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Dr John Hamer
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Marine and Fisheries Division
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5th July 2019

Dear John

Consultation on the Welsh National Marine Plan Habitats Regulations Assessment

Thank you for consulting Natural Resources Wales on the Welsh National Marine Plan (WNMP) Habitats Regulations Assessment (HRA). Our comments are made in the context of our role as the Appropriate Nature Conservation Body (ANCB) under the Conservation of Habitats and Species Regulations 2017.

We provide our general and more specific comments below.

1. We welcome and support Welsh Government's commitment to the HRA process, and recognise the time and effort that has gone in to producing this significant assessment. We also welcome the informal opportunities we have had to provide comments at various stages as the plan and the HRA have developed.
2. Broadly speaking we are satisfied that the issues that we raised in the consultation on the draft HRA, as set out in our response dated 29/3/18, have now been addressed. This is in part through the modification of the policy relating to tidal lagoons (noting point 3 below), as well as further assessment of the policy relating to Ports and Shipping, amongst other issues.
3. In our comments in an e-mail to you of 03/05/19, in relation to the new Energy Low Carbon policies and associated text, we sought clarification on the intent of the following statement: '*This plan does not preclude tidal lagoon demonstrator or large scale tidal lagoon projects from coming forward; such projects would be considered on their merits and on a case by case basis*'. We believe the intent of this statement is simply to clarify that whilst the plan does not specifically support tidal lagoon

developments, proposals may still come forward and be assessed against policies in this plan. If this interpretation is incorrect, and the intention is for the plan to support development of tidal lagoons, we would then disagree with a conclusion of no likely significant effects or no adverse effects on integrity relating to this policy.

4. Our most significant outstanding concern is in relation to the way that the HRA deals with policies relating to offshore wind. The HRA screens this policy out of the assessment at the test of likely significance, an approach that appears to be inconsistent with the approach taken to the wave, tidal stream and aggregate policies. It is our understanding that during the lifetime of the WNMP, plans and/or applications that sit outside of those included and already subject to HRA in the latest offshore wind leasing round, could arise, and would be subject to the offshore wind policy (similarly to the sectors listed above). Therefore, in relation to future offshore wind activities only, not existing permissions/licences, we advise that it is necessary for consideration of this aspect only to go forward to appropriate assessment.

We also note that in a number of places in Table 4.4 *Summary of Sector Policies' screening* a statement is used that '*Future rounds of seabed leasing by TCE will be subject to strategy-level HRA and that is independent from the provisions of the WNMP policies*'. This wording seems inappropriate since we would expect that any further planning processes relevant to the marine area would have regard to the marine plan.

5. Table 6.2 *Mitigation and avoidance measures available for typical pressures that may be associated with construction activities* - the mitigations cited for most activities should also include a reference to the ability of pre-development surveys and investigations to enable flexibility over the choice of location as a primary means of avoiding adverse effects on site integrity.
6. Paragraphs 6.6.15-30 - these sections include statements relating to marine mammals, diadromous fish and some pelagic seabirds suggesting that evidence from existing deployments has shown that impacts can be avoided through behavioural changes. This evidence is not referenced, nor is the level of confidence described.

We advise that the evidence for or against these effects is not particularly robust. A better approach might be to cite the fact that tidal stream developments have been consented in Wales. Whilst relatively little evidence has emerged since, each was subject to HRA which concluded no adverse effects on site integrity, with suitable mitigation being found to allow deployment despite them being sited in environmentally sensitive areas. We recognise that mitigation will be highly project specific. However, the text in 6.6.21 and 6.6.22 relating to mitigation appears to downplay the effectiveness of mitigation, and doesn't refer to adaptive management, both of which are plausible approaches (subject to careful identification of potential effects), and offer a stronger argument in support of a conclusion of no adverse effects on site integrity than the absence of evidence of effects from existing schemes.

7. In-combination assessment. Table 7.4 *Current NSIPs and known large-scale projects with the potential to operate in combination with the marine plan or future activities* – there appears to be a number of errors in relation to this table that do not reflect the changes that have been made to the plan itself, namely:

- a. the text in relation to Swansea Bay Tidal Lagoon is not accurate – the potential impacts are to all relevant diadromous interest feature fish species, not just salmon, and are currently being considered for the HRA of the Marine License application, which has yet to be determined.
- b. there appears to be a mistake in relation to Newport and Cardiff tidal lagoons, where the entry in the third column states that '*Tidal lagoons are supported by policy within WNMP*', which is inaccurate.
- c. We advise that this table should include the Morlais tidal stream proposal northwest of Anglesey.

We hope that you find these comments useful, but if you would like to discuss any of these points further please do not hesitate to contact Roger Matthews via our Strategic Assessment mailbox at strategic.assessment@cyfoethnaturiolcymru.gov.uk

Yours sincerely

Howard Davies



Head of Governance