

Planning for a Sustainable Future – White Paper - BWEA Response

BWEA present this document in response to Community and Local Government's consultation on the Planning White Paper

Onshore wind and offshore renewables (Wind, wave and tidal stream) have very different planning concerns. It is for this reason that we have made our response in two sections, one from an onshore perspective and the other focusing on offshore.

Given that the vast majority of large onshore wind farm sites have been identified, the onshore wind industry is more concerned with securing prompt and consistent decision-making in response to current applications. 8,250MW of onshore wind capacity, equating to 6% of the UK's electricity supplies, is already in the planning system and currently awaiting determination. Just one quarter of this needs to be determined within the next few months to enable the Government's 2010 target to be met. Nearly 4.7GW of this capacity in the planning system is made up of just 43 projects which are more than 50MW in capacity, that are being assessed under S36 of the Electricity Act. This alone equates to well over 3% of UK electricity supply.

BWEA believe that the national significance of renewable energy projects should ensure that planning decisions on wind energy projects below 50MW are consistent with those for larger schemes, and that the threshold figure of 50MW be reduced.

Given that the *raison d'être* for the treatment of nationally significant proposals by the Infrastructure Planning Commission (IPC) is that the implications of their success or failure are of more than local significance, BWEA want the National Planning Statement (NPS) on Renewable Energy to be given legislative weighting under both the IPC and the Town and Country Planning Act (TCPA).

The primary concern of the offshore section is that the IPC is resourced and skilled appropriately to allow it to consent projects. Offshore renewables need to be considered as a strategic energy resource, as a way of meeting renewable targets and as a feature within the marine environment. These categories require an understanding of a wide range of factors and skills will be required to consider these. There is also a requirement that the skills and expertise currently developed within the consenting process are not lost in the transition to a new regime. Detailed consideration now of how this transition will be made, where the skills will be held and how the resulting resource components will fit together will ultimately prevent the progress that has been made from faltering.

The scale of offshore development could potentially lead to a large number of projects being put to the IPC. Each of which will require many specialist aspects to be considered. Unlike an airport extension or a nuclear power station, there could be as many as ten applications made in a year. BWEA hopes that the IPC will be resourced to provide this and not delay progress to meeting renewables targets.

Further concerns that particularly relate to considerations for onshore wind and offshore renewables are highlighted below.

BWEA Onshore Wind Response

The gap to 2010

BWEA request that the Planning White Paper clearly sets out, within a legal framework, how a devolved planning system can deliver UK-wide targets for renewables.

The proposals in the Planning White Paper are designed to speed up the planning system for major infrastructure projects of national importance, while announcing greater priority be put on energy security and climate change. Onshore wind is the leading renewable energy technology and the only technology able to deliver on a large scale right now.

However, the current White Paper proposals will not be adopted before 2009/10, and will therefore fail to benefit onshore wind developments on two counts:

- To address the backlog of current wind energy projects awaiting final determination within both the local planning system and Section 36 of the Electricity Act.
- To address current barriers to achieving the UK's 10% renewable energy target for 2010, given that onshore wind is key to meeting this target.

Earlier this year, heads of Government within the EU agreed a binding target of 20% of Europe's energy use to come from renewable sources by 2020. This target sets a high level of ambition for all countries within the EU. The UK is by no means certain to reach its current more modest targets of 10% of electricity supply from renewable energy by 2010 and the Government aspiration of 20% by 2020.

BWEA believe that the national significance of renewable energy projects should ensure that planning decisions on wind energy projects below 50MW are consistent with those for larger schemes, and that the threshold figure of 50MW be reduced.

BWEA request that the NPS on Renewable Energy be given legislative weighting under both the IPC and the TCPA in 2008, or at the earliest possible date.

