



Northern Ireland
Assembly

Committee for the Environment

OFFICIAL REPORT (Hansard)

Marine Bill: British Ports Association/Belfast
Harbour Commissioners

29 May 2012

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Ms Anna Lo (Chairperson)
Mr Simon Hamilton (Deputy Chairperson)
Mr Cathal Boylan
Mr Gregory Campbell
Mr Tom Elliott
Mr Chris Hazzard
Mrs Dolores Kelly
Mr Francie Molloy
Mr Peter Weir

Witnesses:

Mr David Knott	Belfast Harbour Commissioners
Mr Peter Conway	British Ports Association

The Chairperson: I welcome Peter Conway from the British Ports Association (BPA) and David Knott from the Belfast Harbour Commissioners. We are quite pushed for time, because we have to finish by 2.00 pm. Please give us a brief overview of your written submission, which has already been circulated to members, as that will allow more time for questions from members afterwards.

Mr Peter Conway (British Ports Association): I am representing the British Ports Association today, but I am the chief executive of Warrenpoint Harbour Authority. Warrenpoint is the second freight port in Northern Ireland and the fifth on the island of Ireland.

I am very grateful for the opportunity to provide evidence to the Committee. The BPA membership includes the ports of Larne, Coleraine, Londonderry and Warrenpoint. Between them, they handle eight million tons of trade through Northern Ireland and almost one million passengers. As the marine position paper from the Department of the Environment (DOE) states, Northern Ireland has always been dependent on the sea for trade and on its sea ports as gateways to that trade. Northern Ireland ports are key parts of the European transport network, and the ports are making a particularly important contribution to the development of offshore renewables. In themselves, they are significant employers, attracting related businesses, growth and regeneration.

Of the four ports, three are trusts and one, Larne, is a private port. Nevertheless, each has to operate without subsidy or strategic direction from either the Northern Ireland Government or the UK Government. Public policy, such as the decision to promote a Marine Bill, is extremely important to us. We believe that ours will be one of the main sectors affected by it. We have a very particular interest that may be quite distinct from other expressed interests, which are likely to concentrate on

the environment and conservation. We, too, have major environmental responsibilities, and we have to run businesses.

To further set the scene, I should also mention that there is a UK national ports policy statement, and although it is not relevant to Northern Ireland because ports policy is devolved here, it should not be forgotten that the trade forecasts for the entire UK show strong growth in port trade until 2030. On the island of Ireland, ports are an important economic barometer of what is happening in the economy and are a very important economic driver for local regions. That creates the context within which the port development plans will be submitted, and it is another part of the planning framework.

Finally, it should not be forgotten that a considerable amount of legislation already protects our coasts, including the habitats directive, the environmental impact assessment regulations, the water framework directive and the soon-to-be implemented marine strategy framework directive (MSFD), as well as the UK marine policy statement. They all introduced tough regimes on environmental standards, including for water quality and impacts such as underwater noise, marine litter and non-indigenous species.

Ports will be involved in one way or another in all these initiatives. Indeed, all the ports in Northern Ireland have been involved in environmental impact assessments for many years. In Warrenpoint, for example, we hope to build a new 200-berth yachting marina, and we have produced a thorough and comprehensive environmental impact assessment for that. We are very conscious of our responsibilities to the environment, and we work very closely with the environment.

If I may digress for a moment, I will distribute to members copies of the accounts for Warrenpoint harbour, which were published just last week. Members will see from the photograph on the front cover that we are in an area of outstanding natural beauty in the Mourne mountains, and we value that. My management group and I take the very strong view that business and industry can, should and must work in harmony with the environment. However, we are also required to run businesses. I am digressing, because I am familiar with my own port, but we employ more than 200 people of all shapes and sizes in the Newry and Mourne region in management and blue collar jobs. We have to ensure not only that we all work in harmony with the environment but that these jobs are protected and preserved so that there is a balance between the requirements of the Marine Bill and those of business and industry.

Nevertheless, as we say in our statement, we support the principles of the Bill and believe that, if it is implemented in the right way, it should make a helpful contribution not only to conservation but to ensuring that the planning regime is efficient and fit for purpose. We do not seek to make any amendments to the Bill at this stage, as we believe that the real test will come when it is implemented. I will go over this quickly, but one area that we are particularly concerned about is the marine plans. We are of the view that there should be a single plan covering the whole of Northern Ireland. The word "plan" is potentially misleading, as it suggests some kind of blueprint for the coast, whereas we support coastal mapping that gives, for example, a full description of current activity, protected areas, proposed developments and so forth so that it can inform the planning process.

