

Marine and Fisheries Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

30th July 2019

By email only

Natural Resources Wales' Response to Brexit and Ours Seas

Dear Sir / Madam,

Natural Resources Wales (NRW) welcomes the opportunity to respond to the Brexit and Ours Seas consultation.

The statutory purpose of NRW is set out under the Environment (Wales) Act 2016. In the exercise of its functions under that Act, NRW must pursue the sustainable management of natural resources in relation to all its work in Wales, and apply the principles of sustainable management of natural resources (SMNR) in so far as that is consistent with the proper exercise of its functions. NRW's duty, in common with the other public bodies that are covered by the Well-Being of Future Generations (Wales) Act 2015, is to carry out sustainable development.

NRW is also a Statutory Nature Conservation Body under the Conservation of Habitats and Species Regulations 2017, as further amended by paragraph 189 of the Natural Resources Body for Wales (Functions) Order 2013, and an advisor to the Welsh Government on the natural heritage and resources of Wales and its coastal waters.

NRW's response to the consultation, attached below, is provided in the context of the statutory purpose, functions and duties outlined above.

In summary, NRW considers that:

- The domestic marine planning framework provided by the first Welsh National Marine Plan is fundamental to ensuring the sustainable use of our seas, particularly in a post-EU Exit context. As such, we welcome the imminent adoption of the plan and have outlined a number of areas in our response below that we consider key to successful plan implementation.
- The existing legislative, principle and governance framework is fundamental to achieving the vision of clean, healthy, safe, productive and biologically diverse seas and maintaining and

enhancing the health and resilience of the marine ecosystems. We welcome the Welsh Government's commitment to preventing any regression in environmental standards and ensuring that the overarching environmental principle framework is maintained. We note the crucial compliance and deterrent role that outcome-focussed enforcement has to play in this regard.

- We acknowledge the need for Wales to secure the necessary legislative tools to better enable real-time, flexible management of Wales' marine resources, and we welcome the Welsh Government's commitment to "develop primary legislation to further improve the current powers" in this regard. Securing the necessary legislative powers to enable delivery of the shared government-stakeholder vision of a responsive and adaptive management across all Welsh fisheries would enable the Welsh Government to more effectively manage resources and safeguard the resilience of the wider marine environment upon which they depend.
- Managed unsustainably, natural resources such as fish stocks are ultimately finite. Securing the sustainable management of the natural resources upon which the Welsh fleet depends is therefore of pivotal importance to sustaining the fleet and the wider coastal communities it supports, both now and in the future.
- The continued move towards a more holistic, ecosystem-based approach to fisheries management that considers the wider environmental impact of activities is essential to maintaining and enhancing fish stocks, and promoting the resilience of wider marine ecosystems which underpin fishing industry prosperity.
- Wales should aim to manage any new or repatriated quota arising from the UK's status as an independent coastal state post-Brexit as a public resource for the benefit of all. Any future fishing opportunity allocation mechanism must seek to achieve a balance between providing fishers with the security and confidence required for long-term planning, and providing legal certainty around ownership and longer-term reallocation. Any such scheme should also seek to avoid increased gear conflict; avoid displacement; incentivise low impact gears, promote environmentally responsible fishing; and minimise bycatch and the environmental footprint of fisheries on the marine ecosystem.
- NRW is supportive of proposals to introduce a new management regime for aquaculture, in principle. We note, however, that clarity is required regarding the legislative mechanism being considered and would welcome early engagement as proposals develop. We consider that any new Welsh regime should extend to all marine aquaculture activities. We also emphasise that the existing requirements for robust environmental assessment would continue to apply to any future regime.
- NRW agrees that a "*robust and transparent evidence base is essential for the sustainable management of natural resources in the marine environment*". In this regard, we welcome the role that the joint Welsh Government / NRW Marine Evidence Strategy will play in the collective identification and addressing of priority evidence needs for Welsh waters.
- Any future funding schemes must align with the Well-being of Future Generations Act mandate for long-term sustainable outcomes; support SMNR delivery; provide continuity of funding for core aspects of existing fisheries management, control and enforcement activities currently funded under EMFF; support sustainable aquaculture; and continue to support the fishing industry in transitioning to more sustainable fishing practices.

Throughout our response, we've suggested a number of additional criteria, principles and measures which we consider fundamental to the development of future marine and fisheries policy for Wales.

If you require any further information please contact Sean Evans, Lead Specialist Advisor: Marine Fisheries via sean.evans@cyfoethnaturiolcymru.gov.uk or 0300 065 3712.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Keith Davies'.

Keith Davies
Sustainable Places – Land & Sea Manager (acting Head of Natural Resource Management Policy)

Cc: Ruth Jenkins (NRW)
Mary Lewis (NRW)
Ann Purser (NRW)

Natural Resources Wales' Response to the Brexit and Our Seas Consultation

Question 1

What could the Welsh Government do to support the implementation of the Marine Plan once it's adopted?

NRW welcomes the imminent adoption of the first **Welsh National Marine Plan (WNMP)**. Implementing an integrated, plan-led approach is fundamental to ensuring the sustainable use of our seas, and the domestic marine planning framework provided by the WNMP is a **key mechanism to facilitate sustainable decision making for our seas** in light of Brexit. We agree that the Plan sets an appropriate framework to enable the sustainable management of [marine] natural resources (SMNR) and achievement of the Well-being Goals set out in the Well-being of Future Generations (WBFG) Act.

The development and adoption of the Marine Plan is the first step in a longer process of implementing marine planning. We recognise that this will be an iterative process and emphasise the importance of **evaluating the effectiveness of policies in delivering plan objectives, and of an adaptive approach to implementation**. We welcome changes to the structure of the Marine Plan and associated documentation that provide additional flexibility to update and revise elements, such as implementation guidance, as our understanding and experience of using the plan develops.

Welsh Government, as the marine planning authority, has a key role in supporting the implementation of the plan following adoption and must be sufficiently resourced to do so.

In particular, NRW would look to Welsh Government to:

- **Raise and maintain awareness amongst Public Authorities and plan users of their responsibilities and requirements under the Plan** - we welcome the Marine Planning Decision-makers group that has now been established and consider this group a key mechanism to do this for Public Authorities. The Marine Planning Stakeholder Reference Group provides a further mechanism for the Planning Authority to engage with a range of Plan users to feedback experiences of using the Plan so that issues can be addressed.
- **Prioritise and produce further guidance** - we acknowledge that a significant body of implementation guidance will be published alongside the Plan. Nevertheless, we anticipate further guidance will be needed as we learn through using the Plan. We would look to Welsh Government to develop a prioritised list of guidance needs and address these over time.
- **Maintain and improve the Welsh Government Marine data portal** - access to robust information relating to individual Marine Plan policies is essential to support plan implementation. We welcome the Wales Marine Planning Portal as providing a 'one stop shop' for such information and encourage its further development in collaboration with plan users.
- **Drive the interpretation and / or collection of prioritised, strategic evidence to support decision making** - we support the current programme of work within Welsh Government to move towards a spatial approach in planning. Robust evidence, including spatial evidence, is fundamental to providing clarity to plan users and informing decision-making under the Plan and it should be a continued role of the marine planning authority to drive forward evidence work to support marine planning. The current European Maritime and Fisheries Fund (EMFF)

funded project 'Sustainable Management of Marine Natural Resources (SMMNR)' that seeks to bring together and interpret evidence relevant to specific plan policies and sectors is an important opportunity to explore spatial prescription in marine planning. We also welcome the potential contribution that catch recording¹ and vessel monitoring system (VMS)² proposals could make in providing a clearer picture of fishing activity in support of relevant Marine Plan policies. Over the longer term, the joint Marine Evidence Strategy currently being developed by the Welsh Government, in collaboration with NRW, is a key opportunity to embed marine planning evidence priorities and drive action to address these.

- **Support an integrated approach to plan implementation across borders** including the land sea interface - for example, engaging Local Authority Planners and decision-makers will be critical to ensuring the policies in the Plan are effective in supporting a joined-up approach over the land sea interface. The development of a National Development Framework, the refresh of Planning Policy Wales, and Welsh Government's current review of TAN15 all offer opportunities to ensure that Welsh Government's aspirations and policies for land use planning and the marine environment are cross-referenced and mutually supportive in ensuring informed and effective decision-making over this important boundary.

Question 2

How could Wales enhance the health and resilience of the marine ecosystems to further support Welsh coastal communities to thrive?

Upholding the existing legislative framework

NRW welcomes acknowledgment of the importance of the existing legislative and policy framework in managing the marine environment in Wales, and Welsh Government's continued commitment to this existing framework and the vision of 'clean, healthy safe, productive and biologically diverse oceans and seas'.

