



Northern Ireland
Assembly

**Committee for Agriculture and Rural
Development**

**OFFICIAL REPORT
(Hansard)**

Marine Bill: Departmental Briefing

17 April 2012

I have circulated a couple of charts, which I will go over with you in order to try to summarise the various interests in the marine area, especially the area adjacent to Northern Ireland. The first chart illustrates the Northern Ireland zone in which DARD has responsibilities for sea fisheries management. That is delineated by the solid red line on the chart, and it extends beyond the territorial sea that is adjacent to Northern Ireland.

The Marine Bill refers to the Northern Ireland inshore region and the Northern Ireland offshore region. The inshore region follows the solid red line on to the dotted line off the County Down coast. That is the equivalent to the territorial sea that is adjacent to Northern Ireland. It can be up to a maximum of 12 nautical miles from the shore, but, at the Mull of Kintyre, for example, it falls to less than that.

Within that inshore region, DARD has devolved fisheries responsibility. The DOE has devolved responsibility for marine planning and delegated responsibility from the Secretary of State for marine conservation.

In the offshore region, we have devolved fisheries responsibility, and the DOE has delegated marine planning responsibility. As far as marine planning is concerned, that allows the DOE to produce a single marine plan for the whole of that Northern Ireland zone, and that is important. Furthermore, in that offshore region, the Secretary of State has responsibility for designating marine conservation sites.

The second chart is similar, but there is a big oblong-shaped brown ring, which indicates where the main prawn fishery happens in the Irish Sea. It accounts for 80% of the fishing opportunities for our fleet, and the Northern Ireland zone covers most of that. In 1998, when those things were being devolved, the Department's view was that we should have devolved responsibility that covered most of our fishing opportunities. That is a complex area as far as the fishermen are concerned. They are going to be impacted on by decisions made in the Northern Ireland inshore region for decisions that are made in the Northern Ireland offshore region. It also falls partly into the Isle of Man jurisdiction and the Republic of Ireland jurisdiction. Therefore, it is a complicated area, and all planning needs to be carefully thought out and integrated.

Clause 2 of and schedule 1 to the Marine Bill cover the development of a marine plan and consultation on it. We believe that the consultation on the marine plan is a critical stage. It is vital to the development of an integrated and coherent plan that respects not only fisheries but all activities in the marine area. At various times during the Bill's development, we have stressed to the DOE that there needs to be consultation with the fishing industry. It is likely to be the activity that is impacted on as other activities are introduced.

We also feel that transparency is vital if marine users are to have confidence in the decisions that are made. We feel that it is important that there is integration, as I mentioned earlier. I will come back to that point when I talk about marine conservation zones (MCZs).

Clause 2(3) gives the definition of a marine plan and sets out the requirement that marine plans must state the policies of relevant Northern Ireland Departments. We agree with that subsection. Our policies have already been made public in the DOE's recent consultation on the draft Northern Ireland marine position paper. That consultation closes on 23 April. Therefore, the marine plan will include a statement of the various policies of Departments with marine responsibilities. We think that that will be useful and will help people to understand the roles and responsibilities of different Departments.

We were asked to comment on clause 4, "Withdrawal of marine plan". We have no objection to the clause. Although there are provisions in the Bill to amend marine plans, it may be appropriate, over time, to withdraw the plan completely and replace it, and clause 4 provides a mechanism for doing that. We are satisfied that the Bill provides opportunities for our Department to be consulted when a marine plan is to be withdrawn and for the reasons for that withdrawal to be explained. We are content with that.

Clause 6 concerns decisions that are affected by a marine plan. It makes provision about the effects that any appropriate marine plans are to have on the taking of certain decisions by a public authority. The clause is a reasonable one, and its provisions are similar to those in the UK's Marine and Coastal

Access Act 2009. Clause 6 makes it clear that Departments cannot disregard lightly the requirements of the plan. We have no problem with that, as long as the consultation process conducted in the development of the plan has been thorough and has taken account of all relevant Departments' views. If that process has been thorough, taken account of all the views and there has been some accommodation of them, we have no problem with abiding by a decision in the marine plan.

