

4.3. Marine Infrastructure Management Bill 2015 – Second Reading approved

Mr Gawne to move:

That the Marine Infrastructure Management Bill 2015 be read a second time.

The Speaker: We turn now to the Marine Infrastructure Management Bill. I call on the mover, the Hon. Member, Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

Before I go into the providing some detail on this Bill, it is important understand why this Bill is before this House.

At Tynwald Court in June 2014, my predecessor advised that the Town and Country Planning Act 1999 (Extension to the Territorial Seas) Regulations 2013 had been revisited by officers within the Department and the Attorney General's Chambers in response to a query regarding development in Manx waters for which consent had previously been granted.

The Department came to the conclusion that to proceed along its original proposed path to introduce marine planning legislation may unduly confuse the current operation of the consenting regime for applications. It would, in effect, be creating an additional layer of bureaucracy and burden of consenting requirement for developers beyond that which is currently required by the existing legislation.

My predecessor then explained that the Department has therefore concluded that the most appropriate way forward is to revoke the 2013 Regulations as soon as possible with the intention of bringing forward new bespoke primary legislation to implement a single consenting regime for the territorial seas.

The Department has therefore committed to the formulation of bespoke primary legislation for the marine environment and the Department has worked with various Government Departments and statutory bodies, namely DED, DEFA and MNH, to best understand what other Departments wish to see included within the legislation, in line with their Departmental responsibilities and considering existing legislation which currently applies to the territorial seas.

The Department carried out a public consultation on the broad principles of what the new legislation should cover. The consultation document was circulated to those listed within the Governments Code of Practice on Consultation as well as relevant voluntary groups and organisations with an interest in the marine environment.

The Department received a total of 22 responses, which includes responses from TravelWatch, Manx Wildlife Trust and the Manx Fish Producers' Organisation. There was a broad support for what the Department is proposing, however, there were a number of areas where further information or clarification was being sought by respondents. The Department is preparing a response table which will be published by the 15th January 2016.

The general areas of clarification were in relation to the principle of the formulation of a new consenting regime for identified activities, how the public would be able to be involved in the process and, indeed, exemptions to the Act. However, the response table will provide more detail on all the responses the Department received.

The Department has striven to ensure the appropriate powers are contained within this Bill which will enable the Department to undertake the preparation of appropriate accompanying secondary legislation when required. It is within this secondary legislation that much of the detail sought by respondents will be contained. The Department has said in the consultation document that it is likely that further public consultation will be required to be undertaken on accompanying secondary legislation, and that is still the case.

The Department has carefully considered all of the responses received to the public consultation exercise and prepared drafting instructions which took those into account. The result of these discussions and the public consultation is the Bill that is before this House.

Moving onto the principles of the Bill, the purpose of the Bill is to provide a streamlined decision-making process for consent to development proposals within the territorial sea, to ensure a sustainable approach to marine development within the territorial sea, to provide a decision-making process that is clear for applicants and decision makers and to provide power to adapt the law to reflect emerging technologies and developing approaches to marine activities.

The Bill provides for a single consenting regime, a compliance regime; and the creation of marine plans and marine policy statements, as and when required.

In relation to a single consenting regime, the Bill defines the scope of application of the Bill. The Bill will apply to controlled marine activities, which is defined in clause 6, occurring within the Controlled Marine Area. It should be noted that the Controlled Marine Area will be defined as an area between mean high water mark and the seaward boundary of our territorial sea, excluding any defined harbour areas. However, there is provision in the Bill to allow for cross-jurisdiction works. The Bill will control the following activities: offshore renewable energy generation, aggregate extraction, laying of submarine cables, laying of submarine pipelines, gas drilling, carbon capture and storage and exploration for and exploitation of natural gas and petroleum.

Any other activities would be controlled under existing legislation, for example, the Harbours Act and the Water Pollution Act.

This Bill does not contain a wholesale disapplication of the other consenting regimes under the extant legislation; all it does is provide that controlled marine activities and associated marine activities, as defined in the Bill, do not need additional approvals/consents under the other consenting regimes if they have a consent under the new legislation.

The proposed consenting regime is similar to the UK's consenting regime; however, it is simpler than the UK process. This, it is hoped, will appeal to those wishing to develop in our waters as it will not be a totally unknown process but will be quicker.

The consenting process is split into two-stages. Firstly, there is a pre-application stage and secondly, there is an application stage. The pre-application stage requires a prospective applicant to consult with three Government Departments, namely the Department of Infrastructure, the Department of Economic Development and the Department of Environment, Food and Agriculture, and any other person prescribed by the Department of Infrastructure. The Department could potentially prescribe, for example, the Isle of Man Steam Packet Company, environmental interest groups or any other interest groups who prospective applicants would be required to consent with. A prospective applicant will be required to analyse responses received, prepare a report and publish that report. They will also be required to publicise the proposed application.

Also, as part of the pre-application stage a prospective applicant will also be required to carry out an environmental impact assessment on the proposal. This would be based on a scoping opinion issued by my Department, in consultation with others across Government including Manx National Heritage and any other person the Department thinks appropriate.

The application stage has a number of stages. Applications will be in the first instance submitted to the Department of Infrastructure for validation. Once the application has been validated, the application will be referred to the Council of Ministers for them to refer it for examination by an examiner or a panel of examiners. There will be a requirement for the Council of Ministers to undertake a public consultation on an application. The examiner or panel will assess the application and report on their assessment, along with their recommendations to the Council of Ministers. The Council of Ministers will be the decision maker on these applications. It should be noted that their decision will be able to be challenged or questioned in court only by way of judicial review by petition of dolence.

In respect of the compliance regime, this Bill places an onus on the developer to comply with any consent issued by seeking confirmation from the Department that any proposed works would be

compliant with the consent before carrying out the proposed works. Also, a developer will be able to seek confirmation that any works carried out are compliant with terms and conditions of the consent. If there is a non-compliance, the Department will be able to serve a notice requiring the developer to comply with the terms and conditions of a consent. As a last resort where there is a continued non-compliance, the Department will be able to carry remedial works to ensure compliance.

In respect of marine plans and policy statements, the Bill makes provision for regulations to be made in respect of the preparation of marine plans and policy statements.

So, Hon. Members, I am sure that the Bill makes a material contribution to controlling emerging technologies and developing approaches to our marine environment. It will also reduce bureaucracy and hopefully provide a robust and streamlined consenting process.

As such, I commend the Bill to the House, and I beg to move the motion standing in my name.

The Speaker: The Hon. Member, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker. I beg leave to second and reserve my remarks.

The Speaker: The Hon. Member, Mr Houghton.

Mr Houghton: No sir, just to second.

The Speaker: If no one wishes to speak, I put the motion that the Marine Infrastructure Management Bill be read for a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.