

**PAPER FOR THE NATIONAL ASSEMBLY OF WALES SUSTAINABILITY COMMITTEE  
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**Marine and Coastal Access Bill**

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## 1 - BACKGROUND

### History

1. The findings of a series of reviews and reports dating from the Marine Stewardship report in 2002 suggested that a new approach to managing all marine activities is needed and new legislation is required to implement that approach.
2. The Department for Environment, Food and Rural Affairs' (Defra) five year strategy, published in December 2004, set out plans to develop a Marine Bill. This was supported in Elliot Morley MP's keynote speech to the Coastal Futures conference in January 2005<sup>1</sup>, which outlined the possible scope and potential benefits of a Marine Bill.
3. NGOs have been campaigning for a Marine Bill for several years, particularly WWF and the Marine Conservation Society (MCS). In January 2005, WWF published a draft Marine Bill<sup>2</sup> setting out what it would like to see in such legislation.

### Key documents in the development of the draft Marine and Coastal Access Bill

2002

- Safeguarding our Seas – Marine Stewardship report<sup>3</sup> - set out the UK vision for '*clean, safe, healthy, productive and biologically diverse seas*'

2004

- Turning the Tide: addressing the impact of fisheries on the marine environment – Royal Commission on Environmental Pollution report<sup>4</sup>

2005

- Charting Progress: an integrated assessment of the state of UK seas<sup>5</sup> - the first report in the 'Charting Progress' series that sets out the current state of UK seas and helps to measure progress towards the vision. Work has begun on preparing Charting Progress 2 for publication in 2010.

2006

- A Marine Bill: a consultation document – the first consultation<sup>6</sup> -
- Summary of responses<sup>7</sup>
- Summary of Welsh responses<sup>8</sup>

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<http://www.coastms.co.uk/Conferences/Outputs%20and%20Reports/Coastal%20Futures%202005%20Post%20Conference/CF2005%20Minister's%20Key%20Note%20Presentation%20Morley.pdf>

2 <http://www.wwf.org.uk/filelibrary/pdf/draftmarinebill.pdf>

3 <http://www.defra.gov.uk/environment/water/marine/uk/stewardship/index.htm>

4 <http://www.rcep.org.uk/fishreport.htm>

5 <http://www.defra.gov.uk/environment/water/marine/uk/stateofsea/index.htm>

6 <http://www.defra.gov.uk/marine/pdf/legislation/mb-consult290306.pdf>

7 <http://www.defra.gov.uk/marine/pdf/legislation/mb-summaryr.pdf>

8 <http://new.wales.gov.uk/desh/publications/enviroconvers/marinebill/Summary?lang=en>

2007

- A Sea Change – A Marine Bill White Paper<sup>9</sup>
- Summary of responses<sup>10</sup>
- Summary of Welsh responses<sup>11</sup>
- RIA of the Marine Bill in Wales – Baseline report<sup>12</sup>
- RIA of the Marine Bill in Wales – Options assessment<sup>13</sup>
- WCMP advice to WAG on the practical aspects of marine spatial planning for Wales<sup>14</sup>
- Minister for Environment, Sustainability and Housing's response to WCMP's advice<sup>15</sup>

2008

- Draft Marine Bill package<sup>16</sup>

### **The draft Marine and Coastal Access Bill package**

4. The draft Marine and Coastal Access Bill package was launched on 3 April and included:
  - Draft Marine and Coastal Access Bill – 11 parts to the Bill plus 12 Schedules
  - Explanatory Notes – explain what the clauses in the Bill will do. They do not set out how the Bill will be used.
  - Impact Assessment
  - Policy document – explaining generally how the Bill will be used. WAG and other administrations have contributed text to this explaining how things are similar and where there may be differences.
5. The Environment Food and Rural Affairs (EFRA) Committee of the House of Commons announced on 4 March that it would be undertaking pre-legislative scrutiny of the Bill.
6. On 24 April the EFRA Committee announced that it would be scrutinising the coastal access provisions of the draft Marine and Coastal Access Bill. These provisions only apply to England (see section 5 on Coastal Access in part 3 for coastal access information in relation to Wales). The deadline for written evidence is 19 May.
7. The public consultation on the draft Bill closes on 26 June. There are no specific consultation questions, however, comments are invited on the draft Bill package.
8. A joint, ad-hoc Committee of both Houses will also scrutinise the draft Bill. Details of the scrutiny process and calls for evidence will be announced by the Committee on the Houses of Parliament website.
9. Some clauses of the Bill were not ready for inclusion in the published draft. There also remain a number of drafting issues to be addressed and other areas where the Welsh Assembly Government and Defra are still working to balance the complex interplay of

