

Cyswllt Amgylchedd Cymru



Wales Environment Link

27 Heol y Wig / 27 Pier Street, Aberystwyth, SY23 2LN ☎ : 01970 611621 ✉: enquiry@waleslink.org  
Cadeirydd / Chair: Dr Madeleine Havard Cyfarwyddwraig / Director: Susan Evans www.waleslink.org

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## Evidence to the Environment and Sustainability Committee inquiry into marine policy in Wales

September 2012

**Wales Environment Link (WEL)** is a network of environmental and countryside 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. Its vision is to increase the effectiveness of the environmental sector in its ability to protect and improve the environment through facilitating and articulating the voice of the sector.

WEL welcomes this opportunity to present written evidence to the Environment and Sustainability Committee's inquiry into marine policy in Wales. Given WEL's remit, we have focused our comments on the environmental aspects of the Commission's proposal. Further details on these top-line issues and other elements of the reform package can be found in the evidence papers submitted by individual member organisations from WEL's Marine Working Group. We look forward to elaborating on our written submission at the Committee's oral evidence session.

### Key points:

- **Greater recognition of marine work**, with assurance that sufficient resources will be provided within Welsh Government and the Natural Resource Body for delivery of key commitments.
- **Prioritise the formulation and implementation of national marine plans for Wales**, by addressing the apparent marginalisation of marine planning by other policy drivers and recognising the potential benefits of overarching spatially prescriptive marine plans.
- **Creation of an ecologically coherent network of MPAs**, using MCZs to complement existing protected sites, provide a means of designation based on ecosystems and allow protection for rare and nationally important species and habitats.
- **Ensuring all MPAs are well managed, resourced, monitored and enforced in Wales**, to enable those sites that are currently failing to meet key European targets for the protection of the marine environment to succeed.
- **Sustainable management of Welsh fisheries through strong partnerships**, supported by effective communications from and between Government departments.
- **Greater focus on integrated and cooperative working with neighbouring administrations**, by improving existing engagement with neighbouring administrations

on cross-border and UK-wide issues and ensuring adequate representation of Welsh interests to ensure sustainable management of our seas.

- **Improved engagement of stakeholders in marine policy**, to facilitate support for decisions and provide clarity on marine programs.

### **General Comments**

WEL believes that the Welsh Government's emerging environmental legislation presents positive opportunities to sustainably manage the land and sea in an integrated manner through an ecosystem approach. However, we have been disappointed that the consultations associated with these programme of work have not given sufficient consideration to the marine environment. Whilst WEL has previously raised these concerns, we would like to reiterate to the Committee that at over 15,000km<sup>2</sup>, the Welsh marine environment both represents a considerable geographical area and provides a wide range of valuable ecosystem goods and services critical to the Welsh economy and the nation's health and well-being.

Going forward, WEL is concerned that the parallel resource-intensive processes of the creation of the new single body and the introduction of the Living Wales agenda may be to the detriment of the delivery of Welsh Government's existing commitments, notably, the Marine and Coastal Access Act, 2009. WEL believes that it is critical that marine management be afforded the necessary level of political focus and vital resources to ensure effective management of Welsh seas, in order to deliver UK and Welsh Government's shared vision of clean, healthy, safe, productive and biologically diverse seas.

### **1. What progress has been made in relation to the development of marine spatial plans for Wales?**

WEL drew optimism from initial progress in developing Welsh Government's 'Approach to Marine Planning in Wales' through the consultation launched in February 2011 and stakeholder engagement via the Wales Coastal and Maritime Partnerships' Marine Planning sub-group. However, despite a recommitment to marine planning<sup>1</sup> by the current Minister for Environment and Sustainability, progress since the election in May 2011 has been limited. A summary of responses to the consultation has not been issued, while stakeholder engagement has ceased, resulting in diminished public visibility and a perception of reduced prioritisation of marine spatial planning. Such a strategy shift risks the disenfranchisement and disillusionment of previously enthused and engaged stakeholders.

