

Report of the Environment, Planning and Countryside Committee's consideration of Defra's Consultation on a Marine Bill

Background

1. On 11 and 24 May 2006, the Environment, Planning and Countryside Committee discussed Defra's consultation on a Marine Bill, which was published on 29 March. On 11 May, the Committee discussed the general principles of the consultation and a draft Bill. On 24 May, the Committee took evidence from key stakeholders to inform its opinion.
2. The organisations represented on 24 May were:
 - Environment Agency Wales (EA)
 - Wales Coastal and Maritime Partnership (WCMP)
 - Wales Environment Link (WEL)
 - The Countryside Council for Wales (CCW)

The Environment Agency Wales, the Wales Environment Link and the Countryside Council for Wales also submitted written evidence in advance of the meeting. The evidence is appended to this report, as are transcripts of the Committee's discussions on the consultations.

Consideration

3. The Committee recognises the need for a Marine Bill, since there is currently no overall strategy for the management of our seas. It therefore sees this consultation and future Bill as a significant opportunity to address the current state of the marine environment, and, at a time of increasing development, to seek more integrated and streamlined systems.
4. The Committee focused its discussion on the issues raised in sections 7 to 11 of the consultation document and their implications for Wales.

General Principles

5. The Committee is aware that there is currently a complex mix of devolved and non-devolved powers in the marine environment. It therefore welcomes the UK Government's commitment to the devolution process stated in the consultation document and the recognition that it will be for the Welsh Assembly Government to decide whether to consider taking any of the consultation's proposals forward and the most appropriate way to do so within its competence.
6. In view of this, and the commitment in the UK Government's White Paper, *Better Governance for Wales* and the Government of Wales Bill currently in Parliament, that in drafting primary legislation relating to

Wales the Assembly will be delegated maximum discretion in making its own provisions using its secondary legislative powers, **the Committee calls on the Welsh Assembly Government to do all that it can to secure the broadest possible flexibility to develop policy in Wales using framework powers.** In doing so, the Committee states its wish to influence the secondary legislation pursuant to a future Marine Act.

Managing Marine Fisheries

7. The Committee is aware that fisheries management is a devolved matter and that the Welsh Assembly Government has recently consulted with the fishing industry and other interested parties on an all-Wales fisheries strategy. **The Committee will scrutinise and seek to influence the strategy.**
8. In their written evidence, the EA, WEL and CCW pointed to the need for a new legislative framework to address the weaknesses, gaps and inadequacies of the current outdated system. CCW also believed that the current legislation was a constraint on the future of inshore fisheries and to ensuring that fisheries and nature conservation interests can co-exist. **The Committee agrees with the witnesses' views and requests that provisions are included in the Bill to revise the current, outdated legislation.**

Planning in the Marine Area

10. In all of the evidence, there was unanimous support for the introduction of a system of Marine Spatial Planning (MSP), on which, we were told, all other proposals for better management of the coasts and seas would depend. **The Committee supports this view.**
11. The EA and CCW both told us that the MSP should link closely with Integrated Coastal Zone Management (ICZM). CCW in particular suggested that extending the Wales Spatial Plan to 12 nautical miles to bridge the land-sea interface would contribute significantly to securing ICZM.
12. Three of the four organisations represented at the evidence session told us that they supported Option 4 in the consultation, that there should be a statutory system of MSP.
13. WEL and WCMP told the Committee of the need for the Welsh Assembly Government to have a significant input into UK marine spatial planning, with WEL seeing a Welsh MSP nesting within the UK MSP.

Licensing Marine Activities

14. All of those who gave evidence took the view that the current consenting system was complex and needed updating. One witness went so far as to describe it as “a complete mess”. The Committee was told that providing greater clarity and transparency would not be easy but would benefit developers, regulators and the marine environment.
15. Of the four options set out in the consultation, the witnesses favoured Option 4, an integrated regime. This option would create a more extensive, integrated approach and would probably require a single regulatory body. Witnesses suggested that a staged approach to achieving this might be preferable. **The Committee believes that this is both practical and appropriate and thus supports the staged development of the integrated regime proposed in Option 4.**
16. The issue of whether functions in this area currently held by UK departments could be devolved was raised and received some support, though no conclusion emerged.
17. The EA suggested that a single body was required to plan and licence waste water disposal.

Improving Marine Nature Conservation

18. The Committee notes the acknowledgement in the consultation document that the devolution of responsibilities for marine nature conservation in territorial waters would provide the opportunity for administrations to implement different solutions to delivering the objectives of a Marine Bill. **The Committee urges the Welsh Assembly Government to bring forward proposals for the future of marine conservation in Welsh waters as soon as possible following the publication of the Marine Bill.**
19. In written evidence the Minister told us that he supported a more holistic ecosystem-based approach to nature conservation to ensure that some important habitats and species receive a greater degree of protection.
20. On the issue of an ecosystem approach, the WCMP told us that it should go beyond administrative boundaries and take in natural process boundaries, while CCW called for the establishment of a suite of overarching objectives for protecting marine ecosystems.
21. There was no clear view as to whether a new designation of sites was needed. WEL told us that it might be preferable to consider regulation and control of activities within the Welsh coast’s many designations. CCW agreed but reserved the opportunity to create designations should something new be discovered.

The Potential for a New Marine Management Organisation

22. Much of the discussion during our evidence session focused on the consultation's proposal to create a new marine management organisation: what form the organisation should take; what functions it should take on; where it would best sit; whether it would be given appropriate funding and support.
23. The Minister made his position clear and told us that he believed that a marine agency in Wales would be "counter-cultural". All of the witnesses were aware of this stance and of the Welsh Assembly Government's current drive to integrate policy development and policy delivery. Some, however, noted the risk that operating a marine management organisation within Government could mean that there would be a lack of transparency and accountability.
24. The WEL was particularly interested in the creation of a marine management organisation and presented three options to the Committee: a UK or England and Wales body; a Wales-only organisation; and a range of functions being performed from within the Welsh Assembly Government. CCW told us of its view that any arrangements in England and Wales should be complementary.
24. With regard to functions, the EA maintained that a single body should carry out the functions of marine spatial planning and the co-ordination of appropriate licensing regimes. The WCMP has not taken a view on the issue.
25. Discussion on the evidence provided on this issue seemed to favour a Wales-only body.

Written evidence submitted to the Committee

Environmental Planning and Countryside Committee Enquiry: A new Marine Bill

Memorandum from the Countryside Council for Wales

Summary

CCW believes that the Marine Bill should:

1. Provide a statutory system of marine spatial planning
2. Improve marine nature conservation
3. Consolidate and improve the marine licensing regime

Introduction

The Countryside Council for Wales (CCW) is the Government's statutory advisor on sustaining natural beauty, wildlife and the opportunity for outdoor enjoyment in Wales and its inshore waters. CCW is a Welsh Assembly Government sponsored public body.

CCW has built up a wealth of marine experience. We undertake marine survey and monitoring work and collate data from other organisations where appropriate, which has given us a good understanding of the marine species and habitats and the functioning of marine ecosystems in Welsh waters. We commission research into a wide range of marine ecological topics, including the potential impacts of particular developments and different management approaches, that informs our advice to Government and others. In recent years, we have been intimately involved in the designation and management of marine Natura 2000 sites in Welsh waters. These important sites currently cover approximately 30% of Welsh territorial waters and 70% of the coastline (see map, Annex 1).

CCW is an active member of the Wales Coastal and Maritime Partnership and is working alongside other stakeholders to provide the best possible advice to WAG on securing the sustainable development of our marine and coastal environment.

CCW welcomes this timely and important inquiry into the Marine Bill. **We believe that we must change the way in which the marine environment is managed; the Marine Bill provides an important opportunity to secure these changes.** Below we set our perspectives on the Defra Marine Bill consultation document and reflect upon the possible implications for Wales.

Background – the state of Welsh seas

A significant proportion of Wales is sea and Welsh seas play an important role in contributing to our economy and way of life. The Wales Coastal and Maritime Partnership has commissioned a study of the value of the coastal and marine environment of Wales. Early indications are that 52,000 jobs – representing 6% of all jobs in Wales – are closely associated with the Welsh coastal and marine environment and that roughly half of these are related to the Tourism sector. A thriving maritime economy is therefore reliant upon a healthy environment.

CCW is concerned about the current state of the Welsh marine environment and the increasing pressures that it is facing. Whilst there have been some encouraging improvements in some aspects of the condition of the marine environment (e.g. water quality of the Irish Sea), there is strong evidence of negative trends in biodiversity and overall ecosystem health. This view is supported by the UK Government and Devolved Administrations' report on the state of the UK marine environment, 'Charting Progress: an integrated assessment of the state of UK seas'. Whilst Welsh seas may in some ways be considered to be in relatively good condition relative to other UK seas, there remains the need to halt and reverse the negative trends that are apparent in order to safeguard, for the long-term, the goods and services that our seas provide.

There have been a number of important Government reviews into various aspects of the management of human activities in the UK marine environment since the 1990s (Annex 2). Common messages from these reviews and reports are that:

- the marine environment is in need of greater protection
- the current management regime, and its legislative basis, is complex and outdated
- the current suite of management tools available is not sufficient to deliver Government's vision for the marine environment.

CCW supports the findings of these reviews. In particular we agree that, currently, **the tools that are available to plan for and manage human activities in the marine environment are inadequate – and will not enable Government to achieve its overall vision for UK seas and deliver various international commitments.**

The Proposed Marine Bill

CCW recognises that there is a need for new legislation to both consolidate and modernise existing laws that govern the marine environment and to strengthen marine nature conservation measures. We are pleased that many of the recommendations made by the recent reviews and reports are being taken forward through the developing Marine Bill as set out in Defra's consultation paper. CCW believes that Defra has focussed on the areas required to prepare

an effective and coherent Marine Bill that will enable delivery of Government's vision for the marine environment.

CCW will be responding to the Defra Marine Bill consultation and copying its response to the Welsh Assembly Government (WAG). We will continue to work closely with the Marine Policy branch in WAG to ensure that the Marine Bill delivers for Wales.

UK Government's purpose for the Marine Bill is to introduce, within its area of responsibility, a new framework for the seas, based on marine spatial planning, that balances conservation, energy and resource needs. **At a time when the rate of development in the marine environment is increasing at a considerable pace, CCW believes that such a framework is urgently required.**

Key Principles

Any new framework developed for the management of Welsh seas must:

- Have **sustainable development** at its core
- Be **integrated** both horizontally and vertically with other relevant management systems
- Be informed by an **evidence-based approach**
- Be based upon the **ecosystem approach**
- Seek to **simplify and streamline** existing management processes and structures

Opportunities provided by the Marine Bill

The Marine Bill provides an opportunity to help us move away from a piecemeal, complex sectoral approach to marine management and towards an integrated, strategic approach that is focussed on outcomes. CCW believes that in order to achieve this, legislation is required to provide:

A statutory system of Marine Spatial Planning that is integrated with the terrestrial planning system and which provides the framework for managing the sea in a strategic way, identifying areas of opportunity and restraint as well as providing a means for integrating sectoral responsibilities. Critically, such a framework must recognise, and give the required degree of legal protection to, the range of marine heritage and landscape interests identified as being of international, European, national and local importance. The framework should also, through adequate legal protection, ensure healthy, functioning and resilient marine ecosystems.

Currently, the Wales Spatial Plan does not cover Welsh seas. Extending the Wales Spatial Plan out to 12nm would ensure that Welsh priorities and policies for its seas were brought together and clearly articulated – this could feed into any wider Marine Spatial Planning framework that is developed. Providing a mechanism for bridging the land-sea interface by extending the Wales Spatial Plan would contribute significantly to securing Integrated Coastal Zone Management.

Improved Marine Nature Conservation delivered as part of a system of Marine Spatial Planning. This includes the establishment of a suite of overarching objectives for protecting marine ecosystems (Marine Ecosystem Objectives) that must be taken into account by all relevant management regimes. An example of such an objective could be to '***secure a balanced trophic structure of the food-web that optimises ecosystem health and productivity***'.

