

## **APPLICATION FOR CONSENT FOR WORKS AFFECTING WATERCOURSES EXPLANATORY NOTES**

### **1. INTRODUCTION**

The Manx Utilities Authority, under the Flood Risk Management Act 2013 (“**the Act**”) has a general supervisory role in relation to all matters concerning Flood Risk Management. Included within this role is the granting of permission pursuant to section 20 of the Act to undertake works affecting designated flood risk management works, designated watercourses or watercourses.

In broad terms, under section 18 it is a criminal offence to undertake works to or which effect designated flood risk management works or, designated watercourses without permission from the Authority. Under section 19 it is a criminal offence to undertake works to or which affect watercourses without permission from the Authority. Copies of these provisions are set out at the back of these notes.

The policy aim in requiring the Authority’s permission before carrying out works, in, over, under or near a watercourse or flood defences is to ensure that any works do not endanger life or property by increasing the risk of flooding or cause harm to the water environment.

Please note when making an application it is essential to fill in the application form accurately and for any accompanying information, including drawings, maps and calculations submitted to be clear. Further details of the information required by the Department are given in these notes. In order to ensure that proper details are submitted, you may wish to discuss the information required with our officers before you make your formal application.

### **2. HOW TO MAKE AN APPLICATION FOR CONSENT**

**The following notes should assist you in the completion of the application form and the submission of supporting documentation:**

- **Details of Applicant**  
The name of the individual, organisation or company applying for consent should be given along with the name, address and telephone number of a person who can be contacted during office hours to discuss the proposals.
- **Agent’s Details**  
Agents acting on behalf of an applicant should enter their details. If this section is completed, all correspondence will be sent to the Agent. Leave blank if not applicable.
- **Applicant’s Interest in Land**  
Please state the applicant’s interest in the land, i.e. owner, tenant etc.
- **Location**  
The name of the watercourse as shown on the Ordnance Survey or Department of Infrastructure (DoI) maps should be given if known, (many minor watercourses are unnamed). The location of the proposed works should indicate the nearest town or village, the address of the site or sufficient description to enable the site to be identified easily. The OS grid reference should include two prefix letters, (indicated in the corner of OS maps) followed by eastings and northings e.g. SC 123 456.

- **Description and Purpose of Proposed Works**  
It is important to accurately describe the proposal(s) for which the application is being made on the application form. State the purpose of the works and indicate in the box the number of structures for which consent is being sought.
- **Description and Numbers of Plans and Sections Submitted**  
If you include a drawing which has been prepared for some other purpose it is requested that those items for which consent is being sought should be highlighted in colour. Two copies of all relevant drawings are required. Drawing requirements should be discussed with this office but would normally be expected to be A1 in size and should include:
  - a) **Location Plan**  
This should be based on an Ordnance Survey map if possible and should show clearly the general geographic location of the site where the works are to be constructed.
  - b) **Site Plan**  
This should be drawn to scale which must be clearly stated. Ordnance Survey maps or engineering drawings to a scale of 1:1250 or larger are recommended.
  - c) **Detailed Drawings (Plans and Sections)**  
Provision of the following details will assist in the determination of your application:
    - Plan(s) and cross section(s) showing details of existing and proposed features. Cross sections should be drawn looking downstream on the watercourse where appropriate.
    - Details of existing and proposed water levels, shown on cross sections or a longitudinal section of the relevant length of watercourse where appropriate.
    - Calculations to demonstrate the hydraulic capacity of any channel works, culverting or bridge works. Culvert design to be carried out in accordance with CIRIA Culvert Design Guide Report C689.
    - Land surface contours, where appropriate.
    - The materials to be used for any structures.
    - The location of any proposed service pipes or cables which may affect the future maintenance of the watercourse.
    - Details of any tree, shrub, hedgerow, pond or wetland area which may be affected by the proposed work.
    - Details of any planting or seeding within the river channel or adjacent to the watercourse within the floodplain.
    - Bridges and Culverts – Additional cross sections upstream and downstream of the proposed works and/ or a longitudinal section along the centre line of the watercourse are required sufficient for the average channel bed gradient to be determined.
    - Dams and Weirs – A plan showing the extent of the impoundment under normal and flood conditions is required in order to assess the possible impact on riparian owners.
    - Mineral Extraction/Land Filling – Contour surveys of the existing site are required in addition to details of the proposed filled site. Details of interim levels including temporary stock pile works are required where such works are in the floodplain areas.

**d) Sketches**

Legible sketches clearly illustrating the proposed works and adequately dimensioned may be acceptable for some works but this should be discussed with this office beforehand.

○ **Construction Details**

Separate consents are required for both the permanent works and for any temporary works which do not form part of the permanent works. Please state whether the works are to be permanent or temporary and the anticipated construction start date. If works are to be temporary state duration required.

○ **Other Department Interests**

Tick appropriate box (es). If you answer YES to any of these questions it is likely that you will require additional consents or approvals from other Government Departments or Statutory Boards (e.g. Manx National Heritage) before commencing your works. You will be contacted and advised as soon as possible, if additional details are needed. Failure to contact relevant Departments may result in a delay to your application.

○ **Planning Approval**

Some works may also require Department of Infrastructure planning approval in addition to consent from this Department. If you already have planning approval, please indicate the planning, application reference number and date approval obtained.

○ **Name of Person/Organisation Responsible for Maintaining the Structure on Completion**

This will normally be the applicant. Please indicate if responsibility is to pass to others. Please also indicate who is responsible for maintaining temporary works during the construction period.