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<sup>9</sup> <http://www.defra.gov.uk/marine/pdf/legislation/marinebill-whitepaper07.pdf>

<sup>10</sup> <http://www.defra.gov.uk/marine/pdf/legislation/marinebill-whitepaper07-responses.pdf>

<sup>11</sup> <http://new.wales.gov.uk/desh/publications/enviroconvers/marinebill/responses?lang=en>

<sup>12</sup> <http://new.wales.gov.uk/desh/publications/enviroconvers/marinebill/Baseline?lang=en>

<sup>13</sup> <http://new.wales.gov.uk/desh/publications/enviroconvers/marinebill/Options?lang=en>

<sup>14</sup> <http://new.wales.gov.uk/desh/publications/enviroconvers/marinebill/wcmpadvice?lang=en>

<sup>15</sup> <http://new.wales.gov.uk/desh/publications/enviroconvers/marinebill/letter?lang=en>

<sup>16</sup> <http://www.defra.gov.uk/corporate/consult/marinebill>

devolved and non-devolved responsibilities, such as how marine plans are agreed. The published Bill is a draft and changes are expected to be needed.

10. Changes that need to be made as a result of consultation responses and pre-legislative scrutiny will be made before the Bill is introduced to Parliament.
11. The Welsh Assembly Government does not intend to submit evidence to the Parliamentary scrutiny process, unless called to do so. We do not believe it would be right to comment on a draft that we have been intimately involved in developing. The Welsh Assembly Government is, however, expecting the Committee to ask for evidence on devolution and the Bill.
12. The aim is for the Bill to be introduced to Parliament as early as possible in the 2008/09 Parliamentary session towards the end of this calendar year.
13. A Marine and Coastal Access Bill was included in the Draft Legislative Programme announced by the Prime Minister, Gordon Brown, MP on 14 May 2008.

### **Application of the Bill to Wales**

14. The Marine and Coastal Access Bill is a UK Bill but applies to different administrations in different ways. Generally, most of the draft Bill applies to both England and Wales.
15. The Welsh Assembly Government has worked with Defra and the other Devolved Administrations over the whole period in which the draft Bill has been developed to ensure that clauses and provisions in the draft Bill can provide flexible arrangements to meet the needs of Wales now and in the future.
16. In the main, where powers are being given to the Secretary of State, they will also be given to Welsh Ministers, where those powers are devolved.
17. Some clauses may relate to England and Wales, some to Wales only, some to England only and some to UK areas beyond territorial seas (beyond 12nm). This is set out in brief in section 2 below.

## **2 - CONTENTS OF THE BILL**

### **Part 1 – Marine Management Organisation (MMO)**

1. This part deals with the creation and operation of the Marine Management Organisation (MMO), including:
  - Establishment, powers, duties and finances.
  - Transfer of functions to the MMO – making the MMO the appropriate authority for a number of pieces of fisheries and nature conservation legislation.
  - Powers to enter into flexible administrative arrangements with other organisations.
  - Schedule 1 sets out the detail of the MMO, including the Board structure, staff, pensions, annual reporting and accounts.
  - Schedule 2 contains minor and consequential amendments relating to the MMO.
2. The MMO will operate mainly in English and UK offshore waters. It will have functions in Wales in relation to non-devolved responsibilities such as non-fishery harbours.