Marine planning is progressing rapidly elsewhere in the UK, with the Marine Management Organisation having commenced planning in four of the eleven English marine plan areas and established a programme for full marine plan coverage of English waters by 2021, whilst a pre-consultation draft national marine plan is progressing in Scotland. It is WEL's belief that further impediments to the process in Wales may deter the Marine Management Organisation from designating a cross-border region with Wales as their next plan area, and therefore could further delay the progression to robust and spatially prescriptive marine plans for the entire Welsh marine environment. Marine planning should be the fundamental and overarching system for delivering sustainable development in the Welsh marine environment, complementing a well-managed network of MPAs. Therefore, WEL is concerned that national marine plans appear to

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<sup>1</sup> 16<sup>th</sup> May Plenary questions to Environment Minister John Griffiths from Russell George AM

have been marginalised by other policy drivers, and indications that the proposed marine planning approach paper is unlikely to go before Cabinet this October do not inspire confidence. This would represent a significant wasted opportunity to capitalise on the mechanism for marine planning set out by the UK Marine Policy Statement and the Marine and Coastal Access Act, 2009. Furthermore, it is not clear to what extent, if any, that Welsh Government has utilised the UK Marine Policy Statement to guide Welsh marine policy development. Given that it is the de facto marine plan for Welsh waters, it would suggest that this document does not provide the appropriate level of detail required to add direction or policy steer within a Welsh marine policy context.

## **2. What is the current status of marine protected areas in Wales and what role should the new marine conservation zones have in this network of protected areas?**

WEL commends the Welsh Government for the coverage of European Marine Sites designated in Welsh waters, a figure which currently stands at over 35%. Existing sites and proposed Marine Conservation Zones (MCZs) will provide an important role in reaching Wales' contribution to an ecologically coherent network (ECN) of protected marine areas around the UK. An ecosystem based ECN should be made up of sites of national importance, i.e. MCZs<sup>2</sup>, and sites of EU importance, i.e. Special Protected Areas and Special Areas of Conservation designated under the EU Birds and Habitats Directives respectively.

Designation without adequate management does not constitute protection; there is an evident need for improved management, resourcing, enforcement and monitoring of all existing and future MPAs. We have concerns that when Welsh Government, reported to the EU commission for the most recent reporting round in 2007, almost half of the species and habitats within existing sites failed to reach Favourable Conservation Status, and that effective management was not in place to maintain or improve condition of the species and habitats. The next reporting round in 2013 will provide a key opportunity to assess current management and the degree to which sites meet their objectives.

A WEL commissioned report<sup>2</sup> highlighted a number of shortcomings in European Marine Site (EMS) management in Wales, with current management regimes often failing to provide adequate protection for site features. WEL welcomes the recent reports<sup>3</sup> undertaken by CCW, in recognition that a review of existing management measures for Welsh MPAs is an essential step towards an improved, ecosystem based approach for the conservation and recovery of the marine environment. However, we now urge Welsh Government for the swift implementation of the recommendations and for a strong commitment to their delivery in the long term, in order for these sites to achieve their conservation objectives, achieve their full potential and make a significant contribution to conservation and improving the health of Welsh seas.

Welsh Government's intention to identify and designate Marine Conservation Zones (MCZs) represented a decisive move towards improved management of habitats and species of national

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<sup>2</sup> Jackson, E., Langmead, O., Evans, J., Ellis, R. and Walters, H.T. (2008) Protecting nationally important marine biodiversity in Wales. The Marine Life Information Network for Britain and Ireland (MarLIN). Report to Wales Environment Link, November 2008.

<sup>3</sup> Hatton-Ellis, M et al. (2012) MPA Management in Wales, Reports 1 and 2. CCW Marine Science Report No 12/06/01 and CCW Marine Science Report No 12/06/03

importance within Welsh seas, providing the opportunity to complement existing sites and fill gaps within the existing network. However we are concerned that slow progress will hamper efforts to achieve conservation objectives for MCZs and therefore compromise the establishment of a marine network that is representative of the full range of Welsh features. Under section 124 of the Marine and Coastal Access Act, 2009, Welsh ministers have a statutory duty to report to the National Assembly on the extent to which the objective of creating a network has been achieved, and to identify further steps needed for the achievement of that objective. The first report is due by the 31st December 2012.

WEL is concerned that the designation of highly protected MCZs has demonstrated the lack of capacity within Welsh Government's marine portfolio and this has resulted in the wider issue of marine management, including that of the existing network in Wales, being largely neglected. By failing to protect even our best marine areas, we undermine the creation of an ECN of sites, and the ability of our sea to adapt to the pressures of a changing environment. We also believe there needs to be careful consideration of management options in MCZs; a WEL commissioned report<sup>4</sup> identified clear findings that the use of voluntary measures is not appropriate for MCZ management in Wales, particularly as these sites are intended to deliver high levels of protection.

