

## Report of the Director of Placemaking, Decarbonisation and Engagement

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### **Subject: Welsh Government Infrastructure (Wales) Bill**

#### Purpose of Report

To update Members on the development of the Welsh Government Infrastructure (Wales) Bill and outline the key points the Authority would wish to make to a consultation on this emerging legislation.

#### Introduction/Background

The Infrastructure (Wales) Bill is currently at Stage 1 of the Senedd processes.

The key purposes of the Bill are:

- establish a unified infrastructure consenting process for specified types of major infrastructure both on and offshore (up to territorial seaward boundary), including energy, transport, waste, water and gas projects. The new form of consent will be known as an “infrastructure consent” (“IC”) and will be issued in relation to projects which are prescribed as a “Significant Infrastructure Project” (“SIP”);
- to provide that developers must obtain an IC for a SIP. The IC is intended to contain the full range of authorisations required to enable the development to be implemented; and
- to therefore replace, either fully or partially, a number of existing statutory regimes for the consenting of infrastructure projects and rationalise the number of authorisations required to construct and operate such development into a single consent.

The Infrastructure (Wales) Bill (“the Bill”) has been referred to the Climate Change, Environment, and Infrastructure Committee for Stage 1 scrutiny of the general principles of the Bill. To help inform its scrutiny, the Committee is seeking views on the general principles of the Bill and the need for legislation to deliver the stated policy intention. The closing date for submissions is Friday 11 August 2023.

This report sets out the implications of the Bill for the Authority and outlines the central points the Authority may wish to make in responding to the current consultation. Members are also invited to add any additional responses they would wish to see included, with delegated approval sought for the Director of Placemaking, Decarbonisation and Engagement to then submit a final response by the deadline.

Welsh Government have advised that the Bill proposes major changes to the legislative framework for the consenting of infrastructure in Wales and in the territorial sea adjacent to Wales to provide proportionate and bespoke arrangements. The aim of the proposed legislation is to create a unified consenting process for infrastructure projects in Wales, detaching consenting from current, largely outdated and inadequate arrangements to a new form of consent, which contains the full range of authorisations required to enable development.

### **Detailed consideration of proposals:**

Legislative processes replaced by the new Bill will include a range of current separate consents for example the current Developments of National Significance process (DNS) and Marine Licences where proposals require more than one consent.

Welsh Ministers will be the determining body, but will have the ability to delegate determination to other parties such as Planning and Environment Decisions Wales (PEDW) depending on the nature of the proposal.

For energy proposals under the Infrastructure Bill proposals, the Welsh Ministers will determine applications of over 50MW (this compares to the 10MW Development of National Significance current threshold). However, with applications over 10 MW the applicant may request determination either by the LPA or by the Welsh Ministers (delegated to PEDW) through the Infrastructure Consent process.

It is suggested that PCNPA support the introduction of this simplified approach.

As with DNS applications there will be a Local Impact Report prepared by the LPA. As there will be new regulations associated with the Bill, there will be the opportunity for consultation on fee levels for those Local Impact Reports.

It is suggested that PCNPA take the opportunity to highlight the impact that the current fee arrangements through the DNS system have had on LPAs. Under the current system LPAs only receive 20% of fee income from DNS applications, despite a significant workload associated with these. PCNPA also has experience of needing to input into a neighbouring LPAs DNS Local Impact Report but receiving no fee payment for this under the present system. It is hoped that the development of new regulations to accompany the Infrastructure (Wales) Bill allow this key issue to be considered.

WG officers have informally advised that the Infrastructure (Wales) Bill is likely to be implemented by mid 2025. Transition arrangements will depend on what stage existing applications are in within the system. It is suggested that PCNPA comment on the need for clear transitional arrangements for planning applications already in the system.

### **Financial considerations**

Whilst there are no direct financial implications from this consultation, as set out in the main body of the report, it is hoped that the development of new regulations to

support the Bill will address the issue of low planning fee levels for LPAs preparing Local Impact Reports and will also consider the issues facing LPAs who need to input to a neighbouring authorities Local Impact Report.

### Risk considerations

There is a risk to the Authority that if it does not respond to the consultation, its views will not be considered as the Bill progresses.

### Compliance

No compliance issues have been identified.

### Human Rights/Equality issues

WG Regulatory Impact Assessment on the Bill includes an Equality impact assessment which concludes the proposal is likely to have an overall neutral impact in terms of equality.

### Biodiversity implications/Sustainability appraisal

WG Regulatory Impact Assessment notes the Bill will unify consenting processes for applications where biodiversity issues might previously have been considered separately, and at a separate time, from other aspects of the decision on these proposals. Consequently, the Bill intends to ensure biodiversity issues are considered as part of a wider decision on all major infrastructure projects, which is a requirement of national policy, and other legislation requirements such as the duty under s6 of the Environment (Wales) Act. The WG Regulatory Impact assessment concludes that the Bill will have no direct impact on biodiversity

### Welsh Language considerations

WG Regulatory Impact Assessment notes that the Bill proposes a replacement for application processes which are already fully bilingual (including the ability for the public to make representations at hearings or inquiries via the medium of Welsh). There is no intention to alter how an individual may state their preference in language when interacting with the Welsh Government through this process. There are no positive or negative impacts.

### Conclusion

It is recommended that PCNPA support the introduction of a simplified consenting regime for Wales. It is also recommended that PCNPA provide specific examples to the Committee of some of the financial burdens faced by the Authority in operating under the current Development of National Significance regime and highlight the opportunity presented by new regulations to address these concerns.

## **Recommendation:**

- 1. That Members endorse the above emerging response to the consultation on Infrastructure (Wales) Bill.**

- 2. That Members provide any further comment they wish incorporated in the Authority's final response by the close of business on the 9<sup>th</sup> of August 2023.**
- 3. The National Park Authority's Director of Placemaking, Decarbonisation and Engagement be given delegated powers to submit a response to Welsh Government Climate Change, Environment, and Infrastructure Committee subject to agreement by the Chair of the Authority.**

### Background Documents

The Infrastructure (Wales) Bill, Explanatory Memorandum, and Methodology Paper [Infrastructure \(Wales\) Bill \(senedd.wales\)](https://www.senedd.wales)

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*Consulted/engaged with (internal and/or external stakeholders):*

*Kate Attrill (Development Management Manager), Martina Dunne (Strategic Policy Manager). Engaged with WG officials via Planning Officer Society Wales presentation.*