



→ End-to-end review of the Marine Licensing process: summary report

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The study team are fully responsible for the interpretation of the evidence received, the conclusions reached in this work, and any errors that appear in this report.

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1. Executive summary

In April 2022, ICF was commissioned by the Welsh Government (WG) to lead a review of the marine licensing process. The purpose of the review was to identify opportunities for improving and streamlining the licensing process to support the sustainable development of the Welsh marine area, whilst ensuring statutory requirements are maintained.

The review employed a mixed-methods approach including broad stakeholder engagement in Wales and with other licensing regimes. Evidence from a range of sources was analysed and triangulated to produce findings and inform the study recommendations.

The study team were directed to identify changes required in the process to meet future demand for marine licensing, in support of the Government policy objective to significantly increase renewable energy generation in Wales. Consequently, this report focuses on areas for improvement in the Welsh marine licensing process, which is administered by Natural Resources Wales (NRW) on behalf of Welsh Ministers.

At the same time, it is important to note that there are areas where the process is currently working well, in particular for smaller scale developments and established sectors, where most applications are determined promptly. The technical report also highlights areas of existing good practice in the licensing process and how these might be built upon. The review team also notes the positive changes made by NRW to support the licensing process (and those actions that are currently in train).

The main areas for improvement identified through the review include:

- Whilst simpler Band 1 and 2 projects are processed within Service Level Agreement (SLA) timeframes, there is a lack of clarity on timescales for larger projects which puts at risk government policy to scale up renewable energy and meet net zero commitments.
- Current on-line capabilities are not fit for purpose, which results in a lack of clarity for applicants and potential delays in the licensing process.
- There is a reluctance to retire lower risk issues which can obscure the focus on those of greatest impact; there are examples of adaptive management, but the regulator must be confident in its application to fully achieve the benefits of this approach.
- There can be a blurring of the lines between marine licensing and advisory roles with NRW; and how advice provided relates to statutory responsibilities.
- The workload with marine licensing within NRW has grown without a concomitant increase in resources, leading to a reactive approach to delivery and precluding the ability to plan ahead, to anticipate future challenges and to deliver improvements.

To address the findings from the review, six thematic recommendations have been developed.

- a) A distinct corporate identity for marine licensing is established within NRW to provide a greater focus on developing the systems, processes and resourcing required
- b) A strategic approach to planning and resourcing to ensure that resources meet future demand for marine licensing activity (both in terms of capacity and organisational competence)
- c) Improvements in transparency, clarity of process and efficiency, including the development and implementation of an on-line portal for marine licensing
- d) Collaborative working practices and greater focus on creating an enabling culture, particularly during pre-application engagement between NRW and developers
- e) Clarity on roles and functions in marine licensing to speed up determination
- f) A strategic framework and operational guidance to increase confidence and competence in using best available evidence and sound science, thereby enabling a more proportionate approach to marine licensing

We do not underestimate the challenge in delivering these recommendations, which will require greater resourcing and senior-level commitment. Developers and other industry stakeholders also have a role to play to support sector aspirations including a renewed effort on collaborative working practices and communication with NRW and WG, a commitment to effective pre-application engagement, and working together to gather and share evidence. This is particularly pertinent given the challenges associated with considering the risk and impact of applications that relate to novel technologies, where there can be a limited evidence base on which to draw.

2. Purpose, objectives and approach

This section provides an overview of the context for the review, its aims and objectives, and the methodological approach.

2.1 Purpose of the review

The actions required for Wales to meet its second carbon budget (2021–2025) are set out in Net Zero Wales, which provides the foundation for long-term emission reduction and commits to energy generation through renewable technologies. Publication of Net Zero Wales led the WG to undertake to a ‘deep dive’ in autumn 2021 and identify barriers to significantly scaling-up renewable energy generation in Wales and actions to overcome those barriers.

A specific recommendation of the deep dive was to undertake an end-to-end review of marine licensing and consenting with a view to improving the process. In April 2022 the WG commissioned ICF (in partnership with HMC and CMC) to undertake this review. The outputs of which will be used by both WG and NRW to inform policy development and operational delivery changes.

This report provides a summary of the findings and recommendations from the review. A longer technical report has been provided to the WG and NRW with more detail on the approach and findings.

2.2 Context

The marine licensing process supports sustainable use of the marine environment. It applies to a wide range of activities from small repairs to a slipway, development of a new coastal defence scheme to construction and operation of a large offshore wind farm. The licencing process ensures such activities, do not harm the environment, impact on human health, or interfere with other legitimate uses of the seas.

