

**EXPLANATORY MEMORANDUM TO THE MARINE LICENSING (FEES)
(WALES) REGULATIONS 2017 AND THE MARINE LICENSING (NOTICES
APPEALS) (WALES) (AMENDMENT) REGULATIONS 2017**

EXPLANATORY MEMORANDUM

Introduction and Background

This Explanatory Memorandum has been prepared by the Department for Economy, Skills and Natural Resources and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Cabinet Secretary's Declaration

In my view, this Explanatory Memorandum (including a Regulatory Impact Assessment) gives a fair and reasonable view of the expected impact of: The Marine Licensing (Fees) (Wales) Regulations 2017 and The Marine Licensing (Notices Appeals) (Wales) (Amendment) Regulations 2017. I am satisfied the benefits justify the likely costs.

Lesley Griffiths AM

Cabinet Secretary for Environment and Rural Affairs

6 March 2017

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1. Description

The Marine Licensing (Fees) (Wales) Regulations 2017 will replace current fees and charges for the marine licensing system in Wales under The Marine Licensing (Application Fees) (Wales) Regulations 2011. Following a Fees Review, the Regulations provide for the determination of fees, designed to achieve full cost recovery of the costs of delivering the marine licensing functions. These Regulations determine fees for marine licensing applications. They also make provision for other fees and deposits pursuant to additional charging powers created by the Environment (Wales) Act 2017.

The Marine Licensing (Notices Appeals) (Wales) (Amendment) Regulations 2017 amends the existing notice appeals mechanism to ensure there is an adequate system to appeal against a notice issued in relation to of non-payment of fees and deposits charged pursuant to powers created by the Environment (Wales) Act 2016.

The legislation will take effect from 1st April 2017.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

None.

3. Legislative background

Background

The UK marine licensing system was established through Part 4 of the Marine and Coastal Access Act 2009 (MCAA) and came into force in 2011. At the same time a suite of Welsh secondary legislation was introduced.

The Welsh Ministers are the Appropriate Licensing Authority pursuant to the section 113 (4) of the MCAA and in April 2013 delegated the majority of their licensing authority functions to Natural Resources Body for Wales (NRW), through the Marine Licensing (Delegation of Functions) (Wales) Order 2013.

Part 6 of the Environment (Wales) Act 2016 amends the MCAA to enable the Welsh Ministers where they are the appropriate licensing authority, to charge fees and deposits for a broad range of applications and activities they undertake.

Marine Licensing (Fees) (Wales) Regulations 2017

Section 67 (2) of the MCAA provides for the Welsh Ministers to set fees relating to applications for a marine licence, through regulations.

Section 72A (4) of the MCAA (as inserted by section 77 of the Environment (Wales) Act 2016) provides for the Welsh Ministers to set fees through regulations relating to monitoring an activity authorised by a marine licence;

assessing and interpreting the results of such monitoring and dealing with applications for variation, suspension, revocation or transfer of a marine licence.

Section 107A of the MCAA (as inserted by section 78 of the Environment (Wales) Act 2016) provides that the licensing authority may require a person to pay a deposit on account of a fee. The amount of the deposit is to be determined by or in accordance with regulations made by the Welsh Ministers. Section 107B of the MCAA (as inserted by section 78 of the Environment (Wales) Act 2016) provides that the licensing authority may by regulations make provision about how and when a fee or deposit is to be paid.

The powers to make regulations inserted by the Environment (Wales) Act 2016 have been commenced by the Environment (Wales) Act 2016 (Commencement No. 1) Order 2017.

The Marine Licensing (Fees) (Wales) Regulations 2017 revoke and replace the Marine Licensing (Application Fees) (Wales) Regulations 2011.

This statutory instrument is subject to the negative procedure.

Marine Licensing (Notice Appeals) (Wales) (Amendment) Regulations 2017

Section 108 2A of the MCAA (as inserted by section 79 of the Environment (Wales) Act 2016) provides that the Welsh Ministers must by regulations make provision for any person to whom a notice is issued under section 72A(7) or 107(A)(4) to appeal against that notice.

The powers to make regulations under section 108 2A of the MCAA (inserted by section 79 of the Environment (Wales) Act 2016) have been commenced pursuant to the Environment (Wales) Act 2016 (Commencement No. 1) Order 2017.

The Marine Licensing (Notice Appeals) (Wales) (Amendment) Regulations 2017 amend the Marine Licensing (Notice Appeals) (Wales) Regulations 2011.

This statutory instrument is subject to the affirmative procedure.

4. Purpose & intended effect of the legislation.

Marine Licensing (Fees) (Wales) Regulations 2017

This instrument is part of a wider review of fees relating to marine licensing. The Fees Review is delivered through a range of statutory provisions.

These Regulations do not determine all fees which may be charged in relation to marine licensing. Additional fees which may be charged include, but are not limited to, fees under section 67 (5), 67A and 72A (6) of the MCAA and fees under the Marine Works (Environmental Impact Assessment) Regulations 2007.

When taken together the intention is the fees will result in a fit for purpose, robust, proportionate, fair and transparent regime for charging for costs associated with marine licensing and the Environmental Impact Assessment (EIA) regime in Wales.

An effective marine licensing service will provide an important contribution to deliver the Welsh National Marine Plan, and support our well being goals within the Well-being of Future Generations (Wales) Act 2015, whilst balancing the use and stewardship of our seas.

Using the historic income from fees since 2013 and the current service delivery running costs, cost recovery for NRW is estimated to be around 46%, resulting in a significant shortfall in fees being received. The current fees system is a fixed fee model for all types of applications.

In line with Welsh Managing Public Money guidance, the Welsh Government policy is for fees and charges for services provided to be, so far as possible, set to recover full costs. This approach is simply intended to ensure government neither profits at the expense of customers nor incurs expenses which are subsidised by taxpayers. If the legislation were not made then a system of full cost recovery could not be implemented.

Before finalising the proposals, informal stakeholder engagement and formal consultation was carried out.

The Marine Licensing (Fees) (Wales) Regulations 2017 set fees for the following elements of the Fees Review:

- Application – applications are categorised into three bands: Band 1 for small scale activities; Band 2 for non-complex cases; and Band 3 for complex cases.

The fees for these application bands are set out in Schedule 1 of the Marine Licensing (Fees) (Wales) Regulations 2017.

- Post Licence – monitoring; discharge of conditions; variations and transfers.

The fees for these services are set out in Schedules 2 and 3 of the Marine Licensing (Fees) (Wales) Regulations 2017.

The Marine Licensing (Fees) (Wales) Regulations 2017 apply to all of Welsh waters, where the Welsh Ministers are the Appropriate Licensing Authority.

Marine Licensing (Notice Appeals) (Wales) (Amendment) Regulations 2017

The Environment (Wales) Act 2016 amended Part 4 of the MCAA to provide additional charging powers for marine licensing. The amendments also extend the circumstances in which, the licensing authority may by notice vary, suspend or revoke a licence. If a licensee fails to comply with a requirement to pay a

deposit or a fee charged pursuant to certain powers created by part 6 of the Environment (Wales) Act 2016, a notice may be issued to vary, suspend or revoke a licence.

Pursuant to Section 108 2A of the MCAA (as inserted by section 79 of the Environment (Wales) Act 2016) the Welsh Ministers must make provision for any person upon whom such a notice is issued to appeal against the notice. The Marine Licensing (Notice Appeals) (Wales) Regulations 2011 are being amended to provide an appeal mechanism. The same existing procedures and approach will apply, as for all other notice appeals under the MCAA. These are heard by the First-tier Tribunal and for consistency with all other notice appeals, this approach will continue.

The subordinate legislation will apply to all of Welsh waters where the Welsh Ministers are the Appropriate Licensing Authority.

Regulatory Impact Assessment

The Regulatory Impact Assessment (RIA) (see Part 2 below) sets out the costs and benefits analysis of the options considered for the new marine licensing fees and charges system.

5. Consultation

The Welsh Marine Licensing Stakeholder Group (which is representative of the marine sector) was used to informally test a range of fees model approaches as they were considered and developed. A stakeholder workshop was held with representatives of the Stakeholder Group in February 2016 and feedback was used to refine the proposals for public consultation.

The public consultation on a revision to marine licensing fees and associated charges in Wales was launched on 5 September 2016 and closed on 28 November 2016. A stakeholder event was held in October 2016 to raise awareness and explain the proposals within the consultation.

PART 2 – REGULATORY IMPACT ASSESSMENT

EXECUTIVE SUMMARY OF COSTS AND BENEFITS

The Marine Licensing (Fees) (Wales) Regulations 2017

Three options have been considered in the analysis of the costs and benefits for the new marine licensing fees and charges system. The options are:

- Option A – Retain fixed fee model (Do nothing)
- Option B – Tiered model
- Option C – Hourly rate model

This executive summary provides the headline costs and benefits for each option and further detail can be found in at **Annex 1** which provides a breakdown by work package for each option. Costs have been assessed over a ten-year period, 2017-18 to 2027-28. A principle aim of the new fees system is to deliver full cost recovery.

Advertising Costs

The majority of formal applications require advertising, these costs can vary greatly, costs are estimated to be in the region of £48,000 – £78,000 per annum for all applications. Please note these advertising costs are passed directly from the publisher to the customer and have not been included within the overall costs in this document.

Option A – Retain fixed fee model (Do nothing)

This option would retain the current model and fees for marine licensing in Wales. The fees currently charged by Natural Resources Wales (NRW) acting on behalf of the Licensing Authority, the Welsh Ministers, are set out here: <http://www.naturalresources.wales/apply-for-a-permit/marine-licensing/fees-table/?lang=en> and at **Annex 2**.

A fixed fee is charged upfront for all work packages (where a fee is charged). A number of work packages delivered by NRW do not have a fee set and as such results in a shortfall for NRW.

The existing fees do not reflect the full range of services provided by NRW in relation to marine licensing and Environmental Impact Assessments (EIA) today. NRW do not currently charge for all services under the EIA regime, pre-application advice and assistance and a number of post licence compliance activities. Currently NRW recoups approximately 46% of the service delivery costs based on current staff costs (£623,695) and average fees received (£289,000). To enable comparison with other options, we have compared the options by predicted costs (which are different to the costs above). Under this Option, where there are a range of fees for a given work package, an average fee has been used for analysis purposes (which may explain the lower amount compared to the average received to date).

The analysis below has been carried out by looking at the predicted cost of delivering work packages (based on estimated time for processing and an hourly rate of £120, a breakdown of how this has been calculated is at **Annex 3**) and the number of work packages anticipated (based on previous years and expert judgement).

The current fees were designed to cover the costs of the licensing authority obtaining external advice costs. However, in practice, they do not cover these costs and such costs are estimated to be £95,000 annually.

Option A - Costs

The total cost to deliver the existing marine licensing system, based on predicted costs going forward is £693,040 per annum.

These costs are split between NRW and the customer. Expected fees received (based on average fees) are anticipated to be approximately £179,182 per annum, across all work packages. Resulting in a shortfall of £513,858, which would be subsidised by the taxpayer.

Over a 10 year period, the overall costs in present value terms are £5,763,740, with the customers being charged £1,490,190 and the remainder £4,273,550 being subsidised. Table 1 below summarises these costs.

Table 1

Option A Costs		
	Annual	10 Years (NPV¹)
Total Costs	£693,040	£5,763,740
Customers	£179,182	£1,490,190
Licensing Authority	£513,858	£4,273,550

Under this Option, there is a financial cost to both the users of the marine licensing system, through fees, and to the licensing authority, who has to make up the shortfall. The focus is on the licensing authority to make up a significant proportion of the costs.

Finally, there is a cost in terms of a minimal service being made available to customers as NRW are unable to deliver a full robust licensing system, akin to Option B and C (see below). For example, a full pre-application service is not provided, which can result in costs to both users of the system and the licensing authority in terms of efficiency losses.

¹ Net Present Value (NPV). Costs have been discounted to reflect the social rate of time preference using HM Treasury's discount rate of 3.5%

Option A - Benefits

Those utilising the services will continue to pay minimal fees and some work packages will continue to not attract fees. The fees are well established and familiar to users of the system, are relatively clear and the fees are known upfront, providing certainty to customers of costs.

There are no benefits identified for NRW as they will continue to deliver a service for which they cannot fully recover costs and would maintain a significant shortfall in recouping their service delivery costs.

Option A - Conclusion

Option A does not achieve the key objectives of the Fees Review, to achieve full cost recovery, where possible, and for the fees and charges to be proportionate, fair and transparent. Relying so heavily on subsidy to make up the shortfall in fees is not sustainable or fair. Also, the current system does not cover fees for all work packages provided by NRW, which reduces the robustness of the overall marine licensing system (for example, minimal pre-application services). Therefore, it is not considered appropriate to pursue this option for Wales.

Option B - Tiered model

This option uses a similar approach to the existing Marine Management Organisation (MMO) model. It is a mix of fixed fees and hourly rates, at all stages of the marine licensing process (from pre-application to post licence work). The hourly rate has been calculated as £120 per hour based on NRW costs of delivering the service and a breakdown of the calculation can be found at **Annex 3**.

Projects are divided into three bands (tiers) in this model. Which band a project will fall within for the application stage will depend on the complexity of the application to be determined and associated risk. Fixed fees are applied for Band 1 and 2 as costs are easier to predict. Band 3 is hourly rate due to the complexity and difficulty in setting a fixed fee in the majority of cases. The three bands are:

- Band 1 – small scale activities - fixed fee (£600)
- Band 2 – non-complex / non EIA applications - fixed fee (£1920)
- Band 3 – complex / EIA applications - hourly rate (£120 per hour)

Under this Option, a wider pre-application service will be offered to customers. This will include bespoke pre-application advice and review of environmental statements (ES).

This Option allows for the recovery of costs at all stages of the licensing process including pre-application, formal application process and post licence monitoring and variations.

External advice

Alongside the licensing authority costs, where appropriate, external advisory costs would be charged separately to the customer. External advice is typically sought from the Centre for Environment, Fisheries and Aquaculture Science (Cefas), but not exclusively. Cefas fees have been used to provide an indication of likely costs to customers as Cefas are the most commonly used. Cefas costs currently range from £78.10 to £119.76 per hour and are inclusive of VAT which is chargeable for external advice. The hourly rate will depend on the grade of staff undertaking the work. Cefas fees are subject to change and are reviewed annually.

Where external advice is required, the NRW case officer will discuss this with the customer. A quote will be provided for each work package. Please see **Annex 4** for further information on the estimated likely hours of external advice which may be required.

Option B – Costs

The total cost of delivering a more extensive marine licensing service annually under Option B is £752,520 each year. The majority of the costs will be borne by customers utilising the service under this Option, estimated to be £752,160 annually. The remaining £360 will be subsidised by the licensing authority.

The overall cost baseline is £745,993 for delivering the marine licensing service in NRW, based on staff costs and non staff costs under this Option. The hourly charge of £120 is based on this figure divided by the number of available case officer hours (6,238). The breakdown of how the hourly rate has been determined is at **Annex 3**.

For this assessment, NRW have used the costs based on predicted workload in future, which is marginally higher and results in a service delivery cost of £752,520. In other words, it is currently expected the workload (based on historic data and making the assumption the workload will continue over ten years) will be slightly greater than the number of available case officer hours per annum. The workload figures are best estimates and it is likely costs will be closely in the region of the baseline service delivery costs. Please note these costs do not include external advice. Overall costs of this Option are in Table 2 below.