Marine Protected Areas (MPAs) are an important conservation tool and a flexible mechanism to designate marine areas for various levels of protection (from multi-use to highly protected) is required in the UK. In Wales, a significant proportion of our seas are already designated as marine Natura 2000 sites (Annex 1) and we see little advantage in designating additional areas as marine protected areas. However, we recommend that parts of the existing sites, such as areas that are particularly sensitive or where recovery is desirable, should be selected for a high level of protection and that a new, flexible mechanism to designate MPAs would enable this. Such a measure would improve our ability to manage marine Natura 2000 sites in accordance with obligations under European legislation and therefore allow us to move towards WAG's target for a greater percentage of nature conservation sites to be in favourable condition, as set-out in the Environment Strategy Action Plan.

A more streamlined and transparent marine Licensing Regime that is fully integrated with a Marine Spatial Planning framework. It is widely accepted that, because the current regulatory regime has developed over time in a piecemeal way, we now have a complex series of consenting systems that could be far better integrated and rationalised. CCW supports the development of a simplified and transparent consenting mechanism that provides greater clarity and certainty for all stakeholders whilst providing adequate protection for the environment.

More integrated (and environmentally sustainable) management of fisheries. The Welsh Assembly Government is currently developing a Welsh sea fisheries strategy and the Marine Bill provides the opportunity to put in place the appropriate tools for securing the delivery of the strategy. A major constraint both to the future of inshore fisheries and to ensuring that fisheries and nature conservation interests can co-exist is the very limited ability to flexibly manage fishing effort – the Marine Bill should revise outdated legislation to provide fit-for-purpose fisheries management tools. It also provides the opportunity to extend fisheries management powers for Sea Fisheries Committees from 6nm out to 12nm. However, this needs to be coupled with powers (or negotiated arrangements) to manage the activity of 'foreign' vessels

with historic fishing rights between 6 and 12 nm particularly with respect to protected areas. From a nature conservation perspective, there is also the need to improve the enforcement of wildlife conservation measures; integrating this with fisheries enforcement arrangements would be desirable.

Devolution and priorities for Wales

The consultation rightly acknowledges the complicated sectoral regulatory regime that exists for the UK marine environment. In Welsh waters, there is a complex mix of devolved and non-devolved powers. The Assembly already has powers relating to the management of Welsh seas and the Marine Bill may provide the opportunity to further devolve powers to the Assembly.

The Defra Marine Bill consultation document notes that ‘the proposals developed for this consultation document generally address only those functions which have not been devolved’ and that ‘where responsibility for any aspect of current marine activity has been devolved it is the responsibility of the relevant devolved administration to consider whether any changes may be required’ (para 5.6). At the same time, CCW and other key Welsh stakeholders have been encouraged by the National Assembly for Wales to respond to the consultation ‘to help shape the development of a Marine Bill that recognises and takes account of the particular differences and needs of Wales and Welsh stakeholders’.

In Wales, devolution allows us to set our own priorities and to seek our own solutions to problems. CCW fully supports the devolution process and the principle of subsidiarity. At this stage, it is unclear which of the policy options outlined in the consultation document the National Assembly for Wales wishes to take forward and through what means. However, it is clear that, in some cases, Wales is likely to have different priorities for securing the improved management of the Welsh marine environment compared to UK Government (e.g. less enthusiasm for further Marine Protected Areas outside existing designations) or may have developed a different policy approach (e.g. bringing together rather than separating policy and delivery).

Devolution arrangements in relation to the Marine Bill are particularly relevant to the consideration of whether a new marine body (Marine Management Organisation) is required to deliver Government policy. In Wales, the Assembly has confirmed that it will not be looking to create a new marine agency. CCW looks forward to contributing to discussion about the delivery of any new functions created by the Marine Bill that apply to Wales.

Whatever approach is adopted in Wales and taken forward through the Marine Bill, it is the outcome that is important. Whatever policies are taken forward for Wales and the UK, we believe that **any new framework that is put in place must be simpler and more effective than the current system. For this to be the case, the approach adopted by the Welsh Assembly Government and that taken by UK Government must be complimentary and effectively integrated and must also take into account the European and international dimensions.** Careful consideration is required to identify how best to ensure a joined-up and holistic approach to the management of Welsh seas as part of

the UK marine environment, which is in turn part of the European and northeast Atlantic marine environment. CCW looks forward to working with WAG to ensure that the Marine Bill delivers for Wales.

Environment Planning and Countryside Committee

EPC(2) 08-06(p5)

Date: 24 May 2006

Venue: Committee room 3, Senedd

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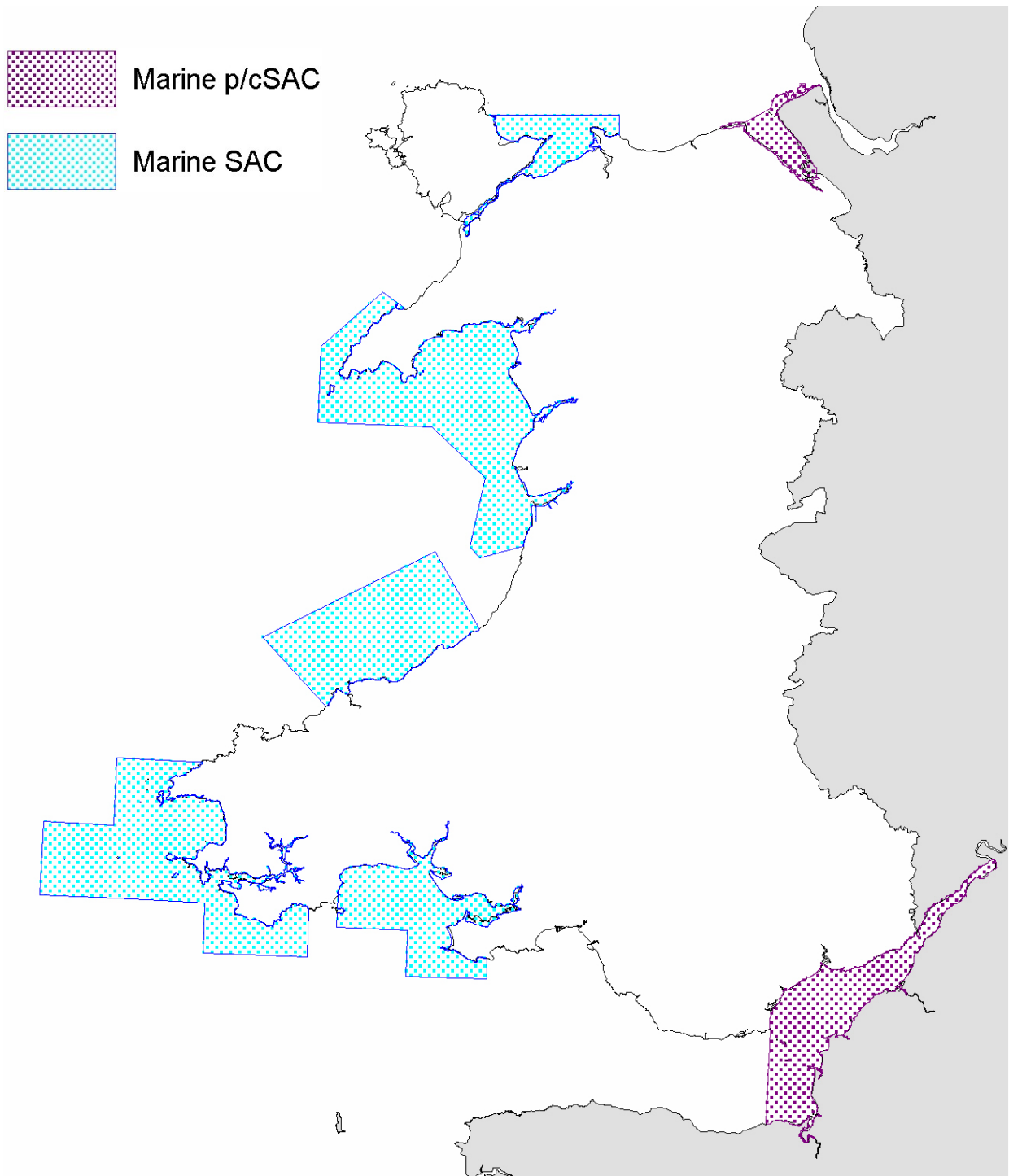
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Annex 1. Map showing marine Special Areas of Conservation in Wales.



Annex 2. Recent reviews into the management of the marine environment.

The Review of Marine Nature Conservation – Working Group Report to Government. Defra, 2004.

Regulatory Review of Development in Coastal and Marine Waters, DfT, 2002.

Net Benefits – a sustainable and profitable future for UK fishing. Prime Minister's Strategy Unit, 2004.

Review of Marine Fisheries and Environmental Enforcement. Defra, 2004.

UK Parliamentary Select Committee on Environment, Food and Rural Affairs' Report on the Marine Environment, 2004.

Turning the Tide: Addressing the impact of fisheries upon the marine environment. Royal Commission on Environmental Pollution, 2004.

Environment, Planning and Countryside Committee

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Date: 24 May 2006

Venue: Committee room 3, Senedd

Wales Environment Link Marine Task Force members welcome the scope of the UK Bill consultation and believe it provides an excellent framework for Wales to build upon to ensure that our marine environment is properly managed for the benefit of people and wildlife.

Wales Environment Link (WEL) is a network for voluntary environmental and countryside organisations in Wales (most members have an all-Wales remit). It is officially designated the Intermediary Body between the government and the voluntary environmental sector in Wales. As an umbrella body WEL helps represent the shared interests of its 25 member organisations. At this important stage of the UK Marine Bill consultation WEL has compiled a paper to inform the EPC committee of what it considers a Marine Bill should contain as well as the key issues relevant to Wales. This paper represents the collective views of the members of WEL, but does not necessarily reflect the policy position of each individual member organisation.

The importance of the Marine Bill

So far, marine legislation and planning have developed in an ad hoc manner and on a sector by sector basis in response to the rising pressures of maritime activities. There has been no overall strategy for the management of our seas. Instead, decision-making and the jurisdiction of powers in the

marine environment varies between numerous UK and Welsh government departments, agencies and authorities. This has led to confusing, fragmented, often conflicting policies and a costly, bureaucratic system of governance that does not effectively promote the health or economic potential of our seas.

The challenges of doing things differently

The Marine Bill consultation provides an opportunity to achieve a better integrated system for regulating and managing the marine environment of Wales and the UK. The Bill must make planning in the marine environment clearer, simpler and more streamlined. It is very important to ensure that Welsh interests are recognised and developed in the Marine Bill in conjunction with the rest of the UK. We must ensure that the objectives of the different UK administrations, and the tools used to achieve them, are compatible and complement each other. Systems of management that are different will increase complexity, cost and administration at the expense of environmental protection and sustainability.

What the Bill must contain:

- 1) A strategic system of Marine Spatial Planning, which enables integration between all sectors and coordination across political boundaries, to ensure the sustainable use of marine resources and appropriate protection of the natural and historic environment.
- 2) Appropriate arrangements at UK and Welsh levels are needed to facilitate simpler, more transparent, fair and streamlined decision making and governance in the marine environment.
- 3) Statutory underpinning, and a duty on all competent authorities, to conserve and monitor nationally important marine features, along with stronger enforcement measures to safeguard protected species and habitats. Plus legislation to provide for the designation of a series of Highly Protected Marine Reserves.
- 4) The need for an integrated licensing system that includes all sectors that rationalises and improves upon current licensing regimes.
- 5) Legislation that addresses the existing weaknesses and gaps in the management of inshore fisheries. Management of a sustainable fishery requires the adoption of a proactive, precautionary ecosystem-based approach, with adequate funding.

1) Marine Spatial Planning (MSP)

MSP is a strategic method of improving decision-making and delivering a more ecosystem-based approach to managing marine activities. The main elements of MSP include an interlinked system of plans, policies and regulations.