### **Part 2 – Marine Planning**

3. Contains clauses creating a system of marine planning:
  - Ability to make, agree, amend and withdraw a marine policy statement.
  - Ability to make, amend, withdraw and review marine plans
  - The effect of marine plans on decisions
  - Ability to publish guidance for public bodies
  - Monitoring and reporting
  - Schedule 4 sets out the detail for the creation of a Marine Policy Statement (MPS), including stages of preparation, public participation and consultation, and adoption of the MPS.
  - Schedule 5 sets out the detail for marine plans, including notifying neighbouring planning authorities, public participation and consultation, plan appraisal, independent investigation of a draft plan and final adoption.

#### Marine policy statement

4. Scottish territorial waters are excluded from the area covered by a marine policy document. The Scottish Government has decided that it does not wish to be part of the process at this time.

#### Marine plan authorities

5. Welsh Ministers are the marine plan authority for Welsh inshore waters

6. The Secretary of State is the marine plan authority for English inshore and GB offshore waters. In the Scottish offshore region, only functions of the Secretary of State can be included in a plan.
7. The Secretary of State and Northern Ireland Department of Environment is the joint plan authority for the Northern Ireland offshore area.
8. Northern Ireland territorial waters and Scottish territorial waters are excluded from clauses to create marine plans. Northern Ireland and Scotland will be legislating for marine planning themselves.

### **Part 3 – Marine Licensing**

9. The main aspects of the Licensing Part of the Bill are:
  - To bring together a number of different licensing regimes and create a wider list of licensable activities under a Marine Act Licence:
    - Coast Protection Act 1949 Part 2 (CPA) consent in relation to navigation and navigational safety impacts of an activity will be combined with Food and Environment Protection Act 1985 Part 2 (FEPA)
    - All forms of dredging, including aggregates dredging, will be licensable.
    - All vessels, aircraft or structures, regardless of their country of origin, will need a licence for activities if they are undertaken within the UK marine licensing area.
  - Wider powers to impose conditions on licenses for the life of the project, rather than just the construction phase.
  - Power to determine applications for activities that would currently require a number of licenses, as a single licence application
  - Full cost-recovery, with fees to be determined by the Licensing Authority
  - A record of information relating to applications and licenses to be maintained and made available to the public by the licensing authority
  - Wider enforcement powers – compliance notice, remediation notice, stop notice, fixed and variable monetary penalties and ability to accept 'enforcement undertakings' i.e. actions to be taken in lieu of prosecution.
10. Welsh Ministers will be the Licensing Authority under the Marine Act.
11. Welsh Ministers will be able to amend, by Order, the list of licensable activities set out in the Bill;
12. Welsh Ministers will be able to exempt certain activities from the need for a licence or specify conditions that, if met, will mean the activity can be exempted;
13. Welsh Ministers may make regulations to make further provision as to the procedure to be followed for the application and granting of Marine Act licenses.

## **Part 4 – Marine Conservation Zones**

14. Establishes a system of designation and protection for Marine Conservation Zones (MCZs) for the conservation of habitats, species and other features of interest.
15. Confers power to make orders designating sites and setting out the conservation objectives for the site taking into account, if appropriate, the economic or social consequences of doing so.
16. All public authorities will have a duty to exercise their functions in ways that further the conservation objectives for MCZs, or in ways which least hinder the achievement of those objectives.
17. The statutory conservation body (CCW in Wales) will be able to give guidance and advice concerning MCZs.
18. Confers power to make orders affording appropriate levels of protection to sites in light of a site's conservation objectives, including:
  - measures to prevent activities damaging a site.
  - control of currently unregulated activities such as jet-skiing, anchoring of boats or snorkelling. Orders will be used to control specific activities - improve clarity for sea users and simplify the enforcement of nature conservation offences.
  - Create penalties for breaching an order - fixed administrative penalties, voluntary undertakings, fine of up to £50,000.
19. Confers powers to make interim orders affording appropriate protection to an area pending consideration of whether to designate that area as an MCZ, in cases where there is an urgent need to protect the feature(s) of interest present in the area in question.
20. Welsh Ministers will be the designating and conservation order-making authority for MCZs in Welsh territorial waters.

