Infrastructure 33, Natural Resources Wales

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 Cyfoeth Naturiol Cymru | Evidence from Natural Resources Wales

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?

As there is no scope in this form, we include here an introductory section before going on to respond specifically to the question posed. We have been in dialogue with Welsh Government in relation to specific aspects of the Bill, particularly in relation to the deemed marine licence process. We warmly welcome the engagement to date and would hope to continue timely engagement as the Bill, Secondary Legislation and Guidance are developed.

In addition, it is understood that statements of policy intent in support of the Bill will be published at the end of the Senedd's summer recess, which may provide further detail on both compulsory and optional SIPs. We would welcome the opportunity to review such additional information and provide further comments as necessary to inform the scrutiny of the draft Bill. Similarly, we look forward to contributing to the preparation of secondary legislation and responding to future consultations on any draft regulations.

We have provided a detailed response to the relevant questions outlined within the form. In summary, key points in relation to the Bill are:

- The framework nature of the Bill does make it challenging to review and understand the full implications to NRW's statutory functions. Whilst we understand and support the need for flexibility, to ensure that the unintended consequences are reduced we consider that further ongoing dialogue with NRW and Welsh Government to be essential.

- The inclusion of a deemed marine licence as part of the Bill places different duties upon NRW. Whilst we do not object to the inclusion of a deemed marine

licence we consider, however, it is paramount that the secondary legislation and guidance allows for a robust assessment (please see our response to 2vi)

- Section 81 allows the creation of regulations to outline certain consents that can be deemed or removed with the consent of the regulator. We support and encourage parallel tracking of permit and licence applications, however, the potential to remove or deem permissions requires careful consideration to avoid unintended consequences (please see our response to 2vi).

- We warmly welcome the provision under Section 121 to enable regulations to set out the charging of fees by specified public authorities for performing a function and providing a service in relation to infrastructure consent. It is essential for statutory consultees to be appropriately resourced to respond to these applications and the charging of fees is a critical element of ensuring adequate resourcing. Ensuring that appropriate statutory consultee charging schemes are created is a critical part of this (please see our response to 2viii).

In relation to the general principles of the Bill we broadly agree that legislation is required to address the policy intentions as outlined and that the Bill as drafted will meet those intentions. However, given the level of detail available within the Bill it difficult to provide a final view as to whether the Bill will achieve the policy intention. We would welcome continued dialogue with Welsh Government as the Bill, Statutory Instruments and Guidance develops to allow us to continue to advise to ensure that the Bill can achieve the policy intent.

We do have specific comments to make with regards to the following principles:

Consistency and confusion: We agree that the Bill will enable developers and the public to engage with a consistent process for areas within devolved competence and listed within the Bill.

Certainty: The Bill does allow for a clear 52-week examination period, with the ability to extent which we support, particularly for novel projects. Whilst the examination period is clear, there is the potential for either the pre-application, or post permission phases of a development to be extended, which overall may not result in precise end-to-end timescales. A clear timescale may also lead to an outcome of refusal of applications should the examination time period to allow for consent to be granted within that time.

Quality of applications: We welcome strengthening of pre-application consultation, however, highlight that this depends on the appropriate resourcing of consultees to support the preapplication consultation, and the need to signal to applicants to follow the pre-application advice provided.

Chances of success: A policy framework is provided for within the Bill.

Complexity: In certain cases, such as the disapplication of the Transport and Works Act, there will be a reduction in complexity. We also hold significant concerns in relation to the potential to remove the need for or deem wider permissions under section 81 of the Bill. Whilst this may reduce complexity, without careful consideration on which consents this may apply to and the associated procedures, this may reduce the level of protection afforded by these consents. We understand that this will be subject to subordinate legislation and would welcome early engagement to understand the potential implications.

