Consultation

1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

Yes informal consultation through Scottish Government Islands Strategic Group.

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?

Please see comments under Q4 below.

3. Did you have sufficient time to contribute to the consultation exercise?

The consultation was issued over the summer holiday period which is always a more challenging time to co-ordinate a response due to periods of leave and summer recess and makes it impossible to place any proposed response before a formal meeting of the Council.

Costs

4. If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

The more detailed, lengthy and formalised the processes that are introduced as a consequence of the Islands (Scotland) Bill, such as islands proofing, the greater the resource implication on the Council's current limited resources.

There is also the issue of cost/resource implication if a differential impact is demonstrated and mitigation is required in the form of new policies, processes or procedures. Whilst it is fully appreciated that this is difficult to quantify it is something that we feel should be recognised and potential resources made available by SG if the case can be demonstrated. The costs to a local authority should not be calculated on the same basis as all the other public bodies listed. As an example, Argyll and Bute would have a far greater workload arising from the legislation than a body like Bord na Gàidhlig, yet the Financial Memorandum seems to suggest the costs would work out the same. In addition, I am not sure it can be reasonably argued that it will cost the Scottish Government 44 times more than it costs any of the local authorities to undertake the same duties. It is noted that the Financial Memorandum states that the follow up mitigation is considered to represent good practice however this doesn’t take into account any potential additional costs of mitigation which could be significant given the number of inhabited islands (23) involved. The impact on political governance arrangements and the costs associated with these are also a factor for us to consider in regard to resources.
The Bill states that island impact assessment would be applicable to the development, delivery and redevelopment of policy, strategy or services. It would be helpful to get clarification that there would not be an expectation on the Councils to undertake this retrospectively for existing policy, strategy or services where there was no proposal by the Council to review or redevelop in the short/medium term. If the latter is not the case then there could be much greater financial implications for the council. A realistic timeframe would also require to be allowed for this scale of review.

As a local authority delivering services to both mainland, including remote rural, and 23 inhabited island communities, all of which are different in regard to the issues that the communities face and the needs that they have, there could be a significant resource implications for the council especially if a full islands assessment is required for the development, delivery and redevelopment of every policy, strategy or service and if mitigation is required. Clarity should be provided that island proofing should not be taken to imply the same level of service provision in all areas of the authority. For illustration the Council does not have a leisure centre in all of its islands and the costs of making this provision would be prohibitive. That same assessment could be made across a wide range of service areas. The key point is that the costs of island proofing is not solely in the assessment but to a greater extent in the observance of rural proofing which is what makes the clarity on what is meant by rural proofing all important.

The time taken to island proof for a solely island-based authority will be different from an authority with a mixture of island and mainland areas. It could be argued that an authority that is solely made up of islands will already be automatically undertaking island proofing in a way that an authority with a mixture of islands and mainland currently may not. It will also depend on how those authorities are organised - for example an authority with a mixture of centralised and area based decision making will find it more time consuming than a purely centralised authority; and lastly, but not least, the size of the authority and number of inhabited islands may also have an impact.

As a Council we welcome the potential to have greater control over development and activity within the marine waters adjacent to our islands and coastline and recognise benefits in terms of: more local decision making and accountability; increased transparency; and streamlining of the overall consenting regime, including greater alignment with Town and Country Planning. We do not therefore have any objections in principle to the inclusion of this additional regulatory power into the Bill. However it does seem at variance with the objective of streamlining the consenting process in regard to development within the marine environment. Whilst Shetland and Orkney Councils, through their current works licensing regime, already undertake this role, albeit that it does not cover the entirety of the marine area and there is currently no charging regime in place, this would be an additional consenting requirement for those seeking to engage in development in the marine environment in Argyll and Bute. If as a Council we decided to take in this consenting regime we would seek to cover all "actual" as opposed to "reasonable " costs and would ask that the wording in section (18) be amended to allow for this to be the case as this would be more specific and less open to interpretation.
The draft Bill introduced to Scottish Parliament has maintained the same proposals for a marine licence system as presented in the consultation on a draft Bill. The proposals are therefore still for an Island Development Licensing Scheme to be a separate licence in addition to all the other regulatory consents (including marine licence, planning, crown seabed lease, Section 36 etc.) which for a local authority which currently does not have a works licence scheme appears to have little added value and presents an additional layer of bureaucracy and cost to developers. It should be noted that many types of marine development which could be covered by such a scheme currently require planning permission and therefore we already have a degree of control – this would include aquaculture development (not seaweed), or any development which is attached to the land or part of it is above low water (marina, pontoon, slipway, pier & harbour development). Types of marine development which would not require planning are – marine renewables, subsea cables & pipelines, offshore oil & gas, moorings, aggregate extraction and dredging.

The costs of an Islands Development Licensing Scheme would depend entirely on the agreement of the scope of the scheme with Scottish Ministers i.e. what types of development would be included and how many applications would be expected over a 12 month period. Based on the Shetland model the Financial Memorandum estimates an annual cost of £75,000 covering 6-7 licences.

The Council is not consulted on all marine licences at present so we do not know how many applications there are for marine development in our area. We can therefore only estimate of the number of marine licence applications Marine Scotland might receive in a year for our area for some development types.

Aquaculture – 15
Coastal Development (Marina/pontoon/slipway/pier) – 25
Marine renewables - 2
Subsea cables/pipelines - 3
Moorings – Unable to quantify
Dredging -Unable to quantify
Offshore oil & gas – 0
Aggregate extraction – 0

If the council decided to undertake a licensing scheme covering all types of marine development we might expect upwards of 40 applications a year. This would likely cost at least double the £75,000 estimated in the Financial Memorandum which was based on the cost to Shetland Council. This is not considered to be sufficient to cover the costs to Argyll and Bute council.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

See above.
6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

Any additional costs to the council resulting from the introduction of the Bill and the resulting impact on our limited resources should be fully met by the Scottish Government.

7. Does the FM accurately reflect the margins of uncertainty associated with the Bill’s estimated costs and with the timescales over which they would be expected to arise?

The council do not consider that the costs relating to the introduction of the marine licensing regime would cover the resulting costs to Argyll and Bute.

Wider Issues

8. Do you believe that the FM reasonably captures any costs associated with the Bill? If not, which other costs might be incurred and by whom?

Given that this is a new piece of legislation and it is difficult at this stage to quantify what the actual impacts will be and the resulting costs it is considered that there should be an on-going review of the financial impact as the Bill and associated legislation is rolled out.

9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

Before providing an answer to this question it would be necessary to have the details of what provisions would be enacted by secondary legislation – they could be financially insignificant or significant. We would prefer to see a commitment in the Financial Memorandum that a separate assessment would be undertaken in consultation with the island authorities on any new requirement introduced by statute or regulation and addressed on the premise that all additional costs require to be fully funded.