Table 2

Option B Costs		
	Annual	10 Years (NPV)
Total Costs	£752,520	£6,258,410
Customers	£752,160	£6,255,420
Licensing Authority	£360	£2,990

There will be an annual cost to customers under this Option of £752,160. This is an increase of almost £573,000 from the baseline (Option A).

Alongside the licensing authority costs, where appropriate, external advisory costs would be charged separately to the customer. These costs currently range from £78.10 to £119.76 per hour and are inclusive of VAT which is chargeable for external advice. The hourly rate will depend on the grade of staff undertaking the work. These fees are subject to change and are reviewed annually.

There will be a cost to customers using services which previously did not have an associated fee. However, it is not expected this Option will reduce the number of applications being made on average per year. The fees are set proportionately to the activities being undertaken. The MMO provided information to show the number of applications received increased around 20% in 2014/2015, following the introduction of their revised fees model. We would expect to see an increase in the use of the new pre-application services. The pre-application stage is voluntary and we expect larger scale developers to use the service most widely. Undertaking pre-application discussions and receiving advice at this early stage in a project should result in efficiencies in terms of determination costs at application stage.

Option B - Benefits

The benefits under this option are the customer will enjoy a more extensive range of services than currently available. For many of the typical non-EIA related activities, the licensing authority have a greater degree of certainty regarding the resources which are needed to reach a licensing decision, meaning a proportionate fixed fee would be acceptable and efficient to administer. This fixed fee element will give customer certainty of costs upfront.

Hourly rate charges for work areas which are more challenging to predict in terms of resource would ensure full cost recovery and customers will only pay for the services they receive.

The fixed fee element of this Option means there will be reduced invoicing compared to Option C and therefore reduced administrative burden for both the customer and NRW. The hourly rate element of this option will ensure the customers only pay for the service they have received for work areas where resource requirements are more difficult to predict.

NRW will also benefit from this Option as they will be able to recover costs for the full breadth of services which they provide.

Option B - Conclusion

Option B will enable the licensing authority to provide an adequate provision of services for customers and ensures they pay for the services being provided to them, reducing the need for subsidy.

This option provides a fair and proportionate approach to setting fees for the wide variety of services provided by NRW. This option enables costs to be recouped via hourly rate and fixed fees across the lifecycle of a project, where

appropriate, from pre-application to post licence monitoring.

Option C - Hourly rate model

This option would follow a model where all marine licensing services would be charged for at an hourly rate. The model would apply a pre-determined hourly rate charge of £120 (at **Annex 3**) to recover all costs to NRW, with no caps or fixed fees.

Alongside the licensing authority costs, where appropriate, external advisory costs would be charged separately to the customer. These costs currently range from £78.10 to £119.76 per hour and are inclusive of VAT which is chargeable for external advice. The hourly rate will depend on the grade of staff undertaking the work. These fees are subject to change and are reviewed annually.

Where external advice is required, the case officer will discuss this with the customer. A quote will be provided for each work package. Please see **Annex 4** for further information on the anticipated hours of external advice which may be required.

Option C - Costs

The total cost of delivering the marine licensing service annually under Option C is £764,160.

As with Option B, the majority of the costs will be on those customers utilising the service, which is estimated to be £763,800 annually. The remaining £360 will be subsidised by the licensing authority.

The overall cost baseline is £745,993 for delivering the marine licensing service in NRW, based on staff costs and non staff costs under this option. The hourly charge of £120 is based on this figure divided by the number of available case officer hours (6,238). The breakdown of how the hourly rate has been determined is shown at **Annex 3**.

For this assessment, NRW have used the costs based on predicted workload in future, which is marginally higher and results in a service delivery cost of £764.160. In other words, it is currently anticipated the workload (based on historic data and making the assumption this workload will continue over ten years) will be slightly greater than the number of available case officer hours per annum. The workload figures are best estimates and it is likely the costs will be closely in the region of the baseline service delivery costs. Please note these costs do not include external advice. Overall costs of this Option are in Table 3 below.

Table 3

Option C Costs		
	Annual	10 Years (NPV)
Total Costs	£764,160	£6,355,220
Customers	£763,800	£6,352,220,
Licensing Authority	£360	£2,990

The annual cost to customers under this Option of £763,800 represents an increase of approximately £584,600 per annum from the baseline (Option A). However, this is considered fair as the costs are to those customers utilising the marine licensing service. In addition to the transfer of costs from NRW to the customer, this increased cost also reflects the extended range of services which would be available at the pre-application stage under this option.

The cost of this option is higher than Option B because all services would need to be invoiced. This would be an additional administrative burden and increases overall costs for customers.

Option C - Benefits

The benefits under this option are the customer will enjoy a more extensive range of services than currently available. The hourly rate will ensure the customers only pay for the service they have received.

NRW will benefit from this Option as they will be able to recover full costs.

Option C - Conclusion

This option would provide the most accurate and robust way of delivering a system of full cost recovery for the licensing authority. Applying an hourly rate charge would ensure, as near as possible, actual costs are recouped, on a case-by-case basis.

However, for many typical licensing activities it is considered such a system, requiring an invoice for each work package, would place too great a burden on customers of the marine licensing service and an administrative burden on NRW, when considered against the actual cost of the service being provided. These costs would be passed onto the customers, meaning costs to customers are greatest under this Option (in relation to Band 1 and 2). It would also provide uncertainty of costs to customers of small scale work packages, where costs are often similar.

Although this option would enable full cost recovery in the most robust way, on balance it is considered to be disproportionate for smaller scale and more typical applications. The time spent by NRW undertaking the administrative tasks involved in delivering this Option could be better spent on delivering a service to the customer and as such this option is not favoured.

Conclusion of all Options based on predicted costs

Table 4

	Cost to licensing authority (per annum)	Cost to customers (per annum)	Cost to licensing authority (10 year NPV)	Cost to customers (10 year NPV)
Option A	£513,858	£179,182	£4,273,550	£1,490,190
Option B	£360	£752,160	£2,990	£6,255,420
Option C	£360	£763,800	£2,990	£6,352,220

Option A is not considered to be a viable option going forward. The amount of subsidy required and lack of accurate fixed fees set for work packages does not enable full cost recovery to be achieved.

Option B provides a proportionate approach to setting fees for the wide variety of activities requiring licences. Projects can vary greatly in scale, size, complexity, novelty etc. and a combination of fixed fees for more standard work packages and hourly rate charges for more bespoke work packages is considered the fairest and most proportionate approach. This view was also reflected in stakeholder feedback, following informal engagement and the public consultation.

Fixed fees for easier to predict work packages offer certainty to customers, particularly for more small - medium scale work. This would also keep costs to a minimum as it removes the administrative burden of invoicing customers in all cases, like under Option C, whilst also achieving fully cost recovery where possible.

Hourly rate charges for work areas which are more challenging to predict in terms of resource would ensure full cost recovery and customers will only pay for the services they use.

Option B recognises a 'one size fits all' approach to charging as set out in Option C is not necessarily the most fit for purpose.

Options B and C transfer the majority of the costs associated with the marine licensing system from the public sector (taxpayer) to the users of the service. This is in line with HM Treasury and Welsh Government approach to managing public money. In turn, the customer will receive an improved service, including the addition of a more focused and dedicated pre-application stage; shorter determination timescales for Band 1 activities; certainty around costs for small-medium scale activities; for all bands NRW will work to a series of Service Level Agreements, which will be measured against key performance indicators;

and there is a commitment of continuous improvement for the marine licensing system and regular review of the fees.

Option B is the preferred option because the benefits derived are considered greater for the wide range of activities in Welsh waters requiring a marine licence – providing a proportionate approach to setting fees, allowing costs to be set fairly and with regard to the level of complexity and likely assessment needs of a work package.

The Marine Licensing (Notice Appeals) (Wales) (Amendment) Regulations 2017

The existing notice appeals mechanism was established in 2011 and a number of assumptions were made at the time about the amount of appeals which would be heard by the First Tier-tribunal. It took a worst case approach of six notices being issued per annum, with 10% of these being appealed against. To date only one notice has been issued under the marine licensing system in Wales, and not appealed against.

Under this legislation the licensing authority can issue a notice for the non-payment of fees on a licensee. NRW issue around 65 licences per annum, and not all of these would have post licence fees associated. The issuing of a notice, which could at worst case result in the revocation of a licence, would be a last resort and the licensing authority would work with customers to resolve any issues around non payment of fees before considering the imposition of a notice. As such, we expect the use of such notices to be low – a worst case of one every year is assumed.

Due to the small change we are making to the notice appeals system, the original assumptions made in 2011 (with reference to the number of notices issued since 2011) are not expected to increase with this change. Equally, given there is an existing appeal mechanism, no start up costs are anticipated and as such the costs are assessed to be neutral.

Specific Impact Assessments

The following impact assessments have been carried out and a brief synopsis is provided below. Full details of the assessments are available upon written request:

Equalities Impact Assessment concluded there would be no impact on the responsibilities under the Equality Act 2010.

Rights of the Child Assessment concluded these proposals have had regard to the Rights of Children and Young Persons (Wales) Measure 2011. The Measure embeds consideration of the United Nations Convention on the Rights of the Child (UNCRC). No impacts have been identified.

Welsh Language Assessment concluded the introduction of the new fees and charges would not directly impact on the Welsh Language.

Rural Proofing Assessment – the rural proofing screening tool concluded the impact to rural areas would be marginal and therefore does not require a full rural proofing impact assessment.

Justice Impact Assessment – no impacts were identified following the completion of a Justice Impact Assessment, as a result of the making of the Marine Licensing (Notice Appeals) (Amendment) (Wales) Regulations 2017.

Duties

We have considered the impact of the proposed legislation on the statutory duties of Welsh Ministers (as set out in GOWA 2006). The proposed legislation will be fully compliant with and does not impact on the Welsh Ministers' ability to deliver the following duties:

- Equality and Diversity, as set out in the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011. The Regulations place duties on the devolved public sector, including Welsh Government, covering equality impact assessments, publishing and reviewing Strategic Equality Plans, engagement, pay differences, procurement, reporting arrangements and equality and employment information.

The proposed legislation is fully compliant with the Regulations.

- The Welsh Language Standards (No.2) Regulations 2016, further to the Welsh Language Act 1993. The Welsh Language (Wales) Measure 2011 established a legal framework to impose duties on public organisations to comply with one or more standards of conduct on the Welsh Language. From 25 January 2017 Natural Resources Wales are subject to Welsh Language Standards under Section 47 of the Measure, thus replacing their Welsh Language Scheme.

The proposed legislation is fully compliant with the standards.

- Sustainable Development through the Well-being of Future Generations (Wales) Act 2015. The proposals in the legislation will enable Wales to deliver a fit for purpose and robust marine licensing system. The marine licensing system delivers Sustainable Development for Welsh waters and therefore these proposals support the ability of Welsh Ministers to deliver Sustainable Development.

Sectors

We have also considered the impact of the proposed legislation on the nine key business sectors of Welsh Government: Advanced Materials and Manufacturing (AMM), Construction, Creative Industries, Energy and Environment, Financial and Professional Services, Food and Drink, Information and Communications Technology (ICT), Life Sciences and Tourism, Local Government and Third Sector organisations.

The introduction of this legislation results in fees for all marine licensing activities. All users of the marine licensing system, regardless of activity being carried out, are treated the same with regards to the level of fees to be applied. Marine licensing stakeholders, including businesses, have been consulted on these proposals and are aware of the changes coming in to force.

The costs and benefits of customers using the marine licensing system, under the new proposals, have been fully assessed. See above costs and benefits analysis.

Impact on small businesses

The majority of marine licensing customers in Wales are not small or medium businesses (less than 7%). All customers are treated the same through the marine licensing process and the size of business is not always relevant to the scale of project or resources required to determine a marine licence. We are not aware of any evidence to suggest marine licensing fees have, to date, deterred small businesses from carrying out works requiring a marine licence.

Following the consultation on the proposals, we have considered the responses in relation to impact on small businesses. It is recognised, due to the aim of full cost recovery, there will be an increase in fees for some small scale activities.

To mitigate any impacts, the new fees will be sense checked annually (including the number and type of applications received), and a formal review carried out after three years, with stakeholder input. In the current financial climate, there is no availability of subsidy for these activities. However, there is the ability for NRW, as licensing authority, to waive or reduce fees should there be significant implications for small businesses.

Under all options in the Regulatory Impact Assessment, NRW would aim to reduce the administrative burden to customers, especially for low risk activities. The new system and two additional posts (under Options B and C) would be focussed on streamlining and efficiencies. Over time we expect to see a step change towards a more efficient and streamlined system, which will benefit all users.

Impact on consultees

The Fees Review was not designed to recoup the costs of consultees in carrying out their role in the marine licensing system. The proposals do not impact on the role of consultees or existing consultation arrangements, so impact of the proposals is considered neutral.

Overall, the conclusion here is there is no risk of significant benefit or detrimental effect, direct or indirect, to any specific sector.

A Competition Assessment has also been carried out. See below.

Consultation

The Welsh Government published a formal 12 week public consultation on a revision to marine licensing fees and associated charges in Wales, on 5 September 2016. The consultation sought views on proposals to change the fees and charges for the marine licensing regime and the associated Environmental Impact Assessment (EIA) regime in Wales, as operated by NRW on behalf of the Welsh Ministers.

The consultation set out proposals for a new fees model and the fees and charges to be applied to the model. These fees will apply where NRW are acting as the licensing authority for marine licensing and the appropriate authority for the EIA regime in Welsh waters. The consultation closed on 28 November 2016. A Summary of Responses ² to the consultation was issued on 31 January 2017 and is available here:

<https://consultations.gov.wales/consultations/marine-licensing-fees-and-associated-charges-wales>.

Competition Assessment

The new fees are set proportionately, reflecting the project costs and complexity of the project being considered. The new fees, based on £120 per hour, are slightly higher than the hourly rate in England (currently £94 per hour). However, the English system currently has an element of Government subsidy, which, at the time of drafting, was being reviewed. The difference in fees is not expected to impact on where businesses choose to deliver marine works. In the main, works are dependent on location (i.e. where the resources are) and fees would be budgeted into the project planning stage. We do not consider the fees are disproportionate or will prohibit development in Wales. These costs will also be kept under review and through continuous improvement of the marine licensing system, we would expect costs to reduce over time as a result of efficiencies and savings realised in the system which would benefit customers.

The competition filter test (see Appendix A) has been applied and has shown there are no competition concerns.

There are no market implications associated with these provisions and therefore, no risk of detrimental effect on competition.

Post Implementation Review

It is important we monitor performance and evaluate the success of the Fees Review. It is unlikely we will get the fees right first time and will therefore need to review as part of our continual improvement. We intend to carry out a formal review to be held after three years and will carry out a 'sense check' every year to review new data and evidence, take stock and learn lessons. This timeframe

²

allows for continuous improvement outcomes and benefits to be realised. In exceptional circumstances, we will consider the need for a formal review sooner.

NRW and Welsh Government are committed to continuing the positive engagement with stakeholders on fees and charges for marine licensing (as well as wider marine licensing matters). Stakeholders will have the opportunity to feedback and continue to help shape the marine licensing system in Wales.