As identified in the consultation, there are a number of components of **the existing framework that contribute to maintaining and enhancing the resilience of marine ecosystems**. At a Welsh level, the sustainable management of the sea is underpinned by a policy and legislative framework which includes: the Marine and Coastal Access Act (MCAA) 2009; the UK Marine Policy Statement, the WNMP; the Oslo and Paris (OSPAR) Convention; the Marine Strategy Regulations 2010; the Conservation of Habitats and Species Regulations 2017; the EU Common Fisheries Policy; the Environment (Wales) Act 2016 and the Well-being of Future Generations (Wales) Act 2015. Together, this framework provides the requirements and drivers to:

- Create an **ecologically coherent and well-managed network of Marine Protected Areas (MPA)s**;
- Consider MPA site and network management in the planning and licensing process;
- Apply an **ecosystem-scale approach to considering pressures** on and state of the marine environment;
- **Sustainably manage increasing demands** on the marine environments; and

¹ https://consult.defra.gov.uk/mmo/consultation-on-the-introduction-of-catch-recordin/consult_view/

² <https://gov.wales/vessel-monitoring-systems-fishing-boats-wales>

- Consider marine management in the context of the delivery of sustainable management of marine resources and well-being.

The pursuit of marine ecosystem resilience is an important commitment in and of itself that is consistent with seeking to achieve clean, healthy, safe, productive and biologically diverse seas. As such, it should feature in its own right as a core part of policy development post-Brexit. The significance of a healthy and resilient marine ecosystem for the provision of ecosystem services and well-being benefits to coastal communities and beyond is an important, but distinct, part of the process.

Marine Plan Implementation

A healthy and resilient marine environment contributes to the well-being of coastal communities in many ways, including as a means of spending leisure time, supporting a variety of jobs from coastal tourism to offshore industries such as fishing or renewables, as well as providing wider benefits to society such as coastal protection and carbon sequestration³. The marine planning process has identified some **priority cross-cutting and sectoral opportunities** to optimise the benefits of ecosystem services in the marine environment, which are reflected in the draft WNMP policies and are therefore a further focus as we move towards plan implementation. These are:

- Taking **practical opportunities to secure ecosystem recovery** to support resilience;
- **Ensuring multiple benefits** from the marine environment (maximising win-wins; understanding opportunities for co-location of activities and uses of the marine environment); and
- **Optimising opportunities for the sustainable growth** of tourism and recreation, marine renewable energy and aquaculture.

NRW considers that maintaining and enhancing biodiversity to ensure marine ecosystems are resilient is critical to supporting communities across Wales, and especially at the coast. Nevertheless, we consider there is some way to go to fully understand, and therefore maximise, the opportunities for individual coastal communities to benefit from the marine environment on their doorstep in a sustainable way. The **policy framework** set out within the WNMP **will allow benefits to coastal communities to be acknowledged and taken into account** in decision-making processes around licensed activities. However, NRW would like to see **further detailed information gathered on the value of Welsh seas to coastal communities** to support implementation of these policies.

Environment (Wales) Act reporting and development of the Marine Area Statement

As the second cycle of the Environment (Wales) Act reporting progresses, the second State of Natural Resources Report, **SoNaRR 2**, will help us to better understand the links between the state of the ecosystem and how it relates to resilience, the provision of services and well-being benefits.

³ Fletcher, S. and Ingwall-King, L. 2017. The role of marine ecosystem services in the sustainable management of marine resources in Wales: a discussion. NRW Evidence Report 361.

The first **Marine Area Statement**⁴, together with the all six terrestrial Area Statements along the coast, provides an opportunity to focus on ecosystem resilience and coastal communities, particularly where there is an overlap between the marine and terrestrial emerging themes. As part of our work to develop the Marine Area Statement, we will be working with a variety of partners to explore a number of issues and opportunities for the marine area, including around the benefits to coastal communities of resilient marine ecosystems.

In a post-EU exit context, these domestic Environment (Wales) Act products are key tools for NRW to progress SMNR and the sustainable development agenda in Wales. SoNaRR 2 will tell us how we are progressing towards SMNR and inform the Marine Area Statement to tell us what needs to change to achieve SMNR at sea and at the coast.

MPA management and network completion

The overall purpose of MPA management is to achieve and sustain favourable condition of the features of MPAs. A well-managed network of MPAs will have a positive impact on the health, functioning and overall resilience of the whole marine environment, and support the provision of ecosystem services and well-being benefits to coastal communities.

Work is underway through the **Marine Protected Area Network Completion Project** to complete the Welsh contribution to the wider network of MPAs in the UK. This work incorporates the principles of resilience and connectivity to ensure that marine ecosystems are adequately protected within the network. The management of current and future MPAs will be coordinated through the **MPA Network Management Framework for Wales (2018-2023)**⁵ which sets out Management Authorities shared vision and objectives for the MPA network in Wales. The Framework sets the direction of travel for management, and its associated annual **Action Plans**⁶ are a key tool for delivering that vision by improving management, and therefore restoring or maintaining condition of the network of MPAs in Wales.

UK Marine Strategy and Good Environmental Status

The Welsh contribution to the **UK Marine Strategy** represents another opportunity for maintaining and enhancing the resilience of marine ecosystems and benefits to coastal communities. The forthcoming review and update of parts two and three of the Strategy represent an opportunity to reflect the Welsh-specific situation through the development and implementation of novel proposals under the monitoring programme and programme of measures. There is a further opportunity to build on the ecosystem-based approach as the shared underpinning concept of the UK Marine Strategy and the Environment (Wales) Act, and the parallels between SMNR and **Good Environmental Status** (GES). The OSPAR convention, through its general obligations on contracting parties and guided by an integrated ecosystem-based approach to managing human activities, provides a further mechanism for collaborative delivery of shared outcomes and benefits at regional seas scale.

⁴ NRW are currently preparing a single marine Area Statement covering inshore (0-12nm) waters, and 6 terrestrial Area Statements, in accordance with requirements under section 11 of the Environment (Wales) Act 2016.

⁵ <https://gov.wales/marine-protected-area-network-management-framework-wales>

⁶ <https://gov.wales/marine-protected-area-network-management-action-plan>

Marine litter

Understanding and addressing the impacts of marine litter is an important component of the UK Marine Strategy. Further work in this area is undertaken through the collaborative Wales Clean Seas Partnership and its **Marine Litter Action Plan**. Prioritisation and resourcing of this important work stream, together with the required international collaboration, will help to deliver improvements in marine and coastal ecosystem health and resilience and benefits for coastal communities.

Securing clean and safe seas

Ensuring that the sea is clean and safe is fundamental to securing a healthy, productive and biodiverse marine environment. Continuing to uphold the objectives and standards of the **Water Framework Directive (WFD), Bathing Waters Directive and Nitrates and Urban Waste Water Treatment Directives** will make a significant contribution to the health and resilience of the marine ecosystem, thus supporting the communities who depend on the sea for business and well-being. NRW notes that, at present, ecological status considerations under WFD extend to 1nm from baselines only, compared to considerations of chemical status which extend to 12nm. NRW considers that, in the pursuit of clean and healthy marine ecosystems, consideration should be given to expanding the geographic scope of physico-chemical aspects of the underpinning legislation out to 12nm.

Water strategy

The **Water Strategy for Wales**⁷ sets out the Welsh Government's long-term policy to deliver a more integrated and sustainable approach to managing our water to protecting vital ecosystems and the environment. It is important that there is consistency in ambition between the Water Strategy and changes to the management of our seas.

Environmental principles and governance

NRW, welcomes: the Welsh Government's commitment to "*continue to progress previous [environmental] commitments and approaches*"; its statement that "*leaving the European Union must not result in a regression of environmental standards*"; and its ambition to "*continue to improve upon*" such standards.

It is important to recognise that **existing environmental principles and governance arrangements**, and the potential principles and governance gap post EU exit, **apply equally to the marine environment** and are key to maintaining and enhancing the resilience of marine ecosystems. In this regard, and as stated in our response to the Welsh Governments consultation on Environmental Principles and Governance in Wales Post European Union Exit⁸, NRW **supports proposals to ensure that the overarching existing environmental principle framework is maintained.**

⁷ <https://gweddill.gov.wales/docs/desh/publications/150521-water-strategy-for-wales-en.pdf>

⁸ <https://cdn.naturalresources.wales/media/689230/environmental-principles-and-governance-in-wales-post-european-union-exit.pdf?mode=pad&rnd=13204805768000000>

Environmental principles help to drive environmental standards and inform the development of policy and legislation. EU environmental principles currently apply to all administrations in the UK equally and are the **legal framework for the development of policy and legislation** by the UK and the Welsh Governments. Without a shared approach to a common overarching objectives and environmental principles, the Welsh Government's stated **commitment to non-regression and enhancing environmental standards** is likely to be more difficult to achieve.

In a post-Brexit context, it is **important that there is an overarching framework with a clear integrated objective of "a high level of protection for the environment"**, as currently stated in Article 191(2) of the Treaty on the Functioning of the European Union. Restating all the current principles in legislation would avoid any potential regression in standards and ensure that the EU Environmental Principles do not lose their legal status or the priority that they possess in European law. Supporting the integration of environmental policy across wider policy remits is critical to helping to maintain and enhance functional environmental standards.

