

7.2. Marine Infrastructure Management Bill 2015 – Clauses considered

Mr Gawne to move.

The Speaker: We turn now to the Marine Infrastructure Management Bill clauses stage.
I call on the mover, the Hon. Member for Rushen, Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

If I may move clauses 1 to 3 together, these give the Bill its short title, provide for it to come into operation on one or more days appointed by the Department of Infrastructure, and set out various definitions for a number of terms used in the Bill.

I beg to move.

Mr Houghton: I beg to second.

Mr Harmer: Thank you, Mr Speaker.

I beg to second. (*Laughter and interjections*)

Mr Watterson: No shortage of support!

The Speaker: I put the motion that clauses 1, 2 and 3 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 4.

Mr Gawne: Gura mie eu, Loayreyder. It's great to have a good team in the Department of Infrastructure!

Clause 4 sets out the purpose of the Bill, which is to control certain marine activities as defined in clause 6.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

Mr Karran: Vainstyr Loayreyder, I might get criticised, like with the previous Bill, but I need stuff on *Hansard*.

The purpose of the Bill ... One of the things I would just like to ask is, I know, something that we battled when I was on DAFF many years ago: the absurdity of the situation where you needed a customs officer on a fisheries protection boat and you had to have somebody from the Department of, then, Infrastructure as far as pollution. Will this Bill actually streamline the issue so that our fisheries protection boat can be more like a Manx Coastguard, where it can deal with all the issues of arrest and contravention of different parts? We managed to succeed, I think it was in the time of the previous Hon. Minister, Mr Rimington, where we managed to get a customs person whenever we were talking about drugs seizures and that. Will we see, with this Bill, actually the issue of where an officer can be multi-warranted to get all issues when it comes to the fisheries protection – not just fisheries issues but also the issues of being able to arrest drugs seizures, pollution incidents and everything else?

The Speaker: I call on the mover to reply.

Mr Gawne: Gura mie eu, Loayreyder.

I think what the Hon. Member for Onchan talks about is a really good idea and it is something, certainly, when I was Environment, Food and Agriculture Minister I was doing quite a lot of work to try and achieve. However, this is a Marine Infrastructure Management Bill. It is about, effectively, a planning system for the territorial sea, so it actually does not touch on any of the issues that the Hon. Member has raised.

I beg to move.

The Speaker: I put the motion. Clause 4: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 5.

Mr Gawne: Gura mie eu, Loayreyder.

If I may move clauses 5, 6 and 7 together, clause 5 applies the Bill to controlled marine activities and associated marine activities, as defined in clause 6, taking place or proposed to take place in the controlled marine area.

Clause 6 also makes provision to add, remove or amend an entry in the list of controlled marine activities by order. The clause also makes provision to specify classes of activity that are, or are not, to be treated as associated marine activities for the purposes of this Bill. The clause also allows the Department to give guidance as to the meanings of expressions in subsection (1), 'Controlled Marine Activities', or subsection (2), 'Associated Marine Activities'.

The controlled marine area is defined in clause 7, which is the area between the mean high water mark and the seaward boundary of the Isle of Man territorial seas. The clause excludes the harbour limits from controlled marine area. The clause will allow the Department of Infrastructure to make an order to exclude areas from or include areas within the controlled marine area.

Any orders made under clauses 6 and 7 would subsequently need Tynwald approval before they come into operation.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and leave to reserve my remarks.

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, whilst I have got no objection to this Bill, the Marine Infrastructure Management Bill, I would have just thought it might have been an opportunity, when we are talking about enforcement as far as the marine aspect as far as the Island is concerned ... that this issue, which must have been going on now for 15 years, needs to be addressed. Are there any proposals in the near future to actually facilitate what was an eminently sensible idea from years ago, but we still have not managed to get that impasse as far as enforcement of other marine issues as far as ...? Maybe this Bill is only to do with planning. The point is that here we have a Bill, and why haven't we seen those anomalies sorted out within the Bill?