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

The identification of compulsory Significant Infrastructure Projects (SIPs) within Part 1 of the Act is welcomed as it provides certainty over which projects fall within the new infrastructure consenting regime. The efficiency benefits of being able to add, vary or remove SIP projects via regulations (Section 17) in response to changes to UK legislation and technological changes in industry, particularly associated with Decarbonisation, are also welcomed, and acknowledged.

However, we have specific comments related to matters of detail of the drafting of certain compulsory SIPs.

Within Part 1, the marine area is specifically listed in relation to certain sections, for example section 2 in relation to Electricity Infrastructure, but not in others for example section 7 Highways.

There may be certain cases that a marine licence would be required for Highways projects where a bridge is constructed over an area seaward of Mean High Water Springs. For the avoidance of doubt, we recommend the Welsh Marine Area is referenced throughout all relevant sections and are happy to provide further advice on this as required.

We note that certain thresholds may be complicated to determine such as section 10 "Harbour Facilities". To assist in the application of the thresholds in future we would encourage the development of associated guidance to support later implementation.

Section 18 provides clarity on cross border projects in relation to the Welsh Marine Area. We note that the explanatory memorandum that refers to the “Welsh Zone” and not the “Welsh Marine Area”. We would recommend, for clarity, that reference is made in the explanatory memorandum that the legislation does not apply within the Welsh Offshore Area (beyond twelve nautical miles).

Confirmation that optional SIPs will be added via regulations that amend Part 1 would be welcomed. The proposed affirmative procedure for making this secondary legislation is considered appropriate to allow for an additional degree of scrutiny by the Senedd.

As part of the original consultation on the proposed infrastructure consenting process in 2018, we recommended aligning the optional threshold for offshore generating stations with that proposed for onshore generating stations (i.e., where the installed capacity is between 10MW and 50MW). This would help achieve the ambition of harmonisation where technologies straddle the on and offshore. It is noted that this recommendation has not been taken forward with the optional SIP threshold for offshore generating stations remaining as 1MW to 50MW (see Annex 3 of the Explanatory Memorandum). Whilst we note that this may be due to the requirement for these developments to also obtain a section 36 consent (under the Electricity Act 1989) from Welsh Ministers, it nevertheless creates inconsistency on and offshore.

Similarly, the optional SIP threshold for harbour facilities continues to refer to facilities that have a significant impact on the environment (i.e., it requires an EIA), despite our previous recommendation that other quantifiable means are used to determine the optional threshold. It remains our view that the optional threshold as drafted has too broad a scope for interpretation and could potentially be open to challenge, particularly if significant environmental effects come to light during a later stage in the application process of a project and that sets a more numeric/calculable threshold.

It is therefore recommended that the optional SIP thresholds for offshore generating stations and ports/harbours are reconsidered when the secondary legislation is developed.

It is understood that statements of policy intent in support of the Bill will be published at the end of the Senedd’s summer recess, which may provide further detail on both compulsory and optional SIPs. We would welcome the opportunity to review such additional information and provide further comments as necessary to inform the scrutiny of the draft Bill. Similarly, we look forward to contributing to

the preparation of secondary legislation and responding to future consultations on any draft regulations.

Part 2 - Requirement for infrastructure consent

We welcome the clear statement that, should a project require an Infrastructure Consent that certain consents such as section 36 of the Electricity Act 1989 or section 1 or 3 of the Transport and Works Act 1992 do not apply.

We note the removal of a need for authorisation (section 20(c) under the Historic Environment (Wales) Act 2023. To ensure the historic environment is properly protected we want to ensure that the appropriate historic advisors (Cadw, the Royal Commission of Ancient and Historical Monument Wales and the relevant Welsh Archaeological Trust) are listed as statutory consultees as part of the process.