The plan should not change the role of government in new developments. The commercial initiative must remain with the ports. There are no indications that the Government would want to have such a responsibility, but it is important that the plan is the framework, not the blueprint, from which everything else flows. In fact, all those principles have been carefully nurtured in developing plans in England.

A difficulty with marine plans is the number of stakeholders that are potentially involved. We know that a statement of public participation is required, and we have no problem with that. However, there can be great difficulties in analysing a huge volume of responses and assessing their significance. There needs to be some system of weighting so that a proper balance can be struck. Again, that has been a significant issue with the first English marine plan, so, no doubt, officials in Northern Ireland should keep in touch with their counterparts in England.

Finally, we are very much of the view that the plan should be completed before any marine conservation zones (MCZ) are identified. There should also be a sufficient opportunity for proper consultation on the sites and their effects, particularly where it is probable that site protection will have a serious impact on commercial activity. The Bill requires that the identification of sites also takes economic and social considerations into account. Final decisions need to take into account the UK marine policy statement, which acts as a guide, and consideration needs to be given to where there is a site that could be designated and to the effects that that would have on a planning application. It is

important that planning blight is avoided, but I am sure that that is something that you find from your responsibilities across Northern Ireland.

The Department of the Environment's marine position paper makes some very important links between the marine and terrestrial areas of planning. Although this is strictly not part of the Bill, we hope that, when marine plans are in place, the opportunity will be taken to ensure that there are good links so that marine development is complemented by developments on land.

Where our port in Warrenpoint is concerned, we are very keen for the Department of the Environment to progress links with the Department for Regional Development (DRD) to the ports, particularly the southern relief road around Newry, which is a dreadful bottleneck for us to have to contend with. There are major environmental advantages to having that dealt with. There is a proposal for another crossing near Warrenpoint harbour, but that is not the one that we would propose — our concern is the southern relief road.

All in all, we believe that real opportunities are presented by the successful passage and implementation of the Marine Bill, so we are in favour of it. Experience in other parts of the UK can certainly be used to pre-empt problems.

Mr David Knott (Belfast Harbour Commissioners): I represent Belfast Harbour Commissioners, and ours is a trust port. Without going over the statistics, which are in our written submission, it is probably worth making the point that we are Northern Ireland's principal maritime gateway and that we handle about 60% of the trade coming into and out of Northern Ireland, as well as, increasingly, trade to the Republic. We currently handle more than 17.5 million tons of produce in a year and well over 300,000 passengers travelling in and out through the port. Therefore, ours is a critical piece of infrastructure for the Northern Ireland public.

Belfast Harbour Commissioners welcome the Bill. We have a few concerns, and Peter alluded to some of them. We raised those concerns in our written submission and in prior consultations with the Department of the Environment. The key thing is that we look forward to a common-sense approach to marine planning, licensing and enforcement, and we probably have a one-off opportunity here to get this right. We are aware that there have been problems in some of the other jurisdictions, and I hope that we can avoid those by the way that we introduce the Bill here.

It is important that the Bill recognises and does not impede the vital role that ports play both for the Northern Ireland population and in our economy. From a harbour authority's point of view, it is important that matters of navigational safety are not compromised. It is essential that the Bill takes that into account, particularly when the marine plans are put together. Nothing in the Bill should be allowed to diminish navigational safety measures, especially those that are already in place.

We feel that the marine conservation zones need careful, thoughtful and extensive consultation. We recognise their necessity, and, like Peter and his organisation, we live with the sea and appreciate its value. So, we are not anti-environment by any stretch of the imagination; we want to work with our environment for everybody's benefit. It is very important that the selection and designation process for marine conservation zones is based on the consistent application of sound science, particularly sound scientific data. That needs to be done in accordance with agreed and published policy, some of which is already out there, and it must take account of essential socio-economic factors. One of the lessons that is coming out of the implementation of the marine conservation zones in England is that those socio-economic factors become very important when selecting sites, particularly when comparing two possible sites. The general experience of some English ports in this area has not been good. In some cases, we know that scientific principles have not been followed, and, in other cases, the physical conditions that prevail on sites have not always been given appropriate consideration. Again, it is very basic stuff, but it is very important that, when we get into designating these sites, we do it properly. We should also take a top-down approach so that we work within the policy rather than put the cart before the horse. As Peter said, we should not designate marine conservation zones and then look to see whether they fit the policy; they should be developed in accordance with the policy.