### **3. The development of the Welsh Government's functions in relation to marine licensing and fisheries and whether this has been effective?**

#### **Licensing**

The new system of licensing that operates under Part 4 of the Marine and Coastal Access Act, 2009 purports to be 'transparent, efficient, fair and effective'. To this end WEL considers the creation of the Marine Consents Unit (MCU) within Welsh Government as a central point of contact for queries on marine licensing a useful development. WEL hopes this type of 'One-Stop-Shop' will not be lost through the proposed transfer of the MCU to the new single body.

The Marine Act requires the establishment of a Public Register containing information on marine licence applications, licences granted and compliance and enforcement, however, at present this takes the form of a pdf document which does not appear to be regularly updated. In contrast, the Marine Management Organisation (MMO) has an online database of marine licence applications that is easily searchable and all current applications are available to view. It is clear that the legislative background makes for a complex picture for licensing in the marine environment, with Welsh Ministers being the licensing and enforcement authority only for devolved matters. WEL considers it vital for there to be effective close working between Welsh Government and the MMO on non-devolved licensing and enforcement decisions to be made within Welsh waters or projects that are otherwise likely to have effects on Welsh waters.

Welsh Government has produced an Interim Guidance document on the licensing process, but its 'interim' status does not appear to increase certainty for applicants. WEL believes that every effort should be made to prioritise the development of marine plans, which would provide the

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<sup>4</sup> Prior, S. (2011) An investigation into the use of voluntary management measures for the protection of UK marine biodiversity. Report for Wales Environment Link

clear spatial context for strategic decision making towards achieving sustainable development. WEL is concerned as to how effectively cumulative impacts on the marine environment are determined, particularly given the number of activities that are exempted from needing a marine licence, such as fishing and aquaculture. Therefore WEL believes that a system of recording and monitoring of cumulative impacts of non-licensed activities over the long term should be introduced, and supported by measures to address activities should they be shown to be having a significant effect. The marine licensing system, whilst guided by the UK Marine Policy Statement, currently operates in the absence of Welsh marine plans. Without a clear spatial context and integrated framework for marine management in Wales, it is questionable if case-by-case decision making is able ensure strategic considerations are made for achieving sustainable development.

### **Fisheries**

The new fisheries management and marine enforcement regime in Wales has seen considerable changes since April 2010. The associated restructure and creation of one unit within Welsh Government responsible for fisheries policy, management and marine enforcement was deemed by WEL an appropriate move. However, WEL believes that sustainability and conservation should be of greater prominence in the training programme and remit of the Fisheries Unit. In addition, it has been the experience of WEL that engagement with and transparency of operations by Fisheries Unit has not been at the same level as that experienced with the Marine Branch, which maintains regular dialogue with marine stakeholders in Wales.

WEL welcomed the establishment of Wales Marine Fisheries Advisory Group and the Inshore Fisheries Groups (IFG) in bringing together cross-sectoral representation from industry, communities in Wales, government and the environment sector; facilitating stakeholder input into fisheries management in Wales. To-date these groups have focused mainly on their constitutional makeup, it is hoped that in the future they will be able to work at a local level to identify objectives and develop management plans for their local fisheries, within the national framework.

The Wales Fisheries Strategy (2008) and its associated Implementation Plans, collectively aim to develop a sustainable fisheries industry in Wales, based on an ecosystem approach. Given the limited progress in delivering the Implementation Plans, the significant changes under the Marine Act and the establishment of A Welsh Zone, WEL welcomes Welsh Government's aim to review and refresh the strategy. However, we would caution that this exercise does not detract from the work needed to strengthen management and enforcement in Welsh waters.

#### **4. What progress has been made by the Welsh Government in the implementation of key European Directives?**

The Habitats and Birds Directives form the cornerstone of Europe's nature conservation policy. They are built around two pillars: the Natura 2000 network of protected sites and the system of species protection. All designated Natura 2000 sites are required to reach Favourable Conservation Status (FCS) and the Competent Authority has a duty to establish the necessary conservation measures and appropriate management. As indicated in the 2007 reporting for Welsh EMS, almost 50% of marine habitats and species in Welsh sites are failing to achieve

FCS and, by a significantly larger margin, failing to secure effective management, due in part to inadequate prevention of damaging activities within the sites. WEL is concerned that the currently incomplete network of marine Natura 2000 sites represents a significant failure in the implementation of these Directives, for example due to the lack of progress on the classification of maintenance extensions to breeding colony Special Protected Areas (SPAs) and designation of wholly offshore SPAs.

