

Submission to the Environment Scrutiny Panel: “Energy from Waste Plant and Ramsar: Review of Planning Process”

from the Marine Biology Section of the Société Jersiaise

The section had raised concerns in 2008 when the Integrated Coastal Zone Management Strategy was published and forwarded the following comments to the Planning and Environment Department in regard to pages 11 and 12:

A2: Will testing of marine life especially commercial species be undertaken to monitor any possible build up of pollutants? Positive results would prove valuable in promoting the islands waters and the commercial species within it should they merit it.

A3: There is no mention of air based pollution on and offshore, with the placement of the proposed incinerator on the coast will it have a full environmental impact assessment on the adjacent RAMSAR site? The Minister of TTS assures Islanders that most of the outfall from the incinerator will fall upon the sea and the coast, given that the south coast produces a great deal of the Islands fish and shellfish there may be some unforeseen ramifications of the current and future uses of La Collette area.

BBC radio Jersey interviewed the chairman on the 20th October, 2008 and later published the following: “Fears over impact of incinerator - Environmentalists are calling for research into the impact of Jersey's planned new incinerator on wildlife.”

<http://news.bbc.co.uk/2/hi/europe/jersey/7679809.stm>

In 2009 the chairman as part of the “Fisheries and Marine Resources Advisory Panel” raised the issue of the testing of commercial species which appears to never have been undertaken locally, as yet there appears to be no initiative to undertake this, and the section feels that there is an obvious need to carry out such testing all be it to establish some baselines, and compare with national and European testing regimes.

As part of the online consultation of the Strategic Plan 2009 the following was asked -

Question: Can the Ministers reassure the public that local seafood for example Bass, Lobster, Crab, and Ormers are tested for toxins and are safe for human consumption, and how often such testing is undertaken?

Answer:

Farmed shellfish is regularly tested but there is no routine testing for wild fish.

We have no reason to believe that there is a problem but we are of course vigilant in this area.

We are confident that our waters are very clean.

It is worth noting that Don Thompson spokesperson for the Fisherman’s Association rates the quality of local waters as a major promotional issue for the sale of local fish and shellfish, the section would add that a clean bill of health through recognised monitoring and testing would back up and enhance such statements. And regarding the Ministerial comments how can they substantiate that there is not a problem without testing? It is also worth bearing in mind that most wild and even some farmed

shellfish will at sometime be stored in waters adjacent to La Collette as the nourrices near Elizabeth Castle and the viviers on the Victoria Pier serve this purpose.

The Island as a signatory to the OSPAR convention should be guided by the following principle on their website:

“By virtue of the precautionary principle, preventive measures are to be taken when there are reasonable grounds for concern that human activities may bring about hazards to human health, harm living resources and marine ecosystems, damage amenities or interfere with other legitimate uses of the sea, even when there is no conclusive evidence of a causal relationship. A lack of full scientific evidence must not postpone action to protect the marine environment. The principle anticipates that delaying action would in the longer term prove more costly to society and nature and would compromise the needs of future generations.”

http://www.ospar.org/content/content.asp?menu=00320109000065_000000_000000

The section chairman who also sits on the Executive of the Société Jersiaise is only aware of a minor environmental assessment that was undertaken by the Environmental Department and was chiefly of a botanical nature regarding the plants in the vicinity and made little or no reference to RAMSAR area. At no time was the section consulted on the impact that the incinerator would have on the adjacent marine habitat and the species that frequent it.

Although not so much of a marine biological nature we think the visual vista of the south east coast will be diminished and tarnished by such a building and its related activities especially when you look at the comments regarding St Aubin's Bay within the 2002 Island Plan:

“Location: The wide sweep of St. Aubin's bay is bounded by Noirmont Point on the west and Elizabeth Castle and La Collette promontory on the east.

The whole area is defined as a Marine Protection Zone. It is recommended that the St. Aubin's Bay Intertidal area should have the highest level of protection with a presumption against all forms of development.

Even minor developments such as temporary beach kiosks, navigation aids, signs etc, will need to be sensitively designed and located.

Very high marine biodiversity

The sheltered bay is also a very important nursery area for commercial fisheries”

The section think the following case highlighted in an e mail may have some bearing on the situation in Jersey:

Subject: [Ramsar Forum] "Ramsar soft law is not soft at all"

Date: Fri, 9 Jan 2009 14:09:44 +0100

From: peck@ramsar.org

In 2006, the Competent Authority of Bonaire in the Caribbean Dutch territory of Netherlands Antilles permitted the construction of a resort in proximity to the Ramsar site "Het Lac", and the Governor annulled that decision, largely on the basis that it infringed upon Article 3 of the Ramsar Convention and Resolution VIII.9 (2002) on environmental impact assessment. Following Bonaire's appeal to the Dutch Crown, as reported by Eric C. Newton

(http://www.ramsar.org/wn/w.n.bonaire_2007.htm) in November 2007 the

Crown supported the Governor's decision and argued that resolutions, decisions and guidelines accepted unanimously by the Conference of Parties to the Convention, of which the Netherlands is a signatory, must

be considered part of the national obligations under the Convention.

Prof. Jonathan Verschuuren, vice dean of the Tilburg University School of Law, has translated the case law annotation and provided his own commentary on the significance of this decision. He notes the Crown's conclusion that the Governor was justified in using his authority to guarantee performance of the Kingdom's obligations under the Convention and stresses the importance of the finding that, in line with Article 31 of the Vienna Convention on the Law of Treaties (1969), the "soft law" of COP resolutions intended to interpret the treaty's commitments must also be fully taken into account.

Prof Verschuuren's paper "Ramsar soft law is not soft at all" can be downloaded (PDF) from http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1306982 , and he has kindly allowed us to include it on our site as well (http://www.ramsar.org/wurc/wurc_verschuuren_bonaire.pdf). I recommend it.

Best regards, Dwight Peck, Ramsar

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