The Speaker: Minister to reply.

Mr Gawne: Gura mie eu, Loayreyder.

The reason is because the Bill does not really go anywhere close to enforcement of fisheries or customs, or any of those sorts of areas.

Yes, I would agree that the more we can do, by way of a joined-up approach to marine enforcement, the better, but this really is about planning; it is not about the issues that the Hon. Member is concerned about. I do think that it is a good idea, which is why, as Minister responsible at the time, we did a lot of work with Treasury to try and improve that situation, but at the moment the Department of Infrastructure has no statutory powers in the area specifically that the Member is referring to – although the way things move in ministerial department responsibilities, you never know, by next week we might have it! But at the moment it is not my responsibility and I will leave that to other Ministers to deal with.

The Speaker: I put the motion that clauses 5, 6 and 7 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 8.

Mr Gawne: Gura mie eu, Loayreyder.

If I may move clauses 8, 9 and 56(1) together, clause 8 sets out that marine infrastructure consent is a consent granted for the carrying out of controlled marine activities in the controlled marine area and that the consent may be granted only in pursuance of an application. A marine infrastructure consent may include consent for the carrying out of associated marine activities.

Clause 9 sets out that controlled marine activities cannot be carried out in the controlled marine area except in accordance with a marine infrastructure consent. It will be an offence to carry out controlled marine activities without a marine infrastructure consent or to carry out activities without complying with the terms and conditions of a consent. The clause also specifies that controlled marine activities or associated marine activities in the controlled marine area do not require permission, consent or approval under any of the consenting regimes listed in the clause. The clause allows the Department, by order, to add an entry to the list or remove an entry from the list of consenting regimes. Again, the order would require Tynwald approval before it comes into operation.

Clause 56(1) sets out that a person who is guilty under section 9(2) is liable on summary conviction to a fine not exceeding £50,000.

I beg to move.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and leave to reserve my remarks.

The Speaker: We do not, in my experience, ever vote on split clauses: you have to move the entire clause 56 at this stage because we would not normally vote on it in parts. Would you formally move clause 56?

Mr Gawne: Gura mie eu, Loayreyder, for your sage advice. Yes, in which case, can I move the whole of clause 56, and I will speak about 56(2) later?

The Speaker: That will be neater, I think – and duly seconded?

Mr Harmer: I beg to second.

Mr Singer: Mr Speaker, we are voting on part of a clause that has not been discussed. I know the Minister is going to discuss it later –

Mr Gawne: Neither was 8 or 9.

Mr Singer: Are we voting on 56(2) now?

The Speaker: We are debating clauses 8, 9 and 56 –

A Member: Yes, as moved.

The Speaker: – which have been moved for debate and are open for debate.

Mr Singer: Excuse me, but I think the Minister said, Mr Speaker, that he would be talking later on about the second part. He has spoken about the first part –

The Speaker: Well, he may wish to talk about it –

Mr Singer: May I say, Mr Speaker, I would like to hear him talk about the second part before I vote on the clause.

The Speaker: Right.

Mr Watterson: Clause 56: two lines.

The Speaker: Clause 56 is open for debate and you may speak to clause 56 and make whichever comments you wish.

Mr Watterson: Ask him about it.

Mr Singer: I did not hear the Minister's explanation.

The Speaker: Minister to reply.

Mr Gawne: Gura mie eu, Loayreyder.

I thank the Hon. Member for Ramsey for his excellent point. Clause 56(2) clarifies that a person who is guilty of the offence in clause 17 –

Mr Singer: Which we have not discussed yet.

Mr Gawne: – will be liable on summary conviction to a fine not exceeding £5,000.
I beg to move.

The Speaker: We are dealing with clauses 8, 9 and 56.

Dealing with clause 8 first, those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 9: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 56: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Minister, I will leave it to you whether we jump about the Bill, but would you please indicate, if that is to be the case, why it is being done in that way.

Mr Gawne: Gura mie eu, Loayreyder.

