

Fisheries Unit
Welsh Government
Llys Y Draig
Penllergaer Business Park
Swansea
SA4 9NX

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Natural Resources Wales' response to Welsh Government's consultation:

"A Further Review of the Management of Cockle Fisheries in Wales"

September 2013

Summary comments

Natural Resources Wales welcomes the opportunity to respond to the Welsh Government's consultation document "A Further Review of the Management of Cockle Fisheries in Wales". Natural Resources Wales are the principle environmental advisors to Welsh Government and are the current grantees of the Dee and Burry Inlet Cockle Regulating Orders. Welsh Government's cockle management consultation proposes the integration of some aspects of Natural Resources Wales' and Welsh Government's management responsibilities through the introduction of new permitting regimes.

A summary of Natural Resources Wales key points is provided in this opening section. The format of our response then comprises a section with general comments and a section that responds to Welsh Government's five consultation questions. The submission is accompanied by two annexes; the first detailing known cockle beds in Wales and the second containing additional queries concerning Welsh Government's proposals.

Key Points

1. Natural Resources Wales support the adoption of a strategic approach to sustainable management of all Welsh cockle fisheries, including a transparent framework for making consistent environmental assessments.
2. Any policy developed with regards to cockle management must bring a simplification, standardisation and transparency to the management process and should be supported through clear evidence based decision making.
3. Natural Resources Wales encourage the development of an enforcement framework that ensures understanding, communication and co-ordination between different enforcement bodies.
4. Natural Resources Wales would welcome further consideration about how the different Welsh Government permitting regimes will operate from a regulatory and administrative capacity.

5. Natural Resources Wales would welcome working in partnership with Welsh Government to deliver regulatory and administrative integration through the management of the Welsh cockle fisheries.

General Comments

Background

6. Since the abolition of the two Welsh Sea Fishery Committees in April 2010, the Welsh Government has been responsible for the management of a number of intertidal cockle fisheries throughout Wales. Currently, separate cockle fisheries are managed either by Welsh Government or Natural Resources Wales.
7. This is the second Welsh Government cockle management consultation. The Welsh Government launched the first 'Review of the Management of Cockle Fisheries in Wales' in July 2012 to consult on existing regulation and proposed changes to cockle management. This second consultation seeks to address the following principle proposals:
 - An All Wales Permit scheme for commercial cockle gathering
 - A Major Fisheries Permit scheme for selected major fisheries¹
 - A proposed method for allocation of Major Fisheries Permits
 - An All Wales Minimum Landing Size of 20mm for cockles
 - Compulsory catch returns

Environmental considerations

8. Natural Resources Wales support the Welsh Government in developing, in partnership, a long term strategy to sustainably manage Welsh cockle fisheries in line with an ecosystem approach.
9. To deliver a sustainably managed Welsh cockle fishery, Natural Resources Wales advise that a transparent framework for considering environmental assessments is adopted by Welsh Government. Environmental assessments should not be undertaken in isolation; they should consider impacts between neighbouring shellfish fisheries and impacts from associated ancillary activities such as access that are often regulated by other authorities. .
10. Cockle beds occur in various locations around the coastline of Wales. The majority of the 'major fisheries' are located within EU and UK designated nature conservation sites such as European Marine Sites² and Sites of Special Scientific Interest³. Before granting permissions to fish cockles in any Welsh marine protected areas, it is essential that Welsh Government undertake the required environmental assessments.

¹ The following will be considered by Welsh Government as major cockle fisheries: the Dee Cockle Regulating Order, The Burry Inlet Regulating Order, the Three Rivers and Traeth Lafan cockle fisheries.

