



National Assembly for **Wales**  
Cynulliad Cenedlaethol **Cymru**

# Marine Bill White Paper

## **Abstract**

This paper provides an outline briefing on the Marine Bill White Paper.

The proposals relating to marine spatial planning, licensing of marine activities, marine nature conservation and fisheries, and a Marine Management Organisation are summarised, and the potential implementation in Wales is discussed.

**August 2007**





# Marine Bill White Paper

Sally Hunter

August 2007

Paper number: 07/067/sh

© Parliamentary copyright 2007



## **Executive Summary**

The Marine Bill White Paper contains proposals under five key themes; marine spatial planning, licensing of marine activities, marine nature conservation, marine fisheries management, and a Marine Management Organisation. The White Paper follows a consultation in 2006. The overall aim is to provide a means to achieve the joint vision of the UK Government and the devolved administrations of “clean, healthy, safe, productive and biologically diverse oceans and seas”.

The Bill will introduce a system of marine spatial planning to provide a strategic approach to the growing number and diversity of uses of the marine environment. Welsh Ministers will be responsible for planning in Welsh territorial waters, but how this is to be implemented has not yet been decided. Licensing of marine activities will be streamlined and simplified and licensing decisions should take account of the new marine plans. New tools will be introduced to strengthen marine nature conservation, including the introduction of Marine Conservation Zones to offer protection to the full range of species and habitats considered important in the UK. Welsh Ministers will be responsible for establishing these zones in Welsh waters.

Inshore fisheries management will be modernised throughout the UK. Sea Fisheries Committees in England will be reformed, but plans for Wales will depend on the outcome of a consultation on the possibility of the Welsh Assembly Government assuming full responsibility for inshore fisheries management in Welsh waters. Finally, a Marine Management Organisation (MMO) will be established to deliver many of the objectives of the Bill in England and Northern Ireland. The MMO will not have any functions relating to devolved activities in Wales, but Welsh Ministers could request that the MMO carries out some functions on their behalf.



## Contents

<b>1</b>	<b>Introduction .....</b>	<b>3</b>
1.1	Purpose of the Marine Bill .....	3
1.2	Key Themes .....	5
1.3	Vision and Strategic Goals .....	5
1.4	Existing Legislative Competencies and Policies in Wales .....	5
1.5	EU and International Policy and Obligations .....	6
<b>2</b>	<b>Development of the Marine Bill.....</b>	<b>8</b>
2.1	2006 consultation and response from Welsh stakeholders.....	8
<b>3</b>	<b>Marine Spatial Planning.....</b>	<b>9</b>
3.1	Policy Statement and Objectives .....	9
3.1.1	<i>Preparation and review</i> .....	9
3.2	Marine Plans .....	10
3.2.1	<i>Responsibility for marine plans</i> .....	10
3.2.2	<i>Scope of plans</i> .....	10
3.2.3	<i>Influence on decision-making</i> .....	11
3.2.4	<i>Potential links with the European Marine Thematic Strategy</i> .....	12
3.2.5	<i>Implementation of marine spatial planning in Wales</i> .....	12
<b>4</b>	<b>Licensing marine activities .....</b>	<b>14</b>
4.1	Geographic scope .....	14
4.2	Consolidating general marine licensing controls.....	14
4.2.1	<i>Improved decision-making</i> .....	15
4.2.2	<i>Enforcement</i> .....	15
4.3	Offshore renewable energy installations .....	15
4.4	Licensing of non-devolved functions .....	16
4.4.1	<i>Carbon Capture and Storage</i> .....	16
4.4.2	<i>Oil and gas</i> .....	16
4.5	Harbours legislation .....	16
4.6	Other legislation .....	17
<b>5</b>	<b>Marine nature conservation .....</b>	<b>19</b>
5.1	Existing obligations .....	19
5.2	Geographic scope .....	19
5.3	Marine Conservation Zones .....	20
5.3.1	<i>Designation of sites and site objectives</i> .....	20
5.3.2	<i>Delivery of site objectives</i> .....	21
5.4	Other conservation measures .....	21
5.4.1	<i>Species protection</i> .....	21
5.4.2	<i>Control of unregulated activities</i> .....	22
5.5	Enforcement.....	22
<b>6</b>	<b>Marine fisheries management.....</b>	<b>24</b>
6.1	Inshore and Territorial Waters.....	24
6.1.1	<i>Modernisation of Sea Fisheries Committees</i> .....	24
6.1.2	<i>Recreational sea angling and unregulated fishing</i> .....	24
6.1.3	<i>Shellfisheries management</i> .....	25



6.2	Enforcement and control of commercial fishing .....	25
6.2.1	<i>Control of UK nationals</i> .....	25
6.2.2	<i>Administrative penalties</i> .....	25
6.2.3	<i>Administration costs</i> .....	25
6.3	Out-of-date and redundant legislation .....	26
<b>7</b>	<b>A Marine Management Organisation</b> .....	<b>27</b>
7.1	MMO functions .....	27
7.2	Possible arrangements in Wales.....	27
<b>A</b>	Issues that may feature in marine plans	
<b>B</b>	Regional Seas	
<b>C</b>	Marine Nature Conservation Legislation	



# Marine Bill White Paper

## 1 Introduction

This paper provides an overview of the scope and content of the proposed UK Marine Bill and reviews its relevance and potential application in Wales. *A Sea Change: A Marine Bill White Paper*<sup>1</sup> was published on 15 March 2007, along with a partial Regulatory Impact Assessment, with a consultation period that closed on 8 June. No date has yet been announced for the publication of the Bill itself.

### 1.1 Purpose of the Marine Bill

There is currently no strategic framework for UK policy in the marine area. Policies have been developed in relation to specific sectors individually, and for different geographical areas, leading to overlap and the potential for conflict between different interests. The geographical extent of the main Acts controlling works in the offshore area are shown in Figure 1.

A review of the existing system for marine nature conservation by Defra has concluded that it is not fit for purpose<sup>2</sup>. There is no system of spatial planning in marine areas equivalent to that on land. Pressures on the marine environment from both human activities and changing climate are increasing and there is growing evidence of environmental degradation and biodiversity decline. For example, only 16 percent of fish stocks within EU waters (excluding the Mediterranean) were deemed to be within safe biological limits in 2001 compared to 26 percent in 1996<sup>3</sup>. A number of gaps and limitations occur in legislation to manage and preserve marine resources and ecosystems<sup>4</sup>. The Marine Bill has been developed in an attempt to address these issues.

The Marine Bill should improve the delivery of marine policies by providing an integrated approach to sustainable management, balancing conservation needs with social and economic demands. The Bill may include provisions specifically relating to Welsh Ministers or the National Assembly for Wales. For devolved matters, the Welsh Assembly Government will decide upon the most appropriate way to implement change within Wales.

---

<sup>1</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*.

<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

<sup>2</sup> Defra, 2004. *Review of Marine Nature Conservation; Working Group Report to the Government* July 2004

<http://www.defra.gov.uk/marine/pdf/biodiversity/rmnc-report-0704.pdf>

<sup>3</sup> Royal Commission on Environmental Pollution, 2004. *Turning the Tide; Addressing the Impact of Fisheries on the Marine Environment*.

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

<sup>4</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*. p. 4.