As indicated 2.i, it is anticipated that optional SIPs will be added via regulations under Section 17. There is the potential for confusion to arise over the appropriate consenting regime for optional SIPs, which has particular implications for projects with associated deemed or disapplied/removed permissions. The regulations should therefore provide as much clarity and certainty as possible on this matter, and further procedural guidance may also be necessary to set out how developers obtain a direction from the Welsh Ministers confirming that their project is of national significance. It is essential that such a direction can be obtained at the beginning of the process to provide certainty for developers, public bodies and communities from the outset and avoid any abortive work at a later stage. The Welsh Ministers' decision on whether an optional SIP is of national significance should also be based on clear and consistent criteria to ensure that directions are consistently made for similar types of projects. All parties should expect a reasonable degree of certainty over which consenting regime is appropriate for the consideration any given infrastructure project.

Part 3 - Applying for infrastructure consent

Section 30 (2)(e) will require 'a person', which is assumed to include NRW, "to publish a report about their compliance with any consultation requirements in relation to preapplication consultation and publicity" as set out in regulations. Whilst it is acknowledged that the details of this pre-application report will be provided via regulations, it is important that any requirements are of the same nature and scale as those currently required for the existing Development of National Significance (DNS) regime, which are included in our annual performance report. Any additional requirements are unlikely to have been

accounted for in the regulatory impact assessment submitted alongside the draft Bill.

In addition to the above, clarification would be beneficial on the significance of the use of the term "person" used in section 30 (2)(e) in relation to a pre-application report compared to the use of the term "public authority" in section 126 (4)(c) in respect of a statutory consultation report. Both are assumed to potentially apply the requirement to produce consultation reports to NRW, but the significance of the use of different terms is unclear. Moreover, the use of term "person's compliance" in section 30 (2)(e) could be interpreted as preparing and publishing a report on the applicant's compliance with pre-application consultation and publicity requirements, which is not understood to be the intention. It is therefore recommended that the draft wording within this section of the Bill is reviewed to ensure that is sufficiently clear to meet its legal intent.

Section 36 outlines new duties for NRW in the submission of a Marine Impact Report. We have been in dialogue with Welsh Government including the scope, content, and associated procedures, including the extent to which it is intended that NRW consult other bodies to do so.

We welcome Welsh Government's commitment to continue to engage with NRW to ensure that the MIR process is appropriate and ensure the continued robust assessment of the projects in the Welsh Marine Area, including interactions of a marine project with the coastal and terrestrial zones. Any procedures developed by subordinate regulations or guidance need to ensure that advice can be provided within NRW's advisory remit, and advice from a regulatory viewpoint, in addition to ensuring appropriate cost recovery mechanisms (see our response to 2.viii).

We have significant concerns that the Marine Impact Report places a requirement for NRW to provide advice on marine archaeology. Whilst we do consider the impacts to Marine Archaeology, in NRW's marine licensing process, alongside a vast range of other impacts including environmental, navigation and other sea users, NRW does not have a remit, nor the expertise to provide technical advice on marine archaeology.

In determining a Marine Licence NRW would consult with a wide variety of bodies including, but not limited to, NRW, the relevant Archaeological Authority, Trinity House, Maritime and Coastguard Agency, The Crown Estate and the relevant Local Planning Authority: Natural Resources Wales / Applying for a marine licence. Whilst the detailed content of the Marine Impact report is as yet unknown, we would not anticipate undertaking consultation on behalf of process and would

wish to ensure that these bodies remain a consultee as part of developments in the marine area.

We welcome the requirement for pre-application consultation in section 30. We would expect NRW to be included within any subsequent legislation as a 'person to be consulted.' We recognise the benefits of early engagement in ensuring the quality of applications examined by the new process, and any opportunities to strengthen this would be welcomed.

However, NRW would require the resourcing to respond as a Statutory Consultee via a suitable charging scheme or Grant in Aid (please also see our response to 2.viii).

For projects that would normally require a marine licence, the relevant regulations for Environmental Impact Assessment would be the Marine Works Regulations (2007) as amended. Before the new regime receives applications, it will be key for all parties to understand which are the relevant EIA regulations for those to be determined under the Infrastructure (Wales) Bill. Supplementary guidance may assist here.

