

Infrastructure 18, The Crown Estate

Senedd Cymru | Welsh Parliament

Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith | Climate Change, Environment, and Infrastructure Committee

Bil Seilwaith (Cymru) | Infrastructure (Wales) Bill

Ymateb gan Ystad y Goron | Evidence from The Crown Estate

General principles

What are your views on the general principles of the Bill, and is there a need for legislation to deliver the stated policy intention?

The Crown Estate owns and manages land on behalf of the nation, creating financial, environmental and social value, both for now and for the long term.

Our interests in Wales include renewable energy, which is our most significant activity, oil and gas pipelines, marine aggregates extraction, telecommunications and power cables. We also manage around 65% of the foreshore and tidal riverbed, on which includes a number of ports, such as the busy and multi-functional port of Milford Haven and various marinas. Inland, we are stewards of over 50,000 acres of common land which is primarily rough pasture for grazing.

Our focus is on delivering three strategic objectives – climate resilience and energy security, thriving communities, and nature recovery.

Through these we aim to address national needs where we are best placed to draw on our unique combination of strengths and support economic growth and equality of outcomes. Set up by an Act of Parliament and occupying a space between the public and private sectors, we act independently and commercially to grow the value of the portfolio for future generations.

Through our work to manage the seabed, and grant rights for renewable energy development we work closely with a range of stakeholders. As part of this activity we seek to address the competing needs for seabed space, support nature and the rich biodiversity of our seas, and through our offshore wind leasing activity, we assess the potential impacts of projects on the most valuable habitats in the UK and the UK offshore marine area).

The Crown Estate welcomes the Infrastructure (Wales) Bill. It has been long anticipated and the proposed new consenting process for the infrastructure it applies to, should create a more streamlined process which will create more certainty for developers and stakeholders.

Our interpretation of the provisions in the draft Bill will apply to project level consenting processes, and as such will be of greater direct impact to our customers, which include offshore wind developers, and the stakeholders we work with than to our renewable energy seabed leasing and environmental assessment processes.

As such, it is important for us to understand the consequences for our customers' development timeline, costs and risks, as well as how communities and statutory nature bodies will engage with the consenting process, to ensure that we factor any considerations into our renewable energy processes.

In addition, we are mindful that the new regime may place obligations on Statutory Nature Conservation Bodies and other stakeholders to gear up to resource, and manage inputs to the processes involved.

We would welcome the opportunity to work with colleagues in Welsh Government, Natural Resources Wales, and wider stakeholders to understand the detail of the legislation as it makes progress through the Senedd, and to help to develop the detail of the secondary legislation, where relevant.

What are your views on the Bill's provisions (set out according to parts below), in particular are they workable and will they deliver the stated policy intention?

Part 1 - Significant infrastructure projects

We note the wide ranging definition as set out in the draft legislation. Of interest to The Crown Estate in the context of our marine energy work, we note Section 18 – Cross-border projects which clarifies that references in Part 1 to development being “in Wales” or “in the Welsh marine area” include development partly in those areas.

It is useful to understand that for development that crosses borders, infrastructure consent is only required for the extent if the development which is in Wales or the Welsh Zone. However, this may result in complexities in the consenting process and we would encourage the Committee to explore the implications of this with the offshore wind developer community in terms of its impact on their project plans.

Part 2 - Requirement for infrastructure consent

N/A

Part 3 - Applying for infrastructure consent

N/A

Part 4 - Examining applications

The Bill as drafted references Welsh Ministers appointing an examining authority to examine applications.

While we acknowledge the flexibility that the draft provisions offer, we understand that that examining authority is likely to be PEDW.

If this is the case, we would ask the Committee to explore if PEDW is supported and adequately resourced with the relevant knowledge and expertise of offshore and marine development in order to respond to what we envisage being an important and demanding pipeline for consents in this field.

Part 5 - Deciding applications for infrastructure consent

N/A

Part 6 - Infrastructure consent orders

N/A

Part 7 - Enforcement

N/A

Part 8 - Supplementary functions

N/A

Part 9 - General provisions

N/A

What are the potential barriers to the implementation of the Bill's provisions and how does the Bill take account of them?

With regards to this question on potential barriers, we note some high level areas of concern that might detract from the stated intention as set out on the face of the Bill.

Firstly with regards to timescales:

The Bill sets out that applications need to be determined within 52 weeks of applications being accepted, but we are concerned that the Bill also potentially allows for timescales to be extended as determined by Welsh Ministers. We know that developers are looking for certainty and confidence in the process and these provisions could counter each other. If there is a need to include provision for Ministers to extend the timeframe, the provision should also provide clarity as to under what circumstances this will happen and the maximum length of any extension. It will be important for investor confidence to ensure that the draft Bill does not create a situation where development consents are delayed for an indefinite period.

Secondly, and linked to this, resourcing:

For the Bill to deliver on its intention, it will be important to ensure that there is adequate resourcing in the overall system to deal with this consenting regime. The proposed streamlined process should make for a more efficient consenting process but only if the right guidance, resources and capabilities are in place where needed in the system as a whole.

How appropriate are the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)?

We recognise the fine balance of what can be delivered via the Bill and the need for secondary legislation to ensure agility and flexibility as time goes on. As stated above, we hear from our customers and stakeholders there is a need for consistency and confidence in the consenting system, as such, while the principles of the new consenting regime as set out in the Bill are welcome, in order for the new process to be successful in unifying and streamlining significant infrastructure consenting, much rests on subsequent secondary legislation and guidance that is yet to be developed.

In order to provide clarity, certainty and confidence in the new regime, we would recommend that consideration is given to how best Welsh Ministers can engage with and draw in stakeholders' and industry's experience of consenting significant infrastructure as part of the development of any subordinate legislation.

Are any unintended consequences likely to arise from the Bill?

At this stage it is difficult to identify any unintended consequences that could arise from the Bill. However, given the wider regulatory reform currently at play across the UK for various significant infrastructure (e.g. various measures set out in the NSIP Action Plan, grid connection process reform, review and reform of

various environmental assessment processes and associated guidance), it will be imperative that as the Bill and associated secondary legislation and guidance progresses, consideration is given to how the overall 'system' pieces together.

What are your views on the Welsh Government's assessment of the financial implications of the Bill as set out in Part 2 of the Explanatory Memorandum?

N/A

Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?

We understand that Ministers will be implementing transitional arrangement to take us from the status quo to the proposed new regime. With our commitment to delivering our next round of leasing in the Celtic Sea, we would ask that the process and timeline for these transitional arrangements are made available at the earlier opportunity to assist potential offshore wind developers in their planning work in the Celtic Sea and to provide investor confidence in the development pipeline and supply chain.