² Designated under the EU Habitats and Birds Directives

³ Designated under the Wildlife and Countryside Act 1981

11. Welsh Government may wish to consider undertaking a plan level Habitats Regulation Assessment for these all Wales proposals. The assessment would scope out potential environmental constraints, commonalties, management mitigation measures etc. This process will provide direction and potentially save time when undertaking project level Habitats Regulation Assessments for individual fisheries.
12. To manage sites effectively, it must be recognised that individual sites often have different nature conservation requirements and may require different regulatory approaches. Welsh Government should develop a suite of regulatory measures that can be adopted to manage the Welsh intertidal marine environment regardless of whether a particular cockle fishery is within a protected area or not.
13. Cockle fishing in Wales has historically been managed with a closed season to allow cockle populations to spat, allow stocks to recover, prevent disturbance to protected wild bird features etc. The proposals indicate that the management of the Welsh fishery will allow an all year round opening. This management change should be considered further by Welsh Government within the appropriate environmental assessments.
14. Welsh Government should adopt a standardised minimum set of bio-security measures. These should be conditional to permits issued to operatives prosecuting cockle fisheries throughout Wales.
15. To assist with environmental and management decisions, Natural Resources Wales can provide Welsh Government with specific intertidal habitat sensitivity maps relating to cockle gathering at three defined levels of fishing intensity and sensitivity maps of access across the foreshore (both for vehicle & foot access) each at three levels of intensity.

Management of Welsh cockle fisheries

16. These proposals intend to improve and bring consistency to the management of the Welsh cockle fisheries. However, there is a risk that additional permitting requirements will cost fishers more money, add another layer of bureaucracy and create a management overlap between Welsh Government and Natural Resources Wales.
17. Any overlap in management between Natural Resources Wales and Welsh Government should be delivered through a transparent integrated approach to administration and regulation. Currently there is not enough detail supplied within this consultation as to how that new system will operate. Under these proposals three permissions; the All Wales Permit, the Major Fishery Permit, and a Natural Resources Wales Regulating Order licence may be necessary to fish in either the Dee or Burry Inlet Cockle Regulating Order fisheries. Natural Resources Wales would wish to work with Welsh Government to develop these proposals further in order to minimise the regulatory burden on fishers.
18. Natural Resources Wales support the principle of a multi agency approach for the management of cockle fisheries in Wales. Welsh Government should be the lead organisation responsible for management of the fishery with partners and agencies acting accordingly to their powers and remit.

19. Clarity around the criteria used to define a 'Major Fishery' should be provided.
20. Welsh Government do not have powers to regulate the cockle fisheries within the Foryd estuary, Caernarfon and parts of the Dyfi estuary as the cockle beds are located outside of the former Sea Fishery Committee's jurisdiction. It is essential that these beds are brought under Welsh Government's control as they all have potential for commercial exploitation.
21. The Marine Management Organisation, the North Western Inshore Fishery Conservation Authority's and fishermen's representatives should be consulted on cockle management proposals that potentially effect English fishermen operating on the cross border Dee Cockle Regulating Order.

Food Standard Agency classified (FSA) areas

22. The proposals intend to manage cockle fishing by opening all areas with cockles in Wales to fishing (see Annex 1), including areas that are non FSA certified for commercial gathering and human consumption. Welsh Government indicates that it will be the fishermen's responsibility to only fish areas that are FSA classified.
23. This proposal has the potential to cause some confusion; areas may be open to fish but not classified for human consumption. The enforcement responsibility for ensuring non FSA classified areas are not fished lies with the relevant Local Authority.
24. It is essential that Welsh Government develop an enforcement framework to ensure adequate understanding, communication and co-ordination between their Marine Enforcement Officers and affected Local Authority enforcement staff.
25. An alternative way to manage cockle fishing would be to continue the current approach taken by Welsh Government under the Cockle and Mussel (Specified Area) (Wales) Order 2011. This system of management requires individual areas to be added to the permit after they have satisfied any relevant environmental assessments. Therefore, if an individual is fishing an area that is not on the open area list they are committing an offence under Welsh Government fisheries legislation.

Enforcement

26. Enforcing these proposed regulations will need to be adequately resourced by Welsh Government and any of their strategic partners such as Natural Resources Wales and Local Authorities. To ensure regulatory compliance, Natural Resources Wales recommend the presence of enforcement staff at all the Welsh cockle fisheries when they are open. The potential extent of illegal cockle fishing should not be underestimated.
27. There is a lack of detail on how Welsh Government intends to regulate the cockle fisheries from an enforcement perspective:

- Will Natural Resources Wales Enforcement Officers be cross warranted or are changes required to the Natural Resources Wales Regulating Order Management Plans to allow Welsh Government permits to become licence conditions?
 - Will Natural Resources Wales Enforcement Officers be required to provide enforcement support in other cockle fishery areas outside of current Regulating Order areas?
28. Consideration may need to be given to the impact of fishers losing their All Wales Permits and the subsequent legality of removing their right to fish within either of the Natural Resources Wales Regulating Orders.

