Environment & Sustainability Committee

Environment (Wales) Bill – Part 6: Marine Licensing

Evidence from the British Marine Aggregate Producers Association

Background

1. The British Marine Aggregate Producers Association (BMAPA) is the representative trade organisation for the British marine aggregate sector and a constituent body of the wider Mineral Products Association. The Mineral Products Association (MPA) is the trade association for the aggregates, asphalt, cement, concrete, dimension stone, lime, mortar and silica sand industries. With the recent addition of British Precast and the British Association of Reinforcement (BAR), it has a growing membership of 480 companies and is the sectoral voice for mineral products. MPA membership is made up of the vast majority of independent SME quarrying companies throughout the UK, as well as the 9 major international and global companies. It covers 100% of GB cement production, 90% of aggregates production, 95% of asphalt and over 70% of ready-mixed concrete and precast concrete production. Each year the industry supplies £9 billion of materials and services to the £120 billion construction and other sectors. Industry production represents the largest materials flow in the UK economy and is also one of the largest manufacturing sectors. BMAPA represents 11 member companies of MPA who collectively produce around 90% of the 20 million tonnes of marine sand and gravel dredged from licensed areas in the waters around England and Wales each year.

2. Marine dredged sand and gravel is principally used by the construction industry, and the marine contribution provides around 20% of overall sand and gravel demand in England, 46% of overall sand and gravel demand in Wales and 90% of fine aggregate demand in South Wales – with wharves located in Newport, Cardiff, Port Talbot, Swansea, Burry Port and Pembroke. The absence of alternative natural sand deposits in South Wales means that marine aggregate supplies play a key role in supporting economic development and regeneration in the region.

3. Marine dredged sand and gravel also provide a strategic role in supplying large scale coast defence and beach replenishment projects – over 25 million tonnes being used for this purpose around the coastline of Britain since the mid 1990's. With the growing threats posed by sea level rise and increased storminess, the use of marine sand and gravel for coast protection purposes will become increasingly important.

4. In the near future, marine sand and gravel resources can be expected to play a key role in supporting the successful delivery of major infrastructure projects associated with Government policies related to energy security and climate change, such as tidal power developments, port developments and offshore wind farms. The coastal location of many of these developments means that the sector is ideally placed to supply the large volumes of construction aggregate and fill material that will be required.

5. In all cases, the marine aggregate sector is dependant upon identifying and licensing economically viable sand and gravel deposits to secure sufficient reserves to maintain long term supply to existing and well established markets. The location of such deposits is extremely localised around the waters of England and Wales, restricted to their geological distribution and their geographical position related to the markets location.

6. At present 740km^2 of seabed is licensed for marine aggregate extraction, of which around 99km^2 is dredged in a typical year. This represents around 0.08% and 0.011% of the total UK continental shelf area (867,000km^2) respectively. In this respect, the marine aggregate sector is responsible for managing a significant area of the UK seabed.

Evidence

7. In response to an invitation to provide oral evidence to the Environment and Sustainability Committees' considerations around Part 6 of the Environment (Wales) Bill, this paper is intended to provide some background to the marine aggregate sectors position on marine licensing in Wales, and particularly the proposed changes to the charging structure around this function.

8. Marine aggregate operators have had to pay licence fees to allow recovery of the full costs of administering the process for licence applications since the introduction of the Marine Mineral Regulations (in their various national forms and any subsequent iteration thereafter) since 2007. Over the period since this date, the sector has had considerable experience of the licensing systems in both Wales and in England – whether applying for new licence areas or seeking to renew existing licences. The sector has also been subject to annual compliance/monitoring charges over this period.

9. During the development of the Marine Mineral Dredging regulations, the industry's prime concern surrounded the ability of the new statutory licensing regime to deliver meaningful improvements in the decision making process without sufficient resources within Government to be able to perform against clearly defined timescales. This included the industry making a clear statement that they would be prepared to financially support the provision of adequate resources and staff within Government through the licensing process, on the basis that this would allow the regime to function more effectively – this though was on the understanding that a better level of service would be provided.