In April 2013, Welsh Ministers delegated marine licensing administration and determination functions to the newly established NRW.¹ WG, however, retain responsibilities for setting overall policy direction, managing appeals against a marine licensing decision, and making secondary legislation to support the process (for example, defining marine licensing fees). The WG’s Marine Policy Team works closely with NRW to support the delivery of the Welsh Ministers licensing functions in line with WG policy. The complementary roles of WG and NRW are summarised in Table 1.

¹ The overarching purpose of NRW, as set out in the Environment (Wales) Act, is the sustainable management of natural resources in relation to Wales. More detail on the roles and responsibilities of NRW can be found [here](#).

Organisation	Responsibilities
WG	<ul style="list-style-type: none"> • The marine licensing authority for Wales and competent authority for Section 36 consent • Sets overall policy direction • Manages appeals against marine licensing decisions • Prepares secondary legislation to support the process (e.g. fees) • Enforcement of marine licensing in Welsh waters
NRW ²	<ul style="list-style-type: none"> • Administers and makes determinations of marine licence applications on behalf of Welsh Ministers (the Marine Licensing Team or NRW ML) • Provides the role of Statutory Nature Conservation Body (SNCB) • Provides technical advice to its regulatory functions • Supports Marine Enforcement Officers to advise on suspected breaches • Applies regulatory principles in decision making • Maintains a public register • Provides position statements for projects of significant public interest to ensure interested parties are kept up to date • Reports to the Welsh Ministers on its delivery of marine licensing

Table 1: Roles and responsibilities of WG and NRW

2.3 Aims and objectives

The overarching objective of this project was to undertake an end-to-end review of the Welsh marine licensing process. The purpose of the review was to identify opportunities for improving and streamlining the licensing process, whilst ensuring statutory requirements are maintained and the process supports the sustainable development of the Welsh marine area. Given the context for the review, the study team were directed by WG to focus on issues relating to the licensing of large-scale marine renewable projects (whilst also considering barriers to all sustainable development in the marine environment).

The review considered seven primary research questions, paraphrased as follows:

- 1) How well is the Welsh marine licensing process operating at all stages?
- 2) Are suitable governance arrangements in place to support marine licensing including: roles and responsibilities; reporting arrangements; separation of powers between the regulator and its advisors?

² The report distinguishes between the marine licensing and advisory functions of NRW using the terms NRW Marine Licensing (NRW ML) to refer to the regulatory function of NRW, and NRW Advisory (NRW A) to capture SNCB and technical advisory functions

- 3) Is the marine licensing process proportionate to the risks involved, adaptive in nature and reflective of policy objectives and relevant legislation?
- 4) When a Development Consent Order is also required from the UK Government for a particular project, how does this process operate with marine licensing in Wales including the benefits and challenges of having two separate processes?
- 5) Are there any lessons learned from the current relationship between marine licensing in Wales and the Electricity Act consenting undertaken by Welsh Ministers in respect of marine renewable energy projects below the 350MW threshold?
- 6) Where planning permission is also required for projects in the marine environment, what are the differences between marine licensing and land planning processes and are there any opportunities to streamline processes and decision-making?
- 7) Are there any best practice examples from other UK marine licensing regulators that could be considered in Wales?

It is important to note that the terms of reference explicitly excluded marine licence exemptions, appeals against licensing decisions and enforcement of marine licensing.

2.4 Methodology and evidence

The review was conducted between May and September 2022, and utilised a mixed-methods approach including stakeholder interviews, an on-line survey, desk research, in-depth case studies, and good practice examples from other marine licensing regimes. Evidence from these sources was analysed and triangulated to produce a set of findings and inform the study recommendations. A summary of evidence sources is provided in Table 2.

Approach	Overview
Initial review and process mapping	Interviews with NRW staff to map current processes and governance, rapid document review
Survey	An online survey, open to all interested stakeholders: 37 responses received
Semi-structured interviews	In-depth discussion of the process with applicants and consultees: 6 scoping interviews and 27 interviews
Case studies	Review of five in-depth case studies grouped into sectors and drawing on case examples (aggregates, aquaculture, coastal defences, renewables, tidal lagoon)
Marine licensing practice review	Identify different practices and transferable learning from English and Scottish marine licensing regimes

Table 2: Evidence sources

3. Findings

This chapter presents a summary of key findings from the review, structured by research question.