## **Part 5 – Other Conservation Sites**

21. This Part provides an ability to alter the boundaries of Sites of Special Scientific Interest (SSSIs) and National Nature Reserves (NNRs) beyond their normal extent if it is appropriate to do so in order to provide the whole habitat with protection.

## **Part 6 – Inshore Fisheries and Conservation Authorities**

22. Provides the ability to establish Inshore Fisheries and Conservation Authorities (IFCAs) to manage inshore fisheries out to 12 nautical miles and sets out the membership, funding and operation of IFCAs.
23. Relates to both England and Wales.

## **Part 7 – Fisheries**

24. Provides for various changes to sea fishing, management of shellfish and migratory and freshwater fisheries legislation:

- Ability to introduce a chargeable recreational sea angling license
- Repeals several out of date fisheries acts

## **Part 8 – Enforcement**

25. This Part creates provisions in relation to the enforcement of marine fisheries, nature conservation and licensing:

- Appointment of enforcement officers – Wales, England and offshore area, Northern Ireland, British Sea Fisheries Officers and of service personnel.
- Creates a set of common enforcement powers that all enforcement officers can use – streamlines and improves existing arrangements where powers are different under different pieces of legislation. Powers include – to board and inspect vessels, enter and inspect premises and vehicles, seize objects, require information and production of documents.
- Creation of more specific powers for the enforcement of licensing, conservation and fisheries legislation, tailored to the conditions of each regime.
- Duties and liabilities of and offences in relation to enforcement officers.
- Ability to apply administrative penalty schemes.

26. The powers created for English and Welsh enforcement officers are the same.

27. Welsh Ministers may appoint Welsh enforcement officers and British Sea Fisheries Officers.

## **Part 9 – Coastal Access**

28. Creates a duty on the Secretary of State and Natural England to secure improved public access to the coast around England, how the duty should be implemented and the establishment and maintenance of a route around the English coast.

29. Provisions currently only apply to England. We have expressed a potential interest in related provisions for Wales.

## **Part 10 – Miscellaneous**

30. This Part contains provisions:

- Relating to the extent of Natural England's remit
- Amendments to the Harbours Act 1964, which are set out in Schedule 12. This enables the MMO to make Harbour Revision Orders and Harbour Empowerment Orders (with the consent of Welsh Ministers, should the Order affect the exercise of certain of their functions).

## **Part 11 – Supplementary Provisions**

31. This Part contains supplementary provisions relating to making Orders, giving direction and the Interpretation of meanings under the Act.



### **3 - DELIVERING THE BILL IN WALES**

#### **General**

1. The provisions in the draft Marine and Coastal Access Bill, if enacted, would add to the tools that are available to Wales to plan for, manage and protect the marine environment around Wales.
2. How the same tools provided by the draft Bill are used in England and Wales may be different. In some cases, decisions have been made about how some of the tools will be used (e.g. Marine Conservation Zones as Highly Protected Areas).
3. In many areas, how the tools will be used has not been decided. This is where input from stakeholders and the Committee will be needed to help shape the development of Welsh policy and implementation of the Bill.

#### **Marine planning**

4. The creation of a system of marine planning is central to the draft Marine and Coastal Access Bill.
5. Intention is to produce a Marine Policy Statement that as many as possible administrations will sign up to (not including Scotland). This will set the context for marine plans.
6. The intention is to agree a Marine Policy Statement within two years of the Bill receiving Royal Assent.
7. Welsh Ministers will be responsible for planning in Welsh territorial waters but the complex mix of devolved and non-devolved responsibilities in the marine area needs to be taken into account in developing a system of marine spatial planning.
8. At present Schedule 5 contains a requirement for Welsh Ministers to seek consent for Welsh marine plans from the Secretary of State. This is a holding clause for the purpose of the draft Bill. The Welsh Assembly Government is working with Defra to find a way that better reflects the complex mix of devolved and non-devolved issues in the seas around Wales and the political desire to work together in a collaborative manner. This was recognised in the Policy Paper that accompanied the draft Bill.
9. The Welsh Assembly Government has received advice from the Wales Coastal and Maritime Partnership (WCMP) on some aspects of marine planning in Wales. This suggests that there should be a single plan for Wales, with more detail in certain areas, where needed. All the advice and the Minister's response to the advice are available on the WAG Marine webpages (links to the documents are in section 1 of this paper under Key documents in the development of Marine and Coastal Access Bill).
10. The Welsh Assembly Government believes that marine planning in Wales should be an open and transparent process that involves stakeholders.
11. It should have sustainable development at its heart and provide a focus for co-ordinating policy in the marine area.
12. The delivery of marine planning should be proportionate, accountable, consistent, transparent and targeted.

