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Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation – summary of response

Summary of responses to the Consultation on a revision to marine licensing fees and associated charges in Wales.

January 2017

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
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Summary of responses to the consultation on a revision to Marine Licensing Fees and Associated Charges in Wales.

1. Background

1.1 Following Royal Assent of the Environment (Wales) Act 2016, the Cabinet Secretary for Environment and Rural Affairs launched a public consultation on the revision to marine licensing fees and associated charges, including those relating to the marine Environmental Impact Assessment (EIA) regime, in Wales.

1.2 The consultation was launched on 5 September 2016. The consultation closed on 28 November 2016 after a twelve week formal public consultation period.

1.3 The consultation document was published on the Welsh Government website and details were circulated to stakeholders with an interest in marine licensing and the marine EIA regime in Wales.

1.4 The UK marine licensing system was established through Part 4 of the Marine and Coastal Access Act 2009 (MCAA) and is supplemented by a suite of Welsh secondary legislation. The Welsh Ministers are the licensing authority under Part 4 of the MCAA and in April 2013 delegated the majority of their licensing authority functions to Natural Resources Wales (NRW) through The Marine Licensing (Delegation of Functions) (Wales) Order 2013.

1.5 A wide range of activities in Welsh waters require a marine licence before works can be undertaken. Applications are most commonly made in relation to deposits of substances or objects in the sea, or on or under the sea bed; removals from the sea bed; construction projects in or over the sea, or on or under the sea bed; and all forms of dredging (including aggregates). The scale of marine works can vary greatly.

Examples of activities that require a marine licence are:

- navigational dredging and disposal of dredged material at sea
- aggregates dredging
- construction of offshore renewable energy projects
- removal of sediment for sampling purposes
- installation of tidal or wind turbines
- construction works on the coast (sea walls, jetties, extensions to ports/harbours, etc.)

1.6 The fees and charging regime for marine licensing in Wales was not fit for purpose. It was out of date and did not allow for the recovery of costs for certain services provided by NRW. The service provided by NRW was not sustainable and could have ultimately resulted in a diminished service to customers in Wales if the gaps in fee charging powers were not resolved.

1.7 The Environment (Wales) Act 2016 provided the Welsh Government with new powers as the licensing authority to establish a fuller and improved charging regime. These new powers supplemented the existing fee setting and charging powers under the Marine and Coastal Access Act 2009.

1.8 The overall aim of the fees review is to provide a fit for purpose, robust, proportionate, fair and transparent regime for charging for costs associated with marine licensing and the marine EIA regime in Wales.

1.9 The consultation set out proposals for a new fees model and the fees and charges to be applied to that model. These fees will apply where NRW are acting as the licensing authority for marine licensing and the appropriate authority for the EIA regime in Welsh waters. The aim is for the new fees to be implemented in April 2017, subject to the legal process to introduce the necessary legislation.

1.10 In line with HM Treasury and Welsh Managing Public Money guidance, the Welsh Government and NRW policy is that fees and charges for services provided should be set to recover full costs. This approach is simply intended to make sure that the government neither profits at the expense of consumers nor incurs expenses that are subsidised by taxpayers.

1.11 During the consultation period, Welsh Government and Natural Resources Wales held an event in October 2016 at the Welsh Government office in Cardiff, to present the proposals in the consultation to stakeholders. This provided direct access to Welsh Government officials and members of NRW's Permitting Service, to explain the proposed changes and answer queries. Feedback received on the event and to proposals at this stage was positive.

2. Summary of responses

2.1 The consultation closed on 28 November 2016. Three responses were received after this date and have been included in the total number.

2.2 There were a total of 20 responses to the consultation.

2.3 Of the 20 responses, the breakdown of stakeholder responses, by sector is:

Local Authorities 4 out of 20 (20%) received
Industry representatives / applicants 14 out of 20 (70%) received
Other stakeholders 2 out of 20 (10 %) were received from stakeholders with an interest in marine licensing and the marine EIA regime in Wales.