When considering these findings, it is important to acknowledge the challenge facing marine licensing decision-makers, particularly in relation to novel technologies, when there is a limited evidence base about potential impacts on which to base decisions. There is also a need to recognise the role of applicants in the licensing process. Improved application quality, engagement with all stakeholders at the pre-application stage and sharing data where a sector is in its infancy (e.g. marine renewables) will all help to ensure a smoother marine licensing experience.

3.1 How well is the process working at all stages?

The overall evaluation of the review team is that the logic of the existing process steps is sound; challenges arise in the consistency of its application.

The evidence collected shows that there are mixed experiences of the marine licensing process. Whilst there are areas where change is needed, there are also elements that work well. For example:

- Smaller projects (Band 1 and less complex Band 2 applications), which make up most applications received by NRW, are typically processed and determined promptly. Data provided by NRW demonstrates good performance against Service Level Agreements for Band 1 (100% of applications determined on time) and for Band 2 (89% of applications).
- Where pre-application has been undertaken for Band 3 applications, there are cases where this has worked well, especially when discretionary advice agreements are in place.
- The thoroughness of the consultation process was considered positive by some as was the relative smoothness of the determination process when regular progress updates are received, and an effective escalation process is in place.

One area that demonstrates improvement in response to emerging technologies is the development of policies and guidance by NRW in relation to adaptive management (to enable a staged approach to development). The renewables case study also provided evidence of good practice in terms of joint working between NRW ML and NRW A. For example, for the Morlais tidal stream project, NRW ML and A worked together to agree the use of adaptive management, which allowed the consent to be granted.

Issues relating to the licensing process focused on the following areas:

- **A lack of clarity on timescales for more complex projects.** The lack of clarity on timescales for Band 3 applications was considered a key risk to project development. Delays lead to potential financial loss for developers and put at risk government policy to scale up renewable energy to meet net zero commitments. Some interviewees reported that renewable energy developers are starting to look at project opportunities in non-Welsh locations, which offered greater certainty of return on risk capital invested.
- **Legacy online resources and capabilities.** The current website is extremely difficult to navigate with access to the available guidance challenging, particularly for those unfamiliar with the process. The process steps and requirements are opaque for the uninitiated and have been characterised as a 'black box' by interviewees. Moreover, there is no online case management system and the current application form is not designed from a user perspective, being hard to edit with duplication between sections. Amendments made are not automatically duplicated across sections and if amendments are required, the whole application must be resubmitted. Interviewees also complained of the inability to interrogate their own application or explore others.
- **An insufficiently collaborative approach to agreeing ways forward.** All stakeholders (both applicants, consultees and NRW ML) recognised the benefits of collaborative working practices and a shared responsibility to engender a more enabling "licensing first" culture. It was highlighted that suitable engagement during the pre-application stage and through joint forums are key mechanisms for developing this culture. It was also noted that this has a resource implication.
- **Supporting applications by improving clarity in how data are used.** Applicant interviewees requested greater clarity in how data are used in the decision-making process. They urged for greater use of best available evidence, where appropriate, derived from elsewhere when Welsh evidence is not immediately available, whilst recognising limitations, uncertainties, and the challenges of transferability. This suggests a need for a formal process that sets out how data can be transferred from non-Welsh locations and how it is used to support decisions based on best available evidence.
- **Anticipating the future and ensuring adequate resourcing to meet demand.** Interviewees considered resource constraints to be the biggest challenge facing NRW. Both interviewees and NRW recognise that NRW needs to be better able to anticipate the licensing pipeline, including volume of applications as well as how technology and the legislative context may change. This should help NRW to anticipate resource demands, carry out effective workforce planning and build a case to ensure they have the resources needed to support future demand.

3.2 Are suitable governance arrangements in place?

The evidence from this review is that while governance structures and reporting for marine licensing have been put in place, there is a lack of clarity, planning and proactive management. The process itself is also difficult to understand for external stakeholders.