The only reason for that was that clause 56 referred to the penalties that were in clauses 8 and 9. So I was doing it to assist Members, but obviously that has not happened.

Clause 10 sets out the steps required by the Bill in relation to the making of applications for marine infrastructure consents and provides a timetable for those steps to be undertaken. You will note there are references to this table throughout the Bill. This is to provide certainty to potential developers that applications will be considered in a timely manner. The clause confers powers on

the Department of Infrastructure, by order, to amend the timetable. There is also provision that such an order may enable the Council of Ministers to alter timings for specified applications or consents, which may include applications in process and consents already granted. Again, these orders would require Tynwald approval before they come into operation.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: I beg to second and reserve my remarks.

The Speaker: Clause 10: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 11.

Mr Gawne: Gura mie eu, Loayreyder.

If I may move clauses 11 and 12 together, clause 11 requires a prospective applicant to consult various Government Departments and other prescribed persons before making an application for marine infrastructure consent. 'Prescribed' is defined in clause 60(1) and it means specified by the Department by order or regulations. The clause also requires prospective applicants to analyse the responses and prepare and publish a consultation report. The clause confers powers on the Department of Infrastructure to make regulations about the procedure to be followed on pre-application consultations and the form, content and publication of consultation reports.

Clause 12 requires prospective applicants to publicise their proposed application. The Department of Infrastructure must make regulations about the publication of proposed applications. The regulations prepared under this clause would be subject to the negative procedure of Tynwald.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you.

I beg to second and reserve my remarks.

The Speaker: I put the question that clauses 11 and 12 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 13, sir.

Mr Gawne: Gura mie eu.

Clause 13 requires prospective applicants, before making an application, to carry out an environmental impact assessment. An environmental impact assessment is the process of assessing the likely environmental impacts of a proposal and identifying options to minimise environmental damage. The main purpose of the environmental impact assessment is to inform decision makers of the likely impacts of a proposal before a decision is made. An environmental impact assessment provides an opportunity to identify key issues and stakeholders early in the life of a proposal so that potentially adverse impacts can be addressed before final approval decisions are reached.

The clause also confers powers on the Department of Infrastructure to make regulations about the process, form and content of environmental impact assessments. The Department will be looking at best practice to help in the preparation of these regulations. The regulations prepared would be subject to the negative procedure of Tynwald.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you.

I beg to second and reserve my remarks.

The Speaker: I put the question. Clause 13: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 14.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 14 would allow the Department of Infrastructure to give guidance about pre-application consultation, publication and environmental impact assessment. It should be noted that any prospective applicant must have regard to any guidance given to them by the Department.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you.

I beg to second and reserve my remarks.

The Speaker: Clause 14: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 15, Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 15 relates to scoping opinions. Scoping opinions are a precursor to carrying out an environmental impact assessment. A scoping opinion will be the Department's formal view on what issues an environment statement should contain. The scoping process aims to identify only the issues that are significant and it can conclude that only one or two issues need to be covered in a statement.

This clause sets a mandatory requirement for a prospective applicant to request a scoping opinion from the Department of Infrastructure before carrying out an environmental impact assessment. Applicants will also be required to serve notice on the Department of their intention to apply for a scoping opinion. This is to ensure the Department and other Government Departments are prepared to carry out the scoping opinion. A scoping opinion must be accompanied by a fee, which will be prescribed in accordance with clause 53.

The clause also requires that a request for a scoping opinion must be accompanied by a scoping report. Regulations will specify what information is to be included in a scoping report. The Department will be required to consult various Government Departments, Manx National Heritage and any other person the Department thinks appropriate. The clause confers powers on the Department to make regulations about the content of scoping opinions and the handling of requests for scoping opinions.