### Questions for Committee to consider

- Does the Committee have a view on WCMP's advice on a single plan for Wales?
- The Committee's view on the types of areas of Wales that might benefit from more detail is sought.
- How can the Welsh Assembly Government engage with stakeholders to ensure they are aware of the Marine and Coastal Access Bill, marine planning and feed their views into the development of marine plans in Wales?
- Does the Committee have any views on how the complex interplay of devolved and non-devolved functions can be taken into account in agreeing marine plans for Wales?
- What role could the Wales Coastal and Maritime Partnership (WCMP) have in the engagement and planning process?
- How can the Welsh Assembly Government access expert advice and local opinion to help develop marine plans?
- How can Local Authorities feed into the development of marine plans in Wales? What role could the WLGA play?
- How can the Welsh Assembly Government work efficiently and effectively with our neighbours in England, Scotland, Northern Ireland, the Republic of Ireland and the Isle of Man?

### **Marine Licensing**

13. The Marine and Coastal Access Bill will merge a number of different marine licensing regimes to create a more streamlined application process. The core of this new streamlined process will be the merger of Food and Environment Protection Act (FEPA) and Coast Protection Act (CPA) licenses. At the moment, Welsh Ministers are responsible for FEPA licences, but not CPA licences.
14. In England, the Marine Management Organisation (MMO) will be responsible for a merged system that includes the current provisions of FEPA, CPA, marine aggregates licences, Harbour Revision Orders (HROs), Harbour Enforcement Orders (HEOs) and granting licenses for renewable energy installations <100MW.

### The Marine Consents Unit (MCU)

15. The Welsh Assembly Government has created a Marine Consents Unit (MCU) within the Marine Branch to administer and act as a single point of contact for marine licences for which Welsh Ministers are responsible.
16. The MCU has already taken over responsibility for marine aggregate dredging licence applications. The Welsh Assembly Government's Planning Department previously dealt with these applications.

17. The MCU will take over the administration of FEPA applications later this year. The Marine and Fisheries Agency (MFA) currently administer FEPA licences on behalf of Welsh Ministers.
18. The MCU will also take over responsibility for marine European Protected Species (EPS) licences. At the moment, the Welsh Assembly Government's Nature Conservation Branch deals with all EPS licences for which Welsh Ministers are responsible.
19. When the Marine and Coastal Access Bill is enacted, Welsh Ministers will have a very similar merged licensing power to the MMO, but the Welsh Assembly Government will deliver these responsibilities.
20. Wales will not, in all cases, be able to be as streamlined as in England, as not all marine licences will be the responsibility of Welsh Ministers. For example, where a licence under the Electricity Act 1989 is required for an offshore windfarm, in England the Secretary of State could disapply the need for a Marine Act licence, instead directing that it should be considered under the Energy Act procedure (and be granted a licence by either the MMO or IPC, depending on the size of the windfarm being proposed). In Wales, the applicant will still need to obtain a Marine Act licence from the Welsh Ministers for the environment and navigation aspects of the application. This ensures that Welsh Ministers retain the existing powers that they currently have under FEPA for marine renewable applications.
21. The MCU will liaise with other licensing bodies to ensure that where possible, licensing of relevant activities in Welsh Waters is as streamlined and simplified for the applicant as possible.
22. The MCU is currently working with the MFA to ensure that WAG will be able to access the same information that the MFA (and later the MMO) can access.
23. MCU is also building links with the Centre for Environment, Fisheries and Aquaculture Science (CEFAS), who provide technical and scientific advice to MFA on licence applications.
24. The Welsh Assembly Government Technical Services Division (TSD) will also provide quality assurance and technical advice to the MCU, as it does to the whole Marine Branch.
25. MCU is also working closely with the Defra Bill team on the licensing, MMO and enforcement aspects of the Bill to ensure that Welsh Ministers and WAG have all the responsibilities and powers needed to deliver a more integrated marine licensing regime in Wales.