It is particularly important from our point of view, as well as for a lot of other commercial interests and that of the public in Northern Ireland, that the establishments of those marine conservation zones do not impact negatively on port operations and essential port development. Of course, those comments apply not only to marine conservation zones but to other developments as they come along. Navigational safety in particular needs to be taken into account for any development in the marine environment.

In all those situations, the key to success essentially involves effective consultation processes, and we have seen that with a number of other activities in recent years here. In related environments, for instance, the offshore renewable energy strategic action plan provided a very good example of good consultation. All the stakeholders came together and engaged, which is a prerequisite for a successful outcome. So, it is very important that those consultation processes are characterised by transparency and open stakeholder dialogue. We need to be able to speak honestly to each other in an open environment.

To ensure overall coherence, it is important that the Bill recognises and takes account of the UK marine policy statement, which we referred to, and the national ports policy statement. Again, we have two areas of agreed policy, and it is very important that we do not stray outside those. We also need to ensure that, as the marine plans come into play, they are synchronised with other marine spatial plans either in this or other jurisdictions. We believe that the document creates the potential for emergency by-laws to conflict with some existing policies. Although we understand the need for emergency by-laws, their designation and use needs to be very carefully controlled so that they are not used as a vehicle for operation outside the agreed policies.

The Chairperson: Thank you very much. You both certainly gave very thorough presentations and made a lot of valid points. I appreciate your point about wanting the Bill to take cognisance of existing strategies. How do you feel that we can best make the Bill work with the existing strategies, including the UK policies and other pieces of legislation that you mentioned, so that your activities and development will not be negatively impacted on?

Mr Conway: Experience has shown us that there are sometimes clashing interests. For example, in Carlingford lough, where I work, we have two jurisdictions. We have significant fishing interests, particularly mussel fishing grounds, and a commercial port. We also have tourism interests and responsibilities. However, all those are beginning to come together, and, as David said, consultation and communication are the answer. If we look on the Marine Bill as a good foundation for all those partners and parties to work together, it can and should be welcomed.

Already in Carlingford lough, for example, the Loughs Agency has taken into account the concerns of the shipping channel, so the designation of the mussel farming area has been pulled back from the channel. Heretofore, it was right up against the channel, but that was not suiting the fishermen and certainly not the navigators. As we all talk together and communicate, using something like the Marine Bill as a base could benefit all parties.

The Chairperson: We have certainly seen good examples from Scotland. They have engaged to a great extent with the fishing industry and other stakeholders.

Mr Conway: The Northern Ireland environment and heritage service has to be complimented for the way that it engages with the ports. I have mentioned dredging to some of the representatives here. It is a very costly exercise, and some of our competitor ports have to dredge 24/7. That includes many ports in the south of England, such as Dover, as well as Heysham, where we have the direct link to. However, Warrenpoint and Londonderry have to dredge only every six to seven years.

We just completed a £1 million-dredging programme to maintain the channel and ship fairway, but we have some concerns about the disposal of the dredged material. We are required to take it to what we would call a dumping ground — it is called a disposal ground now, I believe — seven miles off the coast. That is a major cost in fuel, as you can imagine, and it is not very good for the environment. We believe that that material, which was generated by glaciation 60,000 years ago, should really be brought ashore and used for agriculture purposes or land reclamation or even put back into the river further upstream. So, that is just an example, and, in fairness to the people who grant the Food and Environment Protection Act 1985 (FEPA) licences, they are quite prepared to engage on that issue, but we need to move it along a little bit. Again, that is an example of communication. So, the Marine Bill could be beneficial if it helped us with such issues.

Mr Boylan: Peter, you are very welcome. I would like that question to be put to the Department, because the point about dredging is very valid, and perhaps we could look at it. That may make it more beneficial for the areas that are opposed to it. Perhaps we can get a response from the Department on that specific point.