<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

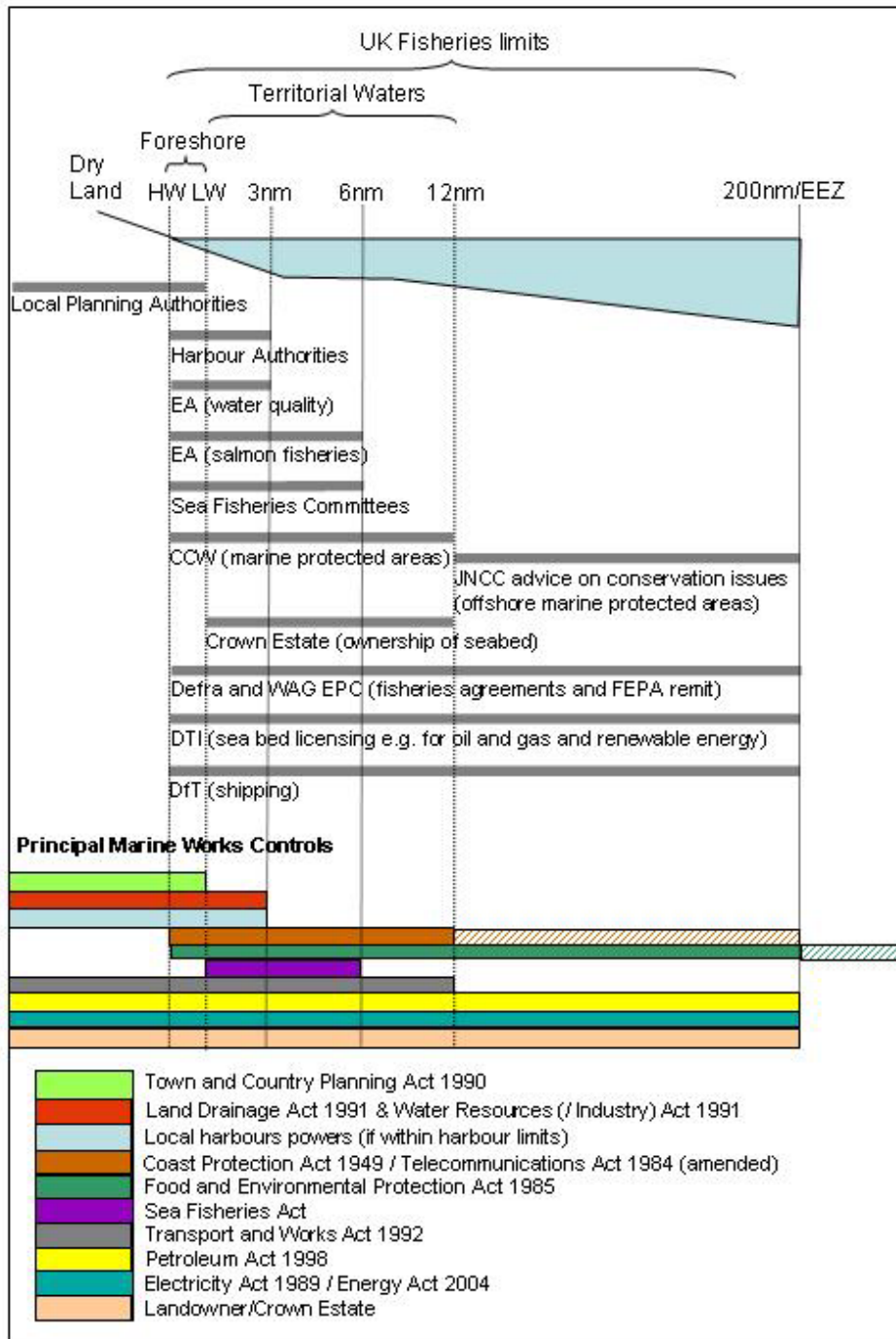


Figure 1 Geographical extent of jurisdictions and controls in the Welsh offshore area (modified from Boyes et al. 2003<sup>5</sup> and MCEU 2005<sup>6</sup>). Cross-hatched shading indicates control is limited.

<sup>5</sup> Boyes W. et al. 2003. Regulatory responsibilities and enforcement mechanisms relevant to marine nature conservation in the UK. Report to the JNCC.

<http://www.jncc.gov.uk/page-2830>

<sup>6</sup> Marine Consents and Environment Unit, 2005. Geographical extent of principal marine works controls: England and Wales.

[http://www.mceu.gov.uk/MCEU\\_LOCAL/fepa/Consents-extent.htm](http://www.mceu.gov.uk/MCEU_LOCAL/fepa/Consents-extent.htm)

## **1.2 Key Themes**

The Bill covers five key themes that have significant links and interdependencies between them. These are:

- ◆ Marine spatial planning;
- ◆ Licensing of marine activities;
- ◆ Marine nature conservation;
- ◆ Marine fisheries management;
- ◆ A Marine Management Organisation (MMO).

The UK Government's plans under each of these themes will be outlined in the main body of this paper and the potential application in Wales will be considered.

## **1.3 Vision and Strategic Goals**

The joint vision of the UK Government and devolved administrations for the marine environment is to have "clean, healthy, safe, productive and biologically diverse oceans and seas"<sup>7</sup>. Toward this end, the following strategic goals have been identified:

- ◆ To conserve and enhance the overall quality of our seas, their natural processes and their biodiversity;
- ◆ To use marine resources in a sustainable and environmentally sensitive manner in order to conserve ecosystems and achieve optimum environmental, social and economic benefit from the marine environment;
- ◆ To promote and encourage economically and environmentally sustainable use of the natural resources to ensure long term economic benefits and sustainable employment;
- ◆ To increase our understanding of the marine environment, its natural processes and our cultural marine heritage and the impact that human activities have on them, and;
- ◆ To promote public awareness, understanding and appreciation of the value of the marine environment and seek active public participation in the development of new policies.

## **1.4 Existing Legislative Competencies and Policies in Wales**

In Welsh territorial waters, i.e. between coastal baselines and either 12 nautical miles or the boundary between national jurisdictions<sup>8</sup>, the Welsh Assembly Government currently has responsibility for:

- ◆ Fisheries management under the EU Common Fisheries Policy;

---

<sup>7</sup> Defra, the Scottish Executive and the Welsh Assembly Government, 2002. *Safeguarding Our Seas; A Strategy for the Conservation and Sustainable Development of our Marine Environment*.  
<http://www.defra.gov.uk/environment/water/marine/uk/stewardship/index.htm>

<sup>8</sup> In the Bristol Channel and the Dee Estuary this boundary is a line midway between the Welsh and English coasts

- ◆ Environmental conservation and protection, including nature conservation and biodiversity, flooding and coastal risk, local environmental quality, pollution prevention and climate change;
- ◆ Sustainable development
- ◆ Spatial planning (currently only on land, down to the low water mark);
- ◆ Offshore aggregates;
- ◆ Licensing activities under the *Food and Environmental Protection Act* (1985).

Existing Welsh policies relevant to the proposed Marine Bill include:

- ◆ The Environment Strategy for Wales<sup>9</sup>
- ◆ The Wales Spatial Plan<sup>10</sup>
- ◆ The Integrated Coastal Zone Management Strategy for Wales<sup>11</sup>
- ◆ The Sustainable Development Scheme of the National Assembly for Wales<sup>12</sup> and the accompanying Sustainable Development Action Plan<sup>13</sup>
- ◆ Developing the Welsh Fisheries and Aquaculture Sector – Strategic Action Plan<sup>14</sup> and the Strategy for Recreational Fisheries<sup>15</sup>. An all Wales fisheries policy is currently being developed.
- ◆ The Energy Wales Route Map<sup>16</sup> – the consultation document for a Welsh energy strategy, which includes targets to produce 4 Terawatt hours per annum of renewable electricity by 2010 and 7 Terawatt hours by 2020.

## 1.5 EU and International Policy and Obligations

The UK has numerous existing obligations for the marine environment under international agreements and EU directives including the following:

- ◆ The current draft of the proposed EU Marine Strategy Directive requires member states to achieve good environmental status in the marine area by 2021 and contains provisions to determine how the definition of this status will be determined<sup>17</sup>.

<sup>9</sup> Welsh Assembly Government, *Environment Strategy for Wales*, May 2006

[http://new.wales.gov.uk/topics/environmentcountryside/epg/Environment\\_strategy\\_for\\_wales/About\\_the\\_strategy/?lang=en](http://new.wales.gov.uk/topics/environmentcountryside/epg/Environment_strategy_for_wales/About_the_strategy/?lang=en)

<sup>10</sup> Welsh Assembly Government, *People, Places, Futures – The Wales Spatial Plan*, November 2004

<http://new.wales.gov.uk/about/strategy/spatial/?lang=en>

<sup>11</sup> Welsh Assembly Government, *Making the Most of Wales' Coast: The Integrated Coastal Zone Management Strategy for Wales*, 2007

[http://new.wales.gov.uk/topics/environmentcountryside/env\\_cons\\_management/countryside\\_coastal\\_access/iczm/?lang=en](http://new.wales.gov.uk/topics/environmentcountryside/env_cons_management/countryside_coastal_access/iczm/?lang=en)

<sup>12</sup> Welsh Assembly Government, *Starting to Live Differently*,

<http://new.wales.gov.uk/about/strategy/strategypublications/strategypubs/935748/?lang=en>

<sup>13</sup> Welsh Assembly Government, *The Sustainable Development Action Plan: 2004-2007*,

[http://new.wales.gov.uk/topics/sustainabledevelopment/sustainable\\_development\\_publicat/sdactionplan?lang=en](http://new.wales.gov.uk/topics/sustainabledevelopment/sustainable_development_publicat/sdactionplan?lang=en)

<sup>14</sup> Welsh Development Agency, *Development of the Welsh Fisheries and Aquaculture Sector – Strategic Action Plan*, 2003

<http://www.countryside.wales.gov.uk/fe/master.asp?n1=5&n2=433&n3=435>

<sup>15</sup> Welsh Assembly Government Independent Working Group, *A Strategy for the Recreational Fisheries of Wales*, 2003

<http://www.countryside.wales.gov.uk/fe/master.asp?n1=5&n2=433&n3=440>

<sup>16</sup> Welsh Assembly Government, *Energy Wales: Route map to a clean, low-carbon and more competitive energy future for Wales*.

<http://wales.gov.uk/about/departments/dein/publications/energy-wales-routemap?lang=en>

<sup>17</sup> European Commission, *Proposal for a Directive of the European Parliament and of the Council establishing a framework for Community action in the field of marine environmental policy*, October 2005,

[http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005\\_0505en01.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0505en01.pdf)



- ◆ The European Biodiversity Strategy was adopted in 1998<sup>18</sup> and the EU has set itself the objective of halting biodiversity loss in its own territory by 2010<sup>i19</sup>, although this is unlikely to be achieved<sup>20</sup>.
- ◆ Under the EU Habitats and Birds Directives, the UK is required to select and protect Special Areas of Conservation and Special Protected Areas within waters for which it is responsible<sup>21</sup>.
- ◆ The 2000 EU Water Framework Directive requires member states to achieve good ecological and chemical status in coastal and transitional waters out to 1 nautical mile by 2015<sup>22</sup>.
- ◆ The Common Fisheries Policy is the main instrument for fisheries and aquaculture management in Europe. Reformed in 2002, the policy now aims to progressively implement an ecosystem approach to fisheries management to improve sustainability<sup>23</sup>.
- ◆ Under the OSPAR Convention, the UK is committed to take all possible steps to prevent and eliminate pollution and to take the necessary measures to protect the maritime area against adverse effects of human activities so as to safeguard human health and to conserve marine ecosystems and, when practicable, restore marine areas which have been adversely affected<sup>24</sup>.
- ◆ An EU maritime policy is currently being developed, encompassing all sectors and activities relevant in the marine environment, as a means of promoting the maritime economy while ensuring proper environmental protection<sup>25</sup>.