#### **4 - Marine nature conservation**

26. Marine nature conservation in the draft Marine and Coastal Access Bill focuses mainly on the introduction of a new system of marine protected areas called Marine Conservation Zones (MCZs). These areas may be used to protect species and habitats of national importance and to protect ecosystem processes.
27. MCZs provide a mechanism to protect and conserve nationally important species and habitats. To avoid duplication the new MCZ provisions will supersede those of Marine

Nature Reserves (MNRs), such as that around Skomer. The intention is for the Bill to automatically convert MNRs into MCZs. Existing MNR byelaws will remain in place until conservation orders are made to ensure there is no fall in the level of protection afforded to MNRs.

28. MCZs will be designated to achieve particular conservation objectives and will be protected by marine conservation orders.
29. Welsh Ministers will be responsible for designating MCZs in Wales and making marine conservation orders.
30. In conjunction with Defra, Assembly Government officials are preparing draft guidance notes on how we expect the nature conservation provisions within Part 4 to be implemented. The draft guidance notes, to be published before the end of May, will be subject to amendment and revision as the Bill progresses through Parliament, and as detailed policy continues to evolve. Final guidance will be published after Royal Assent.

#### Highly Protected Marine Reserves (HPMRs)

31. Over 70 per cent of Wales' coastline and about 40 per cent of Welsh seas are already protected by some form of designation, such as Special Protection Areas and Special Area Conservation. Consequently, the Welsh Assembly Government does not think there is a need to designate a greater area of the sea around Wales.
32. CCW have, however, advised that some areas need a greater degree of protection. This forms part of CCW's advice on how to implement the ecosystem approach in Wales's seas. The advice recommends combining the use of marine planning, managed retreat and providing some areas with a higher level of protection than already exists.
33. The Welsh Assembly Government, therefore, intends to initially use the MCZ powers to establish Highly Protected Marine Reserves (HPMRs) that will contribute to marine ecosystem recovery, improve environmental resilience and enhance our understanding of natural functioning.
34. Professor Calum Roberts from University of York is working with CCW on a project to develop a process to define the criteria used to select potential sites and suggest a process for designating sites that enables stakeholders to be fully involved.
35. The Welsh Assembly Government has no preconceptions as to where HPMRs will be, although, we expect them to be predominantly within existing SACs, as these have already been identified as the most important areas of our seas.
36. Stakeholder engagement is an important aspect in developing both the process to choose sites and the designation of individual sites. The Welsh Assembly Government believes that stakeholders should have a say in where sites should go.
37. CCW held a stakeholder event (16 April 2008, Llandudno) to share their initial thinking on this process and to seek input from stakeholders. This was attended by a wide range of sea user group including divers, sailors, commercial and recreational fishermen, environmental NGOs and academics. This is only the start of the process and more consultation will take place in the future.

38. The Welsh Assembly Government is keen to begin the HPMPR designation process as soon as possible after draft Marine and Coastal Access Bill is passed and to have designated HPMPRs in Wales by the end of 2012.

Questions for Committee to consider

- How can the Welsh Assembly Government ensure that HPMPRs in Wales secure as many benefits as possible – for recreation, tourism, fishing, education and heritage as well as nature conservation?
- How can the Welsh Assembly Government ensure synergies between sites protected for nature conservation and sites protected for other reasons (e.g. under the new Heritage Protection Bill) are maximised?

