

Sustainability Committee

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12 February 2009

WWF Cymru Response

Inquiry into the Marine and Coastal Access Bill

SUMMARY

WWF Cymru welcomes the publication of the Marine and Coastal Access Bill and the inquiry by the Sustainability Committee.

WWF Cymru believes the Marine Bill should be further strengthened to ensure cooperation and coordination across borders. This echoes the recommendation from the Sustainability Committee on the Draft Bill. We do not believe the changes to the Bill are adequate to ensure this outcome.

We would like stronger provisions in the Bill to ensure that all four UK administrations sign up to a shared Marine Policy Statement, and a duty to produce plans for the whole of the marine area covered by the Bill. The Bill should also allow the four administrations to produce joint plans for border areas or regional seas where appropriate.

WWF Cymru believes that the MMO/Welsh Ministers, rather than the Infrastructure Planning Commission (IPC), should regulate marine functions in UK and Welsh seas in order to be able to deliver sustainable management. If the IPC manages large marine infrastructure projects it must be required to adhere to the appropriate Marine Policy Statement and marine plans.

Welsh Ministers should be able to obtain advice and assistance from the MMO free of charge, as is the case for the Secretary of State.

We welcome the new requirement in the Bill for Welsh Ministers to establish a system for appeals against licensing decisions, and would welcome information on how this will operate in practice.

The provisions for nature conservation have been improved since the draft Bill but a clearer duty to designate Marine Conservation Zones is needed, and the Bill should make specific reference to Highly Protected Marine Reserves.

The provisions for management of inshore fisheries in Wales are an addition since the Draft Bill and we believe they are not sufficient to deliver sustainable fisheries management. Our main concern is that the duties placed on inshore fisheries managers in England to deliver sustainable management and further conservation objectives are not conferred on Welsh Ministers.

WWF Cymru believes that the Welsh Ministers should report regularly to the Assembly on the delivery of **all** of their marine management functions.

INTRODUCTION

WWF is the largest and most experienced independent environmental conservation organisation in the world, operating in 100 countries. Our global aim is for people and nature to thrive within their fair share of the planet's natural resources. It is from this international perspective that we have campaigned to secure a UK Marine Act for more than 10 years. Our campaign included the publication of WWF's own 'Draft Marine Act' in 2005, to drive the process forwards. We have participated in the many subsequent Government consultations and are grateful for the opportunity to supply evidence to the Sustainability Committee's inquiry on the Marine Bill. We are delighted to be at this point in the process and are hopeful for the outcome for UK and Welsh seas.

THE MARINE BILL CAMPAIGN AND COALITION WORKING

WWF UK's Marine Act campaign has involved collaboration with a number of NGO partners, in Wales, England, Scotland and Northern Ireland. The Wales Environment Link Marine Working Group (MWG) has spearheaded the NGOs' marine campaign in Wales. WWF Cymru is very pleased to have been invited to give evidence to the Committee alongside our partners in the MWG, RSPB Cymru, with whom our priority concerns over the Marine Bill are shared. To avoid duplication in the evidence submitted to the Committee we have agreed to focus our submissions on different key points in different areas of the Marine Bill. This submission therefore focuses on the areas that predominantly relate to marine management: Marine Management Organisation (MMO), Marine Planning and Marine Licensing, with only a short summary of the other issues (nature conservation and inshore fisheries management). These other issues are covered more extensively in RSPB Cymru's evidence but are still key areas for WWF. WWF continues to campaign on the full range of issues both in Wales and at a UK level.

THE ECOSYSTEM-BASED APPROACH AND REGIONAL SEAS MANAGEMENT

Effective marine management must be delivered at a scale that makes ecological sense, rather than be restricted to political boundaries. An ecosystem-based approach means managing all human activities at sea within one planning framework, based on the best available knowledge about the ecosystem. WWF believes an ecosystem approach to managing the marine environment at the regional sea level is the only way to achieve effective management and meet international obligations (e.g. the European Marine Strategy Framework Directive). Regional seas of particular importance to Wales include the Irish Sea and the Southwest Approaches, where cooperation between the different Administrations is vital.

The MMO is to be the UK's strategic delivery body for the marine environment and will deliver and regulate retained (non-devolved) functions in Welsh seas. This will result in a complicated mix of retained and devolved functions and management split between different bodies. The Infrastructure Planning Commission, set up under the Planning Act 2008, will regulate large infrastructure projects, including renewables over 100 MW and large ports and harbours. This will add another layer of complexity to the management of Welsh seas.

The need for greater coordination and formalised working arrangements between the UK and Devolved Administrations was highlighted in our evidence to the Joint Committee on the Draft Marine Bill and reflected in their subsequent recommendations to Government. This was also emphasised by the Sustainability Committee. WWF Cymru believes the following changes are needed in different Parts of the Marine Bill to enable an ecosystem-based approach to marine management at a regional seas scale.

Marine Management Organisation (MMO)

The general objective of the MMO to ensure coordination and consistency between activities in its area of operation (s2(2)) needs to be strengthened. Ideally, joint bodies or regional fora should be created to manage our seas at an ecosystem or regional seas scale (e.g. in the Irish Sea). A duty to cooperate and to apply consistent management should not be restricted to the MMO's area of operation but should extend to all UK seas. A reciprocal commitment to coordination and cooperation from the Devolved Administrations is therefore necessary. We would like the Sustainability Committee to seek a commitment from the Minister to work co-operatively and consistently with the MMO and equivalent bodies in the other Devolved Administrations, both through the Joint Ministerial Commission and through other possible means.