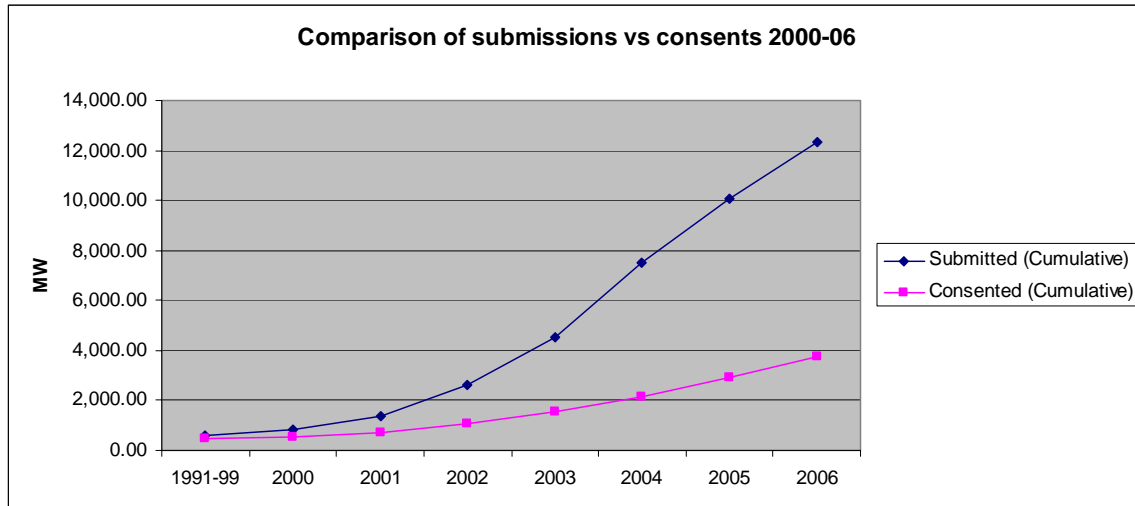
Blockages in the planning system

As the government's proposals stand, the majority of onshore wind energy schemes will fall outside of the new system, being smaller than the proposed 50MW threshold. As such, these renewable energy developments will continue to accumulate in the local authority planning system.

In England, there are currently 50 local planning applications for onshore wind farms which amount to around 0.5% of the UK's electricity supply, and we can expect a similar amount to be submitted into the planning system in the next 3 years.

With only ~5% of onshore wind applications determined within the statutory 16 week period in 2006, compared to the national average for major infrastructure applications of ~70%, the current planning system unfairly discriminates against onshore wind projects. These government proposals currently fall short of

addressing the shortcomings in the planning system's delivery of this valuable carbon free resource.



Taken from BWEA's UKWED data

BWEA therefore consider new and improved policy to be worthless if it is not implemented through decision making. An urgent culture shift is required to ensure that not only do we have robust policy mechanism in place, but that decision makers are aware of its existence and are encouraged to implement it. At present, this process is simply not happening, as the Statement of National Need for Renewable Energy sits at the back of the Energy Review gathering dust.

BWEA urge Government to write to all UK Local Planning Authorities, in order to emphasise the fact that existing national policy should be used in assessing decisions while the PWP goes through parliament and that this consultation is no reason to delay decisions in the meantime.

General comments

BWEA have concerns about a number of issues arising from the Planning and Energy White Papers:

- How is the Government proposing to monitor and accelerate the speed of decision making at the local level in England?
- How will the Government address major infrastructure development in Scotland? This is of primary concern, due to the fact that many of the UK's large scale onshore wind projects are currently sitting with the Scottish Executive
- How will the Government ensure that there is consistency between the IPC and the Planning Inspectorate, both in England and Wales, especially on the weight given to the national need for renewable energy?
- How will the Government ensure that Environmental Impact Assessment regulations are applied consistently between the IPC and TCPA regimes?
- How will the government ensure diligent monitoring and enforcement in the delivery of its own policy on the ground, both through the IPC and the TCPA?

Responses to consultation questions are below. (NB if there is no answer to a consultation question this is because BWEA have no response)

Question 1

Do you agree that there is a strong case for reforming the current system for planning for nationally significant infrastructure?

Do you agree, in principle that the overall package of reforms proposed here, achieve the objectives that we have set out?

If not, what changes to the proposed reforms or alternative reforms would you propose to better achieve these objectives?

BWEA welcome the introduction of a simplified consents procedure for key national infrastructure, including large scale renewable energy projects, and considers that this will assist the development of large scale renewables in the long term.

BWEA agree that there is a strong case for reform of the current consenting regimes for nationally significant infrastructure projects, and welcome many of the proposals in the White Paper.

However BWEA would propose some additional interventions in order that the changes are truly effective for renewable energy:

As stated above, BWEA are seriously concerned over the slow progress of onshore wind energy schemes through the planning system and the fact that most of these, being through the TCPA and therefore below the 50MW threshold, would not benefit from these changes.

BWEA urge the government to consider lowering the threshold for the IPC determination of renewable energy projects, recognizing the national importance of the renewables targets in their entirety and the contribution that a large number of smaller projects make.

BWEA want the government to introduce new primary legislation in order to give both the National Policy Statements and the Statement of National Need for Renewable Energy legislative weighting.

In line with the above recommendation, BWEA would request that strong efforts are made to translate NPSs into a form which will be determinative of applications in Scotland so that a consistent approach is taken across the whole of the United Kingdom. Currently, 5.7GW onshore wind power is held up within the Scottish planning system, consisting of 103 separate applications.

BWEA will continue to work with the Planning Inspectorate (PINS) and ministers to expedite the appeal process for renewables proposals throughout the UK.

Question 2

Do you agree, in principle, with the introduction of national policy statements for key infrastructure sectors in order to help clarify government policy, provide a clearer strategic framework for sustainable development, and remove a source of delay from inquiries?

If not, do you have any alternative suggestions for helping to achieve these objectives?

BWEA wish to emphasise the importance of the TCPA in the current and proposed regimes and ask that the NPSs have as great a weight in TCPA consideration as possible. In particular we suggest:

- they should form part of the statutory development plan;
- Their relationship with other elements of the development plan (i.e. Regional Spatial Strategy (RSS) and Local Development Framework (LDF)) should be the same as that between RSSs and LDFs.