The clause also stipulates that the scoping opinion has effect for the period of two years beginning with the date of issue. The scoping opinion must be included in the register of consents. The Regulations prepared under this clause must be laid before Tynwald and will be subject to the negative procedure.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: I put the question that clause 15 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 16.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 16 will confer powers on the Department to make regulations about the provision of advice and assistance to actual and prospective applicants for marine infrastructure consent and persons who are or may be interested in an actual or prospective application. The clause also allows regulations to be made that may include provision for allowing persons to apply to the Department of Infrastructure for an opinion as to whether particular activities would require a marine infrastructure consent. The regulations prepared under this clause must be laid before Tynwald and will be subject to the negative procedure.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: Clause 16: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 17.

Mr Gawne: Clause 17 will give powers to the Department of Infrastructure to authorise a prospective applicant to serve a notice on a person requiring the person to give details of any interests that may be affected by the proposed controlled marine activities or to give details of a person who might be able to give details. It is important to understand that details of interests means the names and addresses of a person who has an interest that may be affected by a proposed controlled marine activity. The clause also makes it an offence to fail, without reasonable excuse, to comply with a notice.

This one for the Hon. Member for Ramsey, Mr Singer: clause 56(2) clarifies that a person who is guilty of this offence will be liable on summary conviction to a fine not exceeding £5,000.

I apologise for the confusion earlier and I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: Clause 17: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 18.

Mr Gawne: Clause 18 sets out the powers of entry in relation to carrying out a survey or inspection or obtaining information in connection with an actual or prospective application. The clause also stipulates that section 36 of the Local Government Act 1985 applies to entry by virtue of this section as it applies to entry by section 35 of that Act.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: Clause 18. I put the question: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 19.

Mr Gawne: Gura mie eu, Loayreyder.

If I may move clauses 19, 20 and 21 together, clause 19 requires an application for a marine infrastructure consent to be made to the Department. The clause also specifies what must accompany an application and specifies the controlled marine activities and associated marine activities for which it is required. The clause also allows the Department to publish guidance about compliance with this clause and the applicant must have regard to that guidance. The Department may publish technical standards for any documents or information required by order under this clause and the applicant must comply with those standards. The clause also requires an applicant to give notice to the Department of Infrastructure, Department of Economic Development, and any other prescribed person, that he or she will be applying for a marine infrastructure consent.

Once an application is received, the application is placed on the public register, which the Department must maintain under clause 20.

Under clause 21, an application for a marine infrastructure consent must be accompanied by a declaration stating that the application complies with the provisions of clause 19. If it becomes clear that the application does not comply, the Department may discard the application or vary the timetable to allow time for the completion of compliance with clause 19.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: I put the motion that clauses 19, 20 and 21 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 22.

Mr Gawne: Gura mie eu, Loayreyder.

If I may move clauses 22, 23 and 24, clause 22 requires the Department to refer an application for marine infrastructure consent to the Council of Ministers without delay, subject to clause 21(2), and requires the Council of Ministers to refer it for examination in accordance with clause 25(1). The Council of Ministers must notify the applicant that the application has or has not been accepted for examination.

Under clause 23, the Council of Ministers must also notify various Government Departments and other prescribed persons that the application has been accepted and of the date of the preliminary meeting in respect of an accepted application.

Clause 24 allows regulations to be made about public consultations. The regulations will be laid before Tynwald and will be subject to the negative procedure. The clause also requires the Council of Ministers to make arrangements for a public consultation on an application in line with any regulations made under this provision.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: I put the question that clauses 22, 23 and 24 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 25.

Mr Gawne: Gura mie eu, Loayreyder.

If I may move clauses 25, 26 and 27 together, clause 25 requires the Council of Ministers to refer an application to an examiner or a panel of examiners. The clause makes provision for a single examiner to request that an application be referred to a panel of examiners. The Council of Ministers would be required to comply with that request. The clause also makes provision for the Council of Ministers to refer an application before or during an examination of an application by a single examiner to a panel of examiners.

Clause 26 defines the term 'examiner'. The clause also confers powers on the Department of Infrastructure to make regulations about the resignation, removal and replacement of examiners.

