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## Infrastructure 25, Wales & West Utilities

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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 Wales & West Utilities | Evidence from Wales & West Utilities

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### 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?**

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Wales & West Utilities (WWU) is part of a major new project which is set to deliver the world's first zero-carbon gas grid. The company has joined forces with other gas networks (Cadent, Northern Gas Networks, National Gas, and SGN), and the trade body Energy Networks Association to publish an industry blueprint for cutting out carbon emissions.

In September 2022 WWU published its 'Regional Decarbonisation Pathways' which provides an analysis of how WWU and its partners might decarbonise the gas networks in Wales and South-West of England, consistent with the wider UK decarbonisation objective.

WWU has also announced plans for a major hydrogen pipeline (HyLine Cymru) in south Wales to accelerate decarbonisation plans for industry and gas customers in the region. The company is currently assessing the feasibility of a pipeline network from Pembroke to the Swansea Bay area, connecting low carbon hydrogen production with industrial demand and providing options for other natural gas customers. If built, the pipeline will pave the way for commercial scale hydrogen production in Pembrokeshire, Port Talbot and in the Celtic Sea, whilst also providing infrastructure for energy intensive industrial customers to begin fuel-switching their processes to hydrogen in the 2030s or earlier.

WWU supports the general principles of the Bill and agrees that there is a need for a new legislative framework to ensure the timely delivery of significant infrastructure projects in Wales. The Bill is an important step towards supporting Government commitments to delivering on renewable energy targets and achievement of 'net zero' emissions by 2050.

WWU agrees that the current system for consenting major infrastructure in Wales is not fit for purpose and needs to be replaced. The current planning regime for

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'developments of national significance' (DNS) puts Wales at a disadvantage compared to other countries in the United Kingdom and causes problems for developers and local communities seeking to engage in the consenting process. These problems are partly reflected in delays to securing consent. The average time taken for a DNS application to be determined pre-2020 was 296 days. For applications between 2020 and now, the average time taken has risen to 440 days.

The DNS regime does not provide a unified consenting process and requires developers to seek multiple separate consents and authorisations (e.g., it does not provide powers for the compulsory acquisition of land). This can be particularly burdensome in the case of linear infrastructure such as electricity lines and gas pipelines where multiple local authorities and landowners may be affected by the proposals. The requirement to obtain separate authorisations creates increased programme and cost risks for developers and there is a clear case for streamlining and unifying the process.

The current regime in Wales is outdated and compares unfavourably with the unified consenting regime that applies to nationally significant infrastructure under the Planning Act 2008 – which has only limited application in Wales. WWU therefore supports the principles of the Bill and its three key aims expressed in the Minister's oral statement:

- Ensure a streamlined and unified process that enables developers to access a one-stop shop.
- Provide a transparent, thorough and consistent process, which will allow communities to better understand and effectively engage in decisions that affect them .
- Meet future challenges in a timely manner by being sufficiently flexible to capture new and developing technologies, as well as any further consenting powers that may be devolved to Wales.

The regime proposed by the Bill will significantly improve the consenting of major infrastructure and help to deliver these stated aims. However, WWU is concerned that the scope of the Bill as currently drafted is too narrow – particularly the scope of 'significant infrastructure projects' set out in Part 1.

## **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**

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Part 1 of the Bill sets out the definition of Significant Infrastructure Projects (SIP) and contains the relevant thresholds for qualifying as a SIP. Whilst Part 1 covers

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liquefied natural gas facilities and gas reception facilities it does not cover the construction of gas or other pipelines, or gaseous storage facilities. The construction of new pipelines (such as Hyline Cymru) that are likely to be required for the development of a hydrogen network therefore fall outside the scope of the Bill as currently drafted.

WWU considers this is a significant omission given the important role that hydrogen is likely to play in meeting carbon budgets and net zero targets. The omission of gas pipelines and storage from the Bill means that new pipelines would have to use the existing statutory framework to secure multiple separate planning consents and other authorisations (e.g., compulsory purchase orders).

It is recognised that the existing statutory framework is fragmented, slow and unduly onerous for developers. Given the Bill's intended role in supporting the move towards decarbonisation and the timely and efficient consenting of renewable energy projects it is a missed opportunity not to include the construction of gas pipelines within the scope of SIPs in Part 1 to enable projects such as the construction of new hydrogen pipelines to benefit from a streamlined consenting regime. This omission is particularly striking given that the Bill does cover fossil fuel projects such as hydraulic fracturing for oil and gas and open cast coal mining.

We note the Bill provides a power in clause 17 for secondary legislation to be made to add a new type of significant infrastructure project. This is sensible and provides flexibility for new types of projects to be brought within the regime in the future. However, this mechanism does not address WWU's concerns regarding the omission of gas pipelines from Part 1. There is no certainty as to how the power of clause 17 will be exercised and the type of projects that may benefit from it. The process for making regulations under clause 17 will also be time consuming.

We note the Bill provides a power for the Welsh Ministers to give directions under clause 22 specifying development as a SIP. Whilst this mechanism would potentially allow projects such as a new hydrogen pipeline to be brought within the new regime this adds an unnecessary burden on the developer and an extra step in what is supposed to be a streamlined process to achieving consent.

A further disadvantage of not being classified as a SIP and relying on the mechanism in clause 22 is that gas pipeline projects may therefore not benefit from policy support in an infrastructure policy statement (IPS). Given the duty in clause 53 of the Bill to decide applications in accordance with any 'relevant policy statement' (i.e., any IPS that has effect in relation to the kind of development to

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which the application relates) this automatically puts projects being brought forward under clause 22 directions at a considerable disadvantage.

WWU therefore considers the Bill should expressly make provision for the construction of gas pipelines which meet certain thresholds and criteria to qualify as a SIP under Part 1. This change would support the delivery of the recommendation under Key Insights 6 and 9 of the Future Energy Grids for Wales report, for Welsh Government to consider the role of hydrogen production and networks.

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## **Part 2 - Requirement for infrastructure consent**

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The power for the Welsh Ministers to give directions under clause 22 specifying development as a SIP is sensible and we note that the equivalent provision in section 35 of the Planning Act 2008 has been used effectively to enable projects that do not meet the statutory thresholds to benefit from a unified consenting regime (e.g., Aquind interconnector). However, for the reasons set out above, this mechanism does not address WWU concern regarding the omission of gas pipelines from Part 1.

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## **Part 3 - Applying for infrastructure consent**

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No response.

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## **Part 4 - Examining applications**

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No response.

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## **Part 5 - Deciding applications for infrastructure consent**

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No response.

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## **Part 6 - Infrastructure consent orders**

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No response.

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## **Part 7 - Enforcement**

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No response.

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## **Part 8 - Supplementary functions**

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No response.

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## **Part 9 - General provisions**

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No response.

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

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No response.

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**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)?**

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**Are any unintended consequences likely to arise from the Bill?**

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The omission of gas pipelines from Part 1 of the Bill means that projects for the development of a hydrogen network in Wales would be required to obtain multiple consents using the existing statutory framework. This is a significant missed opportunity which WWU considers should be addressed. Including gas pipelines and storage facilities (within specified criteria) would enable such project to benefit from a unified consenting regime and would be aligned with the stated aims of the Bill and the important role it is intended to play in ensuring the timely delivery of significant infrastructure projects in Wales and achievement of net zero targets.

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**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?**

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No response.

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

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No response.

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**Additional comments**

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We hope our comments are helpful. WWU would be keen to present oral evidence to the Committee at the sessions scheduled for September.

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