It is essential that Marine Spatial Planning is a statutory document that integrates all sectors and activities in the marine environment. It should

provide guidance to developers in a geographical context, for example with zones allocated for priority uses, in which to make decisions about the use of resources, development, nature conservation and the management of activities in the marine environment.

Regional Seas across Political Boundaries.

WEL supports the development of a UK MSP framework, which should provide a strategic overview of policies for all countries and sectors in-keeping with international policies and commitments. A Welsh MSP, nested within the UK MSP, could set out policies that guide management for Welsh territorial waters (up to 12 nm and potentially further).

In addition, a Regional Sea MSP should be developed with neighbouring countries, reflecting the ecosystem approach, as proposed by the Review of Marine Nature Conservation. The Irish Sea Pilot project recommends that a system of Regional Seas could form the basis for environmental management action, including MSP and the identification of an ecologically coherent network of marine protected areas.

The important message here is that while administrative boundaries may be used in developing the MSP for Wales, that recognises and plans for Welsh priorities, these plans must be compatible with regional seas MSPs. For example, fisheries populations do not recognize political boundaries, but respond to healthy ecosystems. Regional seas are defined by their ecosystems.

2) Marine Management Organisation Principles & Objectives

It is vital to consider how the legislation in the Marine Bill will be implemented, and who will do this. The Marine Bill consultation document proposes a potential Marine Management Organisation to draft and deliver a marine spatial plan and oversee and coordinate licensing applications. The Welsh Assembly Government has already stated that they do not favour a new body or 'marine agency' in Wales, so it is difficult to determine how MSP will be drafted and delivered in Wales. If there is a UK MMO it must work in closely in collaboration with Wales. A further range of functions for an MMO should also be considered such as data management and enforcement, but WEL recommends consideration of a smaller number of core functions for economic governance and simplicity of operation.

Principles: It is crucial that the MMO can demonstrate:

- Transparency and accountability
- An independent, unbiased and balanced view
- Streamlined and efficient operations
- Integration and alignment on a UK level

Structure: WEL is concerned that the Assembly have been clear that no 'marine agency' will be created in Wales in advance of considering what functions the MMO should take. Despite the great opportunity the Marine Bill presents for the marine environment, we are unclear as to how this will be delivered. While WEL acknowledges and respects WAG policy on integrating

policy development with policy delivery, we are concerned that the full range of alternatives for delivery is not being fully explored. We have, therefore, summarised some options below for debate.

Option 1 MMO for England and Wales

A single MMO made up of representatives from England and Wales. It is very likely that WAG would push for governance of the planning of all fixed location activities within the Welsh Territorial Sea – a strengthened version of the present arrangements. It is at the UK level that certain activities such as offshore fishing and shipping may be more effectively governed.

Benefits:

- Full integration throughout the system
- Remains independent of any government department
- It should be fully resourced though we should be cautious of assuming this.
- The system is above all aligned with common principles throughout England and Wales.

Risks:

- Wales' priorities will be overshadowed as a minority stakeholder in the UK marine environment.

Option 2 Welsh only MMO

The UK MMO could be a cross-border non-departmental UK public body responsible for managing reserved matters throughout UK waters. WEL believe there must also be some form of lead Welsh decision-making 'body' or Welsh MMO. Whatever form it takes, the Welsh body must be answerable to Welsh Ministers, with its own budget and be responsible for overseeing strategic and spatial planning of devolved activities in Welsh waters in close co-ordination with the over-arching UK MMO. The Forestry Commission could provide a model for consideration.

Benefits:

- An overarching UK MMO could work equally with a Welsh 'body' or Welsh MMO, to coordinate marine management functions.
- The legislation created in the Assembly could then specify the powers, functions and duties of the Welsh 'body' or Welsh MMO in regard to devolved matters. WAG would not then have to create a new model for a new organisation post hoc that would make co-ordination with the UK body difficult.
- A marine body based on this model would have the potential to provide an overview of UK marine management, but allow for devolved needs to be addressed.

Risks:

- It could be expensive and potentially confusing to have two systems if not carefully structured - a process which *could* also go against principles of simplicity and economic governance.
- Duplication of potentially good resources at a UK level, and if not fully resourced could lack capacity.

Option 3 Marine Management Board to sit inside the Assembly

This system sees the independent body sitting inside the Assembly, as per the Assembly's strategy to bring policy development in line with policy delivery.

Benefits:

- This is potentially a cost effective option.
- Follows WAG's principles of integrating policy development from policy delivery.

Risks:

- Operating inside of government would require departmental sponsorship resulting in a lack of independence and failure to cooperate from parts of industry.
- Perceived lack of accountability, to whom would it be answerable?
- Requires service level agreements with parts of Defra for delivery of some services.

3) Nature Conservation

The Welsh coast and seas have been internationally recognised for its rich biodiversity with 70% of the Welsh coastline designated as a Natura 2000 site. It is important that we build upon this achievement by considering sustainable development and Marine Ecosystem Objectives (MEOs) with regard to all activities that can impact upon marine ecosystems.

It is important to realise that the marine Special Areas of Conservation (SAC) and Special Protection Areas (SPA), valued for their species and habitats, do not exclude all human activities. Certain activities can bring socio-economic benefits to the local areas without deteriorating the biodiversity. However, it is necessary to ensure that these areas are achieving their conservation objectives and may require greater protection and enforcement. Statutory 'Highly Protected Marine Reserves' should be used to protect highly sensitive sites.

Better nature conservation requires:

- An ecosystem approach
- A regional seas approach that crosses political boundaries
- All activities should adhere to the precautionary principle
- The better protection and enforcement of vulnerable species, such as migratory species like the leatherback turtle. Consider inclusion of marine species in a new list of Nationally Important Marine Features under the Marine Bill (this list is already being developed, guided by BAPs and other data).
- Ensure that protection of marine biodiversity and MEOs are built into management regimes with a 'biodiversity duty' and that responsibilities are clearly set out in the Marine Bill.
- Flexible marine protected areas should adapt to changes in the conservation interest, particularly with regard to climate change, but not flexible levels of protection.

- All public bodies should have increased statutory duty to protect marine nature conservation and not just provide policy guidance.
- Nature conservation could be improved by making links with other sectors, such as fisheries, through the MSP, and by further developing marine Biodiversity Action Plans and Marine Protected Areas.

4) Licensing

Different marine industries are subject to separate licensing regimes, administered by a range of UK and Welsh government departments. There is no overarching marine spatial planning system, and only some sectors are subject to Strategic Environmental Assessment (SEA). Some but not all marine developments are subject to Environmental Impact Assessment (EIA). This is a piecemeal approach to managing human impacts on the environment and does not allow consideration of cumulative impacts. Wales has set the standard with a large proportion of the coast and seas designated for nature conservation importance. Within some of these protected areas, and heritage sites, human activity can function alongside that of nature conservation, whereas some sites require strict controls on certain activities. The current system means that developers can run up against unexpected environmental constraints to their proposals as well as conflicts with other industries.

The key elements for a new model for marine licensing:

- The need to rationalise and improve upon current licensing regimes.
- To simplify the system for developers, so for one activity they do not have to seek licences from more than one department, such as by reforming the FEPA and CPA regimes.
- The need for an integrated system with objective decision-making, for all sectors including oil and gas (which are currently not considered in the consultation document).
- The granting of licences should be informed by a statutory marine spatial plan that highlights areas for specific activities, including oil and gas. This should reduce potential conflicts between marine industries, and industry and the environment.
- A single body to draft and administer the marine spatial plan, removed from government departments that would allow for a transparent appeals process. This body must work closely with relevant departments and statutory agencies.
- An integrated regime for all sectors that applies statutory requirements for EIA.

5) Fisheries

In the absence of any explicit consultation questions on fisheries in the Marine Bill but owing to the importance of the industry, WEL has taken the opportunity to express our ideas and plans on sustainable fisheries management for inclusion in the Bill.

WEL strongly advocates:

- Modernising inshore fisheries management arrangements;
- A more active approach to managing recreational and hobby fishing activities in Wales;
- The need to update or strengthen wider enforcement powers;
- Charging for the costs of managing marine fisheries;
- Linking fisheries and ecosystem management.

A new legislative framework is required that will address the weaknesses, gaps and inadequacies in the current system, and allow both current and new management practices to deliver the ecosystem approach. This framework must clarify the aims and objectives of Inshore Fisheries Management Bodies (IFMBs) and require the adoption of a proactive, precautionary, ecosystem based approach, which can be achieved by integrating inshore fisheries management into the framework of MSP.

WEL believes that new legislation should be introduced for inshore fisheries that:

- Is clear, logical and well-defined for all involved in managing inshore;
- Must be applied appropriately and sensitively across all sectors with better enforcement;
- Requires a joined up approach, with SEA undertaken on a sea area basis;
- Requires all new inshore fishery projects to undertake an EIA;
- Establishes a duty of care on all fisheries managers;
- Develops, implements and resources an inshore fisheries strategy based on delivering economic, social, environmental and resource conservation objectives;
- Provides incentives for environmentally friendly fisheries with stakeholder participation.

Transcripts of relevant Committee proceedings

Committee meeting 11 May 2006

Ymgynghoriad ar y Mesur Morol Drafft Consultation on the Draft Marine Bill

[206] **Glyn Davies:** I have been scratching my head about how to handle the Marine Bill. Where are we starting on this, Kathryn?

[207] **Dr Jenkins:** We have a paper from the Welsh Assembly Government outlining the consultation and the implications for Wales.

[208] **Glyn Davies:** Do you wish to introduce the report, Minister? The biggest issue for us today is how we handle this. It is such a big issue, and it is hard for me to get my head around how we are going to deal with it.

[209] **Carwyn Jones:** At the moment, the Marine Bill is still very much in its embryonic phase. There are five areas in which the committee might be interested—these are the areas on which the Bill will concentrate. The first is marine spatial planning and how we manage the seas around Wales, the second is the marine licensing system, the third is marine ecological objectives, the fourth is dealing with marine protected areas, and the fifth is fisheries, which includes the future of the sea fisheries committees. In terms of the committee's input, the environmental considerations are there, as are the planning issues in terms of spatial planning, marine protected areas and the ecological objectives. The committee will want to examine whether the structure that is proposed for England is appropriate for Wales. On the marine agency, my view is known on this. I do not think that a marine agency is the way forward; it is counter-cultural in terms of our position here in Wales. More importantly, and perhaps more topically, the committee will want to consider the future of the sea fisheries committees and the way in which licences are regulated, particularly in terms of regulating Orders with regards to cockles, which are always topical at certain times of the year in Wales. So, those are the main areas that the Bill will concentrate on.

[210] **Glyn Davies:** Does anyone wish to say anything at what is a fairly introductory point in this discussion and debate? I think that you are feeling rather as I am. I am not quite sure in my mind how we can properly engage with this. This is an opportunity for us to influence a Bill in its preparation stage. I find it difficult, because there is no professional advice—I do not feel sufficiently competent to be able to make a real contribution to it here.

[211] **Jocelyn Davies:** Will this not be fairly framework legislation? It is not the

influencing of this Bill; it is the influencing of the legislation that will be made here that would be allowed within that framework, surely, that would interest us. I assume that it will be some time in the future, and that it will be the Minister's Bill—you can call it a Bill, if you like—and we will scrutinise that, surely.

[212] **Glyn Davies:** This is rather different, I think. Minister, do you want to come back on this?

[213] **Carwyn Jones:** It is very different. We anticipate that, effectively, there will be wide-ranging framework clauses. As far as the committee is concerned, the question at present revolves around the general theme of the Bill. Filling in the detail will be a matter for Government and for committees to scrutinise.

[214] **Glyn Davies:** There are two issues here, are there not? One is the framework powers element of it, and what discussion there might be about their scale. I recognise that.

[215] **Carwyn Jones:** As far as the committee is concerned, for the time being, perhaps the way to deal with it would be for me to give periodic updates on the Bill's progress, and on what framework clauses are coming our way, so that the committee can comment on whether it feels that the clauses are appropriate, or whether there should be more framework clauses, and so on.

