

Julie James AS/MS  
Y Gweinidog Newid Hinsawdd  
Minister for Climate Change



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref MA/JJ/3057/23

Huw Irranca – Davies MS  
Chair  
Legislation, Justice and Constitution Committee  
Senedd Cymru  
Cardiff Bay  
Cardiff  
CF99 1SN

22 January 2024

Dear Huw,

### **Infrastructure (Wales) Bill – Minister of the Crown Consents**

Thank you for the Legislation, Justice and Constitution Committee Report in relation to the Infrastructure (Wales) Bill, published in November 2023.

In response to recommendation 2, and further to my letter dated 15 December 2023, I am providing an update on the Welsh Government's discussions with the UK Government regarding the outstanding Minister of the Crown consents and the request to extend our legislative competence.

#### Minister of Crown consent

I am pleased to confirm that Lee Rowley MP, Minister of State for Housing, Planning and Building Safety granted Minister of the Crown Consents in relation to the provisions contained in the Infrastructure (Wales) Bill, as requested.

I am providing a copy of the letter granting Minister of the Crown Consent, for your information, which includes a full list of the provisions for which consent is granted (Annex 1).

#### Legislative competence

Lord Callanan has confirmed the UK Government position is that the Senedd has the power to legislate for projects of all sizes that consist wholly of energy storage in Wales. Unfortunately the UK government have not agreed to extend our request to extend competence in the offshore region, but have agreed for officials to continue discussions in

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

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this area (Annex 2). I have asked my officials to continue this conversation. I have also asked Lord Callanan to provide the necessary contact information to allow my officials to allow the discussion to commence (Annex 3). I am currently awaiting a response from the UK Government.

Yours sincerely

A handwritten signature in blue ink that reads "Julie James". The signature is written in a cursive style with a large initial 'J'.

**Julie James AS/MS**  
Y Gweinidog Newid Hinsawdd  
Minister for Climate Change



Department for Levelling Up,  
Housing & Communities

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**Lee Rowley MP**  
*Minister of State for Housing, Planning and  
Building Safety*

**Department for Levelling Up,  
Housing and Communities**  
4th Floor, Fry Building  
2 Marsham Street  
London SW1P 4DF

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8 January 2023

Dear Julie,

**RESPONSE TO THE CONSENTS SOUGHT UNDER SCHEDULE 7B OF THE GOVERNMENT OF WALES ACT 2006 IN RELATION TO THE INFRASTRUCTURE (WALES) BILL**

I am writing to you following my letter of June 2023 in which I committed to providing a substantive response to your request for Minister of the Crown Consents in relation to provisions contained in the Infrastructure (Wales) Bill (“the Bill”).

I can confirm Minister of the Crown consent is granted in respect of the following provisions in the Bill:

- Clause 45 – Access to evidence at inquiry;
- Clause 46 – Payment of appointed representative where access to evidence restricted;
- Clause 60 – What may be included in an infrastructure consent order; and,
- Clause 87 – Power to change or revoke infrastructure consent orders

I can also confirm Minister of the Crown consent is granted for the following provisions in the Bill, subject to you consulting with UK Government as and when the regulations prescribed in the provisions are drafted and amendments made to those regulations in the future:

- Clause 30 – Pre-application consultation and publicity;
- Clause 33 – Notice of accepted applications and publicity;
- Clause 121 – Fees for performance of infrastructure consent functions and services;
- Clause 126 – Consultation requirements and duty to respond to consultation; and,
- Clause 137 – Regulations and orders

Whilst not specified in your letter, the department, through its own review of the Bill and discussions with your officials, also considers that clause 34 (Regulations about notices and publicity), clause 88 (Procedure: changing and revoking infrastructure consent orders), and clause 122 (Powers of entry to survey land) require Minister of the Crown consent. I can confirm that Minister of the Crown consent is granted for these clauses.

Yours sincerely,

**Lee Rowley MP**  
**Minister of State for Housing, Planning and Building Safety**



Department for  
Energy Security  
& Net Zero

Lord Callanan  
Parliamentary Under Secretary of  
State for Energy Efficiency and  
Green Finance

**Department for Energy, Security  
& Net Zero**

[www.gov.uk](http://www.gov.uk)

Julie James AS/MS  
Minister for Climate Change  
Welsh Government  
Cardiff Bay  
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Our ref: CC2023/22659  
Your ref: MA-JJ-2518-23

16 November 2023

Dear Julie,

Thank you for your letter to the Secretary of State for Levelling Up, Housing and Communities dated 11 January 2023 referring to your previous letter dated 7 January 2022, and your recent letter to the Minister of State for Energy Security & Net Zero dated 26 October 2023, regarding a proposed transfer of legislative competence for consenting of offshore energy generating stations, and a request for clarification of the Senedd's ability to legislate in respect of energy storage.

Your previous correspondence has been passed to this Department and I am responding as this matter falls within my Ministerial portfolio. Please accept my apologies that you have not had a response to your earlier letters, and for the lengthy delay in replying to you.

You proposed that the Senedd should have legislative competence for the consenting of devolved energy generating stations offshore between the edge of the territorial sea and the edge of the Welsh zone (an area roughly between 12 and 200 nautical miles off the shoreline). I have noted your view that such a change would support modernisation of the consenting process and the potential streamlining of contact for developers. Having considered your proposals, my view is that maintaining the current approach provides clarity for developers and investors by maintaining consistency between the consenting system in England and Wales. It is not evident that the current approach is creating significant difficulties for developers. I would suggest my officials discuss this further with Welsh Government officials to explore any further evidence on this matter, and hope that my Ministerial colleagues and I can continue to have positive engagement with you on shared objectives at existing forums, such as the Net Zero, Energy and Climate Change Inter-Ministerial Group.

You also requested clarification of the Senedd's ability to legislate in respect of energy storage. The UK Government's position is that the Senedd has powers to legislate in respect of planning consenting for projects of all sizes consisting wholly of energy storage (excluding pumped hydroelectric storage) in Wales. I hope this addresses the question.

A handwritten signature in blue ink, appearing to read "Mark Callanan". The signature is fluid and cursive, with a long horizontal stroke at the end.

**Lord Callanan**

**Julie James AS/MS**  
**Y Gweinidog Newid Hinsawdd**  
**Minister for Climate Change**



**Llywodraeth Cymru**  
**Welsh Government**

Eich cyf/Your ref CC2023/22659  
Ein cyf/Our ref MA-JJ-2518-23/2

4<sup>th</sup> December 2023

Dear Lord Callanan

Thank you for your letter dated 16<sup>th</sup> November 2023 in response to my letter (Ref MA-JJ-2518-23).

It is my strong belief that the current consenting system for offshore development does not provide clarity for developers and inconsistent between England and Wales. Offshore generating stations in England above 50MW are classed as DCOs under the terms of the Planning Act 2008 while generating stations offshore in Wales (including offshore wind farm of up to 350MW) are subject to either the consenting arrangements set out by the Electricity Act 1997 or the Transport and Works Act 1982. Both are antiquated pieces of legislation that are not fit for purpose and act as barriers to achieving our Net Zero targets.

We have strong evidence that these antiquated consenting systems are creating difficulties for developers. The Secretary of State for Wales, the Rt Hon David T C Davies MP has also written to me criticising the delays in the consenting of floating offshore wind projects in Wales attributable to this antiquated legislation. We cannot correct this situation until the Senedd is provided with the legislative competence necessary to create a new consenting system beyond territorial waters.

I have requested that my officials seek an early resolution of this problem and would be grateful for details of your lead officials in this area so that discussions can commence.

Yours sincerely

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