Clause 27 will give power to the Council of Ministers to appoint examiners to a panel and appoint one of those examiners as chair. The clause also confers powers on the Department of Infrastructure to make regulations about the resignation, removal and replacement of examiners, and to make provision for the consequences of changes to the panel to ensure continuity of the examination. The clause makes provision to allow a panel to allocate part of its consideration of an application to one or more members. The clause also deals with how decisions of the panel are to be dealt with.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: I put the question that clauses 25, 26 and 27 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 28.

Mr Gawne: Gura mie eu, Loayreyder.

If I may move clauses 28 and 29, clause 28 requires an examiner or a panel to make an initial assessment of the principal issues arising in relation to an application and to identify the principal stakeholders for the purposes of the application in addition to persons who are registered as interested parties. The clause also requires an examiner or a panel to determine the procedure for examining the application and set a provisional timetable for the examination. They will also be required to consider the application and any written submissions made with respect to it. The clause also makes provision for any irregularity in relation to the appointment of an examiner or panel, or in relation to the procedure for the examining of the application, not to affect the validity of the examination proceedings.

Clause 29 requires an examiner or a panel to hold a preliminary meeting and invite any person who they think likely to wish to participate. The clause requires the examiner or panel to explain the process determined for the examination of the application, the timetable proposed for the examination and the principal issues expected to arise in relation to the application. The clause also confers powers on the Department of Infrastructure to make regulations about the nature and procedure of preliminary meetings. The regulations are required to be laid before Tynwald and will be subject to the negative procedure.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.
I beg to second and reserve my remarks.

The Speaker: I put the motion. Clauses 28 and 29: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 30.

Mr Gawne: Gura mie eu, Loayreyder. Clauses 30 and 31, if I may.

Clause 30 requires the examination of an application in the form of consideration of written representations unless the examiner or panel hold a hearing into any aspect of the application or they decide to conduct part of the examination otherwise than by considering written representations. The clause also confers powers on the Council of Ministers to make regulations about which written representations are to be considered, not to be considered, or may be considered, and about the consideration of written representations.

Clause 31 requires an examiner or a panel to hold a hearing into a specific issue if they think it is necessary to ensure that the issue is properly examined and the principal stakeholders have an adequate opportunity to state their case. The clause also confers powers on the Department of Infrastructure to make regulations about the nature and procedure of specific-issue hearings. The regulations may confer discretionary functions on the examiner or panel, make provision for the prevention of disruption, make provision about costs and expenses or make provision about information that is or may be of relevance to national security or defence.

Both clauses give powers to the examiner or panel to disregard representations which they consider to be frivolous or vexatious.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.
I beg to second and reserve my remarks.

The Speaker: I put the question that clauses 30 and 31 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 32.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 32 allows an examiner or panel to hold a public meeting about an application. If a public meeting is held, the clause requires the examiner or panel to provide such opportunities as they think appropriate for anyone to speak about the application and for the applicant to make representations about the application or to respond to comments and questions from the public or stakeholders. The clause also confers powers on the Department of Infrastructure to make regulations about the nature and procedure of public meetings. These regulations would be laid before Tynwald and would be subject to the negative procedure.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.
I beg to second and reserve my remarks.

The Speaker: I put the question that clauses 32 and 33 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 34.

Mr Gawne: Gura mie eu, Loayreyder. I did not actually move clause 33, but I will do now if that is okay, moving clauses 33 and 34.

Clause 33 makes provision for the appointment of assessors to assist in the examination of an application.

Clause 34 makes provision for the appointment of legal advisers to advise and assist in the examination of an application.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: I put the question. Clauses 33 and 34: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 35.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 35 requires the examiner or panel, on completion of their examination, to notify the Council of Ministers without delay and submit a report to the Council of Ministers as soon as is reasonably practicable. The Council of Ministers will be required to inform the applicant as soon as is reasonably practicable that the examination has been completed. The clause also requires the report to include recommendations about the determination of the application. If the report recommends that a marine infrastructure consent should be granted, it must include a draft consent.