BWEA consider that there should not be a plethora of NPSs, but that there should be a single National Planning Framework along similar lines to that recommended by the Connecting England report of the Town and Country Planning Association appointed Hetherington Commission. BWEA is concerned that separate NPSs could result in conflicting priorities due to the preparation of separate statements by separate teams / departments within Government. This Framework should form part of the development plan.

BWEA stress that any additional national planning policy is of little value without being monitored and enforced, as has proven to be the case with PPS22 and the Statement of National Need.

Question 3

Do you agree that national policy statement should cover the core issues set out above?

Are there any other criteria that should be included?

BWEA largely considers the core elements as set out within the document to be adequate and appropriate. However, there should be no locationally specific policy for renewable energy development; this type of development is constrained to where the resources are, and should be determined against criteria based policies alone.

Question 4

Do you agree, in principle, that national policy statements should be the primary consideration for the infrastructure planning commission in determining individual applications?

If not, what alternative status would you propose?

BWEA supports the principle that NPSs should be the primary consideration for the IPC. However, most onshore wind energy development is below the threshold for consideration by the IPC as proposed. BWEA therefore wish to reiterate the importance of the NPSs forming part of the development plan for TCPA.

Question 5

Do you agree, in principle, that these proposals would ensure effective public engagement in the production of national policy statements, including with local communities that might be affected?

Are there any additional measures that would improve public and community engagement in their production?

BWEA supports the measures proposed in the White Paper for consultation. However, for public engagement to be effective, it has to be completed to a realistic, determined, timetable – otherwise NPSs will take a long time to put in place. Also, effective public engagement must not mean watering down the content so that the NPS becomes a meaningless document.

Question 6

Do you agree, in principle, with the intention to have Parliamentary scrutiny for proposed national policy statements?

What mechanisms might ensure appropriate Parliamentary scrutiny?

In the light of the proposed powers of the IPC, it is important that proposed NPSs should be the subject of Parliamentary scrutiny. This is best achieved by consideration of draft Statements by a Select Committee of the Houses of Parliament. BWEA would also ask whether Regional consultations should also be considered.

Question 7

Do you agree, in principle, that 10-25 years is the right forward horizon for national policy statements?

If not, what timeframe do you consider to be appropriate?

BWEA would prefer to see a 10 year horizon.

Question 8

Do you agree that five years is an appropriate period for the Government to consider whether national policy statements remain up to date or require review?

What sort of evidence or circumstances do you think might otherwise justify and trigger a review of national policy statements?

BWEA would prefer a 10 year horizon with a 5 year review.

Question 9

Do you agree, in principle, that this opportunity for legal challenge would provide sufficient and robust safeguards to ensure that a national policy statements is sound and that people have confidence in it?

If not, what alternative would you propose?

There should be a formal legal challenge period but this may cause delay if there are a large number of unsubstantiated challenges. BWEA would, however, question if this is required in addition to parliamentary scrutiny.

Question 10

Do you agree, in principle, that subject to meeting the core elements and standards for national policy statements set out in this White Paper, policy statements in existence on commencement of the new regime should be capable of acquiring the status of national policy statements for the purposes of decision making by the commission?

If not, what alternative arrangements do you propose?

BWEA agrees in principle.

Question 11

Do you agree, in principle that promoters should have to prepare applications to a defined standard before the infrastructure planning commission agrees to consider them?

BWEA agrees in principle.

Question 12

Do you agree, in principle, that promoters should be required to consult the public before submitting an application to the infrastructure planning commission?

Do you think this consultation should take a particular form?

BWEA agree that early engagement can be beneficial to all concerned and should be encouraged. Guidance on the expected extent of public consultation should be issued by the IPC. The methods employed should be left to the individual applicant, who should prepare a report on their consultations to accompany the application

Experience suggests that decision makers often request additional information that is of no or limited relevance to the decision making process. BWEA believes that there should be an obligation on statutory consultees to produce reasoned arguments for requiring additional information, and for any judgements of significant adverse effects that they allege, in order that these matters can be fully explored by applicants without the need for unnecessary work.

Question 13

Do you agree, in principle, that relevant local authorities should have special status in any consultation?

Do you think the local authority role should take a particular form?

As Local Authorities are representative of the public and have specific roles as Local Planning Authority (LPA), Highway Authority and responsibilities such as environmental health, there should be engagement with Officers of Local Authorities at the earliest opportunity.

However, the raison d'être for the treatment of nationally significant proposals by the IPC is that the implications of their success or failure are of more than local significance. BWEA consider therefore that Local Authorities' comments should be treated in the same way as any other consultee.

Question 14

Do you agree, in principle, that this list of statutory consultees is appropriate at the project development stage?

Are there any bodies not included who should be?

BWEA recommend that the Ministry of Defence and NATS should be added to the list.

Question 15

Do you agree in principle that the Government should set out, in legislation, an upper limit on the time that statutory consultees have to respond to a promoter's consultation?

If so, what time limit would be appropriate?

BWEA suggest that the time limit for giving a substantive response, including relevant supporting analysis and argument, should be four weeks. Consideration should be given to the imposition of sanctions against consultees who fail to respond within the time limit.

There also needs to be a more over-arching requirement on statutory and other professional consultees to engage constructively and in a timely fashion both at the pre-application stage and during post-application consultation stages.