10. The original 2007 licensing regimes introduced various fee structures to cover the time and effort incurred for regulators and their scientific advisors, but not for other Government advisors that provide a statutory function. Experience has shown that the process as a whole will only move as quickly as the resources and capacity available in all the key statutory participant organisations allows – particularly for pre-application discussions, which fall outside of their statutory function. Otherwise, only limited improvements in the timeliness of the service delivery for the wider licensing process will be possible. In the case of the English regime, the improvements in the delivery of the licensing process for marine minerals were only realised thanks to additional external funding being provided to resource-constrained statutory advisors to enable sufficient resource

and capacity to support the timely delivery of the pre-application stages of marine aggregate casework.

11. The development of the first fixed fee rates (both in England and Wales) served to illustrate that there was no accurate understanding of the time and effort required by regulators and advisors to support the licensing process. As a consequence there are reasonable grounds to suggest that the fees paid by the marine aggregate sector were significantly higher than the time and effort expended by regulators/advisors to deliver the functions required, and that these fees were essentially used to subsidise service delivery for other licensing functions. Throughout the period when operators had to pay fixed fees in support of their applications or for monitoring/compliance (both in England and in Wales), there was never a review to demonstrate that the fees paid aligned with time/effort actually expended. Given the sector has spent in excess of £1 million in licence fees over this period across England and Wales combined, the failure to review has been disappointing.

12. While the Welsh system for marine mineral licensing has retained a fixed fee arrangement throughout, the English licensing system transferred to an hourly rate for advice at both pre-application and formal application stages in 2010, with the adoption of the amended Marine Works Regulations. Since the transfer to an hourly fee rate under the English licensing system, where time and effort of both regulators and advisors now have to be recorded, the fees charged to date for casework would suggest that the actual costs being incurred now are c.50% less than the original fixed fees.

13. Given licensing fees should only recover the costs associated with administering the service related to the application in question, the justification of the fees being paid must be supported through greater transparency and accountability around the time and effort being expended by regulators and their advisors. It also has to be recognised that the charging of fees (particularly significant ones – whether lump sum or hourly rate) fundamentally changes the nature of the transaction between applicant and regulator, turning it into a more commercially based transaction, with all the associated expectations (and potential for challenge) around quality of service and advice, delivery performance and value for money. This applies irrespective of whether the hourly rate fee totals for casework prove to be lower than the original fixed fees. The significance of this change in relationship must not be underestimated.

14. Consequently, suitable governance arrangements need to be established to allow an applicant to challenge the timeliness or quality of service and/or advice provided by regulators or advisors for which they are being charged – even at the voluntary pre-application stage of the application process. Without an effective mechanism or governance structure that allows applicants to challenge or question the value for money or quality of service they receive, we would suggest that there is no incentive or motivation to change established practices and therefore drive improvements in the services that are being provided. This point is particularly relevant given that regulators and advisors are interacting with applicants that represent 'captive customers', unable to go elsewhere for the services being provided for which they are being charged.

15. Monitoring performance over time is key. Therefore, suitable key performance indicators (KPI's) need to be developed for every stage of the licensing process for which fees are charged – not just the formal application stage – and progress against these reported on a regular basis. In order to account for the wide range and variety of licensing casework that is being delivered, KPI's should differentiate between low-risk and/or straight forward casework and also more complicated casework. There is also a need to focus not only on where performance has been good but also why any failures occurred – as it is from these that lessons will be learned and from which the overall delivery service should improve.

16. Finally, there should be a reasonable lead-in time for any new funding arrangements to allow applicants to plan their budgets accordingly. This should include the licensing authority providing estimates of the likely licensing fee costs based on historic performance levels for similar cases.

Mark Russell
Director, Marine Aggregates
British Marine Aggregate Producers Association
Gillingham House
38-44 Gillingham Street
London
SW1V 1HU

Mark.russell@mineralproducts.org

1st July 2015