

Jersey Marine Spatial Plan - Consultation Response

The Plan in itself is just a 'plan'.

Without a requirement to enact the Marine Spatial Plan (MSP) it achieves nought.

Unfortunately Jersey has history, particularly where the environment is concerned, of making plans (or, in the case of Ramsar, committing to carry out plans embedded within an international agreement) and then failing to ensure that the plans are enacted i.e. brought into being.

Failures

Examples of the failure to enact a plan or accord with the Law or International Agreement include:

- the agreement with Ramsar (see above)
- the construction of an incinerator at La Collette (cause of a major pollution incident)
But worse than this, Environment has even failed to make plans with accountable actions for such matters such as:
 - the dumping of waste asbestos far in excess of the quantity for which there was approval
 - the ongoing nitrate pollution resulting in vast quantities of sea lettuce blighting beaches
 - the ongoing pollution of Island waters by "forever" chemicals that are allowed to remain in situ.

It is unwilling to attach its responsibility and accountability to plans which are desperately in need of being carried out..

Why

Why is that that Jersey fails to protect the environment, even when it has "promised" to do so?

The answer in part is that no requirement is placed on the relevant post holder to ensure compliance, merely an opportunity to do so if he/she wishes to act.

Page 43 of "Jersey Marine Spatial Plan Legislation and Policy Review" prepared by Terra Mare (environmental consultancy specializing in regulation, strategy and policy) for the Government of Jersey late in 2022 and included in the list of reports on the Government's web pages concerning the MSP includes:

"Whilst not specific to a MSP there is a lack of co-ordination when assessing and implementing new International Agreements, new protocols or amendments to International Agreements already ratified and extended to Jersey.

An extension of this point is that operational delivery of any International Agreement to which Jersey is party, should be reviewed on a regular basis. This is particularly important as the majority of Jersey's commitments lie in policy as opposed to legislation. There is a reputational risk to the Island if it is not able to evidence either regulatory or operational equivalence to commitments that Jersey has agreed to implement."

The MSP is well structured and should be welcomed however there is a distinct possibility, if not probability, that it will do more harm than good.

Jersey has plenty of experience of signing-up to conventions and treaties; evidence for this is clear from the “International Commitments” sections in each of the 11 areas included in the Terra Mare Review. Each section continues on to list the legislation intended to ensure compliance the treaty etc. It is here that the first cracks appear - the relevant Laws at best “enable” or “allow” the Official (Minister) to act, they do not require him/her to do so. A typical phrase used is “shall have regard, as far as is reasonably practical” (Water Pollution (Jersey) Law 2000).

This lack of “requirement” is then compounded by having zero separation between the Official, i.e. Regulator and the provider in many cases. The regulator is a “Captive Regulator” i.e. one that “marks their own homework”. Not surprising then that we judge ourselves to excel at environmental matters and can proudly present all these treaties etc. that we are signatory to.

Why did I suggest that the MSP could do more harm than good? Because it would add to the perception that Jersey is so good at agreeing to treaties and conventions, but once signed up, “job done, nothing more to do”.

Please re-read the last paragraph, page 43, of Terra Mare’s review referred to above. It says so much about the scant regard to the environment which Jersey actually pays.

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