- **Governance arrangements for marine licensing are complex, convoluted and somewhat opaque.** There are structures in place to provide the necessary oversight (and support) to the marine licensing process but the very broad corporate remit of NRW presents challenges in providing a clear line of sight between senior executives and operational teams. The mosaic of boards, sub-boards and management teams puts a significant reliance on individual officers to navigate the governance structure, which means that prioritisation of activity on strategic issues is difficult. The absence of a business plan for marine licensing hampers the ability of NRW ML to conduct forward planning and wider communication of priority improvements.
- **Metrics are in place to monitor the processing of applications, but other performance management is largely reactive.** NRW ML produce regular updates on the processing of applications for both activities that have Key Performance Indicators (KPIs; those permit/licence activities for which there is a service level agreement) and for permitting/licensing work that do not (e.g. Band 3 Marine licence applications). NRW ML also capture emerging events through monthly reporting within the wider Permitting Service and seek to escalate issues that need corporate resolution. However, our assessment is that, in the absence of a forward-looking business plan for marine licensing, it is difficult to proactively manage performance. There is an action plan in place that seeks to make improvements to marine licensing but there is a lack of prioritisation of the large number of action items and a somewhat unclear line of accountability, without which the action plan will be challenging to deliver.
- **There can be a blurring of the lines between marine licensing and advisory roles.** There are benefits in the close working relationship between the marine licensing team, the SNCB function, and the wider technical advisory role (as demonstrated through effective joint working on the Morlais case). Evidence from stakeholder interviews showed that applicants often find it hard to distinguish between the roles of the licensing team, the SNCB role and NRW marine advisor role. The case study analysis found that how and when the Marine Licensing team members challenge the advice provided by Advisory depends on the experience of the case team member. Whilst this is to be expected within a team with varying experience levels, no evidence was found for set processes by which advice can be challenged, and at which level of the NRW ML team hierarchy.
- **There is a lack of transparency for applicants on the marine licensing process and the roles performed by NRW A and ML at each stage of the process.** The lack of transparency in the licensing process and the roles and responsibilities of NRW staff

(both advisory and licensing teams) were key issues raised during the interviews. In addition to enabling applicants to navigate the process effectively and submit legislatively-compliant applications, transparency is an important aspect of governance in demonstrating compliance. Moreover, stakeholders external to NRW often find it difficult to track progress of an application through the process. Interviewees who were able to obtain regular updates reported more positive experiences. Improved communication to notify applicants of where their application has reached and what is coming next would have both reputational and practical benefits.

3.3 Is the licensing process proportionate to the risks involved?

Interviewees and applicant survey respondents were generally critical about the degree of proportionality in the licensing process and expressed a view that NRW are often unwilling to take a risk-based approach, especially with new technologies. The case studies substantiate this, indicating that the approach to project risk for new sectors is particularly thorough, compared with more mature sectors. The case studies also reveal inflexibility in the approach to licensing and a reluctance to go beyond that which is stated in the Marine and Coastal Access Act (MCAA) (as amended by the Wales Act 2017).

There is evidence that some applications from emerging sectors are being considered with a view to future development possibilities rather than with a focus on project risk. In addition, the adoption of adaptive management as project mitigation in, for example, the Morlais project, points to the willingness of NRW to explore opportunities for taking a more risk-based approach in some cases. NRW A have recently produced guidance on adaptive management, setting out what it is, why it can be used and how it can be applied.

Analysis of the evidence relating to proportionality and risk centred on the following issues:

- **There is a reluctance among NRW A to retire lower risk issues to enable a focus on those of greatest impact.** Interviewees acknowledged that both applicants and NRW must operate within legislative boundaries and any actions taken to retire risks must comply with their legal obligations for environmental protection. However, based on the evidence collected through this review, NRW A can sometimes take a “legislation first” approach (which views the legislation as a barrier to making decisions) rather than adopting a “licensing first” approach (and enable sustainable development within legislative boundaries).
- **Adaptive management is considered important for de-risking projects, but the regulator must be confident in its application.** An adaptive management approach is considered particularly important for novel technologies, where the evidence base may be weak, but also for some existing sectors. However, the challenges in doing so

were acknowledged by stakeholders consulted, alongside a need for further clarity of its application and a common understanding of what it is and is not. For adaptive management to be successfully applied, the regulator needs to be seen as confident, have confidence in the rules and policy, be willing to act and ensure that when decisions are made, they specify the action required should the observed impacts be greater than anticipated.