You highlighted a number of issues, and I will pick up on four of them. Either of you can answer. You highlighted your concerns about by-laws and how they can work better. You highlighted clause 14(6),

which deals with designations, and you said that you are concerned about designating an area where there is an "urgent need" to do so. Can you comment on that?

You asked how licensing would impact on activities, and you discussed the relationships that are involved in designating MCZs through, for example, the British model. What have you learned from that model, and what can we learn?

Mr Knott: Following on from what we were saying in the lead-in to this, I will make a point about dredging. I reinforce what Peter said about it, which was that the Northern Ireland Environment Agency (NIEA) does a pretty good job on licensing. We have found that it is easier to talk to, it knows what it is doing and it has a very competent team. That is very important from our point of view. Under the water framework directive and within a programme of measures, a series of objectives has been established. One of those objectives is to develop a maintenance dredging protocol for Northern Ireland. That is very important to the major ports, and it could be quite significant to some of the fishing ports, such as Kilkeel, which needs to carry out dredging, if not every year, quite frequently. The idea of having a maintenance dredging protocol is that there will be an agreed baseline for ports that are required to carry out maintenance dredging so that we know when and how we will dredge and what the impact of that dredging will be. Subject to no significant changes in that environment, rather than having to go through a detailed application process or, quite possibly, an environmental impact assessment (EIA) for certain projects, we could work within the dredging protocol. From our point of view, it would cut down on red tape, and it would give the public and other interested parties the confidence that we are working within a set of agreed guidelines and to standards. From the Northern Ireland Environment Agency's point of view, it would cut down on repeat work for it. To us, that is important, and I think that we should take every opportunity to progress that particular protocol. Again, it needs to be done in a consultative manner, and it will be a confidence-building measure for everyone.

I will go back to the by-laws. We do not have big issues with the majority of the Bill, but in our written submission, we picked up on a few clauses that might be open to interpretation or that perhaps need tightening up a bit. One of those is the clause on emergency by-laws. We felt that the way that that clause is worded is all-encompassing, and I know that I used the word "draconian" in the submission. As it sits, it could be implemented with no consultation at all. I think that consultation is important, even on emergency measures. Everybody appreciates that emergencies occur and that we have to take urgent action. We would not want to delay such action. However, I still think that a degree of consultation is necessary before that type of by-law comes into being to check whether it is in line with the policy agreements. We cannot have somebody just stepping outside the rules on a whim or because of unproven evidence.

Mr Conway: We could see situations where, for example, an emergency by-law to restrict the use of jet skis in harbour areas could be beneficial. So, it is not as though we do not recognise that there are situations where that could be beneficial to ports. Following on from what David said, we would be concerned that something like that could be put in place without consultation. In that case, there could be consultation with boating organisations, and so on. So, it cuts both ways.

The Chairperson: I presume that that clause is really a general provision that could be used to implement a by-law in the case of an emergency, such as sudden pollution. The provision will be very rarely used, but it is there so that the Department can act in an emergency. I would say that it will not be used willy-nilly.

Mr Boylan: On that point, I would argue that it is about the proper management of activities and everything else. I know that that is the key to it all.

Mr Knott: I just want to develop the point about proper management, although I might be digressing a little. Again, I know that we certainly made that point in our written submission. One of our concerns is about the need for appropriate consultation prior to the designation of marine conservation zones.

At the same time, management controls need to be put in place to manage a marine conservation zone once it is in place. I know that this will be a thorny issue, but those two activities really need to be carried out more or less concurrently, because it is very difficult to respond to a consultation on a conservation zone without knowing what measures need to be applied to protect it.

Again, the marine environment is very dynamic. I appreciate that, because the marine environment continuously moves and species move, some zones may not be cast in stone physically. I certainly

expect that to be the case. I am sure that there will be requirements to allow for that. When we consult, I think that it is important that we have a good idea of the type of management controls that will have to be put in place so that we get a real idea of the actual impact of designating an area.

Mr Conway: I think that it is true to say that, over the past 20 years, the management of ports worldwide, particularly in the Western World, has improved to the extent that we genuinely recognise that environmental issues are an important part of business. You will see that when I distribute my report. Believe it or not, I am an economist by profession, so I know that from a business perspective, you can, in fact, demonstrate that good working relations with the local community and environmentalists are beneficial to the bottom line. I think that business and industry have woken up to that in the past 20 years.