Part 4 - Examining applications

We note that the Bill brings the consideration of marine projects to be part of the wider planning system within which there may be limited experience to date. Consideration of marine applications require specific skills and expertise. In our view, in appointing an examining authority it would need to be ensured that they are able to provide a robust assessment of marine applications.

The examination procedure is similar to the established Developments of National Significance regime or UK Development Consent Order regime. This can be extremely resource intensive for all involved. It is essential to ensure that consultees of the process are adequately resourced, either via a flexible charging regime or Grant in Aid (please see our response to 2.viii) and reasonable time periods are allowed for the submission of all consultation responses. We would welcome ongoing discussion with Welsh Government on this as the Bill and subordinate legislation is developed.

Given the potential for highly technical or novel developments to be considered as part of the SIP we welcome the ability within the legislation for the appointment of "Assessors" in section 47. As an example, in the current marine licence process, we do utilise contractors or the Centre for Environment Fisheries and Aquaculture Science (Cefas) in relation to whether material meets OSPAR requirements for the disposal of sediment at sea.

Part 5 - Deciding applications for infrastructure consent

We welcome a clear requirement to consider the Marine Impact Report, examination, and other matters as part of the decision making for relevant applications.

We note that the examination period is set to 52 weeks and include the ability to allow for an extension. The procedures for examination, including appropriate consultation timescales will be critical to ensure that applications are robustly and proportionately assessed. We support the ability to extend examination process.

We note that section 53 (1) states that "The examining authority or the Welsh Ministers (as the case may be) must decide each application for infrastructure consent in accordance with—

...(c) any marine plan (within the meaning of section 51(3) of the Marine and Coastal 25 Access Act 2009 (c. 23)) prepared and adopted by the Welsh Ministers so far as relevant to the kind of development to which the application relates"

We would query as to whether this should for consistency relate to "appropriate marine policy documents" as defined by section 59 of Marine and Coastal Access Act (2009).

In addition, in relation to Section 53(2)(b) – "If there is any incompatibility between a provision in a relevant policy statement and a provision in a marine plan the application must be decided in accordance with the relevant policy statement. We would wish to understand the reasoning as to why the Policy Statements are given precedence.

Part 6 - Infrastructure consent orders

Section 74, in relation to authorising the operation of a generating station. We wish to have assurance that this is in relation to the generation of electricity, and not, for example the operation of a generating station through an Environmental Permitting Regulation (EPR) permit.

Section 80 allows for Deemed Marine Licences. We have been in dialogue with Welsh Government in relation to this inclusion and we warmly welcome the engagement to date. We do not object to the ability to deem a marine licence as part of the consent, however it is paramount that the secondary legislation and guidance allows for a robust assessment.

We also note that subsection 80 (2) allows for deeming a marine licence, subject to conditions specified in the infrastructure order and conditions specified in the

deemed marine licence. In order to ensure there is clarity and consistency the future development of guidance to help with drafting of the consent order will be necessary to identify what should be included within the order itself, and the deemed marine licence, and consistency between the two consents.

With the exception of Marine Licensing under Part 4 of Marine and Coastal Access Act 2009, we note the potential for regulations under Section 81 to include consents potentially including other NRW regulatory functions. It is impossible to provide detailed comments in the absence of a definitive list of statutory provisions or Statement of Policy Intent around this power. However, we make the following broad comments.

We support and encourage parallel tracking of permit and licence applications, however, the potential to disapply or deem permissions requires careful consideration to avoid unintended consequences. We consider the development and identification of specified consents to be very carefully considered to ensure robust assessment and management of environmental risk. In many cases, the relevant authority would need to make an assessment equivalent to determining that consent in order to determine if the requirements set out in the Order would be sufficient to not need the relevant consent. This work would be carried out without the receipt of the appropriate fee for such a consent, and outside of the timescales normally set to determine that consent, resorting in a loss of income and potential decrease in environmental or other protection. We note that this will need to be considered in subsequent regulatory impact assessments for the subordinate legislation.