A common environmental framework and set of principles at a UK level would **reduce the risk of regulatory divergence and provide a common baseline** for all. This would also reduce the risk of a 'race to the bottom' or other cross-border issues such as transboundary environmental damage being subject to different regulatory standards. It would also recognise that although environmental policy is a devolved matter, **environmental challenges such as water quality and climate change are transboundary issues which are best addressed collaboratively**.

As part of broader considerations around fleet sustainability, allocation of fishing opportunities and future funding, NRW would welcome discussion on the **potential role of the 'polluter pays principle' in helping to incentivise more environmentally sustainable fishing practices**, and in recovering costs associated with administering fisheries management⁹.

Question 3

How could we support practical action for biodiversity gain to help secure marine ecosystem resilience?

The Environment (Wales) Act (particularly its enhanced duty¹⁰ on public bodies), MCAA and the Marine Strategy Framework Directive (MSFD) provide a core part of the framework for maintaining and enhancing biodiversity and promoting the resilience of ecosystems in Wales. Furthermore, the marine component of the **Nature Recovery Action Plan** reflects the existing policy and legislative framework for the sustainable management of Welsh seas. As such, it **places significant weight on the existing strategic mechanisms and measures for marine ecosystems** at the disposal of Welsh Government and other bodies. **Vital nature**¹¹ provides a high-level framework for biodiversity and sets out six priority themes to help NRW better deliver against the objectives of the Nature Recovery Action Plan in pursuit of SMNR.

Managing pressures in the marine environment

⁹ <https://ieep.eu/uploads/articles/attachments/2d395110-8af2-4b90-84cf-42dd33436ba0/the-polluter-pays-principle-and-fisheries.pdf?v=63664509687>

¹⁰ <https://gweddiill.gov.wales/docs/desh/publications/160321-biodiversity-and-resilience-of-ecosystems-duty-en.pdf>

¹¹ <https://naturalresources.wales/about-us/strategies-and-plans/vital-nature-making-the-connections-between-biodiversity-and-the-people-and-places-of-wales/?lang=en>

Recent evidence collation indicates that whilst many habitats and species in Welsh waters are thriving, others are doing less well¹². Whilst on land, we commonly employ hands on practical action, such as planting woodland or digging ditches to restore habitats and manage them effectively, away from the coast this is often impractical. **A key focus, therefore, is managing the pressures on marine biodiversity** to ensure that marine ecosystems are resilient. It's important to acknowledge that management has to be applied at an appropriate scale, and that many of the key pressures facing the marine environment play out at, and require co-ordinated action on, a global scale (e.g. climate change).

MPA Management

The Welsh MPA network is principally managed through **regulatory consenting and assessment processes**. This is recognised in the MPA framework and associated Action Plan which is a key tool for Management Authorities to support delivery of the vision for the network. Actions in the action plan are prioritised to focus effort on actions that improve management of the MPA network and, therefore, improve or maintain network condition.

Actions vary in nature, from network scale activities, e.g. regulatory or assessment processes, to specific interventions and local pilot projects delivering practical actions on the ground. Whilst not always visible to external audiences, **strategic planning and regulatory consenting assessment processes continue to provide vital protection to the network** and represent a considerable volume of management work. It is important to acknowledge that a key step in the identification of effective practical action is the development of the underpinning strategic evidence base, in order to:

- Examine the feasibility and likely efficacy of potential actions, e.g. actions relating to restoration or enhancement; and
- Best direct finite resources to secure the greatest environmental gains.

Nevertheless, there are practical interventions, such as NRW's EMFF funded Native Oyster Restoration Project, that can be undertaken to restore biodiversity and secure ecosystem resilience and we encourage such activity where it can be demonstrated to be effective.

Preventing the introduction and spread of Invasive Non-Native Species

Invasive Non-Native Species (INNS) are difficult to control or eradicate in the marine environment once introduced and established. **Preventing the introduction and spread of INNS through effective biosecurity planning and implementation** is therefore a key element of sustaining a resilient marine ecosystem and preventing marine biodiversity decline. The aquaculture sector, through the movement of shellfish for example, represents a significant risk pathway and biosecurity challenge that requires clear policy and management. The existing Alien and Locally Absent Species in Aquaculture (England and Wales) Regulations 2011 and Aquatic Animal Health (England and Wales) Regulations 2009 are important regulatory tools in this regard.

Assessing Welsh Fishing Activities

¹² [Indicative feature condition assessments for European marine sites \(EMS\)](#)

On behalf of and in partnership with the Welsh Government, NRW continues to develop the evidence base around the impact of current and potential commercial fishing activities on MPA features on a prioritised basis through the **Assessing Welsh Fishing Activities (AWFA) Project**. NRW welcomes the Welsh Government's stated commitment to continuing this important work. Allied with but separate to this Project, NRW is committed to continuing to support the Welsh Government in its development of informed management intervention to address potentially negative fishing gear-feature interactions.

Section 7 review

The on-going review of the interim section 7 list represents an opportunity to identify those habitats and species of principle importance for the purposes of maintaining and enhancing biodiversity. There could be habitats or species where practical action is both required and feasible for the purposes of improving resilience.

Holistic management at the land-sea interface

Management of the land and sea often falls under separate legislation and licensing regimes which can result in challenges for a well-coordinated approach to supporting marine ecosystem resilience at the coast. This is most apparent for water quality and the coastal physical environment. Discharges of nutrients and chemicals from catchments, and directly to estuarine and coastal waters from industry, can lead to eutrophication and a direct toxicological impacts. Direct and indirect wastewater inputs can result in microbiological issues for designated shellfish and bathing waters. Ensuring that the land and sea interface is managed effectively across traditional boundaries, using a source to sea approach, is critical to supporting marine ecosystem resilience.

Relevant WNMP policies

Incorporating biodiversity enhancement to support ecosystem resilience is encouraged under the new marine planning framework (WNMP Policy ENV-01). NRW has recently published a report exploring the various techniques that can be employed to **build biodiversity gain into individual developments** to support future implementation of this policy¹³. Nevertheless, we recognise that whilst such, often small scale, activities can result in local biodiversity gains, there may be limited benefit to the resilience of wider marine ecosystems. We therefore consider there is merit in exploring taking such requirements further and **considering embedding the 'net gain / net benefit' concept into marine planning decisions**. Under net gain / net benefit, any marine developments should seek to deliver environmental benefits over and above any mitigation / compensation that would already be required to address specific impacts of a project.

We note that **the absence of mechanisms** for delivering particular outcomes in the marine environment **may be a barrier to taking forward larger scale restoration** and improvement projects. Under terrestrial planning, for example, section 106 agreements are commonly used to address a range of issues associated with developments, but no such mechanism exists for the marine area. Identifying potential options for driving forwards environmental enhancement

¹³ NRW Report no. 357 - [Supporting the implementation of the Welsh National Marine Plan: Enhancing marine ecosystems](#)

through the marine planning process is a key question that we currently exploring through the marine Area Statement. We urge Government and other stakeholders to work with us to explore these issues fully and **identify how we can all contribute to biodiversity gain in the marine area.**

The proposed **Wales Marine Action and Advisory Group (WMAAG) sub-group on marine ecosystem resilience** will be a useful mechanism for securing stakeholder input to the cross-cutting issues and opportunities in this area, *inter alia*, Area Statements, the marine strategy, SoNaRR, section 7 and the completion and management of the MPA network.

Question 4

What initiatives could be used to improve the long-term sustainability of fisheries in Wales?

NRW recognises that the consultation is intended to be the start of the conversation as Welsh Government seeks to collaboratively develop **a fit for purpose future Welsh marine and fisheries policy in a post-Brexit**, post-Common Fisheries Policy (CFP) context. NRW welcomes the opportunity to help to shape the dialogue around future fisheries policy in Wales, and reaffirm the fundamental role played by existing environmental commitments and legislation in management of the marine environment. As such, NRW welcomes the extensive legislative programme delivered to date to **ensure that the existing management framework provided by retained EU law remains operable** upon EU Exit.

Principles for future fisheries management

NRW considers that, in developing future UK fisheries management frameworks through the Fisheries Bill and bespoke Welsh fisheries policies and legislation in pursuit of long-term sustainability, the Welsh Government should seek to:

- Embed an **ecosystem-based approach to fisheries management** which considers both the management of fisheries resources and broader impacts on the wider environment and trophic level interdependence, particularly in the context of the requirement to achieve Good Environmental Status under the Marine Strategy Regulations 2010;
- **Fish all commercial stocks within safe biological limits** by meeting thresholds set above Maximum Sustainable Yield (MSY) or Maximum Economic Yield (MEY)¹⁴;
- Ensure that fisheries management measures are informed by **robust evidence** and data that are **transparent and auditable**;
- Develop **responsive and adaptive marine fisheries management** measures that apply to all vessels in Welsh waters;
- Deliver an **effective discard ban / landings obligation**, applied to all Welsh waters;
- Require mandatory detailed **real time position and catch return information** from all vessels in Welsh waters;
- Develop approaches that involve **co-management and good governance** arrangements;
- Secure **effective monitoring and compliance** arrangements that apply to all vessels in Welsh waters;

¹⁴ On implementing maximum economic yield in commercial fisheries C. M. Dichmont, S. Pascoe, T. Kompas, A. E. Punt, and R. Deng

- Utilise technological gear and monitoring advancements;
- Utilise the best available science and expertise to underpin future quota negotiations and management; and
- **Reduce bycatch and eliminate discards and illegal, unregulated and unreported fishing.**

Powers to deliver adaptive management and the UK Fisheries Bill

As acknowledged in the consultation document, the CFP is a fundamental part of the current fisheries management framework, underpinning higher level international obligations and agreements such as the United Nations Convention on the Law of the Seas (UNCLOS). In the absence of the CFP under an EU exit scenario, NRW acknowledges that the **Fisheries Bill** currently before Parliament is key to establishing a new framework for UK level co-ordination on fisheries management.