---

<sup>18</sup> <http://ec.europa.eu/environment/nature/home.htm>

<sup>19</sup> Commission of the European Communities, 2006. *Communication from the Commission, Halting the Loss of Biodiversity by 2010 – And Beyond*

<sup>20</sup> Verboom J. et al., 2007. *Combining Biodiversity Modelling with Political and Economic Development Scenarios for 25 EU Countries*, Ecological Economics, 62 (2), p 267-276

<sup>21</sup> <http://ec.europa.eu/environment/nature/home.htm>

<sup>22</sup> [http://ec.europa.eu/environment/water/water-framework/index\\_en.html](http://ec.europa.eu/environment/water/water-framework/index_en.html)

<sup>23</sup> [http://ec.europa.eu/fisheries/cfp\\_en.htm](http://ec.europa.eu/fisheries/cfp_en.htm)

<sup>24</sup> OSPAR Commission for the Protection of the Marine Environment of the North East Atlantic.

<http://www.ospar.org/eng/html/welcome.html>

<sup>25</sup> Commission of the European Communities Green Paper, 2006. *Towards a future maritime policy for the union: A European vision for the oceans and seas*.

[http://ec.europa.eu/maritimeaffairs/policy\\_en.html#com](http://ec.europa.eu/maritimeaffairs/policy_en.html#com)

## 2 Development of the Marine Bill

Conservation groups including WWF-UK<sup>26</sup> and members of Wildlife and Countryside Link<sup>27</sup> have been calling for the introduction of a Marine Act for many years. The findings of a number of reviews and reports dating from 2002<sup>28</sup> have suggested that a new approach to managing marine activities is necessary and that new legislation is needed to implement it.

In 2004, Defra launched its Five Year Strategy<sup>29</sup>, which included plans for a Marine Bill. During the same year Defra commissioned research into options for marine spatial planning including a pilot study in the Irish Sea<sup>30</sup>. The UK Government's 2005 manifesto included a commitment to introduce a Marine Act that would "provide a new framework for the seas, based on marine spatial planning, that balances conservation, energy and resource needs".

### 2.1 2006 consultation and response from Welsh stakeholders

The scope and content of the proposed Marine Bill were set out in a public consultation in 2006. Responses to this consultation from Welsh stakeholders, including the Welsh Assembly Government, Assembly sponsored public bodies, local authorities, NGOs and private organisations and individuals, have been summarised by the Welsh Assembly Government's Marine Policy Branch<sup>31</sup>. The key outcomes were:

- ◆ Majority support for a statutory system of marine spatial planning that is holistic in approach and with ecosystem objectives and sustainable development as its main goals;
- ◆ The unanimous opinion that the current system of licensing and consents is unworkable and that streamlining and simplification are necessary;
- ◆ The majority view that not enough is being done in the field of marine nature conservation with widespread support for Highly Protected Marine Areas;
- ◆ All responses to the fisheries section of the consultation felt this topic was not included to a great enough extent;
- ◆ The majority of responses regarding plans for a Marine Management Organisation were in favour of its establishment. It was widely felt that, irrespective of whether the organisation covered England and Wales or Wales only, there should be a consistent and coordinated approach throughout the UK.

### 2.2 2007 White Paper

*A Sea Change: A Marine Bill White Paper*<sup>32</sup> was published on 15 March 2007, along with a partial Regulatory Impact Assessment, with a consultation period that closed on 8 June. No date has yet been announced for the publication of the Bill itself.

<sup>26</sup> <http://www.wwf.org.uk/marineact/main.asp>

<sup>27</sup> Wildlife and Countryside Link, Marine Bill Bulletin, Issue 4. November 2005.

<sup>28</sup> [http://www.wcl.org.uk/downloads/2005/Link\\_Marine\\_Bill\\_Bulletin-Issue4.pdf](http://www.wcl.org.uk/downloads/2005/Link_Marine_Bill_Bulletin-Issue4.pdf)

<sup>29</sup> <http://www.defra.gov.uk/environment/water/marine/uk/policy/marine-bill/background.htm>

<sup>30</sup> Defra, *Delivering the Essentials of Life; Defra's Five Year Strategy*, December 2004

<sup>31</sup> <http://www.defra.gov.uk/environment/water/marine/uk/policy/marine-bill/background.htm>

<sup>32</sup> MSPP Consortium, *Marine Spatial Planning Final Report*, February 2006

[http://www.abpmer.net/mspp/docs/finals/MSPFinal\\_report.pdf](http://www.abpmer.net/mspp/docs/finals/MSPFinal_report.pdf)

<sup>31</sup> Welsh Assembly Government Marine Policy Branch, Summary of Marine Bill Consultation Responses

[http://new.wales.gov.uk/topics/environmentcountryside/env\\_cons\\_management/marine\\_fisheries/Marinepolicy/081106marinebill/?lang=en](http://new.wales.gov.uk/topics/environmentcountryside/env_cons_management/marine_fisheries/Marinepolicy/081106marinebill/?lang=en)

<sup>32</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*.

<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

### 3 Marine Spatial Planning

#### Aim

**To create a strategic marine planning system that will clarify our marine objectives and priorities for the future, and direct decision-makers and users towards more efficient and sustainable use and protection of our marine resources.**

Marine spatial planning can be defined as “an integrated, policy-based approach to the regulation, management and protection of the marine environment, including the allocation of space, that addresses the multiple, cumulative and potentially conflicting uses of the sea and thereby facilitates sustainable development”<sup>33</sup>. It is not therefore analogous to land use planning i.e. the need for permission for particular developments, which is dealt with through the licensing system. The marine spatial planning system is intended to inform and guide marine regulators and users and clarify the national and local context in which decisions are being made<sup>34</sup>.

The approach to marine planning will involve:

- ◆ The creation of a UK marine policy statement, agreed by all UK Government departments and the devolved administrations, which will set out a joint vision and objectives for the marine environment and its uses and;
- ◆ The creation of a series of marine plans, which will implement the policy statement in specific areas, using information about spatial uses and needs in those areas<sup>35</sup>.

#### 3.1 Policy Statement and Objectives

The shared policy statement should set out a clear policy for the marine environment and provide a sound basis for marine plans and decisions. The statement will be jointly agreed by all administrations so that it applies to all UK waters, but may contain specific policies or objectives that apply only in the area of a particular administration.

The policy objectives should clarify the limits within which sustainable development needs to operate and should create measurable targets for ecosystem health and biodiversity. They should help decision-makers and marine users assess the impacts of proposed activities on each other and on marine ecosystems. The objectives need to be adaptable, so they can be changed as scientific knowledge increases. They will not therefore be written into legislation, but will be incorporated into the statutory planning system<sup>36</sup>.

##### 3.1.1 Preparation and review

<sup>33</sup> MSPP Consortium, February 2006. *Marine Spatial Planning Final Report*, p. 1.  
[http://www.abpmer.net/mspp/docs/finals/MSPFinal\\_report.pdf](http://www.abpmer.net/mspp/docs/finals/MSPFinal_report.pdf)

<sup>34</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*, p. 20.  
<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

<sup>35</sup> *ibid*, p. 18.

The first shared policy statement should be prepared, adopted by ministers, and published widely within two years after Royal Assent of a Marine Act. During this period, the Secretary of State and devolved administrations should:

- ◆ Seek advice from organisations with relevant marine experience and expertise to enhance the robustness of proposed objectives;
- ◆ Make use of up to date marine science and data where it is available to ensure an evidence based approach to policy;
- ◆ Ensure wide public participation and awareness of progress, and;
- ◆ Consider the economic, social and environmental impacts and feasibility of the content of the statement and be clear how it would create an improved approach to marine management<sup>37</sup>.

## 3.2 *Marine Plans*

### 3.2.1 *Responsibility for marine plans*

Marine planning will be the responsibility of the different administrations, either jointly or solely, in different areas. Welsh Ministers would be responsible for planning in UK territorial waters adjacent to Wales (i.e. out to 12 nautical miles from coastal baselines) and plans would need to include all activities, both devolved and reserved. However, agreement of the UK Government would be required for non-devolved matters. In offshore waters (beyond 12 nautical miles), responsibility for planning would fall to the UK Government.

The proposals would enable different administrations to prepare plans jointly across administrative boundaries and across the boundary between territorial and offshore waters<sup>38</sup>. The planning body may be either ministers or departments within the UK Government and devolved administrations or by another body to which responsibility has been delegated<sup>39</sup>.

### 3.2.2 *Scope of plans*

Marine plans should cover the whole of UK waters. Plans should represent the three dimensional nature of the marine environment and should therefore address the seabed and ground beneath it, the whole of the water column between the seabed and sea surface and the area above the sea surface. Geographic overlap will occur between marine plans and existing land-based plans at the coast.