- **Greater clarity on the interplay between legislation, sustainable development, biodiversity and net zero commitments.** Interviews with NRW staff suggests that the sustainable development policy ENVO1 can be misunderstood by applicants. This policy direction does not override legislative requirements for the marine licensing process as defined in the MCAA. Environmental impacts (alongside impacts on human health, safety and navigation, and other relevant factors the licensing authority sees fit to consider) need to be assessed, even for projects intended to produce environmental benefits. The existence of these differences indicates the needs for greater clarity and consistency in how data are used and why. This should be combined with training to ensure all staff are competently using data to support the provision of advice and guidance as well as in contribution to decision-making. It includes ensuring institutional memory is maintained to enable new staff to effectively take on existing cases and learn the lessons from previous ones.

3.4 How does the process align with other licensing processes and consenting regimes?

Research questions 4–6 were considered together as they speak to wider ways of working in the alignment of the Welsh marine licensing process with other consents and with the decisions made by other licensing and consenting regimes. The analysis from interviews, case studies and good practice review is summarised in the following paragraphs³:

- **Aligning the separate Development Consent Order (DCO) and marine licencing processes in Wales is challenging** due to devolved powers in Welsh inshore waters where marine licenses cannot be 'deemed'. The working practices of the NRW ML team are alleviating complication as best they can, given the legislative challenges in this area. The use of Memorandums of Understanding (MOUs) with other consenting parties, namely the UK Government's Department for Business Energy and Industry Strategy (BEIS) for DCOs, should continue and as more large-scale offshore wind farms are promoted in Welsh waters (both inshore and offshore) it will be important to develop common understanding of good practice.
- **The relationship in England between marine licensing and DCOs is, notably more straight-forward** given the standard practice of including deemed marine licences

³ These assessments are based on the evidence collected and the collective expertise of the review, but do not constitute legal advice

within the DCO application. The Scottish approach to licensing major infrastructure projects, where The Planning Act (2008) and DCO requirements do not apply, does appear to streamline the process as the Marine Scotland Licensing Operations Team are the only consenting body involved in the consent. However, applying the Scottish approach in Wales would require that DCO's do not apply in Wales and necessitate a change of primary legislation (Planning Act (2008) as amended) and agreement from UK Government. The assessment of the review team is that the potential benefits of this would be likely be outweighed by the legislative and administrative challenges. What can be learned from the Scottish approach is related to how the licensing team operates and having dedicated resource for larger and more complex projects. This would lead to the ability for increased engagement by NRW ML in these licence applications, but at the cost of a lessening of resilience across the team.

- **Alignment between marine licensing and planning permission faces similar challenges** given the different requirements, stakeholder groups and consultation practices inherent in both processes. Again, alignment is managed through good working practices. This could be strengthened using a coastal concordat, as applied in England. There is evidence of Environmental Impact Assessment (EIA) deferral happening on a case-by-case basis and having a single lead authority would add certainty for developers. The challenge here relates to the extent of Welsh inshore waters which are protected and therefore require that most applications need a Habitats Regulations Assessment (HRA). Whilst a concordat approach would go some way to streamline consultation, the assessment and determination of dual consented projects would still require the HRA to be undertaken by NRW regardless of the lead authority. Coordination with other Competent Authorities, as set out in the HRA guidance for England and Wales, could help to further align the process.

4. Recommendations

This chapter presents a summary of strategic recommendations from the review.

4.1 Introduction

For simpler Band 1 and 2 applications, the licensing process generally works well. For more complex projects, especially Band 3, applicants reported that a lack of clarity about timescales and the absence of a set determination period presented significant risks to project development, with delays leading to potential financial loss. Our analysis suggests that there are a multitude of factors impacting timely decision-making – and no single recommendation that on its own would expedite the determination of applications.

Factors reported to increase the uncertainty around timely decision-making include:

- Potential issues not being surfaced through effective pre-application engagement between applicants and NRW.
- Inexperienced case officers providing advice who lack corporate knowledge (especially when staff change during an application) resulting in more back and forth between applicants and NRW ML.
- Changes in, or disagreements over, advice during the application that can lead to resubmissions and legal reviews.
- Multiple rounds of consultation on minor issues.
- Delays between the notification of approval and receipt of the marine licence meaning activities cannot commence.

Having a service level agreement defining timeframes for Band 3 licence applications may not be appropriate due to the specificities of each application. Nevertheless, clarity over timeframes is important for enabling applicants to plan and submit their applications in good time.

The recommendations that follow set out a strategic package of measures that, taken together, would address the key findings of this review and over the medium term (12–18 months). They would put marine licensing on a better footing to achieve WG policy objectives and meet the anticipated demand for marine licensing activity.