## **5 - Coastal access**

39. Defra plan to improve public access to the coast in England with new statutory powers in the Marine and Coastal Access Bill and by amending the CROW Act. These provisions appear in the draft Bill.
40. In Wales a Coastal Access Improvement Programme is already under way, focussing on path infrastructure improvements to secure better access by the public to the coast of Wales. A key objective of this programme is to create a new All Wales Coastal Path by 2012. This is a One Wales commitment.
41. £2 million is being allocated to the coastal access programme in Wales for 2008-2009. £1.5 million were allocated to the programme in 2007-2008. CCW is co-ordinating the programme and assists coastal local authorities in the delivery of improved coastal access.
42. WAG have asked CCW for advice on how a statutory approach to coastal access might work in Wales in a way that adds value to and complements the existing Coastal Access Improvement programme. This advice is currently being finalised.
43. CCW's advice will be used to inform the content of a consultation paper on how a statutory approach to coastal access in Wales might best be implemented, which the Welsh Assembly Government expect to publish in June.
44. The Welsh Assembly Government is working with Defra to ensure that changes that might be needed for Wales can be included in the draft Marine and Coastal Access Bill before it is introduced to Parliament.

Questions for Committee to consider

- How can the Welsh Assembly Government ensure that our All Wales Coastal Path is climate change proof?
- How can conflicts between protecting important conservation sites at the coast and creating an All Wales Coastal Path be minimised and resolved in ways that allow people to enjoy and appreciate our protected marine and coastal species and habitats?

## **6 - Fisheries**

45. The fisheries provisions in the Bill apply generally to both England and Wales.
46. The draft Marine and Coastal Access Bill contains changes to update and reorganise Sea Fisheries Committees (SFCs) in England and Wales.
47. The creation of Inshore Fisheries Conservation Authorities (IFCAs) in Wales does not have to take place. The power to create IFCAs is a permissive power that Welsh Minister can choose to use.
48. A consultation on the future of Inshore Fisheries Management and Enforcement in Wales will take place in June.
49. Fisheries officials are working with Defra to ensure that any changes needed to the draft Marine Bill to take account of the consultation and subsequent reorganisation of inshore fisheries in Wales can be made before the Bill is introduced to Parliament.

### The Creation of a Welsh Fisheries Zone

50. The Welsh Assembly Government is currently consulting fishing industry representatives on proposals to create a Welsh Fisheries Zone beyond the current 12nm limit of Wales.
51. At present the Welsh Assembly Government has competence for fisheries matters within the territorial sea adjacent to Wales (i.e. out to 12 nm). The proposal to create a Welsh Fisheries Zone would extend fisheries competence out to the median line with the Republic of Ireland to the west, to the Isle of Man in the north, and to a small area in the southwest.
52. The proposed Welsh Fisheries Zone would not extend beyond the boundary of British Fishery Limits. It would, in no way, encroach on the sea limits of the Isle of Man or the Republic of Ireland.
53. The role of the Welsh Assembly Government in the Welsh Fisheries Zone would not differ in scope from its existing competencies within territorial seas. It would not extend to other functions or seek to change any of the existing agreements with partners on cross-border issues.

54. The Welsh Assembly Government does not propose doing anything different in the Welsh Fisheries Zone to what is already being undertaken in Welsh waters at present. Initially we propose that upon commencement of the proposal existing Welsh Fisheries Statutory Instruments be amended to include the 'Welsh Fisheries Zone'.
55. The Welsh Assembly Government anticipates that any future legislative powers in relation to a Welsh Fisheries Zone would be specifically for purposes such as the protection of fisheries resources and specific fisheries. Those functions that are reserved to the United Kingdom Government would remain reserved and the current devolution settlement would be retained in all other respects. The Welsh Assembly Government would continue to respect the rights of vessels from other parts of the UK and the EU and would treat them no differently to vessels from Wales. The Welsh Assembly Government is bound by EU legislation and may not do anything that is incompatible with international commitments under the Government of Wales Act.
56. We do not believe that this proposal would increase the complexity of the management of the Irish Sea as a whole. For a large area of the Irish Sea, it could potentially decrease complexity, reduce the number of organisations responsible for management and enable the Welsh Assembly Government to exercise its responsibilities for fisheries management in a more coherent way.
57. The Welsh Assembly Government has been discussing this matter with the UK Government, and exploring whether the proposed Bill might be a possible vehicle for taking forward the proposal.
58. The deadline for consultation responses is 6 June.

