focus on ownership” and another said he was not convinced Government should buy the Lough.

2. Management of Lough Neagh

There was universal agreement that Lough Neagh needed a properly resourced integrated management structure. Lough Neagh Partnership is currently attempting to co-ordinate some of the activities on Lough Neagh but there is a lack of Central Government involvement.

An Integrated Management Board, with responsibility for tourism, the environment, recreational development and navigation and safety is needed. As well as Local Government, the private sector, community sector and stakeholder bodies, this body must have Central Government representation with a Lead Department.

The Lead Department would be responsible for co-ordination of central government resources.

(A proposed management structure is attached)

3. Navigation and Waterways Strategy

The need to have a NI waterways strategy, with Lough Neagh as a hub, was clearly identified. The Northern Ireland waterway strategy and Ireland waterways strategy should be linked. DCAL should take the lead on this issue.

4. Water Quality

The importance of having good water quality was highlighted by a number of speakers who outlined the detrimental effects of nutrients caused by poor practices. Examples of schemes which led to improved pollution levels in other major lakes were given.

The Shaftesbury Estate of Lough Neagh Ltd



Following recent debates, we wish on behalf of the Shaftesbury Estate and its Trustees, to clarify some of the points raised. In order to provide some transparency around what the Shaftesbury Estate has responsibility for, we should like to highlight the following:

- The Estate has no plans to sell the Lough, but that doesn't mean that if the Assembly asked to buy it that the answer would definitely be no. The Estate wishes to do what is right for the people of the area and to take their opinions into account.
- The Estate has never had any control or rights over the water. Even if the Estate did sell the bed and soil of the Lough, no-one, regardless of who the new owner might be, could EVER charge for the removal of water, for storing water, or for discharging water into the Lough.
- For several years the Estate has been selling pieces of the foreshore (excluding mineral and wildfowling rights), for a nominal amount, to those who have a legitimate claim to the land, for example where a resident has a garden which leads directly onto the foreshore. The Estate intends to continue to do this.
- There still appears to be some confusion about what the Estate actually owns. It is limited to the bed and soil of the Lough along with any mineral and wildfowling rights. All the fishing rights have been leased to others for many years and these attract a small annual rent. The Estate does not own any part of the access roads to the Lough.
- Many of the issues raised around water quality, navigation difficulties and planning issues on the land surrounding the Lough, are already within the remit of government and completely outside the control of the Estate and trustees.
- Over the years, the Estate has tried to accommodate all requests made for items to be placed on the bed of the Lough and since the Lough became the responsibility of the present Earl, the Estate is not aware of any applications, which have the proper planning approvals in place, being refused.
- The Estate is very happy for Government departments to dredge river mouths, quays etc for navigational and flood prevention purposes and, contrary to popular belief, does not make any charge for this. The same principle applies to loughshore residents, who need to clear jetties for their own private use.

Over the last number of months the Estate has made strenuous efforts to get in touch with as many people as possible such as councils, politicians, Lough users and other interested parties. During these meetings stakeholders have had the opportunity to discuss what they see as the current problems, how any plans or wishes are being hampered and also what they envisage as the future for the Lough.

cont/d

The Estate is anxious to work with all those who have an interest in the development of Lough Neagh to ensure that the best possible outcome is reached for the hundreds of people who depend on it for their livelihoods, use it for recreation purposes or who live along its shore. The Estate fully appreciates its importance and is committed to trying to assist in its proper development as an asset for Northern Ireland.

Yours sincerely



Gwynneth Cockcroft

on behalf of the Shaftesbury Estate of Lough Neagh Ltd

Managing Director
dcp strategic communication Ltd

Recommendations from DCAL Report

Key recommendations resulting from the consultation and information gathering process to date include:

- Any governance or management option, if it is to be effective must benefit from meaningful cross Departmental working arrangements
- Assuming that robust and meaningful cross departmental working arrangements can be developed it is imperative that there is a defined leadership role ... in the absence of the interdepartmental working paper it is suggested that some form of lead department agreement should be sought
- It is important that any governance and management structure brings together a cross party representation; given the scale, complexity, activity and importance of Lough Neagh in the context of NI it might be important that all parties are represented by Councillors, initially from the seven Councils and post RPA from each of the new Councils with a direct connection to the Lough
- The preferred option must seek to include representation from the wide range of interests in and around the Lough; it is also imperative that key decision makers define the extent of the Lough Neagh system and the geography impacted by it
- The preferred option should seek to develop a lobby and influencing role both at a local level but significantly at a cross departmental/NI Executive level
- The operational or management element of any option must have 'enough clear water' to allow it to bid for funding to implement actions consistent with the Vision Framework agreed for Lough Neagh and set out in supporting Thematic Strategic Plans in cases where there is not Departmental, Agency, Local Authority or local capacity or competency to do so.

Process Recommendations

The following process recommendations are based on the outputs of the process to date and the decisions/information required in order to further develop a meaningful Options Appraisal Report. They are:

- The Interdepartmental Working Group recommendations are available to influence and set the context for the options development process
- A series of Local Authority consultation workshops are held around draft options; it is more appropriate to do this on a transition cluster basis so that the potential impact of RPA are factored into their thinking around options for Lough Neagh

At this point, Option 4 would appear to be the preferred option in terms of moving the project forward. This model presents opportunity to explore potential to develop a cross-departmental approach to the Lough, including a visioning statement and framework. Central to this model will be cross-department co-operation, commitment and joint working with an appointed Lead Department.

This model (illustrated overleaf) has potential to provide dedicated and focussed resources to develop a vision, strategy and associated action plans in addition to providing governance and co-ordination. Support of this nature is essential to the project in order to ensure that all strategic partners remain on board and share the same vision, aims and objectives.

Implementation Plan

It is recognised that the recommendation of an option is provided in a context where key decisions are required in order to provide certainty. These decisions relate to:

- Ownership of the Lough Neagh bed
- Agreement between the Departments with a remit and responsibility for the Lough system
- Agreement on a Lead Department

However, on the basis that these decisions will be made and communicated within a reasonable timeframe the following Implementation Plan sets out the key steps required to move from a proposed Governance and Management Option to an active and effective model for Governing and Managing the Lough system i.e. Strategic Cross Departmental Partnership. The Implementation Plan focuses on both the preparation and introduction of the recommended option (Option 4) and on action required post implementation in order to create the best possible conditions for success.

AOPTION 4

Strategic Partnership Group

- Lead Department
- cross departmental
- cross sectoral

Service Level Agreement

Lough Neagh Implementation Company

- Implement projects and programmes on behalf of SPG
- Bid for public and external funds

Partnership Manager

Marketing Officer

Environmental Officer

Administrator