The planning body would determine the geographic scope of the plans, which should take into account the amount, nature and complexity of marine activity in the region, ecological considerations and physical features as well as administrative boundaries<sup>40</sup>. An economic, environmental and

---

<sup>36</sup> *ibid*, p . 22.

<sup>37</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*, p . 23.  
<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

<sup>38</sup> *ibid*, p. 25.

<sup>39</sup> *ibid*, p . 30.

<sup>40</sup> *ibid*, p . 27.



social appraisal and an assessment of sustainability should be carried out during the preparation of any plan to ensure compliance with European legislation<sup>41</sup>.

Plans should cover, as far as possible, all relevant activities in an area. A list of the types of activities that might feature in plans is given in Annex A. It is likely that plans will be created gradually, in a phased approach. The first plans are expected to last for 20-25 years and will be reviewed at least every 6 years<sup>42</sup>. A schematic of the planning process is shown in Figure 2.

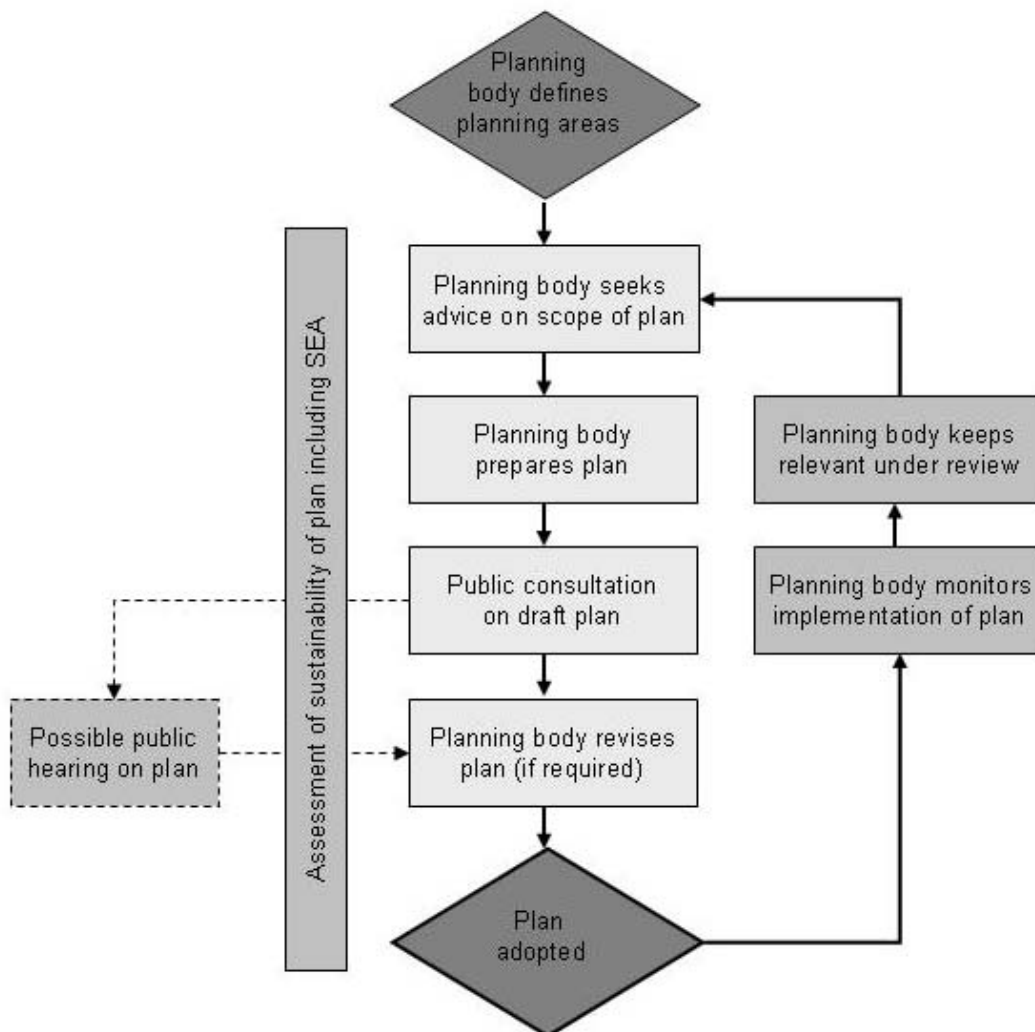


Figure 2. The Planning Process<sup>43</sup>

### 3.2.3 Influence on decision-making

All decisions made in the marine area, or that could have implications for the marine area, should be made in accordance with the UK marine policy statement and any relevant marine plan<sup>44</sup>. The types of decision affected would be:

<sup>41</sup> *ibid*, p . 31.

<sup>42</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*, p . 28.  
<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

<sup>43</sup> *ibid*, p . 32.

<sup>44</sup> *ibid*, p . 35.

- ◆ Licensing decisions about projects, developments and activities
- ◆ Enforcement decisions
- ◆ Decisions regarding the protection of resources
- ◆ By-law making
- ◆ Creation or amendment of other plans

#### *3.2.4 Potential links with the European Marine Thematic Strategy*

A European Marine Thematic Strategy is currently under development<sup>45</sup>. One of the key parts of this initiative is the establishment of European Marine Regions on the basis of geographical and environmental criteria. These regions would encompass large areas such as the Irish Sea. It is envisioned that coastal Member States bordering these regions will be required to develop a cooperative Marine Strategy for each region including an assessment of the state of the environment and the definition of “good environmental status” at regional level.

The Marine Bill White Paper does not set out explicitly how the aims and geographical extent of the proposed system of marine plans would fit within the future European regional marine strategies. Responses to the 2006 consultation and evidence given to the Second Assembly’s Environment Planning and Countryside Committee have stressed the need for compatibility between the UK and EU policies<sup>46</sup> and the need for planning at regional seas level<sup>47</sup>. Welsh territorial waters form part of two regional seas, as defined by the Joint Nature Conservation Committee (JNCC); the ‘Southwest Approaches’ and the ‘Irish Sea’. A map of the regional seas around Wales is shown in Annex B.

#### *3.2.5 Implementation of marine spatial planning in Wales*

The Wales Coastal and Maritime Partnership (WCMP) has provided the Welsh Assembly Government with initial advice on the practical aspects of implementing marine spatial planning in Wales<sup>48</sup>. The advice focuses on planning areas, the arrangement of plans, the planning process and governance. Marine spatial planning could take place at a variety of scales and the WCMP highlights five potential options for Wales (Table 1).

Each option has different potential benefits and risks in terms of the level of expression of Welsh policies and Welsh stakeholder influence, manageability and costs to Wales and the level of compatibility with the desired holistic, ecosystem-based approach to management set out in the White Paper.

---

<sup>45</sup> [http://ec.europa.eu/environment/water/marine/index\\_en.htm](http://ec.europa.eu/environment/water/marine/index_en.htm)

<sup>46</sup> Environment Planning and Countryside Committee inquiry into the Marine Bill consultation package: Submission by the Environment Agency Wales. Mat 2006.

<sup>47</sup> Wales Environment Link Marine Working Group. Response to the Consultation on a Marine Bill.

<sup>48</sup> Wales Coastal and Maritime Partnership, April 2007. Advice to Welsh Assembly Government on the practical aspects of marine spatial planning for Wales.  
[http://www.walescoastalpartnership.org.uk/images\\_client/resource/WCMP%20MSP%20Advice%20FINAL%2025\\_04\\_07.pdf](http://www.walescoastalpartnership.org.uk/images_client/resource/WCMP%20MSP%20Advice%20FINAL%2025_04_07.pdf)

**Table 1. Potential marine spatial planning options for Wales as identified by the WCMP.**

Option	Planning area	Planning body
1	Regional Seas scale (including Welsh territorial waters) based on JNCC proposed Regional Seas areas	UK MMO lead on behalf of WAG for Welsh territorial waters
2	Welsh territorial waters and adjacent sea area out to median line	Wales planning body
3	Welsh territorial waters	Wales planning body
4	Welsh territorial waters	UK MMO lead on behalf of WAG
5	Welsh territorial waters and adjacent sea area out to median line	UK MMO lead on behalf of WAG

The WCMP offers the following recommendations with regard to the principles and scale of implementation of marine spatial planning in Wales<sup>49</sup>:

The WCMP considers that marine spatial planning should have sustainable development at its core and;

1. have a strategic vision with clear objectives;
2. be a statutory system with a statutory purpose;
3. embrace all existing and future marine uses, developments and activities;
4. be integrated horizontally and vertically with all relevant management systems;
5. be informed by an evidence-based approach;
6. be based upon the ecosystem approach;
7. be inclusive;
8. seek to simplify and streamline management processes and structures;
9. be monitored and reviewed in relation to its impact on decision-making.

In terms of the area covered by potential plans, the WCMP suggests that marine spatial planning in Wales should be based on one of the two following options:

*Preferred* - UK Marine Management Organisation (MMO) to plan at regional seas level including Welsh territorial waters (Option 1)

*Alternative* - WAG to plan for Welsh territorial waters plus adjacent sea area out to median line (Option 2)

It is not intended that the MMO will have functions in relation to Wales that have been devolved. However, it is possible that the UK MMO may, by agreement, deliver some functions on behalf of the Welsh Assembly Government.