We acknowledge that the process for designating marine conservation zones seems to follow closely that in the 2009 Act. We are broadly content with that approach. One of the things that we want to bring to the Committee's attention is that management measures that would be adopted for an MCZ may affect fishing opportunities for not just Northern Ireland fishermen but those in the rest of the UK or neighbouring member states. The main conduit for representations to those bodies would be DARD. Therefore, it is important that DARD be involved closely and at an early stage in proposals for marine conservation zones that might affect fishing opportunities elsewhere. We could then advise on what such impacts may be and who needs to be made aware of them. That might involve having to go to the European Commission to ask for a European Union-wide restriction being applied to all boats. Therefore, it would apply not just to Northern Ireland fishermen but to fishermen in the rest of the UK and the EU.

Clauses 11 to 14 concern designation of marine conservation zones and consultation before designation. We expressed reservations to the DOE that the requirement to consult with other Departments at key stages was provided for in the development of a marine plan but not in the designation of marine conservation zones. The Bill provides for consultations with other key interested parties, including other Departments with marine interests, after the DOE brings forward a proposal.

The DOE maintains that the consultation arrangements in the Bill are adequate. It also gave us some assurance that any final decisions on MCZ designations, because of their cross-cutting nature, will come before the Executive. Based on that assurance, we are content that the designation process outlined in the Bill is adequate. However, I again stress the need for integration and for marine plans and different activities — developments for offshore marine renewables, marine conservation zones and other activities — to be considered together as part of one process, if at all possible.

The Northern Ireland inshore region is an example of a marine conservation zone designated by the DOE. However, it is also possible for the Secretary of State to designate marine conservation zones in the Northern Ireland offshore region. We also have a separate process for designating wind farms for marine renewable energy. We responded separately to the Department for Environment, Food and Rural Affairs (DEFRA) on offshore MCZ designations. We stressed to DEFRA, and to the DOE, our point about trying to integrate all those things, and to consider them in the round. The danger that we see is that by not integrating those decisions and not considering developments as part of one process, activities such as fishing could be excluded from more areas than is necessary, and there could be a synergy of events. For example, once an offshore renewables site is established, in effect, fishermen cannot go into the area, as it is not safe to do so. Therefore, there may be some initial disturbance in setting one up, but once a wind farm is established, it becomes, in effect, a marine conservation zone. If you are setting yourself targets for establishing a certain area of the sea as a conservation zone, there are opportunities to take account of some of the areas in which wind farms already exist. We would like to see those types of things taken into account as the process goes forward.

I will try to wind up now by going through some of the other points about clauses 20 to 22, which concern the duties of public authorities for marine conservation zones. Again, we have no problems with our obligations to preserve the conservation objectives of MCZs, on the basis that we hope that there will be good and thorough consultation at the start of the process. If all the Departments are reasonably happy with marine conservation zones and where they are sited, and we all know what we have to do, we are quite happy to respect our duties and follow the guidelines set out in the Bill.

We note that many of the clauses from clause 20 onwards that deal with marine conservation zones are largely similar to what is in the 2009 Act. As far as those provisions go, we are content. One slight difference that I want to draw to your attention is that, in the UK Act, much reference is made to the guidance provided by statutory conservation bodies. However, we do not have a statutory conservation body in Northern Ireland, and all the guidance has to be provided by the DOE.

Those are the main points that I wanted to cover.

The Chairperson: Paddy, thank you very much for your presentation. I suppose that I could ask a number of questions, and I will then open it up to Committee members. Obviously, we have two Departments involved, and the issues and problems that have arisen in Strangford lough of late show that the two Departments have totally different priorities, focuses and responsibilities, with DARD very much having responsibility for fishing. There are fears that the creation of the marine plan and marine conservation zones could do great damage to the prawn fishing industry, which is our main fishing industry. What consultations have you had with our fishing industry, and what fears do you have about the zones?