APPENDIX A

The Competition Filter Test	
Question	Answer yes or no
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	NO
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	NO
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	NO
Q4: Would the costs of the regulation affect some firms substantially more than others?	NO
Q5: Is the regulation likely to affect the market structure, changing the number or size of businesses/organisation?	NO
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	NO
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	NO
Q8: Is the sector characterised by rapid technological change?	NO
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	NO

Annex 1

Technical Regulatory Impact Assessment

Background

1. The existing fees and charging regime for marine licensing in Wales is not fit for purpose. It is out of date, lacks flexibility, does not reflect all licensable activities for which applications are made and has not been reviewed since the delegation of marine licensing to Natural Resources Wales (NRW) in 2013.
2. A Fees Review project was established in 2014 and the overall aim of the review was to provide a fit for purpose, robust, proportionate, fair and transparent regime for charging for costs associated with marine licensing.
3. The existing fees have been in place since 31st March 2010, established under the previous licensing systems³ and were carried over for the marine licensing system under The Marine and Coastal Access Act 2009 (MCAA). Using the historic income from fees since 2013 compared to the current service delivery running costs, cost recovery for the Licensing Authority is estimated to be around 46 % (£289,000 average income). The shortfall is subsidised.
4. Marine Licencing fees and charges have been reviewed in partnership with the Welsh Government and NRW between 2014 and 2016. The objectives of the review were:
 - the achievement of full cost recovery, where possible
 - for the fees and charges to be proportionate, fair and transparent
 - to identify and implement opportunities for efficiencies and streamlining of services for marine licensing which will ensure value for money
 - to review and update where appropriate the fees for marine licensing including the use of powers under the Environment (Wales) Act 2016
 - to minimise charging increases wherever possible, in accordance with one of the principles for the establishment of NRW⁴.
5. The Fees Review project considered options for a new fees model for Wales and established proposed fees which were subject to public consultation in September 2016.

³ [The Food and Environment Protection Act 1985 and The Environmental Impact Assessment and Natural Habitats \(Extraction of Minerals by Marine Dredging\) \(Wales\) Regulations 2007.](#)

⁴ <http://www.legislation.gov.uk/wsi/2012/1903/note/made>

6. The three options considered in this impact assessment are:
 - (A) Do nothing / fixed fee model
 - (B) Tiered model
 - (C) Hourly rate model.

Approach to Impact Assessment

7. Each of the options above are described and considered in detail below, with an analysis of costs and benefits for each. At the end of the document, comparisons between models are made and final conclusions made.
8. The analysis and data used in the options appraisal is based on a ten year forecast, where appropriate, from April 2017 – March 2026. The figures are based on NRW data and proxy data from other licensing authorities in the UK and, where data is limited, best estimates provided by NRW.
9. MCAA introduced the marine licensing system. This analysis of costs and benefits will not repeat what was set out in the Explanatory Memorandum for the MCAA. A link to the high level costs and benefits of the new licensing system can be found here:
<http://webarchive.nationalarchives.gov.uk/20130403001623/http://archive.defra.gov.uk/environment/marine/documents/legislation/marine-ia-0410.pdf>.

Continuous Improvement

10. Fees are set to a minimum and in line with HM Treasury and Welsh Managing Public Money guidance.
11. To ensure the marine licensing service is as lean as possible NRW have established a programme of continuous improvement which has been implemented since 2013.
12. Proposed future opportunities:
 - Identify priority actions for marine licensing process improvements and to highlight to Welsh Government areas for policy review
 - Identify opportunities for the transition of simple and non-significant marine licensing activities to Permit Support Officers in the wider Permitting Service, where appropriate
 - Development of datasets to understand the priorities within the permitting process for review or the benefits of any process changes

- Enhancement of recording and reporting system via the transition to a Customer Relationship Management (CRM) system – expected 2017-2019 at the latest
 - Improvements to NRW webpages to further support self-service for marine licensing customers
 - Identify and deliver further de-regulation opportunities for low risk activities
 - Support Welsh Government and inform a review of The Marine Licensing (Exempted Activities) (Wales) Order 2011
 - Develop advice and guidance for customers and stakeholders across the marine licensing system and associated legislation
 - Develop a partnership approach with stakeholders to evaluate the fees and charges model.
13. The proposed Marine Regulation Policy Advisors will support the ongoing commitment to continuous improvements within the marine licensing system.

Impact on small businesses

14. The majority of marine licensing customers in Wales are not small or medium businesses (SME) (less than 7 % of applicants are SME).
15. All customers are treated the same through the marine licensing process and the size of business is not always relevant to the scale of project or resources required to determine a marine licence. We are not aware of any evidence to suggest marine licensing fees have to date deterred small businesses from carrying out works requiring a marine licence.
16. Following the consultation on the proposals, we have considered the responses in relation to impact on small businesses. It is recognised, due to the aim of full cost recovery, there will be an increase in fees for some small scale activities. Also in some instances activities with no fee, will have a fee associated with them going forward.
17. To mitigate any impacts, the new fees will be sensed checked annually, and a formal review carried out after three years, with stakeholder input. NRW will continue to record time data which will further inform the fees and this will highlight any activities which may be disproportionately affected by the fees. NRW have carried out significant analysis of the determination time and resource for small scale, low risk activities and the fees reflect the minimum determination time they consider possible. In the current financial climate, there is no availability of subsidy for these activities. However, there is the ability for NRW, as licensing authority, to waive or reduce fees should there be significant implications for small businesses.

18. Under all options in the RIA, NRW would aim to reduce the administrative burden to customers, especially for low risk activities. The new system and two additional posts (under Options B and C) would be focussed on streamlining and efficiencies. Over time we expect to see a step change towards a more efficient and streamlined system which will benefit all users.

Impact on consultees

19. The Fees Review was not designed to recoup the costs of consultees in carrying out their role in the marine licensing system. The proposals do not impact on the role of consultees or existing consultation arrangements so impact of the proposals is considered neutral.

Levels of marine activity predicted per annum for 2017 onwards

20. Each option considered in this Impact Assessment is considered against the baseline of marine licensing activity within Table 1, which is broken down into work packages - pre-application, formal applications and post licence work. Table 1 below shows the predicted levels of marine activity per annum from 2017 onwards across all the potential marine licensing work areas. Under Option A some of the work packages listed will not be offered, such as a review of Environmental Statements. In Options B and C we would expect to see an increase in the use of the new pre-application services. The pre-application stage is voluntary and we expect larger scale developers to use the service most widely. Undertaking pre-application discussions and receiving advice at this early stage in a project should result in efficiencies in terms of determination costs at application stage.
21. We do not expect to see a change in number of applications received from the baseline. The fees are set proportionately to the activities being undertaken, so we do not anticipate a downturn in applications. Information from the MMO is their applications increased around 20% in 2014/2015, following the introduction of their revised fees model.

Table 1

Model Section	Work Package	No. Cases Annually	Average Marine Licensing Team Hours (hours)	No. Cases x Average Hours (hours)
Pre-Application	General Queries	300	2	600
	Screening	2	5	10
	Scoping	2	15	30
	Screening and Scoping	4	16	64
	Bespoke Pre-application	12	10	120
	Bespoke Pre-application Significant	5	75	375
	Review of Environmental Statements	4	30	120
	Sediment sample analysis fees	8	3.5	28
Formal Application	Band 1 (Low Risk)	20	5	100
	Band 2	40	16	640
	Band 3	6	140	840
	Band 3	2	1000	2000
Post Licence	Post Licence Discussions	10	15	150
	Post Licence Discussions Sig.	1.5	375	562.5
	Discharge of Conditions (DoC) Band 1 & 2 (all DoC on a licence)	10	4	40
	Discharge of Conditions Band 3 (per licence)	30	12	360
	Discharge of Conditions Band 3 (per licence) Sig.	1.5	375	562.5
	Monitoring (per monitoring report)	15	6	90
	Variation 0 – Free	3	1	3
	Variation 1 Administrative changes - Fixed fee	6	2	12
	Variation 2 Complex changes - Hourly rate	2	60	120
	Variation 3 Routine changes - Fixed fee	10	4	40
	Transferring of licence	1	4	4
	Totals	495	2175.5	6879

22. To date in Wales, one marine licence application has been refused and no appeals have been received against decisions made. There has been one stop notice issued under the MCAA and no appeals against notices have been made. A change in fees should not result in a change to this trend.

Impacts on all options

23. Under all options, no direct charge will be levied against general queries. It is expected under **all options**, general queries would not be directly charged for. There will be a cost to the licensing authority as it is anticipated the number of queries would remain consistent annually, approximately 300, which would still need to be serviced. Annually, the cost for handling general queries is **£72,000** (2 hours per query x 300 x £120 hourly rate). £598,795 over a 10 year period in present value terms. These costs are built into the hourly rate calculation but not directly invoiced to customers.
24. The majority of formal applications require an advert to be placed. These costs can vary greatly. Costs are estimated to be in the region of £48,000 – £78,000 per annum. Please note these advertising costs are passed directly from the publisher to the customer and have not been included within the overall costs in this document.
25. To enable comparison of all options, the overall service delivery cost to the Licensing Authority has been calculated and an hourly rate established. The hourly rate will be used for options B and C as a direct charge. For option A it enables us to show the costs currently. The hourly rate breakdown is at **Annex 3**.

Options

Option A – Retain fixed fee model (Do nothing)

Summary

26. This option would retain the current model and fees for marine licensing in Wales which were last revised in 2009.
27. The existing fees charged by the Licensing Authority can be found here: <http://www.naturalresources.wales/apply-for-a-permit/marine-licensing/fees-table/?lang=en> and are also set out in **Annex 2**.
28. The fees are broken into different sectors or types of activities, some are then divided further with reference to project costs, tonnage or generating capacity. The fixed fee is charged upfront for applications.
29. Under this option the existing fees would remain. This option does not include utilising the new powers obtained through the Environment (Wales) Act 2016, including variations and pre-application; or charging for removals and dredging activities introduced under the MCAA.
30. The existing fees were established when the majority of the external scientific advice required for determination was received from the Centre for Environment, Fisheries and Aquaculture Science (Cefas), as such the current fixed fees are intended to include the Cefas advice costs.
31. Since the creation of NRW, scientific advice is being sought from internal technical experts, therefore reducing the reliance on external advice. Where the expertise is not available in house, advice continues to be sought from Cefas, such as, fisheries and historic licence information. However, the fees charged are out of date and regularly do not cover the costs of Cefas. Under Option A this would remain the case.
32. A breakdown of the estimate annual costs can be found here for Option A, followed by narrative on each activity:

Activity	Fee type	Customer fee per application	Cost to NRW per application	Number of applications	Cost to customers	Cost to NRW	Total cost
Pre-application							
Screening	No fee	-	600	2	-	1,200	1,200
Scoping	No fee	-	1,800	2	-	3,600	3,600
Screening and scoping	No fee	-	1,920	4	-	7,680	7,680

Review of ES				4			
Bespoke pre-application				12			
Bespoke pre-application - significant				5			
Sediment sampling				8			
Total					-	12,480	12,480
Formal application							
Band 1 - grab sampling	No Fee	-	840	14	-	11,760	11,760
Band 1 - Removal application (no fee)	No Fee	-	840	2	-	1,680	1,680
Band 1 - Removal application (fee)	Fixed fee	500	340	5	2,500	1,700	4,200
Band 2 - No fee	No Fee		1,920	4	-	7,680	7,680
Band 2 - £127 fee		127	1,793	6	762	10,758	11,520
Band 2 - Standard fee		3,225	-	30	96,750	-39,150	57,600
Band 3 - standard		4,525	12,275	6	27,150	73,650	100,800
Band 3 - significant		12,010	107,990	2	24,020	215,980	240,000
Total					151,182	284,058	435,240
Post licence							
Post-licence discussions - standard	No Fee	-	1,800	10	-	18,000	18,000
Post-licence discussions - significant	No Fee	-	45,000	1.5	-	67,500	67,500
Discharge of conditions - Band 1 & 2	No Fee	-	480	10	-	4,800	4,800
Discharge of conditions - Band 3 standard	No Fee	-	1,440	30	-	43,200	43,200
Discharge of conditions - Band 3 significant	No Fee	-	45,000	1.5	-	67,500	67,500
Monitoring - Non EIA	No Fee	-	720	10	-	7,200	7,200
Monitoring - EIA		5,600	-	5	28,000	-	28,000
Variations		-	480	18	-	8,640	8,640
Transfers		-	480	1	-	480	480
Total					28,000	217,320	245,320
TOTAL					179,182	513,858	693,040

Costs and Benefits (of Option A)

Pre-application

33. Services under pre-application are:
- general queries
 - screening opinions
 - scoping opinions
 - screening and scoping opinions
 - Review of Environmental Statements (ES) (Not offered under this option)
 - Bespoke pre-application (Not widely offered under this option)
 - Sediment sampling analysis (Not offered under this option – it is currently part of the formal application)
34. It is expected under all options, general queries would not be directly charged for. Under this Option, pre-application services would not be expanded further than that which is currently offered. In the main, pre-application would be limited to general queries and screening opinion and scoping opinion work packages.
35. As bespoke pre-application is not routinely offered, any engagement is undertaken currently on an ad hoc basis, therefore these costs have not been included under Option A. Reviewing Environmental Statements (ES) is not a service currently offered, so has also not been included for further assessment under Option A.
36. Sediment sampling analysis to ensure dredged material is suitable for disposal at sea is a requirement for any application of this kind. Under Option A, this would continue to be done as part of the formal application process, as opposed to a pre-application service. Current application fees are intended to include the costs of sediment sampling analysis.

Pre-application - Costs

37. Under this Option, there is no financial cost to customers utilising the pre-application services.
38. There is a cost to customers due to the limited service they can access from the licensing authority. We do not have any evidence to enable a monetised cost to be established.
39. Sediment sampling analysis at formal application stage can add a significant amount of time, minimum of two months, to the determination process.

Customers have to factor this into their project plans. There can also be an element of uncertainty for customers as to whether the application will be accepted by the licensing authority following sediment analysis.

40. There is a cost to the licensing authority as the fees for delivering a robust pre-application service would not be recovered under this option.
41. The licensing authority must provide Screening and Scoping opinions under the Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended) should a customer request one for their development. The financial costs to the licensing authority for delivering Screening and Scoping Opinions is approximately **£12,480** per annum (see Table 2 below). This totals **£103,790** over a 10 year period in present value terms.

Pre-application - Benefits

42. The benefits under this option are to those utilising the pre-application services as they do not have to pay a fee and are obtaining those services free of charge. This includes Screening and Scoping Opinion requests.
43. The recovering of sediment sampling analysis costs, under this option, will remain within the fixed application fee and completed as part of the formal application process. This can reduce the number of instances a customer needs to contact the licensing authority i.e. for only one “application”.

Table 2

Option A Pre-Application – Costs to Licensing Authority					
Work Package	Determination Hours (per work package)	Cost per Work Package	No. Cases Annually	Costs per Annum	Cost over 10 years NPV ⁵
General Queries	2	Non Billed	300	£72,000 Non Billed	£598,795 Non Billed
Screening	5	£600	2	£1200	£9980
Scoping	15	£1800	2	£3600	£29,940
Screening and scoping	16	£1920	4	£7680	£63,870
Total Costs to licensing authority				£12,480	£103,790

44. The overall cost of £12,480 per annum to the licensing authority for providing these services would remain unrecovered under this option. There would be no cost to customers under this option. However, the services provided would be limited.