The following table shows how each question of the consultation was responded to:

Question	Yes	No	Left Blank	Comments Given
Question 1: Do you agree with the proposed 2017 Service Level Agreements?	**5**	**1**	**14**	**8**
Question 2: Do you agree with our assessment of the likely costs and benefits set out in the Draft Regulatory Impact Assessment?	**5**	**2**	**13**	**8**
Question 3: Do you agree that Option B (the tiered model) should be introduced as the new fees and charges structure in Wales? If 'No', which model do you favour, and why?	**5**	**3**	**12**	**6**
Question 4: Are there any other factors that should be taken into account in determining the level of fees?	**5**	**0**	**15**	**6**
Question 5: Do you agree with proposals for the pre-application services? Which services would you anticipate using? Are there any other pre-application services you would like to see provided?	**4**	**2**	**14**	**7**
Question 6: Do you agree with the proposed activities under Band 1? If no, are you able to provide evidence to support recommendations?	**5**	**2**	**13**	**6**
Question 7: Do you agree with proposals for the post licensing work packages above? If no, are you able to provide evidence to support recommendations?	**5**	**2**	**13**	**5**

Question 8: Do you agree with proposals for the approach to notice appeals? If no, are you able to provide evidence to support recommendations?	**4**	**0**	**16**	**1**
Question 9: Do you agree with our approach to share and provide data, whenever possible? Do you have any views at this stage on what arrangements we should consider e.g. should the publication of data be compulsory or voluntary?	**6**	**1**	**11**	**8**
Question 10: What information would you like us to take into account to inform a review of marine licensing exemptions in Wales?	**n/a**	**n/a**	**9**	**11**
Question 11: We have asked a number of specific questions throughout this document. If you have any related issues which we have not specifically addressed, please take the opportunity to raise them.	**n/a**	**n/a**	**11**	**9**

2.4 None of the respondents requested that their contact details be kept anonymous. Therefore, should the Welsh Government be requested to publish the responses in full, the name and address (or part of the address) of the person or organisation who sent the response, are also published with their relevant response.

3. Themes

3.1 The following themes and associated comments have been drawn from the responses received (comments highlighted are not exhaustive):

Continuous Improvement

- Support for streamlining and efficiencies, particularly for low risk activities to keep costs and timescales proportionate and to a minimum;
- Support for continuous improvement (that set out in para 10 of consultation document), reducing administrative burden, better guidance needed to reduce need for pre-application to avoid high costs; call for guidance and guidelines to support quality of applications;
- If fees are higher in Wales there is an expectation of better performance – other improvements should be considered alongside introduction of fees;
- Industry representative groups and other stakeholders are happy to work with Welsh Government and Natural Resources Wales to improve efficiencies;

Service delivery

- A suggestion was made that stakeholder scrutiny of performance against Key Performance Indicators (KPIs) should be introduced – possibly through Wales Marine Strategic Advisory Group (WMSAG);
- Comments were made that there is no transparency or accountability around the quality of service and no mechanism to highlight areas of concern. The feeling is that there is a need to monitor and report on the service being provided, including governance arrangements; a call was made for publically available annual reporting;
- A request was made for the determination of timescales for Nationally Significant Infrastructure Projects (NSIPs), with clear accountability, reporting and performance measures to address poor execution; Comments were raised on the quality of service (of both the licensing authority and external scientific advice) and the mechanism to challenge quality of services received;
- Licensing Authority must have the ability to respond to changes in workload to ensure applicants are not disadvantaged (due to, for

example, a large Band 3 project coming in);

- Customers want to see requests for external scientific advice from the licensing authority to be more targeted and direct and not general, given the costs being incurred by applicants.