I therefore beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: Clause 35: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 36.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 36 requires the Council of Ministers to decide whether to accept the recommendations of the examiner or panel and, in making a decision, they must have regard to any marine plan, marine policy statement, any prescribed matters and any other matter which they consider relevant and important. The clause also gives powers to the Council of Ministers to disregard representations which they consider to be frivolous or vexatious. If the Council of Ministers accepts a recommendation to grant a marine infrastructure consent, the clause requires them to issue the consent in the form of a draft in the report of the examiner or panel, or with modifications. The clause also requires the Council of Ministers to publish a statement of its reasons for its decision. The clause requires the statement of reasons to be sent to the applicant and every registered interested party. The clause also confers powers on the Department of Infrastructure to make regulations about the procedure to be followed in determining an application. The regulations would be laid before Tynwald and will be subject to the negative procedure. Furthermore, the Council of

Ministers must publish the examiner's or panel report as soon as is reasonably practicable. This would be once the Council of Ministers has made a decision on the application. The release of the report any sooner may generate external lobbying, which may prejudice the decision-making process.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: Clause 36: those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 37.

Mr Gawne: If I may take clauses 37 and 38 and schedule 1 together, clause 37 allows the Department of Infrastructure to make regulations about the content of a marine infrastructure consent. This clause and schedule 1 set out what can be included within a marine infrastructure consent. The regulations would be laid before Tynwald and would be subject to the negative procedure.

Clause 38 allows a marine infrastructure consent to include provision for removing or modifying a requirement for permission only if the person responsible for giving permission agrees to the inclusion of the provision.

The clause also precludes the insertion of a provision authorising the discharge of water into inland waters or underground strata unless the person authorised to make the discharge has statutory responsibility for discharges into those waters or strata.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: I put the motion that clause 37, schedule 1, and clause 38 do stand part of the Bill. Those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 39, please.

Mr Gawne: Gura mie eu.

Clause 39 requires the Council of Ministers to publish a marine infrastructure consent.

If a marine infrastructure consent includes provisions made by virtue of clause 37(5)(a) or (b), or paragraph 10 or 11 of Schedule 1, the consent must be made by order.

Clause 37(5)(a) allows for a marine infrastructure consent to apply, modify or exclude a statutory provision in relation to any provision that may be made within a consent.

Clause 37(5)(b) allows for a marine infrastructure consent to make amendments, repeals or revocations of statutory provisions of local application in consequence of or in connection with the consent.

Paragraph 10 of Schedule 1 allows a marine infrastructure consent to make provision for the making of byelaws by any person and their enforcement.

Paragraph 11 of Schedule 1 makes provision for the creation of offences in connection with the non-payment of charges or enforcement of byelaws.

Any orders under this provision would require Tynwald approval before they come into operation.

The clause also requires the Council of Ministers to deposit in the General Registry a copy of the marine infrastructure consent, the latest version of the plans supplied by the applicant in connection with the application and the statement of reasons.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: I put the question that clause 39 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 40.

Mr Gawne: Gura mie eu, clauses 40 and 41, if I may.

Clause 40 allows a marine infrastructure consent, including a change or revocation, and any decision to an application for, or in connection with, a marine infrastructure consent to be challenged or questioned in court only by way of petition of dolence.

Clause 41 allows the Council of Ministers to correct an error in a marine infrastructure consent, subject to agreement by the Department of Infrastructure, the Department of Environment, Food and Agriculture, and any other prescribed person. Copies of the correction must be deposited in the General Registry.

If there is an error in a marine infrastructure consent which was made by order then it must be corrected by order. This order would require Tynwald approval.

I therefore beg to move.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: I put the motion that clauses 40 and 41 stand part of the Bill. Those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 42.

Mr Gawne: If I may take clauses 42 and 43 together, clause 42 allows the Council of Ministers to make a change to a marine infrastructure consent if they are satisfied that the change is not material. The change may be made on application. A change may impose new requirements and/or remove or vary existing requirements.

