



Implementing the Infrastructure (Wales) Act 2024 – Final Consultation Document

To: Wales
For info: Scotland, England and Northern Ireland

Table of Contents

- 1 Purpose of the briefing..... 1**
- 2 The pre-IWA consenting process 2**
- 3 The Infrastructure (Wales) Act 2024 2**
 - 3.1 Comments from Rebecca Evans MS, Cabinet Secretary for Economy, Energy and Planning..... 2
 - 3.2 Consultations on the IWA to date..... 3
- 4 Consultation Document (CD) 3**
- 5 APSE comment 5**
- 6 How APSE can help 6**

1 Purpose of the briefing

The Infrastructure (Wales) Act 2024 (IWA) received Royal Assent on 3 June 2024 with parts of the act coming into force on 4 June 2024.

The IWA provides for a new consenting process that will *“enable the Welsh Ministers to determine applications for significant infrastructure projects. The Act contains the framework for the overall process, with the finer details to be prescribed in Regulations.”*

On 19 September 2024, the Welsh Government launched a Consultation Document (CD) setting out the whole consenting process, from the identification of projects subject to the new regime, through to amendments to consents and revocation. Feedback from the consultation will enable the finalisation of the Regulations.

The closing date for responses is 13 December 2024.

The response form is available to download from gov.wales [here](#).

This briefing provides an overview of the CD, as well as an APSE comment on the importance of modernising the infrastructure consenting process in Wales.

2 The pre-IWA consenting process

A significant infrastructure project (SIP) in Wales was previously managed using the Developments of National Significance regime (DNS). A lack of clear guidelines and a need for coordination across many regulatory frameworks caused delays and uncertainty due to multiple consent processes.

3 The Infrastructure (Wales) Act 2024

The purpose of the IWA is to streamline the infrastructure consenting process; creating a unified, transparent and consistent process for the public and developers.

The IWA establishes a new type of consent for SIPs called a 'Welsh infrastructure consent.' Welsh infrastructure consent removes the need for separate planning permissions and related approvals.

In addition to allowing the planning authority to compulsorily purchase land and waive the need to obtain additional consents, Welsh infrastructure consent orders may also include traffic regulation provisions.

This "one-stop shop" model closely resembles the Development Consent Order regime under the Planning Act 2008 in England.

3.1 Comments from Rebecca Evans MS, Cabinet Secretary for Economy, Energy and Planning

"I have published a final consultation that covers the new consent regime in its entirety. The new regime provides a transparent, consistent and simple, yet rigorous, process which enables local communities and stakeholders to shape developments and better understand how decisions affect them. The proposals are also intended to meet future challenges by being sufficiently flexible to capture the consenting arrangements for developing technologies and any further powers which may be devolved."

¹ <https://www.gov.wales/written-statement-infrastructure-wales-act-2024-publication-consultation>

3.2 Consultations on the IWA to date

Following the passing of the Act at Stage 4, two short consultation papers were issued. The Welsh Government consulted on the pre-application consultation process and fees associated with the new consenting process between 13 May and 22 July. These consultations were based on very broad principles, intended to gather evidence to help refine the policy.

The evidence received has fed into this final consultation – the CD.

4 Consultation Document (CD)

The CD is split into 15 chapters.

1. Transitional arrangements

The Act will replace, either fully or partially, a number of existing statutory regimes for the consenting of infrastructure projects. It is the intention of the transitional provisions to ensure a smooth passage from one regime to another, to minimise disruption as much as possible to matters already in train.

Views are sought on these arrangements.

2. Developments that fall within the consenting process

The Act ensures certain infrastructure in Wales in the future will be consented to by Welsh Ministers under a new single process. The Act defines these projects by type of work and threshold, and all projects on the face of the Act will require an IC. Where a project falls below the compulsory thresholds set out in Part 1 of the Act but is considered to be of national significance, for example by generating significant effects, or includes new technology or novel circumstances, the Act provides the Welsh Ministers with a power to direct such a project is a SIP for determination under the new consenting process.

Views are sought on a set of thresholds and criteria for where a project may be directed.

3. Cross Boundary applications

The Act recognises that development may cross the border and therefore the development would not be consented through a single regime, meaning the efficiencies of the new process are not realised.

The process for these developments is set out on page 16 of the CD.