Foreshore Gatherers Safety Training Certificate

29. The Welsh Government proposes to make the Foreshore Gatherers Safety Training Certificate a requirement under their new permitting regimes. It is not, however, a current requirement of the Natural Resources Wales' Dee and Burry Inlet Cockle Regulating Orders.

Fee

30. The consultation document does not address the need for better information to assess the impacts on sites from cockle fishing, ancillary activities, invasive species, atypical mortality events, etc. Natural Resources Wales encourage Welsh Government to adopt a process for future monitoring and research to be undertaken at all fishery sites throughout Wales to inform environmental assessments. This could be funded through the Welsh Government permit fees.

Minimum Landing Size (MLS)

31. Natural Resources Wales is supportive of an all Wales MLS of 20mm for environmental reasons and consistency.
32. Local Management Plans should retain the ability to revise the national MLS according to local conditions and based upon evidence.

Catch returns

33. Welsh Government has indicated that measures to deal with traceability will not be part of this consultation process. To ensure compliance, Natural Resources Wales encourage Welsh Government to consider the opportunity within these proposals to integrate any newly developed catch return system with that of the Local Authority's Registration Documents (former Shellfish Movement documentation) under The Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.

Total Allowable Catch (TAC)

34. Under the proposed management regime, Welsh Government should consider introducing a TAC system for all Welsh cockle fisheries under their management. This could contribute towards a consistent management framework for environmental assessments.

Consultation Questions

- 35. Do you agree with the detail of the proposed All Wales Permit Scheme and the separate specific permit scheme for the selected major cockle fisheries in Wales as set out within this consultation document?**
36. Natural Resources Wales agrees with the strategic direction taken within Welsh Governments proposals for the management of the Welsh cockle fishery. We support the need for an integrated approach to environmental management and regulation.
37. Both the All Wales Permit and Major Fisheries Permit Schemes have the potential to create confusion and additional work for Welsh Government, Local Authorities and Natural Resources Wales. It is important that the details in these proposals are developed further to integrate any additional administrative or regulatory functions of organisations involved. Any changes must be transparent, proportionate and bring a standardisation to any future Welsh cockle management regime.
38. Natural Resources Wales would wish to work in partnership with Welsh Government and Local Authorities to develop any further detail required under the All Wales Permit and Major Fisheries Permit Schemes proposals.
- 39. Do you agree that there should be a maximum number of Major Permits to fish any major Welsh fishery per person? (Including fisheries subject to a Regulating Order)**
40. Natural Resources Wales agree with the Welsh Government's proposal on limiting the number of major permits issued to fish in major fisheries. Regulating Order fisheries managed by Natural Resources Wales already have a limited number of permits so this is a management measure similar to those we operate on both the Dee and Burry Inlet Regulating Order fisheries. This approach allows a certainty of opportunity for those awarded permits, simplification of enforcement and provides managers with the ability to more accurately assess the environmental impacts of these activities.
- 41. Do you agree with the proposed method of allocating permits to applicants for the major fisheries?**
42. Natural Resources Wales have specific experience in the allocation of permits within the limited Dee Regulating Order cockle fishery and we would be happy to share this with Welsh Government.

43. Do you agree with standardising the minimum landing size at 20mm across Wales? (Subject to scientific advice in major fisheries with a Local Management Plan).

44. Natural Resources Wales are supportive of the all Wales 20mm Minimum Landing Size (MLS) for cockles. Local Management Plans should retain the ability to revise the national MLS according to local conditions and based upon evidence.

45. Do you agree with the proposals for compulsory catch returns for all cockles gathered in Wales?

46. Natural Resources Wales are supportive of the proposal to introduce catch returns for all cockles gathered in Wales. To avoid duplication by fishermen, consideration should be given to how a new Welsh Government catch return system integrates with current catch returns for Natural Resources Wales' Regulated fisheries.

47. To ensure traceability, Natural Resources Wales would encourage Welsh Government to look again at the opportunity within these proposals to integrate any catch return system developed with that of the Local Authority's Registration Documents for the movement of shellfish.

In conclusion, Natural Resources Wales welcome the strategic nature of the proposals as set out in the consultation document but recognise the requirement for further consideration about how the proposals will operate in practice. Natural Resources Wales' staff would be pleased to work in partnership with Welsh Government to share any knowledge and further develop these proposals as they will have both direct and indirect effects on the delivery of cockle management in areas Natural Resources Wales are responsible for.