⁵ Net Present Value (NPV). Costs have been discounted to reflect the social rate of time preference using HM Treasury’s discount rate of 3.5%

Formal Application

Environmental Sensitivity Supplement (ESS)

45. Under the current fees, if an application is in or near to an environmentally sensitive area, an Environmental Sensitivity Supplement (ESS) is payable in addition to the application fee. The ESS is a tiered table based on the project costs of the application, ranging between £275 and £2,750. This is only for certain activities as stated in The Marine Licensing (Application Fees) (Wales) Regulations 2011:
- Construction projects
 - Disposal of dredged material for beneficial use only.
46. The ESS is intended to cover the associated costs for determining applications within a sensitive area as there are often additional requirements, such as conducting a Habitats Regulations Assessment (HRA) under The Conservation of Habitats and Species Regulations 2010 (as amended).
47. Under Option A, the ESS would remain unchanged and only be applied to the activities stated above.

ESS - Costs

48. As the majority of the Welsh coast is designated, additional assessments are required on nearly all marine licence applications. Under this option, it is considered an unfair cost as the additional payment is only applicable to certain activities and therefore only certain customers.
49. The determination of whether or not an ESS charge is required can cause delay – particularly if an incorrect fee has been supplied with the application.

ESS - Benefits

50. The benefit to the licensing authority is fees are received and the requirement for the additional ESS fee reflects the additional licensing authority resource needed to determine such projects in sensitive areas.
51. There is a benefit to customers who apply for activities not requiring the ESS payment, which fall within environmentally sensitive areas. In these circumstances, additional assessments would still be required and undertaken by the licensing authority. Therefore, these users are obtaining more extensive services from the marine licensing team at no additional cost.

Band 1

52. Under the current working practices and fees, a low risk application process (akin to Band 1 in Option B) is only offered for grab sampling activities as they are considered relatively low risk. A reduced determination process with a

service level agreement (SLA) of six weeks is applied to this category. Applications are consulted on with relevant consultees for 14 days as opposed to 28 days for standard applications. The need for advertising in a local publication has been waived for these types of application. This reduces overall determination time and costs.

53. Under this option, Do Nothing, current ways of working would remain and there would be no formal Band 1 application process, other than for grab sampling.
54. Other low risk activities including small scale removals, small scale construction, maintenance and repairs would be subject to the standard determination process with a four month processing time SLA and advertising.
55. Currently all removal activities do not have an associated application fee. This is because removals were introduced as a licensable activity through the MCAA and no fees have been established to date.
56. There is an assumption for Option B and C applications within Band 1 (Small Scale/Low Risk) would take five hours to determine. Under Option A, there would be no change to the current process and therefore time recording data has been used.
57. On average 14 grab sampling applications are received annually. The time recording data which has been collected by the NRW Marine Licensing Team shows the average determination time for these types of applications is 6.7 hours, which have been rounded up to 7 hours for analysis purposes.

Band 1 - Costs

Grab sampling

58. Under this option, Do Nothing, there would be no Band 1 – Small Scale / Low Risk category. Only grab sampling applications would continue to be determined within the reduced SLA (process/timeframe). It is assumed the same number of applications would be received on an annual basis. Based on an hourly rate of £120 the cost to the Licensing Authority equates to **£840 (7 hours x hourly rate)** for each grab sampling application. Annually this totals a cost to the licensing authority of **£11,760 (14 applications annually x £840 per app)**. Over a ten year period this equates to **£97,800** as shown in Table 3. There is no cost to customers for grab sampling, other than submitting the application.

Low risk activities

59. For some low risk removal activities e.g. removal of obstructions, although there would be no application fee, they would be subject to the standard marine licensing determination process.
60. There is a cost to the licensing authority as the time spent on processing the applications is non-recoverable. The average determination of seven hours,

equating to **£840** per applications (**seven hours x hourly rate**). Annually this totals a loss of **£1,680** (two applications annually x cost per application). Over a ten year period in present value terms this equates to **£13,970** cost to customers.

61. Under Option A other low risk activities, other than removals, would pay an application fee. It is anticipated there would be approximately **five** applications paying fees ranging from £127 – £1000.
62. Assuming an average of £500 application fee this would equate to up to **£2,500** (£500 x five applications) per annum costs to customers, totalling **£20,790** over ten years in present value terms.
63. Although there is an associated application fee, there will still be a cost to the licensing authority as the application fee does not cover the actual costs for determining an application. The determination time for these applications is approximately seven hours with a cost of £840 per application. Assuming an average of £500 application fee, there is a shortfall of **£340** per application for delivering the service. This equates to **£1,700** annually (£340 shortfall x five applications) and **£14,140** over a 10 year period in present value terms at a cost to the licensing authority.
64. Under this option, we would not expand the range of activities which could be determined within a reduced SLA (or Band 1 equivalent).
65. Continuing with this approach to licensing low risk activities results is an unfair system where only one activity type goes through the reduced SLA route and benefits of a quicker turnaround are not realised.
66. As the reduced SLA (processing time) is not applied for all low risk activities, customers have to go through the standard licencing process, which could be considered disproportionate to the level of risk and scale.

Band 1 Overall Costs

67. The overall cost for delivering activities akin to Band 1 is **£17,640** annually. Under Option A, the majority of these costs, **£15,140**, is covered by the licensing authority. The costs to customers are only **£2,500** annually for utilising this service.

Table 3

Option A Band 1 – Costs to Licensing Authority					
Work Package	Determination Hours	Actual Cost per Work Package	No. Cases Annually	Costs per Annum to Licensing Authority	Cost over 10 years NPV
Grab Sampling –	7	£840	14	£11,760	£97,800

No fee & reduced SLA					
Removal Application – No fee & 4 month SLA	7	£840	2	£1,680	£13,970
Low Risk Activities – Application fee & 4 month SLA	7	£840	5	£1,700	£14,140
Total Costs to licensing authority				£15,140	£125,910

Option A Band 1 – Cost to Customers					
Work Package	Determination Hours	Cost per Work Package to Customer	No. Cases Annually	Costs per Annum to Customers	Cost over 10 years NPV
Low Risk Activities – Application fee & 4 month SLA	7	£500 app fee	5	£2,500	£20,790
Total Costs to customers				£2,500	£20,790

Band 1 - Benefits

68. There is benefit to customers of grab sampling applications and other removal activities as these would continue to have no associated application fee. Grab sampling applications would have the continued benefit of a reduced SLA.

Band 2

69. The majority of formal applications received by the licensing authority are non-EIA applications with a SLA for determination of four months. These would be considered Band 2 applications (under Option B model for comparison).
70. The current application fees are set out in 10 tables (at **Annex 2**) each covering different activities; for example, construction, renewable energy, mineral extraction and disposal of dredge material. The majority of the tables consist of bands, each with a different fixed fee. The criteria of the bands differs between activity types, for example:
- Construction bands are defined by project cost
 - Renewable energy projects are defined by generating cap
 - Disposal of dredged material are defined by disposal tonnage.

71. Under this option, there would be no change to the current application fees. This means certain removal and dredging activities (non-low risk) would continue to have no application fee, whilst others could be paying disproportionate fees.
72. Based on previous data, the number of non-EIA applications received is approximately 40 applications per annum. Applications falling within Band 2 are anticipated to take 16 hours to process by the licensing authority, equating to **£1,920** delivery cost per application.

Band 2 - Costs

73. The current fees for marine licensing were introduced in 2011 using historic fees under previous licensing regimes. As such the fees are not an accurate reflection of the actual time taken during the determination process.
74. Approximately 40 applications are received per annum. Under Option A it is expected this will be made up of:
- four applications with no associated application fee. E.g. Removal activities
 - six applications with an application fee of £127, no ESS payment. E.g. small scale construction
 - 30 applications with an average application fee of £3,225 (£2,275 fee and £950 ESS). E.g. majority of construction, maintenance and dredging activities.
75. These types of application take approximately 16 hours to process by the licensing authority, equating to costs of **£1,920** per application. The cost of delivering all Band 2 applications is £76,800 (40 x £1,920) per annum and **£638,715** over a 10 year period in present value terms.
76. For the four applications with no fee, the cost to the licensing authority is £7,680 per annum, **£63,870** over a 10 year period in present value terms.
77. For the six applications where there is a fee of £127, the licensing authority is only recouping 6.7% per application, a loss of £1,793 per application. Across a year this equates to a loss of approximately **£10,760** (6 apps x £1,793) and **£89,470** over a 10 year period in present value terms.
78. On the assumption the remaining 30 applications attract an average application fee of £3225, the expected income would be **£96,750** (£3,225 x 30 applications) per annum.
79. The actual costs for delivering this service are approximately **£57,600** per annum (£1,920 x 30apps). Therefore, the fees paid by customers currently exceed the cost to NRW to determine these 30 Band 2 applications by

approximately **£39,150** per annum (£96,750 - £57,600). Over a 10 year period in present value terms this equates to **£352,600**, as shown in Table 4.

80. As described above, all current fees are designed to include recovery of the costs of seeking scientific advice from external advisors (Cefas). Hence the costs are combined for both the licensing authority hours and the advice costs. Currently, for these types of application it is rare Cefas advice would be sought, as in most cases NRW internal technical experts can advise on all relevant aspects.

Complexity of current fees

81. The way in which the current fees are set out could be considered complex and confusing; making it difficult to determine which fee is applicable to the activity. This is particularly the case if there are multiple activities taking place. Where an ESS payment is also required, this can complicate matters further.
82. There is a minimal cost to both the licensing authority and the customer in terms of the time spent to work out the appropriate application fee.

Table 4

Option A Band 2 (equivalent) – Cost to Licensing Authority							
Work Package	Determinati on Hours	Actual Cost per Work Package	No. Cases Annually	Overall cost to delivering service	Fees received per annum	Costs to the Licensing Authority per Annum	Cost over 10 years NPV (minus fee received)
No Fee	16	£1,920	4	£7,680	0	£7,680	£63,870
£127 Fee	16	£1,920	6	£11,520	£762	£10,758	£89,470
Average £3,225 fee	16	£1,920	30	£57,600	£96,750	-£39,150	-£325,600
Total Costs to licensing authority						-£20,712	-£172,250
Option A Band 2 (equivalent) – Cost to Customers							
Work Package	Determinati on Hours	Cost per Work Package to Customer	No. Cases Annually			Costs (fees) per Annum for Customers	Cost over 10 years NPV
£127 Fee	16	£127	6			£762	£6,340
-Average £3,225 Fee	16	£3,225	30			£96,750	£804,630
Total Costs to customers						£97,512	£810,970

83. The overall annual cost of delivering Band 2 applications under this Option A is **£76,800**.

84. The anticipated fee income from Band 2 applications is **£97,512 per annum**. This is disproportionate and exceeds the cost to the licensing authority by **£20,712 per annum**. This situation would continue under this option.

Band 2 – Benefits

85. Under this option, there is a benefit to the customer as the application fees are known upfront. There is also a significant benefit to customers with low project costs or under a category with no application fee, as their application fees are less than the cost of determination and using the marine licensing service.
86. There is a benefit to the licensing authority as there will be no change in how the fees are paid and therefore no implementation costs. There is no requirement to issue invoices as the fees are fixed and therefore reduces the need for time recording and potentially reduces the overall determination time.

Band 3

87. Projects requiring an Environmental Impact Assessment (EIA); have project costs greater than £1 million or more; and/or are for multiple activities (e.g. construction and dredging) are considered as Band 3 applications (under Options B and C, for comparison).
88. As with the Band 2 application fees, the fees are not defined in these bands and are currently set out in 10 tables (at **Annex 2**) which cover different licensable activities. These are tiered fixed fees. We will refer to them as Band 3 projects for the purposes of this assessment, to enable comparison with other options.
89. The determination time can vary considerably due to the often complex, large scale and novel technologies to consider. There is no SLA for Band 3 projects. It would not be appropriate to set an SLA to fit all Band 3 projects. This would remain the case under all three options.
90. Current application fees range between £2,275 and £43,500 although there is a potential for greater application fees if the project involves multiple activities. It is anticipated the licensing authority will receive eight Band 3 applications, two of which are likely to be Nationally Significant Infrastructure Projects (NSIPs) per annum.

Band 3 – Costs

91. It is assumed standard Band 3 applications take around 140 hours to determine fully. Therefore the cost for determination is estimated to be **£16,800** per application (140 x £120), **£100,800** across a year for all applications anticipated (six applications x £16,800). For significant Band 3 applications (NSIPs) the number of hours for determination is expected to be in the region of 1000 hours, a cost of **£120,000** per application, **£240,000** per annum (two applications x £120,000).

92. Under this Option, there is a significant cost to the licensing authority for determining these applications as fees do not often cover the actual cost of determining the applications. For example, an EIA construction project may only pay £4,525 in application fees. In this scenario, the licensing authority is under recovering **£12,275** per application (£16,800 - £4,545). If this was the case for all standard Band 3 applications, the licensing authority are at risk of a shortfall of **£73,650** annually (six x £12,275), £612,520 over a 10 year period in present value terms as shown in Table 5 (a).
93. For significant Band 3 applications the cost to the licensing authority is even greater – these could require at least 1,000 hours of licensing authority resource. For example, a significant construction Band 3 application may pay an application fee of £12,010 currently. This results in a shortfall of **£107,990** per application (£120,000 - £12,010) and based on two applications per year, a shortfall of **£215,980** per annum (£107,990 x two applications).
94. There is a cost to some sectors under this option, where there is one fixed fee of £27,500 costs. On the assumption of £16,800 per application for actual determination costs, there is a potential over recovery of **£10,700** per application. It is estimated two applications annually would fall within this category. This demonstrates in some cases application fees could be disproportionately high in relation to the amount of time spent determining the licence. This is set out in Table 5 (b).
95. The potential shortfall cost to the licensing authority for Band 3 applications under Option A is **£289,630** (standard + significant Band 3), which is under recovered per annum, equating to **£2,408,740** over a 10 year period in present value terms.

Table 5 (a)

Option A Band 3 – Cost to Licensing Authority							
Work Package	Determination Hours	Actual Cost per Work Package		No. Cases Annually	Fees received per annum	Costs per Annum (minus fees received)	Cost over 10 years NPV (minus fees received)
Band 3 – Standard, £4,525 Fee	140	£16,800		6	£27,150	£73,650	£612,520
Band 3 – Significant, £12,010 Fee	1000	£120,000		2	£24,020	£215,980	£1,796,220
Total Costs to licensing authority					£51,170	£289,630	£2,408,740

Table 5 (b)

Option A Band 3 – Cost to Customers						
Work Package	Determination on Hours	Cost per Work Package to Customer	Current Fee per Work Package	No. Cases Annually	Costs per Annum	Cost over 10 years NPV
Band 3 - Standard	140	16,800	£4,525	6	£27,150	£225,800
Band 3 – Specific sectors (Aggregates applications)	140	£27,500	£12,010	2	£24,020	£199,760
Total cost to customers					£51,170	£425,560

96. The overall cost of delivering the Band 3, (standard and significant applications) under Option A is **£340,800** per annum, **£2,834,300** over a 10 year period in present value terms. Around **£289,630** of the overall cost will be subsidised and around **£51,170** will be charged to the customer.

Band 3 - Benefits

97. Under this Option, do nothing, customers of Band 3 projects receive benefits as they often pay a lower application fee than the actual cost of delivering the service. This is the inverse of the cost to the licensing authority outlined above.
98. Customers can also benefit under this Option as the application fees are known upfront. There will also be no requirement to issue invoices as the fees are fixed and therefore reduce the need for time recording. It also potentially reduces the overall determination time.