Welsh Ministers should be able to obtain advice and assistance from the MMO free of charge, as is the case for the Secretary of State. WWF Cymru believes the clause that details advice, assistance and training provisions by the MMO (s24) is ambiguous and we would like specific reference to Welsh Ministers alongside the Secretary of State. Much of the data and information that the MMO will be co-ordinating is aggregated for England and Wales. It will be essential, therefore, that the MMO facilitates the release of appropriate data to counterparts in Wales and provides advice to ensure marine plans in Wales are based on the same quality of data and are co-ordinated across borders.

Welsh Ministers should be required to report on marine functions to the National Assembly for Wales. The MMO is placed under a duty to report annually to the Secretary of State, who must then lay the report before Parliament. WWF Cymru believes an equivalent duty should be conferred on Welsh Ministers to allow scrutiny of the Welsh Assembly Government's discharge of Marine Act functions by the National Assembly for Wales. A detailed duty exists for reporting on marine conservation zones (s120), but we believe this should extend to all functions in the Bill.

The MMO/ Welsh Ministers should be the regulatory bodies for all marine functions. WWF Cymru does not believe it is appropriate for the Infrastructure Planning Commission (IPC) to regulate large infrastructure projects in the marine environment. In order to achieve sustainable development it is essential that the MMO, and Welsh Ministers in Wales, have a strategic overview of all activities in the seas. If the IPC is to retain this role it is essential that it is under a duty to adhere to the appropriate marine policy documents, therefore clause 56 of the Bill must be amended to remove the derogations on IPC decisions for marine projects.

Marine Planning

Ability to establish joint marine plans. WWF Cymru believes the Bill should enable authorities to establish joint planning arrangements, where appropriate, to facilitate a regional seas approach so that planning is consistent and integrated and decisions are streamlined. Without the ability to plan jointly, there remains a risk that planning authorities may work on two separate plans for an area where it would make more sense to work together on one plan (e.g. for an estuary or the Irish Sea). The Bill should be amended to allow agreements to be made between planning authorities to plan jointly for a particular area. There should also be stronger consultation requirements for marine plan authorities to consult neighbouring or related marine and terrestrial planning authorities when developing plans, so they can meet the requirement in Schedule 6 to 'ensure that plans are compatible'.

Safeguards are needed to ensure a Marine Policy Statement (MPS) is agreed for all UK seas. WWF Cymru is concerned at the apparent ease with which a marine policy authority (e.g. Welsh Ministers) can opt out of jointly agreeing the MPS, and withdraw from an agreed MPS. The MPS is a central part of the new marine planning system that will give the strategic overview for decision making. WWF Cymru believes Welsh Ministers should be obliged to endeavour to use the amendment provisions in the Bill to reach agreement in the first instance and should report their rationale to the Assembly should they then decide to opt out or withdraw from an MPS.

Duty to produce marine plans for all UK/Welsh seas. We believe that where an MPS governs marine planning, there should be a duty on all marine plan authorities to produce marine plans for all UK seas. A strategic approach to marine planning is necessary to ensure ecosystems are well managed and protected. Without a duty to produce plans there is the possibility that no plans will be produced or plans may not be produced where they are needed. Currently the Secretary of State must agree plans proposed by Welsh Ministers for both inshore and offshore waters before they are adopted. This could lead to delays and the potential for agreement not to be reached. A duty to create marine plans would create more of an incentive for the Welsh Ministers and the Secretary of State to agree

plans and avoid either a lengthy process or a lack of resolution.

Marine Licensing

Clarity is needed on the appeals system for licensing and it must be coordinated across borders. WWF Cymru highlighted in our evidence to the Joint Committee on the Draft Marine Bill the lack of the ability to create an appeals system for marine licensing in Wales. This has been remedied by the insertion of a new clause (s70). This clause is very broad and does not indicate how an appeals system will be set up. Since Welsh Ministers are likely to be both the granter of licenses and part of the appeals mechanism we would appreciate greater clarity on the practical aspects of this provision. We would also like assurance that there will be coordination in approach across borders to ensure clarity for sea users.

OTHER MATTERS

For more detail on the following matters please refer to the evidence submitted by RSPB Cymru.

Marine Nature Conservation

There remains the need for a clear duty on Welsh Ministers (and the Secretary of State) to designate an ecologically coherent network of marine protected areas. Without this clear obligation we could end up with few sites designated, as was seen under the Wildlife and Countryside Act, 1981. We are pleased that the Welsh Assembly Government has committed to designating a network of Highly Protected Marine Reserves, and believe it would be beneficial if this type of site was specifically referred to in the Bill.

Inshore Fisheries Management in Wales

Clear duties are placed on inshore fisheries management bodies (IFCAs) in England to secure sustainable exploitation of marine resources and to further the conservation objectives of marine conservation zones. These duties are vital to give clarity and purpose and to deliver sustainable management of fisheries, but yet no equivalent duties are placed on Welsh Ministers. Many other duties are placed on Welsh Ministers throughout the Bill and we believe, therefore, that the Marine Act is the most suitable vehicle to create strong and modernised duties for fisheries managers in Wales.

Welsh Ministers are given powers to make orders for fisheries management through the Marine Bill where existing powers do not already exist in other fisheries legislation. WWF Cymru believes that this is potentially confusing for both regulators and users. We believe the powers in the Marine Bill are broader and better defined than those in existing legislation and we would like Welsh Ministers to be able to use these powers if they feel it is more appropriate.

Further information

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