Llywodraeth Cymru
Welsh Government

INFRASTRUCTURE (WALES) ACT 2024

Explanatory Memorandum

incorporating the
Regulatory Impact Assessment and
Explanatory Notes

June 2024

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List of Abbreviations

DNS – Development(s) of National Significance

EIA – Environmental Impact Assessment

IC – Infrastructure Consent

KV – Kilovolt

LIR – Local Impact Report

LPAs – Local Planning Authorities

MIR – Marine Impact Report

MW – Megawatt

NDPB – Non-Departmental Public Body

NRW – Natural Resources Wales

PEDW – Planning and Environment Decisions Wales

SIP – Significant Infrastructure Project

TCPA 1990 – Town and Country Planning Act 1990

The Act – The Infrastructure (Wales) Act 2024

TWA – Transport and Works Act 1992

PART 1 – EXPLANATORY MEMORANDUM

Chapter 1 – Description

1.1 The Infrastructure (Wales) Act 2024 (“the Act”) establishes a unified consenting process for the development of infrastructure in Wales and in Welsh waters, replacing several statutory regimes. 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”). Categories of infrastructure ascribed SIP status include energy, transport, waste and water, among other infrastructure types. Developers must obtain an IC for a SIP, and the IC is intended to contain the full range of authorisations required to enable development to be implemented.

Chapter 2 – Legislative Competence

2.1 Senedd Cymru ("the Senedd") has the legislative competence to make the provisions in the Act pursuant to Part 4 of the Government of Wales Act 2006 ("GoWA 2006") as amended by the Wales Act 2017.

Chapter 3 – Purpose and intended effect of the legislation

Overall objectives in implementing this policy through legislation

3.1 The timely and effective delivery of major infrastructure and low carbon development in the right locations requires simplified and efficient consenting arrangements.

3.2 The Act 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to create a unified consenting process for infrastructure projects in Wales, detaching consenting from current, largely outdated and inadequate arrangements to a new form of consent, which contains the full range of authorisations required to enable development.

3.3 The provisions contained in the Act seek to amend existing primary legislation, principally the Town and Country Planning Act 1990 ("TCPA 1990"); Electricity Act 1989; Harbours Act 1964; the Highways Act 1980 and the Transport and Works Act ("TWA") 1992. The new arrangements will replace, either wholly or partly, current consenting arrangements.

3.4 In order to undertake development or works with the objective of constructing and/or changing use to create a SIP, it will be a requirement to obtain an IC.

3.5 The overall objective and purpose of the Act is to unify existing consenting regimes on the following basis:

- *Consistency* – To enable the public and developers to engage with a single process across all infrastructure types, providing administrative efficiency for decision-makers and familiarity with those who engage with it, which will reduce delays.
- *Certainty* – To provide certainty in terms of timescales for all involved, so that the public are clear on when decisions are made, and proceedings are not unnecessarily prolonged, and to enable developers to plan projects with more accuracy.
- *Chances of success* – To provide a clear strategic and policy framework on which decisions are made, to enable a developer to know their prospects of success in advance of an application for consent being made.
- *Quality of applications* – To provide minimum bars in terms of pre-application consultation and submission requirements to enable decision-

makers to better ascertain the impacts of development from the outset, while providing more informed information to the public.

- *Confusion* – To provide a more consistent and inclusive process, which enables those who are not familiar with engaging with the planning process to engage more effectively.
- *Complexity* – To enable a developer to obtain all the authorisations and consents it needs to implement a project, removing the need for the public to engage with multiple consenting processes, and lowering overall costs for all.

Issues/anomalies with current primary legislation

3.6 The Wales Act 2017 devolved the consenting of generating stations between 50 Megawatt ("MW") and 350MW, as well as associated overhead electric lines up to and including 132 Kilovolt ("KV"), to the Welsh Ministers. It did so by removing the consenting for devolved energy infrastructure under the Development Consent Order process from the Planning Act 2008, and into pre-existing regimes.

3.7 The consenting of onshore generating stations between 50MW and 350MW (with the exception of all onshore wind generating stations, which are already devolved) as well as associated overhead electric lines is given under the TCPA 1990. The Wales Act 2017 also returned the consenting of offshore generating stations between 1MW and 350MW to the Electricity Act 1989 and the consenting of all devolved ports and harbours[1] to the Harbours Act 1964. This supplements a number of existing regimes to consent already devolved infrastructure including dams and reservoirs and transport infrastructure such as roads, airports and railways.

3.8 Applications under these regimes are made to the Welsh Ministers directly. In some cases, development is also promoted by the Welsh Ministers. Procedures vary according to the regime. For particularly large projects there are a number of stages to a decision, and often development will require several consents, and these are then progressed together.

3.9 For some development, there may be requirements for statutory pre-application consultation. Following this, an application is made to the Welsh Ministers under the statutory powers. Generally, this is followed by examination from an independent Planning Inspector, which could include public inquiry. The Inspector will produce a report making recommendations to the Welsh Ministers, who will make the final decision. While this is the general approach

[1] S.29 and s.32 of the Wales Act 2017 excludes 'reserved trust ports' from those which are devolved. One such port qualifies in Wales, namely the port of Milford Haven.

for consents on infrastructure development, the differences between regimes have perpetuated and further widened with the devolution of energy infrastructure under the Wales Act 2017. This has resulted in numerous inconsistencies between consenting regimes for development which has similar impacts and requires similar authorisations.

The problem being addressed

3.10 Current consenting processes can often be onerous and take a significant and unpredictable amount of time to be determined, given there are no statutory timeframes. This can generate uncertainty for all parties, imposing significant costs as well as potential planning blight. Furthermore, the delay in the delivery of key infrastructure can have harmful impacts on communities, businesses, the economy and the environment, and in some cases, deter future development. This may threaten Wales's ability to deliver the required infrastructure to continue to develop and attract further investment.

3.11 Due to the unpredictable length of time and expense of an examination it can be difficult for participants, such as Local Planning Authorities ("LPAs"), consultees and the community to participate effectively. Furthermore, the existence of different processes for different types of infrastructure can be confusing. This often means those with the most resources and knowledge engage in the consenting process, and this could be seen to be unfair.

Consistency

3.12 Current regimes have differing levels of consistency and can be confusing, due to the amount of related legislation that has been significantly modified. Certain consenting regimes were established as early as 1964 and are no longer appropriate for the consenting of large-scale infrastructure. Increased consistency will result in more competent decision-making and remove delay in the process.

Certainty

3.13 Many existing consenting regimes do not have definitive determination timescales and can be criticised for being inefficient. This can cause issues to be rehearsed, developed and mitigated at examination, which is a time-consuming process and does not encourage effective pre-application consultation. Where development requires multiple consents, it will only progress and be implemented as quickly as the slowest consent to be determined.

Chances of success

3.14 For many regimes, there is no clear policy to underpin the decision-making process. This may cause different weight or interpretation of policy or it being apportioned inconsistently on a case by case basis, and could provide uncertainty to potential applicants on the policy basis for development. The absence of a clear policy framework may discourage investment. This can also cause significant delay at examination.

Quality of applications

3.15 Although there are exceptions, there are no checks and balances on all occasions to ensure applications are prepared to a sufficient standard to allow thorough examination. Furthermore, pre-application consultation with both statutory consultees and local communities is not widely undertaken. This can result in members of the public sometimes feeling they have been unable to engage on the development of a project. Examinations can then be challenging in that unknown issues can arise during an inquiry. Mitigating for those issues can be costly to the applicant.

Confusion

3.16 Existing consenting regimes are often centred on whether objections trigger the need for a public inquiry. Such processes can be legalistic and adversarial, which may be intimidating for those engaging with the process. More inclusive processes are therefore required to allow valuable viewpoints to be offered and considered.

Complexity

3.17 Development consent does not necessarily mean construction can begin immediately. For large infrastructure further consents, licences or authorisations are often required. This lack of unified consenting can cause duplication of work. This can significantly increase the costs of applications and acts as a barrier to development, and cause frustration and confusion to those participating in the process.

Improvements to the current situation and enabling sectors to operate more efficiently

3.18 To improve the current situation, simplification is required as to how consents are gained by creating a one stop shop, where applications for a range of authorisations or approvals can be included as one application along with the main development consent. A bespoke process will aid the Welsh Ministers in

making decisions on Wales' infrastructure needs for the present and the future. It will also establish aspirations of the Welsh Government to take on further devolved powers in relation to energy and other infrastructure.

3.19 A unified consenting process will rectify some of the issues with fragmented consenting regimes (for example, development that straddles both onshore and offshore areas, such as tidal lagoons and alterations to harbours, and has separate jurisdictions and therefore multiple consents), and will ensure a more user-friendly approach for developers and communities. Having a unified process would enable the Welsh Ministers to include other consents and authorisations required in a 'one stop shop' approach which is vital for the delivery of infrastructure in Wales.

3.20 Consideration has been given to using current regimes, albeit with amendments, against the potential to introduce new arrangements. A comparison of the advantages of both is set out below:

Advantages of using existing consenting regimes.	**Advantages of introducing bespoke consenting arrangements.**
Developers are likely to be familiar with some of the existing consenting regimes, including Development(s) of National Significance ("DNS"), Harbour Revision Orders, Highways Act Orders and consents under the Electricity Act 1989.	Wales could gain an advantage in having a modern and speedier consenting regime, which increases certainty, produces timely decisions and encourages appropriate energy and infrastructure development. This removes the unpredictability of current arrangements.
Current regimes can accommodate some change to enable streamlining, thus saving time and expense for all parties.	Greater consistency could be achieved across energy consenting and other types of major infrastructure in Wales, which leaves developers with little doubt as to the correct process and provides administrative efficiency. Opting for such a process would send the message Wales is open for business.
There are only a small number of projects currently seeking consent at present. This approach would ensure significantly less disruption in the short term.	Retaining existing regimes, which are multi-tiered and under separate Acts, can be confusing for stakeholders. A new, unified consenting regime could allow associated or ancillary consents to be included into a single consent. The 'one stop shop' approach is tried, tested and supported by the development industry in England. Establishing a similar process would require little adjustment from developers.

	A more flexible consenting process can be produced which can better respond to future changes, challenges and costs.
	Lessons have been learnt from having a fragmented consenting regime in Wales. A fragmented and non-unified consenting regime may lead to other authorisations and licences holding up the implementation of development.
	There is potential to introduce a statutory timeframe for the determination of infrastructure projects across the board, which will provide more certainty for the development industry.
	There is the potential to introduce a compatible statutory policy which provides certainty in terms of decision-making.

Who or what is affected by the legislation. Whether the legislation will improve access or outcomes for disadvantaged or excluded sections of society

3.21 The categories of infrastructure which a new and unified process is mainly expected to capture are energy, transport, waste and water, with minimum thresholds requiring only the most significant infrastructure to be included.

3.22 The legislation will impact upon all those involved in the planning system, including applicants, determining authorities, consultees and communities. The objective is to improve access to the planning system for all by simplifying and consolidating the existing fragmentary regimes.

3.23 The Act is intended to provide more consistency and transparency of outcomes in decisions being based on clear policy which has already been subject to public consultation. The intention is that the process will largely be electronic, enabling those with difficulty accessing physical information to engage with the process, while providing the relevant safeguards for those who only access information in its physical form.

3.24 Furthermore, the Act is intended to consolidate a number of different consent types into a single process, providing familiarity for stakeholders.

The risks if this legislation is not made

3.25 Existing consenting regimes have their own disadvantages. For example, the DNS process is limited in scope, there is limited flexibility for changes and only a small range of secondary consents can be applied for concurrently and do not form part of the main decision. Furthermore, the DNS process has no compulsory acquisition powers. Other authorisations for infrastructure such as harbours, highways and railways are often granted as a statutory instrument which can add additional time and cost to these consent types and are technical processes which can take considerable time.

3.26 Making use of existing processes cannot provide the 'one stop shop' approach which the development industry supports, and which is in force for non-devolved projects as well as projects in England. Natural comparisons would be drawn with the equivalent situation across the border, and England would be at a significant competitive advantage where it concerns the ease of use of major infrastructure consenting processes. The use of existing arrangements would prolong the current issues with consenting processes and may lead to development in Wales being delayed or aborted.

3.27 Ultimately, failure to provide a truly unified consenting process would make Wales a less attractive place to invest in large-scale infrastructure projects.

Chapter 4 – Consultation

4.1 The "Changes to the consenting of infrastructure: Towards establishing a bespoke infrastructure consenting process in Wales" consultation ran from 30 April 2018 until 23 July 2018.

4.2 The consultation involved stakeholders in establishing a bespoke infrastructure consenting process and sought views on interim arrangements until a bespoke infrastructure consenting process is in place.

4.3 A total of 22 specific questions were set out in the consultation document, with a standard form provided for ease of response. Comments were also made outside of the standard questions.

4.4 On 30 April 2018 over 300 stakeholders, including individuals and organisations were notified by email of the publication of the consultation. These were drawn from the core consultation list held by the Planning Directorate of the Welsh Government, as well as other bodies who expressed an interest. This included all LPAs in Wales, public bodies, special interest groups and other groups. The consultation was made available on the Welsh Government's consultation website.

4.5 The consultation generated 46 responses. Respondents were asked to assign themselves to one of six broad respondent categories. Table 1 below shows the breakdown of respondents.

Table 1 – Breakdown of Respondents		
Category	Number	% of total
Businesses / Planning Consultants	10	22%
Local Authorities (including National Park Authorities)	10	22%
Government Agency/Other Public Sector	12	26%
Professional Bodies/Interest Groups	9	20%
Voluntary Sector	2	4%
Others (other groups not listed)	3	6%

4.6 There was general agreement with the principles of a unified consenting regime. However, respondents suggested that greater detail was required on how policy and legislation would influence the consenting process. Several queries and issues were raised in relation to specific principles.

4.7 A significant majority agreed and supported the proposal to replace the DNS process set out under the TCPA 1990 with an entirely new consenting regime. Although in agreement, respondents commented greater detail was required on how a unified consenting regime would operate in practice. Respondents stated that any changes must ensure flexibility, a strengthened role for communities and must not be overly complex or costly for applicants.

4.8 Generally, respondents were of the view that the introduction of 'optional' thresholds would help promote and achieve flexibility in the consenting process. Respondents also concluded that further detail and guidance relating to optional thresholds would be beneficial to the development industry. LPAs were particularly positive regarding the principle of optional thresholds for SIPs, commenting it was reassuring there is a recognition LPA determination periods for certain types of development can be quicker than the DNS process.

4.9 The majority of respondents agreed and supported the proposal for the Welsh Ministers to ultimately decide on a case-by-case basis whether an optional SIP qualifies as such. There was uncertainty around who made the final decision on whether a proposed development qualifies as a SIP via the 'optional' threshold route.

4.10 A significant majority agreed and supported the proposal for development, designated as of national significance to be determined at the national level. Several respondents sought further clarification on how the NDF and SIP process would interact with one another.

4.11 There was overall support for the proposed compulsory and optional thresholds, though some respondents suggested amendments.

4.12 There was overall support to remove Electricity Act 1989 consent for all development in the Welsh offshore area, where possible, and placing this consent in the unified IC process. LPAs commented the proposed consenting system was an adequate replacement for the Electricity Act 1989.

4.13 There was overall support for ICs to be conventional consents and statutory instruments when required, suggesting it adds certainty, proportionality and flexibility whilst recognising the differing complexities and consenting requirements of development. There was a general view that further clarification was required on the form and content of both conventional consents and statutory instruments.

4.14 There was overall support for the fast-track of certain classes or types of SIP, to ensure a more proportionate decision-making process. As well as a general view that the concept of fast-tracking needs further consideration.

4.15 Generally, respondents agreed with the option for applicants to rationalise the different secondary consents required. However, there was consensus that the topic should be open for further consultation and development.

4.16 There was overall support for the NDF, Welsh National Marine Plan and topic-based policy statements providing the policy basis for determining infrastructure development. Respondents suggested that more consideration should be given to the role of local development plans.

4.17 There was overall support for the pre-application consultation proposals. Respondents suggested more information is required on specific aspects, including fees and cross-border issues and that any requirements must be meaningful.

4.18 There was overall support to remove inquiries from determining ICs and for hearings only to be held in their place, for reasons of providing fair and inclusive participation, as well as the belief among some respondents that inquiries can be long and protracted, impact project programmes and are costly. However, there was a preference amongst some respondents for cross-examination to be retained.

4.19 There was overall support for the ability to vary development during the determination process and post-consent. It was generally suggested that more detail and consideration is required regarding 'minor' variations and fast-tracking non-contentious variations.

4.20 There was overall support for designating the LPA as the main onshore enforcement authority, with the Welsh Ministers as the relevant authority offshore. Respondents stated that more information was required in relation to enforcement and onshore and offshore jurisdictions.

4.21 A summary of the consultation responses is available at: https://www.gov.wales/sites/default/files/consultations/2018-11/infrastructure-consultation-summary-of-responses.pdf

4.22 The provisions included in the Act align to the principles set out in the consultation paper published in April 2018, for which there was overall support from respondents. Following the consultation, other Government priorities, such as making arrangements for the UK's exit from the EU and the response to the Covid pandemic caused a reprioritisation of all resources and legislative programme. However, the aim and objectives of the bespoke consenting regime have not changed which has been confirmed through ongoing engagement with stakeholders.

4.23 The specific proposals in the Act have subsequently been further refined and expanded, such as, the processes and procedures for how applications for IC are submitted, publicised, examined and determined. However, much of the detailed procedural elements will be reserved for subordinate legislation, which will be subject to further consultation.

4.24 Due to the length and technical nature of the Act, it was considered more appropriate and efficient to undertake more focused and ongoing engagement and discussion with key stakeholders on specific elements to inform its

development, rather than publish a draft Bill as part of a full consultation. This has included, but is not limited to:

- discussions with Natural Resources Wales in relation to elements of offshore consenting, such as the requirement for marine impact reports;
- meetings with the Planning and Environment Decisions Wales Department to discuss the proposed application procedure, in particular, how applications are to be examined and determined; and
- meetings with representatives from National Grid and Scottish Power to discuss current issues with the consenting of overhead electric lines.

Chapter 5 – Power to make subordinate legislation

5.1 The Act contains provisions to make subordinate legislation and issue determinations. Table 5.1 (subordinate legislation) and Table 5.2 (directions, published criteria) set out in relation to these:

(i). the person upon whom, or the body upon which, the power is conferred;

(ii). the form in which the power is to be exercised;

(iii). the appropriateness of the delegated power;

(iv). the applied procedure; that is, whether it is “affirmative”, “negative”, or “no procedure”, together with reasons why it is considered appropriate.

5.2 The Welsh Government will consult on the content of the subordinate legislation where it is considered appropriate to do so. The precise nature of consultation will be decided when proposals are formalised.