Recommendations are framed in terms of required outcomes, preceded by a brief summary of the case for change. We do not underestimate the challenge in delivering these recommendations. They will require resourcing appropriately and senior-level commitment in both WG and NRW. Developers and other industry stakeholders also have a role to play to support sector aspirations including a renewed effort on collaborative working practices and communication with NRW and WG, a commitment

to effective pre-application engagement, and working together to gather and share evidence.

4.2 Establishing a distinct corporate identity for marine licensing

The case for change

Analysis of evidence from this review demonstrates the absence of a distinct corporate identity for marine licensing within NRW.

- In terms of structures and governance, current arrangements within NRW are complex, due to the many different responsibilities that NRW has, including statutory advisor, regulator and landowner. NRW corporate governance is outside the scope of this review. However, it is noted that the breadth of responsibilities that NRW has means it is difficult for the specificities of the marine licensing function to be considered separately from the rest of the NRW regulatory functions.
- From a customer perspective, the NRW website has limited information on marine licensing that is difficult to find, and it is difficult to understand how marine licensing sits alongside other functions of NRW.

Recommended outcomes

- Marine licensing is considered as a distinct function with NRW to provide a focus on developing the systems, processes and resourcing that will allow the development of the function in line with the recommendations of this review.
- Online guidance on both NRW and WG websites is clear and accessible to ensure that applicants and stakeholders can understand what NRW's marine remit is and how marine licensing sits within this.

4.3 A strategic approach to planning and resourcing to ensure that resources are adequate to meet the growing demand

The case for change

The workload with marine licensing has grown without a concomitant increase in resources. The volume of casework has resulted in a reactive approach to delivery which often has precluded the time or resource to deliver improvements. There is limited evidence of a structured, systematic approach to strategic planning to meet future demand for marine licensing activity, meaning that NRW struggle to get “ahead of the curve”.

Recommended outcomes

- A greater emphasis on strategic planning for NRW marine licensing including a 10-year horizon scan; a five-year vision and strategy document. Linked to this, an annual business plan containing agreed success metrics (building on existing KPIs), potentially using a balanced scorecard approach.⁴
- Internal management systems are developed that can accurately capture time spent on activities to identify workflow trends, provide a basis for accurate cost recovery, and a solid baseline for future planning.
- Workforce planning, resourcing and skills development is matched to future demand based on a forward estimate of activity and the competences needed to meet the expected increase in marine licensing. This should have forecast horizons at 5 years, 3 years, 2 years, 12 months, 6 months and 3 months with increasing levels of certainty at each horizon, and an ability to plan and prioritise activity.
- A recruitment and training strategy (given competition for scarce skills) that looks to support existing staff but also develop the skills needed to meet demand in the medium to long term through closer partnership with the higher education sector.
- Marine licensing fees and charges are regularly reviewed to ensure that the process is achieving full cost recovery in line with WG aspirations.

⁴ The [Balanced Scorecard](#) is a widely used approach to combining a range of metrics (typically process, finance, people and growth, external stakeholders)

4.4 Improving transparency, clarity of process and efficiency

Case for change

The analysis conducted for this review does not imply any fundamental change to the logic of the process steps within marine licensing, which are driven by statutory requirements. However, information and guidance is fragmented and hard to find, with many applicants struggling to understand what is expected, why and in what form. As noted in Section 4.2, the licensing process has a lack of transparency and online resources, and capabilities are not fit-for-purpose. This leads to unnecessary delay in the licensing process and increases in the timescales for determination.

Recommended outcomes

All the following recommended outcomes would make the process more effective and efficient, thereby reducing overall timescales for determination:

- Marine licensing is managed through an on-line portal to provide a coherent, clear and customer-focused interface. This would enable more efficient ways of working, greater opportunity for self-service and the ability for applicants to interrogate the system to understand progress and status of their application.
- Development of the portal (and supporting IT infrastructure) should be accompanied by a change programme to develop new ways of working, optimise workflows and maximise the benefits (for both NRW and applicants). Adoption of a tailored version of existing marine licensing portals should be explored to minimise development costs, including the Marine Case Management System (MCMS) in use by the Marine Management Organisation (MMO) and Marine Scotland's future digital development.
- Cost recovery is based upon a full analysis of time spent on applications, especially for Band 2 to differentiate between simple and complex projects. This needs to tie in with workforce planning.
- A risk-based approach to marine licensing which can reduce determination times by, for example, having predetermined conditions for lower risk activities.
- A consensus across UK marine licensing regulators on areas of alignment within the marine licensing and Development Consent Order processes to improve consistency and to provide rationale for differences where appropriate.

