

Infrastructure 24, Marine Conservation Society

Senedd Cymru | Welsh Parliament

Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith | Climate Change, Environment, and Infrastructure Committee

Bil Seilwaith (Cymru) | Infrastructure (Wales) Bill

Ymateb gan Cymdeithas Cadwraeth Forol | Evidence from Marine Conservation Society

General principles

What are your views on the general principles of the Bill, and is there a need for legislation to deliver the stated policy intention?

The Marine Conservation Society agrees with the stated aim of the bill, to provide a unified consenting process for Significant Infrastructure Projects. A simplified process will make Wales a more attractive place to invest, and we support this, considering the role which renewable energy developments must play in meeting Net Zero targets and transitioning Wales to a low carbon economy.

In unifying the consenting process, we hope that the Bill allows for biodiversity issues to be considered more holistically and upfront, rather than at a later stage as part of separate planning applications. We hope that this enables more of an ecosystem-based approach to be taken, which is a requirement of legislation such as the duty under Section 6 of the Environment (Wales) Act.

We support the stated aim that the streamlined process will facilitate input into the consultation process, and therefore enable people feel more connected to changes in their local environment. In the context of development at sea, this links to the work the Wales Coast and Seas Partnership are leading on ocean literacy – promoting an increased understanding of how the ocean impacts on us and we impact on the ocean. Enabling input into decision making is an important part of increasing ocean literacy.

Whilst we agree with the broad purpose of the Bill, there are several points we would appreciate clarity on.

Firstly, it is important that as consenting regimes are unified, environmental safeguards are not dropped, and if possible are enhanced. We propose this Bill is

used to adopt a nature positive development policy in Wales, underpinning the ambitions of COP15, the Biodiversity Deep Dive recommendations, the Section 6 duty under the Environment (Wales) Act and the Wellbeing and Future Generations Act. We recognise the work Welsh Government is doing to adopt a 'best in class' approach to biodiversity net benefit and suggest that this Bill could help to formalise this work.

Secondly, the Bill must not be seen as the complete answer to solving consenting problems. It is not only complex statutory regimes which cause barriers, but also conflicting spatial demands. This is particularly the case in the marine environment, where activities happen in a three-dimensional way (using the seabed and the water column). Development applications are often delayed due to conflicts with environmental protection issues. These delays can be much alleviated by a more prescriptive marine planning framework, which Wales is currently lacking. This is because, unlike its terrestrial equivalent, Future Wales, the Welsh National Marine Plan does not contain a spatial element to determine where development is most sustainably located or indeed the level of development that can be sustained. The work that the Welsh Government has thus far completed on Strategic Resource Areas and Sector Locational Guidance is insufficient as it is planning guidance and not statutory policy.

An additional, much-needed solution to consenting barriers would be the introduction of a marine development plan – covering both inshore and offshore marine areas. This would guide development, within a defined geographical area, by setting out both a spatial planning context and a set of detailed planning policies which decision makers can use to determine individual applications. An assessment and allocation of sites via a marine development plan would provide greater clarity and a degree of acceptability to schemes at an early stage. It can limit the scope of conflict at application stage and thus has the potential to speed up the consenting process whilst also protecting a fragile marine ecosystem.

We urge that the possibility of introducing a spatial policy document as an 'infrastructure policy statement' under Section 124 of the Bill is investigated. Although insufficient as a full marine development plan (due to the fact that it would not be cross-sector), this would be a start in determining where development is most sustainably located and indeed the level of development that can be sustained.

Thirdly, we would urge that Welsh Government be mindful of the capacity of the NRW marine licensing team. Streamlining applications may reduce pressure, but thought should be given to how additional duties, such as that under Section 36 which required NRW to submit to Welsh ministers a Marine Impact Report, will

be delivered. This is particularly pertinent given some of the conclusions from the recent end-to-end review of the Marine Licensing process report (<https://www.gov.wales/end-end-review-marine-licensing-process-summary-report>), such as how 'The workload with marine licensing has grown without a concomitant increase in resources', and how 'there is a lack of technical expertise within NRW Marine Licensing which leads to an overreliance on NRW Marine Advisory'.

Under Section 33, Welsh Government may extend planning application deadlines, and may do this multiple times. We believe that there should be a limit to the number of extensions allowed to encourage high quality applications to be submitted and to help regulators to strategically allocate resources and manage workload.

Fourthly, with regards to the examination procedure, whilst the process sets out that Ministers must appoint a person or a panel of persons to examine each valid application for infrastructure consent, the process for selection of persons is yet to be made clear. Additionally, clarification would be helpful regarding the hierarchy of decision making which will exist between the examining authority established under this regime and decisions taken by the Secretary of State on offshore energy projects over 350MW in Welsh waters. This is particularly important when considering the multiple parts involved in a floating offshore wind development (including cabling and port expansion for wet storage for example). Coordination between these authorities will be crucial as marine planning must become more spatial, strategic, and holistic.

Fifthly, we note that whilst the Bill states that a local authority 'must' submit a Local Impact Report for a development on land, they only 'may' for the marine area. This parity in duty should be addressed so that Local Impact Reports are mandatory for any development which impacts on the marine area. This is particularly important going forwards, as the growth in offshore renewables will lead to increased development at the coast (port development, cable landfall infrastructure etc.).

Finally, we would like to query the assessment that that the Bill will not have any impact on socioeconomic disadvantage. In streamlining consents for offshore renewable energy developments, and the likely increase in development (and associated infrastructure such as cabling) that will occur as a result of this, there is a risk that other marine industries, for example the fishing industry, are impacted and potentially displaced. Increased development must therefore be planned in the context of a just transition. Moreover, unintended displacement has the

potential to put pressure on new parts of the marine environment. As outlined above, a marine development plan could provide the spatial planning framework to manage displacement in a holistic way.

What are your views on the Bill's provisions (set out according to parts below), in particular are they workable and will they deliver the stated policy intention?

Part 1 - Significant infrastructure projects

No response.

Part 2 - Requirement for infrastructure consent

No response.

Part 3 - Applying for infrastructure consent

No response.

Part 4 - Examining applications

No response.

Part 5 - Deciding applications for infrastructure consent

No response.

Part 6 - Infrastructure consent orders

No response.

Part 7 - Enforcement

No response.

Part 8 - Supplementary functions

No response.

Part 9 - General provisions

No response.

What are the potential barriers to the implementation of the Bill's provisions and how does the Bill take account of them?

No response.

How appropriate are the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)?

No response.

Are any unintended consequences likely to arise from the Bill?

No response.

What are your views on the Welsh Government's assessment of the financial implications of the Bill as set out in Part 2 of the Explanatory Memorandum?

No response.

Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?

No response.