[216] **Jocelyn Davies:** It is obvious that what we want is the broadest possible flexibility to develop policy here. That is what we want to see, and that is what was promised in the White Paper. I assume, therefore, that we will have broad framework powers, but scrutiny by this committee will be performed when the Minister brings his legislation to fill in that framework. Surely that is our opportunity to scrutinise him.

[217] **Glyn Davies:** Yes, I think that that is right. I just do not know whether it goes beyond that. That is clearly the position—we want maximum framework powers. That is part of the Bill, and that is what one anticipates that the Assembly Government would pursue. We will talk about whether it is broad or maximum in due course. We would do exactly what you say we will be doing. Am I right to assume that this is an opportunity for the committee to influence what goes into the Bill? That is the part that is different, and that is the part that I am finding difficult to control. Dealing with it as with a normal piece of legislation is perfectly straightforward—there would be almost nothing for us to say today. However, if we are being invited to make a contribution to what goes into the Bill, I am not sure whether we should just pass that up.

[218] **Jocelyn Davies:** It is what the scope of the Bill is.

[219] **Glyn Davies:** Yes, that is right. That is different. I do not recall us ever doing

that before. That is why I wonder whether we need some sort of idea of what you might put into it, because it is quite difficult for us, who are not professionals, to do that.

[220] **Jocelyn Davies:** When does the consultation conclude?

[221] **Dr Jenkins:** On 23 June.

[222] **Jocelyn Davies:** Can we not give ourselves some time to think about it?

[223] **Glyn Davies:** I wonder whether the Minister understands why I am scratching my head a little, and being rather different from usual.

[224] **Carwyn Jones:** It is also caught up with the new Act, in the sense that the committee's role will change post 2007. It will be less of a policy committee and more of a scrutiny committee.

[225] **Glyn Davies:** There may well be no committee post 2007.

[226] **Carwyn Jones:** In which case, under normal circumstances, the committee may say that it would like to hear some evidence on this from outside organisations so that it can be informed on development policy. Whether that will be appropriate after 2007 is questionable.

[227] **Glyn Davies:** We are rather unclear about what will happen after 2007. There will certainly be a committee looking at the Bill, but we will have to wait and see whether it is this committee or a committee set up specifically to deal with it; it will be some time until we know that. We have an evidence session at our next meeting, which may well help to inform us of what we might want to see in the Bill.

[228] **Jocelyn Davies:** Certainly, Chair. I received the consultation document only this week, and it is thick; I have not ploughed through it yet. I would not want us to make our minds up now about the scope of that Bill without having properly read the consultation document.

10.30 a.m.

[229] **Glyn Davies:** In a sense, what I am doing is trying to flag up that there is a role here for us to do something a little bit different from usual. The next meeting will probably be the best time to do that, as we have an evidence session programmed on this issue. Who is coming to give evidence?

[230] **Dr Jenkins:** We have invited a number of key organisations in this area, including the Environment Agency, the Countryside Council for Wales, the Wales

Coastal and Maritime Partnership and one or two others that have not yet responded, so I had better not refer to them now. However, the idea is that we gauge the Welsh Assembly Government's context for this today, take evidence at the next meeting, and then discuss our response to the consultation at a future meeting.

[231] **Glyn Davies:** Yes, and if 23 June is the date by which we need to respond, we will probably have to programme in a discussion in early June—we will have only one or two opportunities to do that—informed by our evidence session next month. Is there anything else on the Marine Bill? I see that there is not and that we are content at this stage. We will break now for tea and coffee. We are a bit early, but we will return at about 10.50 a.m..

Committee meeting 24 May 2006

Y Mesur Morol The Marine Bill

[191] **Glyn Davies:** Welcome back to what I think is an important session of the committee, but I am a bit unsure about how it will go. It is a new process in which we are involved; we are considering our response to a consultation about what should be in a marine Bill. We are not looking at a regulation: we are deciding what the shape of the marine Bill might be. We have four witnesses here today: Morgan Parry is from the WWF, the Wales Environmental Link; Maggie Hill, from the Countryside Council for Wales; Chris Mills, from the Environment Agency; and Madeline Havard, who I am not sure we have met before, from—I am not sure of the title of your organisation.

[192] **Dr Havard:** The Wales Coastal and Maritime Partnership.

[193] **Glyn Davies:** The arrangement that I suspect is best for us is for the four of you to give your presentations on what you think might be in the Bill. Chris, you can start. After that, rather than have a simple question-and-answer evidence session, I hope that we can reach the stage of having a fairly informal discussion. We want to inform ourselves of the response that we want to make. Our intention is for the clerk to prepare a report for us after today's session, which will be brought to our next meeting, and then, hopefully, we will be clearer in our minds about what we want. That is the report that we will eventually be sending. So, that is where we are in terms of the process. I will go straight over to you, Chris Mills, of the Environment Agency, and you can start off the session.

[194] **Mr Mills:** I guess it is almost 'good afternoon'. The marine Bill and the accompanying consultation are extremely important as far as Environment Agency Wales is concerned. It is important because we have a wide range of statutory duties relating to coasts and inshore waters. Starting on the coast, we are responsible for protecting people and property from the risk of tidal flooding. Out to one nautical mile, we are the competent authority for the water framework directive, whose

objectives are to achieve good ecological status as well as good water quality. Going a bit further out, we license and regulate waste-water discharges out to three nautical miles, and then, going even further out to six nautical miles, we regulate fisheries for migratory salmonids and eels.

[195] That is not a comprehensive list of what the Environment Agency does, but it gives you some idea of the scope of our activities. The point that I would particularly like to make is that we manage and regulate processes that span across the land/sea interface. For example, 80 per cent of the pollution in the sea comes from the land. Tidal surges can penetrate well up-stream into estuaries; they can overtop tidal flood defences. Migratory fish and other animals pass from fresh water to the marine environment and back again. Often, our coasts are the zone of maximum activity and impact, so it is absolutely vital that we do not draw an artificial line between the land and the sea. If, by creating a marine Bill, we do that, we will have missed the point and we will run into problems.

[196] We also strongly support the need for this Bill. I would like to show you a single slide that graphically illustrates the extent of human activities in our coasts and seas. This slide takes a little time to unfold, but it shows pictorially something that is hard to put into words. Hopefully, the technology will work. You can see the Welsh coast on the right-hand side there, Northern Ireland on the left-hand side and the Isle of Man in the middle. It is beginning to unfold in terms of all the different activities that are going on. It is a busy place, with an awful lot going on.

11.00 a.m.

[197] I will pick up in a moment on the need for a marine spatial planning system, but I hope that this illustrates why we have reached the stage at which we need to be looking at the cumulative impacts of what is happening to our coasts and seas. These are all human activities that are going on, but we need to add to that the impact of climate change, because that is undoubtedly affecting our marine environment.

[198] Last November, the Environment Agency published a state of the marine environment report, 'Cleaner Coasts, Healthier Seas'. I would be happy to provide you with copies, if you would like them. We have tried to pull together not only Environment Agency findings, but also those of the Government and other organisations, to look at the state of our marine environment. Our overall conclusion was that although water quality in general has improved dramatically over the last 20 years—for example, last year, we had 100 per cent compliance with the EC bathing waters directive—other aspects of the marine environment are showing signs of decline. Coastal erosion, flood risk and habitat loss are all increasing concerns; only 38 per cent of UK fish stocks are being harvested sustainably, pollution incidents still occur, and 25 per cent of our estuaries are at risk from diffuse pollution such as eutrophication—that is, nutrients coming into the system.

[199] At best, we believe that the outlook for our seas is uncertain and we need to take

action now to safeguard them. The key action that we believe is necessary is to introduce a system of marine spatial planning to replace the sectoral approach to planning and management that currently exists. At the moment, we look at our fisheries, our navigation, oil and gas—every activity is looked at in a separate way. We need to be able to take account of the increasing demand and competition for marine space. For example, there are particular pressures in relation to aggregate extraction in the Bristol channel, in relation to offshore windfarms and, in the future, for other forms of renewable energy. We also need, as I have said, to take into account the cumulative impacts of different pressures and, importantly, provide greater clarity for marine users. If you are a developer in the marine environment at the moment, it is difficult to plan with any certainty with all these different things going on.

[200] We support the sort of system that is proposed in the consultation document: the need for a strategic policy statement, which sets out the priorities of what needs to be done, with spatial plans to support that. Those spatial plans will be particularly necessary in areas of high activity and/or pressure. It is not perhaps necessary to have them absolutely everywhere, nor is it necessary to have all the data to start that planning process. Such a system needs to accommodate some quite important links: across territorial waters for non-devolved powers; across the land-sea boundary to link with integrated coastal zone management—I think that the committee debated that strategy recently; and, also, something which is of particular interest to the Environment Agency, which is river basin plans for the water framework directive. River basin plans are statutory plans to deliver the water framework directive objectives and they extend out to 1 nautical mile.

[201] Marine spatial planning will have to accommodate a number of other different planning systems; in particular, I stress again, the importance of covering the interface between the land and the sea. We believe that such a marine spatial planning system needs to be statutory and backed up by an appropriate licensing system in order to deliver its objectives. As for the planning system, the current licensing system is sectoral. There are lots of different bodies involved and it is very complicated and costly.

[202] There is clearly a need for streamlining the consenting system, but it would be disingenuous of me to suggest that it will be easy to do that. There are four options set out in the consultation document, and our belief is that, ultimately, we should be going for option 4, which is a streamlined system. To get there, we may need to adopt a phased approach, starting by merging the Food and Environment Protection Act 1985 and the Coast Protection Act 1949 regimes, and then gradually drawing in other regimes over time. I stress that the consultation only deals with marine consents, but for many developments—for example, if you wanted to build a long sea outfall—you would need both land-based and marine consents. At the moment, that is a bit of a shortfall and the provision of an effective system of consenting will require wider consideration of all the consents involved.

[203] My final point is about the creation of any new body. That would be dependent

on some of the other outcomes from the consultation, in terms of whether it is decided to have a marine spatial planning system or to streamline the consenting system. However, if there is to be marine spatial planning, and, hopefully, I made the case that there should be, it would need a clear focus and a single body responsible for it. We believe that that body should be impartial, with sustainable development as a primary duty, and able to consider the full range of uses going on in the marine environment. It could also at least co-ordinate any revised licensing system, and it could also co-ordinate the integrated coastal zone management strategy. The agency should continue to deliver its responsibilities within the coastal zone, and we would wish to work very closely with any new body, especially with respect to the implementation of the water framework directive.

[204] In conclusion, our analysis is that the marine environment is under increasing pressure and requires greater management and protection. Marine spatial planning and streamlined consenting are the ways to achieve this, and Environment Agency Wales, with its wide range of duties in the coastal zone, would want to work with any new body or regime to continue to protect and improve the Welsh marine environment.

[205] **Glyn Davies:** Before I call on the other three speakers, because there are people in the public gallery, I ask you to say who you are and what body you represent. It is useful for people listening outside the committee room to know who is speaking.

[206] **Ms Havard:** I am representing the Wales Coastal and Maritime Partnership, and I apologise for not presenting a paper as the other presenters here, who are all members of that partnership, did. We are meeting on Friday to discuss our formal response, so I hope that we will be able to feed that in via the clerk. However, we have already held a workshop session that Tamsin kindly launched for us in north Wales, at which all of the sectors represented on the partnership were able to input their thoughts, not only from a Welsh perspective, but also, very helpfully, to the Department for Food, Environment and Rural Affairs. I think that DEFRA is well aware of the need to engage at a devolved level, but perhaps it had not realised quite how different some of the issues are for Wales and, presumably, the other devolved countries.

[207] I have handed out some slides to introduce the partnership to you. We were established by Sue Essex in 2002, and although I have not had the pleasure of addressing the Environment, Planning and Countryside Committee before, we have met the Minister on a number of occasions. We are an advisory body to the Welsh Assembly Government, and we take the opportunity to present what we think is a unique perspective, because of the range of interests covered. As you can see from the membership, we cover business, industry and recreational interests—it is not just the environment.

