

Julie James MS
Minister for Climate Change

27 September 2023

Dear Julie

Infrastructure (Wales) Bill – follow-up to evidence session on 25 September 2023

Thank you again for attending our meeting on 25 September 2023 to discuss the Infrastructure (Wales) Bill.

As advised at the close of the session, there are also a number of questions which we would have liked to ask but time did not allow. As such, I would be grateful for your response to the questions in the annex by 10 October 2023.

You also committed to provide us with the following information, which we too would be grateful to receive by 10 October:

- how the Bill will enable the Welsh Government to take on further devolved powers and what policy areas those powers will cover;
- the Welsh Government's justice impact assessment for the Bill and the relevant correspondence with the Ministry of Justice.

Yours sincerely,



Huw Irranca-Davies
Chair

Annex

1. Section 57 relates to the granting or refusal of infrastructure consent. In your [letter](#) to us on 11 September 2023, you stated that you envisage subordinate legislation made under this section will specify that the Welsh Ministers “must only make an order which contains minor changes”. You further stated that “whilst on the face of the Bill there is reference to changes to an application being “material”, the regulations will provide clarification that any changes made....should only be minor in nature”. If changes are to be minor, why is the power drafted much wider than is necessary to achieve its purpose?
2. Section 82 relates to the publication and procedures attached to infrastructure consent orders. By virtue of paragraph 29 of Schedule 1, an order can create a criminal offence. Such an order will be subject to the negative scrutiny procedure. Why has the affirmative procedure not been attached to this power?
3. Section 88 relates to the procedure for changing and revoking infrastructure consent orders. What persons will always be given notice of a change to or revocation of an infrastructure consent order under section 88(6)?
4. Which public authorities will be consulted under section 126(1) and why are they not included on the face of the Bill?
5. In question 6 of our [letter](#) to you on 27 July 2023 we queried the ability to “legislate swiftly” as a justification for the application of the negative procedure to a number of delegated powers in the Bill. You provided a response in respect of section 127(2)(c) and 127(4). Could you confirm for the record how the need to act “swiftly” is relevant to the choice of procedure for the direction power in section 127(3)?
6. Section 128 includes a power for the Welsh Ministers to direct that requirements under the Bill do not apply in specified circumstances. Why is it appropriate to include this regulation-making power rather than to make provision on the face of the Bill which set out the specific circumstances?
7. In your letter of 11 September your written answer in relation to section 128 states that “under no circumstances is it intended the subordinate legislation will enable a direction to be issued to disapply requirements which protect rights or ensure no offences are committed”. Will this provision in the Bill, if and when enacted, prevent a future Minister from using this power to disapply requirements which protect rights?
8. Section 137 provides for restrictions to apply to the making of regulations and orders under the Bill. What is the purpose of the drafting of this provision and why has it been included given the operation of section 154 of the *Government of Wales Act 2006*? Why does section 137 only refer to some of the provisions of Schedule 7B to the 2006 Act and not others?

9. Should the Bill be passed and enacted, when do you envisage all provisions of the Bill and the accompanying subordinate legislation being fully in force?

10. In your view, will further primary legislation be required in the near future in the field of planning? What are the timescales for the preparation and introduction of this proposed legislation?

11. What consideration has been given to accessibility and alignment of legislation in this area, particularly given the future legislative landscape includes a planning consolidation Bill?