This clause requires the Department of Infrastructure to make regulations about changes. The regulations may include provision about applications, publication of requests for changes, publication of changes, about consultation and conferring discretion on the Department of Infrastructure or another specified person.

Clause 43 is essentially the same as clause 42, albeit with the following differences: the clause deals with material changes and revocations; the Council of Ministers may change the consent if there is significant error in the consent; the clause allows the Council of Ministers to revoke a marine infrastructure consent; the Regulations made under the clause will be able to set out provisions relating to revocations.

Council of Ministers may pay compensation to a person whom they consider to have been unfairly prejudiced by a change or a revocation under this clause.

A change under clause 42 and 43 or a revocation under clause 43 are to be made by order, if the original consent has been made by order. Orders made under these clauses would require Tynwald approval before they became effective.

Both clauses require the Council of Ministers to deposit any copy of any changes or revocations in the General Registry.

I beg to move.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

If I could just ask the Minister to clarify what sort of circumstances, where there are material changes ... that the Council of Ministers could agree to those material changes without reference to Tynwald?

The Speaker: Minister to reply.

Mr Gawne: Gura mie eu.

It will depend on whether consent was given through an order or not, but the sort of things that we would describe as 'a material change' may be the rerouting of a cable or a slightly different angle for a particular building that may be in a particular place in the marine environment.

These things, though, on the whole, would have to come back to Tynwald for approval.

I beg to move.

The Speaker: I put clause 42 first. Those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 43. Those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 44.

Mr Gawne: Gura mie eu.

Clause 44 requires the Department to maintain a register of marine infrastructure consents. The register must also include details of corrections, changes, revocations and any other prescribed matter. The register must also include details of refusals of applications for marine infrastructure consents and details of reasons given in connection with applications for or in connection with marine infrastructure consents.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: Clause 44. Those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 45.

Mr Gawne: If I may take clauses 45, 47, 48 and 49, but not yet 46.

These clauses introduce a compliance regime. The onus is on the developers to comply with the consent issued. Where a developer is non-compliant with a consent, the Department will work with developers to seek compliance.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.
I beg to second and reserve my remarks.

The Speaker: I put the motion that clauses 45, 47, 48 and 49 do stand part of the Bill. Those in favour say aye; against, no. The ayes have it. The ayes have it.
Clause 46.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 46 requires controlled marine activities authorised by a marine infrastructure consent to be commenced before the end of a prescribed period or another period specified in the consent. The prescribed period can be set out in secondary legislation, which will be required to be laid before Tynwald and will be subject to the negative procedure. If the controlled marine activities have not commenced before the end of the period, the consent will cease to have effect.

The clause also confers powers on the Department to make regulations specifying what is to be treated, or not to be treated, as commencement of controlled marine activities. These regulations would need to be laid before Tynwald and will be subject to the negative procedure.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.
I beg to second and reserve my remarks.

The Speaker: Clause 46, I put the question. Those in favour say aye; against, no. The ayes have it. The ayes have it.
Clause 50.

Mr Gawne: Gura mie eu.

Clause 50 allows the Department of Infrastructure to make regulations exempting specified activities or classes of activity from the requirement for marine infrastructure consent.

It is important to note that the clause also makes provision for the operation of another consenting regime in relation to the activities that would require marine infrastructure consent but for the exemption. This is to ensure the exempted activities can be consented for under a more appropriate consenting regime, if it is considered necessary.

Therefore, I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.
I beg to second and reserve my remarks.

The Speaker: Clause 50. Those in favour say aye; against, no. The ayes have it. The ayes have it.
Clause 51.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 51, 52 and 53, if I may.

Clause 51 confers powers on the Department of Infrastructure to make regulations about the preparation and adoption of marine policy statements and marine plans.

Clause 52 confers powers on the Department of Infrastructure to make regulations about the exercise of functions under this Bill. The regulation prepared under this clause would be laid before Tynwald and will be subject to the negative procedure.