Table 5.1: Summary of powers to make subordinate legislation in the provisions of the Infrastructure (Wales) Act

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
PART 1 – SIGNIFICANT INFRASTRUCTURE PROJECTS					
Section 17(1)(a)	Welsh Ministers	Regulations	This is considered appropriate to future proof the Act and to respond efficiently to changes to UK legislation and technological advancements in the industry. This is considered appropriate to benefit the consenting process as the list of qualifying projects may need adjusting more often than it would be sensible for the Senedd to legislate. The regulations are limited in terms of territorial competency and the type of project or variation of project that can be inserted.	Affirmative	This power is to amend, vary or remove an existing provision of an Act of the Senedd and Acts of Parliament, therefore it will require an additional degree of scrutiny.
Section 17(1)(b)	Welsh Ministers	Regulations	This is considered appropriate to future proof the Act and to respond efficiently to changes to UK legislation and technological advancements in the industry. This is considered appropriate to benefit the	Affirmative	This power is to amend, vary or remove an existing provision of an Act of the Senedd and Acts of Parliament, therefore it will

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			consenting process as the list of qualifying projects may need adjusting more often than it would be sensible for the Senedd to legislate. The regulations are limited in terms of territorial competency and the type of project or variation of project that can be inserted.		require an additional degree of scrutiny.
PART 2 – REQUIREMENT FOR INFRASTRUCTURE CONSENT					
Section 21(1)(a)	Welsh Ministers	Regulations	This is considered appropriate to future proof the Act and to respond efficiently to changes in UK legislation. Evidence may also emerge from industry demands and future policies and government objectives, that further types of consent should be included in this consenting process or to vary the cases in relation to which a type of consent is within this process. Responses to emerging evidence may need adjusting more often than	Affirmative	This power is to amend, vary or remove an existing provision of an Act of the Senedd and Acts of Parliament, therefore it will require an additional degree of scrutiny.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			it would be sensible for the Senedd to legislate.		
Section 21(1)(b)	Welsh Ministers	Regulations	This is considered appropriate to future proof the Act and to respond efficiently to changes in UK legislation. Evidence may also emerge from industry demands and future policies and government objectives, that further types of consent should be included in this consenting process or to vary the cases in relation to which a type of consent is within this process. Responses to emerging evidence may need adjusting more often than it would be sensible for the Senedd to legislate.	Affirmative	This power is to amend, vary or remove an existing provision of an Act of the Senedd and Acts of Parliament, therefore it will require an additional degree of scrutiny.
Section 22(2)(c)	Welsh Ministers	Regulations	This is considered suitable for regulations because it will contain details of the limits to this power of direction. It is considered that regulations will provide the type of	Affirmative	This power relates to specifying development as a significant infrastructure project via direction. Therefore it will require an

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			flexibility required which will benefit the consenting process.		additional degree of scrutiny.
Section 26	Welsh Ministers	Regulations	This is considered suitable for regulations as they will accommodate details of procedural matters in connection with direction making powers under sections 22, 23 and 24. Flexibility is also required to respond to any procedural changes if considered necessary or appropriate to benefit the consenting process.	Negative	This is a minor technical detail and procedural matter which will set out details of direction making powers. These could be subject to change in the future depending on what procedural requirements are relevant or appropriate at the time and therefore flexibility is required to legislate swiftly if needed.
PART 3 – APPLYING FOR INFRASTRUCTURE CONSENT					
Section 27(1)	Welsh Ministers	Regulations	This is considered suitable for regulations as they will accommodate significant detail relating to pre-application services. Flexibility is also required to respond to any procedural changes, or	Negative	This is a minor technical detail and procedural matter which will set out when and how pre-application services must be provided, what

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			changes to what information is required to be submitted, if considered necessary or appropriate to benefit the consenting process.		information must be included in a pre-application service response and how such services are publicised to the wider public. These could be subject to change in the future depending on what information / procedural requirements are relevant or appropriate at the time and therefore flexibility is required to legislate swiftly if needed.
Section 28(5)	Welsh Ministers	Regulations	This is considered suitable for regulations as the requirements for obtaining information about interests in land by the serving of a notice will accommodate matters of detail. For example, on the content of a notice and timescales for responding.	Negative	This is a minor technical detail and procedural matter which will set out requirements for applicants to serve notice on land interests that would be affected by a proposed IC. The proposed details which are to be prescribed

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
					may be subject to change in the future; for instance if changes are made to the overarching consenting process or if it is considered certain details should be added or amended to what is included in a notice. Therefore, it is important we retain the necessary flexibility to legislate swiftly, should the need arise to alter procedural matters or specified information.
Section 29(1)(h)	Welsh Ministers	Regulations	This is considered suitable for regulations as the list of those persons who must be notified of a proposed application may need amending in the future to accommodate new or different persons.	Negative	The list of other persons who must be notified of a proposed application is a minor technical and procedural matter and flexibility is required to legislate swiftly, should the need arise to amend the list of those persons.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
Section 29(2) and (3)	Welsh Ministers	Regulations	This is considered suitable for regulations as the details specifying what information must be included in a pre-application notification form need to be flexible to respond to any future changes.	Negative	This is a relatively minor detail which sets out what details and information applicants must include as part of their pre-application notification form, including how and when a notification is to be given. We may be required to update this list at short notice and need the appropriate flexibility to do so, if it is considered necessary for prospective applicants to submit additional information in the future.
Section 29(5)	Welsh Ministers	Regulations	This is considered suitable for regulations as the information included in a notice, in addition to the period in which it must be given, may be subject to change in the future to benefit the consenting process and	Negative	This is a minor technical and procedural matter in the overall legislative scheme relating to the form and content of a notice from the Welsh Ministers to prospective applicants,

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			flexibility is required to respond to these potential changes swiftly.		where their pre-application notification has been accepted, including how such notice is to be given and the period within which it must be given.
Section 30(2) and (3)	Welsh Ministers	Regulations	This is considered suitable for regulations as the requirements relating to pre-application consultation will accommodate a significant level of detail which would encumber the reading of the Act. This includes; who must be consulted, how consultation is carried out, timetables for consultation and to respond to consultations.	Negative	The requirement to undertake pre-application consultation is a minor procedural matter in the wider legislative scheme. The proposed details which are to be prescribed may be subject to change in the future if it is considered there are certain details which may not hold as much value in the consultation process as initially thought, or if certain details should be added. Therefore, it is important we retain the necessary flexibility to legislate swiftly, should the need arise to

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
					alter procedural matters or specified information.
Section 32(4)	Welsh Ministers	Regulations	This is considered suitable for regulations as the application process will accommodate a significant level of detail, including the form and content of an application and what information and documents must accompany it, how applications are made, the validation process, the procedure for varying or withdrawing an application and the period within which applications must be submitted.	Negative	The process for submitting and validating applications for IC is considered a minor procedural matter, which also captures various technical matters. The proposed procedure and information required may be subject to change in the future, if it is considered certain requirements should be added or removed from the list of information to be submitted, or any procedural matters, depending on how much value they hold. Therefore, it is important we retain the necessary flexibility to legislate swiftly, should the need arise to alter

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
					procedural matters or specified information.
Section 32(5)	Welsh Ministers	Regulations	This is considered suitable for regulations as the list of potential functions which may be conferred, along with the list of persons on whom such functions may be conferred, will present a significant level of detail which would encumber the reading of the Act.	Negative	The list of potential functions which may be conferred, along with the list of persons on whom such functions may be conferred is a minor technical matter and flexibility is required to legislate swiftly, should the need arise to amend the list of functions and / or those persons on whom they may be conferred.
Section 34(2)(c)	Welsh Ministers	Regulations	This is considered suitable for regulations as the list of those persons who must be notified of a proposed application may need amending in the future to accommodate new or different persons.	Negative	The list of other persons who must be notified of a proposed application is a minor technical and procedural matter and flexibility is required to legislate swiftly, should the

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
					need arise to amend the list of those persons.
Section 34(3)	Welsh Ministers	Regulations	This is considered suitable for regulations as there are a number of publicity and notification requirements relating to applications, which also vary depending on whether a proposed development is onshore or offshore. This will present a significant amount of detail.	Negative	Publicity and notification requirements of an application are considered a minor procedural matter in the wider legislative scheme. Furthermore, it may be necessary to amend how applications are notified and publicised in future to maximise exposure to a wider audience. Therefore, the ability to legislate swiftly is required.
Section 34(5)	Welsh Ministers	Regulations	This is considered suitable for regulations as the date by which representations relating to an application are to be received is a minor technical matter which may need amending in the future to	Negative	The deadline for when representations must be received in relation to an application is a minor technical detail which may need amending in future to ensure the efficiency of the consenting process. It is

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			accommodate a different time period.		therefore important we retain the ability to legislate swiftly when required.
Section 35	Welsh Ministers	Regulations	This is considered suitable for regulations as the requirements reserved for regulations will present a significant level of detail and will also need to be flexible to respond to any future changes in procedure.	Negative	Matters relating to how representations relating to an application may be made and the requirement for specified persons to respond is a minor procedural and technical matter in the wider legislative scheme.
Section 36(4)(b)	Welsh Ministers	Regulations	This is considered suitable for regulations as the requirements for what must be included in a local impact report need to be flexible to respond to future changes in such requirements.	Negative	Requirements specifying the form and content of a local impact report is a minor technical and procedural matter which may need amending in future to reflect changing requirements. Therefore, flexibility is needed to legislate swiftly if required.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
Section 37(4)(b)	Welsh Ministers	Regulations	This is considered suitable for regulations as the requirements for what must be included in a marine impact report need to be flexible to respond to future changes in such requirements.	Negative	Requirements specifying the form and content of a marine impact report are a minor technical and procedural matter which may need amending in future to reflect changing requirements. Therefore, flexibility is needed to legislate swiftly if required.
Section 38(2) and (3)	Welsh Ministers	Regulations	This is considered suitable for regulations as the requirements for giving notice to the Welsh Ministers about persons with an interest in land for which compulsory acquisition would apply as part of an IC will accommodate matters of detail. For example, the information to be provided on those individuals with an interest.	Negative	This is a minor technical detail and procedural matter which will set out requirements for applicants to give notice to the Welsh Ministers about land interests. The proposed details which are to be prescribed may be subject to change in the future; for instance if changes are made to the overarching consenting process or if it is considered certain details should be added or

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
					amended to what information is provided. Therefore, it is important we retain the necessary flexibility to legislate swiftly, should the need arise to alter procedural matters or specified information.
Section 39	Welsh Ministers	Regulations	This is considered suitable for regulations as the requirements for consultation on an application for IC relating to compulsory acquisition after the submission stage will accommodate matters of detail. For example, on the documentation that is required to be provided as part of a consultation or on its timetable.	Negative	The requirement to undertake consultation on an application for IC relating to compulsory acquisition after the submission stage is a minor technical detail and procedural matter in the wider legislative scheme. The proposed details which are to be prescribed may be subject to change in the future if it is considered there are certain details which may not hold as much value in the consultation process as

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
					initially thought, or if certain details should be added. Therefore, it is important we retain the necessary flexibility to legislate swiftly, should the need arise to alter procedural matters or specified information.
PART 4 – EXAMINING APPLICATIONS					
Section 40(5) and (6)	Welsh Ministers	Regulations	This is considered suitable for regulations as arrangements need to be flexible to respond to any future changes in procedure which may be required to undertake examinations of applications effectively.	Negative	Matters relating to the appointment of an examining authority are considered technical and procedural.
Section 42(4)	Welsh Ministers	Regulations	This is considered suitable for regulations as the date by which a determination of examination procedure must be made is a minor technical matter which may need amending in the future to accommodate a different time period.	Negative	The deadline for a determination of examination procedure is a minor technical detail which may need amending in future to ensure the efficiency of the consenting process. It is therefore

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
					important we retain the ability to legislate swiftly when required.
Section 42(6)	Welsh Ministers	Regulations	This is considered suitable for regulations as the list of prescribed parties subject to notification of an examination procedure may require amending in future to accommodate additional parties in the list.	Negative	Notifying prescribed parties of an examination procedure is a minor procedural matter in the wider legislative scheme. Flexibility is also required to legislate swiftly, should the list of prescribed parties need amending in future.
Section 43	Welsh Ministers	Regulations	This is considered suitable for regulations as details relating to the requirement for an open-floor hearing will accommodate significant detail which would	Negative	Details regarding open-floor hearings are minor technical and procedural matters which may require amendments in future to respond to changes in professional

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			encumber the reading of the Act.	practice. It is therefore important we retain the flexibility to legislate swiftly.	
Section 44	Welsh Ministers	Regulations	This is considered suitable for regulations as details relating to the procedure of examinations will accommodate significant detail which would encumber the reading of the Act.	Negative	Details regarding examination procedure are minor technical and procedural matters which may require amendments in future to respond to changes in professional practice. It is therefore important we retain the flexibility to legislate swiftly.
Section 48(6)	Welsh Ministers	Regulations	This is considered suitable for regulations as arrangements need to be flexible to respond to future changes in procedure.	Negative	This is a minor procedural matter in the wider legislative scheme and flexibility is required to legislate swiftly, should the need arise for procedures to change.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
PART 5 – DECIDING APPLICATIONS FOR INFRASTRUCTURE CONSENT					
Section 55(1)	Welsh Ministers	Regulations	This is considered suitable for regulations as arrangements need to be flexible to respond to future changes in working practice.	Affirmative	Powers given by regulations to the examining authority for certain types of applications for infrastructure consent would change the procedure for their determination under a new consenting process. Any changes in procedure for certain application types are considered to warrant additional scrutiny.
Section 57(d)	Welsh Ministers	Regulations	This is considered suitable for regulations as the further matters of which the Welsh Ministers must have regard in deciding an application will present a significant level of detail and will also need to be flexible to respond to any future changes in procedure.	Negative	This is a minor technical detail which may need amending in future to ensure the efficiency of the consenting process. It is therefore important we retain the ability to legislate swiftly when required.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
Section 58(3)	Welsh Ministers	Regulations	This is considered suitable for regulations as further matters which the Welsh Ministers or examining authority consider that they may in future disregard in deciding an application will present a significant level of detail and will also need to be flexible to respond to any future changes in procedure.	Affirmative	Regulations that would change, remove or update matters specified on the face of the Act that the Welsh Ministers or examining authority may disregard in deciding an application for infrastructure consent. Any such regulations are considered to be something that warrant an additional degree of scrutiny.
Section 59(4)(a)	Welsh Ministers	Regulations	This is considered suitable for regulations as arrangements need to be flexible to respond to future changes in procedure.	Negative	This is a minor technical detail which may need amending in future to ensure the efficiency of the consenting process. It is therefore important we retain the ability to legislate swiftly when required.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
Section 59(6)	Welsh Ministers	Regulations	This is considered suitable for regulations as arrangements need to be flexible to respond to future changes in procedure.	Affirmative	Amending the prescribed timeframe for determining an application for infrastructure consent should only be done in exceptional circumstances and therefore it is considered to be something that would warrant additional scrutiny.
Section 60(2)(d)	Welsh Ministers	Regulations	This is considered suitable for regulations as the list of additional parties subject to notification of a decision by the Welsh Ministers may require amending in future to accommodate additional parties in the list.	Negative	Notifying prescribed parties of a decision is a minor procedural matter in the wider legislative scheme. Flexibility is also required to legislate swiftly, should the list of prescribed parties need amending in future.
Section 60(4)(d)	Welsh Ministers	Regulations	This is considered suitable for regulations as the list of additional parties subject to notification of a decision by the examining authority may require amending in future to	Negative	Notifying prescribed parties of a decision is a minor procedural matter in the wider legislative scheme. Flexibility is also required to legislate swiftly, should

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			accommodate additional parties in the list.		the list of prescribed parties need amending in future.
Section 60(6)	Welsh Ministers	Regulations	This is considered suitable for regulations as arrangements need to be flexible to respond to future changes in procedure.	Negative	This is a minor procedural matter in the wider legislative scheme and flexibility is required to legislate swiftly should procedural changes be required to reflect working practices.
Section 62(3)(d)	Welsh Ministers	Regulations	This is considered suitable for regulations as the list of those persons who must be provided with a copy of a statement of reasons may need amending in the future to accommodate new or different persons.	Negative	The list of other persons who must be provided with a copy of a statement of reasons is a minor technical and procedural matter and flexibility is required to legislate swiftly, should the need arise to amend the list of those persons.
PART 6 – INFRASTRUCTURE CONSENT ORDERS					

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
Section 63(5)	Welsh Ministers	Regulations	This is considered appropriate to allow a degree of flexibility to respond efficiently to changes to UK legislation or matters emerging from the implementation of the Act. This may need adjusting more often than it would be sensible for the Senedd to legislate. The regulations are limited in terms of territorial competency and the type of project or variation of project that can be inserted.	Affirmative	This power is to amend, vary or remove an existing provision of an Act of the Senedd, therefore it will require an additional degree of scrutiny.
Section 65(4)	Welsh Ministers	Regulations	This is considered suitable for regulations as they will accommodate details of procedural matters to follow for authorising the compulsory acquisition of land as part of a proposed IC. Flexibility is also required to respond to any procedural changes if considered necessary or appropriate to benefit the consenting process.	Negative	This is a minor technical detail and procedural matter which will set out details for authorising the compulsory acquisition of land as part of a proposed IC. These details could be subject to change in the future depending on what

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
					procedural requirements are relevant or appropriate at the time and therefore, flexibility is required to legislate swiftly if needed.
Section 72(1) and (2)	Welsh Ministers	Regulations	This is considered suitable for regulations as the requirements for notifying about a compulsory acquisition forming part of an IC will accommodate matters of detail. For example, on the content of a notice.	Negative	This is a minor technical detail and procedural matter which will set out requirements for notifying about a compulsory acquisition forming part of an IC. The proposed details which are to be prescribed may be subject to change in the future; for instance if it is considered certain details should be added or amended to what is included in a notice. Therefore, it is important we retain the necessary flexibility to legislate swiftly, should the need arise to alter procedural matters or specified information.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
Section 84(1)	Welsh Ministers	Regulations	This is considered suitable for regulations as they will accommodate details of procedural matters in connection with subsections (2) and (3). Flexibility is also required to respond to any procedural changes if considered necessary or appropriate to benefit the consenting process.	Negative	This is a minor technical detail and procedural matter which will set out details of direction making powers. These could be subject to change in the future depending on what procedural requirements are relevant or appropriate at the time and therefore flexibility is required to legislate swiftly if needed.
Section 84(2)(3) and (4)	Welsh Ministers	Regulations	This is considered suitable for regulations as they will accommodate details of procedural matters in connection with subsections (2) and (3). Flexibility is also required to respond to any procedural changes if	Negative	This is a minor technical detail and procedural matter which will set out details of direction making powers. These could be subject to change in the future depending on what

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			considered necessary or appropriate to benefit the consenting process.		procedural requirements are relevant or appropriate at the time and therefore flexibility is required to legislate swiftly if needed.
Section 85(4)	Welsh Ministers	Subject to specific procedure set out in subsection (4)	This matter relates to the presentation of an IC order in the form of a statutory instrument to the Senedd. It will follow Senedd procedures and the specifications included in subsection (4).	Subject to specific procedure set out in subsection (4).	The process to present an IC order in the form of a new statutory instrument to the Senedd is subject to the specific procedures set at subsection (4).
Section 88	Welsh Ministers	Regulations	This is considered suitable for regulations as arrangements need to be flexible to respond to future changes in procedure.	Negative	Details regarding the procedure for correcting an error in a decision document are minor technical and procedural matters which may require amendments in future to respond to changes in professional practice. It is therefore important we retain the flexibility to legislate swiftly.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
Section 91(1), (3), (5) and (6)(c)	Welsh Ministers	Regulations	This is considered suitable for regulations as details relating to the procedure of changing and revoking IC orders will accommodate significant detail which would encumber the reading of the Act.	Negative	Details regarding the procedure for changing and revoking IC orders are minor technical and procedural matters which may require amendments in future to respond to changes in professional practice. It is therefore important we retain the flexibility to legislate swiftly.
Section 94(1)(a)	Welsh Ministers	Regulations	This is considered suitable for regulations as it is a minor technical matter and arrangements need to be flexible to respond to future changes.	Negative	This is a minor technical detail which may need amending in future to ensure the efficiency of the consenting process.
Section 94(3)	Welsh Ministers	Regulations	This is considered suitable for regulations as it is a minor technical matter and arrangements need to be flexible to respond to future changes.	Negative	This is a minor technical detail which may need amending in future to ensure the efficiency of the consenting process. It is therefore important we

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
					retain the ability to legislate swiftly when required.
Section 95(2)	Welsh Ministers	Regulations	This is considered suitable for regulations as it is a minor technical matter and arrangements need to be flexible to respond to future changes.	Negative	This is a minor technical detail which may need amending in future to ensure the efficiency of the consenting process. It is therefore important we retain the ability to legislate swiftly when required.
Section 96(7)(b)	Welsh Ministers	Regulations	This is considered suitable for regulations as it is a minor technical matter and arrangements need to be flexible to respond to future changes.	Negative	This is a minor technical matter in the wider legislative scheme which may need amending in future. We therefore require the flexibility to legislate swiftly, should the need arise.
PART 7 – ENFORCEMENT					
Section 113(8)	Welsh Ministers	Regulations	This is considered suitable for regulations as arrangements need to	Negative	This is a minor technical matter in the wider

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			be flexible to accommodate any future changes in practice relating to notices of unauthorised development.		legislative scheme and flexibility is required to legislate swiftly should the matters to be specified in a notice of unauthorised development need to be amended in future.
Section 118(1)	Welsh Ministers	Regulations	This is considered suitable for regulations as arrangements need to be flexible to accommodate any future changes in practice relating to restrictions on issuing temporary stop notices.	Negative	Restrictions on when a temporary stop notice may be served is a minor technical matter in the wider legislative scheme. Furthermore, flexibility is required to legislate swiftly, should those restrictions require amending in future.
PART 8 – SUPPLEMENTARY FUNCTIONS					
Section 124(1) and (4)	Welsh Ministers	Regulations	This is considered appropriate as it involves powers to impose or	Affirmative	Any future amendments to the regulations would involve an increase in fees

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			increase fees or other financial burdens on the public.		which is likely to impact applicants and the wider public.
Section 128(6), (7) and (8)	Welsh Ministers	Regulations	This is considered suitable for regulations as it is a minor technical matter and arrangements need to be flexible to respond to future changes.	Negative	This is a minor technical detail which may need amending in future to ensure the efficiency of the consenting process. It is therefore important we retain the ability to legislate swiftly when required.
Section 129(1), (3) and (4)	Welsh Ministers	Regulations	This is considered suitable for regulations as consultations with a wide pool of public bodies of which the Welsh Ministers must have regard in deciding an application will present a significant level of detail and will also need to be flexible to respond to any future changes in procedure.	Negative	This is a minor technical detail which may need amending in future to ensure the efficiency of the consenting process. It is therefore important we retain the ability to legislate swiftly when required.
Section 130(2)(c)	Welsh Ministers	Regulations	This is considered suitable for regulations as it is a minor technical	Affirmative	This power allows the Welsh Ministers to direct a devolved Welsh authority