NRW considers that the Fisheries Bill presents a pertinent opportunity to expedite the provision of powers ('transitional' as they may be), and additional legislative competence for the Welsh offshore, that would enable Welsh Government to bring forward a comprehensive and fit for purpose fisheries management regime for the whole of the Welsh Zone¹⁵.

NRW understands that the Welsh Government intends to deliver the sustainable management of commercial fisheries through the issuing of **permits with responsive application of management conditions** (e.g. effort restrictions, Total Allowable Catches [TACs] and closed areas due to an unforeseen environmental impact etc.) informed by robust and transparent evidence. In doing so, NRW welcomes the Welsh Government's intention to enhance sustainable management practices for "*species with commercial value*", including, for example, non-quota shellfish species such as lobster and crab which are of key importance to the Welsh fishing industry.

Securing the necessary legislative powers to deliver the shared government-stakeholder vision of a responsive and adaptive management regime across Welsh fisheries **would enable the Welsh Government to more effectively manage resources¹⁶, and safeguard the resilience of the wider marine environment** upon which they depend. Whilst Fisheries Bill discussions with Defra remain ongoing, NRW understands that the Welsh Government has not secured all the amendments being sought¹⁷ in this regard to date. Additionally, whilst not the default legal outcome, a remain scenario would likely have significant negative implications for the pace and scope of future marine fisheries policy development in the short term.

NRW is conscious of the urgent need for Wales to secure the necessary legislative tools to better enable real-time, flexible management of Wales marine resources, and **welcomes the Welsh Government's commitment to "develop primary legislation to further improve the current powers"**, particularly so should such improvements not be secured through the Fisheries Bill in the short term.

¹⁵ As defined under the Welsh Zone (Boundaries and Transfer of Functions) Order 2010

¹⁶ As defined under the Environment (Wales) Act 2016

¹⁷ https://gov.wales/sites/default/files/publications/2019-03/wales-marine-fisheries-advisory-group-brexit-legislation-update_1.pdf

Sustainably managing fisheries resources

The consultation states that the Welsh Government is committed to “*achieving MSY in line with EU timeframes*”, but that it is also “*willing to explore views on alternative sustainable management mechanisms*” so long as they are consistent with the international nature of stock assessment and don’t compromise future fishing opportunity negotiations. NRW **welcomes the Welsh Government’s commitment to MSY** and supports the urgency and certainty that the existing CFP commitment (to achieving an MSY exploitation rate for all stocks by 2020) provides. NRW notes, however, that the effect of the Fisheries Bill as introduced¹⁸ (and as subsequently amended in Public Bill Committee¹⁹) would be to dis-apply the existing CFP commitment to achieving MSY, in effect, deferring such target setting to non-legislative mechanisms such as the Joint Fisheries Statement^{20,21} stipulated in the Bill.

In the context of the **Landing Obligation** (LO, also known as the ‘discard ban’) and limited access to opportunities for quota species across the Welsh fleet at present, NRW acknowledges that limiting fishing opportunities in line with scientific advice on fishing mortality consistent with achieving MSY could lead to challenges and reduced catching opportunities. This is particularly true for those prosecuting mixed fisheries, for example, where high spatial overlap between differing species with similar catchability for a given gear type could result in quota allocation for one species being reached, rendering quota for another effectively unattainable.

NRW notes, however, that the continued pursuit of MSY when negotiating and setting fishing opportunities is wholly aligned with the sustainability principles enshrined in the WBFG and Environment (Wales) Acts, and we acknowledge the **greater benefits that sustainably managed fisheries provide in the longer term**. Whilst it isn’t clear what “*alternative sustainable management mechanisms*” might be considered, NRW would support consideration of the potential benefits that alternative approaches such as **MEY** could provide.

Furthermore, whilst MSY is recognised best practice in fisheries *resource* management, MSY alone is just one piece of the sustainably managed fisheries puzzle. NRW advocates the **continued move towards a more holistic, ecosystem-based approach to fisheries management that considers the wider environmental impact of activities** in order to help maintain and enhance fish stocks, and promote the resilience of the marine ecosystems which underpin fishing industry prosperity.

Crawfish management

As part of future shellfisheries management discussions, NRW would welcome further discussion on the **sustainability of the current minimum conservation reference size (MCRS) and management in relation to crawfish**. As noted in our response to the 2014 Inshore Crustacean

¹⁸ <https://publications.parliament.uk/pa/bills/cbill/2017-2019/0278/18278.pdf>

¹⁹ <https://publications.parliament.uk/pa/bills/cbill/2017-2019/0305/18305.pdf>

²⁰ <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/environment-food-and-rural-affairs-committee/scrutiny-of-the-fisheries-bill/oral/93939.html>

²¹ www.senedd.assembly.wales/documents/s86861/Paper%20to%20Note%20-%20Correspondence%20from%20the%20Minister%20for%20Environment%20Energy%20and%20Rural%20Affairs%20-%202027%20Marc.pdf

Fishery Consultation²², whilst we supported the Welsh Government's proposal to apply the existing 110mm MCRS for crawfish consistently throughout Wales, we noted that it is likely that a significantly higher MCRS would be required to increase the reproductive potential of depleted crawfish populations in Wales²³.

NRW suggests that, in order to help inform consideration of the efficacy of existing management of crawfish in Wales and any future management discussions, the Welsh Government should:

- Review and where required build upon the existing scientific evidence base, particularly in relation to larval dispersal²⁴ and the source of recruitment to the Welsh population; and
- Give consideration to the merits of additional management intervention, including consideration of a temporary suspension on landings, in helping to secure population recovery.

Enabling recovery of the stock to a position where the age and length structure is indicative of a healthy population (i.e. a greater number of larger and older individuals) should be the key management aim.

Recreational Sea Angling

The **impacts from Recreational Sea Angling (RSA)** are largely unknown in terms of the amount of fish removed and the potential impacts on sensitive habitats. NRW has commissioned a review of the potential impacts of RSA in Wales as part of its **Wales Non-Licensable Activities Project** which will contribute towards a better understanding of the nature and scale of potential impacts, and better direct further research and the development of management (if / where required).

NRW supports the scientific consideration of **including catches from RSA in quota** calculations and ongoing initiatives²⁵ to better quantify recreational catches in line with the EU Data Collection Framework and EU Council Regulation 1224/2009 requirements. More broadly, notwithstanding that RSA may require bespoke management, NRW considers that **greater integration of RSA** into a future fisheries management regime would help to facilitate **improved consideration of impacts on the wider environment and cumulative impacts on stocks**.

Assessing and managing fishing impacts

NRW welcomes the Welsh Government's continued commitment to undertaking a structured approach to evaluating existing and potential fishing activities against European Marine Site (EMS) features in partnership with NRW through the **AWFA Project**. The outputs of AWFA will support the aims of the WBFGE and Environment (Wales) Acts and the Habitats Directive by safeguarding Wales' network of MPAs, strengthening the resilience of the marine environment and improving the sustainability of marine fisheries. Further to AWFA, all relevant fisheries plans

²² <https://cdn.naturalresources.wales/media/1759/inshore-crustacean-fishery-consultation-17-april-2014.pdf?mode=pad&rnd=131625760680000000>

²³ Leslie, B., & Shelmerdine, R. L. 2012 Management measures for self propagated future recovery of crawfish, *Palinurus elephas* in Welsh waters. CCW Contract science report No: 989

²⁴ <https://www.frontiersin.org/articles/10.3389/fmars.2018.00058/full>

²⁵ <https://www.seaangling.org/>

or projects within European Marine Sites should continue to be assessed in accordance with the requirements of the **Conservation of Habitats and Species Regulations 2017**.

Collaborative development of future policy

The **principles of SMNR** should be central to the development of any future fisheries management policy in pursuit of long term sustainability. Promoting and engaging in **collaboration** and making appropriate arrangements for **public participation in decision-making** are key aspects of this. NRW considers that part of the task for government, acknowledging the potential role of a more **regional co-management approach** to management delivery, is raising awareness of SMNR and the WCFG Act to achieve consensus and develop a collective future vision rooted in sustainability.

Question 5

How could the Welsh Government achieve greater administrative flexibility and responsiveness in fisheries management?

