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National Strategy for Flood and Coastal Erosion
Risk Management in Wales
Welsh Government
Cathays Park - 2
Cathays Park
Cardiff
Wales

17th September 2019

Dear Sir/Madam,

Consultation on the Habitats Regulations Assessment of the National Strategy for Flood and Coastal Erosion Risk Management for Wales

Thank you for your e-mail of 15th July 2019 consulting Natural Resources Wales on the Habitats Regulations Assessment (HRA) of the second National Strategy for Flood and Coastal Erosion Risk Management for Wales (NS-FCERM). Our comments are made in the context of our role as the Appropriate Nature Conservation Body (ANCB) under the Conservation of Habitats and Species Regulations 2017

We present our key comments below, with more detailed comments in the attached Annex A.

Our key comments are as follows:

1. We welcome and support the development of this second National Strategy for NS-FCERM, together with your commitment to HRA. We also welcome the clear and 'easy to follow' structure of the HRA document.
2. We have significant concerns relating to the compensatory measures set out in the HRA document, namely the National Habitat Creation Programme (NHCP), and in particular the level of support provided by the Strategy itself for effective delivery of the NHCP. Specifically, we consider that:
 - a. the objectives and relevant measure (17) in the Strategy itself do not provide a strong commitment to the delivery of adequate compensatory measures through the NHCP. We consider that the Strategy should be significantly strengthened to provide more confidence that the NHCP is/will be an effective mechanism for delivery of compensatory measures;

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Croesewir gohebiaeth yn y Gymraeg a'r Saesneg
Correspondence welcomed in Welsh and English



- b. there are potential impacts on European sites that could result from the implementation of the Strategy that will not be compensated for through the NHCP, and this should be acknowledged and considered in the HRA;
 - c. there is a lack of evidence and transparency about the requirements for NHCP delivery of compensatory habitat and the measures delivered to date, which reduces confidence that this is an effective strategic approach capable of enabling the Strategy to be adopted in compliance with Regulation 109 of the 2017 Habitats and Species Regulations. This evidence needs to be presented as part of the HRA.
3. Regulation 109 states *.....the appropriate authority must secure that any necessary compensatory measures are taken to ensure that the overall coherence of Natura 2000 (European site network) is protected.* The NHCP is identified as the sole means for delivering compensatory measures in order to comply with Regulation 109. Given the concerns set out above, we do not currently have confidence that this approach to compensatory measures, namely the NHCP, will be sufficient to ensure that the overall coherence of the European site network will be protected. We therefore would expect to see stronger commitments within the Strategy to ensure that the NHCP delivers what it is required to deliver (see section 16 in Annex 1 for more detailed comments in relation to these concerns).

We hope the above is of use. Should you have any queries regarding these comments, please do not hesitate to contact Roger Matthews via strategic.assessment@cyfoethnaturiolcymru.gov.uk.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Moira Reynolds'.

Moira Reynolds
Corporate Planning, Performance and Strategic Assessment Team Leader

Annex A

4. Pg. 9, 2.1 European sites that could be affected by the Strategy, Special Areas of Conservation – Liverpool Bay / Bae Lerpwl is an SPA not a SAC.
5. Pg. 10, European sites unlikely to be affected by the Strategy – paragraph 2 states ‘*There are two designated SPAs in Welsh coastal waters; these sites are therefore considered unlikely to be affected by the Strategy. They comprise Skokholm and Skomer SPA, and Grassholm SPA.*’ For information, there is also Glannau Aberdaron ac Ynys Enlli/ Aberdaron Coast and Bardsey Island SPA, and the Skokholm and Skomer SPA has been extended into the sea and is now called Skomer, Skokholm and the Seas off Pembrokeshire/ Sgomer, Sgogwm a Moroedd Penfro SPA.
6. Pgs. 16-17, 3.1 Screening, In-combination assessment – we note that the assessment makes reference to the National Development Framework, which is expected to be published in September 2020. We recommend that Area Statements (expected to be published in March 2020) are also referenced in this section. Whilst we acknowledge that they are still under development and therefore it is not possible to assess them in the current in-combination assessment, it is likely that they will need to be considered in the in-combination assessments of the HRAs of lower-tier plans, strategies, actions or measures arising from the Strategy. We believe that this is an opportunity to flag up the future significance of Area Statements, in part because higher-level HRAs help to set the framework for subsequent lower-tier HRAs.
7. Also in this section on the in-combination assessment, we welcome the reference to the Welsh National Marine Plan (WNMP), which we understand is likely to be published during the autumn. However, the HRA does not include the WNMP in the assessment because it states that the final plan and accompanying HRA are not currently available to inform an in-combination assessment. We believe that the WNMP has the potential to have in-combination effects with the NS-FCERM, and we are surprised that it has not been possible to include this Welsh Government plan in this assessment. It is likely that the WNMP will need to be considered in the in-combination assessments of the HRAs of lower-tier plans, strategies, actions or measures arising from the Strategy.
8. Pgs. 30-21, Table 3: Summary of NS-FCERM related activities and some of their potential impact types:
 - In relation to row C5. *The Strategy acknowledges the importance of hard engineering in flood alleviation but encourages green/grey interventions to improve the function, biodiversity and aesthetics of assets*, we advise that there should be a tick in the G. *Competition from non-native species*