Specific costs and element of Fees model

- Some respondents consider the cost for Band 1 is too high; and that Band 1 timescales are too long, if external advice is not required;
- Band 2 application timescales – comments were received that these timescales are longer than other Licencing Authorities; and that other than low risk activities, there was no improvement in timescales;
- Band 3 – the lack of timescales for applications is considered to be unacceptable by some respondents, as is the lack of a benchmark for performance;
- One respondent commented that there could be a significant increase in costs for small scale works, like routine dredging. A question was asked whether ceilings or caps for fees could be introduced, or whether there was a potential for Band 3 application costs to subsidise Band 1 applications;
- Sediment sampling points were perceived as not being clear or what the costs are for. The suggestion is that they should be able to be reduced;
- Certain responses highlighted that pre-application advice needs to be binding, unless substantive new evidence can be provided to justify why a position has changed;
- Calls were made for transitional arrangements for marine minerals licences to be considered, particularly for those currently paying monitoring fees;
- On the subject of monitoring and charging for this service, respondents have said that monitoring must be proportionate and necessary and that there should be a review and a benchmark process on requirements;

Sharing of data

- The main issues raised on the sharing of data focussed on how data should be collected. There is support for voluntary data sharing but concerns around commercial sensitivity and not to duplicate data hubs;

Exemptions Review

- Useful suggestions were offered and evidence provided on potential exemptions; some were seeking clarity and guidance on the licensing process and what falls in and out of the licensing system; suggestions submitted that exemptions should be linked to impact (Natural England database could be useful here); and there was a

call for grab-sampling to be exempted;

Draft Regulatory Impact Assessment (RIA)

- There was general support shown for draft RIA costs (relating to applicants, not other stakeholders or consultees) but there was concern in some cases around fees being too high.

Communication of changes

- Responses asked for assurance that communication regarding changes is done in good time and that it reaches all potential applicants.

Wider areas (arguably outside of scope of fees review consultation)

- Comments were made with regards the publication of information; respondents consider more information should be made available online e.g. the application itself and any supporting information; the EIA process should be characterised by good public information provisions and a 'balanced' (not developer dominated) scientific assessment procedure;
- A call for a broader focus on reforms of marine licensing was made;
- Stakeholders would like further discussion on the Development Consent Order and marine licensing processes; specific comments made that clarity and streamlining is needed; Note was made that there is no Ministerial marine licence referral and recovery process in Wales;
- The importance of policy makers directly interacting with stakeholders during the development of proposals was also noted.

4. Next Steps

4.1 The Welsh Government would like to thank all those who responded to the consultation. We are considering all responses and will finalise proposals. We are minded to take the proposals forward as consulted on and they will be kept under review.

4.2 Legislation will be introduced to bring the proposals into effect. The aim is to bring legislation into force from April 2017, subject to the legal process. Natural Resources Wales will be communicating the new fees and charges to marine licensing customers and making information available on their website. Welsh Government will also make information available at: http://gov.wales/?lang=en

Annex 1 – List of Consultees

A W J Marine
ABP South Wales
Agma PLC
Airbus
Alun Griffiths (Contractors) Ltd
AMEC
Anglesey Boat Company Limited
Arup
Associated British Ports
Association of Inshore Fisheries and Conservation Authorities
Atkins Ltd
Atlantic Salmon Trust
Bangor University
Bird Port, Newport
British Marine Aggregate Producers Association
British Marine Federation
British Ports Association
Burry Inlet Hand Gatherers Association
Burry Port Marina
Cadw
Caernarfon Harbour Trust
Carbon Capture and Storage Association
Cardiff University
Cardigan Bay Fishermen’s Association
Cardigan Bay SAC Officer
Cardigan Marine Wildlife Centre
Carillion
Carmarthenshire County Council
Carmarthenshire Fisherman's Federation
Centre for Environment, Fisheries and Aquaculture Science
Central Dredging Association
Centrica
Ceredigion County Council
Chamber of Shipping
Civil Aviation Authority
Coastnet
Confederation of British Industries (CBI)
Conwy County Borough Council
Conwy Harbour Master
Costain Ltd
Dasic International Ltd
Department for Environment, Fisheries and Rural Affairs
Denbighshire County Council
The Department of Agriculture, Environment and Rural Affairs, Northern Ireland
Department for Transport
Dong Walney (UK) Ltd
Dŵr Cymru Welsh Water
E.ON Renewables
Ecospan Environmental Ltd