NRW is responsible for over forty different regulatory regimes across a wide range of activities, including those under the Environmental Permitting Regulations, such as major industry, waste industry, water quality discharges, flood risk activities, Marine Licences, tree felling, species licences, consents, and assents in relation to designated sites including Sites of Special Scientific Interest. In the context of permits required for any development, permissions may be required at the early stages of development, for example, those relevant to land clearance, activities during construction, operation and de-commissioning. Operational development may refer to the project throughout its lifetime or the operation of development in an already built structure.

For specified consents that are ultimately not included, the development of policy to provide an opportunity to potentially strengthen the requirements for parallel tracking between applications would be beneficial.

A statement of Intent for section 81 of the Bill would be welcomed and we would welcome future dialogue with Welsh Government as the secondary legislation is developed.

Within section 80(5) we welcome clarification that a deemed consent for marine licence can be varied, suspended, or revoked as per the established procedures under the Marine and Coastal Access Act (2009). In future we would welcome further dialogue with Welsh Government related to variations to ensure, for example that any subsequent variation to a marine licence does not undermine the scope of the project assessed or is considered to be a material change to the wider Infrastructure consent and how this procedure would work including associated resourcing and fees.

Section 84 allows for the ability to correct errors within the Infrastructure Consent Order. This does not include deemed consent which upon issue would revert to the responsibility of the relevant authority. In the case of marine licences, NRW would then need to take an NRW led variation which is not subject to fees under the relevant legislation (Marine Licensing (Fees) (Wales) Regulations 2017). The proposed system would prevent NRW from recovering costs for correcting mistakes not made by NRW. We would recommend that this power is also extended to any deemed consent, including a deemed marine licence.

Part 7 - Enforcement

Whilst NRW does have a role in the discharge of conditions which we expect to continue with deemed marine licences, NRW does not have enforcement powers in relation to Marine Licences, Welsh Government have retained the enforcement function. As such we note the inclusion of the ability for Welsh Ministers to appoint persons for marine enforcement (section 107) and would anticipate that this continues to be the Welsh Government who currently undertakes this duty for marine licences.

We understand section 107 relates to regulation under the Infrastructure Consent body, as opposed to the deemed marine licence, and as stated in our response to question 2.vi, we recommend that there is clarity as to what should site within the body of the consent, and which conditions or requirements should sit within the deemed marine licence.

It is essential that any ongoing enforcement and regulation against potential risk, should be fully considered in developing the subordinate regulations related to permits or licences to be removed or deemed. For deemed permissions it is essential that, at a minimum, the existing regulatory tools and powers for

compliance and enforcement are maintained. Ensuring that the relevant regulator is able to fully participate in process will be key.

Part 8 - Supplementary functions

The provision under Section 121 to enable regulations to set out the charging of fees by specified public authorities for performing a function and providing a service in relation to infrastructure consent is warmly welcomed. It is essential for statutory consultees to be appropriately resourced to respond to these applications and the charging of fees is a part of ensuring adequate resourcing.

NRW would expect to be included as one of the specified public authorities and seek to secure full cost recovery for any function/service it is required to undertake. We consider that the ability for consultees to set their own charging regimes (subject to Ministerial agreement) to be the most appropriate mechanism for securing full cost recovery, including the ability to review and if necessary, update annually, including the ability to charge an hourly rate. The SIPs listed within the legislation will vary significantly in complexity and therefore the amount of resource required to provide advice will also vary significantly. Allowing the creation of a charging scheme, through powers outlined in legislation (such as those outlined in section 41 of the Environment Act (1995) will ensure full cost recovery can be met.