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			matter and arrangements need to be flexible to respond to future changes.		specified in regulations to do things in relation to an application for infrastructure consent. Therefore it will require an additional degree of scrutiny.
Section 130(4)	Welsh Ministers	Regulations	This is considered suitable for regulations as it is a minor technical matter and arrangements need to be flexible to respond to future changes.	Affirmative	This power relates to the recovery of costs by public authorities under this section. Therefore it will require an additional degree of scrutiny.
Section 131	Welsh Ministers	Regulations	This is considered suitable for regulations as the power to disapply requirements will present a significant level of detail and will also need to be flexible to respond to any future changes in procedure.	Affirmative	This power is to disapply requirements imposed by, under or by virtue of the Act. Subordinate legislation will limit this power but it will require an additional degree of scrutiny.
Section 132(2)	Welsh Ministers	Regulations	This is considered suitable for regulations as it relates to a	Affirmative	This power relates to applications by the Crown

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			procedural matter with a significant level of detail and will also need to be flexible to respond to any future changes in procedure.		and therefore it will require an additional degree of scrutiny.
PART 9 – GENERAL PROVISIONS					
Section 136(2)(e)	Welsh Ministers	Regulations	This is considered suitable for regulations as arrangements for giving notices, directions and other documents need to be flexible to respond to future changes in procedure.	Negative	This is a procedural and technical matter which may need amending in future to ensure the efficiency of the consenting process. It is therefore important we retain the ability to legislate swiftly when required.
Section 144	Welsh Ministers	Regulations	This is considered suitable for regulations as the matters in question may need adjusting more often than it would be sensible for the Senedd to legislate for by primary legislation.	Affirmative	This section confers upon the Welsh Ministers a regulation making power which may be used to make supplementary, incidental, and consequential provision and transitional or saving provision. These could be subject to change in the

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
					future depending on what procedural requirements are relevant or appropriate at the time and therefore, flexibility is required to legislate swiftly if needed.
Section 146(6)	Welsh Ministers	Regulations	This is considered suitable for regulations as it relates to a procedural matter with a significant level of detail and will also need to be flexible to respond to any future changes in procedure.	Negative	This section makes provision about transitional provisions relating to the Act.
Section 147	Welsh Ministers	Order	The use of delegated powers for commencement has a strong precedent and is uncontroversial.	No procedure	This section makes provision about when the provisions of the Act come into force.
Paragraph 1(3) of Schedule 2	Welsh Ministers	Regulations	This is considered suitable for regulations as it is a minor technical matter and arrangements need to be flexible to respond to future changes.	Negative	This is a procedural and technical matter which may need amending in future to ensure the efficiency of the consenting process.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
Paragraph 2(1) of Schedule 2	Welsh Ministers	Regulations	This is considered suitable for regulations as it is a minor technical matter and arrangements need to be flexible to respond to future changes.	Affirmative	This power relates to compensation. Therefore it will require an additional degree of scrutiny.

Table 5.2: Summary of powers to make directions and set published criteria in the provisions of the Infrastructure (Wales) Act

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
PART 2 – REQUIREMENT FOR INFRASTRUCTURE CONSENT					
Section 22(1)	Welsh Ministers	Direction	To direct on a case-by-case basis whether a project which does not qualify as a SIP under Part 1, is indeed treated as an IC for the purposes of the Act.	No Senedd procedure	The substance of the power to issue a direction is set out on the face of the Act and is limited in scope and as such, to apply a Senedd procedure is not considered appropriate.
Section 23(1)	Welsh Ministers	Direction	To direct on a case-by-case basis an application is to be treated as an application for IC, following a direction given under section 22.	No Senedd procedure	The substance of the power to issue a direction is set out on the face of the Act and is limited in scope and as such, to apply a Senedd procedure is not considered appropriate.
Section 24(1)	Welsh Ministers	Direction	To direct on a case-by-case basis whether a project which is partly in Wales or the Welsh Marine area, which as a whole would normally qualify as a SIP under Part 1, is not a SIP for the purposes of the Act.	No Senedd procedure	The substance of the power to issue a direction is set out on the face of the Act and is limited in scope and as such, to apply a Senedd procedure is not considered appropriate.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
PART 3 – APPLYING FOR INFRASTRUCTURE CONSENT					
Section 34(10)	Welsh Ministers	Direction	To direct the applicant to notify a person of an IC application and publicise that application in the way specified in the direction.	No Senedd procedure	Directions will be technical in nature and largely deal with process and as such, to apply a Senedd procedure is not considered appropriate.
Section 37(2)	Welsh Ministers	Direction	To direct the Natural Resources Body for Wales to submit a marine impact report within a specified timeframe.	No Senedd procedure	The substance of the power to issue a direction is set out on the face of the Act and is limited in scope and as such, to apply a Senedd procedure is not considered appropriate.
PART 4 – EXAMINING APPLICATIONS					
Section 40(3)	Welsh Ministers	Published criteria	The Welsh Ministers must publish a document that sets out the criteria for appointing a person or panel of persons, to examine an application to change or revoke an IC.	No Senedd procedure	Published criteria will be technical in nature and largely deal with process and as such, to apply a Senedd procedure is not considered appropriate.
Section 42(7)	Welsh Ministers	Published criteria	The Welsh Ministers must publish criteria to be applied	No Senedd procedure	Published criteria will be technical in nature and largely

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			by the examining authority when deciding on the procedure for each application it examines.		deal with process and as such, to apply a Senedd procedure is not considered appropriate.
Section 44(3)	Welsh Ministers	Direction	To direct that any matter or proceedings are to be decided by the Welsh Ministers instead of the examining authority, or vice versa. The power to direct in this case may be provided by regulations.	No Senedd procedure	Directions will be technical in nature and largely deal with process and as such, to apply a Senedd procedure is not considered appropriate.
Section 48(2)	Ministerial Authority (Welsh Ministers)	Direction	To direct the examining authority conducting an inquiry that specific evidence is to be heard or open to inspection, by persons specified in the direction.	No Senedd procedure	The substance of the power to issue a direction is set out on the face of the Act and is limited in scope and as such, to apply a Senedd procedure is not considered appropriate.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
Section 49(2)	Ministerial Authority (Welsh Ministers)	Direction	To direct “the responsible person” to pay the fees and expenses of an appointed representative, for the purposes of a local inquiry.	No Senedd procedure	The substance of the power to issue a direction is set out on the face of the Act and is limited in scope and as such, to apply a Senedd procedure is not considered appropriate.
Section 53(1)	Welsh Ministers	Direction	To direct the examining authority to re-open examination, following receipt of a report under section 52 of the Act.	No Senedd procedure	Directions will be technical in nature and largely deal with process and as such, to apply a Senedd procedure is not considered appropriate.
PART 5 – DECIDING APPLICATIONS FOR INFRASTRUCTURE CONSENT					
Section 55(4)	Welsh Ministers	Direction	To direct that an examining authority has the function to determine an application for IC instead of the Welsh Ministers, and that the Welsh Ministers have the function to determine an application for IC instead of an examining authority.	No Senedd procedure	The substance of the power to issue a direction is set out on the face of the Act and is limited in scope and as such, to apply a Senedd procedure is not considered appropriate.
Section 59(2)	Welsh Ministers	Direction	To direct a time extension on the determination period for an IC, either by the	No Senedd procedure	The substance of the power to issue a direction is set out on the face of the Act and is

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			examining authority or Welsh Ministers.		limited in scope and as such, to apply a Senedd procedure is not considered appropriate.
PART 6 – INFRASTRUCTURE CONSENT ORDERS					
Section 73(5)	Welsh Ministers	Direction	The power to direct that the right of way revives if the right is extinguished before the acquisition of the land is completed but the proposal to acquire the land is abandoned.	No Senedd procedure	The substance of the power to issue a direction is set out on the face of the Act and is limited in scope and as such, to apply a Senedd procedure is not considered appropriate.
PART 8 – SUPPLEMENTARY FUNCTIONS					
Section 130(1)	Welsh Ministers	Direction	To direct public authorities to undertake any relevant matters in relation to an IC application.	No Senedd procedure	Directions will be technical in nature and largely deal with process and as such, to apply a Senedd procedure is not considered appropriate.
Section 131(1)	Welsh Ministers	Direction	To direct that requirements in the Act do not apply to ICs subject to that direction.	No Senedd procedure	Directions will be technical in nature and largely deal with process and as such, to apply a Senedd procedure is not considered appropriate.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			The power to direct in this case may be provided by regulations.		
SCHEDULE 2 – COMPENSATION FOR CHANGING OR REVOKING INFRASTRUCTURE CONSENT ORDERS					
Paragraph (7)(1)(c)	Welsh Ministers	Direction	To direct the amounts payable to the Welsh Ministers and when in relation to the amount recoverable by the Welsh Ministers in respect of compensation.	No Senedd procedure	Directions will be technical in nature and largely deal with process and as such, to apply a Senedd procedure is not considered appropriate.

PART 2 – REGULATORY IMPACT ASSESSMENT

Chapter 6 – Regulatory Impact Assessment (RIA) summary

6.1 A Regulatory Impact Assessment (RIA) has been completed for the Act and it follows below. The RIA was updated following Stages 2 and 3 of the Senedd's scrutiny of the legislation in order to provide clarifications on the methodology and to reflect amendments of note (in terms of potential cost implications) at Stage 3. These updates are purely clarificatory and do not have any additional cost implications for the RIA. Further analysis of the costs and benefits of the new system will continue to be refined in the RIAs that will be produced for all subordinate legislation arising from the Act, including regulations that will be developed over the coming year as the new infrastructure consenting process is implemented.

6.2 There are no specific provisions in the Act which charge expenditure on the Welsh Consolidated Fund.

6.3 The following table presents a summary of the costs and benefits for the Act as a whole. The table has been designed to present the information required under Standing Order 26.6 (viii) and (ix). All costs below have been provided to the nearest £100.

Infrastructure Act		
Preferred option: Introduce legislation to – Establish a new form of 'Welsh Infrastructure Consent' for development or works with the objective of constructing and/or changing use to create a 'Welsh Infrastructure Project' (see Chapters 7 and 8 for options appraisal and further details on each option considered).		
Stage: Introduction	**Appraisal period:** 2024/25 - 2028/29	**Price base year:** 2022/23
Total Cost **Total: £-2,222,500** **Present value: £-1,938,800**	**Total Benefits** **Total: £-** **Present value: £-**	**Net Present Value (NPV):** **£1,938,800**

Administrative cost

<table>
<tr><td colspan="4">Costs: There will be an initial implementation cost to the Welsh Government of £385,300 for the setting up of a new infrastructure consenting regime prescribed by the Act, incorporating new case management and IT systems, guidance and training.</td></tr>
<tr><td>Transitional: £385,300</td><td>Recurrent: £0</td><td>Total: £385,300</td><td>PV: £372,300</td></tr>
</table>

<table>
<tr><td colspan="4">Cost-savings: The cost to the Welsh Government for determining infrastructure applications under the new consenting regime is estimated to be £567,700 per year. However, these determination costs will be fully recoverable through application fees and this generates a cost-saving to the Welsh Government of £65,400 per year between 2025-26 and 2028-29 when compared to the baseline (where costs are not fully recoverable) and a total cost-saving of (£65,400 x 4) £261,600. In addition to determination costs being fully recoverable, there will be general efficiency savings to the Welsh Government in determining individual infrastructure projects under one consenting regime, compared to the several that currently exist. In 2024-25, applications will be determined under current regimes and there is therefore no difference in costs compared to the baseline in that year.</td></tr>
<tr><td>Transitional: £0</td><td>Recurrent: £261,600</td><td>Total: £261,600</td><td>PV: £232,100</td></tr>
<tr><td colspan="4">Net administrative cost: £123,700</td></tr>
</table>

Compliance costs

The cost to developers for submitting their applications as part of a new consenting regime is estimated to be £4,208,400 per year. This represents a cost-saving of approximately £580,500 per year when compared to current regimes (the baseline). This saving will be realised between 2025-26 and 2028-29, giving a total saving during the appraisal period of £2,322,000. In 2024-25, applications will be determined under current regimes and so costs are expected to be the same as in the baseline. There will be a transition cost to developers of £3,000 for training on the new regime.

The cost to LPAs for participating in applications is estimated to be £21,200 per year, this represents a cost-saving of approximately £4,800 per year compared to the baseline scenario. Again this cost-saving will be realised between 2025-26 and 2028-29, with costs for participating in the determination process the same as the baseline in 2024-25. Total savings to LPAs over the appraisal period are therefore estimated to be £19,200. In addition, there will be a transition cost of £30,300 for training on the new regime.

The cost to statutory consultees for commenting on applications under the new regime is estimated to be £35,100 per year, this represents a cost-saving of approximately £9,500 per year when compared to the baseline. This saving is expected to be realised between 2025-26 and 2028-29, with costs in 2024-25 expected to be the same as in the baseline. The total cost-saving to statutory consultees is therefore estimated to £38,000.

Costs to communities are unknown.

Transitional: £33,300	**Recurrent: £-2,379,500**	**Total: £-2,346,200**	**PV: £-2,079,000**

Other costs

N/A

Transitional: £-	**Recurrent: £-**	**Total: £-**	**PV: £-**

Unquantified costs and disbenefits

Costs to communities for participating in a new consenting regime are variable depending on their background and the nature of their responses to particular projects and are therefore not quantifiable.

Given the nature of the Act which deals with procedural matters, there are no environmental disbenefits arising from it. Relevant environmental legislation will continue to apply in the determination of infrastructure projects under a new consenting regime.

Benefits

In addition to the identified cost-savings, the Act will provide significant benefits by providing a more streamlined and unified consenting process for the determination of SIPs. A single cohesive system will remove complexity and provide a more flexible process that is better able to respond to future changes and challenges, contributing to Ministerial aims and objectives. It will provide a regime that is simpler to navigate for developers, therefore being better able to contribute towards economic growth and the development of a low-carbon economy. The amalgamation of disparate consenting regimes into a single process will lead to resource savings for community, statutory consultee and LPA involvement, by reducing duplication. Further justification for the inclusion of these benefits in the RIA, where it is not possible to quantify them financially, is provided under the section on Option 2 Benefits.	
Total: £-	**PV: £-**

Key evidence, assumptions and uncertainties

Estimates of number of applications and subsequent costs that will apply as part of a new consenting regime prescribed by the Act are based on the following evidence base:

- An assessment of infrastructure applications over the period 2013-2019 provided in a report prepared by Arup Consultants dated 2019 ("the Arup Report")[2];
- A further assessment of infrastructure applications submitted to the Welsh Ministers up to 1 April 2022;
- Welsh Government and LPA involvement in current infrastructure consenting processes, including DNS (2022/2023 desktop research); and
- Further routine statistical and service data.

It is noted specific costs evidenced for the Act are based on current and historic data and therefore some detailed costs for its implementation may alter in future. However, it must be recognised that the evidence base for the RIA has been collated over a broad time period, with a number of set costs included such as application fees. It is therefore considered to provide the best available evidence to inform an accurate representation of costs that will apply for the Act over the appraisal period and a suitable comparison of costs between the various options outlined in the RIA.

[2] Research into the Cost of Infrastructure development in Wales: Study Report. Arup 2019

Chapter 7 – Options

7.1 The full options appraisal has been set out in Chapter 8. The costs and benefits associated with each option are presented, using the best available information. This information has been prepared through discussion with key stakeholders and evidence-based research.

7.2 The assessment of costs and benefits is based on the five year period 2024-25 to 2028-29. The Act received Royal Assent in June 2024 and consequently it will be 2024-25 that initial costs will be incurred. The IC regime is expected to be fully operational by Mid-2025. This 'appraisal period' has been chosen as the costs of a new regime to different stakeholders are expected to be relatively consistent in a short time, with benefits being realised in the short to medium term.

7.3 The findings for each option detailed in Chapter 8 are largely derived from the report published by Arup in March 2019 titled: 'Research into the Cost of Infrastructure development in Wales' ("the Arup Report")[3]. The Arup report gathered information on infrastructure development submitted between April 2013 and February 2019. Further information was gathered from Planning and Environment Decisions Wales ("PEDW") on infrastructure development applications submitted beyond the Arup Report date of February 2019 up to 1 April 2022 to ensure an up-to-date and robust evidence base for the purposes of this assessment. 'Infrastructure developments' for the purpose of the Arup Report and PEDW applications included: planning permission under s.57(1) of the TCPA 1990; DNS under s.62D of the TCPA 1990; and other infrastructure development types including relevant consent relating to highways, railways, electricity and harbours.

7.4 Historic data on applications submitted to various consenting authorities is considered the most appropriate evidence base to establish potential application numbers for infrastructure development likely to come forward per year. As such, applications included in the Arup Report and PEDW applications have been used to determine the costs and benefits to stakeholders for future applications under the assessment of the alternative options presented in Chapter 8. The timeframe of the Arup Report, i.e. the period April 2013 to February 2019, in addition to applications submitted to PEDW from February 2019 up to 1 April 2022, is termed the 'assessed period' for the purpose of this RIA.

7.5 It must be noted that this RIA does not use speculative data. Historic data has indicated there has been an average of six applications per year for significant

[3] Research into the Cost of Infrastructure development in Wales: Study Report. Arup 2019

infrastructure in Wales in recent years. However, we note that a significant number of DNS proposals have been notified to the Welsh Ministers, and at the time of writing, 8 DNS planning applications and 1 Electricity Act 1989 consent were determined in the 2022/23 financial year. Furthermore, there is a pipeline of approximately 8 DNS applications per year for the next two financial years based on the number of notifications of intent to apply for planning permission for DNS, which have been issued by developers. While such application numbers appear to be increasing, we note the unreliability of speculative data, which do not set out the long-term forecast. By way of assumption, it can be noted that if application numbers are higher or lower in future under the preferred option than the historic data has indicated, this would affect annual costs to developers and other stakeholders. For example, if application numbers are higher, this would result in increased costs to the development industry for the submission of additional applications. However, the benefits would be implementation of a likely increased number of infrastructure schemes and therefore improved infrastructure. Costs to the Welsh Government under the preferred option would not be affected by changes to application numbers from the historic trends as they would be fully recoverable through fees. As such assumptions are speculative, whilst they are noted, they cannot be used to evidence costs for the purpose of this assessment.

7.6 Some key assumptions have been made for the assessment of costs and benefits under the alternative options presented in Chapter 8. The final costings have been rounded to the nearest £100, some totals may not sum due to this rounding. In line with HM Treasury Green Book guidance, all costs in the RIA are presented in constant prices. Historic costs have been uprated to 2022-23 prices using the GDP deflator series. In calculating costs under each alternative option, where applications per year are recorded at a decimal point, these totals have not been rounded to ensure accuracy. Costs which are reimbursed (for example through payment of fees) are marked in red under each table and have been counted separately from net costs to stakeholders. Net costs are marked in black and represent a more realistic assessment of actual costs to stakeholders, as they are not recoverable.

7.7 The supporting document 'Regulatory Impact Assessment Methodology Paper'[4] sets out the detail and workings behind the figures in Chapters 7 and 8.

[4] The published version of the Regulatory Impact Assessment Methodology Paper can be found here: https://business.senedd.wales/documents/s137490/Regulatory%20Impact%20Assessment%20RIA%20Methodology%20Paper%20-%2012%20June%202023.pdf

7.8 The following four options for determining infrastructure development are outlined in Chapter 8, and the advantages and disadvantages of each are presented.

1. **Option 1 – Do nothing. Applications for proposed infrastructure developments are to be determined according to the current legislative arrangements.**
2. **Option 2 – Establish a new form of 'Welsh Infrastructure Consent' for development or works with the objective of constructing and/or changing use to create a 'Welsh Infrastructure Project'. This is the preferred option.**
3. **Option 3 – Establish an independent consenting body to determine 'Welsh Infrastructure Consents'.**
4. **Option 4 – Establish a streamlined regime to be determined by a consenting unit within Welsh Government.**

7.9 A summary appraisal of the set-up costs (where applicable) and application costs to stakeholders for each option are outlined below, with detailed costs and benefits elaborated upon in Chapter 8.