Question 16

Do you agree in principle that the commission should issue guidance for developers on the application process, preparing applications, and consultation?

Are there any other issues on which it might be appropriate for the commission to issue guidance?

BWEA considers that the IPC should issue guidance on good practice in relation to consultation, which developers would be expected to follow. This guidance should also explain the role and responsibilities of Local Authorities and statutory consultees in the process.

BWEA consider there to already be adequate guidance on EIAs and no further guidance is required.

Question 17

Do you agree in principle that the commission should advise promoters and other parties on whether the proposed project falls within its remit to determine, the application process, procedural requirements, and consultation?

Are there any other advisory roles which the commission could perform?

The consents process for infrastructure schemes should properly be defined in legislation. Whilst the IPC may have some role in advising promoters whether an application falls within its remit, those matters should essentially depend on an interpretation of the legislation.

BWEA considers that it would be beneficial for the IPC to advise on the information to be provided to support an application for consent. In particular, the IPC should be empowered to provide screening and scoping opinions under the EIA Regulations.

In order to undertake this role, the Commission secretariat will require an understanding of the consents process, the materiality of information to the decision making process, and the requirement of the EIA Regulations. BWEA believes that the secretariat must be properly resourced to enable the revised consents process to operate effectively and efficiently.

Question 18

What rules do you consider would be appropriate to ensure the propriety of the commission's interactions with promoters and other parties?

Public confidence in the IPC must be maintained. BWEA agree that the IPC's advisory role must not prejudice its independence and impartiality. The advisory role should therefore be delegated to the secretariat. There are well established models for this approach in both Central and Local Government. Commissioners should be subject to a code of conduct, which would include the avoidance of direct contact with promoters during the formal application process.

Question 19

Do you agree, in principle, that the commission should have the powers described above?

Are there any other issues the commission should address before or at the point of application?

Publicity will need to be provided when an application is submitted to the IPC and notice given to any persons with an interest in the land. A pre-registration process is appropriate to ensure that applications comply with any guidance prepared by the IPC. However, BWEA would be concerned regarding possible abuse of this process by the IPC where delay in registration could be used to "improve" the performance against targets. BWEA is aware that Local Planning Authorities can delay registration of applications for that purpose.

Question 20

Do you agree, in principle, that these thresholds are appropriate?

If not, what alternative thresholds would you propose?

BWEA considers that for renewable energy projects the threshold for onshore electricity projects should be significantly reduced. Projects can only be built where and to the size dictated by the available resource and are generally constrained to be much smaller than the proposed 50MW threshold.

The threshold of the development consent applications to be considered by the IPC must be defined in legislation and not left for definition in NPSs.

Question 23

Do you agree, in principle, that it is appropriate for ministers to specify projects for consideration by the commission via national policy statements or ministerial directions to the commission?

If not, how would you propose changing technology or sectoral circumstances should be accommodated?

BWEA agree, in principle, that it is appropriate for ministers to specify projects for consideration by the commission via national policy statements or ministerial directions to the commission. However, it remains unclear as to how this power would be exercised. Greater detail is therefore required on this.

BWEA has serious concerns regarding the level of funding to be available to the IPC, and the human resourcing requirements that such an organization would require. BWEA consider it likely that the IPC workload will be higher than that anticipated in paragraph 5.57 of the PWP, and fear that the transitional impact on all aspects of the planning system could result in further delays and staffing shortages within the sector.

The issue of cumulative effects is important. BWEA consider this issue to be largely resolvable, were government to place greater emphasis on determining applications in a timely and consistent manner. This is necessary in order to ensure that proposals don't 'back up' in the planning system, and that the industry grows through a steady flow of consents.

Question 24

Do you agree, in principle, that the commission should be authorised to grant consents, confer powers including powers to compulsorily purchase

land and amend legislation necessary to implement nationally significant infrastructure projects?

Are there any authorisations listed that it would be appropriate to deal with separately, and if so which body should approve them, or that are not included and should be?

The different consent regimes are confusing for promoters, decision makers and the public. BWEA therefore considers that there is merit in rationalising the consents regimes wherever possible and would support a unified single consents regime.

Consistent with this approach, the IPC should have powers to grant the necessary authorities to enable the infrastructure works to proceed to the extent that it has the skills to make such determinations. In that regard, BWEA agrees that the IPC should have power to grant planning permission; stop up and divert highways; authorise associated works; and authorise the compulsory acquisition of rights over land.

Question 25

Do you agree, in principle, that the proposed arrangements for the commission to deal with cases is an appropriate way to ensure that consideration is proportionate and that an appropriate range of specialist expertise is brought to bear on the final decision?

If not, what changes or alternative mode of operation would you propose?

BWEA accepts that it may be appropriate for a small panel of members to be appointed to consider individual applications. The panel should properly have experience of the type of proposal, which requires determination and relevant expertise within the panel or access to such expertise. A single Commissioner could be appointed in appropriate cases.

Question 26

Do you agree in principle that the list of statutory consultees set out above is appropriate at the determination stage?

