

## **BWEA Evidence to the Joint Committee on the Draft Marine Bill**

### **Introduction**

BWEA welcomes the opportunity to give evidence to the Joint Committee on the Draft Marine Bill.

Representing over 380 corporate members, BWEA is the UK's leading representative for the wind, wave and tidal energy industry. Its membership includes all the companies currently developing offshore wind projects, the majority of the companies developing wave and tidal stream energy projects and a diverse range of their support and supply industry.

The offshore renewable industry has kept conservation best practice at its heart. Offshore renewable energy companies spend a great amount of money on conservation data acquisition. The environmental impact assessments and monitoring performed by the industry are resulting in enhanced understanding of the marine environment. Offshore wind in particular has driven marine environmental research. For instance COWRIE is a marine research fund created from the option fees paid by offshore wind projects to the Crown Estate<sup>1</sup>.

The timely and responsible development of large scale offshore wind farms is central to energy security and to tackling climate change. BWEA sees great potential for the Marine Bill to consolidate legislation and simplify marine planning and licensing. This outcome is essential if the industry is to deliver the Government's ambition for 33GW of offshore wind by 2020. However, we are mindful of the Government's initiative to award new offshore wind sites that is already underway, and that the implementation of the Marine Bill could delay or disrupt these objectives if not correctly managed.

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<sup>1</sup> [www.offshorewindfarms.co.uk](http://www.offshorewindfarms.co.uk)

## **The Joint Committee's questions**

**The challenge of assessing whether the legislative framework for marine spatial planning set out is fit for purpose in the absence of the government setting out what the objectives for the planning system are (the Marine Policy Statement).**

While the legislative framework sets out a process to establish Marine Spatial Planning, it will be in the detail of the spatial plan and regional plans where the suitability will be judged.

The drafting of the Marine Policy Statement (MPS) will consider other National Policy statements, including the statement relating to renewable energy. In the absence of the MPS it is important that any framework for spatial planning include an emphasis on sustainable development and that spatial planning does not focus purely on conservation interests.

In particular, for the Government to meet its renewable energy targets, the MPS must be fully integrated with the programme already underway for renewable energy. Spatial planning should have reference to this requirement.

The system of marine spatial planning should contain a methodology for obtaining evidence on socio-economic issues and specific expertise and resource should be assigned to advise on this area.

Spatial planning should make reference to global environmental issues, such as climate change mitigation objectives, as well as global conservation obligations.

**How well the regulatory framework proposed will operate, given the wide range of responsibilities involved.**

The regulatory framework contains an implicit requirement to balance economic and conservation interests, however it would operate better if this requirement was made more explicit. In addition a stance should be taken on the nature of socio-economic evidence that is considered.

Government should clearly define how the different responsibilities of the framework are prioritised.

The process will work well if there is guidance on the resolution of spatial conflicts when national and regional spatial plans are produced. Spatial conflicts are best addressed as part of an overarching marine strategy and not left to individual projects to justify their merits on a case by case basis.

## **The proposed powers, structure and regulatory role of the Marine Management Organisation.**

BWEA continues to find it of concern that potentially the MMO will not only make policy, but will also apply that policy in making decisions. The judgement in the EU Courts on the European Convention on Human Rights set a precedent under article 6 that there is an expectation of the independence of decision making and policy making. BWEA believe that Government should be the decision maker while the enforcement and implementation is performed by the MMO.

The MMO tries to combine many roles in one organisation. Greater clarification of the objectives and character of this organisation is required. BWEA would like its character to focus on wider sustainable development.

The MMO will have a wide range of functions to perform for fishing, conservation and other commercial sea users.

BWEA would like the MMO to:

- Include sustainable development and climate change mitigation in its remit.
- Be the holder of all data on the marine environment and to combine the many marine data archives into one location.
- To take an active role in seeking ways to enable renewable energy projects to be consented and so help to meet the Government's targets.
- To have regard of the Government's strategy for renewable energy when advising on marine spatial planning and conservation area designation
- To actively explore the possibilities of dual use of marine designated sites for renewable energy and consider how mitigation can effectively remove impacts.

The MMO will have a fundamental role to play in the delivery of Government objectives for 33GW of offshore wind by 2020 and will need to succeed in managing a significant volume of applications and reaching decisions within a shorter time frame than is currently experienced by the relatively small number of Round Two projects progressing through the consenting process. The input of the current consenting bodies (such as the MFA and BERR's consents team) into the structure of the MMO is vital: without this knowledge transfer it is hard to envisage how the consents process for 33GW of offshore wind farms can be streamlined in practice.

While scientific evidence is of prime importance for designation and authorisations, consideration of economic and other impacts must be made. The MMO should have the expertise and resource to consider socio-economic evidence and issues and interpret specialist advice on single/ subsets of

issues in light of the wider development context. It should look more favourably on economic developments where they meet government objectives.

The Planning Bill creates a 100 MW threshold for offshore energy projects to be exempt from the Marine Bill. BWEA believes this threshold is artificial and that it should be lowered to 1 MW in line with the current threshold of Section 36 consenting.

Equally important to delivering Government offshore wind objectives, is the communication and relationship between the MMO and the Infrastructure Planning Commission. The roles and responsibilities of the two organisations should be well defined, with robust and clear communication and reporting channels

### **How well the provisions of the Bill will fit with the aims and policies of the devolved assemblies.**

It is unclear at present how these will work together in a streamlined manner. While we acknowledge the work done to try to coordinate between the bodies there remains the potential for confusion and delay. A project located further than 12 nm from the Welsh coast could potentially be required to consult with many separate authorities, including the Welsh Assembly Government, The UK Government Secretary of State, Countryside Council for Wales, Joint Nature Conservation Committee and the MMO.