column because green-grey interventions in the marine environment would need to consider implications for invasive non-native species (INNS).

- Also in relation to row C5, we advise that there should be a tick in the D. *Changes in turbidity* column because green-grey interventions (e.g. polders) could trap sediment and reduce turbidity.
- In relation to row D5. *NHCP continues to monitor and predict coastal squeeze impacts on intertidal habitats (N2K) sites. It also aims to deliver projects to proactively deliver compensatory habitat to allow RMA's to proactively manage flood risk in coastal communities*, we advise that there should be a tick in the H. *Changes to flow & velocity regime and improved drainage* column because National Habitat Creation Programme (NHCP) projects are likely to change the hydrodynamic regime for a section of coast/estuary.
- Also in relation to row D5, we advise that there should be a tick in the B. *Changes in physical regime* column because National Habitat Creation Projects (NHCP) projects are likely to change the physical (hydrodynamic) regime for a section of coast/estuary.

9. Pgs. 22-23, Table 4: Generic impact types arising from NS-FCERM activities on European sites habitats and species groups:

- Column 2.3 *Vascular plants, grassland* – we note that this group appears to be unaffected by any of the impacts listed – we seek clarity as to whether this is because they don't occur in the coastal zone (as this is covered by coastal plants)?
- Column 1.11 *Coastal habitats sensitive to abstraction* – we seek clarity as to whether this includes dunes slacks, which are sensitive to abstraction? Similarly, row J *Changes to water chemistry* has the potential to impact on dune slacks, so should be ticked either under this column or column 1.10 *Coastal habitats*.
- Column 2.11 *Coastal plants* – we presume that if row E. *Habitat/ community simplification* has the potential to impact column 1.12 *Estuarine and intertidal habitats* then it is also likely to impact column 2.11 *Coastal plants*? Similarly, we presume that if row J. *Changes to water chemistry* has the potential to impact column 1.12 *Estuarine and intertidal habitats* then it is also likely to impact column 2.11 *Coastal plants*?
- Column 1.12 *Estuarine and intertidal habitats* - we seek clarity as to why this column is ticked for row F. *Disturbance (noise, visual)*?
- Column 1.10 *Coastal habitats* – we would expect this box to be ticked for row H. *Changes to flow & velocity regime*.
- Column 1.12 *Estuarine and intertidal habitats* – this column could be affected by row I *Reduced surface water flooding* because it could affect transitional areas where there is freshwater influence on saltmarsh.



- Column 1.10 *Coastal habitats* – similarly, this column could be affected by row I *Reduced surface water flooding* because it could affect coastal habitats where there are fresh water influences.
10. Pgs. 24-27, 3.2.2 Assessment of potential in combination effects, Shoreline Management Plans and Flood Risk Management Plans – we recommend that the text in this section acknowledges that all the Welsh SMPs were unable to rule out adverse effects on the integrity of European Sites, went through the derogations set out under Article 6(4) of the Habitats Directive, which resulted in the NHCP as a compensatory mechanism to ensure that the overall coherence of European site network is protected.
11. In relation to the absence of the Welsh National Marine Plan (WNMP) in the appropriate assessment in-combination assessment, note our comments in pt. 7 above.
12. Pgs. 27-28, 3.2.3 Avoidance and Mitigation of Impacts – first bullet point on pg. 27 – we have a couple of minor comments regarding the wording in this paragraph:
- Firstly, the text refers to *coastal ecological habitats* – we suggest the word *ecological* is removed;
 - Secondly, the text states *The Strategy establishes that there are several significant areas around the coast of Wales where low-lying habitat sites are located between the sea and constructed coastal defence infrastructure*. We suggest that this sentence is reworded or removed altogether. Any European sites which include intertidal/coastal habitats, and which have defended sections of coast for which the Shoreline Management Plan (SMP) policy is hold the line have the potential to cause coastal squeeze effects.
 - We also note the reference to the NHCP, and emphasise that this is compensation, not avoidance or mitigation, so should only be considered during Article 6(4).
13. Pg. 27, third bullet point – we also have some concerns regarding the wording in this paragraph, in particular the first sentence (including reference to *reservoirs*). We suggest rewording this paragraph as follows:
The Strategy highlights the importance of the protection of the most at risk habitats in Wales, including coastal and freshwater habitats within European designated sites, the need to avoid longer term damage through careful management, and that a wider view of the impacts of flood and coastal erosion risk management schemes needs to be taken.