## **Delivery**

59. Defra are creating a Marine Management Organisation (MMO) to undertake many of the activities proposed in other sections of the White Paper, including spatial planning and enforcement of nature conservation. The current MFA will form the basis of the new MMO.
60. The MMO will only have functions in Wales in relation to non-devolved matters. It will also have functions in England and in UK waters beyond Welsh territorial waters (>12nm).
61. The Welsh Assembly Government is considering how best to take forward marine management in Wales. This will not include the creation of a new organisation - this is not the right direction of travel for Wales.
62. The Welsh Assembly Government has a policy of bringing policy development and policy delivery closer together, as has been achieved through the mergers of Assembly Sponsored Public Bodies such as Wales Tourist Board and Welsh Development Agency into the Welsh Assembly Government. Becoming a part of an England and Wales or UK Non Departmental Public Body, such as the MMO is not consistent with this policy.
63. The Welsh Assembly Government will seek to achieve the same efficiencies and streamlining of operation within WAG as Defra is seeking to achieve by the creation of the MMO.

- 64. MFA fisheries staff based in Wales transferred to the Welsh Assembly Government in April 2008.
- 65. The Welsh Assembly Government currently has an arrangement with the MFA for the delivery of some fishery enforcement activities in Welsh waters. This arrangement will continue after the Marine and Coastal Access Bill has been passed and these activities will be undertaken by the MMO on behalf of the Welsh Assembly Government.
- 66. The creation of the MCU to deliver marine licensing in Wales, along with the movement of staff from the MFA to WAG, works towards the aim of bringing policy development and policy delivery closer together, by increasing and developing WAG's delivery capabilities.
- 67. Welsh Ministers could ask the MMO to undertake the delivery of certain activities in Welsh waters on their behalf. Similarly, the MMO could ask WAG to undertake non-devolved activities in Welsh waters on behalf of the MMO.

### Enforcement

- 68. Welsh Ministers will have the ability to appoint Welsh Enforcement Officers (WEOs) as well as British Sea Fisheries Officers (BSFOs).
- 69. There are opportunities for all delivery agencies and the Welsh Assembly Government to work together to deliver fisheries, nature conservation, licensing and enforcement in Wales. We are currently investigating these opportunities
- 70. Welsh Ministers will have the ability to establish civil sanctions for offences so that monetary penalties can be applied for minor breaches, rather than having to pursue all offences through the Courts.
- 71. The Welsh Assembly Government believes that civil sanctions should be a last resort and that voluntary approaches, such as codes of conduct for sea users (e.g. Pembrokeshire Marine Code, Pembrokeshire Outdoor Charter), should be fully explored, where appropriate.
- 72. We are working with Defra and other Devolved Administrations to ensure that cross-border co-operation and use of the common enforcement powers by officers throughout UK waters will be possible. This will ensure that those committing offences will not be able to evade enforcement officers simply by leaving the area in which the enforcement officers usually operate (e.g. by escaping from Welsh territorial waters into English territorial waters).

### Data and information needs

- 73. The Welsh Assembly Government is working with Defra and other Government departments on elements such as the development of Marine Objectives and as part of the UK Marine Monitoring and Assessment Strategy (UKMMAS) to ensure that there is a coherent approach to management across England and Wales. A consultation on High Level Marine Objectives is due to be published in the Summer.
- 74. Some aspects of marine management, enforcement and planning are better undertaken at a UK level. The Welsh Assembly Government believes that matters such



as large-scale research, data collection and storage should be undertaken in a co-ordinated manner across the UK.

75. The Welsh Assembly Government input to the UKMMAS and the data co-ordination work of various data partnerships such as the Marine Environmental Data and Information Network (MEDIN) will ensure that Welsh needs are taken account of in the monitoring, collection, storage and use of marine data and research.

Questions for Committee to consider

- How can the Welsh Assembly Government work with other delivery agents in Wales (e.g. Environment Agency) to create efficiencies in delivery and enforcement of the Bill?
- How can the Welsh Assembly Government encourage the responsible use of Welsh seas for the enjoyment of all?