Post Licence work

Post Licence Discussions

99. The licensing authority is often involved in discussions with Licence Holders regarding their application and any post licensing work which may need to be undertaken.
100. Currently and under this Option there would be no charge for this activity. Therefore, there will be a cost to the licensing authority of approximately **£85,500** per annum, equating to **£711,070** over the course of a 10 year period in present value terms as shown in Table 6. There would be no cost to customers.

Table 6

Option A Monitoring – Costs to Licensing Authority					
Work Package	Determination Hours	Cost per Work Package	No. Cases Annually	Costs per Annum	Cost over 10 years NPV
Post Licence Discussions – Standard	15	£1,800	10	£18,000	£ 149,700
Post Licence Discussions – Significant	375	£ 45,000	1.5	£ 67,500	£ 561,370
Total Costs to licensing authority				£ 85,500	£ 711,070

Discharge of conditions

101. Some marine licences will have conditions which will need to be discharged over the course of the licence. These are processed and approved by the licensing authority.
102. Currently no fee is applied for any discharge of conditions. Therefore processing costs would not be recovered by the licensing authority. This would remain the case under Option A.

Discharge of Conditions Costs

103. This element of the licensing authority role can be time consuming. Data shows the costs can vary depending on the type or complexity of the condition.
104. The costs to the licensing authority are shown below in Table 7:

Table 7

Option A Discharge of Conditions – Cost to Licensing Authority					
Work Package	Determination Hours	Cost per Work Package	No. Cases Annually	Costs per Annum	Cost over 10 years NPV
Band 1 and 2	4	£480	10	£4,800	£ 39,920
Band 3 Standard	12	£1,440	30	£43,200	£ 359,280
Band 3 Significant	375	£45,000	1.5	£67,500	£ 561,370
Total Costs to licensing authority				£115,500	£ 960,570

105. This shows there is a financial cost of **£115,500** per annum to the licensing authority of delivering this service.

Discharge of Conditions - Benefits

106. There is a benefit to licence holders as there is no associated fee for discharging conditions to be placed on their licence and therefore receive this element of the marine licensing service free of charge.

Monitoring

107. Currently monitoring fees are only applied to projects requiring an Environmental Impact Assessment (EIA) under the Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended). Monitoring fees are set out in tiered tables (at **Annex 2**), similar to those for formal applications. All other applications currently have no fee applied for monitoring. Under this Option, this would remain the case.

Monitoring - Costs

108. In relation to non EIA and EIA projects, it is estimated processing a monitoring report takes around 6 hours, resulting in the actual costs being **£720** per monitoring report. The cost to the licensing authority and customers is set out in Table 8 below.

Table 8

Option A Monitoring – Costs to Licensing Authority					
Work Package	Determination Hours	Cost per Work Package	No. Cases Annually	Costs per Annum	Cost over 10 years NPV
Monitoring Report (non EIA)	6	£720	10	£7,200	£59,880
Option A Monitoring – Costs to Customers					
Monitoring Reports (EIA)	6	£535 to £8387	5	£28,000	£232,865

109. It is estimated there are 10 non EIA reports each year, the cost to the licensing authority for delivering this is £7,200. Currently, fees are only recouped for EIA projects, which equates to approximately £28,000 per annum.
110. There is often a shortfall between annual monitoring fees for EIA projects and external advice costs. The current process does not charge any additional associated external advice costs directly to the customer. This cost is covered by the Licencing Authority.
111. Monitoring fees are not applied to all activities/licences requiring monitoring. Therefore, it could be considered an unfair cost to those who are required to pay for monitoring when a fee is not being applied to all licences with monitoring requirements.

Monitoring - Benefits

112. Under Option A, there is a benefit to the Licence Holders required to undertake monitoring where an annual fee is not applicable, as this service would continue to be free.

Variations

113. Licence Holders can vary their licence to reflect the most up to date situation. This can include a change in methodology, extension to licence term or changes to particular conditions, amongst other requests.
114. There is currently no fee associated with variations and this would remain under this Option.

Variations - Costs

115. There is a financial cost to the licensing authority as the cost of delivering this service cannot be recovered. Currently the licensing authority process variations free of charge.
116. On average 18 licence variations are undertaken each year. Under this option the estimated number annually is lower than Option B and C because under Option A significant variations would be subject to full re-assessment and determination through the formal application process. It is anticipated two per annum fall in to this category under this option. This approach is in place to ensure variation costs can be recovered where significant costs could be incurred.
117. Processing variations ranges between one to four hours, with the majority taking around four hours. Assuming each variation takes four hours, the cost per variation is £480. On an annual basis, receiving 18 requests, this equates to **£8,640** and **£71,855** over a ten year period in present value terms.

Variations - Benefits

118. There is a benefit to customers as there is no fee for varying or transferring a licence. Should a project change (non-significant), a licence holder can vary their licence to reflect the changes for no charge.

Transfers of licences

119. Since NRW have undertaken the marine licensing function there have been no licence transfers. Therefore, the fee has been based on other permitting regimes' data of four hours for transferring a licence. The process would be very similar in all permitting and licensing regimes.
120. It is anticipated there would, on average, be one licence transfer request per year. The cost to the licensing authority for undertaking this would be **£480** annually, with **£3,990** over a 10 year period in present value terms.
121. There is a benefit to licence holders as they are able to transfer a licence free of charge.

Option B - Tiered model

Summary

122. This option uses a similar approach to the existing Marine Management Organisation (MMO) model. It is a mix of fixed fees and hourly rates, at all stages of the marine licensing process. Alongside the licensing authority costs, where appropriate, external advisory costs would be applied separately. Costs currently range from £78.10 to £119.76 per hour and are inclusive of VAT which is chargeable for external advice. The hourly rate will depend on the grade of staff undertaking the work. These fees are subject to change and are reviewed annually.
123. It is expected under all options, general queries would not be directly charged for but would be recouped through the hourly rate calculation.
124. Projects will fall within either Band 1, Band 2 or Band 3 depending on complexity of determination.
125. The breakdown of how the hourly rate has been determined is at **Annex 3**. The cost breakdown includes the introduction of two Marine Regulation Policy Advisors who will support the ongoing commitment to continuous improvement within the marine licensing process.
126. Fixed fees means there will be no invoicing, enabling the Licensing Authority to deliver their Service Level Agreements (SLA) efficiently. The hourly rate approach is considered appropriate to the complexity of projects but will add a small and proportionate administrative burden due to the invoicing.
127. This option allows for the recovery of full costs at all stages of the licensing process, including from the initial pre-application services through to application stage and post licensing monitoring.
128. The introduction of the new model is not anticipated to result in a change to the number of applications made. However, it could increase the use of pre-application services. This model provides a way to achieve full cost recovery, as far as possible, in a proportionate and fair way and provides certainty with fixed fees where possible.
129. There may be minimal transitional costs associated with communicating the changes to marine licensing users.
130. This Option also requires the licensing authority to accurately record time spent carrying out marine licensing functions - a more robust time recording system has been developed by NRW, within existing permitting team resources, to deliver the new fees system. The cost of developing the time recording system is therefore a sunk cost and is excluded from the analysis.
131. Please note advertising costs have not been included within the overall costs. These costs vary greatly per application.

132. A breakdown of costs can be found here for Option B, followed by narrative on each activity. The total cost for the licensing system in this option is £752,520 per annum (£6,258,410 over ten years in present value terms). The majority of the costs in this option will fall to the users of the marine licensing system (i.e. the customers) and are transferred from the licensing authority. The annual cost of the licensing system in this option is £59,480 higher than Option A, this largely reflects the cost of the extended pre-application service which will be made available to customers.

Activity	Fee type	Customer fee per application	Cost to NRW per application	Number of applications	Cost to customers	Cost to NRW	Total cost
Pre-application							
Screening	Fixed	600	-	2	1,200	-	1,200
Scoping	Hourly	1,800	-	2	3,600	-	3,600
Screening and scoping	Hourly	1,920	-	4	7,680	-	7,680
Review of ES	Hourly	3,600	-	4	14,400	-	14,400
Bespoke pre-application	Hourly	1,200	-	12	14,400	-	14,400
Bespoke pre-application - significant	Hourly	9,000	-	5	45,000	-	45,000
Sediment sampling	Fixed	420	-	8	3,360	-	3,360
Total					89,640	-	89,640
Formal application							
Band 1	Fixed	600	-	20	12,000	-	12,000
Band 2	Fixed	1,920	-	40	76,800	-	76,800
Band 3 - standard		16,800	-	6	100,800	-	100,800
Band 3 - significant	Hourly	120,000	-	2	240,000	-	240,000
Total					429,600	-	429,600
Post licence							
Post-licence discussions - standard	Hourly	1,800	-	10	18,000	-	18,000

Post-licence discussions - significant	Hourly	45,000		1.5	67,500	-	67,500
Discharge of conditions - Band 1 & 2	Fixed	480	-	10	4,800	-	4,800
Discharge of conditions - Band 3 standard	Hourly	1,440	-	30	43,200	-	43,200
Discharge of conditions - Band 3 significant	Hourly	45,000	-	1.5	67,500	-	67,500
Monitoring		720		15	10,800	-	10,800
Variation 0	No fee		120	3	-	360	360
Variation 1	Fixed	240		6	1,440	-	1,440
Variation 2	Hourly	7,200		2	14,400	-	14,400
Variation 3	Fixed	480		10	4,800	-	4,800
Transfers	Fixed	480	-	1	480	-	480
Total					232,920	360	233,280
TOTAL					752,160	360	752,520

Costs and Benefits (of Option B)

Pre-application

General queries

133. The costs and benefits of general queries are covered above in Option A.

Screening opinions

134. Under this option, it is proposed screening opinions given under the Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended) will be charged at a fixed fee of **£600**. This has been based on five hours of case officer time. It is expected the licensing authority will receive two screening opinion requests annually, with an overall income of **£1,200** annually.

Screening opinion - Costs

135. There will be a financial cost to the customer as these work packages currently have no associated fee. This fee will be £600 per screening opinion request. This is expected to be **£1,200** per year (Two Screening Opinions).

136. There may be a cost to the licensing authority if more than five hours is spent on a work package. The additional time spent would not be recovered and therefore result in a loss. However, these are expected to be minimal, as this work area is routine and generally easy to predict.

Screening opinion - Benefits

137. As this is a fixed fee, there is a benefit to both the licensing authority and customer as the costs are known upfront. This reduces the administrative burden and the requirement for invoicing and more time can be allocated to delivering a service.
138. There will be a benefit to the licensing authority as they will be able to recover the costs for the time spent in providing a Screening opinion. The financial benefit is **£1,200** annual and **£9,980** over a 10 year period in present value terms.

Scoping opinions

139. Under this option, it is proposed scoping opinions given under the Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended) will be charged at the hourly rate of £120. It is estimated Scoping Opinions take around 15 hours to process, equating to **£1,800** per Scoping Opinion and the predicted number to be requested is two annually, equating to **£3,600** annually.

Scoping - Costs

140. There will be a financial cost to the customer as these work packages currently have no associated fee. The expected direct costs to customers annually will be **£3,600**.

Scoping - Benefits

141. Under this Option, there is a benefit to the licensing authority as they will be able to recover the cost associated with handling Scoping Opinion requests.
142. The financial benefit to the licensing authority will be **£3,600** annually and **£29,940** over a 10 year period in present value terms.
143. The level of service will remain the same for customers as now.

Screening and Scoping Opinions

144. Under this option, it is proposed where a screening and scoping opinion request is made together it will be charged at the hourly rate of £120.
145. It is estimated this process takes 16 hours, equating to £1,920 per joint screening and scoping opinion request. The predicted number of cases per year is four.

Screening and Scoping - Costs

146. There will be a financial cost to the customer as these work packages currently have no associated fee. The expected direct costs to customers annually will be **£7,680 (four x £1920)** and up to **£63,870** over the course of a 10 year period in present value terms.

Screening and Scoping – Benefits

147. Under this Option, there is a benefit to the licensing authority as they will be able to recover the costs associated with processing joint screening and scoping opinion requests – therefore the delivery costs are covered. The financial benefit will be **£7,680** annually and **£63,870** over a 10 year period in present value terms.
148. A value for money service will be provided. Customers only pay for the services being provided to them and full cost recovery is achieved.

Review of Environmental Statements

149. Under this option, a service will be provided for customers of the review of draft Environmental Statements (ES). The fee for this service will be the hourly rate of £120.
150. As this is not a service currently offered by the licensing authority there is no data. However, it has been assumed the time will be similar to the MMO data so this has been used, which is 30 hours per ES, equating to **£3,600** per ES. It is anticipated there will be four requests per year to use this service.

Review of ES - Costs

151. There will be a cost to customers as they will pay to utilise this service. The expected costs to customers will be **£14,400** annually, **£119,760** over a 10 year period in present value terms. The main costs are likely to come from the external advice needs.
152. There may be a cost to the licensing authority as this service is not currently offered. If the uptake of the service is greater than anticipated, the licensing authority may not have the resources to deliver an effective service in the short term. In the longer term, necessary resourcing would be made available to reflect the service requirements.

Review of ES - Benefits

153. There is a benefit to customers who wish to utilise this service as it will be formally offered under this option. Using this service has a potential to reduce the formal application determination time if customers implement recommendations from the pre-application engagement. It is anticipated any potential issues within the ES can be highlighted at an early stage and addressed prior to submitting a formal application. This is anticipated to reduce

the formal application determination time. This would benefit both the customer and the licensing authority.

154. Customers only pay for the services being provided to them and full cost recovery is achieved.

Bespoke Pre-Application

155. Under this option a bespoke pre-application service will be offered. This is a voluntary service and will be customer led. This will include anything falling out of the scope of General Queries and is anticipated to focus on project specifics. Bespoke pre-application will be charged at the hourly rate of £120.
156. There is limited data from the licensing authority on the time taken for bespoke pre-application and can vary greatly. However, in most cases it is estimated each bespoke pre-application engagement will take 10 hours, and significant cases could take up to 75 hours. The expected average costs for each standard bespoke pre-application is **£1,200** and for significant bespoke pre-applications **£9,000**. The services to be provided and the likely costs will be agreed with the customer in advance through the provision of an estimate. The expected number of work packages is detailed in Table 9 below.

Bespoke Pre-Application - Costs

157. There may be a cost to the licensing authority as this service is not currently formally offered. If the uptake of the service is greater than anticipated, the licensing authority may not have the resources to deliver an effective service in the short term. In the longer term, necessary resourcing would be made available to reflect the service requirements.
158. There will be a financial cost to applications wishing to utilise this service of approximately **£59,400** (£14,400 standard + £45,000 significant) annually, equating to **£494,010** over a 10 year period in present value terms as shown in Table 9. This includes standard and significant bespoke pre-application – these services are voluntary.

Table 9

Option 2 Bespoke Pre Application – Cost to customers					
Work Package	Determination Hours	Cost per Work Package	No. Cases Annually	Costs per Annum	Cost over 10 years NPV
Bespoke Pre-application	10	£1,200	12	£14,400	£119,760
Bespoke Pre-application Significant	75	£9,000	5	£45,000	£374,250
Total				£59,400	£494,010

Bespoke Pre-Application - Benefits

159. There will be a benefit to customers who wish to engage in bespoke pre-application as this service will be available. Using this service has a potential to reduce the formal application determination time if customers implement recommendations from the pre-application engagement – identifying issues upfront and understanding the requirements for the marine licensing process.
160. The ability to have a good understanding of projects prior to submission of an application is also a benefit to the licensing authority.
161. Customers only pay for the services being provided to them and full cost recovery is achieved.