14. Pg. 28, first bullet point – this states: *Identifying 'roll back' and managed realignment in coastal areas where appropriate.* This sentence doesn't appear to be complete and requires some clarification. Should it read: *Identify opportunities for managed realignment?* With regards to the reference to *roll back*, we are unclear whether the action proposed here is:
- identifying where coastal habitats are likely to 'roll back' and also identifying the land which would be affected by this, or
 - identifying situations where roll back could be facilitated by appropriate management of land likely to be 'accommodating' the roll back, or protecting those areas from development?
15. Pg. 28, fourth bullet point – this states: *Changing land management practices and increasing the use of wetlands that could significantly benefit habitats and enhance biodiversity.* This measure requires some clarification – does the changing of land management practices relate specifically to increasing the use of wetlands, and is the increasing use of wetlands for water storage for example? Should it read: *Changing land management practices to enable the increased use of wetlands, that would also significantly benefit habitats and species (or just biodiversity)?*
16. Pg. 32, 3.4 IROPI and compensatory measures – Compensatory measures – whilst Natural Resources Wales welcomes the commitment and support for the NHCP in the HRA document, we have a number of significant concerns which we set out below:
- a. **We are concerned that the Strategy itself does not provide the strong commitment to the delivery of appropriate compensatory measures through the NHCP required to have confidence that the overall coherence of the European site network will be protected.** We consider that the objectives and relevant measure (17) in the Strategy itself is weak, as it refers only to *manage the requirements for the NHCP and agree a baseline and establish a monitoring programme for the highest risk areas to inform the NHCP.* This suggests an emphasis on only delivering what is absolutely necessary in terms of area, rather than ensuring that sufficient habitat of the right type, quality, location, timing, etc. (especially if relying on a 1:1 ratio) is created.

In addition, there is no commitment in this HRA document to follow the most recent European Union Guidance, and specifically the sections relating to compensatory measures including section 5.4:

https://ec.europa.eu/environment/nature/natura2000/management/docs/art6/Provisions_Art . nov 2018_endocx.pdf

Note that the Wales Coastal Monitoring Centre (WCMC), as currently established and referred to in the Strategy, will not provide any relevant evidence for the management of the NHCP, as it is only collecting topographic profiles in the highest risk areas – it is not measuring or reporting on habitat extent or sea-level rise.

The reference within Measure 17 to: ‘*establishing a monitoring programme for the highest risk areas*’ does not reflect the extensive work undertaken by ABPMer under contract from Natural Resources Wales (Oaten, J., Brooks, A. and Frost, N. 2018. *Coastal Squeeze Evidence and Monitoring Requirement Review. Natural Resources Wales Report No: 307, 188pp, Natural Resources Wales, Cardiff*). Evidence Report 307 states that even with significant investment in monitoring it is not possible to distinguish with any reasonable degree of certainty what proportion of coastal change may be attributable to coastal squeeze specifically. Therefore, the recommended approach was to intermittently (approximately every 6 years) review any available coastal change and sea-level rise data to understand trends and pace of coastal change, and that this could either be undertaken by Natural Resources Wales if funding were made available to do this or could be delivered through the WCMC. This coastal change review could then be used to qualitatively inform the pace of NHCP delivery. We strongly recommend that this measure is discussed further between Welsh Government and Natural Resources Wales to reflect Evidence Report 307 and the discussions between Natural Resources Wales and Welsh Government in February 2019.

Given the very significant challenges and uncertainties associated with relying on a monitoring programme to demonstrate sufficiency, we advise that the relevant text in the NS-FCERM should focus on the demonstration of habitat delivery compared with predicted losses.