Option costs

Table A – Transitional costs for each of the various options (where applicable)				
Stakeholder	Option 1	Option 2	Option 3	Option 4
Welsh Gov	N/A	£385,300	£1,054,100	£4,200
LPAs	N/A	£30,300	£30,300	£0
Developers	N/A	£3,000	£3,000	£0
Communities	N/A	£0	£0	£0
Statutory Consultees	N/A	£0	£0	£0

Table B – Net recurrent costs per annum[1] ***(further additional costs shown in red are provided for information purposes as these costs are expected to be reimbursed, for example through payment of fees)***				
Stakeholder	Option 1	Option 2	Option 3[2]	Option 4
Welsh Gov	£65,400 (£652,700 reimbursed)	£0 (£567,700 reimbursed)	£0 (£2,480,500 reimbursed). For this option, these costs would apply to the independent body as ongoing costs, rather than to the Welsh Government.	£0 (£718,100 reimbursed). The same costs as Option 1, but with all costs fully recoverable.
LPAs	£26,100 (£31,000 reimbursed)	£21,200 (£38,900 reimbursed)	£21,200 (£38,900 reimbursed)	£26,100 (£31,000 reimbursed). The same costs as Option 1.
Developers	£4,788,900	£4,208,400	£5,390,300	£4,757,900
Communities	Unknown	Unknown	Unknown	Unknown
Statutory Consultees	£44,600	£35,100	£35,100	£44,600. The same costs as Option 1.

1. In all options, applications during 2024-25 will be determined under current regimes and, as such, costs in that financial year will be the same as in the baseline (Option 1).

2. A longer transition period in Option 3 means applications received during 2025-26 will be determined under current regimes and, as such, costs in that financial year will also be the same as in the baseline.

Chapter 8 – Costs and benefits

Option 1 – Do nothing. Applications for proposed infrastructure developments are to be determined according to the current legislative arrangements.

Option 1 Description

8.1 Under this option there would be no changes to existing consenting regimes. There are no additional costs or benefits associated with this option. Existing costs have been summarised for the purpose of comparing the baseline option with the alternative options. This option would retain a fragmented consenting regime which does not provide the one-stop shop the development industry seeks.

Option 1 Costs

Table C – Set-up net costs for Option 1	
Stakeholder	Costs
Welsh Gov	Not applicable to this option as there would be no changes to existing consenting regimes.
LPAs	
Developers	
Communities	
Statutory Consultees	

Table D – Summary of net Option 1 costs per annum to the identified stakeholders *(further additional costs shown in red are provided for information purposes as these costs are expected to be reimbursed, for example through payment of fees)*						
Stakeholder	DNS	Generating stations under Electricity Act	Harbours Act Order	Highways Act Order	TWA Order	Total costs per annum
Welsh Gov	£0 (£348,400 reimbursed)	£0 (£46,300 reimbursed)	£42,300	£0 (£258,000 reimbursed)	£23,100	£65,400 (£652,700 reimbursed)
LPAs	£17,400 (£31,000 reimbursed)	£1,000	£2,400	£4,800	£500	£26,100 (£31,000 reimbursed)
Developers	£3,588,900	£352,600	£238,700	£258,000	£350,800	£4,788,900
Communities	Unknown					
Statutory Consultees	£26,300	£200	£11,600	£1,600	£300	(£40,000 + additional cost of

						£4,600 to Natural Resources Wales ("NRW") for determining marine licences) £44,600.

(a) Welsh Government

8.2 Welsh Ministers are responsible for determining applications under the following legislative regimes:

- planning permission under section 57 of the TCPA 1990 (via 'call-in' or appeal);
- planning permission for DNS under section 62D of the TCPA 1990;
- marine licensing under section 65 of the Marine and Coastal Access Act 2009, delegated to NRW;
- consent to construct and operate generating stations under section 36 of the Electricity Act 1989;
- Harbour Revision and Empowerment Orders under the Harbours Act 1964;
- Orders under the TWA; and
- Orders under the Highways Act 1980.

8.3 By retrospectively applying the current legislative thresholds to the 54 applications over the assessed period, we have assumed an average of 6 applications per year. We anticipate that of these applications, 19 would be high complexity (2.1 per year); 26 medium complexity (2.9 per year); and 9 low complexity (1 per year).

Planning permission under section 57(1) of the TCPA 1990

8.4 Appeals against planning decisions are largely considered by PEDW on behalf of the Welsh Ministers, although a small number are recovered for direct decision by the Welsh Ministers. All called in planning applications are determined by the Welsh Ministers. PEDW is a part of the Welsh Government.

8.5 Over the assessed period, there were no applications that would be determined by the Welsh Government under section 57 of the TCPA 1990. Therefore costs to the Welsh Government for this type of consent are estimated to be zero.

Planning permission for DNS under s.62D of the TCPA 1990

8.6 PEDW process DNS applications on behalf of the Welsh Ministers, producing a recommendation report. In the majority of cases, the Welsh Ministers will make a decision on a DNS application, and any associated secondary consents, following consideration of the report.

8.7 A total of 36 DNS applications were examined over the assessed period, averaging 4 DNS applications per year, with all decisions being made by the Welsh Ministers.

8.8 The DNS regime is operated on a 'full cost recovery' basis, and various stages of the process attract a fee. The Developments of National Significance (Fees) (Wales) Regulations 2016[5] (as amended) sets out the full fee details. An initial fee covers the administrative costs to PEDW and a determination fee covers the costs to the Welsh Government. Actual costs associated with PEDW examination of an application are charged as a daily rate in addition to the set fees.

8.9 Depending on the nature of the proposed development, DNS applications are subject to examination via one, or a mixture, of the following methods:

- Written representations;
- hearing/s; and
- Inquiry.

8.10 Each DNS application is administered by PEDW and these fees are covered by the overall application fee. Other fees may be incurred by applicants relating to optional pre-application advice from PEDW, and pre-application notification. A determination fee is paid to the Welsh Government Planning Directorate. Full fees are set out in Table G.

8.11 Along with the standard and variable costs related to work undertaken by PEDW and the Planning Directorate of the Welsh Government, there may be actual (external) costs to PEDW. Actual costs could include advertising, venue hire, legal services, appointment of an assessor or commissioning of reports from external sources. Other than estimated costs for advertising, it is not possible to quantify actual costs for DNS applications due to their variable nature. Fees will be levied on applicants on the basis of full cost recovery to include these actual costs.

8.12 Any application for secondary consent submitted to the Welsh Ministers will be processed and determined alongside the DNS application, using the same

[5] https://www.legislation.gov.uk/wsi/2016/57/contents/made

procedure. Applying for secondary consents is optional. The inclusion of secondary consents may increase the variable costs associated with determining the application and would be absorbed into the daily cost of examination, though fixed costs will remain the same. As these costs are variable, they are therefore unknown.

8.13 PEDW and the Planning Directorate of the Welsh Government have provided a range of costs associated with three different levels of DNS complexity, based on staff time associated with determining such applications.

8.14 To provide an indicative range of costs, applications have been divided into three levels of complexity based on the nature of issues associated with each application. Low complexity cases are anticipated to be examined by written representations. Medium complexity cases are expected to be examined by topic-specific hearings. High complexity cases are expected to be examined by inquiry.

8.15 It is not possible to estimate the number or complexity of pre-application discussions or post-consent variations undertaken by applicants. Therefore, these costs are not included as part of this assessment and are unknown. Any Welsh Government costs for these activities would be subject to full cost recovery.

Table E – DNS costs to the Welsh Government			
Level of DNS complexity	Average cost to PEDW/Planning Directorate per application	Total costs based on number of cases over assessed period	Total costs to the Welsh Government (including PEDW) per year
Low	£32,200	£289,400	£32,200
Medium	£76,100	£1,597,800	£177,500
High	£208,100	£1,248,900	£138,800
Total		**£3,136,000**	**£348,400**

8.16 Based on assumed level of complexity and applied retrospectively, it is estimated that the 36 DNS applications over the assessed period would result in a future cost of approximately £348,400 per year to the Welsh Government (including PEDW).

8.17 All determination costs to the Welsh Government (including PEDW) are offset by the submission of relevant fees by applicants, resulting in a cost-neutral option to the Welsh Ministers.

Consent to construct and operate generating stations under section 36 of the Electricity Act 1989

8.18 Applications to construct, extend and operate offshore generating stations between 1MW and 350MW in Welsh waters require consent from the Welsh Ministers under section 36 of the Electricity Act 1989.

8.19 Over the assessed period, two applications for generating stations have been submitted. Based on their assumed level of complexity and applied retrospectively, it is estimated that these two applications would result in a future cost of approximately £46,300 per year to the Welsh Ministers. These costs are fully recovered by the Welsh Government from applicants.

Harbour Revision and Empowerment Orders under the Harbours Act 1964

8.20 Following the transfer of specific functions under the Harbours Act 1964 by virtue of the Wales Act 2017, the Welsh Ministers are responsible for making various types of harbour orders, including Section 14 Harbour Revision Orders and Section 16 Harbour Empowerment Orders.

8.21 Responsibility for the procedural elements of these Orders is shared between Welsh Government officials and, in certain cases, PEDW.

8.22 The procedure for orders which do not contain works related provisions (known as 'non-works orders') is administered by the Ports Policy team of the Welsh Government. PEDW is appointed by the Welsh Ministers to undertake the procedural elements for certain functions under the Harbours Act 1964, related to "works" harbour orders, under paragraphs 7, 7A, 7B, 9A and 17 within Schedule 2 of the Act.

8.23 There is no record of costs for the Welsh Government in determining applications for Harbour Orders as all applications during the assessed period were submitted prior to the Welsh Ministers receiving executive competence to deal with such applications. Fees are set out in guidance[6] and are generally considered too low to cover the Welsh Government costs of determining applications for Harbour Revision and Empowerment Orders.

8.24 Over the assessed period, five applications for Harbour Orders have been submitted. Based on their assumed level of complexity and applied retrospectively, it is estimated that these five applications would result in a future cost of approximately £42,300 per year to the Welsh Ministers. Given the low nature of fees, most of this cost is not anticipated to be recovered by the Welsh Government from applicants.

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[6] Procedural harbour order guidance for Wales 2018 (gov.wales)

Orders under the TWA

8.25 Applications for orders under the TWA in Wales are determined by Welsh Ministers and administered by PEDW, and such an Order may be obtained by an applicant instead of the DNS process or the Electricity Act 1989 where it meets certain criteria.

8.26 Fees for the submission of TWA Orders are set out under Schedule 4 of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006. These fees are not applied for offshore development. PEDW may recover its examination costs in the case of an inquiry.

8.27 Over the assessed period, one application for a TWO Order has been submitted, for offshore development. Based on its assumed level of complexity and applied retrospectively, it is estimated the costs for determining TWO Orders would be approximately £23,100 per year to the Welsh Ministers. Under the current fee arrangements for TWA Orders, this cost is not recoverable from applicants.

Orders under the Highways Act 1980

8.28 The cost of determining an application under the Highways Act 1980 to the Welsh Ministers is estimated to be approximately £232,200 on average. Over the assessed period, there have been 10 applications for orders submitted to Welsh Ministers under section 10, section 14, section 16 or section 28 of the Highways Act 1980. These would also be determined under the current legislative regime, producing an annual estimated cost to the Welsh Government (including PEDW) of £258,000. This cost is recovered from applicants.

(b) LPAs

8.29 LPA costs under the various infrastructure consenting regimes for this option are provided below.

Table F – Total LPA costs under Option 1		
Legislative regime	Cost per application	Total cost per annum
DNS	£12,094 (£7750 reimbursed)	£48,400 (£31,000 reimbursed)
Electricity	£4,344	£1,000
Harbour	£4,344	£2,400
TWA	£4,344	£500

Planning permission under section 57(1) of the TCPA 1990

8.30 Planning Permission under section 57 of the TCPA 1990 is required for certain infrastructure developments. Such submissions are determined by the LPA, unless called in or determined via appeal by the Welsh Ministers.

8.31 Over the assessed period, there were no applications which would currently be determined under section 57 of the TCPA 1990, and therefore costs to LPAs for this type of consent are estimated to be zero.

Planning permission for DNS under s.62D of the TCPA 1990

8.32 PEDW processes DNS applications on behalf of the Welsh Ministers, producing a recommendation report. LPAs are responsible for the following activities associated with DNS applications:

- consultation with the applicant[7];
- consultation with PEDW on Environmental Impact Assessment ("EIA") screening and scoping directions;
- erection of site notices (copies to be supplied by PEDW);
- placing a copy of the application on the local planning register;
- requesting information from relevant Community Councils;
- preparing a Local Impact Report ("LIR");
- making representations to PEDW during examination; and
- monitoring the implementation of the permission and ensuring that it is in accordance with the plans and any conditions.

8.33 The production of a LIR is estimated to cost £7,750 per relevant LPA[8] for each DNS application. Applicants are required to pay a fee to cover the cost for producing the LIR.

8.34 Excluding LIRs, it is estimated to cost an LPA £4,300 to engage with a DNS application. This figure represents an average cost, based on information provided by LPAs during 2022. This cost is not recovered.

8.35 Based on applications over the assessed period, it is assumed 4 DNS applications per year require input from LPAs. The total cost to LPAs is therefore estimated to be £48,400 per year, of which £17,400 is not recovered by way of the LIR fee.

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[7] If the Inspectorate receives notification from an applicant that they intend to provide an Environmental Statement (ES), or if the Inspectorate has issued a positive screening direction, the LPA will be notified of their duty to enter into consultation with the person who intends to submit the ES and provide relevant environmental information (PEDW 2019).
[8] https://gov.wales/sites/default/files/publications/2019-11/developments-of-national-significance-dns-procedural-guidance.pdf

Consent to construct and operate generating stations under section 36 of the Electricity Act 1989

8.36 For applications to construct and operate generating stations under section 36 of the Electricity Act 1989, the relevant planning authorities receive the application and supporting Environmental Statement. They are required to make their views known by way of formal response to both the applicant and the Welsh Ministers. The relevant planning authority must serve notice of any objection to a generating station application within four months, unless a longer period is agreed in writing with the applicant and Welsh Ministers.

8.37 It is assumed consultation on such applications will be at a cost of £1,000 per year to LPAs. These costs are not reimbursed by the applicant or the Welsh Government.

Harbour Revision and Empowerment Orders under s.14 of the Harbours Act 1964

8.38 When an application for a Harbour Revision and Empowerment Order is made, Welsh Ministers consult with a range of organisations on the potential impacts and any proposed mitigation measures or conditions within the order. Consultees vary depending on the type of application and include LPAs.

8.39 It is assumed consultation on such applications will be at a cost of £2,400 per year to LPAs. These costs are not reimbursed by the applicant or the Welsh Government.

Orders under the TWA

8.40 When an application is made under the TWA, Welsh Ministers may consult with LPAs. Costs to LPAs for TWA Orders can vary, depending on the complexity of the application.

8.41 It is assumed consultation on such applications will be at a cost of £500 per year to LPAs. These costs are not reimbursed by the applicant or the Welsh Government.

Orders under the Highways Act 1980

8.42 When an application under the Highways Act is made, the Welsh Ministers may consult with LPAs.

8.43 It is assumed consultation on such applications will be at a cost of £4,800 per year to LPAs. These costs are not reimbursed by the applicant or the Welsh Government.

(c) Development Industry

8.44 Developers[9] bear the cost of preparing their proposed scheme and obtaining development consent, including the payment of a fee (or fees) to the relevant consenting authority.

Table G – Developer costs under Option 1			
Legislative regime	Preparation costs to developers per application*	Submission and determination costs to developers per application*	Total cost per annum
DNS	£670,000	£227,200	£3,588,900
Electricity	£1,373,900	£212,600	£352,600
Harbour	£176,300	£253,400	£238,700
TWA	£2,110,000	£1,046,900	£350,800

** Average preparation, submission and determination costs to developers for certain types of infrastructure schemes provided by the 2019 Arup Report (rounded to the nearest 100).*

Planning permission under section 57(1) of the Town and Country Planning Act (TCPA) 1990

8.45 Over the assessed period, there were no applications which would currently be determined under section 57 of the TCPA 1990, and therefore costs to the development industry for this type of consent are estimated to be zero.

DNS permission under s.62D of the TCPA 1990

8.46 Applicants seeking permission for DNS development submit an application to the Welsh Ministers. The DNS regime is operated on a 'full cost recovery' basis, and so various stages of the process are associated with the payment of fees. The Developments of National Significance (Fees) (Wales) Regulations 2016 (as amended) set out the full details.

[9] "Developer" is taken to mean a person or organisation wishing to apply for development.

8.47 Table H below outlines the standardised baseline costs and fee details associated with a DNS application. Additional costs can be accrued throughout examination to cover the costs of determination.

Table H – Baseline costs and fee details associated with DNS applications (provided in their pure form and therefore not rounded)	
Discretionary Costs	
Pre-Application Services – LPA	£1,500
Pre-Application Services – PEDW	Hourly rate of £55 (plus VAT)
Essential Costs	
Notification Fee	£580
Initial Fee (paid on submission)	£15,350
Fee for LIR (paid on submission)	£7,750 (per relevant LPA)
Written Representation Hearing or Inquiry	Daily rate of £870 Daily rate of £920
Determination fee (applicable to all DNS projects, except applications for overhead electric lines)	£14,700 (paid directly to the Welsh Government)

8.48 Total costs vary according to the nature of development. It is estimated average costs to developers for DNS applications will be £3,588,900 per year under this option.

Consent to construct and operate generating stations under section 36 of the Electricity Act 1989

8.49 Section 36 applications in Wales are consented by the Welsh Ministers. The average cost to the developer of submitting an application for a generating station under s.36 of the Electricity Act 1980 was estimated in the Arup Report as £1,586,500.

8.50 Based on costs per application taken from the Arup Report and their estimated numbers, it is estimated the costs to developers for applications for generating stations would be £352,600 per year.

Harbour Revision and Empowerment Orders under s.14 of the Harbours Act 1964

8.51 Based on costs per application taken from the Arup Report and their estimated numbers, it is estimated the costs to developers for Harbour Revision and Empowerment Orders would be £238,700 per year.

Orders under the TWA

8.52 Applications for orders under the TWA in Wales are determined by Welsh Ministers.

8.53 Based on costs per application taken from the Arup Report and their estimated numbers, it is estimated the costs to developers for TWA Orders would be £350,800 per year.

Orders under the Highways Act 1980

8.54 Applications for orders under the Highways Act 1980 in Wales are determined by Welsh Ministers.

8.55 Based on costs per application for the Welsh Government determining highways orders and their estimated numbers, it is estimated the costs to developers for Highways Orders would be £258,000 per year[10].

(d) The Community

8.56 Communities and interested parties can review and comment on proposed development to make their views known. In this manner, they are able to participate in the planning process and influence consideration of the proposed development. There is also a similar opportunity if an appeal is submitted.

8.57 Members of the public can submit representations on any planning application. There is no statutory requirement for the community to provide responses to consultation associated with applications for infrastructure development.

8.58 There is a time cost to interested parties and the public in participating in the planning process. However, this cost is variable, depending on the background of the respondent and the nature of their response. Therefore, it is not possible to provide a sum based on the time spent commenting on proposed schemes. This cost is therefore unknown. Under this option, it is considered there could be duplication of community involvement where communities would have to

[10] Costs to developers for highways schemes are based on an approach to apply their determination costs only for all options in this RIA. Full explanation and justification of the approach taken for highways schemes is provided in the Methodology Paper.

comment on number of regimes for a single infrastructure scheme. This could result in additional costs compared to other options.

(e) Statutory Consultees

8.59 The Arup Report estimated a range of costs for consultees based on the following tasks:

1. Estimated costs of providing a substantive response to applicants for pre-application consultation;
2. Estimated costs of providing services to applicants outside of any statutory requirements prior to an application being submitted and how much of that cost was recouped through a fee;
3. Estimated costs of providing a response to an application following submission; and
4. Estimated costs of participating in an examination of an application (excluding any written response to a consultation period).

Table I – Costs per statutory consultee for participating in the consenting processes (Arup 2019[11]) (figures rounded to the nearest 100)	
Legislative regime	Consultee costs (£)[12]
s.57 TCPA 1990	1,200 – 3,100
s.62D TCPA 1990	2,100 – 6,100
TWA	400 – 3,300
Highways Act 1980	900
Planning Act 2008	2,600 – 62,600
s.36 Electricity Act 1989	300 – 700
Harbours Act 1964	700 – 25,400

Table J – Total statutory Consultee costs under Option 1		
Legislative regime	Cost per application	Total cost per annum
DNS	£6,580	£26,320
Electricity	£798	£177
Harbour	£20,910	£11,617
TWA	£2,956	£328

[11] Arup 2019 'Research into the Cost of Infrastructure development in Wales'
[12] Statutory consultee costs are based on per applications costs as identified in the Arup 2019 report for the assessed period.

Planning permission under section 57(1) of the TCPA 1990

8.60 Over the assessed period, there were no applications found that would currently be determined under section 57 of the TCPA 1990 and therefore costs to statutory consultees for this type of consent are estimated to be zero.