Please see attached annexes for further feedback on the synergies and risks associated with the main proposals within the Welsh Governments cockle management consultation proposals.

Should you have any further queries please contact Colin Charman, Marine Fisheries Advisor colin.charman@cyforthnatoriolcymru.gov.uk

Yours sincerely



Ceri Davies
Executive Director for Knowledge, Strategy & Planning
Cyfarwyddwr Gweithredol Gwybodaeth, Strategaeth a Chynllunio
Cyfoeth Naturiol Cymru / Natural Resources Wales
Ffôn/Tel: (029) 20466045
Ffôn symudol / Mobile: 07818008865
E-bost/E-mail: ceri.davies@cyfoethnatoriolcymru.gov.uk
ceri.davies@naturalresourceswales.gov.uk

Annex 1

Known cockle beds in Wales (not exhaustive list)

Cockle bed	FSA classified		MPA
Dee	B		Y
Traeth Lafan	B		Y
Beddmanarch bay	-		Y
Cymran Strait	-		Y
Red Wharf Bay		B	Y
Malltraeth	B		Y
Traeth Melynog		-	Y
Forydd	-		Y
Dwyrdd/Glaslyn		-	Y
Mawddach	-		Y
Dyfi	-		Y
Angle Bay	-		Y
Three Rivers	B		Y
Burry Inlet	A/B		Y

Annex 2

Specific additional queries on the Welsh Government proposals

All Wales Permit

Welsh Government and Natural Resources Wales will need to consider further the details and implications of the proposed All Wales Permit in the following areas:

- Integration of administration between both organisations
- Data confidentiality issues
- Resource available for extra work
- Potential increased enforcement work for Natural Resources Wales
- Integration of 3 permits - potential confusion to permit holders, three permits now needed to fish in Natural Resources Wales Regulated fisheries when previously only one was needed
- Co-ordination and planning of enforcement
- Clarity on where Natural Resources Wales Enforcement officers be expected to enforce the All Wales Permit
- Potential changes to Natural Resources Wales managed Regulating Orders to include the All Wales Permit as a licence condition.
- Duration of All Wales Permit.

Major Fishery Permit

Welsh Government and NRW will need to consider further the details and implications of the proposed Major Fishery Permit in the following areas:

- Integration of administration between both organisations
- Data confidentiality issues
- Resource available for extra work
- Potential increased enforcement work for Natural Resources Wales
- How will Enforcement Officers know which two Major Fisheries individual fishermen can fish
- Integration of 3 permits - potential confusion to permit holders, three permits now needed to fish in Natural Resources Wales Regulated fisheries when previously only one was needed
- The criteria for selecting a Major Fishery as part of the Major Fishery permit Scheme
- Potential changes to Natural Resources Wales managed Regulating Order licence conditions to include Major Fishery permit as a licence condition.
- Fishermen on the Dee or Burry Inlet Regulating Order fisheries will also have to apply for an All Wales Permit
- WG propose that Major Fishery Permits could be revoked under Major Fishery Management Plans. If this is the case will fishermen then lose the All Wales Permit too?
- Duration of the Major Fishery Permit.

- Will the selection criteria for both a Regulating Order permit and a Major Fishery may be different?

Foreshore Gatherers Safety Training Certificate

- Potential changes to Natural Resources Wales managed Regulating Order licence conditions to include the Foreshore Gatherers Safety Training Certificate as a license condition.

Catch Returns

- If Gatherers are not compliant with the conditions of the Welsh Government compulsory catch return system will they run the risk of losing their All Wales Permit, Major Fishery Permit and Regulating Order licenses too?
- How often and when are catch returns to be submitted to Welsh Government?
- How does Welsh Government propose to share this confidential information?
- Potential duplication of effort with catch returns for Natural Resources Wales Regulated fisheries.

TAC

- Will there be any exceptions from the requirement for fishermen to utilise a minimum of 75% of their individual TAC e.g. illness?
- Utilising 75% of fishermen's TAC is not currently a requirement of the Burry Inlet or Dee Regulating Order, will this need to become a licence condition?

This list of additional queries is not exhaustive and it could be used to form the basis of further discussions between Welsh Government and Natural Resources Wales.