4.5 Collaborative working practices and greater focus on enabling

The case for change

Although stakeholder engagement is generally good, there are instances where this could be improved, particularly in ensuring that there is the correct level of engagement (e.g. director to director). In addition, there is a need for all parties to ensure that engagement is enabling and collaborative particularly during the pre-application process.

Recommended outcomes

- There continues to be strong relationships between NRW and key sectoral developers outside the application process to allow all parties to understand the context within which decisions are being made. This could include appropriate senior-level engagement, interchange between industry/NRW, and appropriate engagement during the application process, including site visits.
- There is opportunity for informal, flexible discussions between applicants and NRW ML / NRW A in pre-application to understand issues, build mutual confidence, set expectations for application quality and encourage early identification of potential adverse impacts. All parties recognise the need to work together constructively and flexibly (and within the legislative envelope), and the benefits of pre-application are publicised through case studies to encourage take-up.
- Regular audits are conducted both inside NRW and with external stakeholders (potentially using the survey from this review as a baseline) to track progress and identify specific areas for improvement.
- The consultation process is reviewed to develop options for greater public access and understanding (for example, using a brief video to outline the purpose of the application and the application process).

4.6 Roles and functions in marine licensing

The case for change

There is currently a lack of clarity within the submissions from NRW A on what statutory function their advice relates to, which makes it difficult to prioritise action relating to this advice. Evidence from the review is that this causes confusion with external stakeholders. On the basis of the evidence collected during the review, there is a lack of technical expertise within NRW ML which leads to an overreliance on NRW A and delays in processing applications.

Recommended outcomes

- There is clarity for stakeholders and NRW ML on how advice from NRW A relates to statutory responsibility, including responsibilities related to the Habitats Regulations, Marine Conservation Zones (MCZs), Flood and Coastal Risk Management (FCRM) and the Water Framework Directive (WFD). Where an application does not meet the required standard, there is clarity on the relevant statutory requirements (e.g. conservation objectives, WFD indicators, shoreline management plan policies). This allows for greater accountability on how technical advice is being used and greater clarity for all involved on the priority of the technical opinion being offered.
- NRW ML has the technical capacity within their team to review and assess technical aspects of EIA that are not covered by relevant statutory consultees (e.g. SNCB, navigation) as well as less technically complex aspects of an application, and do not need to rely on NRW A for this expertise. This allows for greater flexibility in discussion and determining licensing applications.
- All stakeholders are aware of the functional roles within NRW and WG in relation to marine licensing.

4.7 Using best available evidence and sound science to enable a more proportionate approach to marine licensing

The case for change

The review highlights the absence of a strategic framework and operational guidance on the use of evidence in decision making. There is a lack of clarity and consistency in advice on whether existing evidence or data from non-Welsh locations or from different sectors can be used. This raises concerns about proportionality, increases the burden on applicants and on NRW and increases timescales for data collection. Whilst there is a need to recognise the specific context for each case, a clear and consistent basis for decision making is important. A risk-based approach to evidence requirements in decision-making is needed, alongside developing capacity and capability to have the confidence and competence to make decisions using best available evidence.

Recommended outcomes

- A strategic approach to using evidence in marine decision-making is developed. Examples of where this have been done in the past include the MMO Evidence Strategy 2021 – 2025⁵ which was based on government guidance⁶ and principles on scientific advice for decision makers.⁷
- An operational response to this strategic approach is developed which could include:
 - Technical guidance on data gathering.
 - Periodic reviews of post-consent condition monitoring to understand the effectiveness of conditions, accuracy of predicted effects and inform future decision making, including under what conditions lower risk impacts can be retired earlier in the licensing process.
 - Guidance on how to consider evidence in applications that cross jurisdictions.
 - Staff training to consolidate the strategic approach and build confidence and competence in taking a risk-based approach where appropriate. This should include, where appropriate, expansion in the application of an adaptive approach to management to sectors beyond marine renewables.

⁵ <https://www.gov.uk/government/publications/evidence-strategy-for-the-marine-management-organisation-mmo-2021-2025>

⁶ <https://www.gov.uk/government/publications/scientific-advice-to-government-principles/principles-of-scientific-advice-to-government>

⁷ <https://www.gov.uk/government/publications/scientific-and-engineering-advice-guidelines-for-policy-makers>



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