11.10 a.m.

[208] Although we are talking to the Environment, Planning and Countryside

Committee, I am sure that you will take back to your colleagues the fact that the National Assembly for Wales should be concerned with the marine environment in all of its committees and work. We are very keen to have the representatives of local partnerships on our partnership, because it is local actions on the coast and local initiatives that often have the greatest impact. I know that you are well aware of that as a committee.

[209] Our vision is clearly stated, and we submitted it as an input into the environment strategy, and we are delighted that the environment strategy adopted that as the marine vision for Wales. It is an interesting, though wordy, statement, but it incorporates most things.

[210] We need an environment that is valued by all and understood and respected for what it contains and provides. We want clean seas that support vibrant communities and health, and functioning ecosystems that are biologically diverse, productive and resilient while being sensitively used and responsibly managed.

[211] It is very much about people and the environment. We hope that those aspirations, and that vision, will be carried into the way in which the Bill is enacted in Wales.

[212] As I say, there are some very particular issues for Wales that perhaps are different from those relating to the seas of other countries. You have seen just how busy the activity in the northern Irish sea is, and you can apply that to the rest of the coast. You can go around south-west Wales and into the Bristol channel and there are areas that are equally as busy. However, there are slightly different emphases and concerns around the coast, which is why we feel that we need a responsive and flexible system. There are particular issues, and the dependence on coastal tourism and the increasing recreational activity in the marine environment in Wales is something that our stakeholders certainly felt needed addressing. *[Interruption.]* Is that sound some sort of warning system? It is the automatic blinds; it is either too light, or too dark—one or the other.

[213] As this slide shows—and as we will hear—the Welsh seas and the Welsh coast are extremely important to natural and cultural conservation issues. We have a hugely rich natural and cultural heritage in the seas and the coast. The language and cultural issues cannot be underplayed, and that is always a potential problem when looking at UK legislation, and that is where the enactment in Wales will be so important.

[214] There are some very hot topics, many of which you have already dealt with or debated at length in this committee, such as dredging, beach loss, offshore renewable energy, sea defences and so on. We are not just talking about the coast; as Chris said, we are talking about that interface and then the offshore environment as well.

[215] Very important, and of great concern to all our partnership members, is the fact

that there are huge gaps in data. There is much that we do not have information about, and there are huge gaps in the understanding of the marine environment—it is an alien environment to humans, and it is quite difficult for us to understand. As you will see from reading the terms of reference—which I have skipped over, as terms of reference are always dull—one of the partnership’s roles is to help to encourage and enable people to understand the marine environment.

[216] All our members are very keen on the introduction of the Marine Bill, and there are particular issues that we are very keen to see promoted. Chris has already mentioned marine spatial planning. That is critical. The Welsh Assembly Government needs to have a major input into a UK spatial planning system, but also needs to take responsibility for the planning for the Welsh seas. I have here a piece of work that the partnership did, looking at a range of marine and coastal initiatives, and I will show you the map. The blue represents the bits that the National Assembly for Wales is responsible for, and, if you look at the land and the sea, 40 per cent of what you are responsible for is marine, so it is very important that we have a strong input into planning.

[217] Licensing and consents need simplifying: everybody, across the board, says so. They need to become more transparent, more effective and more meaningful. How that is done is the crucial issue. Nature conservation is very important for Wales, as I have already said. We need increased awareness and more information, but we also need to be sensible and to take an ecosystem approach—that is, a large-scale approach—and to look not at administrative boundaries but at natural process boundaries. Chris has mentioned the possibility of a marine management organisation. The partnership has discussed that and has not come up with any particular suggestions but advises that we need to consider the functions very clearly and that we need to have flexibility, transparency—that is particularly important—and local input.

[218] So, on the future for Wales, if we can take the opportunity that this marine Bill gives us, we should have much better integration and management of the coasts and seas of Wales. It is a real challenge for the National Assembly, particularly given the fact that this will probably be one of the first bits of legislation coming after the change in the governance of Wales. The partnership will be delighted to help in any way that we can.

[219] **Mr Parry:** Thank you for giving me the opportunity to speak. My name is Morgan Parry. I am head of the World Wildlife Fund in Wales, but I am speaking on behalf of Wales Environment Link, which is a network of 26 voluntary environmental and countryside organisations, many of which you will be familiar with. They range from the Ramblers’ Association to WWF to the Woodland Trust. The paper that has been submitted to this committee, and many of the remarks that I am going to make, have been put together by those organisations mostly involved with the marine environment, namely the Royal Society for the Protection of Birds Cymru, the Welsh wildlife trusts, the National Trust and us, but the Wales Environment Link is a

broader church than that.

[220] Many of our members have been lobbying for years on the need to have marine legislation. We have recognised the same problems as previous speakers have. I think that the statutory agencies and ourselves would share many of the analyses that have been made of what the problems are, but we sensed that there was an inertia and an inability to change things and we were pressing collectively and individually for marine legislation to be introduced to simplify matters, and to state clearer principles for why the marine environment should be managed better.

[221] So, without restating what has been said already, we are welcoming the scope of the consultation on this Bill. We think that it provides a good framework and a good opportunity for Wales and the Welsh Assembly Government to involve itself in designing the Bill and managing that which comes out of it after it is passed as law. We would also stress that, although many of us are wildlife and conservation organisations, we see this very much as an opportunity to get sustainable management and proper, sustainable use of the marine environment as well as having concerns that nature conservation is addressed in it.

11.20 a.m.

[222] So, we think that the marine spatial planning concept is an important one. We have got used on land to thinking in terms of spatial planning and to bringing stakeholders together to agree a way of making decisions about the use of resources and that sort of model needs to be applied in the marine environment. It is difficult to point you to examples of marine spatial planning at work. The Welsh Assembly Government and the Assembly are going to be at the forefront of looking at how to do it, so there is a lot of learning to be done and more data are needed. However, integrating the sectors and co-ordinating, particularly across political boundaries, will be important. Establishing the right arrangements at a UK and Wales level is also going to be crucial, and the interaction between whatever happens in Wales, the UK and indeed, European models, is going to be critically important. Fair and streamlined decision-making in governance will also be important.

[223] The Bill should place a duty on competent authorities to conserve and monitor nationally important marine features; because they are often invisible, it makes them no less important. Species and habitats are important, as well as historic features. Creating an integrated licensing system is also something that we believe needs to happen, including all sectors, for the reasons that have been mentioned already, as well as addressing the weaknesses and gaps in the current management of fisheries. There are clearly big issues around the declining nature of fish stocks around the Welsh coast, and there are European and UK rules and regulations governing that. However, the Welsh Assembly Government also has functions that need to be put into a spatial context.

[224] On nature conservation, the Welsh coast and seas have been internationally

recognised and 70 per cent of the Welsh coast has been designated as European Natura 2000 sites, important for their wildlife and the habitats they contain. We must build on that in developing a marine Bill. These sites are important not just for wildlife, but for the human activities which often depend on them—fisheries are good examples of that. Setting clear objectives for managing those sites is important, and if there is to be proper marine planning, the achievement of those objectives is going to be critical. There is a range of views across the UK as to whether new designations are needed. We have not come to you with a clear, strong view on that; the Welsh coast has many designations. The question is whether the nature conservation objectives are achievable within those areas. So, rather than designate new sites, it might be that regulation and control of activities within some of those sites, to better deliver conservation, is what is needed. We have the concept of highly protected marine reserves, which might be fairly small in scale, but which might be focused on, for example, fish breeding areas and sites particularly important for nature conservation where the current controls are not effective enough.

[225] We strongly support the proposals for marine spatial planning set out in the consultation. I do not want to repeat anything that has been said already, but I would like to focus on the sort of delivery mechanism that might be set up in Wales. The consultation proposes something called a ‘marine management organisation’, which is very much a holding term; it is not meant to be the name of an organisation that emerges from this process. It is just a label, if you like, for some sort of organisation that could be set up to take responsibility for the functions that the marine Bill creates. We would like you to consider your role as a committee in scrutiny, but also in helping to shape the relationship between UK bodies and whatever organisation takes responsibility in Wales. The marine spatial plan is an important role for that organisation however it is created, and it is also likely that it will take a role in licensing.

[226] These are two very important functions, and, as I said earlier, we need to think at a UK and European level. The natural environment does not respect political boundaries, so we need to look at the ecosystem approach. The Irish sea has been used in a pilot study that is looking at how marine spatial planning can take into account natural boundaries, which looks across political boundaries. There is also a need, within the functions and the powers of the Welsh Assembly Government, for Wales to take responsibility for what happens in Welsh territorial waters.

[227] Our message to you is that we need to think about all the options, and about the functions that will need to be delivered by any organisations, rather than having a dogmatic attachment to a particular model of governance. We are slightly concerned that the Welsh Assembly Government has begun to close down the options by implying that it would not want to set up a new agency for Wales. DEFRA is clearly of the view that there are advantages and possibilities here in creating a new agency. The problem is that if Wales takes a different tack on this, the relationship and Wales’s ability to influence what happens within its own waters might be closed down.

[228] We would like to offer you three options, so that you can think about the relative strengths and weaknesses of each one. If a single new agency was created for the whole of the UK, or even just for England and Wales if Scotland decides to work differently, there would be benefits in terms of integration, and it would be easier to apply principles and marine spatial planning. It could be independent of any Government department and well-resourced—that always has to be thought through because proper resources for such organisations do not always follow. Common principles could be applied across England, Wales and the UK and some existing bodies could possibly be incorporated. However, the big risk for Wales is that it will very much be a minority stakeholder in terms of your ability to scrutinise activities in Welsh territorial seas. Wales will be a small player, and the voice that is needed may not be heard in a larger organisation. I am sure that you are familiar with other situations in which that has happened.

[229] A second option would be to create a new marine management organisation for Wales only. Inevitably, I think that there would have to be integration at some level with what is happening elsewhere, but there would be benefits in terms of the Welsh Assembly Government's ability to have more control over what happens within the seas around Wales. Legislation created by the Assembly Government could then specify the powers of that new body—it has been mentioned already that the marine Bill will be the first pieces of legislation post the Government of Wales Bill that will pass across your desks. It will be a real opportunity to test what powers the Assembly Government has.

[230] The marine body modelled in this way would have the potential to oversee marine management in a way that suited Welsh priorities, and it could incorporate some bodies that operate in Wales or are operated by a UK organisation on behalf of the Welsh Assembly Government. You may be aware that the Marine Fisheries Agency and the Marine Consents and Environment Unit are UK bodies, but that the Welsh Assembly Government contracts them to do work within Welsh territorial seas. You may see this as an opportunity to change that situation so that more control could be exercised over those. These are just examples. The risks of having that model is that it could be a bit more expensive. There may be some tension between the UK and the Wales organisation and there could be duplication of resources, although it would not be impossible to resolve those issues.

[231] There are other models, and you might want to consider the model used by the Forestry Commission, which has a UK-wide body that is responsible for managing, if you like, the strategic reserve of timber in the UK. You could consider that the marine environment has a similar status and value. The Forestry Commission has a Wales committee, so there is integration of principles, but there is actually quite a lot of leverage that the Welsh Assembly Government, through its Ministers, can bring to bear on how that organisation operates in Wales. So, that is one model that you could look at.

11.30 a.m.

[232] The third option which, I think, comes more towards the model that the Government prefers, is to have something that is within the Government. It would be difficult to imagine how the sorts of ranges of functions that we are talking about here could sit within one existing department. If it was in the environment department, some business interests might be suspicious that this was more to do with conservation than with business and sustainable management, so there might be an issue there. Otherwise, a new department could be set up. The obvious model would be the Irish Republic, which has a Department of Marine. So, actually having a department in the Government responsible is certainly an option. There would be benefits, and it would potentially be cost-effective. It follows the Welsh Assembly Government's principles of integrating policy development with actual delivery and execution on the ground.