Sediment Sampling Analysis

162. Under this option it is proposed sediment sampling analysis will be done as part of the pre-application service. The licensing authority arrange for sampling plans to be devised and sampling jars sent out by the external advisor (Cefas). It is proposed to charge a fixed fee of **£420**, which is three and a half hours, for this service. This covers the licensing authority handling time only, any additional external advice cost will be charged for separately.
163. It is anticipated there will be eight occurrences annually. This equates to an income of **£3,360** annually and **£27,945** over the course of a 10 year period in present value terms, a benefit to the licensing authority. Conversely, this will be a cost to customers but effectively the costs are recovered through the application fee.
164. There will be a benefit to both the licensing authority and customers of including sediment sampling analysis within pre-application stage. This approach ensures dredged material is suitable for disposal at sea upfront and before a formal application is made, meaning time and resources are not invested in the formal application process unnecessarily.

Table 10

Option B Pre-Application – Cost to Customers					
Work Package	Determination Hours	Cost per Work Package to Customer	No. Cases Annually	Costs per Annum	Cost over 10 years NPV
General Queries	2	Non Billed	300	£72,000	£598,795
				Non Billed	Non Billed
Screening	5	£600	2	£1,200	£9,980
Scoping	15	£1,800	2	£3,600	£29,940
Screening and scoping	16	£1,920	4	£7,680	£63,870

Bespoke Pre-application	10	£1,200	12	£14,400	£119,760
Bespoke Pre-application Significant	75	£9,000	5	£45,000	£374,250
ES Review	30	£3,600	4	£14,400	£119,760
Sediment Sampling Analysis	3.5	£420	8	£3,360	£27,945
Total Costs to customers				£89,640	£745,505

165. The overall cost for delivering the pre-application service under Option B is **£89,640** as summarised in Table 10. All of the costs will be covered by customers utilising the service. There should be no financial cost to the licensing authority for delivering this pre-application service.

Formal Application

Band 1

166. Under Option B, there will be a Band 1 tier for small scale / low risk applications. A risk based and proportionate licensing process will be applied to Band 1 activities, which will attract a lighter touch determination. Examples of this include the use of template licences, shorter or no consultation with internal and external consultees, the use of template assessments for uniform activities and waiving the requirement of advertising a public notice in a local paper.

167. Activities which will fall under Band 1 are:

- repair or replacement of bolts, flaps valves, decking on a pier or pontoon;
- removal of marine growth and guano from any building or structure or any part thereof;
- the installation of ladders at any building or structure;
- the deposit and subsequent removal of posts for the purposes of marking channels, shallow water areas, outfalls and groynes;
- the deposit and subsequent removal of marker buoys;
- The use of a vehicle or vessel to remove discrete pieces of minor debris unattached to the seabed (including poles, girders, joists and objects of a similar minor nature) associated with construction, demolition, damage or disrepair of a building or structure;
- The removal of litter using a vehicle or vessel;
- Or
- any activity of a similar minor nature.

168. It is likely non navigational dredge applications will need to be assessed within Band 2 in the first instance. Once the activity has been fully assessed within Band 2 and no concerns are raised from the operation, subsequent renewals of the licence may be handled within Band 1.
169. The main elements of licence determination for the above activities have been considered. These are:
- Permit Receipt process– Logging the application, taking payment and saving documentation electronically
 - ‘Duly Making’ the application- has all required information been completed, is the application suitable for Band 1
 - Assessments using GIS mapping system
 - Habitats Regulation Assessment (HRA)
 - Consultation with internal / external advisors
 - Drafting the licence / refusal letter
 - Licence administration – saving correspondence electronically.
170. Whilst some activities may not require all elements listed above, the difference would be negligible.

Band 1 - Costs

171. Using the available data and professional judgement of the revised determination process, the time taken to determine Band 1 applications is considered to be five hours.
172. The fixed fee has been established using the £120 hourly rate and will therefore be **£600** for all Band 1 applications. It is expected **20** applications will fall within this category each year.
173. There will be a financial cost to the customers as the majority of these work packages currently have no associated fee. The expected direct costs to customers annually will be **£12,000** (20 x £600), and **£99, 800** over a 10 year period in present value terms.
174. There may be a cost to the licensing authority as this will be a change in ways of working. The fee is set at five hours and as such there is a risk to the licensing authority if applications take longer than the allocated time. The additional time spent would be non-recoverable and therefore result in a loss to the licensing authority.

175. Conversely, there may be a cost to customers whose application takes less than five hours to process. However, for Band 1 this is highly unlikely to be the case because resource needs are easy to predict.

Band 1 - Benefits

176. Although application fees are likely to be higher for these activities than under Option A i.e. some currently do not pay a fee, or pay a lower fee, there will still be a significant benefit to customers utilising the Band 1 service because determination time will be shorter. This service will also reduce other costs associated with the marine licence application, such as advertising. Notwithstanding the current fee or no fee being applied, based on £1000 per advert, it is estimated the Band 1 service will reduce customer costs by **£20,000** (20 x £1000) per annum.

177. There will also be a resource benefit to the licensing authority going through the revised, streamlined determination process ensuring service delivery costs are focused on the higher risk activities. This will allow the licensing authority to adopt a risk based, proportionate approach to Band 1 application.

Band 2

178. Band 2 are non-EIA applications falling outside of the criteria for Band 1. These applications have a four month SLA for determination.

179. Following analysis of time recording data for Band 2 applications, it was found there is no correlation between project cost and application determination time. Therefore, it is not appropriate to tier application fees on project cost.

Band 2 - Costs

180. Under Option B, the fixed fee of **£1,920** per Band 2 application will be applied. This fee has been based on a determination time of 16 hours using the £120 hourly rate.

181. As time recording becomes a regular part of the licensing process, further time data will be captured per application. It is important therefore to accurately reflect the actual determination time. Due to limited data, professional judgement and comparison to other permitting regimes has been used to ensure 16 hours is an accurate reflection of the determination time and therefore appropriate fixed fee.

182. It is anticipated the licensing authority will receive 40 Band 2 applications annually. This will result in an income of **£76,800** annually and **£638,715** over the course of a 10 year period in present value terms.

183. Under this option of a fixed fee, there may be a cost to the licensing authority if certain applications take longer than 16 hours to determine. The additional time spent would be non-recoverable and therefore result in a loss to the

licensing authority. However, based on the data, the fixed fee is set to ensure this is unlikely.

184. Conversely, there may be a cost to customers whose application takes less than 16 hours to process. However, it is unlikely many applications determination will be significantly less than 16 hours, as this time allows for a standard, robust licensing process based on the available time data.

Band 2 - Benefits

185. There is a benefit to both customers and the licensing authority of the Band 2 fixed fee, as the application fees are known upfront, providing certainty of costs. This approach also reduces the administrative burden and requirement for invoicing.
186. There is a benefit to some customers as application fees will have reduced from the current fees. Please note, the application fees under this Option **do not** include any external advice costs. For the majority of Band 2 applications (other than dredge and disposal activities), it is unlikely external advice would be sought. It is therefore unlikely there will be any additional fees on top of the fixed fees. However, should external advice be required during the determination, this will be charged for separately and the customer will be informed.
187. There is a financial benefit to the licensing authority as there will be the ability to charge for all activities falling within Band 2. The expected income from Band 2 applications under this option is therefore expected to achieve full cost recovery. The anticipated income from Band 2 applications is **£76,800** annually and **£638,715** over a 10 year period in present value terms.

Band 3

188. Under Option B, Band 3 applications are identified through a complex case characterisation. These are projects which:
- Have estimated project costs of more than £1 million
 - Require an EIA
 - Multiple activity applications, where they combine both construction and maintenance dredging.

Band 3 - Costs

189. Under Option B Band 3 projects will be charged at an hourly rate of £120, with no fee ceiling.
190. Time recording data from the licensing authority is limited for this Band due to the lower number of projects historically which would fall within this tier. Also the length of time for the full determination process can be extensive so there

are very few Band 3 applications which have been captured with time recorded data over the full determination process.

191. Therefore, proxy data has been used from other permitting regimes where projects are akin to Band 3, such as hydropower schemes and bespoke waste permits. The expected determination time for a Band 3 application is 140 hours, with an application fee of **£16,800**. It is anticipated the licensing authority will receive six standard applications a year in this tier, resulting in an annual income of **£100,800**.
192. For significant Band 3 applications, such as Nationally Significant Infrastructure Projects (NSIPs), the determination time is expected to be approximately 1000 hours, a cost of **£120,000** per application. Two significant Band 3 applications are expected each year, at a cost of **£240,000** annually.
193. Under Option B, there is likely to be a cost to customers as application fees are likely to increase. The expected financial costs are **£340,800** annually and **£2,834,300** over a 10 year period in present value terms.
194. There may be a cost to the licensing authority if there is an influx of Band 3 applications in any given year. This could result in the licensing authority not having the resources readily available to determine the applications, despite the fact an hourly rate is being charged. Early engagement and planning by both the applicants and NRW should help to keep this issue arising.

Band 3 - Benefits

195. Whilst there will be an increased cost to customers, there will also be a benefit as they will only be paying for the service they utilise.
196. Under this option, there will be additional pre-application services offered which customers can utilise. It is expected engaging in the pre-application services with the licensing authority should reduce the formal application determination time, in turn reducing overall cost to customers.
197. There will be a financial benefit to the licensing authority as there will be the ability to recover the actual costs for determining Band 3 applications and therefore should achieve full cost recovery.
198. The annual monetary benefit is expected to be **£100,800** for standard and **£240,000** for significant Band 3 projects. This equates to **£340,800** annually and **£2,834,300** over a 10 year period in present value terms as shown in Table 11.

Table 11

Option B Formal Applications – Cost to Customers					
Work Package	Determination Hours	Cost per Work Package to Customer	No. Cases Annually	Costs per Annum	Cost over 10 years NPV
Band 1	5	£600	20	£12,000	£99,800
Band 2	16	£1,920	40	£76,800	£638,715
Band 3 – Standard	140	£16,800	6	£100,800	£838,315
Band 3 – Significant	1000	£120,000	2	£240,000	£1,995,985
Total Costs to customers				£429,600	£3,572,795

199. The cost for delivering Formal Applications under Option B is **£429,600**. This cost would be covered by those customers using the marine licensing service. It is anticipated there would be no financial cost to the licensing authority.

Post Licence Work

Post Licence Discussions

200. As set out under Option A, the licensing authority is often involved in post licence discussions. Under Option B it is proposed to charge an hourly rate for this service, similar to the bespoke pre-application service. The costs for delivering the service will be met by those using the service.
201. There will be a benefit to the licensing authority as there will be the possibility to recover costs of delivering the service. The anticipated total income from this option is **£85,500** annually and **£711,070** over the course of a 10 year period in present value terms as shown in Table 12.

Table 12

Option B Monitoring – Cost to Customers					
Work Package	Determination Hours	Cost per Work Package	No. Cases Annually	Costs per Annum	Cost over 10 years NPV
Post Licence Discussions – Standard	15	£1,800	10	£18,000	£149,700
Post Licence Discussions – Significant	375	£45,000	1.5	£67,500	£561,370
Total Costs to licensing authority				£85,500	£711,070

Discharge of conditions

202. Under Option B, it is proposed to separate fees for discharging conditions by Band. Band 1 and 2 licences will be charged at a fixed fee and; Band 3 licences at an hourly rate.

Bands 1 and 2 – fixed fee

203. For Band 1 and 2 the fixed fee is set at £480 which equates to four hours of case officer time. For Band 3 the fee will be charged at an hourly rate.

204. Across all data for all bands, one condition takes on average 2.75 hours to process. The time taken is significantly lower for Bands 1 and 2, compared to Band 3 licences.

205. Where Band 1 and 2 licences have conditions to discharge, it is common for there to be between 1 - 4 conditions per licence requiring discharging. To cover the majority of cases, the fees have been set based on resource time of 4 hours.

206. From a sample of 68 Band 1 and 2 licences, 21 licences have a requirement for discharge of conditions, totalling 39 conditions to discharge across them. Rounding up to three hours, the cost to the licensing authority is £330.00 per condition. For two conditions this would equate to £660.00. For Band 1 and 2 licences which do have conditions to discharge, the average number is two conditions and most common is one condition, so a fixed fee based of 4 hours, **£480** is considered appropriate and reasonable per licence.

207. It is anticipated there will be 10 Band 1 and 2 licences a year with associated conditions to discharge. Therefore, the expected annual income is **£4,800**, equating to **£39,920** over a 10 year period.

Band 3 – hourly rate

208. Discharging conditions on a Band 3 licence will be charged at an hourly rate. Given the complex case characteristics of Band 3 licence discharging conditions can require significant licensing authority resource. Therefore it is appropriate to charge an hourly rate with no fee ceiling for Band 3.

209. It is expected the licensing authority will discharge 30 Band 3 standard conditions annually. The hours for discharging conditions can vary considerably, however using professional judgement it is thought to be approximately 12 hours per condition. This is significantly higher than Band 1 and 2 due to the complexity of conditions to discharge such as agreement of Adaptive Environmental Monitoring Plans or baseline specification surveys for aggregate extraction. The expected annual income from this work area is **£43,200** (30 x 12 hours x hourly rate) and **£359,280** over the course of a 10 year period in present value terms.

210. For significant Band 3 projects, discharging conditions can take substantially longer. Based on limited data and from professional judgement, it is expected 375 hours will be required to discharge all conditions on a significant Band 3 licence. It is anticipated there will be one and a half significant Band 3 applications annually with conditions to discharge. This equates to an income of **£67,500** annually and **£561,370** over a 10 year period in present value terms.

Discharge of Conditions - Costs

211. There is a cost to all licence holders who require conditions to be discharged as they would not currently pay a fee for this.
212. There may be a cost due to uncertainty to Band 3 Licence Holders as there is no fee ceiling under this Option. However, the licensing authority will keep Licence Holders updated regularly with costs of the work.
213. There is a potential cost to the licensing authority for Band 1 and 2 fixed fee if certain licence conditions take longer than four hours to determine. The additional time spent would be non-recoverable and therefore result in a loss to the licensing authority.
214. Conversely, there may be a cost to Licence Holders whose discharge of conditions takes less than four hours to process. However, it is unlikely many discharges of conditions would be processed in significantly less than four hours.
215. Band 3 licence holders will pay for the full cost of the service being provided, with no fee ceiling. Costs could be significant if the project is a significant Band 3 project and as such these costs would need to be anticipated in advance and factored into project costs at an early stage. The licensing authority will work with developers at every stage of the process to identify all potential costs upfront.

Discharge of Conditions - Benefits

216. There will be a benefit to Band 1 and 2 Licence Holders as the fee is fixed. Licence Holders will be made aware during the determination stage if the licence is likely to have conditions to discharge.
217. There will be a benefit to the licensing authority as there will be the ability to recover costs to discharging conditions. The expected income from discharging conditions under Option B is **£115,500** annually, equating to **£960,570** over a 10 year period in present value terms as shown in Table 13.
218. As Band 1 and 2 has a fixed fee, invoicing would not be required, therefore reducing processing time as opposed to hourly rate. Licence holders would have the benefit of knowing the costs upfront.

Table 13

Option B Discharge of Conditions – Cost to Customers					
Work Package	Determination Hours	Cost per Work Package	No. Cases Annually	Costs per Annum	Cost over 10 years NPV
Band 1 and 2	4	£480	10	£4,800	£39,920
Band 3 Standard	12	£1,440	30	£43,200	£359,280
Band 3 Significant	375	£45,000	1.5	£67,500	£561,370
Total Costs to licensing authority				£115,500	£960,570

219. The cost for the discharge of conditions service under option B is likely to be **£115,500**. This cost will be met by those customers utilising the service. It is not anticipated there will be a financial cost to the licensing authority.