<sup>49</sup> Wales Coastal and Maritime Partnership, April 2007. Advice to Welsh Assembly Government on the practical aspects of marine spatial planning for Wales. p 3.  
[http://www.walescoastalpartnership.org.uk/resource/WCMP%20MSP%20Advice%20FINAL%2025\\_04\\_07.pdf](http://www.walescoastalpartnership.org.uk/resource/WCMP%20MSP%20Advice%20FINAL%2025_04_07.pdf)

## 4 Licensing marine activities

### Aim

**Better, more consistent licensing decisions delivered more quickly and at less cost to all through a system that is proportionate and easier to understand and use. The changes will integrate delivery across a range of sectors and be a vital link in the chain from planning to enforcement.**

The marine licensing system should translate the objectives of the marine plans into decisions by allowing or barring individual activities. The licensing regime will be reformed, simplified and expanded and aims to deliver the objectives for protecting natural habitats and modernising inshore fisheries.

### 4.1 *Geographic scope*

Wherever possible, the UK Government aims to ensure consistency in licensing functions throughout the UK. However some matters, particularly how licensing is delivered, will vary to some extent between England, Scotland, Wales and Northern Ireland. The proposed Marine Management Organisation (MMO) will be responsible for many licensing functions in England and Northern Ireland, but Wales and Scotland will have different arrangements.

### 4.2 *Consolidating general marine licensing controls*

The licensing of activities in tidal waters, ports and harbours will be reformed based on a consolidation of Part 2 of the *Food and Environmental Protection Act 1985* (FEPA) and Part 2 of the *Coast Protection Act 1949* (CPA). Significant overlap has developed between the two acts meaning two permissions are often needed for the same purpose<sup>50</sup>. The relevant parts of the two acts will be merged so as to reduce this overlap. Consent under the FEPA is currently devolved to Wales, while the CPA is not. The proposals do not make clear whether the new merged license will be fully devolved to Wales.

The reformed licensing system will cover broadly the same activities as the current system and developers would be required to apply for a license to carry out activities involving;

- ◆ Construction
- ◆ Alteration or improvement of works
- ◆ The deposit or disposal of substances on or under the seabed
- ◆ Removal of objects and material from the seabed – including all forms of dredging, including those currently unregulated.

---

<sup>50</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*, p . 46.  
<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

#### *4.2.1 Improved decision-making*

Regulation should only be in place where there is a justifiable need. Flexible powers would be introduced to exempt small scale, low impact activities from licensing; to grant general permissions for specific classes of activity, with scope to impose conditions or thresholds; to allow phased or programmed licensing of complex or long term projects; and to draw more local regulators into decision-making<sup>51</sup>.

#### *4.2.2 Enforcement*

Enforcement procedures will be revised and made more flexible to allow for the use of administrative sanctions to reduce the need for court action. Depending on the severity of the failure or breach of license conditions, the following measures may be taken:

- ◆ Formal or informal advice or guidance may be given at any stage and may be appropriate where breaches are unintentional;
- ◆ Improvement notices, setting specific requirements to address a failure, may be issued where failures or breaches of license conditions occur that would not cause unacceptable environmental or other harm;
- ◆ Stop or prevention notices could be served that would require immediate action where more serious harm could be caused. These would be emergency measures only and could apply to all categories of activities including unlicensed or exempted activities, and;
- ◆ Provision will remain to tighten or relax licensing conditions and to revoke licenses in exceptional conditions<sup>52</sup>.

Under the FEPA and CPA, some powers exist to require remedial action to repair damage done. The Bill would retain and modernise these powers. Where unacceptable environmental harm has resulted from a breach of regulatory requirements, regulators should either issue a notice requiring remedial action is taken or take action themselves. In accordance with the polluter pays principle, if the licensing authority finds it necessary to carry out remedial work itself, it should be able to recover its full costs from those who caused the damage<sup>53</sup>.

### **4.3 Offshore renewable energy installations**

Under the current system, applications to develop renewable electricity generating stations below the shoreline with a capacity less than 1MW are subject to consent by the Welsh Assembly Government, although the consent for navigational hazard under the CPA is determined by the Marine and Fisheries Agency. Proposed generating stations above 1MW capacity can require a number of licences:

---

<sup>51</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*, p . 51.

<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

<sup>52</sup> *ibid*, p . 52-53.

<sup>53</sup> *ibid*, p . 53.

- ◆ Consent for the construction, extension or operation of the generating station from the Secretary of State for Trade and Industry under section 36 of the *Electricity Act 1989*.
- ◆ A licence from the Welsh Assembly Government under Part 2 of the FEPA. Although the Welsh Assembly Government holds statutory responsibility for control within Welsh waters, the Marine and Fisheries Agency currently administers any applications on its behalf.
- ◆ For laying cables, Consent from the Secretary of State for Transport under the CPA for works below mean high water spring tidal level<sup>54</sup>.

The proposed approach would simplify the application process, requiring just one licence from the MMO in place of the FEPA and CPA licences for generating stations between 1MW and 100MW in capacity. Consent under the *Electricity Act 1989* will remain with the Secretary of State for Business, Enterprise and Regulatory Reform<sup>55</sup>. In Wales, Welsh Ministers will have responsibility for the environmental aspects of the new licence, and would retain powers of consent for generating stations of less than 1MW capacity.

The Planning White Paper, released in May 2007, proposed the establishment of an Independent Planning Commission (IPC) that will determine all offshore renewable energy developments over 100MW generating capacity<sup>56</sup>.

#### **4.4 Licensing of non-devolved functions**

##### *4.4.1 Carbon Capture and Storage*

The UK Government is working to develop an appropriate legal framework for Carbon Capture and Storage (CCS) within the UK offshore area<sup>57</sup>. The White Paper proposals do not specify how CCS would potentially be licensed in Welsh waters.

##### *4.4.2 Oil and gas*

The exploration for and exploitation of oil and gas is currently regulated under the *Petroleum Act 1998*. There are no plans to bring in additional regulation of the industry under the proposed Marine Bill, although the sector will feature in and take account of marine plans. Proposals for new legislation on the storage of natural gas below the sea bed are being developed by the DTI. It is possible that these plans will be included in the final Marine Bill<sup>58</sup>.

#### **4.5 Harbours legislation**

---

<sup>54</sup> The highest level to which spring tides reach on average over a given period of time.

<sup>55</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*, p. 58.

<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

<sup>56</sup> Communities and Local Government, Department for Environment, Food and Rural Affairs, Department for Trade and Industry and Department for Transport, May 2007. *Planning for a Sustainable Future: White Paper*.

<http://www.communities.gov.uk/index.asp?id=1510503>

<sup>57</sup> *ibid*, p. 54.

<sup>58</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*, p. 56.

<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

The Bill aims to provide simplified and consistent harbours legislation that will form a clear basis for the implementation of EU environmental rules. Reform of the CPA will allow clarification of the rules relating to harbours. Specific proposals include the following:

- ◆ Some activities will be exempt from control and others will be modernised by allowing for the disapplication of local statutory powers in some circumstances.
- ◆ Where an order has been granted under the *Harbours Act 1964*, the requirement for licensing under the FEPA will be removed where the order contains sufficient detail for appropriate environmental assessments.
- ◆ Operations authorised under either the reformed licensing system or local navigational controls should not also need consent under the *Land Drainage Act 1991* or Environmental Permitting Programme.
- ◆ The Secretary of State and devolved administrations will be empowered to use secondary legislation to modernise out of date rules in local harbours acts<sup>59</sup>.

The regulation of harbours apart from fishery harbours is a non-devolved matter.

#### **4.6 Other legislation**

Consent under the *Transport and Works Act 1992* (devolved to Wales) enables certain major infrastructure projects, such as bridges, barrages and tunnels, to be permitted without requiring primary legislation. The Act can substitute for other licensing, such as the CPA. The proposals would maintain the ability for an order under the 1992 Act to exclude the effect of reformed marine licensing as long as equivalent consideration of environmental and navigational issues is made.

The provisions of the *Telecommunications Act 1984* (non-devolved) that allow for consent under the Act rather than under general marine rules will be repealed to allow simplification of control of small-scale telecommunications developments. Depending on the potential environmental and navigational impacts, these activities could either be exempt from licensing or be assessed under the reformed licensing regime<sup>60</sup>.

#### **4.7 Potential issues for implementation in Wales**

The proposed benefits arising from the reformed licensing system are closely related to the delivery of a streamlined system, as far as possible through a single organisation. However, licensing functions are only partially devolved in Wales, reducing the potential for streamlining<sup>61</sup>. The proposals do not make clear whether licensing under the merged FEPA (currently devolved) and CPA (currently non-devolved) would be fully devolved to Wales.

<sup>59</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*, p. 59-60.

<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

<sup>60</sup> *ibid*, p. 60-61.

<sup>61</sup> *A Sea Change; A Marine Bill White Paper*. Countryside Council for Wales Response to the Consultation. June 2007.



Table 2 shows the Countryside Council for Wales' (CCW) interpretation of the lead bodies responsible for licensing functions under the Marine Bill and Planning White Paper proposals and illustrates the potential for complexity in Wales. The table assumes that licensing under the merged FEPA and CPA will be fully devolved to Wales.

