

4. Marine Infrastructure Management Bill 2015 – First Reading approved

Mr Corkish to move:

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

The President: Item 4, the Marine Infrastructure Management Bill 2015. I call on the Hon. Member, Mr Corkish, to take the First Reading.

Mr Corkish: Thank you, Madam President.

Before I go into providing some detail on this Bill, it is important to understand why this Bill is being progressed.

In Tynwald Court in June 2014, the then Minister of Infrastructure 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, a burden of consenting requirement for developers beyond that which is currently required by the existing legislation.

The then Minister 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 was committed to the formulation of bespoke primary legislation for the marine environment. 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 this legislation, in line with their departmental responsibilities and 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 Government's 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 broad support for what the Department proposed; however, there were a number of areas where further information or clarification was being sought by respondents. 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 what activities would be exempted by the Acts.

A full response table provides more detail on all the responses the Department has received. This has been published by the Department.

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 that further public consultation will be required to be undertaken on the accompanying secondary legislation.

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

This Bill is particularly important today as it will be a key element in the future management of the marine environment. It should be noted that the Department of Infrastructure has signed an agreement for a lease to allow Dong Energy to explore the possibility of developing a wind farm in our waters off the north-east coast of the Island. This project is likely to be the first project to test the robustness of this legislation.

The creation of an onshore energy hub is one of the core strategies of the Government's long-term plans for economic growth. Leasing parts of the Isle of Man's seabed for renewable energy generation is expected to make a significant contribution to public funds and local job creation, as well as lowering carbon emissions. The agreement with the Department of Infrastructure will enable the company to carry out preliminary surveys to determine the practicality and commercial viability of siting wind turbines within the 12-mile limit of the Island's territorial sea.

The Department of Infrastructure is working closely with the Department of Economic Development, the Department of Environment, Food and Agriculture and Treasury to develop the proposals. Any wind farm development would be subject to approval under the relevant consenting regime and would also require the submission of a full environmental impact assessment taking into account the need to protect transport links and fisheries.

Moving on to the Bill, Madam President, the Bill contains 62 clauses and its purpose is to provide a streamlined decision-making process to determine whether to grant 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; to provide opportunities for engagement with the wider community; and to provide the power to adapt the law to reflect emerging technologies and developing approaches to marine activities.

The Bill provides for: (1) a single consenting regime; (2) a compliance regime; and (3) 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 for 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: (a) offshore renewable energy generation; (b) aggregate extraction; (c) laying of submarine cable; (d) laying of submarine pipelines; (e) gas drilling; (f) carbon capture and storage, and exploration for and exploitation of, natural gas and petroleum. Any other activities would be controlled under the extant legislation, i.e. the Harbours Act and the Water Pollution Act.

The 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 or 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 it 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 consult. 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 be required to carry out an environmental impact assessment on the proposal. This would be based on a scoping opinion issued by the Department of Infrastructure, in consultation with others across Government including Manx National Heritage and any other person the Department thinks appropriate.

It is the intention of the Department that regulations relating to environmental impact assessments will follow the EU Directive on EIAs and will ensure best practice is followed.

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, Madam President, Hon. Members, the Department is sure that the Bill will make a material contribution in controlling emerging technologies and developing approaches to our marine environment. It will also reduce bureaucracy *and*, hopefully, provide a robust and streamlined consenting process.

Madam President, I beg to move the Marine Infrastructure Management Bill 2015 be read for the first time.

The President: The Hon. Member, Mr Crookall.

Mr Crookall: Thank you, Madam President.

I am very happy to second this very important Bill. I think it is *very* vital that we get this through. But as Mr Corkish has taken great time to go through this and explain what it is all about, I am sure it will get the scrutiny it deserves by Hon. Members sitting here in this Chamber. But I am very happy to second the Bill as it stands, Madam President.

The President: The Hon. Member, Mr Turner.

Mr Turner: Thank you, Madam President.

Lots of words (*Laughter*) I enjoyed hearing in that ... including simpler, quicker, streamlined, less bureaucratic. I think it is just a shame that it has taken nearly 10 years to come here – which is not simpler, quicker or streamlined! But I remember back in about 2007 or 2008 under Minister Cretney, the DTI – as it was then – was investigating offshore wind and renewable energy; and I think our performance overall has been pretty poor in this area and we should have been on this a lot quicker. But, nevertheless, it is here now and I think, obviously just based on the principle of this, if it is going to be a simpler, quicker and streamlined process, then that is a good thing.

I know Mr Downie many times, when he was here in this place, raised the issue of aggregate extraction – again, an area we have been missing out on. The whole issue of offshore wind, we have certainly missed out on a considerable amount over the last decade. But we are here now, and we have to get this in place, because the rest of the world is moving on and getting on with these things, while we are still here arguing about them.

I think some of the provisions in this, which we will go through in more detail as we go through the process ... but I really welcome the fact that they are having ... For example, there is that much legislation which could torpedo works that go on. So it is vitally important, as the mover says, that it is all brought into the single process. And I think that is a very good provision in the Bill.

So at the First Reading, I really welcome it, it has been a long time coming. I am glad it is finally here and I wish the mover well with the passage of the Bill. And yes, we will go through it in great detail to ensure that when it does leave here it is the right Bill for the job. (*Interjection by Mr Henderson*)

The President: Hon. Member, Mr Cretney.

Mr Cretney: If I could just follow the Hon. Member who has just spoken, Mr Turner. Mr Downie did indeed speak often about aggregate extraction, but equally people with environmental concerns were cautious about such. I just would like assurance that the Bill which is now before us does provide from an environmental point of view sufficient protection for those people who are concerned about those elements.

The President: The Hon. Member, Mr Anderson.

Mr Anderson: Thank you, Madam President.

I, too, welcome this Bill before us today. Can the hon. mover do some research and come back to me and say in the consultation process whether the shipping companies made any response to the proposed legislation, please?

The President: The mover to reply.

Mr Corkish: Thank you, Madam President. I thank Hon. Members for their contribution to the First Reading of this Bill, and to my seconder, Mr Crookall.

I thank Mr Turner for his support. Yes, renewable energy is topical and worthy of exploitation. Should it have been quicker? Yes, I think there has been caution in lots of areas about the introduction of this. It is problematic in lots of ways and there will be lots of comment – and indeed there has been lots of comment from the public and other bodies as well. And he is quite right, everybody else is doing it, why shouldn't we? The single process means quicker and easier movement of this and, indeed, part of the Government's long-term wealth generation.

Mr Cretney: aggregate extraction. Again, I will go back to caution, I think. It was quite a hefty First Reading and I would hope that within that there was ample illustration of the care that is going to be taken *and* the consultant parties in this to make sure that every angle of this is covered as best ... that we are certain they can have 'sufficient protection', I think, were the words.

Mr Anderson, yes, I certainly will confirm, but I know that the Isle of Man Steam Packet certainly was one of the respondees to the consultation. So they are fully aware and, at present, there is no stumbling block there from a shipping services provision.

Madam President, I beg to move the First Reading of the Marine Infrastructure Management Bill 2015.

The President: The motion is that the Bill be read for a first time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it. The motion therefore carries.

Hon. Members, that concludes the business on our Order Paper this morning. Council will now adjourn to Tynwald on 16th February, and thereafter in this Chamber on 23rd.

The Council adjourned at 12.34 p.m.