[233] I think that the risks are quite large here. Operating within Government would risk a lack of accountability, particularly for those who are currently quite used to operating outside of Government and who see Government interference with their activities as being undesirable. It would be quite a big job to persuade many of the stakeholders and to win their co-operation in this.

[234] There would still have to be some service level agreements with the UK Government—with DEFRA, for example—to deliver some services. It may well leave some existing bodies still outside the control of the Welsh Assembly Government. The things that would be incorporated into that model could be quite narrow, by virtue of existing ways of working. So, it would be quite challenging to do that, but clearly, there are preferences within Government to look at that model.

[235] Our message to you in my closing remarks is that, rather than focus on the institutional arrangement, what you need to do as a committee is to make sure that whatever emerges from this, in terms of institutional arrangements, is transparent and accountable, that the bodies responsible are independent, unbiased and balanced in their views right across the range of interests that we are considering here, and that they are streamlined and efficient—that goes without saying—and that it is integrated and aligned at a UK level. So, regardless of whether the preference would be to do something on a Wales-only model, the links with what happens within the rest of the UK and across the Irish sea into other Government responsibilities is critical if we are to have a marine Act that is based on the ecosystem approach, which has been described so far. So, look at the principles and see which model can best deliver them. I think that your ability to scrutinise those functions, as a committee, will be much enhanced.

[236] **Ms Hill:** I am Maggie Hill. I am a director of the Countryside Council for Wales and I am regional manager for south and east Wales. In my previous job with CCW, I was a marine team manager, so I can talk about various things.

[237] Like my colleagues here, CCW supports the need for a Bill, but the most important thing is that the devil is in the detail. It is necessary to look at what we want

in Wales, as well as the principles that are almost obvious, in a way. We come to this as an advisory board to the Assembly, both in terms of marine policy and marine science. We have people out there monitoring the seas of Wales, and also people who are helping to think through what would be the best way of delivering the management of our seas. So, I come from science and policy areas in trying to put these two things together.

[238] This discussion is prompted by this consultation. When this lands on your desk, you will probably sigh when you see its size. There are 140 questions that need to be answered. What we perhaps need to help you with is the identification of the key questions that need to be answered. Some of them have obvious answers. For example, the answer to ‘Do we want to do things properly?’, is obviously ‘yes’. Some of the questions ask for detail, and depend on the answers that you make to earlier questions. Therefore, there are some key points in here that we need to focus on.

[239] You are coming in at a difficult point—it is almost the endgame, in a way. The consideration of how to manage our seas has been going on for 20 years now. Many of the concepts and the right way forward have been developed over that time, and we are now at the point where we agree the principles. However, what do we actually want to do? That is the question.

[240] We have made a lot of progress in the last 20 years or so. We have included in our paper a map of the protected sites around Wales. These are the sites that are considered to be of international importance. You will see that we have a large section—it is 30 per cent of the seas, and about 70 per cent of the length of the coastline. These sites are, to some extent, managed to protect their nature conversation interest. There are problems in that, but we have moved a long way from where we were when we only had Skomer island, off Pembrokeshire.

[241] We have also moved a long way in dealing with individual sectors. For example, the Assembly has worked on aggregates and aggregate planning in the Bristol channel, saying, ‘This area is a good place to take aggregates, this area is not a good place, and we are not sure at present about this place’. You have already started to do spatial planning for aggregates in part of your seas. That is groundbreaking and a positive step forward. However, that is just for aggregates. Similar sorts of things are going on in offshore windfarms, oil and gas, and so on, but those are at different stages and at different levels of abilities. However, all those are happening in their particular bunkers and silos and are not being integrated. Chris’s map demonstrates that, with that level of activity, you must have some form of integration. That is what we did on land with the planning Act after the war, was it not? In relation to our seas, we are almost at the kind of after-the-war stage, in trying to plan these activities.

[242] Therefore, the key thing that needs to be in this Bill, as we have all said, is some form of marine spatial plan. The big question that you need to answer is what sort of thing that is. We have a land-based spatial plan in Wales, and we are sold on that and have taken it forward, and we are now seeing its benefits. However, it says in that

spatial plan that it is a spatial representation of policy; it is a policy integration tool. It is quite conceptual, and it does not set out and say, 'Here you have this, here you do this, and here you do that'. It is a conceptual document, which will then move forward.

[243] Therefore, that is one sort of spatial plan, and that is what we have experience of. However, the sort of spatial plan that we are talking about is more prescriptive than that, is it not? It is more a matter of saying, 'You can do this here, and you can do that there'. However, you have to make a choice as to whether you want the more conceptual one, or the more prescriptive one. If you do not go down the more prescriptive route, clearly, it must be a statutory plan, and some body or organisation has to own that plan. That plan will have to go through a democratic testing process, like your UDPs, because it would not be fair if some plan-making body were to set out who could do what and where without its having gone through a democratic process. Therefore, it is crucial—it is almost obvious that we need a spatial plan, is it not, but what sort of plan? That is the question.

11.40 a.m.

[244] The other thing that we have all said is that if we do something that is distinctive in terms of the spatial plan for Wales, it has to link in some way to what is going on on a UK and international scale. However, I would like us to do something that follows on from the land-based plan. There are commitments in the land-based spatial plan to move seawards. You have already made those commitments. We have an opportunity to do something that is distinctively Welsh—built on what we have done on the land—that links in with other countries and with what is going on at a UK level.

[245] It is clear that licensing is a complete mess. Sorting it out will not just benefit those of us here on the conservation side, but if you wanted, for example, to build an offshore windfarm in Wales, it would help you as well. Consent has been given for two offshore windfarms in Wales; one is the North Hoyle site off the north coast, and the other is Scarweather, which has received consent but which has not been built, off the south coast. They went through different consenting processes. We learned how to do the first one, and that was completely useless in helping us to complete the licensing process for the second one. I have been advising on licensing in the sea for 20 years and yet, if you asked me what you needed for a certain development, I would still struggle to tell you. Each one is different, and that cannot be good and is no way to run a country; it is crazy.

[246] With regard to this document, the devil is in the detail. We are asked to make a choice with regard to the options on licensing. I will briefly outline the four options. The first is to do nothing. I think that we would all agree that it would not be sensible to do nothing. The second option is to do a little tinkering with regard to dredging and disposal being covered by separate Acts, as Morgan mentioned, and bringing together the Food and Environment Protection Act 1985 and the authority that deals with

navigation. In effect, this happens already in Whitehall, and we commission them to do it for us. There is an opportunity there to get a bit more control in Wales if that became devolved, but we are not really going to change much by doing that. The third option is hopeless, as it just reinforces the bunker. It is sectoral-based change that will not take us forward. As Chris said, we have to move towards option four, which is a far more integrated licensing system. However, I agree entirely that we cannot just leap into it straight away, and we may have to approach that in stages.

[247] It is important that we in Wales realise that this opportunity to reform licensing is also an opportunity to gain control, because we do not consent many of these activities; they are consented by others. CCW would advise the Department of Trade and Industry in London, DEFRA and various other people, as well as, in some cases, the Assembly. The competent authority is, technically, not in Wales. Therefore, a big reform of licensing is an opportunity for you to get a grip.

[248] I do not want to go into the management organisation very much, but you might want to consider whether there should be a marine department in the Assembly that could be the body that owns the spatial plan and deals with the licensing and the various other elements that come out of the Bill.

[249] In terms of conservation and sites, we feel that we have done a good job in selecting sites in Wales, and the coverage of areas that are important for nature conservation is quite good. We do not feel that we need to designate additional sites for a nationally important series. However, that does not mean that we would not want the opportunity to be able to do so if we discovered something new or something that is outside these existing sites. I am keen for us to have the power to do it, but I do not think that you should take from that the message that there would then be a raft of new sites. That would be a huge bureaucratic exercise that would not achieve very much.

[250] However, within these sites, one of the commitments that the Government has made is to look for the recovery of our ecosystems. We cannot do that with our existing forms of site protection. It would be nice to have core areas in some of these sites, where we could really change what happens. We do not know what our seas are like naturally, because they are so perturbed and influenced by the activities that go on in them. Therefore, we need an opportunity to allow recovery to some kind of wild state in certain core areas. The power to be able to do that would be needed. However, we are not suggesting fleets of new sites.

[251] It is suggested that you might wish to consider choosing sites for more than biodiversity and nature conservation. These could be sites that are important for, say, their seascape or for some cultural significance, or they could be larger sites, because, currently, the sites that are designated for wrecks are really just the wreck and a little bit around it, but not much else. It might be possible to have protected areas that are multidimensional. That may be something that you may wish to consider, and it seems to me to be an interesting idea.

[252] Enforcement is not covered—all the things that people are not allowed to do at sea. Currently, fisheries vessels check up on the fishery side, but there is nothing for the biodiversity side. It would be costly, but it is necessary. That is not covered in any detail, and it is something that perhaps should be more on the table.

[253] **Glyn Davies:** That was a lot of evidence, which included common themes. We will have a chance, as committee members, to have a discussion about what we want to submit when we produce the report that brings together all the evidence that we have had, but this is a good chance to ask questions of the witnesses.

[254] **Peter Black:** I was interested to hear the points about the Scarweather and North Hoyle windfarms. I am not sure whether they would come into this because they were energy decisions as opposed to marine decisions. The reason why North Hoyle was done by the Department of Trade and Industry was because it chose a planning route over a certain capacity.

[255] **Ms Hill:** They are both the same.

[256] **Peter Black:** I know, but the developer chose to go down a different route in terms of Scarweather, through the Transport and Works Act 1992. It was an energy issue, but it would be useful if we included energy issues that have an impact on the marine aspect. Any future offshore sites that generate energy—you could be talking about tidal barrages or tidal lagoons—should be incorporated into the scope of an Act. Otherwise, they will end up with the DTI because they generate more than a certain capacity, or they might come to. That would depend solely on which route the developer wished to take.

[257] **Glyn Davies:** Just to pick up on that—[*Inaudible.*] An offshore windfarm, one would think, would fall under the spatial plan, and under the development control side of the plan, which is more biased towards control, as opposed to the conceptual view that I have of the current spatial plan.

[258] **Ms Hill:** You have two opportunities for control, both in the plan and in the licensing. Obviously, those two things need to fit together.

[259] **Peter Black:** However, unless you get a grip on the licensing, it will end up with the DTI, if it is a power-generating facility.

[260] **Mr Parry:** This is critically important because, if you have identified an area that is important for wildlife, or it could be identified as important for another reason—for example, some of the sites in the Severn estuary—and then if, from completely outside that department and that legislation, an energy developer comes in to propose a complete change in that site, you clearly do not have joined-up Government. So, this is particularly important. The worrying thing, at the moment, is

that the DTI is trying to opt out of much of this, and we know that the oil and gas considerations, including licensing, for example, are likely to fall outside any new legislation, and that is worrying. That is outside your control, but it is certainly an important issue. If we were to look for comprehensive legislation, which looked at all sectors, the energy sector should not be exempt from that.

11.50 a.m.

[261] **Glyn Davies:** Whenever we have talked about the idea of having a Wales spatial plan, everybody has seen it as being a beneficial objective. Am I therefore right to assume that that these sorts of developments would then come within its scope?

[262] **Mr Parry:** Yes.

[263] **Glyn Davies:** And that is a new situation, is it?

[264] **Mr Parry:** Indeed.

[265] **Peter Black:** The other point that I wanted to make was that this is going into the realm of joined-up Government. Listening to the presentations, I noted the mention of a separate marine department, as in Ireland, and the thought came to me of whether the marine aspect can actually be separated from the other environmental and land-based functions, as there is a meshing together of what happens on land and on sea. You cannot take the marine environment as a separate entity to the land. We already have a number of agencies—including the Environment Agency, which is largely regulatory, and CCW, which is largely involved in conservation but also has other functions—and it seems to me that, if you are going to have an issue about the marine environment, maybe this could be an opportunity to bring all those together in a single agency for Wales, or maybe we should look at a single partnership for Wales. When you talk about licensing in the marine context, how does that integrate with other regulatory activities, such as integrated planning and pollution control, which is an Environment Agency function, and planning itself? It seems to me that this could be an opportunity to bring everything together, so that we will not have a marine spatial plan and a land spatial plan; we would have one spatial plan and one body working on it.

