

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



Llywodraeth Cymru
Welsh Government

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

Llŷr Gruffydd MS
Chair
Climate Change, Environment, and Infrastructure Committee
Senedd Cymru
Cardiff Bay
Cardiff
CF99 1SN

9 January 2024

Dear Llŷr

Infrastructure (Wales) Bill

Thank you for the Climate Change, Environment, and Infrastructure Committee Report in relation to the Infrastructure (Wales) Bill, published on 24 November 2023.

In response to recommendation 2, I agreed to provide a timetable for the subordinate legislation arising from the Bill. The timetable is attached as an annex to this letter.

In preparing for this work, I am mindful that the Bill is subject to further Senedd scrutiny and of our stated intention for the engagement on the subordinate legislation to be open and meaningful. Both of these considerations may impact the content of the subordinate legislation, and its delivery. The timetable therefore is provided as an indication of how we currently expect the legislation to be progressed.

Yours sincerely

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Minister for Climate Change

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Julie.James@llyw.cymru
Correspondence.Julie.James@gov.Wales

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.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Annex 1: implementation proposals

Timetable

- Transitional statement of policy intent: winter 2023/24
- Engagement / Consultation 1: spring/summer 2024
- Engagement / Consultation 2: summer/autumn 2024
- Regulations autumn/winter 2024/25
- Implementation: mid 2025

Statement of policy intent: transitional provisions.

In response to recommendation 6 I identified it was my intention to provide further clarity on transitional arrangements prior to the wider consultation on subordinate legislation. A revised statement of policy of intent which will set out in detail our current proposals will be published in winter 2023/24.

These proposals will be informed by additional engagement with stakeholders. Conversations with stakeholders have commenced following the scrutiny sessions.

Engagement / Consultation 1

I envisage the first stage consultation will cover fees and pre-application engagement/consultation.

I envisage this consultation will be in a very open 'call for evidence' approach as I want to gather as much evidence as possible before coming to a firm policy direction. The paper will describe the problem to be tackled and objectives to be met and encourage a detailed response.

The evidence gathered will inform a second detailed consultation on these matters.

Engagement / Engagement 2

I envisage the second set of consultations would cover all policy areas. These consultations will contain detailed proposals, enabling focused responses on the content of the final regulations. While I intend to publish detailed proposals I am mindful that our policies will still be at a formative stage, and so are unlikely to include draft legislation.

Subordinate legislation

Development of the subordinate legislation will occur during and after the consultation period. Whilst there are a number of regulation making powers in the Bill, I anticipate that these will equate to 6-8 SIs. I anticipate that the SIs will be grouped as follows:

The Infrastructure (Applications: Prescribed Forms and Procedure) (Wales) Regulations

- Specify matters in relation to obtaining information about land;
- Specify requirements for the pre-application procedure, including notification and publicity requirements;
- Specify requirements for the submission and validation of an application, including forms, content of an application, and timetable for validation;
- Publicity and consultation of the application;
- Specify who must be consulted, i.e. "statutory consultees";
- Specify the application process for changes to consents;
- Procedure for making an order materially different to that applied for;
- Notification of a decision and reasons for the decision.

The Infrastructure Fees (Wales) Regulations

- Set where a fee may be paid for the performance of infrastructure consent functions and services, or a function undertaken through a direction under section 127;
- Set the method of calculation for the fee to be paid.

The Infrastructure (Interested Parties and Miscellaneous Prescribed Provisions) (Wales) Regulations

- Specify matters in respect of Directed applications under section 22 and 24, including period for response to a request, and the categories of applications that may be directed;
- Provide information on the requirements to provide a pre-application services by NRW, Local authority and Welsh Ministers;
- Specifying matters in relation to the keeping of the register and the giving of notices;
- Specify certain consents and licences etc, the requirement for which may be removed in a development consent order;
- Prescribe a number of miscellaneous matters such as the duration of a development consent order and the exclusion of certain actions from the definition of “material operation”.

The Infrastructure (Examination Procedure) (Wales) Rules

- Detail the procedure for the examination of such applications, including the determination of procedure to be followed, and the subsequent procedure to be followed under written representations, hearing or inquiry;
- Modifications where a direction restricting the disclosure of evidence on grounds of national security is issued.

The Infrastructure (Compulsory Acquisition) (Wales) Regulations

- Prescribe the forms which must used in connection with the compulsory acquisition of certain kinds of land;
- Set out the procedure to be followed where it is proposed to include in an order granting development consent a provision authorising the compulsory acquisition of land, which was not included in the application for the order.

Other

- There are also likely to be statutory instruments to deal with consequential amendments and the commencement of the provisions.