Securing the necessary legislative tools is fundamental to achieving responsive and adaptive fisheries management. NRW understands that the Welsh Government continues to discuss a number of areas of the Fisheries Bill with the UK Government in this regard, and that it is seeking amendments to the MCAA that would (among other things):

- Allow Welsh Ministers to **vary from time to time** the conditions attached to any fishing permits issued, thus enabling more flexible and responsive management; and
- Enable Welsh Ministers to make **interim Orders for fisheries management purposes** in situations that are not solely connected to the protection of Marine Conservation Zones, to enable a quicker management response to prevent potential damage¹⁷.

NRW also welcomes new clause 39 of the Bill which, if enacted, would **extend the legislative competence of the National Assembly for Wales to the Welsh Zone** in relation to fishing, fisheries or fish health, thereby achieving parity with the devolution settlement of other Devolved Administrations. Together with the aforementioned amendments to MCAA, and as stated in response to question 4, these changes would be instrumental in enabling the Welsh Government to bring forward **a comprehensive and fit for purpose fisheries management regime for the whole of the Welsh Zone**. NRW fully supports the Welsh Government in its pursuit of these amendments which would enable it to deliver more responsive and adaptive management of marine fisheries.

In the absence of such powers at present, NRW welcomes the introduction of measures to improve the sustainability of fisheries using powers currently available, including for example, the recently announced Statutory Instrument²⁶ in relation to a phased increase in the MCRS and planned landings cap for whelks.

Question 6

How should adaptive management be introduced for a wider range of species, if so,

²⁶ <https://gov.wales/written-statement-welsh-whelk-fishery-statutory-instruments>

which would be the priority?

NRW agrees with the Welsh Government's intention to “*prioritise those species of primary importance in Wales in the first instance*” and considers that **whelk, lobster, crab, scallop, bass, skate and ray species** should feature high on the list of priorities given their importance to the Welsh sector in terms of landings and value. Management needs to be tailored to the individual context of specific fisheries and must have ecological and broader environmental considerations at the heart of its design. In anticipation of receipt of the necessary legislative mechanisms for delivery, NRW looks forward to continuing to work with the Welsh Government and others to develop fit for purpose fisheries management regimes that are tailored to the Welsh context and fully aligned with SMNR.

Question 7

How might you see fish stocks being managed for the wider benefit of the people of Wales and their coastal communities?

NRW acknowledges the historic commoditisation of fishing opportunities and complex quota management situation and that has developed under current CFP and domestic fisheries concordat²⁷ arrangements, and that to change this arrangement in the short term would be challenging. NRW welcomes, however, the Welsh Government's stated desire to move towards a position where the Welsh industry, and the coastal communities which it supports, are afforded a more equitable share of opportunities through the establishment of a “*fairer system which benefits our marine environment, the fishing industry and our coastal communities*”.

Wales should aim **to manage any new or repatriated quota** arising from the UK's status as an independent coastal state post-Brexit **as a public resource for the benefit of all**. Any future fishing opportunity allocation mechanism must seek to achieve a balance between:

- Providing fishers with the security and confidence required for long-term planning;
- Providing fishers and fishery managers with the flexibility to facilitate compliance with output controls (e.g. MSY / LO); and
- Providing legal certainty around ownership and longer-term reallocation.

The Fisheries Administrations of the UK could consider allocating UK quota according to the evidence informed **zonal attachment principle**, rather than on a reference period / historic share basis. In doing so, Administrations should **seek to provide a greater share of opportunities to the lowest impact fisheries** and encourage the right fishing, in the right place, with the right gear to avoid unwanted catches and environmental harm. Any future quota scheme should seek to:

- Avoid increased gear conflict;
- Avoid displacement;
- Incentivise and drive investment in low impact, environmentally responsible fishing;
- Minimise the environmental footprint of fisheries on the marine ecosystem; and
- Minimise bycatch and choke.

²⁷ <https://www.gov.uk/government/publications/concordat-on-management-arrangements-for-fishing-quotas-and-licensing-in-the-uk>

Question 8

What mechanisms could you seek to help the Welsh fleet adapt to make the most of any new fishing opportunities?

Given that the Welsh fleet is predominantly comprised of under 10m vessels with limited offshore capability, the Welsh Industry may not be in a position to take up any additional at distance finfish opportunities arising in the short term. As such, the Welsh Government could **consider a quota leasing scheme** for any fishing opportunities beyond the immediate capability of the Welsh fleet. Any such scheme should be rooted in sustainability and aligned to the criteria stated in response to question 7 above. Income generated from such a scheme could be invested in coastal communities, **fleet diversification** through investment in low impact fishing capability and to **promote gear selectivity** initiatives.

Question 9

How could the industry and coastal communities generate sustainable funding or financing opportunities and where might these opportunities arise from?

No comment made.

Question 10

What do you think could be done to manage 'choke' species more effectively?

Establishing a quota reserve

The consultation states that the Welsh Government "*wishes to work with the industry and other stakeholders to develop proposals to reduce this risk [of choke] whilst maintaining sustainability*". It stops short, however, of proposing any potential mechanisms to manage choke species, compared to the Fisheries White Paper²⁸ for example, which proposed a package of measures including: the concept of **establishing a quota reserve to offset choke using new quota**; and adaptive management measures such as **real-time closures** as a mechanism to avoid high risk choke areas.

NRW appreciates the problem that choke species pose to the fishing industry in meeting their current obligations under the LO. The Welsh Government could consider **reserving a proportion of any additional quota** arising post-Brexit **to minimise / offset choke, or for the RSA sector** in the short-term. In the longer-term, however, we consider that a more holistic, ecosystem-based and precautionary approach is needed for the Welsh and UK Governments to meet their international obligations of GES and MSY and protect this public asset for future generations.

Alternative management systems

The Welsh Government could also give consideration to any **lessons learnt** from Defra's proposed **targeted scientific trial of an effort-base system in English Inshore Waters**²⁸ and how these might be applied in relation to Wales. NRW would welcome a wider **discussion on**

²⁸ Sustainable Fisheries for Future Generations -

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/722074/fisheries-wp-consult-document.pdf

quota versus effort-based fisheries management in UK waters, to better understand the conservation risks and opportunities.

Question 11

Do you agree with proposals to manage shellfish flexibly? Yes/No/Don't know

Can you provide any example where flexible management would be of benefit?

Yes.

NRW welcomes the Welsh Governments acknowledgement of the need to safeguard Wales' shellfish resources for future generations, and its commitment to "*ensuring there are appropriate management tools to sustain*" natural and cultivated shellfish populations. As stated in response to questions 4 and 5 above, NRW considers that there is **a clear role for more responsive and flexible management** and we would welcome the introduction, for example, of a **restricted permit scheme** (with associated spatio-temporal, technical and effort conditions) for certain fisheries where it can be demonstrated to contribute towards the achievement of SMNR and not to compromise the integrity of any EMSs. NRW has historically supported, for example, flexible management proposals in relation to the Welsh whelk and scallop²⁹ fisheries, subject to the satisfactory outcome of necessary Nature Directive related assessments.

Stock status and evidence gaps

For a number of years, fishery managers have relied on managing crustacean fisheries through Minimum Landing Size (MLS) or MCRS, with few controls on the amounts landed or the amount of gear fished. Under MSFD, the UK has an **obligation to sustainably manage commercially exploited fish and shellfish stocks within safe biological limits capable of producing MSY by 2020**. Whilst the UK applied for, and was subsequently successful in securing, an exemption from achieving GES by 2020 on the grounds that it will take time for stocks to respond to existing and planned measures to reduce exploitation rates and protect shellfish species, the latest information confirms that **most national shellfish stocks have either not yet achieved GES or that their status is uncertain**³⁰. In many instances, this uncertainty relates to a **lack of robust stock assessment and effort data** by which to assess sustainability and the extent to which exiting exploitation is consistent with achieving GES.

NRW considers, therefore, that in addition to securing the necessary powers to implement a more adaptive management regime for Wales' shellfisheries, there is an equally important need to address the evidence gaps in terms of shellfish stock assessments **and move towards informed fisheries management measures that control either or both effort and catch**. Currently, certain shellfish fisheries may be being fished at or near capacity, impacting on the ecosystem's ability to sustain a viable long-term shellfish industry.

²⁹ <https://cdn.naturalresources.wales/media/676190/proposed-new-management-measures-for-the-scallop-fishery-in-cardigan-bay.pdf?mode=pad&rnd=131625760650000000>

³⁰ https://consult.defra.gov.uk/marine/updated-uk-marine-strategy-part-one/supporting_documents/UKmarinestrategy-part1consultdocumentfinal.pdf

In pursuit of GES for shellfish, specifically managing commercially exploited stocks within safe biological limits capable of producing MSY, the amount of a **species removed by recreational or non-commercial means should also be considered** when calculating the levels at which it can be fished sustainably.

Cost recovery

NRW supports the principle of charging a fee for access to permitted fisheries, and would encourage the Welsh Government to consider investing a proportion of any such permit scheme funds into:

- Annual stock assessment surveys;
- Monitoring and control; and
- The ongoing development of the scientific evidence based required to responsively and flexibly manage fisheries to achieve long-term sustainability.