Are there any bodies not included who should be?

BWEA suggests that the Ministry of Defence should be added to the consultee list. However, not all consultees will need to be involved in all applications.

Question 27

Do you agree in principle that the procedural reforms set out above would improve the speed, efficiency and predictability of the consideration of applications, while maintaining the quality of consideration and improving the opportunities for effective public participation?

If not, what changes or other procedural reforms might help to achieve these objectives?

The consents process will benefit from a structured approach to the gathering of evidence. Preliminary meetings between parties are likely to narrow the issues for consideration during the determination stage. Whilst BWEA supports the use of written evidence, where appropriate, it is important that the determining body fully understands the issues. That is often best achieved by oral evidence. In addition, oral evidence can be more efficient than a constant round of submissions and rebuttals.

BWEA has no objection to a move towards a more inquisitorial approach. However, think that there would be a real risk of missing evidence if cross examination were to be removed entirely. The proper use of cross-examination by opposing Counsel can assist the decision maker and this should not be prevented unnecessarily. Promoters and objectors should retain the right to challenge the evidence of other parties in appropriate circumstances.

It is noted that the examination determination process would be subject to a statutory time limit of 9 months, although paragraph 2.15 of the White Paper envisages that the average time for determination will be 1 year. Whilst BWEA supports shorter timescales, it is not clear how such a statutory time limit will operate and what sanction will apply if it is breached. Any time limits or targets must be realistic if the credibility of the process is to be maintained.

Question 28

What measures do you think would better enable hard to reach groups to make their views heard in the process for nationally significant infrastructure projects?

How might local authorities and other bodies, such as Planning Aid, be expected to assist in engaging local communities in the process?

BWEA welcomes the proposed additional funding for Planning Aid as a positive measure to assist in reaching hard to reach groups.

BWEA think that there should also be greater emphasis on the engagement of communities at the plan preparation (whether that be NPS, RSS or LDF) as well as pre-application consultation rather than at determination stage.

BWEA would look to the IPC and all consultees to ensure that material provided by the developer reach their target audiences

Aside from placing a duty on organisations to involve hard to reach groups (as discussed in relation to Q34) BWEA consider that the IPC should not prescribe the manner in which it is done – the best way of doing this would involve tailoring consultation to local circumstances and agreed locally.

Question 29

Do you agree that the commission should decide applications in line with the framework set out above?

If not, what changes should be made or what alternative considerations should it use?

BWEA thinks that the IPC should determine applications in line with the relevant NPS unless exceptional circumstances militate against the grant of permission. Even where proposals do not comply absolutely with the relevant NPS, the IPC should have the power nonetheless to grant permission if the departure from them NPS is either judged to be “not material”, or does not give rise to any significant adverse effects on interests of acknowledged importance, on matters of public importance, or on public amenity, or if the national imperative outweighed those effects.

Significant infrastructure projects provide benefits to the public as a whole. The consent process has become increasingly expensive and inconsistency in the decision making process has led to significant wasted costs for promoters and to the public

purpose. BWEA supports the greater certainty that will be provided whereby significant infrastructure projects which generally accord with National Policy Statements would normally be granted consent.

Question 30

Do you agree in principle that the commission should be able to specify conditions in this way, subject to the limitations identified, and for local authorities to then enforce them?

If not what alternative approach would you propose?

It is clearly necessary and appropriate for the Commission to have power to impose conditions on any grant of consent. Guidance should be provided on the scope and content of condition in line with the advice in Circular 11/95. In that regard, conditions imposed on consents outside the planning regime do not always meet the tests identified in paragraph 5.49 of the White Paper.

BWEA think that the IPC should be obliged to consult the applicant over applicability, practicability and proposed wording of conditions.

BWEA appreciates that the IPC may not wish to retain an enforcement function and the responsibility for enforcing conditions could properly pass to the relevant LPA. However, the IPC may need to have an appellate function in respect of appeals that arise from the refusal to improve details submitted pursuant to consent conditions or the enforcement of such conditions by the LPA.

Question 31

Do you agree, in principle, that this opportunity for legal challenge to a decision by the infrastructure planning commission provides a robust safeguard that will ensure decisions are taken fairly and that people have confidence in them?

If not what alternative would you propose?

BWEA agrees that the opportunity for legal challenge should be maintained. However BWEA believes that it is essential for the robustness and fairness of the system that both the defined grounds for appeal and the six week duration of the challenge period are rigorously adhered to.

Question 32

What experience and skills do you think the commission would need?

BWEA considers that the Commissioners will need substantial experience of major infrastructure proposals. A range of skills should be represented on the Commission, although an understanding of consents process will be essential. Technical advice can be provided to the panel through the Secretariat and it is important that Commissioners have the skills to undertake the balancing exercise required in determining applications for consent, regardless of technical expertise.

BWEA welcomes the longer term nature of any appointments to the Commission, which will enable the Commissioners to gain experience, and help development, of the new consents regime.

Question 33

What types of non residential land and property do you think might have the greatest potential for microgeneration and which should we examine first?