I just want to give you a couple of examples from our area. We are the second commercial harbour in Northern Ireland. We have a container service to Cardiff and Bristol, and we have a twice daily roll-on roll-off service to Heysham. However, we also have a fishing fleet, and we now have plans for a 200-berth yachting marina. So, we have tourism, fishing and commercial sectors all working together, side by side. The tourism side of it would not work if we were damaging the environment.

So, there are three legs to the table. I know that Belfast is also developing plans to open up the harbour to the community more and to create recreational uses for harbour facilities. We have the return of species such as the heron to Carlingford lough, and we have black guillemots. We have even put in nesting boxes ourselves. So, it would be incorrect to assume that business people are negative and are not prepared to work with environmentalists. It is really quite the opposite. That is why we welcome the Bill but pose a few questions that remind people about the jobs that are involved and the importance of the economy and that say that we should all work together.

The Chairperson: Absolutely, and you are right: the environment and business activities are interrelated. If the environment is damaged, business activities could be diminished.

Mr Boylan: You did not respond to the question about licensing.

Mr Conway: David may want to answer.

Mr Boylan: I asked whether licensing would impact on your activities. Are you happy enough with the licensing elements?

Mr Knott: From a Belfast point of view, licensing works fairly well at the moment. It has undergone a review over the past two to three years, particularly since the national Marine and Coastal Access Act 2009 has come into place. Certainly, our main requirement would be for licences to dispose dredging materials at sea. Again, our situation differs slightly from Peter's in that a lot of our dredgings are not what could be classed as high-quality aggregates. Much of it is Belfast sleech, which is a not particularly nice material that does not have too many uses on land. However, if we dredge in areas where materials are reusable, we should look at having a little extra flexibility to enable us to reuse materials. That fits into other government priorities.

The ports and harbours are keen to do that. As far as climate change is concerned, we are on the front line, as we are at that interface between the sea and land. So, when we get into changing sea levels and so on, we really will be the people standing on that front line who will face that situation daily. We are not averse to doing what we think is right, particularly if it involves cutting our carbon footprint through reusing materials and reducing waste etc. We believe that that is the right thing to do. As Peter said, we probably need a little more freedom in the legislative regime. That may not apply to us so much, but NIEA officials could be given a little more room for manoeuvre through active management rather than passively working to a prescriptive list.

Mr Conway: The officials in the environment and heritage service are very prepared to engage and are very constructive. They do not hold up any applications for licences. They are familiar with the ports' requirements, and they work closely with us. The monitoring buoys are established and put in place when required. We really have a good working relationship with that organisation. However, I believe that disposal at sea is something that the service has inherited, and, in a way, it is blocked from changing it. We believe that there is now an opportunity and that the service would support looking at it. That may not be required in all ports — maybe not in Belfast but certainly in Derry — where the dredging material is mainly sand that can be used for beaches, for example. In our case,

where the material is organically good, it could be used for farming rather than being taken seven miles out to sea, which is expensive.

We are on the front line of other environmental issues. We are looking at the servicing bases for the potential wind farm operation off the County Down coast, and we are involved in the potential development of biomass. Of course, when you look at transport and at its costs and environmental and carbon footprints, what they call "short sea shipping", which I would not recommend anyone saying in a pub late at night — *[Laughter.]*

Mr Elliott: You would need to know what you are doing at that minute.

Mr Knott: Yes, exactly.

The Chairperson: I would not try to say that even in the daytime.

Mr Conway: Nevertheless, the view in the ports industry, and certainly in the BPA, is that getting more goods on to ships and using them to carry a lot more than trucks would have a major impact on reducing the carbon footprint. Goods could be shipped back and forth between this island and Great Britain and within this island, for instance, from Belfast to Cork.

Mr Hamilton: Peter has sort of answered my question. I was going to ask whether it was fair to summarise your position as not being against the Bill but supportive of it, while being wary of how it would be implemented. That seems to be the view that probably everybody that we have had before us has had. That view has questioned who will not subscribe to a Bill that is going to protect the marine environment much better than previously, but the suggestion has been that in doing that, we should be careful of how the Bill will impact on their fishing or shooting businesses, for instance. That seems to be a fair summary of your position as well.