**Table 2. CCW's interpretation of the lead bodies responsible for marine licensing under the Marine Bill and Planning White Paper proposals.**

<b>Licensing Function</b>	<b>England</b>	<b>Wales</b>
Nationally significant infrastructure	<b>IPC</b>	<b>IPC</b>
Large marine renewable energy developments (>100MW)	<b>IPC</b>	<b>IPC</b>
Small marine renewable energy developments (1-100MW)	<b>MMO</b> (1 licence)	<b>MMO</b> <i>(Electricity Act)</i> <b>WAG</b> (merged FEPA and CPA licence)
Very small scale marine renewable energy developments (<1MW)	<b>MMO</b>	<b>WAG</b>
Oil and gas	<b>DBERR</b>	<b>DBERR</b>
Small scale marine developments requiring licensing under the merged FEPA and CPA	<b>MMO</b>	<b>WAG</b>
Aggregates and dredging	<b>MMO</b>	<b>WAG</b>

IPC – Independent Planning Commission, proposed by the Planning White Paper



## 5 Marine nature conservation

### Aim

To introduce new tools for conservation of marine wildlife that together with existing ones can;

- ◆ Halt the deterioration in the state of the UK's marine biodiversity and promote recovery where practicable;
- ◆ Support healthy functioning and resilient marine ecosystems;
- ◆ Ensure environmental considerations are at the heart of decision-making processes and;
- ◆ Provide mechanisms that can deliver current and future European and international conservation obligations.

The policies for marine nature conservation aim to deliver the vision and strategic goals of the Bill, as well as delivering a number of international commitments. A range of conservation legislation already exists in the UK (see Annex C for key existing legislation relevant in the marine area). These powers are however, unable to deliver the full range of biodiversity objectives<sup>62</sup>. New tools will be introduced to minimise the impact of damaging activities and enable biodiversity improvements.

### 5.1 Existing obligations

The most relevant international and European obligations are;

- ◆ To halt the loss of biodiversity across the EU by 2010;
- ◆ To establish and maintain a network of 'Natura 2000' protected areas and conserve species and habitats of European importance;
- ◆ To establish an ecologically coherent network of well managed Marine Protected Areas (MPA) by 2010, and;
- ◆ To implement an ecosystem approach to management<sup>63</sup>.

### 5.2 Geographic scope

The new measures would apply to the territorial seas of England, Wales and Northern Ireland, UK offshore waters from 12-200 nautical miles, or the medial line between countries and the UK continental shelf, including areas beyond 200 nautical miles. The landward boundary of the new provisions would generally be mean high water springs. The new measures will also apply to activities taking place on land where they have an adverse impact on marine biodiversity<sup>64</sup>.

---

<sup>62</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*, p . 67.

<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

<sup>63</sup> *ibid*, p . 66.

<sup>64</sup> *ibid*, p . 68.

The White Paper proposes that the Welsh Assembly Government will decide how best to implement the new mechanisms in Welsh territorial waters.

### 5.3 *Marine Conservation Zones*

Protected sites play an important role in protecting species and habitats. Under the EU Birds and Habitats Directives<sup>65</sup> the UK Government and devolved administrations can designate areas to protect certain species and habitats that are considered important at European level. Such areas currently cover 70 per cent of Wales' coastline<sup>66</sup> and 30 per cent of the Welsh territorial sea<sup>67</sup>. However, these powers do not provide a means to protect the full range of habitats and species that are considered important in UK waters. Marine Conservation Zones (MCZs) are therefore planned to enable more complete conservation of marine ecosystems and biodiversity by conserving or aiding the recovery of;

- ◆ Rare or threatened habitats and species;
- ◆ Globally or regionally significant areas for geographically restricted habitats or species;
- ◆ Important aggregations or communities of marine species;
- ◆ Areas representing the full range of biodiversity in UK waters;
- ◆ Areas important for key life cycle stages of mobile species (e.g. fish spawning grounds);
- ◆ Areas contributing to the maintenance of marine biodiversity and ecosystem functioning in UK waters and;
- ◆ Features of particular geological interest<sup>68</sup>.

The Marine Bill will repeal the existing Marine Nature Reserve provisions under the *Wildlife and Countryside Act 1981* to avoid duplication with the new legislation. By-laws made under this act may be revoked and replaced with new by-laws made under the new provisions<sup>69</sup>. Skomer Marine Nature Reserve, the only Marine Nature Reserve in Wales, will therefore be designated as a Marine Conservation Zone.

#### 5.3.1 *Designation of sites and site objectives*

Individual sites could be designated as information becomes available or need arises, with potential sites in Wales and accompanying site objectives proposed by the CCW. Welsh Ministers would be responsible for confirming site designations. MCZs may be designated in the absence of any marine plan, but where a plan exists, sites should generally be selected in accordance with it<sup>70</sup>. Socio-economic factors should be considered and stakeholders consulted before a site is designated. Designation would generally be long-term but flexible, with the option to de-designate sites, amend boundaries or alter objectives if this becomes necessary<sup>71</sup>.

<sup>65</sup> <http://ec.europa.eu/environment/nature/home.htm>

<sup>66</sup> Countryside Council for Wales, *Protected Areas*, <http://www.ccw.gov.uk/generalinfo/index.cfm?Subject=ProtectedSites&lang=en>

<sup>67</sup> CCW, June 2006, *Response to the Marine Bill Consultation*, unpublished document.

<sup>68</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*, p . 71-72.

<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

<sup>69</sup> *ibid*, p . 83.

<sup>70</sup> *ibid* p . 75-77.

<sup>71</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*, p . 82.

Site objectives will establish the conservation outcomes required at each site and help to clarify the level of constraints on marine activities needed to achieve them<sup>72</sup>. The ambitiousness of the objectives will vary and may include;

- ◆ Avoiding deterioration of a habitat from its current conservation condition;
- ◆ Maintaining or enhancing current populations of a particular species or;
- ◆ Restoring or enabling the recovery of a habitat to a good condition.

### *5.3.2 Delivery of site objectives*

The Bill proposes a duty on all Ministers, Government departments and other bodies (including local authorities, Sea Fisheries Committees and statutory nature conservation agencies) to undertake their functions in a way that will contribute to the delivery of the objectives of MCZs. This will include a requirement not to permit activities that would prevent site objectives being achieved (except under certain exceptional circumstances) and to take positive measures to control damaging activities where bodies have the power to do so<sup>73</sup>.

In general, damage to the MCZs would be prevented through;

- ◆ The planning and licensing regimes;
- ◆ Fisheries controls introduced by fisheries authorities;
- ◆ Nature conservation by-laws and interim measures and;
- ◆ The creation of a new offence of damage or destruction of any species, habitat or other feature for which a site has been designated.

For some activities in UK waters, such as fishing, legislative competence lies primarily with international or European institutions. Where appropriate, the UK Government will seek action from these bodies to protect sites that are being damaged by activities under their competence.

## **5.4 Other conservation measures**

### *5.4.1 Species protection*

The Bill's objective for marine species is to maintain viable populations of the most important marine species in UK waters. A large number of species are vulnerable to human activities. The latest review of marine, land and freshwater species and habitats lists 1,149 species and 65 habitats as vulnerable to human activities and climate change, up from 577 species and 49 habitats 10 years ago<sup>74</sup>.

---

<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

<sup>72</sup> Ibid p. 75.

<sup>73</sup> Ibid p. 78.

<sup>74</sup> Biodiversity Reporting and Information Group. Report on the Species and Habitat Review. June 2007.

<http://www.ukbap.org.uk/bapgroup.aspx?id=112>

The White Paper states that MCZs alone cannot provide protection to threatened species in all areas at all times. To address this aspect of conservation a number of tools are needed<sup>75</sup>. In addition to MCZs, sectoral tools, such as limiting the extent of activities using licensing or fisheries controls, can play a key role. For example, the proposals aim to improve the use of sectoral controls to improve the sustainability of fishing. However, where fisheries are managed under the Common Fisheries Policy, the UK cannot unilaterally use fisheries measures to protect species and would need to seek agreement of the EU Fisheries Council. Consideration will also be given to making better use of existing tools such as existing conservation offences<sup>76</sup>.

#### 5.4.2 Control of unregulated activities

In order to ensure that all activities that may have a significant impact on MCZs or important marine species are taken into account, unregulated activities that are considered to have an adverse conservation impact have been assessed in terms of the risk they represent, and categorised as high, medium and low concern<sup>77</sup>;

- ◆ High concern – bait digging/collection, motorised water-based recreation, unlicensed commercial fishing;
- ◆ Medium concern – unlicensed dredging, wildlife watching/ecotourism, non-motorised water-based recreation, sea angling, land-based recreation;
- ◆ Low concern – diving, military activities, hovercraft, education and research, low-flying aircraft.

The White Paper proposes that the new MMO or an equivalent authority in Wales will have by-law making powers to control these activities where they have significant detrimental effect on conservation measures. In the absence of an MMO in Wales, it is probable that responsibility for the control of unregulated activities will fall to the Welsh Assembly Government, and that this will be done using Statutory Instruments rather than by-laws.

## 5.5 Enforcement

A range of bodies currently have enforcement responsibilities in UK waters. To simplify and strengthen enforcement arrangements, the MMO would be given responsibility for the enforcement of conservation legislation in the English territorial sea and UK offshore waters. Where appropriate, bodies such as the Sea Fisheries Committees, the Maritime and Coastguard Agency, the Environment Agency and Ports and Harbour Authorities may take on enforcement roles in inshore waters<sup>78</sup>. In the absence of an MMO in Wales, the UK Government and Welsh Assembly Government are considering arrangements for delivering the proposals in Welsh territorial waters<sup>79</sup>.