English Heritage
Environment Agency
Environmental Industries Commission
Farmers' Union of Wales
Far Offshore Renewables
Fiton Technologies International Ltd
Gateway Storage Company
Global Marine Systems Ltd
Gloucester Harbour Trustees
Historic England
HM Courts & Tribunals Service
HM Treasury
Holyhead Marina Ltd
Holyhead Sailing club
Horizon Nuclear Power
J Murphy and Sons Ltd
Joint Nature Conservation Committee
Llanelli Sand Dredging Limited
Local Biodiversity Officer - Local Authorities in Wales
Marine Protected Areas Project Officer – Local Authorities in Wales
Local Harbour Authorities in Wales
Local Planning Authorities in Wales
AONB officers – Local Authorities in Wales
Marina Projects Ltd
Marine Conservation Society
Marine Energy Matters
Marine Energy Pembrokeshire
Marine Management Organisation
Marine Planning Consultants
Marine Scotland
Marinenet
Maritime and Coastguard Agency
Milford Haven Port Authority
Ministry of Defence
Monkstone Cruising and Sailing Club
Morgan Sindall
Mouchel
Mykal Industries Ltd
National Farmers Union
National Federation of Fisherman's Organisations
Natural England
Natural Resources Wales
Neath Harbour Commissioners
NERL Safeguarding
Network Rail
Neyland Yacht Havens Ltd
North Devon District Council
North Somerset Council
North Western Fisheries Committee
Npower
OFCOM

OFGEM
Oil & Gas UK
One Voice Wales
Pembrokeshire Coastal Forum
Pembrokeshire Coast National Park Authority
Planning Inspectorate
Port of Mostyn
Port of Penrhyn
Pulse Tide
QinetiQ
Quay Fresh and Frozen Foods Ltd
Quay Marinas Ltd
Ramboll
Renewables UK Cymru
Reps from Welsh Universities
RNLI
Royal Anglesey Yacht Club
Royal Commission on the Ancient and Historical Monuments of Wales
Royal Haskoning
Royal Institute of Chartered Surveyors
Royal Yachting Association
RPS Group
RSPB
RWE
Saundersfoot Harbour Commissioners
Sea Bed User & Development Group
Sea Fish Industry Authority
Severn Estuary Partnership
Severn Sands Ltd
Shellfish Association of Great Britain
Snowdonia National Park Authority
St Modwen Developments Ltd
Stena Line Ports Ltd
Subsea Cables UK
The Blue Green Initiative
The Bristol Port Company
The Crown Estate
The National Trust
The Wildlife Trust
Tidal Energy Limited
Tidal Lagoon Power PLC
Torfaen Friends of the Earth
Treaddur Bay Sailing Club
Trident Energy Limited
Trinity House
UK Cable Protection Committee (ICPC)
UK Major Ports & British Ports Association
UK Harbour Masters Association
Wales Environment Link
Welsh Archaeological Trusts
Welsh Federation of Sea Anglers

Welsh Fishermen's Association
Welsh Local Government Association
Welsh Police Authorities
Welsh Ports Group
Welsh Yachting Association
Westminster Dredging Company Ltd
World Wildlife Fund

Annex 2 – List of Responses

Afan Valley Angling Club
Angling Trust and Fish Legal
Bangor University
British Marine
British Marine Aggregate Producers Association (BMAPA)
British Ports Association
Conwy County Borough Council
Denbighshire County Council
Department of Agriculture, Environment and Rural Affairs (DAERA)
Fish Legal
Isle of Anglesey County Council
Monkstone Cruising and Sailing Club
Neath Port Authority
Pontardawe and Swansea Angling Society Ltd (PASAS)
Porthmadog Sailing Club
Royal Yachting Association (RYA) and RYA Cymru
RWE Generation UK
Seabed User and Development Group – SUDG
Tidal Lagoon Power
Trinity House (General Lighthouse Authority GLA)