I will move now to the emergency consultation. I cannot remember whether that came out in evidence that we heard a couple of sessions ago, but the shooting and country sport sector might have been concerned about it as well. I think that others might have been concerned about that as well. People were concerned that something could come in all of a sudden and that, perhaps, another incident could be slipped in under the guise of being an emergency even though it was not. They were suggesting that a telephone call might be sufficient consultation in such circumstances. As the Chair pointed out, there is not going to be any discussion or debate about what is going to happen in a pollution incident, but it would be nice to be told about it, rather than have it happen. Is that what you think?

Mr Conway: I have to be honest. Pollution incidents happen from time to time, and we are trained on oil-spill response initiatives. Primarily, we rely on our own by-laws and our ability to handle such situations. We certainly would not be sitting back to wait for government to come in to deal with it.

Mr Hamilton: That would be bad for your business.

Mr Conway: Yes. If it goes wrong, we get a lot of bad PR. We had a fishing vessel sink about three years ago as it was leaving the port. A team managed to get alongside it, and it sank along the berth. There was a small amount of pollution, but we had to engage our own team to put out the absorbent buoys and to work with it. We tasked the oil-spill response people from Southampton to come to the port, but we had the job done by the time that they got there. That is the way that ports have to operate, even if it is beyond their harbour limits. We have that particular responsibility in Carlingford lough, where it is not altogether clear who is responsible. There is a Southern jurisdiction connection, but we have made an agreement that we will go and handle the issue and sort out afterwards who should pay and so on.

Mr Hamilton: That is exactly the way that it should work in practice. Consultation has come up, but, in some circumstances, you could envisage that it is more that information is being given in a situation than a consultation taking place, because it is a genuine emergency. You would only want to see it used in genuine emergencies and not as some sort of ruse to do something that perhaps otherwise could not be done. We talk about consultation, and we are used to 12 or 16 weeks of consultation in this part of the world. In this case, however, it is of more benefit to say, "Something has happened; this is what we are doing." It is not as though it will be non-negotiable, but you could have an input. In such circumstances, you could ask, "Have you thought about this? Could you do it this way?" It is not

something on which there will be discussion about whether it is going to happen; it is going to happen and it has to happen, because it is an emergency. You will be telling people so that they will know how it will impact on their business. You might be able to feed in to that in a positive way. However, it is not consultation in the sense of taking a couple of weeks.

Mr Knott: I am sorry, Mr Hamilton, can I just clarify our comments on that? We were discussing emergency situations, such as oil spills. I agree fully with Peter. We have very comprehensive plans in place. They are tested regularly, we work with others and we consult on those plans when they are put together before they are needed. I would not see that type of emergency as the real issue. It is more a situation where somebody has reported, let us say, a species of a particular fish living in a certain area. That species may be extremely rare, and it may need to be protected now. That is where we come back to the idea that it should not be a shutters-down approach; we need to look at the science and the controls that are required. That will necessitate consultation and a consideration of what people may or may not need to do to protect that species. That is the sort of scenario that I envisaged.

Mr Hamilton: I agree with you. An emergency, in my view, is not that a species has been found. That is not an emergency in itself, because it could be happening with others somewhere else. You need science and an assessment of the situation. If something is there and can move on and go somewhere else, what is the point of designating an area?

These points are all for clarification with the Department, and we will do that and take them forward. I would not see that situation as an emergency in the same way as I would see a pollution incident, an accident or something like that as an emergency.

The Chairperson: I certainly agree with that. I doubt whether the Department would shut the whole place down if we saw blue whales or humpback whales in Carlingford lough.

Mr Hamilton: How do you draw a line round it? The line keeps moving.

Mr Boylan: That has raised an interesting point. We need to clearly identify the roles and responsibilities. You could have your management plans and everything else, but when there is an emergency or a case such as that that David described, we need to look at it from the point of view of this Bill. In the past, people have said, "It is somebody else's responsibility.". All those guidelines on who has to act in each situation need to be handed down.

The Chairperson: We need clarification of what is categorised as an emergency that will trigger that by-law and of the grounds that are going to be used for it.

Thank you very much, gentlemen, for your very thorough presentation and for the dialogue with us.