4. Extinguished and deemed consents

The Act provides that an IC may include provision that removes the requirement for a consent specified in regulations to be granted, or deems a consent specified in regulations to have been granted. These consents are separated into those the Welsh Minister may grant unilaterally, or those where the consent of the authorising body is required.

Views are sought on a detailed list of those consents, and for the handling of them.

5. Pre-application advice and information

The Act makes provision to enable prospective applicants to design and develop their proposals. These require Welsh Ministers, LPA and NRW to provide pre-application services, where requested by prospective applicants. Arrangements are also available for applicants to obtain information on land ownership and access land.

6. Applications for Infrastructure Consent

PEDW will undertake all functions relating to the processing of an application as the examining authority, for SIP, with the final determination being reserved for the Welsh Ministers. In this section, we will prescribe the process and requirements for making an application for SIP.

Views are sought on the details of this process.

7. Statutory consultees

The consenting of SIPs is undertaken by the Welsh Ministers, but LPAs, NRW and other statutory consultees will have a vital role to play in the examination of applications and their subsequent delivery. This will include the provision of a substantive response or a Local or Marine Impact Report.

Views are sought on their roles and responsibilities in relation to such applications.

8. Fees

Application fees for SIPs are to be set out in new fees regulations. This is the second consultation on this topic, and the information set out in this section reflects feedback received from the first consultation.

Views are sought on the proposed model for the charging of fees.

9. Examination

The consenting system will adopt a proportionate and timely method of examination while ensuring quality of reporting to support robust decision-making. On page 67 of the CD, proposals are set out on appointing an examining authority, the examination procedure and open floor

hearings.

10. Deciding applications and making orders

Following the examination, the examining authority will draft a report, which forms the basis of the next part of the process, the decision itself and the making of an order.

The CD sets out who decides an application for IC, what the decision maker has to take into account when deciding an application, about the timetable for making the decision, and about making the decision and its publicity.

11. Environmental Impact Assessment (EIA)

This chapter also contains information on the EIA that will apply to the consenting process.

12. Post decision

The IC process does not usually end once a decision is made by the Welsh Ministers to grant consent. There may be a requirement to correct an Order and as with any permission there will be responsibilities to discharge requirements and the potential for amendments to the consented project.

13. Compulsory acquisition

An IC can require the compulsory acquisition of land to ensure a scheme can take place.

Views are sought on the implementation of a new process for the compulsory acquisition of land as part of the infrastructure consenting process.

14. Registers of pre-application services and applications for Infrastructure Consent

To ensure local communities and other stakeholders are aware of proposed developments which are likely to affect them, requirements are placed on the Welsh Ministers, LPAs and NRW to establish and maintain registers containing information relating to pre-application services and applications for infrastructure consent.

5 APSE comment

Echoing the points we raised in our briefing on the UK Government's Nationally Significant Infrastructure Projects Action Plan for England and Wales back in March 2023: infrastructure is vital to society². Major assets help to drive economic growth, improve the health and wellbeing of the

² <https://apse.org.uk/index.cfm/apse/members-area/briefings/2023/23-14-nationally-significant-infrastructure-projects-action-plan-pdf/>

population and protect our communities from the effects of extreme weather events.

As the paragraph above states: infrastructure is important. But that applies to both major infrastructure – airports, power plants - and (less-headline worthy) local infrastructure - houses and roads. Local government is compelled to focus on the immediate problems staring it in the face and the impact of the cuts of the last decade have taken their toll.

There is mounting evidence of the value of planning in tackling health inequalities. Regrettably, this has not translated into ringfenced funding. APSE has long advocated for additional support for hard pressed planning departments across all tiers of local government.

The consenting process in Wales is slow, unclear and inconsistent. The time is right for reform. However, that reform should not come at the expense of local authority oversight and input, so we encourage all local councils to engage with this final consultation and make the case for properly resourced planning departments. In addition clearly local councillors are there to also represent and support local people; this can create areas of conflict or tension and as such decision-making should always be with enhanced communications to all local stakeholders, including ward level councillors.

6 How APSE can help

All APSE members can sign up to APSE's Housing Construction and Building Maintenance Network, which is an online network providing four learning events across the year, with expert speakers from across local government and the wider housing and planning sector. You can sign up to the network using [this link](#).

If you are interested in discussing this topic with your council peers at an upcoming APSE Wales online event, please contact Matt Ellis, APSE Principal Advisor, using the email address provided below.

Matt Ellis
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