Under the OSPAR convention<sup>5</sup> and the Convention on Biological Diversity, the UK is committed to establishing an ECN of marine sites by 2012. Slow progress in the completion of the Natura 2000 network, designation of MCZs under the Marine and Coastal Access Act, 2009, and failure to secure effective site management serve as indications that Welsh Government has failed to achieve this important target. Under OSPAR, all sites designated by 2012 have a subsequent target to be well managed by 2016 i.e. coherent management measures must be set up and implemented effectively. However, as Welsh Government has failed to meet the 2012 target for designation, WEL calls for a commitment to honour the OSPAR 2016 target for well managed sites, including those designated between 2012 and 2016.

WEL is concerned that the currently incomplete network of MPAs and slippages in the implementation of the Marine Act will have further ramifications to Wales' ability to meet requirements of the EU Marine Strategy Framework Directive (MSFD). The Habitats and Birds Directives and the Marine Act will be key delivery mechanisms for meeting our commitments under the MSFD for achieving Good Environmental Status in Welsh seas by 2020. Therefore, WEL recommends that Welsh Government make urgent progress in utilising the tools provided by EU and domestic legislation to create a well-managed network of MPAs, to ensure Wales is in a strong position to deliver Good Environmental Status by 2020.

#### **5. Whether there is sufficient cooperation and coordination between the Welsh Government and its neighbouring administrations in relation to the management of its seas?**

WEL believes that opportunities for integrated and cooperative working with neighbouring administrations in various policy streams have not been fully exploited. Whilst there has been some effective dialogue between administrations on the Common Fisheries Policy reform to produce a coherent joined up response, greater focus on cross-border collaboration is required to adequately progress towards sustainable management of the entirety of our seas.

WEL recognises the need for greater representation of Welsh interests in the English MCZ process, particularly given proposed MCZs in the Bristol Channel and Welsh offshore area. Greater coordination and integration is also required in the designation and management of cross-border and neighbouring European Marine Sites. These areas of work will feed directly into Welsh Government's commitment to establish a well-managed Ecologically Coherent Network (ECN) of MPAs.

Furthermore, there are clear requirements under the Marine Strategy Framework Directive for consistency and compatibility throughout the EU, and for trans-boundary impacts and features to be taken into account. WEL believes that coordination of MSFD delivery could be improved by the creation of stakeholder forums across the devolved administrations, enabling cross-

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<sup>5</sup> The OSPAR Convention for the Protection of the marine Environment of the North-East Atlantic – the UK is a Contracting Party.

sectoral collaboration between Governments where activities span national borders. In Wales existing groups such as the Wales Coastal and Maritime Partnership would be well placed for delivery at a national level.

The Marine Management Organisation identified the absence of a border with a devolved administration as a key factor in the selection of the South inshore and offshore areas as their latest marine plan areas. The decision to defer the marine planning approach paper is likely to influence the possibility of a cross-border area with Wales being selected as the next MMO plan area in 2015. WEL feels it is imperative that marine planning progresses sufficiently in the intervening period to ensure this scenario is avoided. The Approach to Marine Planning consultation document makes reference to a proposed concordat with Defra to facilitate a framework for administrative co-operation and management of the marine area, but to WEL's knowledge this has not yet been formalised.

**6. Whether the Welsh Government has sufficient financial and staff resource to deliver on its marine policy and legislation objectives?**

WEL has campaigned since the passing of the Marine and Coastal Access Act, 2009 for Welsh Government to provide sufficient resource for its effective implementation and to fulfil existing legislative and policy objectives for the Welsh marine area. It is our view that resources should not only cover adequate staff capacity to implement the legislation, but also to provide sufficient funding to enable the investment in understanding marine ecosystems through monitoring and research.

However, since the Act's investment, there has been no notable increase in staff or financial resourcing to ensure the effective delivery of legislation. The Welsh Government marine branch relies on a finite number of staff to deliver emerging policy such as the Marine Conservation Zones, Marine Spatial Planning (MSP) and the Marine Strategy Framework Directive. A similar situation exists within the Marine Consents Unit, despite Welsh Government's ambitious targets for the development of offshore renewable energy. To deliver comparable functions, albeit on a larger scale, in England (and UK offshore areas), the Marine Management Organisation has been established with 250 staff; and set-up costs of an English marine planning system estimated at around £40m, with running costs of £1million per annum<sup>6</sup>.