<sup>75</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*, p . 85.

<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

<sup>76</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*, p . 87.

<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

<sup>77</sup> Boyes S, Burdon D and Elliot M, University of Hull, November 2006. *Unlicensed Activities: A review to consider the threats to marine biodiversity*,

<http://www.defra.gov.uk/wildlife-countryside/resprog/findings/mb-threats/cr0354.pdf>

<sup>78</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*, p . 93-95.

<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

Enforcement officers would have powers similar to British Sea Fisheries Officers, including powers to stop and search individuals and vessels, seize and detain vessels or items for evidence, board, enter and inspect vessels, make enquiries, take specimens or samples and require documents and take photographs. In addition, enforcement officers will have powers to issue and recover penalties and to delegate specific functions to other bodies<sup>80</sup>. Where a conservation offence has been committed, sanctions may include fixed penalties, fines, confiscation of assets and custodial sentences<sup>81</sup>.

## **5.6 Potential implementation in Wales**

As nature conservation is a devolved function, it is the responsibility of the Welsh Assembly Government to decide how best to implement the above proposals in Wales<sup>82</sup>. It is not clear at this stage exactly how and to what extent the proposals will translate into a framework for marine nature conservation in Wales.

The CCW's priorities for marine nature conservation in Wales are:

- ◆ To ensure that existing protected sites are properly managed;
- ◆ That the new system of marine spatial planning allows for suitable management of the marine environment, and;
- ◆ That mechanisms are in place for securing the establishment of highly protected marine reserves<sup>83</sup>.

---

<sup>79</sup> *ibid*, p. 67

<sup>80</sup> *ibid*, p. 95-96

<sup>81</sup> *ibid*, p. 96

<sup>82</sup> *ibid*, p. 67

<sup>83</sup> A Sea Change; A Marine Bill White Paper. Countryside Council for Wales Response to the Consultation. June 2007.

## 6 Marine fisheries management

### Aim

**To strengthen fisheries and environmental management arrangements so that more effective action can be taken to conserve marine ecosystems and help achieve a sustainable and profitable fisheries sector.**

The White Paper sets out proposals to modernise inshore fisheries management, including recreational and unregulated fishing activities, and to update and strengthen enforcement powers, including powers to combat illegal, unreported and unregulated (IUU) fishing.

### 6.1 *Inshore and Territorial Waters*

#### 6.1.1 *Modernisation of Sea Fisheries Committees*

The Bill will enable the modernisation of inshore fisheries management in England by reforming the Sea Fisheries Committees (SFCs). Plans include modernisation of by-law making and enforcement powers, addressing problems with funding and introducing requirements for Regulatory Impact Assessments<sup>84</sup>. There are currently two SFCs with responsibilities in Wales: the South Wales SFC and the North Western and North Wales SFC. The Welsh Assembly Government announced in September 2006 that it is to consult on plans to assume full responsibility for inshore fisheries management in Wales. The implementation of reform in Wales will therefore depend on the outcome of this consultation.

#### 6.1.2 *Recreational sea angling and unregulated fishing*

A study prepared for the National Assembly for Wales in 2000 estimated that recreational sea angling contributed £28.7 million of combined direct and indirect turnover to the Welsh economy and that around 12,000 locally resident and over 28,000 visiting anglers were involved in the sport<sup>85</sup>. The proposals aim to develop a strategy and framework for recreational sea angling and establish a chargeable license scheme to provide funds for improved services and benefits for sea anglers. The rate of any charge in Wales would be approved by Welsh Ministers.

In addition, relevant sections of the *Sea Fish (Conservation) Act 1967* will be extended to apply to recreational sea anglers and unregulated fishermen (those not covered by the commercial fishing vessel licensing scheme), including the power to place limits on the number of fish retained. The measures would apply to all nationalities throughout the extent of the British fisheries limits<sup>86</sup>.

<sup>84</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*, p .101.

<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

<sup>85</sup> Nautilus Consultants Ltd, 2000. Study into Inland and Sea Fisheries in Wales.

<http://www.nautilus-consultants.co.uk/pdfs/wales.pdf>

<sup>86</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*, p .118.

<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

### 6.1.3 Shellfisheries management

Established by the *Sea Fisheries (Shellfish) Act 1967*, Several Orders ?? may be granted to facilitate the establishment and improvement of shellfisheries for private commercial exploitation, while Regulating Orders may be granted to preserve and improve existing (wild) shellfisheries that may be at risk from overexploitation.

The proposals set out measures to strengthen the enforcement of these orders by SFCs in England and to simplify the application process and clarify legislation relating to tolls, royalties and offences in England and Wales<sup>87</sup>.

## 6.2 Enforcement and control of commercial fishing

The proposals set out a number of measures to improve compliance with fisheries legislation, particularly the Common Fisheries Policy (CFP), which will apply across England, Wales and Northern Ireland. Implementation of this policy in Welsh waters is the responsibility of the Welsh Assembly Government. The MFA currently enforces fisheries legislation on behalf of both the Welsh Assembly Government and Defra.

### 6.2.1 Control of UK nationals

Current legislation provides for the enforcement of CFP rules against the owners, masters and charterers of UK boats anywhere in the world and non-UK boats in UK waters. In order to meet EC requirements aiming to combat IUU fishing, these powers will be amended to allow the majority of CFP rules to apply to UK nationals who are the owners, masters or charterers of non-UK boats outside EC waters<sup>88</sup>.

### 6.2.2 Administrative penalties

A system of administrative penalties for fisheries offences will be introduced as an extra tool for regulators. Criminal penalties are currently the only sanctions for fisheries offences. In future, these would be reserved for persistent or extreme breaches of fisheries regulations. To allow effective enforcement, the consistency and coherence of the existing powers of British Sea Fisheries Officers will be improved<sup>89</sup>.

### 6.2.3 Administration costs

Previous reports have suggested introducing a system for recovering the costs of fisheries management and enforcement from the industry<sup>90</sup>. The proposals do not advocate large-scale cost recovery as this may impact the competitiveness of the UK fleet. However, limited cost recovery,

<sup>87</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*, p. 110-114.  
<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

<sup>88</sup> *ibid*, p.119.

<sup>89</sup> *ibid*, p.120-121.

<sup>90</sup> Prime Minister's Strategy Unit, March 2004. *Net Benefits: A sustainable and profitable future for UK fishing*.  
[http://www.cabinetoffice.gov.uk/strategy/work\\_areas/fisheries/index.asp](http://www.cabinetoffice.gov.uk/strategy/work_areas/fisheries/index.asp)

targeted to help meet wider social or environmental goals, may be introduced. This could be delivered through existing powers to charge for fishing vessel licensing and would require agreement from devolved administrations to maintain the current unification across the UK<sup>91</sup>.

### **6.3 *Out-of-date and redundant legislation***

A number of out-of-date or redundant fisheries acts, dating back to 1771, will be reviewed and where appropriate, repealed. Acts that will be reviewed include:

- ◆ The White Herring Fisheries Act 1771;
- ◆ The Sea Fisheries Act 1868;
- ◆ The Seal Fishery Act 1875;
- ◆ The North Sea Fisheries Act 1893;
- ◆ The Behring Sea Award Act 1894;
- ◆ The Seal Fishery (North Pacific) Act 1895;
- ◆ The Seal Fisheries (North Pacific) Act 1912;
- ◆ The Sea Fish Industry Act 1951 and;
- ◆ The Sea Fish Industry Act 1962<sup>92</sup>.

### **6.4 *Development of fisheries policy in Wales***

Important developments are currently underway in Wales that will significantly influence the way the proposals for the reform of fisheries management will be delivered in Wales. An all Wales fisheries strategy is currently being developed and an upcoming consultation will determine whether inshore fisheries management remains with the SFCs or becomes the responsibility of the Welsh Assembly Government.

---

<sup>91</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*, p. 122.

<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

<sup>92</sup> *ibid* p. 122-123.



## 7 A Marine Management Organisation

### Aim

**To set up a Marine Management Organisation to deliver many of the objectives for the marine area. A new organisation would be a centre of marine expertise, provide a consistent and unified approach, deliver improved coordination of information and data and reduce administrative burdens.**

The new MMO would incorporate the Marine and Fisheries Agency (MFA, a merger of the former Marine Fisheries Agency and Marine Consents and Environment Unit) and Sea Fisheries Inspectorate (SFI). In England and Northern Ireland, the MMO would be an executive, non-departmental public body, forming an integral part of Defra<sup>93</sup>. The MMO would deliver non-devolved functions and functions in relation to England, the English territorial sea and the UK offshore area, as well as devolved functions in relation to Northern Ireland (which intends to establish a regional branch of the MMO)<sup>94</sup>. The MMO would not be responsible for devolved functions in Wales and Scotland and their respective territorial waters.

### 7.1 *MMO functions*

The proposed functions of the MMO and the geographical scope of each of these functions are shown in Table 2. The only functions directly relating to Wales are the licensing of offshore renewable energy installations between 1 and 100MW generating capacity (see Section 4.3) and, where not devolved, the administration of orders under harbours acts. In addition, licensing under the CPA is not currently devolved, although it may become so through the proposed licensing reform (see Section 4.2).