Natural Resources Wales would like to see much clearer and stronger requirements for delivery and effective management of the NHCP, in both the objectives and relevant measure (17) in the Strategy itself, and in the HRA document.

- b. We are concerned that the NHCP provides compensatory measures in specific circumstances only.** It will not provide any compensatory measures for SMP Policy units which are *No Active Intervention* (NAI) or *Managed Realignment* (MR), even though defences may be present within these units and be causing coastal squeeze losses up until the point the MR policy is implemented, or the defence fails under a NAI scenario (assuming that maintenance does not occur). It will not provide

compensatory measures for projects associated with third party structures. It will also not deliver any compensatory measures not related to coastal squeeze, e.g. footprint effects, disturbance, etc, so these will continue to be considered at the project level.

Our concern therefore is that there are potential adverse effects on European sites that could result from the implementation of the Strategy that will not be compensated for through the NHCP. This is not acknowledged or considered in the HRA.

- c. We are concerned that there is a lack of evidence and transparency about the requirements for NHCP delivery of compensatory habitat and measures delivered to date**, which reduces confidence that this is an effective strategic approach, despite the conclusions reached in the HRA.

For example, in the first paragraph at the top of pg. 33, the text states that: *The NHCP has created sufficient habitat to cover current IROPI cases for compensatory requirements.* However, no evidence is presented in the HRA document to support this statement. Given that this is the second NS-FCERM strategy, and that the NHCP was established as a result of the first NS-FCERM, there should be evidence that it is delivering, and, importantly, delivering appropriately in terms of extent, type, location, quality and timing. Information should be provided on specifically how much habitat is required overall to cover current IROPI cases for compensatory requirements, what is the total extent that has been provided to date, and is the geographic spread and habitat type created to date appropriate i.e. there needs to be a clear, evidenced case presented as to why it is considered that the NHCP is able to provide sufficient compensatory habitat for the losses expected.

The second paragraph on pg. 32 states:

For this reason, there is a risk that the rate of delivery of compensatory habitat may not keep pace with habitat degradation and loss from sea level rise, and so it is important for the NHCP to be adequately supported to mitigate this risk

Whilst we agree with both the risk that the rate of delivery of compensatory habitat may not keep pace with habitat degradation and loss from sea level rise, and the need for the NHCP to be adequately supported to mitigate this risk, we do not consider that this is not the sentiment that comes across within the Strategy. Given the reliance on the NHCP we consider that there should be much stronger measures within the Strategy to ensure that the NHCP delivers what it is required to deliver.

The final paragraph on pg. 32, states that:

Since it was established the NHCP has been largely reliant on the habitat created through the Environment Agency's Steart Peninsula managed realignment site for epoch 1 (up to 2025) of the Severn Estuary SMP2.

It is our understanding that this has not been agreed with the Environment Agency (who funded and delivered this scheme), and therefore there is potential that this compensatory habitat has already been allocated to offset coastal squeeze habitat losses in other parts of the Severn Estuary. We would be grateful if this could be clarified. The only figures provided in the HRA document relate to habitat created/in development at Cwm Ivy.

- d.** In summary, as set out in a. to c. above, we have the following significant concerns in relation to the compensatory measures set out in the HRA document:
- a.** the objectives and relevant measure (17) in the Strategy itself does not provide a strong commitment to the delivery of adequate compensatory measures through the NHCP. We consider that the Strategy should be significantly strengthened to provide more confidence that the NHCP is/will be an effective mechanism for delivery of compensatory measures;
 - b.** there are potential impacts on European sites that could result from the implementation of the Strategy that will not be compensated for through the NHCP, and this should be acknowledged and considered in the HRA;
 - c.** there is a lack of evidence and transparency about the requirements for NHCP delivery of compensatory habitat and the measures delivered to date, which reduces confidence that this is an effective strategic approach capable of enabling the Strategy to be adopted in compliance with Regulation 109 of the 2017 Habitats and Species Regulations. This evidence needs to be presented as part of the HRA.

Regulation 109 states *.....the appropriate authority must secure that any necessary compensatory measures are taken to ensure that the overall coherence of Natura 2000 (European site network) is protected.* The NHCP is identified as the sole means for delivering compensatory measures in order to comply with Regulation 109. Given the concerns set out above, we do not currently have confidence that this approach to compensatory measures, namely the NHCP, will be sufficient to ensure that the overall coherence of the European site network will be protected. We therefore would expect to see stronger commitments within the Strategy to ensure that the NHCP delivers what it is required to deliver.