DNS permission under s.62D of the TCPA 1990

8.61 There are statutory requirements relating to pre-application consultation and consultation when determining a DNS application, and these requirements apply to specified bodies.

8.62 In addition to statutory requirements, Welsh Ministers are able to consult any other consultees as they deem appropriate. As such, consultations are discretionary and variable.

8.63 Based on figures from the Arup Report on costs for responding to DNS applications and their estimated numbers, it is estimated total annual costs to statutory consultees for responding to DNS applications would be £26,300[13]. However, it should be recognised costs can vary widely depending on the context of each proposed development. For instance, a development potentially impacting upon a designated heritage asset would likely require significantly more engagement with Cadw than one which did not have any potential significant heritage impacts.

Consent to construct and operate generating stations under section 36 of the Electricity Act 1989

8.64 The Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017 define the consultation bodies for applications for consent under section 36 of the Electricity Act 1989 that are subject to EIA.

8.65 Based on figures from the Arup Report on costs for responding to generating station applications and their estimated numbers, it is estimated total annual costs for all statutory consultees for responding to generating station applications would be £200.

Harbour Revision and Empowerment Orders under s.14 of the Harbours Act 1964

8.66 Applications for Harbour Revision and Empowerment Orders in Wales are consented by Welsh Ministers, and the Welsh Ministers may consult a number of specified bodies[14].

13 Costs per annum for all statutory consultees.
14 As defined in Annex A of ‘Procedural harbour order guidance for Wales 2018 (gov.wales)’.

8.67 Based on figures from the Arup Report on costs for responding to Harbour Order applications and their estimated numbers, it is estimated total annual costs to statutory consultees for responding to Harbour Order applications would be £11,600.

Orders under the TWA

8.68 There are statutory consultation requirements following the submission for an application of a TWA Order. Based on figures from the Arup Report on costs for responding to TWA Order applications and their estimated numbers, it is estimated total annual costs to statutory consultees for responding to TWA Order applications would be £300.

Orders under the Highways Act 1980

8.69 There are statutory requirements to consult in relation to EIA where an application is made for a Highways order. Based on figures from the Arup Report on costs for responding to Highways Order applications and their estimated numbers, it is estimated total annual costs to statutory consultees for responding to Highways Order applications would be £1,600.

Marine licensing under the Marine and Coastal Access Act 2009

8.70 Many activities which take place in and around the sea require a Marine Licence under the Marine and Coastal Access Act 2009. The function of determining marine licences is currently delegated to NRW, and this will continue under this option.

8.71 Based on costs for a cross-section of cases provided by NRW and their estimated numbers as part of existing infrastructure consenting regimes, it is estimated total annual costs to NRW for determining marine licences would be £4,600.

Option 1 Benefits

General

8.72 As a result of the current complex and fragmented legislative arrangements for infrastructure consenting, there are limitations to making the efficiency improvements a new process could deliver. Where a major infrastructure development requires consent under a number of different regimes, there is the risk of confusion and inefficiency for applicants, communities and decision makers alike. This may cause significant delay to the consenting process and lack of integration in the delivery of infrastructure.

Welsh Government

8.73 Currently, decisions are made at the appropriate level and involve relevant communities and stakeholders. However, there is currently a lack of continuity and administrative efficiency as the Welsh Government must use different processes and procedures to deal with applications which largely seek the same rights and have similar themes of impact, as well as inconsistent consultation requirements.

8.74 Some consenting processes are unsatisfactory in terms of their timescales and requirements[15]; whereas with most of the listed consenting regimes, there are varying abilities for the Welsh Government to provide all the rights required to a developer to implement a consent. The lack of a single cohesive regime reduces clarity in what is being determined, and undermines the objective of the Welsh Government to build a stronger, greener economy in Wales.

8.75 Planning fees for current regimes may not reflect true determination costs. Fees may increase under Option 2 to reflect the true costs to the Welsh Government for determining applications.

8.76 Under this option, no change will be required to existing legislation, thus saving time and resource for the Welsh Government, in terms of drafting the new legislation, producing guidance and responding to queries.

LPAs

8.77 The current legislative arrangements safeguard and codify the role of LPAs in the planning system and guarantee a means of representation. However, the absence of a 'one-stop shop' approach means that LPA involvement may be duplicated across numerous different consents, thereby increasing workload. Furthermore, the relative infrequency of applications determined under more obscure legislation, such as the Harbours Act 1964 and the TWA, can lead to LPAs struggling to retain the necessary knowledge to engage with the consenting of such development.

8.78 There is currently a standardised fee for LPAs to produce LIRs under the DNS process. However, such a fee is not received under other legislative processes, meaning LPAs contribute at their own cost.

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[15] Stakeholders from the development industry have confirmed this to be the case in responding to the 2018 consultation: "Changes to the consenting of infrastructure: Towards establishing a bespoke infrastructure consenting process in Wales".

Development Industry

8.79 Developers are likely to be familiar with existing consenting regimes and can factor in the necessary cost during their assessment of project viability. However, the infrequency of certain application regimes, and differences between legislative requirements, means that developers are unlikely to develop efficient streamlined approaches to the various regimes.

8.80 The absence of a 'one-stop shop' approach means that developers may require multiple consents, across different legislation, to achieve the same means, thereby, adding increased costs and risks. A fragmented and non-unified consenting regime may require numerous consents, delaying the implementation of development.

8.81 There are currently lower or less requirements for applicants under certain legislative regimes, for example, there is no requirement for pre-application consultation for Harbour Revision Orders.

8.82 Some regimes currently do not have clear policy frameworks, leading to greater risk for developers compared to a more certain policy underpinning the DNS process. Similarly, some legislative regimes do not have a statutory timescale for decisions which leads to a lack of certainty for applicants, who benefit from clear timescales to provide accurate cost forecasts, and assurance for their Governance arrangements.

The Community and Statutory Consultees

8.83 Due to the complexity, unpredictability and expense of the existing consenting processes, it can be difficult for the community to participate and make their views heard. This often means those with the most time, resources and best knowledge of the process can have an advantage.

8.84 There is currently a lack of defined consultees for certain legislative regimes, meaning that third-party stakeholders are not guaranteed participation in consultation and may miss opportunities for engagement.

8.85 The requirement for a number of consents under different regimes can be difficult for communities to understand, particularly given the small number of applications per year under certain regimes. Given the protracted periods and complexity of proceedings, communities have found it difficult to engage with the determination of some infrastructure projects.

Option 2 – Establish a new form of 'Welsh Infrastructure Consent' for development or works with the objective of constructing and/or changing use to create a 'Welsh Infrastructure Project'.

Option 2 Description

8.86 This option introduces a new consenting process for infrastructure development in Wales. It would provide for a consistent, transparent and certain process which strengthens the role of local communities and streamlines decision making to improve the current standards of service.

8.87 A development will require an IC if it falls within thresholds to be set out in subordinate legislation, or is designated as nationally significant within the national land use plan for Wales, 'Future Wales'. For purposes of clarity, developments which fall within the indicative thresholds identified in the consultation are used in assessing the impact of this proposal.

8.88 Under this option, IC applications would be determined by the Welsh Ministers following recommendation by an appointed PEDW Inspector. PEDW would undertake administrative duties associated with an application. PEDW currently operate as a Ministerial division of the Welsh Government and this institutional arrangement would remain under Option 2.

8.89 It is proposed a tier of optional SIP thresholds and criteria would sit below compulsory thresholds and criteria. For these optional projects, the applicant would decide whether the IC process or existing legislative regime would be more suited to their development type. However, the Welsh Ministers would ultimately decide whether the development constitutes a SIP, requiring an IC.

8.90 The proposed consenting process will be undertaken within a statutory timeframe and include consistent steps to be taken by stakeholders. There will be a requirement for key stakeholders to engage prior to submission of an application, to ensure development can be shaped with their comments in mind. LPAs will also be required to submit an LIR, which assesses the impact of the proposed development on the locality, ensuring LPA views are taken into account.

8.91 The IC would comprise of a 'one stop shop' for infrastructure projects captured by the relevant thresholds, thereby enabling other authorisations or licences necessary to be obtained at the same time and form part of the same consent. This will provide a consistent and administratively efficient process for determining major energy, waste, water and transportation infrastructure in Wales.

8.92 Under this option, the proposed consenting process would be fully implemented by Mid-2025, at which point all related legislative provisions would be in force. This position is dependent upon legislation for a new consenting process being given Royal Assent in Mid-2024, allowing for a one year implementation period. Costs to the various stakeholders are outlined below. It is expected costs would start to apply at the time the legislative provisions are commenced.

Option 2 Costs

Table K – Transition costs for Option 2	
Stakeholder	Costs
Welsh Gov	£385,300 *(comprising of £330,000 cost for new case management and IT systems, £43,000 for training and dissemination and £12,300 for one-off guidance on the new consenting procedure).*
LPAs	£30,300
Developers	£3,000
Communities	£0
Statutory Consultees	£0

Table L – Summary of net Option 2 costs per annum to the identified stakeholders (2025-26 to 2028-29)[1] ***(further additional costs shown in red are provided for information purposes as these costs are expected to be reimbursed, for example through payment of fees)***	
Stakeholder	IC Application
Welsh Gov	£0 (£567,700 reimbursed)
LPAs	£21,200 (£38,900 reimbursed)
Developers	£4,208,400
Communities	Unknown
Statutory Consultees	£35,100

1. In 2024-25, costs would be the same as in the baseline (Option 1).

(a) Welsh Government

8.93 IC applications will be made to Welsh Ministers for determination. PEDW will process applications and an appointed Inspector will present a report to the Welsh Ministers. The Welsh Ministers will determine the application following consideration of the report.

8.94 For the purposes of this assessment, the cost of processing and providing a report to the Welsh Ministers is based on an estimate of the time and staff costs currently required for determining DNS applications[16]. This approach has been taken as the tasks involved are considered to be broadly comparable with the proposed determination of an IC.

8.95 This assessment of future IC applications under Option 2 is based on the same number of projects as Option 1. However, there would be less applications in total due to the removal of the requirement to obtain more than one consent for the same development. For projects identified over the assessed period, an explanation of where there would be fewer applications under Option 2 compared to Option 1 is provided in the Infrastructure (Wales) Act Regulatory Impact Assessment Methodology Paper, Welsh Government, June 2023.

8.96 Whilst it is considered a new streamlined IC regime could result in additional development in Wales, the industry would need time to adapt to the process. Therefore, it is not possible to quantify numbers of additional projects that may be submitted under a new streamlined process as covered by this option, and it would equally be difficult to predict the potential dip in applications to adjust to a newly established process.

8.97 IC applications may be categorised as optional (at the discretion of the Welsh Ministers) or compulsory ICs. For the purposes of this assessment, it has been assumed that applicants may choose to pursue the IC determination process for certain categories of developments categorised as optional ICs (such as solar farms or wind turbines), however, will choose to apply to the normal consenting authority for other, more minor scheme types (such as short-term operating reserves).

[16] To note: Amendments were made at Stage 3 of the Senedd's scrutiny of the legislation (i.e. this preferred option) that add an additional procedure of open floor hearings for the undertaking of an examination, in addition to the already costed procedures of written representations, topic based hearing and inquiry. Annex A of the RIA Methodology Paper evidences that costs for undertaking an open floor hearing would be comparable to, and within the range of, costs for undertaking a topic based hearing. Further, it is not possible to precisely quantify what costs for an open floor hearing would be as they would differ on a case-by-case basis, depending on location of the hearing, subject matter and level of public participation. Therefore, the costs to the Welsh Government evidenced in the RIA for this preferred option (Option 2 and the legislation as enacted) as a result of those amendments remain the same.

8.98 This is because the output of a project does not necessarily dictate the scale of its impacts. For example, the current process for determining DNS can capture onshore wind generating stations as well as short-term operating reserves which are powered by gas turbines. While wind generating stations may have significant economic and environmental impacts the latter typically have minimal impact, footprint and environmental effects. The proposed IC process will give developers the option (at the discretion of the Welsh Ministers) of which consenting process to pursue and for those projects with minimal impacts, the IC process may not be the most appropriate route.

Table M – Costs to the Welsh Government for IC process under Option 2			
Level of DNS complexity	Average cost to PEDW/Planning Directorate per application	Total costs based on number of cases over assessed period	Average annual costs (based on 4.9 ICs per year)
Low	£32,200	£160,800	£17,900
Medium	£76,100	£1,826,000	£202,900
High	£208,100	£3,122,200	£346,900
Total		**£5,109,000**	**£567,700**

8.99 Over the assessed period it was determined there would be 44 applications that would be expected to go through the IC process under this option. Based on their assumed level of complexity and applied retrospectively, it is estimated this would result in a future cost of approximately £567,700 per year to the Welsh Government (including PEDW). These annual costs are expected to start in 2025-26. It is anticipated the Welsh Government's cost to determine each application will be fully recovered through applicant fees. The net ongoing cost to the Welsh Government under this option is therefore £0. This represents an annual cost-saving to the Welsh Government (relative to the baseline) of approximately £65,400.

8.100 Set-up costs would be required, based on the need for new case management and IT systems, the training of PEDW staff, dissemination events for LPAs and the development industry, as well as the provision of guidance on the new process. It is estimated these costs would be £385,300 (set up on the new case management and IT systems - £330,000, training and dissemination £43,000, and guidance £12,300). With regards to implementation, it is expected these set up costs would be incurred after legislation is given Royal Assent in Mid-2024 and during the implementation period which would follow in 2024-25.

8.101 There would be no transitionary costs to stakeholders in respect of applications being determined under current regimes. Any infrastructure

applications submitted before the IC process comes into effect, but which are still under consideration, would be determined under the arrangements in place at the time of submission. As such, the cost of determining applications during 2024-25 is assumed to be the same as in the baseline scenario (Option 1). Since determination costs in 2024-25 are the same across all options and consequently have no impact on the Value for Money assessment, those costs have been excluded from the analysis.

8.102 To ensure any costs incurred as part of the application process for an IC (including the pre-application stage) can be recovered, it is our intention to provide a mechanism for fees to be charged at the various stages of this process. It is also our intention to extend the requirement for fees to the post-decision stage. Applications may be submitted to amend an IC, or revoke an IC, both of which will have cost implications to the Welsh Ministers and other statutory parties. Similar to DNS, we are proposing that fees recover the full operating cost, in line with public finance principles.

8.103 It is not possible to quantify the amount of pre-application discussions or post-consent variations that could be required or the amount of resource required to determine such amendments. This cost is therefore unknown. However, any such activity undertaken by the Welsh Government would be subject to the principle of full cost recovery from applicants.

(b) LPAs

8.104 The process of applying for an IC will require significant input from LPAs, starting at pre-application through to examination. Participation will also be required post-determination if, for example, variations to an IC are proposed. A fee structure will enable LPAs to recover costs (including overheads) for providing services in connection with an IC.

8.105 Where pre-application services are requested by the applicant, all LPAs will be required to provide a minimum set of specified information, which is likely to be:

- The relevant planning history of the proposed site;
- Advice on the requirement and scope for section 106 or Community Infrastructure Levy contributions;
- Discussions regarding any potential Statements of Common Ground;
- An indication of local issues relating to the proposed site, including potential mitigation;
- The local policy framework; and
- Guidance on individuals, groups or societies to be consulted.

8.106 These services will be compensated by applicants via a set fee, which is intended to recover the full cost.

8.107 Under the current DNS process, there is a requirement for the relevant LPAs in which the development is located to submit a LIR, which provides factual information regarding the potential impact of development. This requirement will be maintained for the IC consenting process. This will be a fixed fee. Any other LPA which submits an LIR on a voluntary basis will not be eligible for a fee.

8.108 The relevant fee will be calculated by multiplying the average hourly salary of an LPA planning officer by the average time taken to produce an LIR. The production of an LIR is currently estimated to cost £7,750 per LPA[17] for each DNS application. Assuming a similar figure for IC applications, this leads to a total of £37,900 per year of costs to LPAs (reimbursed by applicants), based on an estimate of 4.9 IC applications per year.

8.109 In addition to the LIR contribution, LPAs will have costs associated with general participation in IC examination, such as providing evidence at hearings. It is estimated that these costs will be broadly aligned to the cost of participating in DNS applications. It currently costs an LPA £4,300 to participate in a DNS application. Therefore, it is estimated that it will cost LPAs £21,200 per year to engage with the IC process outside of the LIR process, which will not be reimbursed.

8.110 The enforcement system will remain unchanged from the current model under Option 1, in which LPAs are responsible for monitoring and enforcement action, and so no additional costs are estimated in this assessment.

8.111 Based on an assumption of 4.9 IC applications per year, it is estimated that total costs of engagement with the process to LPAs (LIR report and examination participation) will be approximately £59,100 per year.

8.112 In addition to LPA engagement via the IC process, it is also envisaged 4 applications which qualify to be an optional IC would be submitted as planning applications under s.57 of the TCPA 1990, due to their type and likelihood of being made to the LPA. Therefore, it is estimated approximately 0.44 infrastructure applications per year would be determined by LPAs, at a cost of £2,300 per application. This would result in an additional cost to LPAs of £1,000 per annum, which would be reimbursed by fees.

[17] https://gov.wales/sites/default/files/publications/2019-11/developments-of-national-significance-dns-procedural-guidance.pdf

8.113 Due to the small number of such applications being determined by LPAs per annum, it is assumed any appeal costs to the Welsh Government would be negligible for the purposes of this assessment.

8.114 Based on the above, total costs to LPAs for a new infrastructure consenting process under this option would be £60,100 per year. £21,200 of this amount would not be reimbursed. When compared to the baseline, this means there is a net cost-saving to LPAs of approximately £4,800 each year. This cost-saving is expected to start in 2025-26. In 2024-25, the costs incurred by LPAs as a result of the determination process are expected to be the same as in the baseline option.

Table N – Costs to the LPAs for IC process under Option 2		
Task	Cost per application	Total cost per annum
Preparation of Local Impact Report (LIR)	£7,750	£37,900 (all reimbursed)
General participation	£4,300	£21,200
Determination of applications not falling under IC regime	£2,300	£1,000 (all reimbursed based on 0.44 applications)
Total (per annum)		**£60,100 (£38,900 reimbursed)**

8.115 In terms of transitional costs, there would be a one-off cost to LPAs for attendance at training delivered by the Welsh Government, in order to familiarise themselves with the new process. These costs are estimated to be £30,300 and would incur during implementation of the new regime in 2024-25.

(c) Developers

8.116 The costs associated with preparing an application vary, depending on the nature of the scheme.

8.117 For the purposes of this assessment, it is assumed that developer costs for IC applications will align with those for DNS applications. The 2019 Arup report estimates £897,200 total average developer costs per DNS application. This figure is applied to all IC applications, excluding highways schemes, at an estimated annual cost to developers of approximately £3,788,300. For the 6 ICs anticipated to come forward as highways projects, determination costs are

applied only[18], resulting in an estimated annual cost to developers of £177,100 for those schemes.

[18] Costs to developers for highways schemes are based on an approach to apply their determination costs only for all options in this RIA. Full explanation and justification of the approach taken for highways schemes is provided in the Methodology Paper.

Table O – Developer costs from the Arup 2019 report (rounded to the nearest 100)	
Developer Task	Cost
Estimated costs of application preparation	£670,000
Estimated costs of undertaking any statutory pre-application consultation	£23,300
Estimated costs of undertaking any non-statutory pre-application consultation (i.e. holding events, publicising events etc. outside of statutory requirements)	£22,500
Estimated costs of participating in an examination	£116,700
Estimated costs of making a material amendment to a project during the examination of an application, where one has been made.	£29,700
Estimated costs of making a non-material or minor amendment to a project during the examination of an application, where one has been made	£6,300
Estimated costs of creating and maintaining a website which displays an entire application, for a period of 6 months	£17,500
Estimated costs of publishing a notice in a local newspaper or relevant journal advertising a prospective application for development, for a period of 1 week	£11,300
Total cost	**£897,200**

8.118 Existing legislation does not allow a choice of how a DNS application should be determined i.e. either by LPAs or the Welsh Ministers. Under this option, it has been noted applicants would have a choice to apply for an IC or to apply for planning permission to the LPA in certain circumstances. It is estimated the latter would be the case in four applications during the assessed period (0.44 per year).

8.119 The £670,000 figure on preparation costs for a DNS application taken from the Arup Report includes planning application fees[19]. When excluding all application fees payable to the Welsh Ministers from the Arup Report figure,

[19] As confirmed at Page 21 of the Arup Report: Research into the Cost of Infrastructure development in Wales: Study Report. Arup 2019

this results in total developer costs for preparation of an infrastructure application to a LPA of £544,500. There would be a separate fee payable to LPAs for determination at £2,300 per application.

8.120 Therefore, total costs to developers for preparation and submission of an infrastructure application not captured under a new IC process is estimated to be £546,800. Based on an estimated 0.44 such applications per year, this would result in additional costs to the development industry of £243,000 for the submission of such applications to LPAs in future.