Mr P Campbell: Much of it comes down to the consultation process for the marine plan and the marine conservation zones. The fishing industry is aware that the Marine Bill is going through the Assembly and knows that the DOE will be assuming powers to develop marine conservation zones. We will not really know the impacts until we see the details of what is proposed and where it is proposed that the zones will be situated. However, what we and the fishing industry have been saying to the DOE is that it should come and talk to us and that we want to work together to develop the plan and the zones. We recognise the need for marine conservation and understand that areas need to be protected.

The Chairperson: I will ask that question in a different way. Can DARD tell the DOE where it wants the zones to be sited? That would help with the issue. During a recent visit to Kilkeel, it was explained to me, through reference to a map, how restrictive fishing is. Fishermen can fish only in certain areas and must take account of wind farms and even cables along the seabed. They either cannot fish in those areas or it is too dangerous for them to do so. You have all these other hashes, if you like, on the grids on the sea, meaning that you cannot possibly fish there. It is currently very restrictive right across the coast, and this will be another layer of restriction. I am not at all saying that we should not have the Marine Bill, but how can we ensure that there is better co-ordination between the DOE and DARD? How can we know that the DOE will take on board the interests of our fishing fleets in its decision-making processes? Does it simply leave it up to DARD to fight that battle for our fleets? We really need to be in a position in which all Departments know all the problems around the issue. Do you agree with that? How do we combat and counter that?

Mr P Campbell: We are agreed with the fishing industry that we are working together on trying to identify and produce good evidence to show to planners where the main fishing activities are, the value of the fishing activity and the key areas. We will be inputting into that process. The DOE has the responsibility for the environment, so, ultimately, it is people from that Department who will come forward to identify a habitat that they want to see protected. We want a dialogue with the DOE on whether there is scope or room for discussion about that. Is that the only place where that habitat is found? Could it be moved to a different area? Can there be some accommodation? We will ask those questions if we think that such protection will have a significant impact on fishing.

Everyone has to realise — even fishermen realise — that room is being made in the marine area for offshore renewables and marine conservation zones and that that will be a difficult process. We have to provide as much evidence as we can to back up our case that that is a vital area for us, and we need to keep that area there. We will try to get that message across to the DOE, as other Departments that have other interests will do.

The Chairperson: I will shift the emphasis slightly away from fishing and on to land. What does the Bill do for land erosion and flooding, if anything?

Mr P Campbell: As it will for fishing, the planning exercise should provide a mechanism whereby all the decisions are more integrated, all taken together and an overview taken. In theory, that should put us in a better situation. Nothing will happen without all the other impacts being considered. On coastal erosion, we will want to see good consultation with our Department and good account being taken of our flood management plans so that no activities are introduced or allowed to happen that will have consequences for our role in flood defence.

Mrs D Kelly: I will pick up on the points about flood defence and coastal flooding. A number of farmers have commented about their concerns about coastal erosion. Is there any potential in the Bill to tackle or allay some of those fears?

Mr P Campbell: I will perhaps come back to you on that question. I am from the fisheries side, and, unfortunately, we did not bring someone from the Rivers Agency with us.

Mrs D Kelly: That will be fine. On the fisheries, will the zones help what is called blue growth? That is growth in maritime sector activities, including short-sea shipping, coastal tourism and offshore wind energy. Is there any potential there?

Mr P Campbell: In the marine conservation zones?

Mrs D Kelly: Yes.

Mr Campbell: We understand from the DOE that the marine conservation zones will primarily be designated for environmental reasons. I guess that it is a question for the DOE as to whether it has any benefits in those other areas. The aims will be to improve the marine environment generally, and that will have benefits for other activities. There may be spin-offs, but that is a question to which the DOE could give you a better answer.

Mrs D Kelly: Given that DARD has responsibility for fishing, surely it should be a champion in ensuring that some protections and enhancements are open to the fishing sector.

Mr P Campbell: Yes. There already are a number of protected areas in the Irish Sea for fisheries. We have cod-spawning and herring-spawning areas, and if there are opportunities, I am sure that we will look at them.

Mrs Dobson: I refer to the briefing that the Committee Clerk prepared for us. Point 15 is about marine conservation zones and refers to the 28-day rule. Are you concerned that the 28-day rule between DARD and the DOE will penalise DARD because it does not apply when the DOE notifies DARD? DARD must make sure that it is not at a disadvantage. Has the Department raised that or any other concerns with the DOE?