Clause 53 confers powers on the Department of Infrastructure to make regulations providing for the charging of fees and the recovery of costs in connection with the performance of functions under this Bill. The regulation prepared under this clause would be laid before Tynwald and will be subject to the negative procedure.

I therefore beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: I put the motion that clauses 51, 52 and 53 do stand part of the Bill. Those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 54.

Mr Gawne: Clause 54 states that a provision that could be made by a marine infrastructure consent may not be included in a permission, consent or approval under any other consenting regimes. It should be noted this may be disapplied by regulations in specified cases or classes of case. The regulations would be laid before Tynwald and will be subject to the negative procedure.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: I put the motion, clause 54. Those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 55.

Mr Gawne: Clause 55 confers powers on the Department to make regulations relating to works or proposed works which are carried out, or are proposed to be carried out, partly in the controlled marine area and partly outside it. The regulations may also provide for a provision of this Bill or another enactment to apply, with or without modifications. The regulation may also provide for a provision of this Bill or another enactment not to apply.

Therefore, a submarine cable which is to be landed onto the landward side of the mean high water mark could be dealt with under this Act and would not require subsequent consents/approval under other enactments, e.g. the Town and Country Planning Act 1999.

The regulations would be laid before Tynwald and will be subject to the negative procedure.

This clause also confers powers on the Department of Environment, Food and Agriculture to make regulations that make provision for the application of consenting regimes to seismic survey work which will or may affect the controlled marine area.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: Clause 55. Those in favour say aye; against, no. The ayes have it. The ayes have it.
Clause 57.

Mr Gawne: Gura mie eu, Loayreyder. Yes, having already moved 56, we can zip along to clause 57.

Clause 57 applies where an offence under this Bill is committed by a body corporate and it is proved that the offence was committed with the consent or connivance of an officer of the body; or was attributable to neglect on the part of an officer of the body.

It should be noted that the officer, as well as the body, would be guilty of the offence and would be liable to the same penalty as the body.

The clause also defines 'officer'.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker. I beg to second and reserve my remarks.

The Speaker: Clause 57: those in favour say aye; against, no. The ayes have it. The ayes have it.
Clause 58.

Mr Gawne: Gura mie eu, Loayreyder. Clauses 58, 59 and 60, if I may.

Clause 58 sets out the grounds for a defence for a person charged with an offence under section 9(2), which deals with carrying out a controlled marine activity without a marine infrastructure consent.

Clause 59 binds the Crown to the Act.

Clause 60 sets out general provisions in relation to orders or regulations made under this Bill.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: I beg to second and reserve my remarks.

The Speaker: I put the motion that clauses 58, 59 and 60 do stand part of the Bill. Those in favour say aye; against, no. The ayes have it. The ayes have it.

Clause 61.

Mr Gawne: Gura mie eu, Loayreyder.

Clause 61 confers powers on the Department of Infrastructure to make regulations in relation to the transitional provisions in connection with the commencement of this Bill.

The regulations made under this provision would require Tynwald approval.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

The Speaker: Clause 61. Those in favour say aye; against, no. The ayes have it. The ayes have it.
Clause 62 and schedule 2.

Mr Gawne: Gura mie eu, Loayreyder. I thank Hon. Members for their indulgence and patience.

Clause 62 and Schedule 2. The clause provides for the coming into effect of Schedule 2, which contains amendments to legislation consequential upon the coming into operation of the subsequent Act and confers powers upon the Department to make further provision by order in the event of subsequent alteration to the list of consenting regimes mentioned in section 9.

An order made under this provision would require Tynwald approval.

I beg to move.

The Speaker: Mr Harmer.

Mr Harmer: Thank you, Mr Speaker. I beg to second and reserve my remarks.

The Speaker: I put the question that clause 62 and schedule 2 do stand part of the Bill. Those in favour say aye; against, no. The ayes have it. The ayes have it.

That concludes the clauses stage of the Marine Infrastructure Management Bill.