Measures to protect berried (egg bearing) lobster and crawfish

NRW acknowledges that many Welsh fishers already **voluntarily return berried lobsters and crawfish** to the sea **as recognised good fisheries practice**. Preventing spawning lobsters and crawfish from being removed from the stock will contribute to the maintenance of spawning biomass that is essential to securing greater sustainability. NRW notes the absence of any swift progress with / or timetable for the adoption of a European wide prohibition on the fishing for, retention and landing of berried lobster and crawfish as part of CFP Technical Conservation Regulation reform³¹. Notwithstanding the concerns expressed by some in response to the 2014 consultation on Inshore Crustacean Fishery management in Wales, NRW urges the Welsh Government to **consider bringing forward domestic measures to protect berried lobster and crawfish** akin to those arrangements already established in England³² (e.g. prohibition on the fishing for, landing, selling, exposing or offering for sale or having possession of berried individuals).

Mandating the use of escape gaps and biodegradable ties

Similarly, NRW supported the Welsh Governments previous commitment **to examining the scientific value of using escape gaps** to release undersize crustaceans³³ and welcomes ongoing industry-led efforts to bring about a funded voluntary whole potting fleet (both commercial and recreational hobby pot) role out of escape hatches in the short term. Such interventions have clear SMNR benefits, including:

- Increased gear selectivity / reduced bycatch;
- Reduced displacement of juveniles; and
- Reduced in-pot and handling related mortality / injury.

³¹ <https://gov.wales/sites/default/files/publications/2018-11/common-fisheries-policy-update.pdf>

³² <https://www.legislation.gov.uk/uksi/2017/899/contents/made>

³³ <http://fisheries-conservation.bangor.ac.uk/wales/documents/44.LobsterEscapeGap.pdf>

As part of future fisheries policy considerations in the longer term, NRW suggests that the Welsh Government, informed by **best available evidence on escape panel design**, gives consideration to mandating such technical measures, including incorporation of low cost effective biodegradable materials as part of escape hatch design to alleviate the effects of ghost fishing from lost gear.

Emerging future fishery interests

NRW is aware of industry **aspirations around the potential for wild capture exploitation of bivalve shellfish such as razor and surf clams**³⁴. NRW considers that a fundamental first step in considering such fisheries is the **need to better understand biology, ecology, location and activity specific stock dynamics** and wider impacts in order to sustainably manage exploitation of such resources. NRW welcomes recent efforts³⁵ by the Welsh Government in this regard and considers that further research should be directed toward developing the evidence base in support of such fisheries the first instance.

More broadly, any assessment of proposals to exploit natural resources **must consider** both the impact to habitats and species from the proposed activity, and impacts on **the intrinsic value of such resources** in terms reduced provision of essential fish habitat, much of which is likely to support juvenile commercial species, and the potential effects on other ecosystem goods and services e.g. water quality, habitat stability and carbon sequestration.

Question 12

Do you agree with our proposals to introduce a new management regime for aquaculture? Yes/No/Don't know

Please consider whether there are any other functions you think the management regime should cover.

Yes (in principle).

NRW welcomes the Welsh Governments **commitment to the sustainable growth of the aquaculture sector in Wales**, and its stated desire to look afresh at the most appropriate mechanism to manage aquaculture in future. NRW acknowledges the currently lengthy Several and Regulating Order application process and agrees in principle with the Welsh Government's proposal to introduce **a more responsive and adaptive simplified sustainable licensing regime** that would also **extend to non-shellfish aquaculture**, including proposals relating to native seaweeds or mixed multi-trophic developments.

Licensing mechanism

As stated in our previous response to the aquaculture elements of the *Taking Forward Wales' Sustainable Management of Natural Resources* consultation (hereafter 'the SMNR

³⁴ <http://shellfishcentre.bangor.ac.uk/documents/ShellfishProductioninWalesWorkshop1report.pdf>

³⁵ <https://gov.wales/sites/default/files/publications/2018-09/wales-marine-fisheries-advisory-group-razor-clams-in-wales-report.pdf>

consultation')³⁶, NRW is supportive of proposals to introduce an improved aquaculture licensing regime that would **enable timely assessment of all aquaculture activity proposals in support of sustainable development of the aquaculture sector in Wales.**

It is not clear from the current consultation, however, what the intended delivery mechanism for any new licensing regime might be. The above mentioned SMNR consultation referred to utilising “*the powers now available under section 189 of the MCAA 2009*”, which provides Welsh Ministers with Order making powers in respect of managing the exploitation of sea fisheries resources³⁷. However, that consultation also referred to licences removing “*the need for such aquaculture operations to be established by subordinate legislation*” and suggested a new aquaculture licensing regime akin to the marine licensing regime within MCAA. **It is not clear to what extent the existing powers under MCAA provide for the type of flexible, variable and conditioned management sought**, particularly in light of the amendments to MCAA that the Welsh Government is currently understood to be pursuing (i.e. those detailed in response to questions 4 and 5).

Management principles

Sustainability criteria and the principles of SMNR should be a key consideration in the development of any licencing regime to ensure that negative effects on the environment are avoided and that Environmental Impact Assessments and Habitats Regulations Assessments procedures are built in from the start.

NRW would welcome the opportunity to engage in the early stage development of such a regime and **supports many of the principles** previously stipulated in the SMNR consultation, including for example that the regime should:

- Be location, species, and method specific;
- Provide for charges to **cover administration costs**;
- **Provide a power to revoke a license** where a breach of conditions occurs;
- Provide for offences; and
- Provide a power to grant the licence for **an appropriate timeframe, with regular review** as required.

Consideration could also be given to the inclusion of a Site Protection Notice mechanism akin to that inserted into the Sea Fisheries (Shellfish) Act 1967 by the Environment (Wales) Act³⁸.

Environmental assessment

³⁶ <https://cdn.naturalresources.wales/media/684364/taking-forward-wales-sustainable-management-of-natural-resources.pdf?mode=pad&rnd=131653459680000000>

³⁷ Taken to mean any animals or plants, other than salmon, trout, eels, lampreys, smelt, shad and any other freshwater, anadromous or diadromous fish, that habitually live in the sea (including those that are cultivated in the sea).

³⁸ <https://gov.wales/sites/default/files/publications/2019-05/environment-wales-act-2016-shellfisheries-marine-licensing.pdf>

A common delay in the process of granting Several Orders by Welsh Government has been the resources, evidence and tools available to satisfy the **necessary environmental assessments** required under nature conservation legislation. It should be recognised that these assessments will still be required under any new aquaculture licensing regime. NRW does, however, acknowledge that **a new regime with greater flexibility** could provide for the incorporation of adaptive management that may in turn provide **mitigation for potential impact pathways**. NRW welcomes the Welsh Governments ongoing review of the administrative Several and Regulating Order determination process with a view to **streamlining the assessment of existing applications in the short term**.

Future Regulating Order arrangements

As the Grantee of two intertidal cockle fisheries in Wales, NRW would welcome **early engagement on any proposed changes to the existing Regulating Order regime**. NRW notes from the SMNR consultation, however, that “*Welsh Ministers would need to retain the power to make Regulating Orders (jointly with Defra Ministers) to allow cross border fisheries to continue, and where delivery bodies are responsible for management*”. NRW supports this position and the certainty of continuity (of process and management regime) that it provides.

Biosecurity

The **eradication of INNS in the marine environment is not always feasible** and attempts to do so are often costly. For this reason, it is paramount to emphasise the importance of **preventing their introduction and spread**. Aquaculture represents one of the main INNS introduction pathways in the marine environment and NRW considers that caution should be exercised in relation to the use of non-native species in aquaculture, with due regard given to the assessment of potential negative effects and likely introduction and spread, through established EIA / HRA processes. NRW advocates the preferential use of native species where possible.

Question 13

- a) *How could Wales increase its aquaculture production?*
- b) *What role do Welsh businesses and the Welsh Government have in this process?*

Adoption and **implementation of relevant sector specific policies of the WNMP** will be key to the sustainable development of the aquaculture sector. Over the medium to longer term, further **developing strategic policy**, including the development and refinement of evidence informed strategic resources areas, would help to improve the management of marine activities and resources, protect marine ecosystems, guide related sector safeguarding policy and ultimately **facilitate sustainable development**.

The role of existing and proposed projects

The EMFF funded SMMNR Project will play a crucial role in developing part of the aquaculture evidence base. NRW's Assessing Welsh Aquaculture Activities (AWAA) Project proposals could, subject to receipt of funding and in collaboration with the Welsh Government and sector representatives, help to:

- **Reduce the uncertainty around the evidence base** to inform the relevant environmental assessment processes by spatially defining locations and constraints for aquaculture activities;

- **Develop guidance on how the WNMPs risk-based approach to deploy and monitor could be delivered;**
- Support co-ordinated spatial planning and sustainable development of aquaculture by assessing and **mapping opportunities and constraints** from aquaculture activities on protected marine habitats and species; and
- Explore the principles of an **aquaculture demo zone**.