BWEA suggests that commercial property, particularly offices are most suitable for microgeneration. Large energy users such as industrial development are better suited to more substantial on-site generation than microgeneration.

Question 36

Do you agree, in principle, that there should not be a requirement for supplementary planning documents to be listed in the local development scheme.

BWEA believes that there needs to be some mechanism for those interested in the Local Development Framework (such as developers) to know what the emerging framework (including Supplementary Planning Documents) will include. The Local Development Scheme as it stands fulfils this requirement so BWEA would ask that this requirement is retained or some other mechanism is found.

Question 40

Do you agree that it should be possible to allow minor amendments to be made to a planning permission?

Do you agree with the approach?

BWEA would welcome such an approach as offering significant time and cost savings over making a new application for minor changes to an approved proposal. BWEA suggest that guidance to assist local authorities negotiate the principle would be helpful.

BWEA Offshore Renewables Response

BWEA is the UK's leading trade association representing wind, wave and tidal stream energy interests (tidal stream does not include either barrage or lagoon technologies). This response to the Government's White Paper on Planning represents the views of its offshore renewables members i.e. those involved in the development of offshore wind, wave and tidal stream projects around the UK.

The offshore renewable energy industry will be vital in the UK's ability to meet both national and international agreements, as well as legally binding targets for 2020 and beyond. It is therefore crucial that Government provides it with every opportunity for sustainable delivery through the outcomes of this consultation. BWEA welcomes the opportunity to respond to this White Paper and applauds Governments attempt to create a planning system for offshore renewable energy that is 'fit for purpose'.

The strategic importance of offshore wind, wave and tidal stream energy to the UK satisfies three major objectives of Government:

- energy security
- reduction of CO2 emissions
- economic development

It is therefore crucial that any system intended to deliver offshore renewable energy projects can incorporate such objectives in its decision making process and ensure timely decisions that reduce the significant risk associated with uncertainty in the planning process.

To date the offshore renewable energy industry has had mixed experiences of the offshore planning system. At the time of writing there have been no refusals for projects and some, such as the Thanet Round II project, have gone through relatively quickly. However there have also been examples where the uncertainty and disjointed nature of the present system has caused significant problems. London Array, for instance, is potentially the world's largest offshore wind project, able to provide 25% of London's domestic electricity requirements from carbon-free, renewable energy once completed. This project received its consent for offshore development but has been pulled into a long public inquiry process on the basis of its onshore works, making financial close for what is already a marginal project even more difficult to reach.

BWEA is therefore very supportive of any new process that incorporates the whole development in question into one consent, and of any new process that provides greater certainty in decision making. On this last point, however, BWEA is extremely skeptical that any new body will be able to keep to its proposed time scales unless it has suitably skilled staff and financial resources. If this is not the case it is difficult to see how it will be better than the present system. Indeed through the uncertainty created by transition into a new system, and the potential for "attention dilution" away from the objectives outlined above due to the sizable remit of the IPC, there is a risk that any new system and body may even be detrimental to offshore renewable energy development, therefore negatively impacting the ability of Government to meet its energy and climate change targets.

BWEA therefore believes that significant thought needs to be put into ensuring that any new planning process provides greater certainty to renewable energy developers in the offshore environment, and that any new body provides the necessary weight in decision making. On top of this there must be clarity as to the drivers behind the decisions made and transparency around the role and weight of other bodies, such as the proposed Marine Management Organisation. The uncertainty in these areas at present means the Association's response to this consultation is understandably guarded. We therefore look forward to engaging with Government on these issues in the near future.

Question 1

Do you agree that there is a strong case for reforming the current system for planning for nationally significant infrastructure?

Do you agree, in principle that the overall package of reforms proposed here, achieve the objectives that we have set out?

If not, what changes to the proposed reforms or alternative reforms would you propose to better achieve these objectives?

At present offshore renewable energy developers require a number of licenses to build. Any new system that simplifies this into a 'one consent, one project' regime is therefore welcome. However, there needs to be clarity on a number of issues, particularly the overlap and prioritization of conflict between policy statements (Marine and Renewable Energy policy statements, for example) and the role of other bodies such as the MMO. The offshore renewable industry also requires greater

confidence in any new system's ability to deliver decisions on developments in a timely manner – and this will ultimately hinge on the resources allocated to the decision making body itself.

Question 2

Do you agree, in principle, with the introduction of national policy statements for key infrastructure sectors in order to help clarify government policy, provide a clearer strategic framework for sustainable development, and remove a source of delay from inquiries?

If not, do you have any alternative suggestions for helping to achieve these objectives?

In principle BWEA agrees, however this is qualified by how long these take to put in place and how they are used to direct and add weight to decision making.

Question 3

Do you agree that national policy statement should cover the core issues set out above?

Are there any other criteria that should be included?

Offshore renewable energy is provided with spatial guidance through the Strategic Environmental Assessment (SEA) that must be conducted before commercial projects can be taken forward. BWEA has difficulty with the point that National Policy Statements should be as locally specific as appropriate. We would prefer such statements to facilitate quicker decision making rather than restrict it spatially, as spatial considerations will be given consideration and be consulted upon through the SEA and site award process. BWEA does not see the need for a detailed spatial element to be incorporated in the relevant National Policy Statement.