8.121 Based on the above, total costs to developers under this option would be £4,208,400 per annum. This represents a cost-saving (relative to the baseline) of approximately £580,500 each year. This cost-saving is expected to start in 2025-26. In 2024-25, the costs incurred by developers as a result of the determination process are expected to be the same as in the baseline option.

8.122 In terms of transitional costs, there would be a one-off cost to the development industry for attendance at training delivered by the Welsh Government, in order to familiarise themselves with the new process. These costs are estimated to be £3,000 and would incur during implementation of the new regime in 2024-25.

8.123 The consolidation of separate consenting regimes into a single streamlined process clearly represents a significant cost-saving to developers when compared to the current system under Option 1.

(d) The Community

8.124 The role of the public and interested parties in the new consenting system will remain unaltered from the current system, as described in Option 1. Therefore, there will be no new costs to interested parties and the general public. The amalgamation of the current disparate consenting regimes into a single IC process would lead to cost-savings, by reducing duplication of community involvement.

8.125 It is not considered possible to financially quantify the advantages arising to communities as a result of Option 2. These cost-savings are therefore unknown.

(e) Statutory consultees

8.126 During the process of an IC, from inception through to examination and determination, there will be several instances whereby the applicant or the Welsh Government will be required to notify and / or consult with prescribed consultees.

8.127 Statutory consultee engagement with the planning process will not change under the proposed IC regime.

8.128 The cost of participation for statutory consultees in the IC process is expected to broadly align with that of the current DNS process. Based on costs identified in the Arup Report and the anticipated number of applications per year, the total annual cost to statutory consultees is expected to be £32,200.

8.129 In addition, the costs to statutory consultees for applications determined by LPAs would be £2,900 per annum.

8.130 Under this option requirements for NRW to determine marine licences would be subsumed into the IC process. While there would no longer be the requirement for NRW to determine a marine licence, there would remain a cost to NRW for interacting with the consenting process offshore. This cost is considered to be the same across all options.

8.131 Similar to an LIR for LPAs, under this option it is proposed to introduce the requirement for NRW to submit a Marine Impact Report ("MIR"), which documents the impact on the marine environment where an applicant seeks to deem a marine licence alongside its consent.

8.132 The cost of the MIR to NRW is likely to be similar to that in engaging in the process under Option 1. The Welsh Government will set a fee for the MIR with the intention of recovering the cost for activities which are not subject to grant in aid. Further consultation would be required to establish an appropriate amount, thus the fee element cannot be costed for the purpose of the RIA.

8.133 Based on the above, the total cost to statutory consultees under this option would be £35,100 per annum compared to an estimated cost of £44,600 per annum under Option 1. This represents a cost-saving of approximately £9,500 per annum. The cost-saving is expected to be incurred from 2025-26 (in 2024-25 costs will be the same as in Option 1). This anticipated saving under Option 2 is a result of an amalgamation of consenting regimes under the IC process. Thus, statutory consultees would engage on fewer applications for one development compared with Option 1.

Option 2 Benefits

Welsh Government

8.134 In addition to efficiency savings to the Welsh Government arising from a more streamlined regime, a unified consenting process has the potential to give Wales a competitive advantage over neighbouring administrations by ensuring a more efficient and consistent regime, increasing certainty and producing timely decisions. A single cohesive system removes the unpredictability and complexity of using various differing consenting arrangements, and provides a more flexible process which can better respond to future changes, challenges and costs.

8.135 Providing a new consenting route for proposed infrastructure development contributes to Ministerial aims and objectives. IC applications would be more cost effective to developers, thereby encouraging economic growth and the development of a low-carbon economy, whilst ensuring a robust and democratic scrutiny process for all stakeholders.

8.136 Parts of the current consenting arrangements are well-established. The new legislation may take some time to bed in, thereby leading to a temporary loss of efficiency. However, the long-term benefits are estimated to greatly outweigh temporary disruption and the production of guidance should help to minimise any confusion.

LPAs

8.137 Within the IC regime, LPAs' views on the merits of an application will be taken into account by the decision-maker. A reduction in the number of separate applications will reduce the duplication of LPA contributions, thereby saving resource.

8.138 The IC regime represents an opportunity for LPA contributions to be partially reimbursed for regimes previously participated with at their own cost, such as orders under the Harbours Act 1964. The standardised approach to reimbursement strengthens LPAs ability to contribute specialist knowledge to the consenting process. This will enable LPAs to allocate appropriate resources to the IC process. It also remains open for the LPA to be funded for additional work via a Planning Performance Agreement.

Developers

8.139 Developers will benefit from a simplified and accessible regime, which enables efficient examination within a specified timeframe. Greater consistency will be achieved across major infrastructure development in

Wales, which leaves developers with little doubt as to the correct process and provides administrative efficiency. Opting for such a process would send the message that Wales is open for business.

8.140 A more unified consenting process would alleviate any timing and complexity issues associated with applying for consent under the current fragmented legislative frameworks. A 'one stop shop' approach is beneficial to developers as the current requirement to obtain other authorisations alongside the main consent results in additional cost and time.

8.141 Retaining existing regimes, which are multi-tiered and under separate Acts, can be confusing for developers. A new, unified consenting regime will allow the developer the ability to wrap up associated or ancillary consents into a single consent. The 'one stop shop' approach is tried, tested and recognised by the development industry in England[20]. Establishing a similar process would therefore require little adjustment from developers.

8.142 Certainty regarding decisions is required to keep our infrastructure sector competitive and able to react to changes to circumstances. Consenting in Wales is currently placed in existing regimes which do not offer certainty of timescales, as the 2008 Planning Act does in England. Under the IC regime, a fixed statutory timeframe for the determination of infrastructure projects will provide more certainty for the development industry.

8.143 Including the ability to apply for powers to compulsorily acquire land or rights in land in the IC regime will be essential for developers, where it is impracticable to acquire all of the land or rights needed for development by agreement, or where statutory undertakers' interests would be affected.

8.144 Optional ICs allows greater flexibility for developers to choose the most appropriate consenting route for smaller scale infrastructure development.

The Community

8.145 The role of the community and interested parties in the new consenting regime will remain unaltered from their role in the current system in Option 1. Within the IC application process, members of the public and other interested parties will continue to have the opportunity to engage with an application and have their views considered by the decision-maker.

[20] The National Infrastructure Planning Association (NIPA) is a body of individuals and organisations, including public and private sectors representatives, who engage in the regime for the determination of nationally significant infrastructure projects in England under the Planning Act 2008 (NIPA | NIPA (nipa-uk.org))

8.146 In providing a ‘one-stop shop’ approach, where all the consents required to implement a project are contained in a single application, public participation would be simplified and provide a more accessible route than present to engage. We intend to require engagement with local communities in advance of application submission in all cases to ensure development can be shaped by the comments of local communities, and to provide consistency for communities between all infrastructure and major development.

8.147 For this option, the arrangements for pre-application consultation with communities would be improved and made consistent for infrastructure schemes by being formalised across the full range of consents required for a project to go ahead. For example, in respect of a proposed infrastructure project which would require consent under the DNS process for the planning elements, under the Electricity Act 1989 for an offshore generating station and under the Harbours Act 1964 for the port elements. Under the current consenting arrangements, pre-application consultation would not be required for the generating station or port elements of the proposal. Pre-application consultation would be mandatory for the full range of consents required for the scheme under the proposed consenting process. This will ensure communities are fully engaged on all aspects of infrastructure schemes at the earliest possible stage, rather than only certain elements as occurs currently.

8.148 For this option, there would be a requirement for developers to prepare a pre-application consultation report. This report must be submitted with the application and must evidence how they have taken all comments and representations received on the scheme from stakeholders into account, including local communities. This requirement would apply to the entire infrastructure project before it is able to go ahead. Therefore, it will ensure meaningful consultation with applicants takes place for the entire project, whereas this is not assessed or scrutinised fully under current regimes.

8.149 By rationalising the numerous consents required for an infrastructure scheme into the one consent, this would save communities time and resources in engaging. For example, currently in respect of a Tidal Lagoon application it may require the consent for the main operational elements as a Development Consent Order, one or more Harbour Revision Orders in respect of the port elements, a marine licence for offshore elements as well as other secondary consents (for example licences in respect of species). In this example, it would require communities to engage with the project for at least 4 different consultations, which are likely to be over different time periods. This would necessitate a considerable time input from individuals and this is likely to result in consultation fatigue, having to engage multiple times for different elements of the one proposal. Due to the number of consultations, this could lead to a lack of transparency and there is great potential for individuals to

miss at least one consultation and inadvertently not comment on an important element of the scheme. Consultation under a single consenting process would simplify community engagement by enabling communities to review a cohesive and comprehensive proposal, greatly increasing transparency and their ability to input into all aspects. It would further prevent unnecessary duplication where they are likely to provide similar comments on numerous occasions under current regimes for the same project, making more efficient use of their time and resource.

8.150 Detailed provisions for community consultation and engagement on infrastructure projects to be determined under a new consenting regime would be set out in subordinate legislation. This will allow for consultation and engagement methods in infrastructure projects to be prescriptive and importantly to be kept up-to-date and relevant. For example, new technologies may enable swifter and more thorough engagement with communities and this may need to be reflected in the legislation in future. Therefore this option would futureproof appropriate and thorough engagement with communities on all aspects of an infrastructure project, unlike under the current disparate consenting processes.

8.151 To provide a level of familiarity and accessibility to the public, ICs may be in the form of a more conventional consent in many instances where they are currently a Statutory Instrument.

Statutory Consultees

8.152 Within the IC application process, statutory consultees will continue to have the opportunity to respond to applications, which will be considered by the decision-maker.

8.153 To ensure all necessary bodies and organisations are included as part of the process each statutory consultee and the circumstances under which they must be consulted will be included in subordinate legislation. This approach offers greater certainty to statutory consultees, compared to some existing regimes in which their role may not be formally codified in law.

8.154 The IC process is expected be more administratively efficient to engage with, due to the rationalisation of consents required, and the consistent form in which consultation would be undertaken. This unified approach should also reduce duplication of responses for the same developments.

Further clarification and justification of the benefits outlined under this option

8.155 The benefits listed for this option in the RIA include the **removing of complexity, reducing duplication and providing a more efficient process**.

We have costed this benefit in terms of the submission and determination of applications through one single regime, compared to the current numerous consenting regimes. These cost-savings are provided elsewhere in the RIA; for example in terms of cost-savings to developers in submitting their applications through a single process.

8.156 There are wider benefits in terms of removing complexity, reducing duplication and providing a more efficient process which are not quantifiable. For example, time benefits where interested parties currently engage in multiple applications for a single project, where they would only have to engage in the one application under a streamlined consenting process. This would greatly vary on a scheme by scheme basis depending on the nature of the scheme, including its type, location and impacts, influencing the numbers of stakeholders who are interested and the extent to which people are able to engage (depending on their personal circumstances).

8.157 In terms of resource benefits, for developers it is expected they would incur in preparing and submitting information under a single process, such as the time and effort saved in submitting plans and evidence to support applications. However, again, this would greatly vary on a scheme by scheme basis depending on the nature of the scheme and location, and also the individual resource a developer may be willing to put into each submission. This would also apply to statutory consultees in respect of the information they submit, but again it would greatly vary on a scheme by scheme basis and the nature of the statutory consultee response.

8.158 There would be resource benefits to the Welsh Government in terms of time and officer resource needed to be spent on a scheme having to deal with fewer applications for the one project. This could also apply to local planning authorities in respect of having to make fewer contributions or representations on a scheme. Aside from the cost savings to the Welsh Government and local planning authorities evidenced elsewhere, savings such as time are not readily quantifiable as they would vary on a scheme by scheme basis.

8.159 With a new consenting process including the ability for powers to compulsorily acquire land or rights in land as part of the infrastructure application, this would lead to another time and cost benefit for developers in being able to obtain all the necessary land consents as part of a single application. This benefit is one that is not possible to cost in the RIA as to what extent compulsory acquisitions will be included in consents in future will vary greatly on a scheme by scheme basis with each application having its own specific requirements in respect of the extent of land required to facilitate development. There is no clear historic data on land acquisitions and therefore we cannot accurately include a figure on this benefit in the RIA. The

RIA does provide details elsewhere on cost-savings to developers resulting from streamlined processes in their submissions, but the issue of enabling the compulsory acquisition of land as part of the one consent can be viewed as a wider benefit which may result in further cost-savings.

8.160 The RIA lists the benefit of this option providing a **more flexible consenting process**. We have costed for a more flexible consenting process in the RIA in terms of cost-savings to developers and the Welsh Government by assessing how historic applications would likely to be determined under a new process, depending on their scale and complexity. For example, we have costed for highways orders being determined as high complexity DNS applications under a new process, where the procedure would likely be inquiry due to the need for additional scrutiny on such complex applications. Therefore, by assessing historic applications and their likely procedure under a new process, we have costed for a more flexible process in terms of a proportionate approach where different procedure would apply to different scales and complexity of infrastructure application. However, we cannot cost how this flexibility may provide future benefits in terms of actual applications that do come forward under a new process.

8.161 There are wider flexibility benefits to a new consenting regime provided under this option, such as it being able to appropriately respond where a new infrastructure technology comes forward. For instance, a new regime provides the flexibility for it to be updated speedily in terms of the types of applications that fall under its determination. This could lead to benefits for developers in terms of being able to submit their applications under an efficient and streamlined process, unlike currently where there isn’t such flexibility in updating application procedures. However, these benefits are based on changing future circumstances. In the case of future technologies, benefits would be impacted by the extent they result in certain types of projects being determined under a new regime in future. This is an unknown. Therefore, such benefits are not readily quantifiable.

8.162 In terms of a new process being **simpler to navigate**, this is a benefit in terms of the system being more transparent and easier to understand for developers and other stakeholders such as communities and statutory consultees who wish to participate in it. There is not a direct cost element for characteristics such as awareness and understanding of processes that can be costed for in the RIA.

8.163 In terms of a new process **contributing to Ministerial aims and objectives, such as a low-carbon economy**. As evidenced elsewhere in the RIA, we have costed the benefits of a single consenting process in terms of cost-savings to various stakeholders. However, there are further benefits which a

consenting process will bring. For example, a system that is less costly, more efficient and more certain in terms of timescales for the determination of infrastructure applications is likely to encourage investment in Wales. This should enable the types of development that can contribute to the Welsh Government's objectives for a low-carbon and thriving economy. There can be no direct cost attributed to these benefits as they are indirect and will in effect be secondary benefits result from a new consenting process. They are not benefits that result in clear and direct cost-savings for submitting and determining applications under a new process.

8.164 In terms of a new process **contributing to LPA reimbursement of fees.** Calculations for LPAs being partially reimbursed under a new consenting process, where they wouldn't be under existing regimes, have been incorporated under the cost-savings to LPAs evidenced for Option 2. It is the intention for the Welsh Government to undertake engagement with LPAs during implementation of a new consenting process, with a view to working towards a model where they would be able to regain all of their fees for participating in the determination of significant infrastructure projects. We cannot evidence a full cost-recovery approach to LPAs under the existing cost-savings in the RIA as it will be subject to further work during implementation of a new consenting process.

Option 3 – Establish an independent consenting body to undertake planning scrutiny of 'Welsh Infrastructure Consents' on behalf of Welsh Ministers.

Option 3 Description

8.165 Option 3 is a variation of Option 2, in adopting a streamlined and unified consenting process, such as the IC, however with decisions being made by a new Non-Departmental Public Body ("NDPB")[21] dedicated to providing a scrutiny role on IC applications on behalf of the Welsh Ministers. This approach is in line with the proposals set out in the report entitled 'Evaluation of Consenting Performance of Renewable Energy Schemes in Wales', Hyder Consulting (UK) Limited, (January 2013) which recommended that applications for renewable energy schemes should be determined by an independent body.

8.166 The proposed new body would be in addition to other consenting authorities; being LPAs and the Welsh Ministers (via PEDW and the Welsh Government), and would be responsible for ensuring IC applications are determined within

[21] The Cabinet Office Public Bodies Handbook defines an Executive Agency as a public body which acts as an arm of its home Department. It is envisaged that the new organisation would function as an Executive Agency in the same way as the previous PINS Wales arrangement.

acceptable timescales by appropriately experienced decision makers. As a consequence of this option, the function of examining (via PEDW) and determining SIPs would not be undertaken by the Welsh Ministers. However, the Welsh Ministers would retain all other current functions, such as the examination of development plans, determination of other casework which includes appeals and called in applications.

8.167 In practice, it is envisaged some PEDW staff would be transferred to the new NDPB to retain an element of expertise and continuity, supplemented by the additional recruitment required to sustain the NDPB.

8.168 The new service would have the power to determine IC applications independently of the Welsh Ministers. However, the new NDPB as a whole would ultimately be accountable to the Welsh Ministers, rather than the Welsh Ministers being accountable for individual decisions. Aggrieved parties can make a claim through the Courts if they consider a decision to be unlawful.

8.169 As an NDPB, the organisation would be a separate body, and its staff public servants rather than civil servants. It would operate at arm's length from the Welsh Ministers and would not be within a Government Department[22]. As a separate legal entity, legislation would be required to create and vest powers in it. The organisation would have some operational control over its own internal policies and would have the ability to levy fees, however, decisions on ICs made by it would be subject to Welsh Government policy. Individual decisions on ICs would be made by technically competent individuals in an organisation set out in statute.

8.170 Similar to Option 2 and subject to Royal Assent being given (Mid 2024), the proposed NDPB would be fully operational by Mid-2026, at which point all related legislative provisions would be in force. It is expected the costs to the various stakeholders outlined below would begin to apply during this implementation period and as the legislative provisions are commenced.

[22] Cabinet Office guidance on public bodies can be found here: Public Bodies Handbook – Part 1. Classification Of Public Bodies: Guidance for Departments (publishing.service.gov.uk)

Option 3 Costs

Table P – Transition costs for Option 3	
Stakeholder	Costs
Welsh Gov	*£1,054,100 (comprising of costs for the setting up of an independent organisation and one-off training, dissemination and guidance on the new consenting procedure).*
LPAs	£30,300
Developers	£3,000
Communities	£0
Statutory Consultees	£0

Table Q – Summary of net Option 3 costs per annum to the identified stakeholders (2026-27 to 2028-29)[1] ***(further additional costs shown in red are provided for information purposes as these costs are expected to be reimbursed, for example through payment of fees)***	
Stakeholder	IC Application
Independent Body for ongoing costs	£0 (£2,480,500 reimbursed)
LPAs	£21,200 (£38,900 reimbursed)
Developers	£5,390,300
Communities	Unknown
Statutory Consultees	£35,100

1. In 2024-25 and 2025-26 costs are expected to be the same as in the baseline.

(a) Welsh Government

8.171 The Welsh Government will not have any new decision-making in relation to ICs, and as expected with Option 2, there are unlikely to be appeals relating to any 'optional' applications which are determined by LPAs. As a consequence, there will be no ongoing cost to the Welsh Ministers.

8.172 The independent body will be a Welsh Government Sponsored Body, established by the Welsh Government. However, it is intended for the organisation to cover all its own costs via applicant fees, and therefore no Welsh Government expenditure should be required to cover ongoing costs. There will, however, be an initial set-up cost of £1,054,100, which will be borne by the Welsh Ministers.

(b) The NDPB

8.173 The NDPB will be responsible for the processing and determination of IC applications. This will create new costs for the ongoing operation of the new organisation. The NDPB will be able to set its own budget based on forecasts of prospective applications, and would establish its own governance and staffing arrangements.

8.174 The total running costs of the IC Independent Body are estimated to be £2,480,500[23] on average per year, which are detailed below. The set-up costs for the new organisation are estimated at £1,054,100. In this option, transition costs would be incurred in 2024-26, with ongoing annual costs expected to be incurred from 2026-27. In this option, applications received during 2024-25 and 2025-26 will be determined under current regimes and the associated costs in those years would be the same as in the baseline option.

Staff costs

8.175 The NDPB will require new staff to deliver the functions of the organisation. This option estimates a total of 33 members of staff, which is anticipated to include some staff currently employed in PEDW[24]. There is anticipated to be 23 full-time staff, including Chair of the Governance Board, and 10 board members (expected to meet four times per year[25]).

8.176 The new organisation will be free to establish its own composition and terms and conditions. However, in the interests of expediency, and to reflect the expectation that some staff from PEDW will transfer to the new organisation, costs have been calculated using existing structures. I.e. based on Welsh Government staff costs on a per-grade basis.

8.177 The NDPB would be required to establish governance frameworks and controls to ensure impartiality from the Welsh Government. This would include the appointment of a Chair and the creation of a Governance Board. The Board would be responsible for all matters pertaining to the governance of the organisation, including finance, staff, human resources policies, risk management and challenge.