We also note the current consultation on operational reforms to the Nationally Significant Infrastructure Project (NSIP) consenting process highlights the intention to support specific statutory consultees, including NRW, to move towards full cost recovery of direct project advice and engagement in relation to this consenting regime. The current proposals involve enabling statutory consultees to set charging schemes that allow them to recover both statutory and non-statutory activity from early pre-application engagement through to post-consent activities. Each statutory consultee will be responsible for establishing their own charging schemes and setting their own fees within the legislative framework. This method of cost recovery is generally preferrable to setting fees within regulations as it allows for fees to be updated more regularly to reflect changes to operational costs. The ability to regularly update our own fees (including the ability to set at an hourly rate) is also a benefit of our current discretionary advice service. It is therefore our view that a similar approach to recovering statutory consultee costs should be applied to the SIP consenting regime and we would welcome the opportunity to work with the Welsh Government in preparing secondary legislation that brings this into effect.

Section 126 (4)(c) will require a public authority, such as NRW, to publish a report about their compliance with any consultation requirements in relation to a valid application for infrastructure consent as set out in regulations. Whilst it is acknowledged that the details of the statutory consultation report will be provided via regulations, it is important that any requirements are of the same nature and scale as those currently required for the existing DNS regime, which are included in our annual performance report. Any additional requirements are unlikely to have been accounted for in the regulatory impact assessment submitted alongside the draft Bill (see also our response to question 6).

Part 9 - General provisions

We have no comments to make on this section of the Bill.

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

There is the potential for confusion around the new regime, particularly in the marine area, where due to the extent of devolved powers in the offshore region or the England/Wales Boundary causes the potential for interaction of multiple legislative frameworks.

In addition, coordination between authorities here may be challenging, particularly if there becomes a divergence between the environmental assessment legislation between England and Wales.

As indicated under section 2(viii) above, it is essential that subsequent regulations enable full cost recovery as part of the Infrastructure Consent (IC) process. It should also be noted that even if full cost recovery forms part of the IC process, future income in relation to SIPs will not necessarily be sufficient to maintain adequate capacity within our teams, or build further capacity as demand requires through the employment of additional specialists that are required to advise on projects that are often technically complex with wide ranging environmental impacts. There will be a need to appropriately balance Grant in Aid funding with Cost Recovery mechanisms to ensure that there is appropriate trained resource available with Statutory Consultees such as NRW.

In addition to the above, it is essential that appropriate guidance and training is provided for all participants in the new IC consent process to ensure that they have the appropriate level of skills and knowledge to enable its successful implementation. Without it, there is a risk that the IC consent process does not achieve the timely delivery of SIPs in Wales that are necessary to meet renewable energy targets as we move towards 'net zero' emissions by 2050.

The need for a very large part of the implementation to be set out in secondary legislation could be a barrier. The current bill is over one hundred pages long. Multiple sets of secondary legislation setting out further detail results in the need for developers and other stakeholders to understand an increasingly complex framework in order to make an application. This may hinder the intended streamlining effect of the proposed process.

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)?

Although we have no specific concerns over the powers in the draft Bill for Welsh Ministers to make subordinate legislation, we would like to highlight the difficulty in commenting on the draft Bill when so much of the detail on new IC process and procedure has been left to subordinate legislation. As only the general principles of the legislation are currently under consideration, it is very difficult to discern the full implications of the new IC regime for our current consenting and statutory consultation practices, and the potential impacts across our organisation. It is also not possible to confirm the extent of any issues that will arise with its future implementation. As such, we are not able to provide detailed comments on the acceptability of the IC process without further details on how exactly the proposed regime would function.

It is understood that statements of policy intent in support of the Bill will be published at the end of the Senedd's summer recess, which is likely to provide further detail on the IC process. We would welcome the opportunity to review such additional information and provide further comments as necessary to inform the scrutiny of the draft Bill. Similarly, we look forward to contributing to the preparation of secondary legislation and responding to future consultations on any draft regulations.

Are any unintended consequences likely to arise from the Bill?