[266] The last point that I wanted to make was on the role of research in policy development. Any agency or any body involved in policy development has to have research work. For example, you have to look at the impact of dredging on the marine environment—you cannot just stipulate that you will have dredging here and not there without a long-term research project on the impact of all activities in the marine area on marine life, the movements of water and sediment, and all the other things that impact on the coastline and beaches. It seems to me that that is crucial in bringing together all those things; it should not just look at the marine environment in isolation.

[267] **Glyn Davies:** The key issue that we are talking about is what the marine management organisation might be. It will be a management organisation of some sort, but it could be an England-and-Wales body, a quango of some sort, or a department. The question is open as to who might implement it. That is the second major point that you have raised.

[268] **Peter Black:** I am very much in favour of having a Wales-based body, but I am looking at a body that encompasses existing functions and brings all these together, not just a Wales-based marine body.

[269] **Lorraine Barrett:** Peter has covered the gist of my questions. The presentations were really helpful and they have opened up a minefield, particularly that map. Could we have a copy of that map to use in other settings, such as in CD format?

[270] **Mr Mills:** As long as we keep making reference to the consultants who kindly produced it: ABP.

[271] **Lorraine Barrett:** ABP is based in my constituency and I would be more than happy to do that.

[272] **Glyn Davies:** That map is Chris's party trick—I have seen it before.
[*Laughter.*]

[273] **Lorraine Barrett:** Several of the presentations have mentioned having a stand-alone department. By that, do you mean that there should be a Minister with responsibility for it? I just wondered what you had in mind, because there are cross-overs with all the bodies and interests that were mentioned, including business, environment, planning, energy and defence. How would that fit in with the non-devolved responsibilities? Peter has covered it really, but that was the point that I wanted to make.

[274] **Glyn Davies:** Did you want to come in on this specific point, Tamsin? I will take a response later, but we will have all the questions on this point first.

[275] **Tamsin Dunwoody:** One thinks that it leads from one to another, and the point that everyone has made is that these are integrated. There are two ways in which I would like to illustrate it, if I can throw them on the table. First, if you have a non-Wales body—in other words, a Wales-UK body, and the point has been clearly made that there is a danger of our being lost or subsumed—that is outside Government, you have an issue with regulation enforcement legislation. If you have a body within Government, as Lorraine has highlighted, you will have cross-portfolio issues. However, the juxtaposition that has not been discussed, but which needs to be borne in mind, is not only that with the UK Government and the whole enforcement

legislation issues, but also the juxtaposition in our relationship with the European Union. We have this map of the marine special areas of conservation, which is extremely useful, but no-one has mentioned the supreme irony that the one thing that must shape this is climate change. The one thing that will probably shape the need to deregulate, de-designate or change or amend is climate change. This very map demonstrates that the greatest wave area is already in a SAC; the greatest tidal areas are already in SACs. How do we address climate change and the renewable obligations without having the facility to deregulate? That has not been raised or mentioned. So, that is one aspect.

[276] **Glyn Davies:** Madeleine, you wanted to come in first. It is a pretty major issue in this context, so anyone can come in if they wish.

[277] **Dr Havard:** Crucially, it is this co-ordination that is needed. It came across strongly from all the partners that it would be very handy to have a one-stop shop pointer, if nothing else, so at least, as Maggie said, the issues of licensing and information can be dealt with somewhere. However, there is a level of responsibility for whoever will produce a spatial plan, and, in our response to the Wales spatial plan, we asked, 'Can you remember the bit about offshore, please?'. The unit rightly said at the time that we were biting off quite a lot, and it indicated that it was interested. However, it is an important issue as to who would have the responsibility for developing that. There are also concerns about poachers and gamekeepers if we have one department that issues licences and undertakes monitoring. Co-ordination is something that is required, and it is a thorny question to answer. The data issue is another one. It cannot be removed from the terrestrial environment, but we know a lot more about the terrestrial environment than we do about the marine environment. We need to catch up a great deal. For Wales, we need central databases that can hold marine as well as land-based data. The partnership has commissioned some work, on which the Countryside Council for Wales is leading, on valuing the marine environment. Getting disaggregated information is so difficult for Wales in itself, but also for the different aspects of Welsh life. So, building up a database will help in planning for the future.

[278] **Mr Mills:** To pick up on Peter's point, if I understood it correctly, to have one body that had all the functions in the marine and land/sea interface for planning, regulation and enforcement would become very complex. I am inclined to agree with Madeleine that perhaps trying to take on all of that has the feel of being judge, jury and executioner. As with the land-based system, it may be better to have one body that is responsible for the planning, regulation and consenting, but having independent environmental regulators, as you have on land, has certain advantages.

12.00 p.m.

[279] **Mr Parry:** In some terms, the Assembly has done well. The risks and opportunities are the different models of doing it within or without government. I stress that we in Wales Environment Link have not made up our minds on this matter.

We offered a number of models—the Forestry Commission was another one put on the table—and we do not have a position. In fact, there will probably be a continuing debate among link members about the advantages of each of these different models.

[280] What I was trying to point out was that there is something of a mismatch between the discussion happening within the Welsh Assembly Government and that which is happening at a UK level. Some decisions that might be taken and which might set up UK-wide bodies or institutions may actually limit the options for Wales. I think that we are urging the Welsh Assembly Government Minister, and you as a committee, to consider encouraging this to happen by engaging in the discussion about how this could work out in practice, and to think of this as a once-in-a-lifetime opportunity to do something differently. The option of just waiting to see what happens at the UK level and then slotting it into existing Assembly Government departments and functions is not the best way forward.

[281] **Glyn Davies:** There is a question in there, but it is very difficult to answer. If, at UK level, the intention is to set up a structure outside Government, then that will conflict pretty strongly with what the Assembly Government has adopted as an overall strategy towards public bodies over the last six months. I am not quite sure where that will finish up. It is a bit of a worry, actually. Are you going to come back on that, Peter? It is a really big issue, this. We are all talking about spatial planning, and yet, we are not getting into a clear position at all about who will do it.

[282] **Peter Black:** We need to take a distinctly Welsh approach, and we need to be proactive. That is absolutely right. I just threw up this idea of having a single body, and I understand that there are complexities in that, particularly in terms of poachers and gamekeepers and so on. However, it is worth conducting a detailed study of all that, while ensuring that whatever is in place in Wales integrates into existing bodies at the very least. I do not want to see a separate marine authority; we need to look at using what is in the Government and the relevant agencies and integrating that at the very least. If we can achieve a greater level of integration, we should be looking at that. That is just my instinct, if you like.

[283] **Mr Parry:** I would like to make a quick point, which is that we are expecting a further consultation, later this year or early next year, and that will be on the detail of the Bill itself. In other words, this is not a quasi-legal document; it is picking out issues. However, it is surprising how much of this is focused on this marine management organisation, because you would think that the logical thing would be to identify the functions and the principles first and then, at a later date, think about the institutional arrangements. The Department for Environment, Food and Rural Affairs has clearly flagged this up as being critical, and that it sees this as one of the major decisions that will have to be taken. The fact that this is early on in the consultation is a real signal that we cannot leave it until the end of the process, until we have seen the Bill, because decisions will have been taken elsewhere. I think that it was right to focus on that.

[284] **Ms Hill:** The point that you make about research capacity is particularly important. Essentially, much of our marine research in Wales is done through the Centre for Environment, Fisheries and Aquaculture Sciences, in Essex and Dorset. There are all sorts of complexities there: CEFAS is a DEFRA agency, but it also covers Wales. It does not do all the marine research that goes on in Wales, but it does a good proportion of Government-funded research, and there will have to be some detachment of that.

[285] **Peter Black:** A lot of issues have been thrown up in recent years, largely by the adoption of the precautionary principle. We have had controversy about dredging since I have been a Swansea city councillor in the 1980s with regard to its impact on beaches, but there is now controversy about the impact of barrages on beaches, and whether sediment can travel to where it should. What studies have been undertaken, and who is commissioning the research to try to understand what is happening with regard to the impact of building structures in the sea to generate electricity? What impact will that have on marine life and on tidal flows? All that needs to be studied. As we are moving towards exploiting the marine environment, partly through the pursuit of alternative energy generating capacity, we need to have that research and to ensure that there is sufficient capacity in any new body to carry out the research and that there are the relevant funds to do it. It should be charged with being proactive in doing that.

[286] **Glyn Davies:** I think the issue is who is commissioning the research. We are back to this grey area of who is doing the spatial planning.

[287] **Peter Black:** Yes; the body might commission.

[288] **Elin Jones:** Thank you for the presentations. I have finally managed to start to get my head around the Marine Bill this morning and its implications and potential for Wales. I agree with what has been said previously, that one of the big challenges and tests for the Marine Bill will be on energy and on the impact on energy decisions and where those lie in Wales.

[289] The one issue that has not been touched on yet—well, it has been touched upon a little—is the accountability of the marine management organisation, if there is to be one, and the role that local authorities play, because they are directly accountable for land-based decisions on several of these issues and would feel that they could have an impact on marine decisions that are very close to them, especially on the licensing of various aspects. I would be interested to know your views on whether there is a way by which we could strengthen the role of local authorities in decisions on marine issues that affect their areas. I am conscious, of course, of the fact that there are probably 15 or 16 local authorities in Wales that have a coast and there are obviously many cross-border issues and issues in terms of designating a lead local authority.

[290] On licensing more generally, the complexity of the licensing processes was

made clear to me by a recent constituency issue, which was about sea burial, and the fact that the Department for Environment, Food and Rural Affairs has responsibility for sea burial but there were no licensed sea burial areas in Wales. A particular lady had specified in her will that she wished to be buried at sea, off the coast of Wales, and for a long time that wish could not be carried out, although it has been carried out now. That made it clear to me the difficulty with regard to issues around licensing and the role that DEFRA plays. Would you be keen to see responsibility for the roles that DEFRA or the Department of Trade and Industry current have being transferred, in the main, to Wales, wherever that responsibility would lie?

[291] I am also keen to understand a bit better the responsibilities that the Countryside Council for Wales and the Environment Agency now have. Do you think that those could be integrated better in a different organisation or in a different way from how they are currently executed? I say that from a position of not really being clear what those responsibilities are, but I guess that in some of those areas you have responsibilities for the marine issues. So, do you think that those should be more integrated into a spatial plan that has a responsibility that is currently outside of your organisations' direct control?

[292] **Ms Havard:** I will just comment, if I may, on the point about the role that local authorities play. Last week, for the first time, all the coastal authorities bar one—unfortunately, Monmouthshire was not able to make it—met in Gwbert to address this very issue of how the local authorities should be working and addressing the Marine Bill. I think that they were very grateful for helpful inputs from officials from various Welsh Assembly Government departments and divisions who were able to go and talk to them. One of the interesting points that came out was about this wider context and the need for local authorities in Wales to be thinking not only about their neighbours and their responsibilities for the direct coast and the immediate offshore, but about the wider context of structural funds, what Europe is doing with the marine thematic strategy and the new directives that are coming forward and so on. So there is a lot going on. We have four WLGA representatives on the partnership, covering different aspects of the work, and it is very difficult, even within a local authority, to get to grips with where the responsibilities for marine issues lie, in exactly the same way as for you in looking at the whole range of issues. Again, perhaps this Bill should encourage integration at all levels.

12.10 p.m.