Monitoring

220. Under this option, all monitoring will be charged at an hourly rate. It is anticipated the licensing authority will receive 15 monitoring work packages annually, which take on average six hours to process, equating to **£720** per monitoring report. On this basis, the expected annual income from monitoring fees is **£10,800** and **£89,820** over a 10 year period at present value terms.

221. Should external advice be sought for monitoring by the licensing authority, these costs will be charged separately to the Licence Holder.

222. Under Option B and where appropriate the Licensing Authority may enter into a bespoke arrangement with a Licence Holder to process monitoring. For example; Annual monitoring reports – Licence Holders must submit an annual monitoring report which is to the agreed specification each year the licence is live. After the first two - three years of monitoring, it may become apparent there is little to no change in the time taken to process and assess the reports. Therefore, a fixed fee could be applied to each annual monitoring report throughout the duration of the licence. However, should the monitoring report highlight any complications/significant issues or, for example, the site is not behaving in the predicted manner, the fees would revert back to an hourly rate.

Monitoring - Costs

223. There may be a cost to Licence Holders with monitoring requirements who previously did not have to pay a fee. The cost to Licence Holders is anticipated to be **£10,800** annually as shown in Table 14.

Table 14

Option B Discharge of Conditions – Cost to Customers					
Work Package	Determination Hours	Cost per Work Package	No. Cases Annually	Costs per Annum	Cost over 10 years NPV
Monitoring Reports	6	£720	15	£10,800	£89,820

Monitoring - Benefits

224. There will be a benefit to the licensing authority as there will be the ability to recover cost for delivering the monitoring service across all activities.
225. There will be a benefit to Licence Holders as they will only be paying for the service they receive from the licensing authority.

Variations

226. Under this option, variations will be charged for on a tiered approach with a mix of fixed fees and hourly rate. This is detailed in Table 15.

Table 15

Type	Description	Fee
Variation 0	Changes to a licence instigated as a result of the licensing authority action	No fee
Variation 1	Administrative change – requested by the Licence Holder to change the licence, which does not require the licensing authority to consult e.g. change to the name, address or contractors	Fixed Fee £240
Variation 2	Complex changes – requested by the Licence Holder to change licence which requires the licensing authority to consult with relevant advisors.	Hourly rate £120 per hour
Variation 3	Routine change - requested by the Licence Holder to change the licence, which does not require the licensing authority to consult e.g. licence extension	Fixed Fee £480

Variation - Costs

227. There will be a cost to Licence Holders wanting to vary their licence as currently there is no associated cost. This is expected to be **£20,640** annually and **£171,655** over 10 years. This does not include Variation 0 as there is no cost to the Licence Holder.
228. There will be a cost to the licensing authority for Variation 0 as cost will not be recoverable. The anticipated time to administer a Variation 0 would be one hour, therefore costing £120 per variation. The licensing authority would expect to conduct three Variation 0 annually; a cost to the licensing authority of **£360** annually and **£2,990** over a 10 year period in present value terms as shown in Table 16.
229. There is a potential cost to the licensing authority for Variation 1 and 3 as the fees are fixed. If certain variations take longer to process than two or four hours respectively, the additional time spent would be non-recoverable and therefore result in a loss to the licensing authority.
230. Conversely, there may be a cost to Licence Holders whose variation takes less than the allocated fixed fee hours to process. However, it is unlikely many variations will be determined in significantly less time than the fixed fee hours.

Table 16

Option B Variations – Cost to Licensing Authority					
Work Package	Determination Hours	Cost per Work Package	No. Cases Annually	Costs per Annum	Cost over 10 years NPV
Variation 0	1	No Fee	3	£360	£2,990
Total Costs to Licensing Authority				£360	£2,990
Option B Variations – Cost to Customers					
Work Package	Determination Hours	Cost per Work Package	No. Cases Annually	Costs per Annum	Cost over 10 years NPV
Variation 1	2	£240	6	£1,440	£11,975
Variation 2	60	Hourly Rate (£120)	2	£14,400	£119,760
Variation 3	4	£480	10	£4,800	£39,920
Total Costs to Customers				£20,640	£171,655

231. The cost of delivering the variation service under Option B is **£21,000**. This cost is split between the licensing authority and customers. The majority of the costs will be covered by the customer at £20,640 and the licensing authority covering £360.

Variation - Benefits

232. There will be a benefit to the licensing authority as there will be the ability to recover costs associated with all Licence Holder requested variations. The anticipated income from this service is **£20,640** annually and **£171,655** over the course of a 10 year period in present value terms.

233. There will also be a benefit to Licence Holders who wish to vary a licence significantly because currently a new application would need to be submitted and go through the full licensing determination process again. This option is likely to save resources for the licensing authority because the determination process would be proportionate to the changes to the project.

234. Licence Holders will not have to pay a full application fee and may obtain a determination quicker than the formal application process.

Transfers

235. Under this option, transferring a marine licence would be charged at a fixed fee of **£480**. Since NRW have undertaken the marine licensing function there have been no licence transfers. Therefore, the fee has been based on other permitting regimes' data of four hours for transferring a licence. The process would be very similar in all permitting and licensing regimes.

236. It is anticipated there would, on average, be one licence transfer request per year. The income from this would be **£480** annually, with **£3,990** over a 10 year period in present value terms. This is a benefit to the licensing authority as they are able to recover costs for transferring a licence.

237. There would be a cost to the Licence Holders of £480 for each licence transferred.

Changes to Notice Appeals Regulations

238. The existing notice appeals mechanism was established in 2011 and a number of assumptions were made at the time about the amount of appeals which would be heard by the First Tier-tribunal. It took a worst case approach of six notices being issued per annum with 10% of these being appealed against. To date only one notice has been issued under the marine licensing system in Wales, and not appealed against.

239. Under the amended regulations the licensing authority can issue a notice for the non-payment of fees on a licensee. NRW issue around 65 licences per annum, and not all of these would have post licence fees associated. The issuing of a notice, which could at worst case result in the revocation of a

licence, would be a last resort and the licensing authority would work with customers to resolve any issues around non payment of fees before considering the imposition of a notice. As such, we expect the use of such notices to be low – a worst case of one every year is assumed.

240. Given there is an existing appeal mechanism, no start up costs are anticipated. Due to the small change we are making to the notice appeals system, the original assumptions are not expected to change and as such the costs are anticipated to be neutral.

Option C – Hourly rate model

Summary

241. Under Option C, an hourly rate model would apply an hourly rate charge to recover all costs to the licensing authority, with no caps or fixed fees.
242. Where an hourly rate model was assumed under Option B, the costs and benefits will be the same under Option C. Therefore, this section of the impact assessment will only look at the elements of the model where a fixed fee has been proposed under Option B. This section of the appraisal should be read in conjunction with Option B.
243. There will be a cost to the licensing authority regarding administrative change as there will be a requirement to invoice in all cases under Option C. This process will take permitting officer time to administer, therefore increasing the overall determination time and cost for the licensing authority and customers.
244. It is expected under all options, general queries would not be directly charged for.
245. Please note advertising costs have not been included within the overall costs. These costs vary greatly per application.
246. A breakdown of costs can be found here for Option C, followed by narrative on each activity. The total cost for the licensing system in this option is £764,160 per annum (£6,355,220 over ten years in present value terms). The majority of the costs in this option will fall to the users of the marine licensing system (i.e. the customers) and are transferred from the licensing authority. The annual cost of the licensing system in this option is £71,120 higher than Option A, this largely reflects the cost of the extended pre-application service which will be made available to customers and the additional administrative cost associated with invoicing customers.

Activity	Fee type	Customer fee per application	Cost to NRW per application	Number of applications	Cost to customers	Cost to NRW	Total cost
Pre-application							
Screening	No fee	720	-	2	1,440	-	1,440
Scoping	No fee	1,800	-	2	3,600	-	3,600
Screening and scoping	No fee	1,920	-	4	7,680	-	7,680
Review of ES		3,600		4	14,400		14,400
Bespoke pre-application		1,200		12	14,400		14,400
Bespoke pre-application - significant		9,000		5	45,000		45,000
Sediment sampling		540		8	4,320		4,320
Total					90,840	-	90,840
Formal application							
Band 1		720		20	14,400	-	14,400
Band 2		2,040		40	81,600	-	81,600
Band 3 - standard		16,800	-	6	100,800	-	100,800
Band 3 - significant		120,000	-	2	240,000	-	240,000
Total					436,800	-	436,800
Post licence							
Post-licence discussions - standard		1,800		10	18,000	-	18,000
Post-licence discussions - significant		45,000		1.5	67,500	-	67,500
Discharge of conditions - Band 1 & 2		600	-	10	6,000	-	6,000
Discharge of conditions - Band 3 standard		1,440	-	30	43,200	-	43,200

Discharge of conditions - Band 3 significant		45,000	-	1.5	67,500	-	67,500
Monitoring		720		15	10,800	-	10,800
Variation 0			120	3	-	360	360
Variation 1		360		6	2,160	-	2,160
Variation 2		7,200		2	14,400	-	14,400
Variation 3		600		10	6,000	-	6,000
Transfers		600	-	1	600	-	600
Total					236,160	360	236,520
TOTAL					763,800	360	764,160

Costs and Benefits (of Option C)

Screening

247. An hourly rate of £120 would be applied to processing Screening Opinion received under the Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended).
248. To account for permitting officer time required for invoicing, one hour has been added to the approximate determination time for screening. This results in six hours, a cost of **£720** per Screening Option. It is anticipated two Screening Opinions will be processed by the licensing authority annually. This equates to an income of **£1,440** per year and **£11,975** over a 10 year period in present value terms.

Screening - Costs

249. There will be a cost to customers of approximately **£1,440** per year for utilising the Screening Opinion service.
250. There will be a cost to the licensing authority as there will be a requirement to invoice for delivering a Screening Opinion. This could be an unnecessary administrative burden and result in additional costs to customers.

Screening - Benefits

251. There will be a benefit to the licensing authority as there will be the ability to recover costs for the time taken to process Screening Opinions. The financial benefit is expected to be **£1,440** per year, equating to **£11,975** over a 10 year period in present value terms.

252. There may be a benefit to customers as the fee they pay will accurately reflect the determination time of the licensing authority for the piece of work. Therefore, customers are only paying for the service they utilise.

Sediment Sampling Analysis

253. Under Option C, an hourly rate will be applied for arranging sediment sample analysis as part of a pre-application service.
254. To account for time needed for invoicing, one hour has been added to the approximate determination time for sediment sample analysis. This results in four and a half hours, a cost of **£540** for each sediment sample analysis arrangement. It is anticipated there would be eight occurrences annually. This equates to an income of **£4,320** per year and **£35,930** over a 10 year period in present value terms.

Band 1

255. For Band 1 application determination it is proposed an hourly rate will be applied. Under Option C, the Band 1 small scale / low risk process (as set out in Option B) will still be applied.
256. To account for time required for invoicing, one hour has been added to the approximate determination time for Band 1 applications. This results in six hours, a cost of **£720** per Band 1 application. It is anticipated 20 Band 1 applications will be received annually. This equates to a predicted income of **£14,400** annually and **£119,760** over a 10 year period in present value terms.

Band 1 – Costs

257. There will be a cost to customers of approximately **£14,400** per year for Band 1 applications.
258. There will be a cost to the licensing authority as there will be a requirement to invoice for Band 1 low risk applications. This could place a burden on the licensing authority to administer when considered against the actual cost of the service being provided – in terms of time spent quoting costs, raising invoices and handling payments. This additional administration burden would also negatively affect customers, due to disproportionate time spent arranging invoicing, against the time spent on determining the applications.

Band 1 - Benefits

259. There will be a benefit to the licensing authority as there will be the ability to recover costs for time taken processing Band 1 applications. The financial benefit is expected to be **£14,400** per year, equating to **£119,760** over a 10 year period in present value terms.
260. Although application fees are likely to be higher for these activities than under Option A and B i.e., some currently do not pay a fee, or pay a lower fee, there

will still be a significant benefit to customers utilising the Band 1 service because determination time is likely to be shorter.

261. There may be a benefit to customers as the fee they pay will accurately reflect the determination time of the licensing authority for the piece of work. Therefore, customers are only paying for the service they utilise.

Band 2

262. For Band 2 application determination it is proposed an hourly rate will be applied under Option C. Band 2 applications will be subject to a four month SLA which includes advertising requirements.
263. To account for permitting officer time required for invoicing, one hour has been added to the approximate determination time for Band 2 applications. This results in 17 hours, a cost of **£2,040** per Band 2 application. It is anticipated 40 Band 2 applications will be received annually. This equates to a predicted income of **£81,600** annually and **£678,635** over a 10 year period in present value terms.

Band 2 - Costs

264. There will be a cost to customers of approximately **£81,600** per year for Band 2 applications.
265. There will be a cost to the licensing authority as there will be a requirement to invoice for Band 2 applications. This could place a burden on the licensing authority to administer when considered against the actual cost of the service being provided – in terms of time spent quoting costs, raising invoices and handling payments. This additional administration burden would also negatively affect customers, due to disproportionate time spent arranging invoicing, against the time spent on determining the applications.
266. With an hourly rate being applied to all Band 2 applications, there will be less certainty for customers compared to Option B.

Band 2 - Benefits

267. There will be a benefit to the licensing authority as there will be the ability to recover costs for the time taken determining Band 2 applications with the greatest accuracy. The financial benefit is expected to be **£81,600** per year, equating to **£678,635** over a 10 year period in present value terms.
268. There may be a benefit to customers as the fee they pay will accurately reflect the determination time of the licensing authority for the piece of work. Therefore, customers are only paying for the service they utilise.

Discharge of Conditions – Band 1 and 2

269. Under Option C it is proposed an hourly rate will be applied to all discharge of condition activities. As Option B proposes an hourly rate for Band 3 discharge of conditions, this section of the impact assessment will only look at Band 1 and 2 discharge of conditions.
270. To account for permitting officer time required for invoicing, one hour has been added to the approximate determination time for Band 1 and 2 discharge of conditions. This results in five hours, a cost of **£600** per licence with conditions to discharge. It is anticipated 10 Band 1 and 2 licences with conditions to discharge will be received annually. This equates to a predicted income of **£6,000** annually and **£49,900** over a 10 year period in present value terms.

Discharge of Conditions – Band 1 and 2 Costs

271. There will be a cost to Licence Holders of approximately **£6,000** per year for discharging Band 1 and 2 licence conditions.
272. There will be a cost to the licensing authority as there will be a requirement to invoice for discharging Band 1 and 2 licence conditions. This could place a burden on the licensing authority to administer when considered against the actual cost of the service being provided – in terms of time spent quoting costs, raising invoices and handling payments. This additional administration burden would also negatively affect customers.

Discharge of Conditions Band 1 and 2 - Benefits

273. There will be a benefit to the licensing authority as there will be the ability to recover costs for the time taken discharging conditions of Band 1 and 2 licences. The financial benefit is expected to be **£6,000** per year, equating to **£49,900** over a 10 year period in present value terms.
274. There may be a benefit to customers as the fee they pay will accurately reflect the determination time of the licensing authority for the piece of work. Therefore, customers are only paying for the service they utilise.

