The UK has vast amounts of coastline relative to its size, and a long history of coastal development and activity within the marine environment. The intertidal area forms the boundary between the terrestrial and marine environments, which have seen different approaches to planning, as opportunities for development have arisen. Planning and regulatory regimes, including EIA, have evolved over the years, with each country in the UK developing its own approach, based on when and where responsibilities have been devolved. This has resulted in a complex system, with legislative jurisdiction and responsibilities overlapping in multiple areas, and across various regulatory bodies.

This complexity of regulation and management within the marine environment in the UK has been commented on in various studies (e.g. Boyes and Elliot, 2014; 2016), however, there is little on the practical differences between the devolved administrations, in terms of development consenting and EIA in particular.

In England, this is managed through a ‘Coastal Concordat’ – an agreement between Defra and regulatory authorities, whereby a lead authority is charged with decision making. This is intended to reduce unnecessary regulatory duplication, provide better sign-posting, streamline assessments and increase transparency and consistency of advice.

In Scotland, a more informal arrangement is in place, led by Marine Scotland. It is possible to discuss the scope for coordinating the different consenting processes and any associated assessments, including EIA. The aim is to ensure regulators work together to facilitate simultaneous processing of applications, to return decisions on multiple applications together.

In Northern Ireland, the Marine and Fisheries Division (DAERA) can act as a ‘one stop shop’ for queries and arranging pre-application discussions between authorities, where developments require multiple consents. Where EIA is required, the preferred approach is to meet early to co-ordinate the response on a single EIA from the applicant, scoped by both the marine licensing and planning authority.

In Wales, no similar agreement is in place. Development requiring multiple consents is subject to all regulations in a separate way. This was the case for a recent Ecus project.

The development is within the intertidal area, meaning that two authorities have decision making responsibilities, under different pieces of EIA legislation.
In this case, the Town and Country Planning EIA Regulations (Wales) (2017), under which Local Planning Authorities (LPAs) have 21 days to reach an EIA screening opinion; and the Marine Works EIA Regulations (2017), under which Natural Resources Wales (NRW) has 90 days. The difference is attributed to the level of consultation required under each set of regulations and a greater level of scrutiny demanded by the marine environment. However, this has knock on effects for both project development and the decision-making process. In this case, the project was screened as non-EIA development by the LPA within a month. Instead of being able to then progress with the planning application, the project was effectively on hold whilst a further decision was being made by NRW.

Eventually, a decision was made that the project was also non-EIA development under the Marine Works EIA Regulations (2017). But this raises the question - what would it reveal about the decision-making process and the purpose of the regulations, if there had been a difference in the EIA screening outcome?

This experience highlights the myriad benefits that our coastal environments provide and, as a result, the range of regulatory bodies that have an interest in making sure that we develop within them sustainably. However, this also raises questions about whether this can create a ‘too many cooks’ scenario, adding unnecessary bureaucracy and process.

On the other hand, the lengthier process to thoroughly screen the project under the Marine Works EIA regulations (2017), may well have provided a welcome additional check and level of scrutiny that was not possible under the Town and Country Planning EIA Regulations (Wales) (2017).

Whilst there are both opportunities and challenges with approaches to EIA screening across multiple jurisdictions, Ecus’ recent project experience highlights some key questions: would the same screening outcome be reached regardless of which authority leads the decision-making, and if so, is regulatory duplication really necessary, when there are successful models, both formal and informal, for a joined up and more streamlined approach?

Rachel Barker, Principal Environmental Consultant, Ecus, November 2018.

---

3 https://www.gov.uk/government/publications/a-coastal-concordat-for-england

For access to more EIA articles, case studies and hundreds of non-technical summaries of Environmental Statements visit: http://www.iema.net/eia-quality-mark/