There are good intentions on all sides to find a workable solution, however there must be a clear and fast system to allow for streamlined consenting.

The different authorities consenting projects should work to the same timetables for submission and should require the same level and types of evidence.

### **Will the system proposed be sufficient to meet the requirements of the forthcoming European Marine Strategy Directive and achieve 'good environmental status' as defined under the Directive.**

The aim to achieve good environmental status should not paralyse industry.

**Whether the proposed Marine Spatial Plans will be based on adequate scientific data and provide certainty about where activities and developments will be permitted in a given time frame.**

A clear benefit of Marine Spatial Planning will be to reduce the burden on developers to gather data on individual projects. The scientific data used to develop spatial plans should be targeted to reduce the requirements on the environmental impact assessments of individual projects.

While data is required to give permission for an activity, there will never be a situation where all data is known. BWEA believe that there is already enough data available to consent projects. It is important that decision-makers and industry build on the existing understanding of the impacts of offshore wind, wave and tidal projects and facilitate the development of further projects to learn more. Projects can be consented as part of an ongoing data gathering programme.

A perceived need for more data should not lead to overly onerous restrictions on the construction or operation of offshore wind farms. Generic issues should be addressed through generic research, while individual projects focus on project specific issues through the EIA process. It is also important that focus is placed on the interpretation of this data to overcome delays and problems frequently incurred by the application of precaution in the face of imperfect knowledge.

Further, while there is a well established method for gaining and evaluating conservation data, there is no mechanism identified for considering socio-economic evidence.

As previously stated there needs to be consideration of the current SEA for offshore energy into the marine spatial plans.

The location of tidal stream resources is well defined and the evidence obtained should focus on high resource areas.

**Whether improvements to the management and enforcement of inshore marine fisheries can deliver required conservation and sustainable development objectives.**

There is a potential for offshore renewables to exclude some forms of fishing, e.g. trawling, and this may benefit conservation objectives.

**Should there be a statutory requirement on a UK body to ensure that the network of Marine Conservation Zones is created?**

BWEA recognise the need to adopt an ecological approach to conservation, however when considering the extent of any network and its spatial context relative to the distribution of energy generating resources, the impact on renewable energy activities should be taken into consideration.

The level of protection in a Marine Conservation Zone must be carefully justified.

**Is there sufficient biological data to identify a potential network of Marine Conservation Zones, especially in offshore areas, and what data will be required to measure their effectiveness? What proportion should be highly protected?**

Designations should only be made where there is clear justification for protection. Designations based on poor evidence will limit industry and not achieve conservation aims.

When the initial consideration of the location of a Conservation Zone is made, thought must be given to its use and intended level of protection. For a network to be effective it must have a clear balance between high protection areas, areas of dual use and areas of minimum or no protection. Even when development is permitted, if onerous requirements are placed on developers through the timing, mitigation and monitoring of a project then this could effectively prevent projects from going ahead.

The management of designations should also consider whether the distribution of protected species and habitats will move over time. Changes in ocean temperature and ocean acidity caused by climate change may mean that areas that once required protection no longer do so. The availability of new data may also cause zones to change and developers must have certainty that once a permission to build is given the rules will not be changed.

**Should socio-economic criteria as well as scientific criteria be used in identifying areas to be Marine Conservation Zones? What lessons on the designation of protected areas can be learned from existing SACs and Marine Nature Reserves?**

While scientific criteria will be the first consideration in identifying sites, the function of those sites must also be considered in their designation. It is essential that socio-economic criteria are also considered in defining the function of a Marine Conservation Zones and the possibility of a zone to assist in the fight against climate change is given due consideration.

The offshore renewable energy industry works hard to assess and mitigate the impact of offshore wind turbines, wave and tidal devices on the marine environment. Developers continue to spend considerable time and resource on furthering our understanding of these impacts, frequently demonstrating that impacts can be effectively mitigated.

It is also significant that there are a range of parameters that limit areas of seabed that are suitable for renewable energy development. The full range of parameters must be borne in mind to allow projects to be developed and Government renewable energy targets met.

Through its consultative approach the offshore renewable industry adopts best practice to mitigate and avoid negative impacts. No project to date has been refused consent. Wherever possible developers try to ensure their impacts are trivial and transient. This approach should be taken into consideration when considering consent in protected areas.

**Will the Government's 3GW renewable energy target create a demand for marine sites that have potential as conservation areas?**

BWEA assume this question refers to the Government's announcement in December 2007 to find 33GW of offshore wind sites by 2020.

Dual use and mitigation mean that conservation designation and renewable energy sites can be located together. There is a need to actively seek innovative ways of consenting projects in designated areas and to ensuring that conditions are not imposed upon the construction or operation of the wind farms that reduce the viability of development.

A wind farm may exclude some other activities and this can generate some conservation value. By this means offshore wind farms have the potential to create refuge areas for some species.

Studies in Europe have shown that offshore wind installations can generate an artificial reef effect. While more research is needed in this area, the potential for mutual benefits should not be ignored.

**The suitability of including regulatory issues concerning inland waters within the Marine Bill.**

BWEA have no comment on this issue.

**The appropriateness of the measures contained in the draft Bill aimed at creating an English coastal route.**

BWEA have no comment on this issue.