WEL is concerned that limited resource is constraining the effective management and enforcement of Marine Protected Areas (MPAs), and also preventing comprehensive monitoring to provide information to adequately address the questions posed by the deployment of renewables, MSP and MPA management. To date this is an area of work that is severely limited both in terms of financial resources and staff resource, and as a result has caused the work to be undertaken in piecemeal fashion. The creation of the new single body provides significant opportunity to integrate data sharing and monitoring resources between the Statutory Nature Conservation Bodies. However, it is essential that shared resources and expertise are not lost through the creation of the new single body and instead increased in order for Wales to meet policy and legislative objectives. This should not only be considered during the operational period, but also during the transitional arrangements, when additional strain is likely to be placed on marine resourcing due to increased workloads.

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<sup>6</sup> Defra (2010) *Consultation on a marine planning system for England*. July 2010.

The management review undertaken by CCW on behalf of Welsh Government highlights further resource limitations in the development and delivery of marine management at a local level. Currently this is delivered through the Relevant Authority Groups (RAG) and European Marine Site (EMS) officers, which fulfil a valuable role through the gathering of data that helps to inform site management and the subsequent delivery of management plans at a local level. However, funding for this resource is finite and should be guaranteed to maintain continuity and to safeguard knowledge and experience.

**7. Whether stakeholders have been sufficiently involved in the shaping of new policies and the development of legislation?**

WEL believes that stakeholder engagement is instrumental to the delivery of successful marine policy. Experience shows that where stakeholders have been given the opportunity to effectively engage and their opinions and needs represented and considered, they are more likely to accept the outcomes, and consequently, marine policy will have a greater chance of success. Therefore, effective engagement of sea users plays an essential role in the implementation of the various components of the Marine Act, which should be fostered considering the relatively small size of Wales. We support the existing Coastal Fora which cover the majority of the Welsh coastline, and see value in the creation of a Coastal Forum to cover North Wales.

However, the siloed nature of various marine policy initiatives has resulted in the development of several simultaneous projects requiring the involvement of stakeholders, for example, the Marine Conservation Zone (MCZ) Project Wales, the Wales Marine Fisheries Advisory Group (WMFAG) and Inshore Fisheries Groups (IFGs), the Wales Coastal and Maritime Partnership (WCMP) group and its marine planning sub-group. Whilst the projects associated with these groups have varying timetables, WEL would support a streamlined approach, with greater consideration of the parallel projects in decisions regarding consultation dates and public events, in order to avoid stakeholder fatigue.

Perhaps of more immediate concern is the breakdown of relationships with stakeholders as a result of the MCZ Project Wales, which has the potential to detrimentally impact stakeholder engagement in future projects. WEL urges Welsh Government to make an announcement on the future of the project as soon as possible, so as to maintain momentum in existing projects and to address the level of disenfranchisement among stakeholders. Whilst WEL welcomed the creation of the Stakeholder and Citizen Engagement Group (SCEG), the level of activity to date has been limited despite strong interest by several members for the group to be more active. Furthermore, the stakeholder engagement plan has appeared ad hoc, leading to a greater level of confusion than expected. We feel more should have been done to address stakeholder concerns and clarity should have been given to Welsh Government proposals more promptly.

WEL believes that there is potential for more effective stakeholder engagement in the future, and it is evident from the various groups that stakeholders are keen to engage and contribute, an example being the WMFAG and IFGs which were created in April 2010. Whilst these groups were slow to develop, they have the potential to provide a valuable contribution to the development of inshore fisheries management in the future. WEL is calling for improved stakeholder engagement in all aspects of marine policy. Whilst we are appreciative that it will



require additional support, improved resourcing and considerable work to bring disenfranchised sea users back on board, it is essential to facilitate inclusive, effective and meaningful engagement.

For further information please contact:

Dr Wendy Dodds, Senior Marine Policy Officer, WWF Cymru

wdodds@wwf.org.uk; 02920 454971

**The following WEL members support this document:**

**Marine Conservation Society**

**RSPB Cymru**

**Wildlife Trusts Wales**

**WWF Cymru**

**Ymddiriedolaeth Genedlaethol / National Trust**