Water quality

There are implications of establishing aquaculture in areas of poor water quality. In addition to **promoting coexistence with other marine developments** to optimise marine area use, shellfish aquaculture proposals should be **encouraged in areas where it can be demonstrated that there is already good water quality**, in areas where existing water quality is sustaining, or has the potential to sustain, shellfish populations at Class B³⁹, for example.

Sustainable disease and INNS free seed supply

Mussel and other bivalve molluscan aquaculture in Wales relies on both wild caught and hatchery derived juvenile seed for relaying / on-growing. NRW acknowledges that **variability in the availability of disease and INNS free seed** supply has the potential to **constrain the development** of this part of the sector^{34,40}. There is a **need to better understand the recruitment dynamics** of wild caught juveniles in order to sustainably manage resources (particularly mussel), and facilitate the development of aquaculture activities which **support continuity of seed supply** for the benefit of both commercial aquaculture and biodiversity enhancement and restoration initiatives (i.e. native oyster restoration).

Safeguarding marine ecosystems

NRW empathises with the industry view that “*increasing constraints posed by measures to restrict the spread of INNS (e.g. the requirement for trials prior to moving seed) is putting extra pressure on those in the industry seeking seed*”⁴⁰. We reiterate, however, the **fundamental importance of biosecurity in preventing the introduction and spread of INNS**, given the often costly and ineffective challenge of retrospective eradication efforts and the threat to livelihoods and marine ecosystems.

Building on the Aquaculture Regulatory Toolbox for Wales information⁴¹, there is perhaps a role for both NRW and the Welsh Government in raising further awareness of the environmental legislative landscape relating to aquaculture in order to achieve an understanding of, and consensus around:

- The importance of robust environmental assessment in safeguarding marine ecosystem resilience in support of a sustainable aquaculture industry; and
- Realistic consenting timeframes.

³⁹ <https://www.food.gov.uk/business-guidance/shellfish-classification>

⁴⁰ <https://gov.wales/sites/default/files/publications/2018-05/assessment-of-the-potential-for-aquaculture.pdf>

⁴¹ <https://businesswales.gov.wales/marineandfisheries/funding-and-business-development/aquaculture-regulatory-toolbox-wales>

Promoting diversification of activities

In the context of the potential environmental impacts of certain bait collection activities⁴² on marine habitats and species, NRW would welcome facilitation of aquaculture initiatives which deliver and **promote sustainably farmed angling bait** as an alternative to baits collected from the wild. The **Bait Digging and Collection of Living Resources** strand of **NRWs Wales Non-Licensable Activities Project**⁴³ is seeking to develop the spatio-temporal evidence base of non-licensable activities in relation to MPA features and will **help to inform future discussion on the management of marine resource collection** on a prioritised (activity, location and habitat sensitivity specific) basis.

Question 14

How could market development be encouraged in future e.g. new markets and new Products?

According to figures presented in the consultation, shellfish aquaculture and cockle fisheries generate a combined value of around £5m and account for 24% of total Welsh fishery and aquaculture value. NRW notes that **water quality is absolutely critical** to these activities in terms of classification and marketing. NRW understands that at present, the major supermarkets of the UK procure shellfish from Class A classified zones exclusively, whereas the majority of classification zones (or beds) within designated Welsh bivalve mollusc production areas typically achieve Class B-LT, with some at Class B or C^{39,44}. **Improving shellfish water quality** to a standard consistent with achieving Class A could potentially, therefore, **open up a significant internal market for Welsh shellfish**⁴⁵.

Question 15

- a) *How could Welsh producers boost UK consumer interest in Welsh seafood produce?*
- b) *Does the Welsh Government have a role to play?*

No comment made.

Question 16

Could new markets for Welsh seafood, outside the EU be expanded, if so where and how?

From an NRW perspective, whatever new markets and opportunities are pursued in future, we consider that the recent **catch recording and VMS proposals**^{Error! Bookmark not defined.,Error! Bookmark not defined.}, together with the existing fisheries management and sustainable development

⁴² <https://cdn.naturalresources.wales/media/686221/eng-report-081-impacts-of-bait-digging-on-gann-evidence-review.pdf>

⁴³ See action 12 of <https://gov.wales/sites/default/files/publications/2018-12/marine-protected-areas-network-management-action-plan-for-wales.pdf>

⁴⁴ <https://www.food.gov.uk/sites/default/files/media/document/classification-list-3-june-2019.pdf>

⁴⁵ Munday and Bryan (2016). Assessing the value of Wales Shellfish Harvesting and Processing Sector – Collation of Evidence & Change Scenarios. Cardiff Business School 25pp.

legislation, **provide the core provenance framework upon which to market seafood** domestically and further afield. Any tailored management interventions arising from the AWFA project will also help to support fishers in demonstrating the sustainability of produce and associated capture methods.

The **Seafood Market Development Project**⁴⁶ and **Wales Seafood Cluster initiative**⁴⁷ have a clear role in **supporting the development of trade opportunities and new markets**. NRW supports the inclusion of the Seafish Responsible Fishing Scheme under the development project and would **urge that environmental suitability feature as a core consideration of these workstreams**. The setting of, and delivery against, a high-level, aspirational future fisheries management aim, such as the mention of “*setting a gold standard for sustainable fishing around the world*” stated in the FWP²⁸, could help support promotion of Welsh seafood as an exemplar product under the Cymru Wales Brand.

Question 17

- a) *What role could the Welsh Government and others play to enable the industry to expand processing and other economic activities?*
- b) *How should coastal communities be engaged in developing new opportunities?*

NRW, through its existing duties and functions in relation to water quality permitting, marine licencing and environmental assessment, has a key role in **ensuring that any potential impacts from the expansion of processing activities in Wales are fully assessed**. This includes ensuring that biosecurity aspects are fully considered where relevant, e.g. in relation to the handling and treatment waste water arising from the processing of shellfish of mixed origin.

Question 18

How could the relationship between academia and industry be better improved?

NRW considers that there **are a multitude of opportunities to facilitate better collaboration** between academia, industry, advisors and regulators. Better join up on the thinking around the science and evidence development needed to support informed and transparent fisheries management could be achieved through:

- **Collection and provision of data by industry**, including through science partnerships with academia, to keep fisheries management up-to-date, proportionate and based on the best available evidence;
- Collective efforts to **promote innovation and the development of more sustainable gears** and methods; and
- Collaborative identification and resourcing of **priority research areas**.

Question 19

What opportunities are there to grow fishing businesses in Wales, in other activities e.g. tourism, providing services to marine industries and Government?

No comment made.

⁴⁶<https://gov.wales/over-ps1m-promote-welsh-seafood-home-and-overseas-post-brexid>

⁴⁷https://businesswales.gov.wales/foodanddrink/sites/foodanddrink/files/Seafood%20Cluster%20Flyer_eng_0.pdf

Questions 20

How could the Welsh fleet be sustained and enhanced?

Managed unsustainably, natural resources such as fish stocks are ultimately finite. Securing the sustainable management of the natural resources upon which the Welsh fleet depends, and promoting the resilience of their underpinning ecosystems, is therefore of pivotal importance in sustaining the fleet and wider coastal communities, both now and in the future.

Taking the Welsh Whelk fishery as an example, whilst **NRW supports the Welsh Government in bringing forward legislation to increase the MCRS** of whelks in Welsh waters from 45mm to 65mm²⁶, relevant scientific evidence suggests that the MCRS for whelks in the Celtic and Irish Seas surrounding Wales is greater than 65mm. Therefore, as stated in our response to the consultation on new management measures for the Whelk Fishery in Wales⁴⁸, NRW considers that **a MCRS that would allow a significant proportion of the whelk population to breed at least once before capture, and better sustain the Welsh fleet in the longer term, may be closer to 75 or 80mm.**

Question 21

How might the fishing industry, aquaculture businesses and coastal communities leverage opportunities for sustainable growth from Wales' natural marine resources?

As stated in response to question 13 in respect of aquaculture production, NRW considers the WNMP to be a key tool in the sustainable development of the marine environment.

Question 22

What could be done to encourage new entrants into the maritime and fishing industries in Wales?

No comment made.

Question 23

What are the priority issues facing the marine environment that should be researched?

NRW agrees with the statement that a “*robust and transparent evidence base is essential for the sustainable management of natural resources in the marine environment*”. The **joint Welsh Government / NRW Marine Evidence Strategy**, currently in development, will outline the collective priority evidence needs for Welsh waters and reflects an acknowledgement of the need to address existing knowledge gaps in a strategic manner.

In addition to the joint Strategy, there are a number of existing initiatives that NRW is engaged in that have sought to identify priority evidence needs around particular sectors and subjects. Some of these existing initiatives and what we know about priority marine environment issues requiring further research are covered below.

