



Response to the Constitutional and Legislative Affairs Committee inquiry into the Draft Wales Bill

November 2015

Wales Environment Link's Marine Working Group values the opportunity to take part in this inquiry by the Constitutional and Legislative Affairs Committee into the Draft Wales Bill.

WEL would like to comment on specific clauses of the draft Wales Bill that would affect the health and management of Wales' marine environment. Notably clause 17, 26 and 27 (planning consent for generating stations with 350MW capacity or less, marine licensing in the Welsh offshore region and Marine Conservation Zones respectively).

Planning consent for generating stations with 350MW capacity or less

WEL welcomes clarity on the further devolution of energy generation. It is still unclear however whether energy generated from wind will be devolved to Wales or this will be within the UK process. Given the increase from 50MW to 350MW it is unclear whether Wales would have an equivalent of the National Infrastructure Project process to assess all energy developments. WEL would seek clarity on this to ensure all aspects of future projects are fully assessed.

Marine licensing in the Welsh offshore region

WEL welcomes the commitment within the draft Bill to extend the marine licensing powers to the Welsh offshore; this would enable connectivity for in the inshore and offshore and coordinated management of the whole Welsh marine area. It also would support the implementation of the Welsh National Marine Plan, which includes the Welsh offshore region out to the median line.

However, it is understood from the explanatory memorandum that there would be no further funding for functions within the Bill. We are already concerned over the current resourcing for the marine licensing functions of the Welsh Government and Natural Resources Wales (NRW) for the inshore. It is not clear where the additional resources would come from, whether there would be sufficient resources within the Welsh Government to extend to the offshore or given the reduction in their duties whether resources would be obtained from the Marine Management Organisation, who currently license the Welsh offshore. However, the MMO are themselves facing up to 40% cuts as part of the current Comprehensive Spending Review in Westminster, this

leaves the ability of decision makers to enforce marine licenses in Welsh offshore waters open to debate.

It is understood that the UK Government would retain the function of dealing with activities under Part 6 of the Merchant Shipping Act 1995, WEL would welcome further clarity to how this will be enforced and if the Welsh and UK Governments would share resources to cover all marine licensing enforcement in the Welsh offshore.

WEL are currently advocating for full cost recovery of marine licensing functions. This is for current marine licensing activities, so that the Welsh Government and NRW are able to gain full cost recovery to these functions and that as part of the licensing process developers have to provide all data to the Welsh Government and NRW.

Marine conservation powers in the offshore zone

WEL cautiously welcomes the commitment to enable the Welsh Government to designate Marine Conservation Zones (MCZs) in Wales' offshore marine region. This will ensure site boundaries can be designated based on the location of their features and allow for sites to span the current legislative boundary of twelve nautical miles, providing site boundaries that protect the entire feature, not just those elements residing within a given legislative area. It will also ensure that the whole of the Welsh territorial seas have one governing body responsible for site designation, management, protection and enforcement, providing clarity.

With the existing powers to manage fisheries within the offshore area, these additional powers enable the Welsh Government to make a significant contribution to the well managed and ecologically coherent UK network of Marine Protected Areas (MPAs). These are sites that are required under the UK's Programme of Measures to achieve Good Environmental Status (GES) under the EU Marine Strategy Framework Directive, and committed to under the OSPAR Convention, as well as to protect species and habitats of national importance offshore. Currently there are 4 proposed MCZs identified and agreed as far back as 2011 by the stakeholder-led Irish Sea regional MCZ Project¹ and it is vital that that a smooth transition occurs as soon as possible so that these highly pressurised sites do not remain in limbo. The Minister Carl Sargeant in a letter to the Environment and Sustainability Committee stated (3rd November 2015)

'In respect to MCZ should responsibility for nature conservation in the offshore area be transferred to Welsh Ministers we will then consider the needs of the wider network before making any decision about designation of additional sites'

We welcome Welsh Governments commitment to ensure Wales contributes to the wider ecological coherent network and if needed the designation of further offshore sites.

As with marine licensing, however, WEL are concerned over how these extra duties will be resourced and if UK will give more funding to cover these costs. These concerns refer to both the resourcing of the Welsh Government and NRW, as there has already been a review and reduction of current funding for the inshore area, with further cuts to environmental functions in England and expected in Wales.

¹ <http://webarchive.nationalarchives.gov.uk/20120502154706/http://www.irishseaconservation.org.uk/>

Given the extra duties, we would seek clarification where this additional funding would be sourced from. It is unclear if these duties would fall to the Welsh Government or be recouped from DEFRA. WEL would seek clarity from both the UK and Welsh Governments as to how these functions would be fulfilled to meet domestic and international requirements.

Marine Protected Areas are key to help the Welsh Government achieve their statutory duty of sustainable development in the marine environment. Along with marine planning, they aid in ensuring that the environment is taken into equal consideration with the economy and social issues. As in Scotland, the draft Bill proposes that the Secretary of State would have to sign off any potential MCZ, although this would provide parity with Scotland. We are concerned that this could cause delays to site designation and impact on the UK's stated implementation under the EU Marine Strategy Framework Directive of a well-managed and ecologically coherent network in place by 2016, including sites for mobile species (marine mammals and seabirds) required under the Habitats and Birds Directives. In addition, given the need for the Secretary of State to provide final sign off any offshore MCZs we would seek clarification if this provides additional resources from the UK Government to manage and enforce these sites.

Other considerations

It is currently unclear within the draft Bill as to how the proposed changes within the Assemblies under clauses 20 to 23 will affect the Assembly's ability to create and enforce legislation for Wales. This is of concern given the current process of the Environment (Wales) Bill and if future legislation such as this could fail to be passed affecting the integrity of both marine and terrestrial environments. Further clarity of this proposed process would be welcomed.

Wales Environment Link (WEL) is a network of environmental, countryside and heritage Non-Governmental Organisations in Wales, most of whom have an all-Wales remit. WEL is officially designated the intermediary body between the government and the environmental NGO sector in Wales. Our vision is a healthy, sustainably managed environment and countryside with safeguarded heritage in which the people of Wales and future generations can prosper.

Our members are:

| | |
|---|---------------------------------------|
| Afonydd Cymru | Landscape Institute Wales / Sefydliad |
| Amphibian and Reptile Conservation (ARC) Trust | Tirwedd Cymru |
| Bat Conservation Trust | Marine Conservation Society |
| British Mountaineering Council | National Trust / Ymddiriedolaeth |
| Buglife – The Invertebrate Conservation Trust | Genedlaethol |
| Bumblebee Conservation Trust | Open Spaces Society |
| Butterfly Conservation Wales | Plantlife |
| Campaign for National Parks | RSPB Cymru |
| Coed Cadw / Woodland Trust | Salmon & Trout Association |
| Council for British Archaeology Wales | The Vincent Wildlife Trust |
| CPRW – Campaign for the Protection of Rural Wales | UK Environmental Law Association |
| Cymdeithas Eryri / The Snowdonia Society | Whale and Dolphin Conservation (WDC) |
| Keep Wales Tidy | Wildlife Trusts Wales |
| | WWF Cymru |

Wales Environment Link values the opportunity to take part in this important consultation. This response represents the consensus view of a group of WEL members working in this specialist area. Members may also produce information individually in order to raise more detailed issues that are important to their particular organisation.

Registered Charity Number / Rhif Elusen Gofrestredig: 1022675
Chair / Cadeirydd : Bill Upham **Director / Cyfarwyddwraig : Susan Evans**