[23] See Table S.
[24] The workload of PEDW administrative staff is mixed between DNS applications and other sources of work, such as appeals, it is difficult to apply a direct transfer of staff based on current work. Some may join the new organisation or some may be recruited externally.
[25] An independent organisation that provides advice in respect of the planning system in Wales, Planning Aid Wales, is governed by a Management Board made up of fifteen trustee Directors which meets formally four times each year.

8.178 The structure of the Governance Board has been assumed to comprise a Chair, remunerated at £42,100 per annum, with the remaining 10 members being remunerated at £9,000 per annum.

8.179 The number of staff required has been based on the assumption of approximately 4.9 IC applications per year.

8.180 New staff responsibilities will be introduced due to the autonomous nature of a new agency. For instance, there will be a requirement for staff involved with the delivery of corporate functions, such as communications and human resources.

8.181 Total salary costs of the anticipated staffing structure (day-to-day staff costs plus Governance Board costs) are estimated at approximately £1,524,000[26] per year. In addition, there are anticipated contingency costs of £152,400[27] per year.

8.182 In addition to salary costs, there are anticipated to be one-off set-up costs relating to the recruitment, relocation and training of staff, including on new systems, which are estimated to be £137,900[28].

8.183 It is assumed that the organisation would require a budget for legal and other professional services, including translation. This is anticipated to be £368,100[29] in ongoing annual costs.

8.184 The Welsh Government would be responsible for the overarching policy implementation for the new regime. There would be a cost for Welsh Government led training and dissemination events on the new regime, including to train members of the NDPB on the specifics of the new regime. It is expected this would be at a one-off cost of £26,000.

8.185 There would also be a one-off cost to provide guidance on the new requirements and notifying stakeholders, including LPAs, of the changes. The Welsh Government would be responsible for preparing the guidance, rather than the NDPB. It is estimated there would be 15 guidance documents in total, with a total cost to the Welsh Government for their preparation and dissemination of £12,300.

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[26] See paragraphs 3.63 to 3.65 of the Infrastructure (Wales) Bill Regulatory Impact Assessment Methodology Paper, Welsh government, June 2023 for a detailed breakdown of this cost.

[27] 10% Contingency costs include travel and subsistence, auditing, etc.

[28] See paragraph 3.66 of the Infrastructure (Wales) Bill Regulatory Impact Assessment Methodology Paper, Welsh Government, June 2023 for a detailed breakdown of this cost.

[28] See paragraph 3.68 of the Infrastructure (Wales) Bill Regulatory Impact Assessment Methodology Paper, Welsh government, June 2023 for a detailed breakdown of this cost.

Organisational infrastructure

8.186 The NDPB would require the establishment of all infrastructure required for its operation, including ICT, equipment/furniture and rent.

Table R – Costs for NDPB organisational infrastructure		
Infrastructure	Set-up cost	Ongoing cost (per annum)
ICT (including internal software and hardware and public facing ICT system)	£684,700	£312,800
Rent		£42,500
Fixtures and fittings	£193,100	
Facilities		£39,000

8.187 This option introduces the need to procure new bespoke ICT infrastructure, including a database, records management, and internal communications, alongside a public facing website and ICT service.

8.188 The design and delivery of bespoke ICT infrastructure for a new organisation would require considerable financial investment, estimated at £684,700, with ongoing costs estimated at £312,800 per annum. Costs are based on delivery of service, including a web-based interface enabling the submission of IC applications electronically.

8.189 It is estimated that organisational or legal independence from the Welsh Ministers would necessitate physical separation from the Welsh Government estate. It is anticipated that the new organisation would require separate property in or near Cardiff, with the aim of encouraging existing PEDW staff to transfer into the new organisation. The rental of equivalent office premises within Cardiff City Centre, accommodating up to 16 members of staff at any one time in accordance with flexible working arrangements, would cost approximately £42,500 per annum.

8.190 Further accommodation costs would apply for initial furnishing of the accommodation (‘fixtures and fittings’) and ongoing costs for facilities, including utilities and rates. It is estimated that initial costs for fixtures and fittings would be £193,100, with further annual costs of £39,000 for facilities. No additional depreciation costs would apply over the five-year period for the purposes of this assessment (excluding ICT for which ongoing maintenance costs are already estimated).

Insurance

8.191 Insurance costs for all members of staff, including board members, are estimated to be £41,600 per annum.

Funding

8.192 The IC NDPB will receive fee income from application and determination (and post-determination) costs for IC applications, charged to the applicant. As set out in Option 2, fees would be charged at the various stages of this process, with the view to attain full cost recovery. The fees will be defined, following consultation, in subordinate legislation in the future. The organisation would be enabled to establish its own schedule of fees to cover its expenditure under the principle of full cost recovery.

8.193 It may also be possible for the independent body to generate additional income by offering other services, however, this cost cannot be estimated for the purposes of this assessment.

Total costs

Table S – Total costs NDPB		
Source of cost	Set-up cost	Ongoing cost (per annum)
Training and dissemination for a new IC regime	£26,000	
Initial guidance	£12,300	-
Staff costs	£137,900	£1,524,000
Professional services	-	£368,100
Contingency costs	-	£152,400
Insurance	-	£41,600
ICT (including internal equipment and public facing ICT system)	£684,700	£312,800
Fixtures and fittings	£193,100	-
Rent	-	£42,500
Facilities[30]	-	£39,000
Total	**£1,054,100**	**£2,480,500**

(c) LPAs

[30] Utilities, rates, repairs and maintenance.

8.194 LPA engagement with the IC planning regime would be the same as for Option 2. It is estimated that it will cost LPAs £60,100 (£21,200 of which would not be reimbursed) per year to engage with the IC process (based on the 44 applications over the assessed period that would be determined as ICs, and 4 applications that would be subject to their own determination, averaging 4.9 and 0.44 applications per annum respectively). As with Option 2, this represents a cost-saving relative to the baseline. There would also be a one-off cost to LPAs for attendance at training / familiarisation events of £30,300 that would be incurred during implementation of the new regime between 2024-26.

(d) Developers

8.195 The estimated annual cost to developers for engaging with the IC regime under this option is approximately £2,666,800, excluding application fees. For this option, the NDPB would be free to set its own schedule of fees to fully recover its costs. Whilst the tasks associated with determining applications will remain the same, there are likely to be higher overheads than Option 2, to cover the increased IT, human resources and governance costs associated with organisational independence from the Welsh Government. Therefore, the organisational overheads will increase significantly. To cover these costs, fees will cover the entire annual cost of the NDPB. Based on there being 4.9 applications per year, this fee is estimated to be £507,400 on a case-by-case basis, with £2,480,500 of income being paid annually by developers. As applied under Option 2, there would be further additional annual costs to the development industry of £243,000 for the preparation and submission of infrastructure applications not captured under a new IC process and to be determined by LPAs.

8.196 The estimated total annual cost to developers would be £5,390,300. This cost will be incurred from 2026-27. This represents an additional cost to developers of approximately £601,400 per annum when compared to the baseline. In 2024-25 and 2025-26 (the implementation period in this option), applications would be determined under current regimes and the annual costs would be the same as in the baseline scenario.

8.197 A one-off cost to the development industry for attendance at training / familiarisation events would be the same as Option 2 at £3,000 and would incur during implementation of the new regime in 2024-26.

8.198 The amalgamation of the consenting regimes into the unified IC process would lead to cost-savings by reducing duplication of developer expenditure on numerous applications associated with the same development.

(e) The Community

8.199 The role of the public and interested parties in the new consenting regime will remain unaltered from their role in the current system, as described in Options 1 and 2. Therefore, there will be no new costs for interested parties and the general public.

8.200 The amalgamation of the consenting regimes into a single regime could lead to cost-savings by reducing duplication of community involvement.

(f) Statutory Consultees

8.201 The cost of participation for statutory consultees is expected to broadly align with that of the current DNS process, and replicate an IC under Option 2 at £35,100 per year.

8.202 The amalgamation of the consenting regimes into a single regime could lead to cost-savings by reducing duplication of consultee engagement.

Option 3 Benefits

Welsh Government

8.203 The general benefits of the proposed IC process are outlined under Option 2, subject to the following additions.

8.204 An NDPB responsible for all aspects of the consenting process would eliminate the need for Welsh Government oversight of Inspector decisions, thereby speeding up the process and increasing efficiency.

8.205 Income generation from independent business activity may enable the organisation to contribute towards reducing the burden on the public purse in the longer term.

8.206 The independence of the organisation would mean that it is visibly impartial and able to demonstrate distance from the Welsh Ministers in reaching decisions. The new organisation will be self-contained and self-sufficient, which is a benefit to the Welsh Government who will no longer be responsible for decision making.

8.207 The lack of Welsh Government and Ministerial oversight of the decision-making process for significant infrastructure could lead to a perception of democratic deficit. There may also be public hostility to the idea of added bureaucracy through the creation of a new public sector organisation.

8.208 A serious risk for any new organisation is concerns that the required level of expert resource will be maintained to ensure the effective running of the business. Recruiting in the planning profession is already challenging. Physical relocation and actions resulting in either increased competition for, or limited opportunities for staff progression will introduce risk of losing experienced staff. This could lead to deficiencies of service across the profession.

8.209 The creation of an NDPB will necessitate the establishment of new ICT infrastructure to support this business need. Developing a bespoke replacement to meet current service standards introduces significant risk to continuity of business. Procurement and development of such infrastructure would take an estimated 24-36 months, which may lead to delivery risks and potential 'teething issues' at the outset.

8.210 The additional overheads for an organisation operating independently do not benefit from economies of scale available to the Welsh Government. Furthermore, the organisation would not be able to rely on in-house corporate services available within Welsh Government. Therefore, the organisation would likely have to pass on these higher running costs to applicants.

8.211 Given the very small size of the organisation, and the relatively few members of staff operating within it, additional costs of establishing and maintaining an NDPB is seen as disproportionate and not value for money.

<u>LPAs</u>

8.212 The general benefits of the IC regime to LPAs are outlined under Option 2.

8.213 The establishment of a new organisation similar to an existing model would enable stakeholders to adapt easily. However, it may take time for the new organisation to be fully functional leading to a temporary service level which is not as integrated, or as accessible, as stakeholders have become used to.

Developers

8.214 The general benefits of the IC regime to developers are outlined under Option 2, and there would be similar (dis)benefits to developers in terms of adaptation to that of LPAs.

8.215 The establishment of a new organisation similar to an existing model would enable stakeholders to adapt easily. However, it may take time for the new organisation to be fully functional leading to a temporary service level which is not as integrated, or as accessible, as stakeholders have become used to.

8.216 The establishment of a new independent organisation has the potential to lead to more timely decisions for applicants, arising from efficiency savings and new ways of working. However, there will be significantly increased fees under this option, covering the higher running costs associated with independence from the Welsh Government. Increased fees could lead to developers choosing not to invest in Welsh infrastructure development in favour of less costly regimes, in England for instance.

The Community

8.217 The general benefits of the IC regime to community stakeholders are outlined under Option 2, and there would be similar (dis)benefits to the community in terms of adaptation to that of LPAs.

8.218 The political impartiality of the new service may lead to a perceived lack of democratic accountability arising from an organisation fully independent of the Welsh Ministers.

Statutory Consultees

8.219 The general benefits of the IC regime to statutory consultees are outlined under Option 2, and there would be similar (dis)benefits to statutory consultees in terms of adaptation to that of LPAs.

Option 4 – Establish a major infrastructure planning unit within the Welsh Government and amend legislation relating to existing regimes to provide a fast-track and consistent infrastructure regime.

Option 4 Description

8.220 This option will not require an intervention by way of primary legislation, and is similar to Option 1. However, under this option, the various Regulations, Rules and Orders under Acts which govern the current and various processes for consenting infrastructure are proposed to be amended to assimilate procedures where possible. This would include changing subordinate

legislation to amend consultation timescales, examination requirements, and fees to provide for similar application processes across different consenting regimes. The intention would be to simplify the application process for all stakeholders whilst maintaining the distinct primary legislation governing the different regimes.

8.221 PEDW would continue to examine and make recommendations on proposed development, and decisions would be processed by Planning Directorate within the Welsh Government, on behalf of the Welsh Ministers. A specific unit will be established within Planning Directorate, based on its current Planning Casework Branch, to provide a coordinated and focused team to streamline the delivery of infrastructure.

Option 4 Costs

Table T – Transition costs for Option 4	
Stakeholder	Costs
Welsh Gov	£4,200 *(for one-off guidance on the new consenting procedure).*
LPAs	£0
Developers	£0
Communities	£0
Statutory Consultees	£0

Table U – Summary of net Option 4 costs per annum to the identified stakeholders (2025-26 to 2028-29)[1] ***(further additional costs shown in red are provided for information purposes as these costs are expected to be reimbursed, for example through payment of fees)***	
Stakeholder	Streamlined regime of existing consents
Welsh Gov	£0 (£718,100 reimbursed). The same costs as Option 1, but with all costs fully recoverable.
LPAs	£26,100 (£31,000 reimbursed). The same costs as Option 1.
Developers	£4,757,900 A cost-saving of £31,000 per annum when compared to Option 1.
Communities	The same costs as Option 1, which are unknown.
Statutory Consultees	£44,600. The same costs as Option 1.

1. In 2024-25, applications will be determined under current regimes and costs would be the same as in the baseline option.

(a) Welsh Government

8.222 The proposed unit would be located within existing Welsh Government offices using existing staff. PEDW staff would continue in their current role in supporting appointed Inspectors to make recommendations to the Welsh Ministers on casework. As such, it not considered necessary to assess costs associated with accommodation, staff or corporate functions as these would remain unchanged from Option 1. However, in this option all costs would be fully reimbursed.

8.223 There would be one-off costs to the Welsh Government associated with the amending of subordinate legislation. Such costs would be absorbed within the corporate work of Welsh Government, and it is not considered necessary to cost them as part of this assessment.

8.224 There would also be a one-off cost to the Welsh Government of providing standalone guidance on the new requirements and notifying stakeholders, including LPAs, of the changes. For simplified application procedures, it is estimated 5 guidance documents would be required (to update or replace existing guidance on regimes that is taken into account by stakeholders as part of individual applications) at a total cost to the Welsh Government of £4,200. Due to existing regimes being maintained under this option, albeit with modifications, there would not be costs for training or familiarisation to stakeholders. Transition costs for preparing the new guidance would be incurred in 2024-25, with ongoing annual costs expected to be incurred from 2025-26 (in 2024-25, applications will be determined under current regimes and costs will be the same as in the baseline scenario).

8.225 The financial benefits arising from efficiency savings, resulting from a streamlined consenting regime, are not possible to quantify exactly. However, the Welsh Government intends to operate on the basis of full cost recovery.

(b) LPAs

8.226 LPA engagement with the planning regimes would remain unchanged from their current role under Option 1. It is estimated that it will cost LPAs £57,100 per year to engage with the process (based on the 54 applications for infrastructure development over the assessed period). Of this total, £26,100 would be non-reimbursed.

8.227 In the interests of ensuring consistency across different legislative regimes, there may be a new requirement introduced for LIRs in cases where they are not currently needed, which could lead to increased costs to LPAs in terms of their participation. However, such costs should be reimbursed by the developer via an amended fee regime.

(c) Developers

8.228 Cost-savings to developers are possible via a concurrent package of consents which has the potential to reduce duplication, simplify the process, and ensure greater certainty of outcomes.

8.229 In the interests of consistency, some regimes may see application fees increased and determination timescales extended, which could lead to higher costs for developers. However, it is anticipated that the overall impact will be beneficial for the reasons outlined in the above paragraph.

8.230 Costs to developers are estimated to be the similar to Option 1. As this option would result in other consenting regimes being amended through legislation to achieve greater alignment with the requirements of the DNS consenting process, many of the costs are based on the DNS regime. In achieving greater alignment with the DNS process to achieve greater consistency and efficiencies between the various regimes, as well as applying its fee model that is based on full cost recovery, it is estimated that it will cost developers £4,757,900 per year to submit applications under this option. This represents a cost-saving to developers of £31,000 per annum when compared to the baseline.

(d) The Community

8.231 The costs to communities and other stakeholders in the new regime will remain unaltered from the current system in Option 1.

(e) Statutory Consultees

8.232 The costs to statutory consultees in the new regime will remain unaltered from their role in the current system in Option 1. In terms of marine licensing, under this option, there are no plans to absorb the functions of another body into the Welsh Ministers. The function of determining marine licences will continue to be delegated to NRW, similar to Option 1.

Option 4 Benefits

Welsh Government

8.233 Establishing a new unit to determine all infrastructure casework would lead to reduced costs, compared with those associated with the establishment of an independent external body as outlined under Option 3. Further, it would reduce the risk of business disruption to service users and lead to significant cost-savings.

8.234 Streamlining the consenting of infrastructure, in terms of determination procedures and staff focus, could lead to increased efficiency within Welsh Government and PEDW. For instance, there is potential for a single Inspector to oversee a package of different legislative consents for the same development. The creation of a specialised unit could also foster greater administrative efficiency by allowing staff to focus solely on casework which is of national significance.

8.235 By not creating more simplified processes, a number of benefits relating to greater accessibility and efficiency would be lost due to the continued fragmentation of consenting regimes.

LPAs

8.236 Greater consistency across subordinate legislation should simplify the process of LPA engagement with major infrastructure consenting. The possibility of increased requirement for LIRs, for developments which previously would not have required them, could increase the ability of LPAs to provide detailed information on local impacts into the decision-making process.

Developers

8.237 The ability to approve different elements of a development in a concurrent package of consents has the potential to reduce duplication, simplify the process and ensure greater certainty of outcomes. A single unit dedicated to infrastructure consenting may also improve the efficiency of outcomes and improve developer engagement with the Welsh Government. However, there will remain issues in terms of accessibility of law.

The Community

8.238 The greater consistency across subordinate legislation could help improve the accessibility of the process for the general public, by simplifying and streamlining the system. However, there will remain issues in terms of accessibility of law.

Statutory Consultees

8.239 The greater consistency across subordinate legislation could help improve the efficiency of consultee engagement by simplifying and streamlining the system. A system which enables the concurrent examination of numerous applications under different regimes has the potential to assist statutory consultees in understanding the wider context associated with developments. However, there will remain issues in terms of accessibility of law.

Summary and Preferred Option

8.240 Option 2 is the preferred option as it offers a number of quantifiable benefits. Firstly, it delivers a unified and streamlined approach to the consenting of major infrastructure in Wales, and provides for enhanced community engagement with consistent decision-making mechanisms under a consistent policy framework. The benefits of Option 2 are supported by the overall lowest anticipated annual costs to all major stakeholders of each of the four options considered. It is recognised there are some initial set-up costs for Option 2 in comparison to other options, but it is considered these initial costs would be offset by the long-term savings that would be provided by a streamlined consenting regime.

Table V – Set-up net costs for each of the various options (where applicable)				
Stakeholder	Option 1	Option 2	Option 3	Option 4
Welsh Gov	N/A	£385,300	£1,054,100	£4,200
LPAs	N/A	£30,300	£30,300	£0
Developers	N/A	£3,000	£3,000	£0
Communities	N/A	£0	£0	£0
Statutory Consultees	N/A	£0	£0	£0

Table W – Net costs per annum ***(red figures indicate reimbursed costs)***				
Stakeholder	Option 1	Option 2	Option 3	Option 4
Welsh Gov	£65,400 (£652,700 reimbursed)	£0 (£567,700 reimbursed)	£0 (£2,480,500 reimbursed). For this option, these costs would apply to the independent body, rather than to the Welsh Government, as ongoing costs.	£0 (£718,100 reimbursed). The same costs as Option 1, but with all costs fully recoverable.

LPAs	£26,100 (£31,000 reimbursed)	£21,200 (£38,900 reimbursed)	£21,200 (£38,900 reimbursed)	£26,100 (£31,000 reimbursed). The same costs as Option 1.
Developers	£4,788,900	£4,208,400	£5,390,300	£4,757,900
Communities	Unknown	Unknown	Unknown	Unknown
Statutory Consultees	£44,600	£35,100	£35,100	£44,600. The same costs as Option 1.

Table X – Total net costs per annum for each of the various options, applied over the appraisal period 2024-25 to 2028-29

Year	Option 1	Option 2	Option 3	Option 4
2024-25	-	£418,600 (set-up)	£1,087,300 (set-up costs over a two-year period).	£4,200 (set-up)
2025-26	£4,925,000	£4,264,700 (ongoing once implemented)	£4,925,000 for continuation of current regime under Option 1 for 2025-26.	£4,828,500 (ongoing once implemented)
2026-27	£4,925,000	£4,264,700	£5,446,600 (ongoing once implemented)	£4,828,500
2027-28	£4,925,000	£4,264,700	£5,446,600	£4,828,500
2028-29	£4,925,000	£4,264,700	£5,446,600	£4,828,500
Total costs applying over appraisal period 2024-25 to 2028-29	**£19,700,000**	**£17,477,500**	**£22,352,300**	**£19,318,300**
Cost compared to Option 1 (baseline)	**-**	**£-2,222,500**	**£2,652,300**	**£-381,700**

8.241 Total net costs over the appraisal period 2024-25 to 2028-29 outlined above have been applied on the basis of ongoing costs being applied from year 2 (2025-26) onwards across all options. This accounts for set-up / implementation costs applying to some options for years 1 and 2, with

ongoing costs for improved and new regimes to start in year 2, thus ensuring consistency in how costs across the options are compared.