We are not able to provide comments on the extent of unintended consequences at this stage, due the majority of the detail on the processes and procedures of the new IC regime being left to subordinate legislation. It is, however, considered that careful consideration should be given to the deeming or disapplication of permissions in particular, to avoid any unintended consequences. NRW is responsible for many different regulatory regimes across a wide range of activities and the establishment of a new unified regime has the potential to be complex. We welcome the opportunity to provide further detailed comments as part of any

future consultation on associated regulations to help establish a regime that is fit for purpose for Wales.

There is the potential for smaller works to be more costly and time-consuming to consent – for example, small offshore energy projects in the marine area currently require only marine licence and Section36 Electricity Act (1989) consent. We consider that the entirety of the Section 36 consent considerations can be made within the standard marine licensing procedures.

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?

We note that the Regulatory Impact Assessment (RIA) (page 58) states that the evidence base has been collated on a broad time period and may alter in future. We agree that this may be the best available data, however these figures will need to be updated when the details of the regime become known, and not be relied upon in the development of an associated fee structures.

We note that in the RIA methodology the figures provided in February 2023 by NRW, as a consultee to marine application, have not been included. The reasoning provided in the RIA is that this is due to NRW receiving Grant in Aid funding and that the response required would not differ across the different options assessed in the RIA. Whilst we do not dispute this, we wish to highlight that the cost incurred by NRW undertaking this function is significant, particularly for more complex projects. As a point of clarity, which does not affect the conclusions of the RIA, the four example project costs we provided to Welsh Government were Awel y Môr Offshore Wind Farm, Morlais Tidal Demonstration Zone, Erebus Floating Offshore Wind farm and Holyhead Port Expansion. We did not provide figures for Swansea Bay Tidal Lagoon.

We would expect, in cases that NRW responds as a statutory consultee for a development that considers similar aspects, such as a Marine Licence and a Planning Permission that NRW could potentially receive a resource saving (as one set of responses to a consultation will be sufficient), however, NRW, in its marine licensing capacity does receive an hourly rate fee to determine marine licences which would no longer be received.

We note that in paragraph 8.132 it states that "the cost of the MIR to NRW is likely to be similar to that engaging in the process under Option 1". We note that the cost in Option one (excluding areas already funded by Grant in Aid) is listed as £4600 (Table D). Whilst we concur that it is not possible to provide estimates of costs to NRW due to the new requirements we anticipate it would be more than

this figure. In addition, NRW will no longer be receiving an application fee. It will be imperative that there are appropriate fee structures set, including the cost of the MIR. We do, however, agree with the RIA conclusion that "Further consultation would be required to establish an appropriate amount and thus cannot be costed for the purpose of this RIA."

The Regulatory Impact Assessment (RIA) incorporated into the Explanatory Memorandum published alongside the draft Bill does not appear to have taken into account the setup/transitional costs for statutory consultees. This would potentially involve modifications to IT systems, the provision of operational guidance on the new IC process and training for NRW staff. Approximate cost estimates for setup/transitional costs for NRW can be provided if required.

In addition, the deeming or disapplication of consents, other than a marine licence, do not appear to have been considered as part of the RIA. If other consents that fall within NRW's regulatory regimes are to be added via regulations at later stage, we would expect the financial implications to be taken into account in associated RIA's for the secondary legislation. It should be noted that a large proportion of NRW's regulatory regimes operate on a full cost recovery basis, often by a combination of application and subsistence fees. These fees can differ depending on the regime and the type of application. Should applications no longer be made then there would no longer be an associated fee. The costs to provide technical advice as a statutory consultee and other associated regulatory functions would therefore need to be funded by other means.

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

Consideration should be made regarding the effect of this legislation in combination with other UK and Wales legislation that is being drafted with the intended aim of 'streamlining consenting such that it is viewed holistically. Other proposals include provisions in the British Energy Security Strategy, the REUL Act and LURB. The interaction of lots of new legislation has the potential to significantly increase consenting complexity by creating multiple systems, with additional multiple ways of making assessment. This is particularly relevant in the marine area.