We would, however, ask for strong consideration to be given to a specific offshore renewable energy policy statement (incorporating offshore wind, wave and tidal stream energy) due to the nationally significant nature of such projects.

BWEA would like more clarity regarding the proposal for such policy statements to take into account 'actual and projected capacity and demand'. Presently it is the SEA that indicates the available capacity for offshore renewable energy, thus providing the opportunity for the department responsible for energy to deliver its policy objectives whilst ensuring minimal impact on the offshore environment and its users. Furthermore, conflicts over capacity do and will continue to exist in the electricity market, particularly in relation to electricity grid infrastructure. It is therefore key that any assessment of capacity and demand is conducted across Government departments, thereby allowing bodies such as Ofgem to structure their business plans in advance of the arising issue.

Question 4

Do you agree, in principle, that national policy statements should be the primary consideration for the infrastructure planning commission in determining individual applications?

If not, what alternative status would you propose?

Yes. The policy statement must have a strong status or it will be rendered useless.

Question 5

Do you agree, in principle, that these proposals would ensure effective public engagement in the production of national policy statements, including with local communities that might be affected?

Are there any additional measures that would improve public and community engagement in their production?

This depends on the consultation method chosen. The fundamental issue is timescale. Industry and the planning body will require confidence from these statements in their activities.

Question 6

Do you agree, in principle, with the intention to have Parliamentary scrutiny for proposed national policy statements?

What mechanisms might ensure appropriate Parliamentary scrutiny?

The issue of timescales is also pertinent here. BWEA agrees in principle but does not believe scrutiny should contain a public inquiry element. However, we are aware that the details of the Policy Statement will affect the time taken for its creation.

BWEA therefore believes that there must be an opportunity for engagement, and that consultation must be robust, but also that this must not slow the process of statement creation down unnecessarily.

One suggestion would be to follow the Local Development Framework (LDF) model of having a high level core strategy and more detailed area action plans. Consultation on the core strategy could therefore be conducted much quicker.

Question 7

Do you agree, in principle, that 10-25 years is the right forward horizon for national policy statements?

If not, what timeframe do you consider to be appropriate?

BWEA believes 25 years is too long for offshore renewables given that it is a relatively fast moving industry. We would prefer to see a 10 year horizon.

Question 8

Do you agree that five years is an appropriate period for the Government to consider whether national policy statements remain up to date or require review?

What sort of evidence or circumstances do you think might otherwise justify and trigger a review of national policy statements?

BWEA would prefer a 10 year horizon with a 5 year review.

Question 9

Do you agree, in principle, that this opportunity for legal challenge would provide sufficient and robust safeguards to ensure that a national policy statements is sound and that people have confidence in it?

If not, what alternative would you propose?

There should be a formal legal challenge period but this may cause delay if there are a large number of unsubstantiated challenges. BWEA would, however, question if this is required in addition to parliamentary scrutiny.

Question 10

Do you agree, in principle, that subject to meeting the core elements and standards for national policy statements set out in this White Paper, policy statements in existence on commencement of the new regime should be capable of acquiring the status of national policy statements for the purposes of decision making by the commission?

If not, what alternative arrangements do you propose?

BWEA agrees in principle.

Question 11

Do you agree, in principle that promoters should have to prepare applications to a defined standard before the infrastructure planning commission agrees to consider them?

BWEA agrees in principle.

Question 12

Do you agree, in principle, that promoters should be required to consult the public before submitting an application to the infrastructure planning commission?

Do you think this consultation should take a particular form?

BWEA agrees in principle.

Question 13

Do you agree, in principle, that relevant local authorities should have special status in any consultation?

Do you think the local authority role should take a particular form?

Local authorities should not have special status for offshore projects. They should certainly be consulted, but not involved in the decision making process as they would not be the planning authority. A single consent must include both on and offshore works, therefore the full decision must lie with the IPC.

Question 14

Do you agree, in principle, that this list of statutory consultees is appropriate at the project development stage?

Are there any bodies not included who should be?

Some offshore statutory advisors and potential future bodies should be included, such as:

- Maritime and Coastguard Agency
- Joint Nature Conservation Committee
- Countryside Council for Wales
- Marine Management Organisation (if created)

Question 15

Do you agree in principle that the Government should set out, in legislation, an upper limit on the time that statutory consultees have to respond to a promoter's consultation?

If so, what time limit would be appropriate?

BWEA agrees as long as the time limit is set sensibly and that there is proper resourcing in this area.

Question 16

Do you agree in principle that the commission should issue guidance for developers on the application process, preparing applications, and consultation?

Are there any other issues on which it might be appropriate for the commission to issue guidance?

BWEA agrees in principle.

Question 17

Do you agree in principle that the commission should advise promoters and other parties on whether the proposed project falls within its remit to determine, the application process, procedural requirements, and consultation?

Are there any other advisory roles which the commission could perform?

BWEA agrees in principle.

Question 18

What rules do you consider would be appropriate to ensure the propriety of the commission's interactions with promoters and other parties?