⁴⁸ <https://cdn.naturalresources.wales/media/682143/proposed-sustainable-management-measures-for-the-welsh-whelk-fishery.pdf?mode=pad&rnd=131625760650000000>

Marine protected areas and the wider marine environment

Key priority themes have been identified for Wales' network of MPAs through the **Life N2K Programme**⁴⁹ and the subsequent NRW **MPA Network Condition Improvement Programme** (CIP). The overarching purpose of the CIP is to focus effort on priority management challenges for the MPA network in Wales, based on identified pressures and threats, and develop and deliver actions: (1) with the greatest potential to improve (or maintain) the condition of features across the MPA network, or (2) that will improve understanding of links between activities and feature condition. The priority themes are:

- Access and recreation;
- Flood and coastal erosion risk management;
- Marine fisheries;
- Pollution (including water pollution and marine litter);
- Marine invasive species; and
- Land management and agriculture.

Many of these issues are also relevant to the wider Welsh marine environment, outside of MPAs, and necessitate **ways of work that engage across multiple policy areas**, not just marine. For many of these work areas, more evidence is required to **better understand links between pressures and impacts** on MPAs and the marine environment more widely and better target action, ensuring that available resources are targeted on **actions that will have a significant positive impact** on condition of the MPA network and wider marine environment.

Marine industries

The precautionary nature of environmental legislation requires a high standard of evidence to inform regulatory decisions. There are many gaps in evidence about how innovative energy technologies interact with the marine environment. In the context of facilitating the sustainable development of the marine energy sector, one of the key areas of environmental uncertainty that requires better understanding relates to **interactions between marine energy devices and mobile species** (collision risk and displacement). Initiatives are underway to characterise the evidence shortfalls (e.g. Offshore Renewables Joint Industry Programme – Ocean Energy⁵⁰) and fill evidence gaps (e.g. SMMNR Project in relation to tidal stream and wave energy). Evidence should also emerge from developments elsewhere (e.g. in Scotland⁵¹). It will be important that efforts to support R&D in Wales, and to learn the lessons from elsewhere, are maintained.

Biodiversity

NRW notes that the evidence base for many of the features on the **interim section 7 list**⁵² is poor. Obtaining a better understanding of the condition of section 7 species and habitats, to **help inform management advice and guidance**, could be pursued as part of the emerging evidence

⁴⁹ <https://naturalresources.wales/about-us/our-projects/nature-projects/life-n2k-wales/life-n2k-reports/?lang=en>

⁵⁰ <http://www.orjip.org.uk/oceanenergy/about>

⁵¹ <https://www2.gov.scot/Topics/marine/marineenergy/mre/research>

⁵² <https://www.biodiversitywales.org.uk/Environment-Wales-Act>

gathering work in Wales. Careful consideration will be needed for those species and habitats which are important both in the context of ecosystem resilience and fisheries, such as seagrass beds, horse mussel reefs, native oysters and intertidal mudflats. NRW has also previously highlighted a number of **high priority marine biodiversity evidence needs**⁵³.

Water quality

Against a background of striving to secure and maintain clean and safe seas, there are a number of **evidence needs for the water environment**⁵⁴ which are highly relevant in a marine context.

Monitoring

Marine monitoring underpins the evidence base used to:

- Understand and **report on the condition, extent, distribution and resilience** of habitats and species;
- Improve our understanding of the **key pressures**; and
- Inform efforts to maintain and enhance biodiversity and promote ecosystem resilience.

NRW welcomes the Welsh Governments commitment to continue the collaborative development of a “**prioritised and affordable marine biodiversity monitoring programme**” in this regard. We consider that there are a number of benefits that the development of an integrated UK monitoring programme could provide, including:

- Greater certainty and **confidence in management decision making**;
- A better **understanding of the causes of environmental change**; and
- Improving our ability to determine the **effectiveness of management measures**.

Fish stocks

NRW welcomes the Welsh Governments recent efforts to better understand key species and stocks in Welsh waters as part of its commitment to developing a **Fisheries Evidence Plan**. NRW is committed to continuing to support and engage in this important area of work.

Question 24

What are the priority fisheries species and stocks that should be researched?

The emerging Marine Evidence Strategy and Fisheries Evidence Plan work described in response to question 23 above will help to identify and deliver priority research in relation to fisheries species and stocks. **Robust evidence must be obtained** to inform the management of existing and future fisheries in Wales, particularly in order to **guard against negative gear-feature interactions and unsustainable exploitation of stocks** both now, and in the future.

⁵³ <https://naturalresources.wales/evidence-and-data/research-and-reports/marine-biodiversity-collaborative-research-priorities/?lang=en>

⁵⁴ <https://naturalresources.wales/evidence-and-data/research-and-reports/water-environment-collaborative-research-priorities/?lang=en>

Question 25

What are the key economic, environmental and social factors that should be explored as part of this research?

The joint Marine Evidence Strategy will outline the key economic, environmental and social factors requiring targeted research to support the delivery of our policy and management objectives for the marine area. See also our response to questions 23 and 24 above in relation to environmental factors.

Marine Plan implementation

Improved understanding and access to evidence around key socio-economic factors relating to the sustainable use of the marine area **is critical to support the implementation of the WNMP**. In particular, the Plan requires the consideration of the well-being of coastal communities in decision-making around licenced activities. Currently there is limited information available on the implications (both positive and negative) to coastal communities of relevant activities such as marine renewables, aggregate extraction or coastal defence works that would be needed to support decision-making. We anticipate therefore that a **key focus for socio-economic research should be on improving understanding to support implementation of this policy**.

Understanding MPA benefits

Improved **understanding of how healthy and resilient marine ecosystems support coastal communities**, and the scale of their contribution to well-being are also needed to inform sustainable use of the marine environment. This includes the need for **evidence on wider societal benefits of a well-managed network of MPAs** and understanding of the implications of different management interventions.

Question 26

How can public sector, academic and other fisheries science projects be focussed and joined up to provide the evidence needed to develop and evaluate marine and fisheries policies and management?

The Marine Evidence Strategy and Fisheries Evidence Plan will highlight mechanisms to help facilitate the join up required to increase collaboration on marine and fisheries evidence delivery. Engaging relevant stakeholders in both the development and delivery phases will be key to achieving buy in and progress against strategy aims. **Dedicated financial resources for strategy delivery**, or the alignment of future funding arrangements with intended strategy outcomes, could help to expedite the transition to a more transparent, evidence led co-management approach.

Question 27

How should any successor to EMFF and other EU funded programmes be targeted in future and on what basis?

As identified in the consultation, EMFF and other EU funding programmes such as LIFE, the European Regional Development Fund, Interreg, the European Territorial Co-operation programmes and previous scheme iterations, have proved extremely valuable in facilitating a multitude marine research and action initiatives for the benefit of the Welsh marine environment. NRW's high-level priorities and principles for future marine funding are set out below.

Successor scheme priorities

Embedding ecosystem resilience into future funding mechanisms, recognising that the economic resilience of many marine industries is often underpinned by the ecological resilience the ecosystems which support them, is fundamental. The attributes of ecosystem resilience set out in the Environment (Wales) Act provide a framework for development of financial intervention criteria that would best contribute to the maintenance, restoration and enhancement of marine biodiversity. Such criteria and attributes should form the basis of any future funding, thus **fully integrating environmental priorities**.

It is important that any successor to EMFF can **support wider marine planning and management activities**. This should include, for example, developing the evidence base or trialling new approaches around marine planning, and ensuring that management actions prioritised within the annual MPA Network Management Action Plans are supported, making sure that indicators of success are relevant to the type of challenges MPAs in Wales face.

There is a challenge in producing supporting evidence in the marine environment on improvement in condition, so indicators need to allow for this, for example by accepting changes to activity levels as indicators of success. Specific MPA indicators in the current EMFF round were focussed on increasing the area of MPAs.

Funding for the fishing industry

The consultation discusses funding and support in the context of the historic need of fishing businesses for assistance in order to adapt (e.g. to regulatory change), funding that that has been provided by EMFF and predecessor funds to date. NRW considers that any EMFF successor scheme must **align with the WBFG Act mandate for long-term sustainable outcomes and support SMNR delivery**.

EMFF currently part funds core aspects of existing fisheries management, including the **Data Collection Framework (DCF)**⁵⁵ for fisheries monitoring and assessment, and certain fisheries control and enforcement activities⁵⁶. Consideration will need to be given to continuity of funds for these areas as part of any future funding regime.

NRW considers that any future fund must also continue to **support the fishing industry in transitioning to more sustainable fishing practices** and sustainable aquaculture development. NRW considers that future funding for the fishing sector should seek to:

- Incentivise sustainable fishing and promote research into innovative gears and methods;
- Promote industry collaboration with academia to address priority research needs;
- Promote the development and adoption of technology, particularly Remote Electronic Monitoring initiative development, testing and adoption; and
- Reduce subsidies over time to enable an economically viable industry.

⁵⁵ <https://www.gov.uk/guidance/data-collection-framework>

⁵⁶ <https://www.gov.uk/guidance/european-maritime-and-fisheries-fund-emff-uk-managing-authority-ukma>

Question 28

Should Welsh Government consider discontinuing support for any current fisheries and marine activity and why?

No comment made.

Question 29

What opportunities are there to secure further investment for fishing and marine?

No comment made.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Natural Resources Wales is content for this response to be made public.