8.242 The establishment of an IC regime alone will provide a system with a streamlined decision making process to meaningfully improve the current standards of service, and provide greater certainty in decision making. All stakeholders are anticipated to benefit from a simplified and more accessible regime, which enables efficient examination and decision within a specified timeframe.

Chapter 9 – Impact Assessments

9.1 Specific impact assessments have been undertaken, which cover the whole of the Act. A summary of the impacts is included below. Specific impact assessments will be published, as appropriate.

Children's Rights

9.2 The proposal would have no adverse effect on the rights of children or young people. The net effect of the Act is to unify and streamline processes and create greater opportunities for communities to participate in decisions which affect them.

9.3 In some cases, these rights already exist, for example in the planning system, albeit there is very limited engagement from children and young people in planning decisions. Whilst there is an improvement in children's rights by virtue of the opportunity to contribute views on decisions where this might previously have not been possible, this is seen as very marginal. The introduction of the Act provides no specific opportunity to promote knowledge or understanding of the United Nations Convention of the Rights of the Child (UNCRC).

Equality

9.4 The proposal is likely to have an overall neutral impact in terms of equality. Beyond the need to consult and undertake pre-application engagement on some development types where there are currently no requirements to do so, there will be no material change to the duties placed on, or rights of, individuals.

Rural Proofing

9.5 Individual applications for IC under the Act regime may present a more direct impact on the lives of rural people, businesses and communities than their urban counterparts. It is considered that the mechanisms contained within the Act, the requirement of pre-application consultation, to consult on the application and meaningfully examine the application and the representations received as a consequence, will mitigate any potential negative impacts. The impact of any future infrastructure development on the rural population will be considered as part of the overall decision on individual applications.

Data

9.6 The Act will unify existing legislation and processes that already require applicants to submit information to either the Welsh Ministers or LPAs. The existing regimes are already GDPR compliant. The Act will therefore not

introduce any new information requirements, only combine existing processes into one. A full Data Protection Impact Assessment is not required.

Welsh Language

9.7 The Act 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.

Biodiversity

9.8 The Act 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 Act 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 Act will have no direct impact on biodiversity.

Socio-Economic Duty

9.9 Having had regard to the Socio-economic Duty, the Act itself serves to have no socio-economic impact. The subsequent decisions arising from the Act may in due course lead to the creation of employment opportunities, which may serve to create an opportunity to reduce inequality of outcome, although those decisions are already being made under the existing separate individual consenting regimes. Consideration of this duty will form part of the decision-making process prescribed under the Act.

Justice

9.10 A Justice Impact Assessment has been undertaken for the Act which has identified low potential impact on the justice system. The Ministry of Justice has also determined that there is a nil/minimal impact to the Justice System.

9.11 This is because, although the Act introduces new offences and civil proceedings, it brings together existing consenting processes under one, consistent process and therefore the proposed approach would redirect existing proposals into a new consenting regime.

9.12 The number of enforcement cases is anticipated to be minimal, for the estimated five IC applications a year. This is based on the current understanding that there have been no equivalent prosecutions or enforcement in relation to DNS and Development Consent Orders which are the regimes upon which the proposed powers are based.

9.13 The Civil Procedure Rules may need to be updated to reflect the timescales for Judicial review. There are no planning-specific sentencing guidelines and so there would not be a need to update guidance. It is considered that there would be no cost associated with the proposals to the justice system.

Competition Assessment

9.14 A competition filter test has been completed for the legislation, this is presented below:

The competition filter test	
Question	**Answer yes or no**
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
Q4: Would the costs of the regulation affect some firms substantially more than others?	No
Q5: Is the regulation likely to affect the market structure, changing the number or size of firms?	No
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector characterised by rapid technological change?	No
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

9.15 A detailed consideration of the limited impact of the provision of the Act on competition has been considered. There are unlikely to be any detrimental effects on competition.

Chapter 10 – Post implementation review

10.1 Statutory timeframes for the determination of IC applications are set out in the Act at section 59. That provision also requires the Welsh Ministers to lay before the Senedd annual reports on their compliance with the statutory timeframe and the use of any direction to extend that statutory timeframe on a case by case basis. Formal monitoring of the IC process will be undertaken as part of that report.

10.2 An overall evaluation project is proposed within 5 years of implementation to measure the outcome of the process, and to identify any future improvements which may be required.

Annex 1 – Explanatory Notes

The explanatory notes to the Infrastructure (Wales) Act 2024 can be found here: https://www.legislation.gov.uk/asc/2024/3/contents/enacted

Annex 2 – Index of Standing Order Requirements

The following table is required when the Explanatory Memorandum is published alongside the Bill on introduction to show how the Standing Order requirements on the Bill have been fulfilled. Whilst these Standing Orders no longer apply to this final version that accompanies the Act, this section has been included for reference and to show the rationale for the main sections of the Explanatory Memorandum.

Index of Standing Order requirements

Standing Order		Section	Pages
26.6(ii)	Set out the policy objectives of the Bill.	Chapter 3 – Purpose and intended effect of the legislation	5-11
26.6(iii)	Set out whether alternative ways of achieving the policy objectives were considered and, if so, why the approach taken in the Bill was adopted.	Part 2 – Regulatory Impact Assessment	56-118
26.6(iv)	Set out the consultation, if any, which was undertaken on: (a) the policy objectives of the Bill and the ways of meeting them; (b) the detail of the Bill, and (c) a draft Bill, either in full or in part (and if in part, which parts).	Chapter 4 – Consultation	12-15
26.6(v)	Set out a summary of the outcome of that consultation, including how and why any draft Bill has been amended.	Chapter 4 – Consultation	12-15
26.6(vi)	If the Bill, or part of the Bill, was not previously published as a draft, state the reasons for that decision.	Chapter 4 – Consultation	12-15
26.6(vii)	Summarise objectively what each of the provisions of the Bill is intended to do (to the extent that it requires explanation or comment) and give other information necessary to explain the effect of the Bill.	Annex 1 – Explanatory Notes	119

Standing Order		Section	Pages
26.6(viii)	Set out the best estimates of: (a)the gross administrative, compliance and other costs to which the provisions of the Bill would give rise; (b)the administrative savings arising from the Bill; (c) net administrative costs of the Bill's provisions; (d) the timescales over which such costs and savings would be expected to arise; and (e) on whom the costs would fall.	Part 2 – Regulatory Impact Assessment	56-118
26.6(ix)	Any environmental and social benefits and dis-benefits arising from the Bill that cannot be quantified financially.	Part 2 – Regulatory Impact Assessment	56-118
26.6(x)	Where the Bill contains any provision conferring power to make subordinate legislation, set out, in relation to each such provision: (a) the person upon whom, or the body upon which, the power is conferred and the form in which the power is to be exercised; (b) why it is considered appropriate to delegate the power; and (c) the Senedd procedure (if any) to which the subordinate legislation made or to be made in the exercise of the power is to be subject, and why it was considered appropriate to make it subject to that	Chapter 5 – Power to make subordinate legislation	16-55

	procedure (and not to make it subject to any other procedure).		

Standing Order		Section	Pages
26.6(xi)	Where the Bill contains any provision charging expenditure on the Welsh Consolidated Fund, incorporate a report of the Auditor General setting out his or her views on whether the charge is appropriate.	The requirement of Standing Order 26.6(xi) does not apply to this Bill.	N/A
26.6(xii)	Set out the potential impact (if any) on the justice system in England and Wales of the provisions of the Bill (a "justice impact assessment"), in accordance with section 110A of the Act.	Part 2 – Regulatory Impact Assessment	56-118
26.6B	Where provisions of the Bill are derived from existing primary legislation, whether for the purposes of amendment or consolidation, the Explanatory Memorandum must be accompanied by a table of derivations that explain clearly how the Bill relates to the existing legal framework.	The requirement in Standing Order 26.6B for a Table of Derivations is not applicable to this Bill as the Bill is a standalone piece of legislation and does not derive from existing primary legislation for the purposes of amendment or consolidation.	N/A
26.6C	Where the Bill proposes to significantly amend existing primary legislation, the Explanatory Memorandum must be accompanied by a schedule setting out the wording of existing legislation amended by the Bill, and setting out clearly how that wording is amended by the Bill.	The requirement of Standing Order 26.6C does not apply to this Bill as the Bill does not propose to significantly amend existing primary legislation.	N/A

Annex 3 – List of projects to be prescribed as SIPs

Type of development	Column A – Compulsory SIP threshold for class A projects	Column B – Directed SIP threshold to be set in guidance for which developers may obtain a Direction under Class B to be set in subordinate legislation.
1. Electricity infrastructure		
1A. Onshore generating stations (with the exception of those which generate from onshore wind specified in 1C and energy storage classes as specified in 1D); and	**Construction:** The construction of a generating station, where it is expected to have an installed generating capacity of between 50MW and 350MW **Alteration or extension:** The alteration or extension of a generating station, where its effect is to increase the installed generating capacity by at least 50MW, however, the effect of the extension must not increase the overall generating capacity beyond 350MW.	**Construction:** The construction of a generating station, where the generating station is expected to have an installed capacity of between 10MW and 50MW. **Alteration or extension:** The alteration or extension of a generating station, where its effect is to increase the installed generating capacity by at least 10MW, however, the effect of the extension must not increase the overall generating capacity beyond 350MW.

1B. Offshore generating stations up to the seaward limits of the territorial sea, and with the exception of those energy storage classes as specified in 1D)	**Construction:** The construction of a generating station, where it is expected to have an installed generating capacity of between 50MW and 350MW **Alteration or extension:** The alteration or extension of a generating station, where its effect is to increase the installed generating capacity by at least 50MW, however, the effect of the extension must not increase the overall generating capacity beyond 350MW.	**Construction:** The construction of a generating station, where the generating station is expected to have an installed capacity of between 1MW and 50MW. **Alteration or extension:** The alteration or extension of a generating station, where its effect is to increase the installed generating capacity by at least 1MW, however, the effect of the extension must not increase the overall generating capacity beyond 350MW.
1C. Onshore wind generating stations	**Construction:** The construction of the generating station, where it is expected to have an installed generating capacity of over 50MW. **Alteration or extension:** The alteration or extension of a generating station, where its effect is to increase the installed generating capacity by at least 50MW.	**Construction:** The construction of a generating station, where the generating station is expected to have an installed capacity of between 10MW and 50MW. **Alteration or extension:** The alteration or extension of a generating station, where its effect is to increase the installed generating capacity by at least 10MW.

1D. Energy Storage – A station in which the conversion of electrical energy into a form of energy which can be stored, the storing of that energy, and the subsequent reconversion of that energy back into electrical energy occurs. This does not comprise of a hydroelectric system in which electricity is generated by the use of water which has been pumped into a reservoir at a higher altitude	No compulsory threshold set.	**Construction:** The construction of a storage facility, where it is expected to have a storage capacity of above 10MW. **Alteration or extension:** The alteration or extension of a storage facility, where its effect is to increase the storage capacity by at least 10MW.
1E. Overhead electric lines associated with a generating station of a description set out in 1A-1D.	**Installation:** The overhead electric line is expected to have a nominal voltage of 132KV and a minimum length of 2KM	**Installation:** The overhead electric line is expected to have a nominal voltage of less than 132KV; or The overhead electric line is expected to have a nominal voltage of 132KV and a length of less than 2KM. **Alteration or upgrading:** Any alteration or extension of an overhead electric line up to and including 132KV.
2. Oil and minerals		

2A. Liquefied Natural gas facilities	**Construction:** The storage capacity is expected to be at least 43 million standard cubic metres or have a maximum flow rate of at least 4.5 million standard cubic metres per day; or **Alteration:** The existing storage capacity is expected to increase by at least 43 million standard cubic metres or by a maximum flow rate of at least 4.5 million standard cubic metres more per day.	**Construction:** The storage capacity is expected to be at least 10 million standard cubic metres or have a maximum flow rate of at least 1 million standard cubic metres per day; or **Alteration:** The existing storage capacity is expected to increase by at least 10 million standard cubic metres or by a maximum flow rate of at least 10 million standard cubic metres more per day.
2B. Gas reception facilities	**Construction:** The maximum flow rate of the facility is expected to exceed 4.5 million standard cubic metres per day; or **Alteration:** The maximum flow rate of the existing facility is expected to increase by at least 4.5 million standard cubic metres per day.	**Construction:** The maximum flow rate of the facility is expected to exceed 1 million standard cubic metres per day; or **Alteration:** The maximum flow rate of the existing facility is expected to exceed 1 million standard cubic metres per day.
2C. Unconventional oil or gas	Development involving the onshore exploration, appraisal or production of coal bed methane or shale oil or gas using unconventional extraction techniques, including hydraulic fracturing, but does not include the making of exploratory boreholes which do not involve the carrying out of such unconventional extraction techniques.	No optional threshold.

2D. Underground coal gasification	Development connected to the gasification of coal in the strata, with the exclusion of the drilling of boreholes solely for the purpose of core sampling.	No optional threshold.
2E. Open cast coal mining	Development which consists of the winning and working of coal from the earth by their removal from an open pit or borrow on a new site.	No optional threshold.
3. Transport		
3A. Highways	**Construction:** Where the Welsh Ministers or any company wholly owned by them is the Highways Authority; and the construction will include a stretch of road which is of a continuous length of more than 1KM. **Alterations and improvements:** Where the Welsh Ministers or any company wholly owned by them is the Highways Authority, and the improvement or alteration is likely to have a significant effect on the environment (i.e. it requires EIA).	**Construction:** Where the Welsh Ministers or any company wholly owned by them is the Highways Authority; and the construction will include a stretch of road which is of a continuous length of up to 1KM.
3B. Railways which start, end and remain in Wales, and which are not specified as Permitted Development within the Town and Country Planning (General	**Construction:** The construction is to be undertaken by an approved operator and includes a stretch of track which has a continuous length of more than 2KM. **Alteration:**	**Construction:** The construction is to be undertaken by an approved operator and includes a stretch of track which has a continuous length of up to 2KM. **Alteration:**

Permitted Development) Order 1995.	The alteration is to be undertaken by an approved operator and includes a stretch of track which has a continuous length of more than 2KM.	The alteration is to be undertaken by an approved operator and includes a stretch of track which has a continuous length of up to 2KM.
3C. Rail freight interchanges	**Construction:** When constructed, the rail fright interchange is expected to be capable of handling at least four goods trains per day. **Alteration:** An alteration which is expected to increase the amount of goods trains handled by at least four per day.	**Construction:** When constructed, the rail fright interchange is expected to be capable of handling up to four goods trains per day. **Alteration:** An alteration which is expected to increase the amount of goods trains handled per day.
3D. Ports and Harbours	The construction or alteration of harbour facilities which will result in an annual increase in the capability of handling: a) in the case of facilities for container ships, 50,000 Ten Foot Equivalent Units; b) in the case of facilities for roll-on roll-off ships, 25,000 units; or c) in the case of facilities for cargo ships of any other description, 500,000 tonnes.	**Works:** The harbour facilities, when constructed, are expected to conduce the efficient functioning of the harbour, and the facilities are expected to have a significant impact on the environment (i.e. it requires an EIA).
3E. Airports	**Construction:** The airport, when constructed, is expected to be capable of providing:	**Construction:** The airport, when constructed, is expected to be capable of providing:

	Air passenger services for at least one million passengers per year, or Air cargo transport services for at least 5,000 air transport movements of cargo aircraft per year. **Alterations and improvements:** The airport, when altered or improved, is expected to increase the number of: Air passenger services by at least one million passengers per year, or Air cargo transport services by at least 5,000 air transport movements of cargo aircraft per year.	Air passenger services for up to one million passengers per year, or Air cargo transport services for up to 5,000 air transport movements of cargo aircraft per year. **Alterations and improvements:** The airport, when altered or improved, is expected to increase the number of: Air passenger services by up to one million passengers per year, or Air cargo transport services by up to 5,000 air transport movements of cargo aircraft per year.
4. Water		
4A. Dams and reservoirs	**Construction:** The volume of water to be held back by the dam or stored in the reservoir is expected to exceed 10 million cubic metres of water. **Alteration:** The additional volume of water to be held back by the dam or stored in the reservoir as a result of the alteration is expected to exceed 10 million cubic metres.	**Construction:** The volume of water to be held back by the dam or stored in the reservoir is expected to exceed 1 million cubic metres of water. **Alteration:** The additional volume of water to be held back by the dam or stored in the reservoir as a result of the alteration is expected to exceed 1 million cubic metres.

4B. Transfer of water resources	The volume of water to be transferred as a result of the development is expected to exceed 100 million cubic metres per year between: • River basins in Wales; • Water undertakers' areas in Wales; or • A river basin in Wales and a water undertaker's area in Wales. The development does not relate to the transfer of drinking water.	No optional thresholds are proposed.
4C. Waste water treatment plants	**Construction of waste water treatment plants:** The plant is expected to have a capacity exceeding a population equivalent of 500,000. **The construction of infrastructure for the transfer or storage of waste water:** The main purpose of the infrastructure will be either for: (i) the transfer of waste water for treatment, or (ii) the storage of waste water prior to treatment, or both, and the infrastructure is expected to have a capacity for the storage of waste water exceeding 350,000 cubic metres. **The alteration of existing waste water treatment plants:**	No optional thresholds are proposed.

	The effect of the alteration is expected to increase the capacity of the plant by more than a population equivalent of 500,000. **The alteration of infrastructure for the transfer or storage of waste water:** The main purpose of the infrastructure will be either for: (i) the transfer of waste water for treatment, or (ii) the storage of waste water prior to treatment, or both, and the effect of the alteration is expected to be to increase the capacity of the infrastructure for the storage of waste water by more than 350,000 cubic metres.	
5. Waste		
5A. Hazardous waste facilities	**Construction:** Landfills or deep storage facilities which have a capacity of more than 100,000 tonnes of hazardous waste per annum. In any other case, facilities which have a capacity of more than 30,000 tonnes of hazardous waste per annum. **Alteration:**	No optional thresholds are proposed.

	The effect of the alteration to a land fill or deep storage facility is expected to increase the capacity by more than 100,000 tonnes of hazardous waste per annum. In any other case, the capacity of the facility is expected to increase by 30,000 tonnes of hazardous per annum.	
5B. Geological disposal for the final disposal of radioactive waste	Development which involves the construction of one or more boreholes, and the carrying out of any associated excavation, construction or building work, for the main purpose of obtaining information, data or samples to determine the suitability of a site for the construction of or use as a radioactive waste geological disposal facility with a depth in excess of 200 metres.	No optional thresholds are proposed.

Annex 4 – Developer Costs (Arup 2019)

COSTS (as taken in their pure form from the Arup Report and not rounded)	S.57 TCPA 1990 (£)	DNS (£)	TWA (£)	Highways Act 1980 (£)	Development Consent Order (£)	s.36 of the Electricity Act 1989 (£)	Harbours Act 1964 (£)
Estimated costs of application preparation	1,255,417	670,000	2,110,000	15,882,750	1,800,000	1,373,888.89	176,333
Estimated costs of undertaking any statutory pre-application consultation (where it is a requirement)	64,542	23,333			266,250		
Estimated costs of undertaking any non-statutory pre-application consultation (i.e. holding events, publicising events etc. outside of statutory requirements)	78,229	22,500	110,000	433,650	685,000	21222.22	150,000
Estimated costs of participating in an examination in an application	81,306	116,667	800,000	3,254,375	1154,167	148291.67	
Estimated costs of making a material amendment to a project during the examination of an application, where one has been made.	89,667	29,667	75,000	2,912,500	275,000	17,250	47,450
Estimated costs of making a non-material or minor amendment to a project during the examination of an application, where one has been made	5,750	6,250	40,000	770,000	70,000	11312.5	32,500
Estimated costs of creating and maintaining a website which displays an	5,583	17,500	20,000	17,500	9,500	10,000	17,500

entire application, for a period of 6 months							
Estimated costs of publishing a notice in a local newspaper or relevant journal advertising a prospective application for development, for a period of 1 week	5,992	11,313	1,913	11,313	9,756	4,538	5,906
Total	**1,586,486**	**897,230**	**3,156,913**	**23,282,088**	**4,269,673**	**1,586,503.28**	**429,689**