○ **Brief Details of Environmental Impact of Works etc**

The Authority has a duty in the exercise of its functions under the Act to have regard to the conservation and enhancement of the natural beauty and amenity of the countryside, the protection of the wildlife habitat, and the conservation of flora and fauna and geological or physiographical features of interest pursuant to the provisions of the Wildlife Act 1990 Section 36(2). If a proposal is likely to have a serious affect on the environment then the applicant is advised to consult the Department of Environment Food and Agriculture and the Department of Infrastructure as to the appropriateness of providing an Environmental Impact Assessment.

**3. HOW TO OBTAIN CONSENT**

When you have fully completed your application form please send it with the supporting documents to the Authority office as listed on page 4 of the application form.

**4. DETERMINATION**

Upon receipt of an application the Authority has two months in which to grant or refuse consent. Such consent shall not be unreasonably withheld.

The granting of consent should not be regarded by the applicant as in any way approving the design and soundness of the proposed structure other than in relation to its impact on flows and its effects in the watercourse and its floodplain. In accordance with the Authority duties under the Wildlife Act 1990 consent may be refused if the works proposed might prove detrimental to the environment.

**5. RIGHT OF APPEAL**

If you believe that consent has been unreasonably withheld or conditions unreasonably imposed then you have a right to appeal to the Tribunal in accordance with Division 3, Clause 58, firstly to a Tribunal and then subsequently, on a point of law to the Staff of Government Division (appeal Court) Clause 61.

## **6. OTHER CONSENTS**

You may also require further consents from the Department of Environment, Food and Agriculture pursuant to the Fisheries Act 2012 (tel. 685857), the Wildlife Act 1990 (843109) and the Tree Preservation Act 1993, (686596).

If it is proposed to make a new or move an existing discharge of trade or sewage effluent, a licence from the Department of Environment, Food and Agriculture, pursuant to the Water Pollution Act 1993 (685885) should be sought.

### **Water Pollution Act 1993**

This makes it an offence to discharge poisonous, noxious or polluting matter into 'controlled waters' (rivers, streams, ponds, lakes and the sea). Any discharge of trade or sewage effluent must be licensed by the Environmental Protection Unit, DEFA.

### **Manx Museum & National Trust Act 1959**

This makes it an offence to remove or damage archaeological remains.

## **7. FURTHER INFORMATION**

If you are in any doubt about whether you need to apply for a consent, how to complete the application forms or any other aspect of your application please contact the Office as listed on page 4 of the application form.

## LEGAL PROVISIONS

For your information the legal provisions are as follows:

### 18 Unlawful interference: designated FRM works or designated watercourse

- (1) A person must not unlawfully interfere with designated FRM works or a (1) designated watercourse.

Maximum penalty (on information) — 2 years' custody or a fine.

Maximum penalty (summary) — £5,000.

- (2) A person unlawfully interferes with designated FRM works or a (2) designated watercourse if the person does any of the following without the Authority's written consent (a "works consent") —

- (a) carries out works to the designated FRM works or designated watercourse;
- (b) constructs, lays, alters, demolishes or removes —
  - (i) a building or other structure on or over, or within 9.1 m of, the designated FRM works or designated watercourse; or Flood Risk Management Act 2013 Section 19
  - (ii) an apparatus on or over, or within 9.1 m of, the designated FRM works or designated watercourse; or
- (c) creates an obstruction that affects, or may affect, the maintenance of, or access to, the designated FRM works or designated watercourse.

(3) The Authority may, by order, amend subsection (2)(b) by varying either (3) distance stated in that paragraph.

### 19 Unlawful interference: any watercourse

- (1) A person must not unlawfully interfere with a watercourse.

Maximum penalty (on information) — a fine.

Maximum penalty (summary) — £5,000.

- (2) A person unlawfully interferes with a watercourse if the person does any (2) of the following without the Authority's written consent (also a "works consent") —

- (a) erects a dam, weir or other like obstruction (an "obstruction") to the watercourse's flow (the "flow");
- (b) raises or otherwise alters an obstruction;
- (c) erects a bridge, culvert, pipe or diversion sluice likely to affect the flow;
- (d) alters a bridge, culvert, pipe or diversion sluice in a way likely to affect the flow;
- (e) otherwise diverts the watercourse; or
- (f) carries out any other works that materially affect, or may materially affect, the flow, other than works to maintain the watercourse's condition.

## SUBDIVISION 2 — WORKS CONSENTS

### 20 Applying for and obtaining works consent

- (1) A person may apply to the Authority for a works consent. (1)

- (2) The application must be —

- (a) made in the form required under section 43 (if any) and in the way directed by the Authority; and
- (b) accompanied by the prescribed fee.

- (3) Also, the Authority may require (a "details requirement") the applicant (3) to give it —

- (a) plans and specifications and other details of any work or matter for which the consent is sought; and Section 21 Flood Risk Management Act 2013

- (b) any supplemental information the Authority requires.

(4) The Authority must not unreasonably refuse the consent or delay its deciding of the application.

(5) For subsection (4), it is reasonable for the Authority to refuse or delay while the applicant continues to contravene a details requirement.

(6) The Authority may give the consent unconditionally or impose conditions on it as stated in its decision.

(7) If the Authority decides to refuse the consent or impose a condition to which the applicant has not agreed in writing, it must give the applicant an appeal notice about the decision.