Mr P Campbell: We have not raised that specific concern with the DOE. We were content with the 28-day stop before an operation went ahead.

Mrs Dobson: You can see that the situations for DARD and the DOE are not comparable.

Mr P Campbell: Yes.

Mrs Dobson: You can perhaps come back to us on that. I note that, in point 16, DARD must "have regard" to any advice or guidance given by the DOE. However, does the same apply to the DOE for advice and guidance received from DARD? In other words, could DARD ignore that advice? If so, what would the implications be?

Mr P Campbell: Nothing in the Bill requires the DOE to have regard to our advice or that of any other Department.

Mrs Dobson: You can see that DARD is at a disadvantage. Could DARD simply ignore that advice? What would the implications be?

Mr P Campbell: If, for example, we got advice from the DOE and, for socio-economic reasons, decided to allow an activity to take place, we would have to justify that, and our Department would not be opposed to making our justification in public. However, we hope that we will not get to that stage, and we hope that, from the consultation process and the designation of marine conservation zones, we will arrive at a zone that we and other Departments are content with. We would then be prepared to

support that. It would be an unfortunate situation if we got to the stage at which a zone was designated and the management restrictions were such that we were forced to ignore, or felt that we had to ignore, the advice that we were being given.

We certainly recognise the need for guidelines. There are a lot of issues where a general power and general intention is given, but there is a need for detailed guidelines. For each specific marine conservation zone, we will have to work with the DOE to develop guidelines on what activities are appropriate or can be allowed, where they can be allowed and to what extent they can be allowed. If we co-operate well, a lot of those problems should be overcome.

Mrs Dobson: Will you check out the fact that there is no parity? That is concerning.

Mr P Campbell: It is not there. The DOE appears to have taken a lot of the measures straight from the Marine and Coastal Access Act 2009 in the UK, and they are in the Bill.

Mrs Dobson: My reading of it is that it appears to put DARD at a disadvantage.

Mr P Campbell: That is one way of looking at it. However, there may be instances in other legislation where the lead Department has to take the leading role.

Mrs Dobson: I am concerned that the legislation could bring about the possibility of infraction fines where mistakes have been made between the DOE and DARD.

Mr P Campbell: It will not bring European infraction fines because it is a national measure. The Bill is not clear about the penalties that would be imposed on public authorities if they chose to ignore it.

The Chairperson: The detail that is not in the Bill has still to be agreed; is that right? My understanding is that the detail of the Bill has yet to be agreed.

Mr P Campbell: There is nothing in the Bill that sets out any penalties for Departments that ignore the advice of the DOE.

The Chairperson: Is the Department concerned about that?

Mr P Campbell: Yes, because it is not there. However, we do not know whether there are proposals to bring forward such measures. The DOE does not have any power to direct other Departments. The Secretary of State in the UK would have power to direct Departments, but the DOE here does not have power to direct DARD or anybody else.

The Chairperson: Jo-Anne, do you want to carry on?

Mrs Dobson: No, so long as Mr Campbell can check out the concerns about parity and the 28-day rule between DARD and the DOE. It is clear that there is not parity, and that the DOE would have an advantage. I am concerned about DARD being at a disadvantage. It would be helpful if he could come back to the Committee with more detail on that.

Mr P Campbell: We will do that.

Mr McMullan: Am I right in saying that what we are talking about here, and all of this toing and froing between the DOE and DARD, is a reserved matter? Ultimately, the Secretary of State has responsibility for marine conservation zones. We do not have any say in the matter; it is a reserved function. In order to have a say in it, we need the reserved matter to be transferred here.

Mr P Campbell: You are correct that the ultimate approval with regard to the marine conservation zones has to be given by the Secretary of State.

Mr McMullan: We are chasing our tails by talking about this matter, because it is set out that no matter what we do here, the ultimate function and say lies with the Secretary of State.