### 7.2 *Possible arrangements in Wales*

Within Welsh territorial waters, Welsh Ministers will be responsible for preparing marine plans, establishing Marine Conservation Zones and delivering and enforcing other nature conservation measures. Responsibility for devolved licensing functions and fisheries management will be retained<sup>95</sup>.

Defra and the MFA currently undertake some activities on behalf of the Welsh Ministers. The Ministers may in future ask the MMO to deliver these or other activities<sup>96</sup>. See also Section 3.2.5 above about the potential role of the MMO in Marine Spatial Planning in Wales.

<sup>93</sup> Wales Coastal and Maritime Partnership, May 2007. WCPM Marine Bill White Paper Summary.

<sup>94</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*, p. 126.

<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

<sup>95</sup> *ibid.*

<sup>96</sup> *ibid.*, p.127.

Table 2. Proposed functions of the MMO<sup>97</sup>

	<b>MMO Functions</b>	<b>Geographical Scope</b>
<b>Marine Planning</b>	Prepare and deliver marine plans	Where the UK Government or Northern Ireland are either solely or jointly responsible with others for the preparation of marine plans
<b>Marine Licensing</b>	Licensing construction, deposit/removal from the sea bed, dredging, oil dispersants and CCS Licensing of renewable energy installations Administer regulation of orders under the harbours acts	Territorial and internal waters of England and Northern Ireland and UK offshore waters Territorial and internal waters of England, Wales and Northern Ireland and UK offshore waters England and English territorial waters and, where not devolved, in Wales
<b>Fisheries Management</b>	Fisheries functions delivered by the MFA Fisheries functions delivered by the SFI	Territorial and internal waters of England and UK offshore waters The territorial sea of Northern Ireland and the Northern Ireland zone
<b>Nature Conservation</b>	Provide advice on socio-economic issues relating to site selection of MCZs Where no other controls exist, develop by-laws to prevent unregulated activities damaging the marine environment	Territorial and internal waters of England and Northern Ireland and UK offshore waters Territorial and internal waters of England and Northern Ireland and UK offshore waters
<b>Monitoring and Enforcement</b>	Functions carried out by MFA and SFI Monitoring and enforcement of marine nature conservation legislation	England and English territorial waters and Northern Ireland Territorial and internal waters of England and Northern Ireland and UK offshore waters
<b>Data</b>	Implement a system for managing data, information and knowledge	

<sup>97</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*, p. 128.  
<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>

## A Issues that may feature in marine plans<sup>98</sup>

### Human activities and associated infrastructure:

Aquaculture  
Artificial reefs  
Bio-processing  
Carbon capture and storage  
Coastal land use  
Desalination  
Diffuse and point source contamination and discharges from marine, land and riverine inputs  
Diving – recreational and otherwise  
Dredging – different techniques and for different purposes  
Drilling  
Dumping (e.g. disposal of dredged materials), sewerage and waste disposal (and associated infrastructure)  
Excavation and recovery of wrecks  
Fisheries  
Flood and coastal erosion risk management  
Marine historic assets, such as wrecks  
Military and defence activities, including aviation  
Mineral extraction  
Offshore housing, factories, airports and hubs for trans-shipping  
Oil and gas exploration, storage and production, including associated pipelines and cables  
Ports and navigation  
Recreational activities – including fisheries, boating, bathing, watersports and swimming  
Renewable energy (and associated interconnectors)  
Salvage operations (e.g. following an emergency or for dismantling structures)  
Sailing and use of hovercraft  
Submarine cables  
Tidal barrages  
Tourism  
Undersea mining

---

<sup>98</sup> Defra, March 2007. *A Sea Change; A Marine Bill White Paper*, p. 29.  
<http://www.defra.gov.uk/corporate/consult/marinebill-whitepaper07/index.htm>



**Natural resources, features and processes**

Biodiversity – including genetic, species, community and habitat diversity

Climate change – adapting to and mitigating impact

'Circulation systems' and food chains

Geological / geomorphological features

Ecological and physio-chemical processes

Designated sites for ecological or heritage purposes

Habitats, breeding grounds, nurseries and migration routes

Marine Conservation Zones

Meteorological changes – wind, wave and tide

Nationally important and/or protected species

Sea surface, water column, sea bed and beneath the sea bed

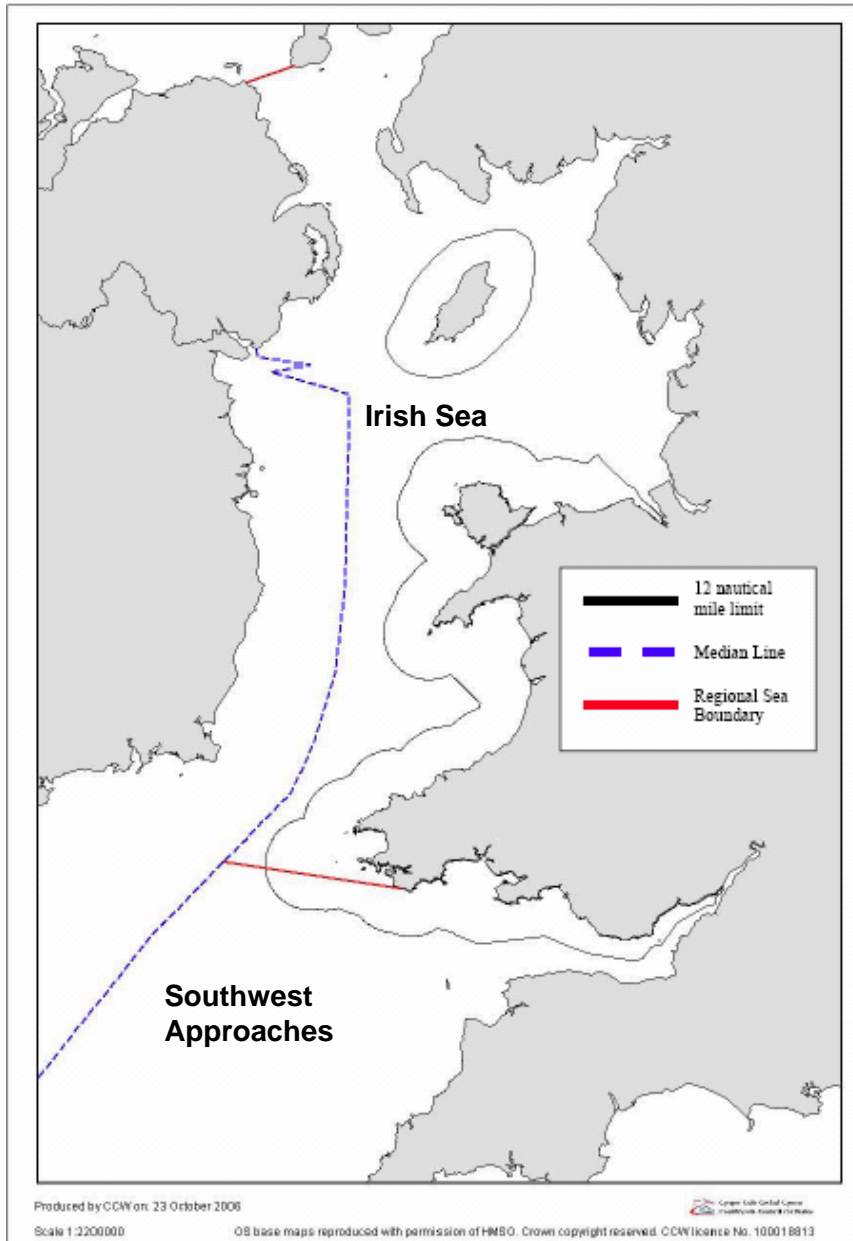
Seascapes

Sites of archaeological importance



## B Regional Seas

Map showing the two regional seas of which the territorial waters of Wales form a part<sup>99</sup>.



<sup>99</sup> Countryside Council for Wales, 2006.

## C Marine Nature Conservation Legislation

Key nature conservation legislation applying in the marine area<sup>100</sup>.

Legislation	Purpose
Habitats Regulations 1994	Duty under the EU Habitats and Birds Directives to designate a suit of Special Areas of Conservation and Special Protection Areas for listed species and habitats up to 12nm.
Offshore Habitat Regulations	Extend powers under the Habitats and Birds Directives beyond territorial waters
<i>Wildlife and Countryside Act 1981</i> (as amended)	Power to designate Sites of Special Scientific Interest. Essentially designed to protect features on land, but extending low-water mark. Power to designate Marine Nature Reserves between the high water mark and 12nm. Contains a range of measures for the protection of species
<i>National Parks and Access to the Countryside Act 1949</i> (strengthened by WCA 1981 and significantly amended by the <i>Environment Act 1995</i> )	Power to establish Marine National Parks. Power to establish and manage National Nature Reserves and Local Nature Reserves in intertidal areas, above the low-water mark.
<i>Countryside and Rights of Way Act 2000</i>	General duty on public bodies to have regard to the purpose of conserving biological diversity in accordance with the Convention on Biological Diversity.
Water Framework Directive	Requirement to achieve good ecological status in transitional (estuaries) and coastal waters.

<sup>100</sup> Institute of Estuarine and Coastal Studies, University of Hull, 2003. Summary of Current Legislation Relevant to Nature Conservation in the Marine Environment in the UK. Report to the JNCC.