[293] **Mr Mills:** I will address two of the questions. On the one about the local authority, my feeling is that the proposed Bill has not really covered the whole area of integrated coastal zone management to anything like the degree that it needs to do. Local authorities will be very interested in what happens in the immediate coastal zone and I think that we are missing an opportunity here. As I stressed in my presentation, this is where an awful lot of the impact and the pressures are being exerted, so it is a great shame and a missed opportunity that that particular zone is not being paid quite the same attention as some of the offshore issues. In relation to your question about the Environment Agency Wales and the Countryside Council for

Wales, our activities are generally very different. Our responsibilities for flood-risk management, water quality regulation and fisheries do not overlap with those of CCW. We do overlap on certain conservation duties, but the conservation duties that we tend to concentrate on are the ones that relate to our own activities, for example, in relation to flood-risk management and the creation of habitat and that sort of thing, so there is not a great deal of overlap. However, I would support as much integration as possible between the plethora of bodies that are involved. However, it does not necessarily have to be structural integration; there are many other ways of bringing integration about—in terms of process, for example.

[294] **Ms Hill:** I agree with Chris on this; I do not think that there is much overlap. The area where we overlap most—and we keep coming back to this—is the research side. There are times when we commission pieces of work that we could commission together. It is the information-gathering side that underpins everything we do in terms of managing the seas. That is probably the area where there is perhaps a need for more integration, but our roles in terms of what we give advice on, and to whom, are very different, and there is not really a problem there. Our responsibilities go out to the limits of the Assembly in terms of the area on which we give advice, but we also give advice on the wider territorial seas through what is called the Joint Nature Conservation Committee, which is the UK body of the conservation agency. We would deal with sites that are further offshore and outside the Assembly's responsibilities as well. So, we also have that function. There are sites that straddle the boundary between the Welsh seas and the territorial seas.

[295] **Mr Parry:** On Elin's question as to whether there are functions currently held by UK departments or the UK Government that could be brought in to the Welsh Assembly Government, I gave a couple of examples, which were the Marine Fisheries Agency and the Marine Consents and Environment Unit. Currently, the Welsh Assembly Government contracts those bodies to do work on its behalf in Wales and clearly this is an opportunity to look at that and to consider whether to bring some of those functions in-house. In the past, there was perhaps not the capacity within the Welsh Assembly Government to do it—it was not done by them for any principled reasons or because it made sense functionally; it was just that there was not the capacity here to do it. Perhaps the Welsh Assembly Government needs to think, 'Okay, we need more capacity in this area to be able to do more of these things ourselves'. With regard to existing agencies, the Wales Environment Link does not have a view as to whether they should be part of the mix, but if we are arguing that this is a once-in-a-lifetime opportunity, there may well be one or two functions that could be brought under different arrangements. However, looking again at the two existing agencies and at opportunities for merger, perhaps this is not the time to be doing that, because you are talking about environment agencies, whereas we are looking here at agencies across sectors. It would be unhelpful to think of this as being an opportunity to change the existing arrangements too much. However, perhaps there are one or two functions that could sit more comfortably somewhere else.

[296] **Glyn Davies:** I suspect that all committee members will favour having a Welsh dimension, whatever the details might be. It is also fairly obvious that, given the way

in which the consultation document has been written and the Government's policy here in terms of the structures, there will be different approaches in Wales and in England. There is no doubt about that. How do you see us coping with something such as the Severn barrage proposal, as both sides will have a pretty major interest in it? The conservation interest could perhaps have been considered more seriously than it seems to have been, and it could make a pretty strong statement about the barrage. I see that as being one of the differences in approach in England and in Wales. If the attitude in one country was that the conservation interest was seriously threatened, and the attitude in the other was to the contrary, can you see real conflict in such situations?

[297] **Mr Parry:** The Severn barrage is an issue of some debate at the moment. Environmental groups have been concerned that it is being presented as an energy issue and an economic development issue. The proponents have presented their arguments in a way that implies that they see the environmental constraints as something to get around or to overcome. In other words, it is implied that the fact that it is a designated site is a problem and the law has to be changed because it is going to get in the way of an energy or economic development project. If we think of it in the round and think about marine spatial planning, we should be considering whether this is an appropriate place to have such a development, bearing in mind other interests in the Severn estuary. That comes down again to whether the energy interests should be outside or inside this debate. I think that we would say that they need to be inside and involved in it.

[298] **Mr Mills:** Just to build on that, if a marine spatial planning system were in place, we would be asking, 'Is this the right form? Is this in the right place?', and we would have a much more balanced debate about whether or not to proceed. In the absence of such a system, it is almost inevitable that proposals such as this will be looked at, as will many other things, in a purely sectoral way. One of the potential advantages of having a marine spatial planning system is that we would get a much more balanced view of how to take developments forward.

[299] **Glyn Davies:** I was thinking about the relationships between different regimes. I was just following through the devolution point and how the different regimes on each side work together.

[300] **Mr Mills:** The reality is that, at the margins, where there are interests from England and Wales, there would have to be some kind of joint plan to resolve that. You would have to have something to accommodate that, otherwise you would have an unworkable system.

[301] **Ms Hill:** You clearly could not have a consenting process for the Severn barrage that was entirely determined in Wales. That would not work; the water would all go around the edge. [*Laughter.*] It is a complicated issue. There would have to be some kind of relationship there. If you build a Severn barrage, there will be conflicts in terms of ports, and, possibly, aggregates, because you cannot do everything in the

same place. We need a proper way of resolving it, rather than coming up with a view that just relates to energy or the environment.

[302] **Glyn Davies:** Are there any other points that Members want to raise?

12.20 p.m.

[303] **Tamsin Dunwoody:** Just to reiterate, one thing that has become very clear, as those of us who have constituencies with coastlines are very aware—three sides of my constituency are coastlines, so I have come across this frequently—is the complexity of this. From what I sense from the committee, I do not think that any of us have really solved the problem of the complexity. However, we must bear in mind the issues that we have discussed in terms of energy. We have not raised the economic development issues, which are very clearly there, and not just in existing applications, but in future development of the use of the marine environment for particular processes and sciences. We are running out of opportunities on terrestrial and we are looking at marine. Those have to be borne in mind.

[304] The broader issues of enforcement—I do not just mean enforcement of fishermen, but I mean drugs, border, and international enforcement—are issues that we have not addressed. However, they are all issues that are critical within this whole context. I think that we should have a greater discussion that we have had an opportunity for today. I think that we have had very clear opinions, which have confirmed the complexity of the issue, but I think that the issue is even broader than that.

[305] **Glyn Davies:** It will be interesting to see how different the discussion is when it is on a draft Bill or a consultation document, and when there are specific worked-up proposals in it. I think that the discussion will be much more focused and will not be so vague. The debate itself is almost conceptual at this stage.

[306] I thank everyone. We look at this as being an initial look at the issue. We can have another discussion at our next meeting. You may not be present then, but you have informed us for that meeting. So, we thank you for that.

Committee meeting 15 June 2006

Ymateb y Pwyllgor i'r Ymgynghoriad ar y Mesur Morol Committee's Response to the Consultation on the Marine Bill

[29] **Glyn Davies:** We have some recommendations on this Bill, but they are not in bold type. There may be some changes, but, at this stage, it is for Members to decide whether this is a fair reflection of the discussion that we had and whether we want to

make any changes.

[30] **Elin Jones:** It is a fair enough description of the discussion that we had, but I have two drafting issues that I would like to draw to your attention. One is in paragraph 18, where it says that

‘The Committee notes with pleasure the acknowledgement in the consultation document’.

[31] I am not sure that it was that pleasurable an experience. So the word ‘pleasure’ may not be particularly appropriate. Secondly, paragraph 23 refers to what the Minister told us, but it sounds like an interesting way to put it:

‘The Minister made his position clear and told us that he believed that a marine agency in Wales would be counter-cultural’.

[32] **Glyn Davies:** I also thought that ‘counter-cultural’ was an interesting term.

[33] **Dr Jenkins:** It was the phrase that he used.

[34] **Elin Jones:** Well, if he used that phrase, we will let him live with his words.

[35] **Jocelyn Davies:** Could we put it in inverted commas to indicate that they were his words?

[36] **Dr Jenkins:** Absolutely.

[37] **Glyn Davies:** I think that it is counter-cultural in terms of the Welsh Assembly Government’s culture. That is why I think that it is counter-cultural. I knew exactly what he meant. Is there anything else to be noted, apart from those drafting points? I thought that it was a pretty fair reflection of the discussion.

[38] What do we need to do with this now? It is a response to the Department for Environment, Food and Rural Affairs. Personally, I would like to see the recommendations put in bold type, so that they look a bit more like recommendations, because sometimes they are in the middle of a paragraph and are difficult to find. I noted one in paragraph 15. The last five words are, ‘The Committee supports this view’. In a sense, that is a recommendation, but it is not very clear. I think that we could tidy that up a little. We will send it to DEFRA, but as the way in which we deal with the Marine Bill is such a significant issue, are we hoping to have a discussion on it in Plenary? Where are we on that?

[39] **Dr Jenkins:** The committee will lay the report and can request a debate in

Plenary.

[40] **Jocelyn Davies:** Glyn, we had a brief discussion before we started on this. There are ideas in this paper of what the legislation in Wales might be, but our response to DEFRA is that the Bill in Westminster must contain the powers that would allow us to do this. The most important thrust of our response to DEFRA is that, when the Bill is drafted, we get framework powers that will allow us to do these things. It would then, I imagine, be for the Minister to propose the legislation here and for us to scrutinise the Minister's proposals. That is when the real work would happen—when we saw the legislation that the Minister was proposing. However, I think that everyone would agree that there ought to be the maximum framework powers, because of the number of things that we want to tackle.

[41] **Glyn Davies:** That is one of the recommendations here.

[42] **Jocelyn Davies:** Yes; it is the most important.

[43] **Glyn Davies:** It is important, but there are other issues in here as well.

[44] **Jocelyn Davies:** However, they are not matters for DEFRA.

[45] **Glyn Davies:** Yes, you could be right. You are right.

[46] **Jocelyn Davies:** The other matters that are raised support the view that we should have maximum framework powers, because these are the things that might come from them.

[47] **Glyn Davies:** I see the logic of the point that you are making, in that the other recommendations would be to us when we were exercising maximum framework powers. I see the point. Are there any comments on that, clerk?

[48] **Dr Jenkins:** We can make the point that all other recommendations emanate from that central recommendation of maximum framework powers. We could certainly do that. This committee is not a consultee, as such, but it is important that we have considered it. The Marine Bill has been remitted to the committee by Plenary, which means that we have the opportunity and the power from the Assembly to consider the draft Bill when it is published, and we can then take further evidence from witnesses as to how the proposals in the current consultation document have developed into a Bill. We can do some detailed, clause-by-clause scrutiny and get the witnesses back and do a further report at that time, which would probably be towards the end of this year. However, this report is to two organisations; it is a response and a report on DEFRA's document, but it is also addressed to the Assembly Government. We should lay this report, if Members are happy, before the Assembly, because, in a way, it is a consideration of legislation.

[49] **Glyn Davies:** What would happen then, Kathryn? Is it likely that there would be a debate in the Assembly?

[50] **Dr Jenkins:** Standing Orders allow us to request a debate.

[51] **Glyn Davies:** How do we feel? I would like to do that, but I do not know how Members feel about it. No-one is disagreeing.

[52] **Lorraine Barrett:** I doubt that this is possible, but it might be worth requesting in Plenary, if we were able to have this debate, for the map that we were shown of all the developments to be on the screens in the Chamber. I do not know whether the Presiding Officer would allow that, but it was quite an eye-opener as to the activity in the marine environment, and it added to something to our discussion. That is just a small point.

[53] **Glyn Davies:** The Environment Agency will be pleased that its little stunt worked so well. It had exactly the same effect on me the first time that I saw it. It was cleverly done. I do not suppose that that would happen in Plenary, but I see no reason why we cannot ask the Business Minister for a slot for a discussion on our report on this issue. It is important that we do so. Will you do that?

[54] **Dr Jenkins:** Yes, absolutely.

[55] **Glyn Davies:** Elin suggested one or two changes in the drafting, and Jocelyn's point ought to be incorporated in this somehow, so there will be a little bit of redrafting. We will circulate that before it is laid. Are we okay on that?