I have looked at the maps — and I stand to be corrected on this matter — however, licences would have been given for gas exploration in the middle of this body of water. What is the position concerning those in all of this, especially around Rathlin, where there is talk of gas exploration? We are talking about creating marine conservation zones in the same areas that are being created for wind farms for alternative energy. If we do so, we will greatly reduce the area available for fishing. It states that somewhere in the papers.

Mr P Campbell: If you introduce an offshore renewable energy site, it is inevitable that you will displace some fishing activity.

Mr McMullan: What will happen to the areas that have been licensed for gas exploration? Ultimately, we do not have any say in this matter, and we are going to cut back on the amount of fishing that will be allowed around what is a very productive part of our coastline. It has been said that some people who go into these zones will be exempt from prosecution. Can you tell us who will be exempt?

Mr P Campbell: The Bill refers to exemptions for activities that have already been licensed. If DARD were to give a licence to a fisherman to do certain things, he would be allowed to do them. Under the Bill, we would agree what was appropriate and what was not with the DOE.

Mr McMullan: Who else would be exempt?

Mr P Campbell: It would probably be best to address that question to the DOE.

Mr McMullan: You are quite right. Chair, I think that this issue needs to be discussed at a specific meeting, because, as the gentleman rightly says, there are a lot of things that he cannot answer, and I would not expect him to answer. For example: who is liable when we move outside the 12-nautical-mile limit? At that stage, we are into international waters. There is the six-mile limit and then the 12-mile limit. Beyond that, there are international waters. I believe that there are people who are exempt from the conservation zones. I am not going to say who they are, because I would rather somebody else told me that. This needs to be discussed further and in more depth. As well as the Secretary of State; who is the ultimate authority for allowing all this to go through? We do not have any real say in the matter; we end up as gamekeepers.

The Chairperson: Again, the DOE will set the zones: is that right?

Mr P Campbell: The DOE will develop proposals for the Northern Ireland inshore regions in consultation with the other Departments, and the proposals will go out to full consultation under the process outlined in the Bill. There is provision in the Bill for people to object and for a hearing to be called and evidence to be taken. As Mr McMullan says, the zones will have to be agreed by us. I would find it hard to see a situation where the Executive would oppose a marine conservation zone and the DOE would ask the Secretary of State to give consent. I find that a difficult situation to grasp.

The Chairperson: With regard to additional meetings, we are being asked only for our opinion. The Committee for the Environment is dealing with the statutory rule: is that correct?

The Committee Clerk: No, it is a Bill.

Mr McMullan: There is no mention in the Bill of the possibility of gas exploration. During my time on the council, we had a lot of debate about this and about how best to preserve Rathlin and its environment. That needs to be teased out.

Who is ultimately responsible? At the present time, the bodies ultimately responsible are the councils. However, that responsibility needs to be taken away from councils. Work on the seabed or in the sea around that area throws up all sorts of issues. At the present time, the council is responsible, and that is not in the Marine Bill either. We talked about consultation with the Irish and Scottish

Governments, and we need to see that taking place as well. The Scottish Government have talked about setting up a marine park just off the Mull of Kintyre. If that park comes out many miles, it will nearly be in our area. There are 14.5 nautical miles.

The Chairperson: You raise a valid point about all the activities and stakeholders that would be involved in those areas, such as the exploration of gas, oil and renewable energy, including tidal and wave energy.

No other members have indicated that they want to ask a question. Mr Campbell, from your knowledge, have there been any discussions, albeit primitive at this stage, with the DOE or anyone else about the areas that would be designated as marine zones?

Mr P Campbell: Not at this stage.

The Chairperson: There has been no talk at all?

Mr P Campbell: No.

The Chairperson: Are there any further questions, members?

Mr McMullan: An area near Fair Head has been earmarked for tidal energy use. The area includes land, but there is no mention of it here.

Mr P Campbell: The map deals purely with fishing areas. There are offshore renewable exploration zones designated on the north coast and on the County Down coast.

Mr McMullan: I am worried about gas exploration, but there is no mention of it here.

The Chairperson: Members, we will conclude this presentation. Mr Campbell, thank you very much for your time, your presentation and your answers. I am sure that we will see you soon about other issues.