BWEA agrees in principle.

Question 19

Do you agree, in principle, that the commission should have the powers described above?

Are there any other issues the commission should address before or at the point of application?

BWEA agrees in principle.

Question 20

**Do you agree, in principle, that these thresholds are appropriate?
If not, what alternative thresholds would you propose?**

This question is key. BWEA is unsure why the threshold limit for offshore projects has been set at 100 MW. The criteria for projects coming under the IPC should be based on the status of the project. In the case of offshore renewables this means that the project is necessary for the UK's energy security and the UK's renewable generation targets. Placing a limit of 100 MW would arbitrarily split offshore renewables between larger offshore wind farms and the currently smaller, post-demonstration wave and tidal arrays. This would therefore require two different consenting bodies and duplication of expertise and skills. This would not be an efficient use of resources, nor give the necessary level of importance to wave and tidal projects at a crucial time in their development.

There must therefore be an ability to incorporate wave and tidal stream projects into the IPC decision making process before they reach the present scale limit. This would

allow clean and indigenous energy projects to develop off the UK coast and at the same time provide the opportunity for this country to retain and even expand its global lead in marine renewable technology development. This would bring economic benefits to the UK associated with domestic market confidence in an industry with significant export opportunities.

Q.21 Electricity system

Do you agree in principle that all projects necessary to the operational effectiveness, reliability and resilience of the electricity transmission and distribution network should be taken by the commission?

If not, which transmission and distribution network projects do you think could be determined locally?

BWEA agrees in principle.

Question 23

Do you agree, in principle, that it is appropriate for ministers to specify projects for consideration by the commission via national policy statements or ministerial directions to the commission?

If not, how would you propose changing technology or sectoral circumstances should be accommodated?

BWEA agrees in principle.

Question 24

Do you agree, in principle, that the commission should be authorised to grant consents, confer powers including powers to compulsorily purchase land and amend legislation necessary to implement nationally significant infrastructure projects?

Are there any authorisations listed that it would be appropriate to deal with separately, and if so which body should approve them, or that are not included and should be?

BWEA believes that all offshore renewable energy projects should be decided upon by the IPC, thereby ensuring the skill set required remains under one roof, that learning can be more easily assimilated, and more informed (and therefore quicker) decisions made. Splitting decision making for offshore renewables across two bodies would not be an efficient use of resources and would detach the importance of energy, climate change economic development policy objectives from the projects intended to deliver them.

It is, however, vital that the IPC has in-house expertise to deliver offshore renewable energy projects – and this will require specialist offshore knowledge. Given then number and size of offshore renewable energy projects expected over the coming decade it is obviously important that staff resources are allocated abundantly in this area.

Question 25

Do you agree, in principle, that the proposed arrangements for the commission to deal with cases is an appropriate way to ensure that consideration is proportionate and that an appropriate range of specialist expertise is brought to bear on the final decision?

If not, what changes or alternative mode of operation would you propose?

See Answer to Q24 – resourcing and skills base is key.

Question 26

Do you agree in principle that the list of statutory consultees set out above is appropriate at the determination stage?

Are there any bodies not included who should be?

BWEA agrees in principle.

Question 27

Do you agree in principle that the procedural reforms set out above would improve the speed, efficiency and predictability of the consideration of applications, while maintaining the quality of consideration and improving the opportunities for effective public participation?

If not, what changes or other procedural reforms might help to achieve these objectives?

This appears to imply that there will always be a public inquiry. There should be no automatic assumption that this is necessary as some projects will quite simply not require one. If, however, a project does go to inquiry it could be conducted specifically on the issue of concern, thereby speeding up the process.

Question 28

What measures do you think would better enable hard to reach groups to make their views heard in the process for nationally significant infrastructure projects?

How might local authorities and other bodies, such as Planning Aid, be expected to assist in engaging local communities in the process?

This depends on how they are reached and the time they are given to respond. Offshore renewable energy projects have overseas groups that will need to be consulted such as European fishermen and the IMO.

Question 29

Do you agree that the commission should decide applications in line with the framework set out above?

If not, what changes should be made or what alternative considerations should it use?

Yes.

Question 30

Do you agree in principle that the commission should be able to specify conditions in this way, subject to the limitations identified, and for local authorities to then enforce them?

If not what alternative approach would you propose?

Yes. However BWEA has concerns that conditions will be enforced by another body in the offshore environment that may be driven by alternative and potentially conflicting policy statements, such as the Marine Management Organisation. BWEA would strongly oppose the enforcement of conditions by the MMO. It must therefore be made clear what the relationship will be between the IPC and the MMO. Given the

national significance of offshore renewable energy projects the Secretary of State should be responsible for enforcing all consent conditions.

Question 31

Do you agree, in principle, that this opportunity for legal challenge to a decision by the infrastructure planning commission provides a robust safeguard that will ensure decisions are taken fairly and that people have confidence in them?

If not what alternative would you propose?

Developers must have the right to challenge conditions if they believe them to be unfair.

Question 32

What experience and skills do you think the commission would need?

See Answer to Q24 – resourcing and skills base is key.