Variations

275. Under Option C, an hourly rate would be applied to all variations. This section of the impact assessment will focus on variations where there is a change from Option B, this being Variation 1 and 3 only.
276. To account for additional time required for invoicing, one hour has been added to the approximate determination time for variations.

Table 17

Option C Variations – Cost to Licensing Authority					
Work Package	Determination Hours	Cost per Work Package	No. Cases Annually	Costs per Annum	Cost over 10 years
Variation 0	1	No Fee	3	£360	£2,990
Total Costs to Licensing Authority				£360	£2,990

Option C Variations – Cost to Customers					
Work Package	Determination Hours	Cost per Work Package	No. Cases Annually	Costs per Annum	Cost over 10 years
Variation 1	3	£360	6	£2,160	£17,965
Variation 2	60	Hourly Rate (£120)	2	£14,400	£119,760
Variation 3	5	£600	10	£6,000	£49,900
Total				£22,560	£187,625

Variation - Costs

277. There will be a cost to Licence Holders who apply for a Variation 1 or 3 of approximately **£8,160** per year and a total cost of £22,560 including Variation 2 costs, as shown in Table 17.
278. There will be a cost to the licensing authority as there will be a requirement to invoice for Variations. This could place a burden on the licensing authority to administer when considered against the actual cost of the service being provided – in terms of time spent quoting costs, raising invoices and handling payments. This additional administration burden would also negatively affect customers as fees will be greater in order to recover the costs of these administrative tasks.

Variation - Benefits

279. There will be a benefit to the licensing authority as there will be the ability to recover costs for processing category 1 and 3 Variations. The financial benefit is expected to be **£8,160** per year, equating to **£67,865** over a 10 year period in present value terms.
280. There may be a benefit to customers as the fee they pay will accurately reflect the determination time of the licensing authority for the piece of work.
281. Therefore, customers are only paying for the service they utilise.

Transfers

- 282. The transfer of a marine licence, as defined in Option A and B, would be charged at an hourly rate under Option C.
- 283. To account for time required for invoicing, one hour has been added to the approximate determination time for licence transfers. This results in five hours, a cost of **£600** per licence transfer. It is anticipated one transfer request would be received annually. This equates to a predicted income of **£600** annually and **£4,990** over a 10 year period in present value terms.

Transfer - Costs

- 284. There will be a cost to Licence Holders who request a licence transfer of approximately **£600** per year.
- 285. There will be a cost to the licensing authority as there will be a requirement to invoice for transfers. This could place a burden on the licensing authority to administer when considered against the actual cost of the service being provided – in terms of time spent quoting costs, raising invoices and handling payments. This additional administration burden would also negatively affect customers as fees will be greater in order to recover the costs of these administrative tasks.

Transfer - Benefits

- 286. There will be a benefit to the licensing authority as there will be the ability to recover costs for transferring licences. The financial benefit is expected to be **£600** per year, equating to **£4,990** over a 10 year period in present value terms.
- 287. There may be a benefit to customers as the fee they pay will accurately reflect the determination time of the licensing authority for the piece of work. Therefore, customers are only paying for the service they utilise.

Option C - Overall Costs

- 288. There would be a cost to customers as application fees would not be known upfront which would hinder budget planning, particularly for small scale customers.
- 289. All services would need to be invoiced and this would be an administrative burden on the licensing authority and increase overall cost for customers.
- 290. For many typical licensing activities it is considered the all hourly rate approach under this Option would place too great a burden on the licensing authority to administer when considered against the actual cost of the service being provided – in terms of time spent quoting costs, raising invoices and handling payments. This additional administration burden would also negatively affect customers.

291. For many of the Band 1 and 2 related activities there is a greater degree of certainty regarding the resources which are needed to reach a licensing decision, meaning a proportionate fixed fee would be acceptable and easier to administer. It would also enable customers to have a better degree of certainty of the associated licensing costs in order to assess the financial viability of any low risk development or project they are considering. Therefore an hourly rate in these circumstances is not deemed appropriate or necessary.
292. Although this option would enable full cost recovery in the most robust way, on balance it is considered to be disproportionate for smaller scale or less significant applications and as such this option is not favoured.

Option C - Overall Benefits

293. This option would provide the most accurate and robust way of delivering a system of full cost recovery for the licensing authority. Applying an hourly rate charge would ensure, as near as possible, actual costs are recouped, on a case by case basis.
294. For Band 3 projects this option is most appropriate for the licensing authority. It would be difficult to quantify the likely resource needed to complete determination and reach decision with any degree of certainty. It would also limit the risk to the licensing authority of a shortfall in funding the resources needed to reach a decision.

Changes to Notice Appeals Regulations

295. The existing notice appeals mechanism was established in 2011 and a number of assumptions were made at the time about the amount of appeals which would be heard by the First Tier-tribunal. It took a worst case approach of six notices being issued per annum with 10% of these being appealed against. To date only one notice has been issued under the marine licensing system in Wales, and not appealed against.
296. Under the amended regulations the licensing authority can issue a notice for the non-payment of fees on a licensee. NRW issue around 65 licences per annum, and not all of these would have post licence fees associated. The issuing of a notice, which could at worst case result in the revocation of a licence, would be a last resort and the licensing authority would work with customers to resolve any issues around non payment of fees before considering the imposition of a notice. As such, we expect the use of such notices to be low – a worst case of one every year is assumed.
297. Given there is an existing appeal mechanism, no start up costs are anticipated. Due to the small change we are making to the notice appeals system, the original assumptions are not expected to change and as such the costs are anticipated to be neutral.

Annex 2

The Marine Licensing (Application Fees) (Wales) Regulations 2011, Fee Tables:

Please note for projects extending onto land outside of the marine licensing area “project cost” refers only to the marine licensable part of the project.

Construction projects (NB* an additional ESS may also be payable)

Band	Project cost (£)	Fee (£)
1	0 to 5,499	127
2	5,500 to 9,999	715
3	10,000 to 49,999	1,025
4	50,000 to 1,999,999	2,275
5	2 million to 4,999,999	4,525
6	5 million to 19,999,999	7,191
7	20 million to 49,999,999	12,010
8	50 million and above	38,650

Environmental sensitivity supplement (ESS) – payable if the construction or disposal of dredged material is in or near an environmentally sensitive area such as a Special Area of Conservation (SAC), Special Protection Area (SPA), Ramsar Site or Site of special scientific interest (SSSI).

Band	Project cost (£)	Supplement (£)
1	5,500 to 9,999	275
2	10,000 to 49,999	575
3	50,000 to 1,999,999	950
4	2 million to 4,999,999	1,350
5	5 million to 19,999,999	1,605
6	20 million to 49,999,999	1,720
7	50 million and above	2,750

Annual Monitoring Fee - payable for projects subject to EIA where post-licence monitoring is identified as necessary

Band	Project cost	Annual monitoring Fee (£)
1	0 to 5,499	0
2	5,500 to 9,999	535
3	10,000 to 49,999	770
4	50,000 to 1,999,999	1,705
5	2 million to 4,999,999	2,519
6	5 million to 19,999,999	3,596
7	20 million to 49,999,999	4,948
8	50 million and above	27,055

Disposal of dredged material (other than for beneficial use)

Band	Disposal amount (tonnes)	Capital dredging disposal Fee (£)	Maintenance dredging disposal Fee (£)
1	0 to 9,999	4,500	3,650
2	10,000 to 49,999	9,100	7,225
3	50,000 to 99,999	12,800	9,950
4	100,000 to 499,999	19,850	15,950
5	500,000 to 999,999	28,850	22,050
6	1 million and above	43,500	34,750

Extensions Disposal of dredged material Licences

Band	Disposal amount (tonnes)	Capital dredging disposal Fee (£)	Maintenance dredging disposal Fee (£)
1	0 to 9,999	850	725
2	10,000 to 49,999	1,825	1,450
3	50,000 to 99,999	2,400	1,950
4	100,000 to 499,999	3,300	2,550
5	500,000 to 999,999	4,850	3,550
6	1 million and above	9,050	6,950

Monitoring of Disposal of dredged material Licences (Payable annually)

Band	Disposal amount (tonnes)	Capital dredging disposal Fee (£)	Maintenance dredging disposal Fee (£)
1	0 to 9,999	3,375	2,740
2	10,000 to 49,999	6,825	5,420
3	50,000 to 99,999	9,600	7,465
4	100,000 to 499,999	14,890	11,965
5	500,000 to 999,999	21,640	16,540
6	1 million and above	32,625	26,065

Disposal of dredged material for beneficial use (NB* an additional ESS may also be payable)

Band	Disposal amount (tonnes)	Fee (£)
1	0 to 9,999	715
2	10,000 to 999,999	2,275
3	1 million and above	4,525

Disposal of fish waste

Disposal amount (tonnes)	Fee (£)
Any	2,995

Extraction of minerals by marine dredging

Application	Fee (£)	Additional fee where inquiry to be held
Extraction of minerals by marine dredging	27,500	15,000
Annual Monitoring Fee	6,500	N/A

Offshore renewable energy projects

Band	Generating capacity (megawatts)	Fee (£)
1	0 to 0.99 MW	2,000
2	1 to 4.99 MW	6,000
3	5 to 99 MW	26,222
4	100 MW and above	38,650

Monitoring and Licence management (Payable annually)

Band	Generating capacity (megawatts)	Fee (£)
1	0 to 0.99 MW	1,100
2	1 to 4.99 MW	2,250
3	5 to 99 MW	8,270
4	100 MW and above	8,387

Deposit of tracers and dyes

Application	Fee (£)
Deposit of tracers	83
Deposit of dyes	83

Moorings and navigation aids

Application	Fee (£)
Simple moorings	127
Navigation aids	127

Annex 3 - Hourly Rate Breakdown

Cost Type	£	FTE	Comments
Direct Staff Costs	290,000.00	8	Direct staff costs relating to pay, pension and NI contributions for the marine licensing team (1 team leader and 7 permitting officers)
Direct Staff Costs	25,000.00	0.7	Permit support and development team circa 10% of team costs. Development of systems and processes within the Permitting Service.
Direct Staff Costs	4,000.00	0.1	Circa 5% Permit receipt. For the receipt, logging, initial systems administration and fee handling for all marine applications.
Direct Staff Costs	80,000.00	2	Marine Regulation policy advisors
Direct Staff Costs	20,000.00	0.2	Line management costs - 20% permitting Service Manager, > 5% leadership and director circa £20,000 .2 FTE
Direct Staff Costs	40,000.00	1	Area advice - non stat 1 FTE. NB, this is a guestimate and does not include Grant in Aid funded Statutory Nature Conservation Body advice.
Direct Non- Staff Costs	1,000.00		External Consultancy advice e.g. CEFAS based on £250 per quarter. NRW engaging with Consultants to procure specialist technical advice i.e., not on behalf of customers
Total Direct Costs	460,000.00		Salary, pension and National Insurance
Overhead recovery (Based on direct costs)	253,793.00		Based on headcount - 12.00 FTE's (e.g., ICT, Finance, facilities, accommodation, corporate planning etc.)
Financing Charges	32,200.00		Any relevant assets used in provision of this service. Assumed 7% of direct costs (Depreciation of assets)
Total Cost of Service	745,993.00		100% cost
Hourly Rate Calculation			Comments
Working Days Profile (days)	220.00		Assumes 220 working days per FTE, i.e., 40 days of Leave and Bank-Holidays
Standard Hours per week	37.00		
Standard Hours per day	7.40		
No. of FTEs	7.00		Relates to permitting officers only
Available Working Days for Marine Licensing	1,540.00		Assume 60% for case work
Available Working Hours for Marine Licensing	11,396.00		For Direct Permitting staff within the marine licensing team
Recoverable Work at 60% efficiency rate	6,838.00		Case hours available
Less non-chargeable hours	6,238.00		
Hourly Rate per Day	£120.00		Based on 100% cost recovery

Annex 4

Summary of all proposed fees and charges with comparison to existing fees (ex VAT)

Model Section	Work package/Service	Current Fee (approx.)	Proposed Fee Type	Proposed Fee	External Advice (based on best available data)
Pre Application	General Enquiries (up to 2 hours)	No fee	No Fee	No Fee	N/A
	Screening	No fee	Fixed Fee	£600	N/A
	Scoping	No fee	Hourly Rate + External advice costs	£120 per hour (estimated 15 hours - £1,800)	21 hours
	Screening and Scoping	No fee	Hourly Rate + External advice costs	£120 per hour (estimated 16 hours - £1,920)	21
	Bespoke Pre-application	No fee	Hourly Rate + External advice costs	£120 per hour (standard projects estimated 10 hours - £1,200 Significant projects estimated 75 hours – up to £9,000)	Customer led
	Review of Environmental Statements	No fee – service not currently offered.	Hourly Rate + External advice costs	£120 per hour (estimated up to 30 hours per ES, equating to £3,600)	46 hours
	Sediment sampling analysis fees	Currently included in the application fee.	Fixed Fee + External advice costs	£420	7 hours plus sample costs,
	Formal Application	Band 1 - Low Risk	£83 - £715 Environment	Fixed Fee	£600

		al Sensitivity Supplement (ESS) also payable in majority of cases £275*			
	Band 2 – Non Complex Cases	£127 - £22,050 ESS also payable in majority of cases £275 – £2,750*	Fixed Fee + External advice costs	£1920	3+
	Band 3 – Complex Cases	£2,275 - £82,150 ESS also payable in majority of cases £275 – £2,750*	Hourly Rate + External advice costs	£120 per hour (Standard projects - estimated 140 hours - £16,800 Significant projects – estimated 1000 hours - £120,000)	36
Post Licence	Post Licence Discussions	No fee	Hourly Rate + External advice costs	£120 per hour Standard – estimated 15 hours - £1800 Significant – estimated 375 hours - £45,000)	Customer led
	Discharge of Conditions Band 1 & 2	No fee	Fixed Fee + External advice costs	£480	2+
	Discharge of Conditions Band 3 (per licence instance e.g. more than one discussion)	No fee	Hourly rate or bespoke arrangement with customer + External advice costs	£120 per hour Standard – estimated 12 hours - £1,440 Significant – estimated 375 hours -	15

				£45,000)	
Monitoring		For EIA projects: Dredging & Disposal Capital: £3,375 - £32,625 Maintenance: £2,740 - £26,065 Construction: £0 – £27,065 Renewables: £1,100 - £8,387 Non-EIA projects: No fee	Hourly rate or bespoke arrangement with customer + External advice costs	£120 per hour (Estimated 6 hours - £720)	10
Variation 0		No fee	Unbilled	No Fee	N/A
Variation 1	Administrative changes	No fee	Fixed Fee + External advice costs	£240	N/A
Variation 2	Complex changes	Currently cannot charge for variations, so a new application is required: £127 - £82,150	Hourly Rate + External advice costs	£120 per hour (Estimated 60 hours - £7,200)	36
Variation 3	Routine changes	No fee	Fixed Fee + External advice costs	£480	2*
Transferring of licence		No fee	Fixed Fee + External advice costs	£480	N/A

**ESS payable if the construction or disposal of dredged material is in or near an environmentally sensitive area such as a Special Area of Conservation (SAC), Special Protection Area (SPA), Ramsar Site or Site of special scientific interest (SSSI).*

Actual external advice costs could vary significantly and exceed the hours stated here. Case officers will keep customers updated with the ongoing costs of external advice.

** For the majority of these activities external advice would not be sought. However, these figures provide indicative costs of external advice, should it be required.*